APPENDIX F

Miscellaneous Documents Received

Redmond,Lee

From: Charter Review
Subject: FW: Suggestions for Articles 1, 2 and 3 of the Charter as part of Charter Review process

From: michael lerner <mlerner52@gmail.com>
Sent: Thursday, August 29, 2019 3:50 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Suggestions for Articles 1, 2 and 3 of the Charter as part of Charter Review process

[EXTERNAL EMAIL]

Hello All,

The below signed have reviewed the Charter with great care and in great detail. After due consideration, research, meetings and debate, we ask for consideration of the following as part of the Charter review process. All suggested changes are in bold italics for easier reference, and we offer some guiding precedents that already exist within the Frederick County legislative and legal systems for your reference.

1. Article 1, sec. 104(a): The term "Agency" means any agency or department, office, board, commission, or administrative entity of the Frederick County Government, ***including all entities, however structured, that utilize the County's financail system.*** (The bold italics that represent the changes for this section are copied directly from the Frederick County Code)

We believe that this new wording solidifies, clarifies, and marries the definition of Agency to already accepted standards and definitions within the County. It also helps to clarify Article 4, Sec 402(a) where the Executive's duties are held to the same standards of the Code, which states:

"Frederick County Provisions: Article II Purchases Sec. 1-2-16, Definitions: (The following words, terms, and phrases, when used in this Article shall have the meanings ascribed to them in this section) **AGENCY**. Any service area, division, department, board, or commission of the County, **including all entities, however structured, that uses the County's financial system**, except the County Board of Education and Frederick Community College. **USING AGENCY.** Any service area, division, department, board or commission of the County except the County Board of education and Frederick Community College."

2. Article 2, sec 203: In all functions and deliberations, the Council shall act as a body. It may ***not*** delegate any of its functions and duties to a smaller number of its members than the whole. It shall have ***the*** power to create standing ***and ad hoc*** committees, ***for purposes set out by the Council, and upon a majority vote of the full Council. Standing and ad hoc committees shall be for the purpose of inquiry, fact finding, and recommendations to the Council, with specific due dates and charges that define the scope of their work.***

The method for designating members of standing or ad hoc committees already exists: This is from the FCGov website: "Frederick County Government has many boards and commissions and is always seeking citizens to apply for membership. To be considered for membership citizens must be residents in, and registered voters of Frederick County. **Appointments are made by the Frederick County Executive and confirmed by the Frederick County Council with the exception of the Board of Zoning Appeals and the Interagency Internal Audit Authority as the County Council appoints those members**. While Article 2, sec 213 allows

for administrative assistance or other forms of advisers as it deems necessary to perform its duties, it does not specifically call for deeper research and assessment of unique and particular needs or issues that may come up from time to time.

3. Article 2, sec 211: Thr Council ***or its designated standing or ad hoc committee*** may investigate the affairs of the County and the conduct and performance of any Agency ***as defined in Article 1, sec 104(a).*** The Council ***or standing or ad hoc committe***e may subpoena witnesses,administer oaths, take testimony, an require the production of evidence purposes of this section. A subpoena may be issued to any current or former County employee, County Agency or department, or contractor doing business in the County upon the affirmative majority vote of the Council.

Again, this brings the Charter in line with the Code.

Finally, though we are not sure where (if at all) this issue may be addressed within the Charter, we would like to ask for consideration of an ombudsman, or a standing committee for arbitration -- currently the only redress for a citizen who has an issue with the County is to sue in Court. Perhaps an arbitration system would be helpful.

We thank you for your attention to our suggestions. We believe that they are reasonable, not burdensome, and based in already existing documentation that governs the County Government . We hope you will find them helpful.

Sincerely,
A subgroup of Concerned Taxpayers:
Ellen Lerner mlerner52@gmail.com 301-304-9984 10066 Masser Road 21702
Mike Morse mike.morse@comcast.net
Sea Raven Morse searaven.morse@gmail.com

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Redmond,Lee

From: Charter Review
Subject: FW: Review requests

From: michael lerner <mlerner52@gmail.com>
Sent: Wednesday, September 18, 2019 7:38 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Review requests

[EXTERNAL EMAIL]

Hello Everyone,

i have two requests to lay out for consideration and debate - I will be as brief as possible.

1. Article 5, Sec 503(b) - referring to public hearings to be held, second sentence - Currently reads: "One hearing shall be held in December to receive proposals for inclusion in the budget.". I suggest that the sentence read: "One hearing shall be held in December to receive proposals for inclusion ***or reductions*** in the budget.".
My reasoning is simple -- I have seen that when something is not explicitly written into a legal document, then that lack of explicit affirmation leaves the door open to legal maneuvering that could suggest that while the public may be heard for inclusions in the budget, it may not be heard as to desires for reductions in the budget. I believe that the citizens should be able to voice both points of view without a legal challenge to their right to do so.

2. Article 704, first sentence: Currently reads "The Council shall engage a certified public accountant to make annually an independent post audit of all financial records and actions of the government....." I am suggesting here that the sentence should read: "The Council shall engage ***an independent*** certified public accountant to make annually ***or as called for*** an independent post audit of ***any or all*** financial records and actions of the government....".
My reasoning is that we are currently in the process of an audit that many find troublesome. If it were clearly written that any and all audits are to be performed independent of any governing body then there is a clear safeguard. In short, it would keep the peace and be publicly trustworthy, no consternation or dispute. Furthermore, based on my limited research it seems that most municipalities of a fair size have such safeguards in place as a matter of legal course.

In both of the above instances I think that what I am suggesting has a modicum of common sense to it. I believe that what we are seeing in our current state of the community would in part have been avoided if such language has been in the Charter before now.

I would take this moment to thank you for your clear and sincere efforts in the work of the Charter Review Commission. I have a great deal of respect for your process, right order, and thoughtful considerations.

Thank you for you time.

Sincerely,

Ellen Lerner
10066 Masser Road
Frederick, 21702
301-304-9984
mlerner52@gmail.com

Redmond,Lee

rom: Charter Review
Subject: FW: Charter Review Commission, Public Comments
Attachments: CRC Review Recommendations September 21 2019.pdf

From: erbenecke@gmail.com <erbenecke@gmail.com>
Sent: Saturday, September 21, 2019 9:54 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: 'Sea Raven' <searaven.morse@gmail.com>; 'Mike Morse' <mike.morse@comcast.net>; 'michael lerner' <mlerner52@gmail.com>; 'Mary Ann Ford' <holloway8@comcast.net>; 'Robert Horrall' <ahhaprod@mip.net>; 'Juliana Downey' <julianadowney107@gmail.com>; 'Karl Bickel' <KarlBickel@comcast.net>; 'ER Benecke' <erbenecke@gmail.com>
Subject: FW: Charter Review Commission, Public Comments

[EXTERNAL EMAIL]

Steven Slater, Chairperson
Frederick County Charter Review Commission
12 East Patrick Street
Frederick, Maryland 21701

ear Mr. Slater and Commission Members,

Your Commission work reviewing our 2014 County Charter and whether and where to recommend changes to the County Council is important, impressive and appreciated.

Your concern and respect for public input and participation is also truly appreciated. To that end, concerned taxpayers copied in this email have worked on their own review of the Charter, reached a consensus on and share recommendations for your consideration in our document, Charter Review Recommendations September 21 2019, attached.

Thank you,

Eileen Benecke

cc: Sea Raven Morse, Mike Morse, Ellen Lerner (via Michael Lerner email address), Mary Ann Holloway, Jo Harte (via Robert Horrall email address), Juliana Downey and Karl Bickel

RECOMMENDATIONS FOR THE CHARTER REVIEW COMMISSION

Key: Recommendations highlighted in gray. *Additions (italics, highlighted).* ~~*Deletions*~~ *crossed out.*

1. Section 104 (a) Agency definition: clarify to include any agency "funded by county taxes".

104. Definitions

(a) The term "Agency" means any agency, department, office, board, commission or administrative entity of the Frederick County Government *funded by county taxes. [Intentions noted for comment and will not be included in final version – here to clarify that the Frederick County Sheriff's Office is included in and subject to the charter provisions].*

2. Section 203, Council to Act as a Body: add power to create standing committees.

203. Council to Act as a Body

In all functions and deliberations, the Council shall act as a body. It ~~shall have no power to create standing committees or to~~ *may not* delegate any of its functions and duties to a smaller number of its members than the whole. *It shall have the power to create standing and ad hoc committees, for purposes set out by the Council, and upon the majority vote of the Council.* ~~The Council may, however, appoint special~~ *Standing and* ad hoc committees *shall be* for the purpose of inquiry, ~~and~~ fact finding *and recommendations to the Council, with specific due dates and charges that define the scope of work. [Intention: to authorize council authority to establish a committee to work on/towards securing accountability and transparency from the FCSO].*

3. Section 207 Salary of the Council: recommend (a) reviewing for an increase and (b) providing the council with a county employee's fringe benefits package.

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of $22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

4. Section 211 Investigations by council: change vote for subpoena from 6 to 5 members.

211. Investigations by the Council

The Council may investigate the affairs of the County and the conduct and performance of any Agency. The Council may subpoena witnesses, administer oaths, take testimony, and require the production of evidence for purposes of this section. A subpoena may be issued to any current County employee, County agency or department, or contractor doing business with the County upon the affirmative vote of at least ~~six~~ *five* council members. *[Intention: to make use of subpoena power more accessible – also recommended by former Council President Bud Otis.]*

5. Section 301 Legislative Powers: add council power to establish the office of an ombudsman.

301. Legislative Powers

In accordance with Section 202 of this Charter, the Council may enact public local laws for the peace, good government, health, safety or welfare of the County and on all subjects that have been delegated to the County under the Maryland Constitution and by the laws of the State. The Council may repeal and amend the local laws for the County heretofore enacted by the General Assembly as provided by law. Establish the office of a county Ombudsman whose salary is (a) funded in the county budget and (b) approved by the county executive. *The Council may establish the office of a county Ombudsman whose salary is (a) funded in the county budget and (b) approved by the county executive. [Intention: To create a path short of legal action for the county to respond to unresolved complaints.]*

6. Section 406: To recommend review for an increase by charter amendment to increase the base for Executive's compensation.

406. Compensation of the County Executive

(a) Subject to subsection (b) of this section, the Executive shall receive a Salary of $95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.

(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.

Section 414: Plan of Organization: to add the word "budgetary" after Executive's and before control.

414. Plan of Organization

(a) The Executive shall make an evaluation of the structure, organization, functions, powers, and duties of each department, agency and office under the Executive's *budgetary* control within fourteen months of the Executive's election.

(b) The Executive shall report the results of the evaluation to the Council within the time frame established in subsection (a) of this section, along with any recommendations that require legislative authorization and which the Executive believes would increase the efficiency and effectiveness of the County government. If recommendations are made pursuant to this subsection, the Executive shall, along with the Executive's report, include a plan for implementing the recommendations.

(c) The Council shall consider the Executive's recommendations that require legislative authorization and the plan of implementation.

(d) At the discretion of the Executive, the Executive at any time may alter, adjust, modify or in any manner change the structure, functions, powers and duties of any department, agency or office under the Executive's control if the alteration, adjustment, modification or change does not require legislative authorization. *[Intention: to include CE evaluation of the FCSO].*

7. Section 506: to add authority for the County Council to increase the budget.

506. Action on the Budget by the Council

(a) After a public hearing, the Council may *increase,* decrease or delete any items in the Budget, except those required by State law, by provisions for debt service on obligations then outstanding or for estimated cash deficits. *Any increase shall be preceded by a request to the Executive for a recommendation on the proposed increase.* The Council shall have no power to change the form of the Budget as submitted by the Executive, *or* to alter revenue estimates, ~~or to increase any expenditure recommended by the Executive~~, unless expressly provided in State law and except to correct mathematical errors.

(b) Except as provided in subsection (c) of this section, any change in the proposed Budget to *increase,* decrease or delete an item in the Budget made pursuant to subsection (a) of this section shall constitute a change of substance requiring that a public hearing be held following the posting of a fair summary of the change plus the date, time and place of the public hearing. This notice must be posted on the County website at least two days in advance of the public hearing.

(c) A*n increase,* decrease or deletion of one or more items in the Budget may not constitute a change of substance in the proposed Budget if the *increase,* decrease or deletion constitutes less than a one percent change in the total Budget or less than a fifty percent decrease in any one line item in the Budget.

Redmond,Lee

From: Charter Review
Subject: FW: County Attorney's opinion...

From: michael lerner <mlerner52@gmail.com>
Sent: Wednesday, October 16, 2019 7:55 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: County Attorney's opinion...

[EXTERNAL EMAIL]

As regards the County Attorney's opinion regarding the "Applicability of Charter Provision to Sheriff's Office", it is clear to me that the metric of a convoluted question provided for a convoluted answer. The question is framed as whether the Charter requires the County to sign documents where the Sheriff's Office is a party. It does not reflect on whether the Sheriff should be a party in the first place. Mr. Mathias crafted a question that reflects bias and reflects not a reach for legal opinion, but rather a stretch to suit the answers that he wanted. The question really should be a simple, honest, "Who is the rightful entity to sign 287g?".

Mr. Mathias is not representing the County here -- he is representing the Sheriff. There is no balanced legal review - only a reference to a fictitious character called Robin Hood. Here we have an opinion from an Attorney who is so disrespectful of the process that he sits and plays games on his phone when people are speaking to the CRC - he has been observed doing this. His lack of propriety, dignity and respect for others as well as the entire process is stunning.

He does not acknowledge that other County Executives and mayors (some of whose charters our own charter rose out of) are the signatories for 287g if they choose to sign on (or not). Whether this is based in their Charters or by other means I cannot say, but if his opinion is to stand, then it doesn't matter what other Charters say -- they simply cannot sign anything to which their Sheriff's are a party, no matter what. Either way, based on his opinion, the rest of the State is in the wrong. His opinion cannot and should not stand.

I ask - as I know others will be asking - that you postpone your vote on our proposals for clarity, giving us time to figure out how to respond to this opinion. I know that you are working on a tight time table -- but under such circumstances as these it is an appropriate and necessary action.

Thank you,

Ellen Lerner

Redmond,Lee

From: Charter Review
Subject: FW: County Attorney's Opinion
Attachments: 20191016123619725.pdf

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Wednesday, October 16, 2019 9:54 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: County Attorney's Opinion

[EXTERNAL EMAIL]

Charter Review Commission members,

In reference to the attached opinion from County Attorney John Mathias, I ask that you table the matter until the folks who have raised the issue and the commission members have an adequate opportunity to review the opinion and any relevant documents that may support or refute the county attorney's opinion.

The county attorney's 11th hour production of the opinion is an old trick used to prevent any opposition from having adequate time to raise a counter argument, particularly when the opinion is a weak one.

I am certainly no attorney, but even to the layman's eye, on its face, the opinion seems flawed on several levels. First, it is inconsistent with the existing custom and practice of the county executive signing off on a variety of documents covering the activities/obligations of the sheriff's office for which the county taxpayer is financially responsible. The current custom and practice is consistent with Frederick County Code – Chapter 1-2, Article II Purchases. Section 1.2.16 Definitions that reads that agency is: "Any service area, division, department, board or commission of the county except the County Board of Education and Frederick Community College". The sheriff's office is not excluded.

Additionally, Code Section 1-2-17 Purpose and Applicability, (B) states "The provisions of this chapter shall apply to the following: (1) Every expenditure of public monies by this county unless otherwise exempted by the county, irrespective of their source, including federal assistance monies;"

Secondly, the county executive is not signing on behalf of the sheriff, but is signing on behalf of the county taxpayer who is funding the activity/obligation consistent with the provisions of the County Code.

Thirdly, it is curious that the argument is being supported by referencing fictitious characters such as Robin Hood and the Sheriff of Nottingham instead of relevant legal opinions rendered in the Maryland Courts. I for one, find this very troubling and question the seriousness with which the county attorney has addressed the task assigned by the commission. This is not a Walt Disney production but a serious matter regarding the governance of our county.

If, as the county attorney asserts, the county executive is not obligated to sign or causing to be signed on the county's behalf all deeds, contracts, and other instruments it seems that it would call for a modification in the charter.

Once again, I ask that the issue be tabled until all concerned parties have an opportunity to review the county attorney's opinion and provide comment.

Thank you very much for your time and thoughtful consideration.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

FREDERICK COUNTY GOVERNMENT

Jan H. Gardner
County Executive

OFFICE OF THE COUNTY ATTORNEY

John S. Mathias, County Attorney
Michael J. Chomel, Senior Assistant County Attorney
Linda B. Thall, Senior Assistant County Attorney
Wendy S. Kearney, Senior Assistant County Attorney
Kathy L. Mitchell, Assistant County Attorney
Bryon C. Black, Assistant County Attorney

MEMORANDUM

TO: Charter Review Commission

FROM: John S. Mathias, County Attorney

DATE: October 16, 2019

RE: Applicability of Charter provision to Sheriff's Office

You have asked for written advice on whether Subsection 402(f) of the Frederick County Charter requires the County Executive to sign documents where the Sheriff's Office is a party. For the reasons explained in more detail below, not only is the County Executive not required to sign such documents she has no legal authority to sign an agreement on behalf of the Sheriff's Office. In legal jargon, if the County Executive were to sign an agreement on behalf of the Sheriff's Office, the contract would be ultra vires or void as beyond the County Executive's legal authority.

Legal Background

Some have suggested to the Charter Review Commission that Subsection 402(f) of the Frederick County Charter requires the County Executive to sign certain agreements on behalf of the Sheriff's Office. More specifically, it has been suggested that the County Executive should have signed the 2 agreements between the Sheriff's Office and Immigration and Customs Enforcement (ICE) involving participation in the 287(g) program. Frederick County is not and was not a party to either of these agreements. The County Executive has no authority or ability to sign any document on behalf of the Sheriff's Office or the Sheriff, a state official established in the Maryland Constitution (Art. IV, Section 44).

The Frederick County Charter, Subsection 402(f) states (in relevant part):

The duties and responsibilities of the Executive shall include: …

(f) signing or causing to be signed on the County's behalf all deeds, contracts, and other instruments.

The Charter provision specifically applies only to a contract on "behalf of the County". The ICE agreements are not "on behalf of the County". Rather they are both between ICE and the Sheriff's Office. Frederick County is not a party to and did not sign these agreements.

Understanding the complex relationship between a county government and a Sheriff is difficult as this relationship has evolved since Colonial times (to say nothing about its earlier common law roots in England, going back at least to the legendary days of Robin Hood and the Sheriff of Nottingham in the 13th/14th Centuries). Although funded in large part by County funds, the Sheriff is not a County official but rather a State Constitutional official. The County cannot direct the law enforcement activities of the Sheriff.

Because of these concepts, a Charter Amendment could not require the County Executive to sign the 287(g) agreement on behalf of the Sheriff's Office. The Charter could not require the County Executive to act on behalf of an elected State Constitutional Officer such as the Sheriff. The Charter could not direct the Sheriff's Office as to who may sign a document on behalf of the Sheriff. These are matters of state law and the General Assembly must act to change these laws, not the County.

Conclusion

The Frederick County Charter, particularly Subsection 402(f), does not require the County Executive to sign documents where the Sheriff's Office is a party and Frederick County is not. Subsection 402(f) applies only to documents on behalf of the County. The County Executive lacks the legal authority to bind the Sheriff or the Sheriff's Office. The Frederick County Charter could not be amended to authorize the County Executive to sign documents on behalf of the Sheriff or the Sheriff's Office.

cc: Rick Harcum, Chief Administrative Officer
Ragen Cherney, Legislative Director/Chief of Staff

Redmond,Lee

From: Charter Review
Subject: FW: County Attorney Mathias Opinion of October 16, 2019

From: Sea Raven <searaven.morse@gmail.com>
Sent: Thursday, October 17, 2019 10:20 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: County Attorney Mathias Opinion of October 16, 2019

[EXTERNAL EMAIL]

As our colleagues Karl Bickel, Eileen Benedecke, and others have requested, we ask that the discussion of Section 402(f) (currently on tonight's agenda) be postponed. In the name of fairness and transparency, Charter review members and those of us who have raised the issue of the County Sheriff's unmonitored participation in the 287(g) contract must have time to review the memorandum and any relevant documents that may support or refute the county attorney's opinion.

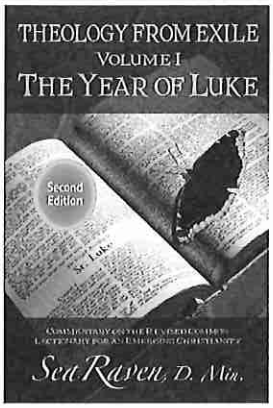
Along with Mr. Bickel, we find that using the legend of Robin Hood and the Sheriff of Nottingham as an argument defending Sheriff Jenkins indicates that issues of oversight and accountability are deemed irrelevant and trivial. We need a serious explanation of legal opinions rendered in the Maryland Courts or specific articles and clauses in the Maryland constitution that support the outrageous idea that Sheriff Jenkins (or any public official) is a law unto himself. The United States Constitution clearly says that ours is a government of laws, not of individuals who happen to be in positions of political power. Last time I checked, it is the U.S. Constitution that has the final say in matters of local and state law.

We also agree with Mr. Bickel that if, as the county attorney asserts, the county executive is NOT obligated to sign or cause to be signed on the county's behalf ALL deeds, contracts, and other instruments, including specifically those promulgated by the office and position of the Sheriff, that needs to be spelled out in the Charter.

We appreciate the hard work that the CRC has been doing. We respectfully request that discussion of these matters be taken seriously, and moved to a more reasonable time in the review process.

Sea Raven and Rev. M. Michael Morse
5512 Old National Pike
Frederick, MD 21702
304-433-5949 (SR cell)
301-367-7640 (MMcell)

--
Sea Raven, D.Min
Website: Gaia Rising


THEOLOGY FROM EXILE
VOLUME I
THE YEAR OF LUKE
Second Edition
Sea Raven, D. Min.

Cherney, Ragen

From: Mathias, John
Sent: Thursday, October 17, 2019 6:13 PM
To: April Miller; Black, Bryon; Cherney, Ragen; Dylan Diggs; John Daniels; Lisa Jarosinski; Paul Gilligan; Redmond,Lee; Stephen Slater; Walter Olson
Subject: RE: County Attorney's Opinion
Attachments: Robin Hood Was Right Or Never Trust a Sheriff_ the Relationship.pdf

Charter Review Commission Members,

A few emails have now made comments suggesting that my Memorandum to you was not serious because of a mention of Robin Hood. While I readily acknowledge that part of my intent was to possibly bring a smile to your face, this does not mean I was not entirely serious in my memorandum. In fact, I was using the contrast between the often deadly dull writing in a legal opinion and Robin Hood to emphasize an important point: The long history of the relationship between the office of Sheriff and the local government is complex.

I used the term "common law roots in England" and was not certain that everyone reading the memo might know the meaning of the term. I used the reference to Robin Hood to point out that it goes way back in history and even mentioned the approximate time frame "13th/14th Centuries". The somewhat light-hearted mention of Robin Hood was meant to be a sharp contrast from the otherwise more formal legal writing in the rest of the memorandum. The contrast served to emphasize the point of the long history of the office of Sheriff. I could think of no Sheriff that might be better recognized from this earlier era other than the Sheriff of Nottingham.

The Maryland appellate courts have referred to the common law roots of the office of Sheriff. For example, in Harford County v. U of Md. Medical System, 318 Md. 525, 528 (1990), the Court of Appeals observed:

> One of the principal duties of the sheriff at common law was to act as the jailor of the shire or county in which he served. As such, the sheriff was the custodian of all persons arrested and charged with a criminal offense pending their trial before the court having jurisdiction over them.

In Watson v. Watson, 304 Md 48, 61 (1985) the Court of Appeals cited this law review article:

See also Soled, *Robin Hood Was Right, or, Never Trust a Sheriff: The Relationship Between Sheriffs' Sales and the Maryland Recording Act*, 38 Md.L.Rev. 633, 640-41 (1979).

This use of a light-hearted reference to make a serious point is well-known to those who have read some of the Maryland appellate court opinions of Judges Harrell and Moylan.

Perhaps this email of mine is a bit of overkill and overly defensive, but I did want you to emphasize that my Memorandum was quite serious.

John

John S. Mathias
Frederick County Attorney
12 E. Church St.
Frederick, MD 21701

(301) 600-1031

From: Charter Review
Sent: Thursday, October 17, 2019 5:11 PM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: FW: County Attorney's Opinion

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Wednesday, October 16, 2019 9:54 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: County Attorney's Opinion

[EXTERNAL EMAIL]

Charter Review Commission members,

In reference to the attached opinion from County Attorney John Mathias, I ask that you table the matter until the folks who have raised the issue and the commission members have an adequate opportunity to review the opinion and any relevant documents that may support or refute the county attorney's opinion.

The county attorney's 11th hour production of the opinion is an old trick used to prevent any opposition from having adequate time to raise a counter argument, particularly when the opinion is a weak one.

I am certainly no attorney, but even to the layman's eye, on its face, the opinion seems flawed on several levels. First, it is inconsistent with the existing custom and practice of the county executive signing off on a variety of documents covering the activities/obligations of the sheriff's office for which the county taxpayer is financially responsible. The current custom and practice is consistent with Frederick County Code – Chapter 1-2, Article II Purchases. Section 1.2.16 Definitions that reads that agency is: "Any service area, division, department, board or commission of the county except the County Board of Education and Frederick Community College". The sheriff's office is not excluded.

Additionally, Code Section 1-2-17 Purpose and Applicability, (B) states "The provisions of this chapter shall apply to the following: (1) Every expenditure of public monies by this county unless otherwise exempted by the county, irrespective of their source, including federal assistance monies;"

Secondly, the county executive is not signing on behalf of the sheriff, but is signing on behalf of the county taxpayer who is funding the activity/obligation consistent with the provisions of the County Code.

Thirdly, it is curious that the argument is being supported by referencing fictitious characters such as Robin Hood and the Sheriff of Nottingham instead of relevant legal opinions rendered in the Maryland Courts. I for one, find this very troubling and question the seriousness with which the county attorney has addressed the task assigned by the commission. This is not a Walt Disney production but a serious matter regarding the governance of our county.

If, as the county attorney asserts, the county executive is not obligated to sign or causing to be signed on the county's behalf all deeds, contracts, and other instruments it seems that it would call for a modification in the charter.

Once again, I ask that the issue be tabled until all concerned parties have an opportunity to review the county attorney's opinion and provide comment.

Thank you very much for your time and thoughtful consideration.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

Redmond,Lee

From: Charter Review
Subject: FW: Input for Two Proposals

From: STEVE COWAN <sandhcowan@comcast.net>
Sent: Friday, October 18, 2019 4:50 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Input for Two Proposals

[EXTERNAL EMAIL]

Greetings

I have been a resident, tax-payer, and voter in Frederick County since 1984.

Last night (10-17) I attended my first meeting at Winchester Hall. I thought it was interesting.

I am writing to express my support of accepting the conclusion of the County Attorney with regard to Article 4, Section 402(f). I see the 287(g) program as effective, low (no) cost to the County, and fair and e

Redmond,Lee

From: Charter Review
Subject: FW: Citizen Thoughts

From: STEVE COWAN <sandhcowan@comcast.net>
Sent: Friday, October 18, 2019 5:11 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: Home Cowan <sandhcowan@comcast.net>
Subject: Citizen Thoughts

[EXTERNAL EMAIL]

Greetings

I have been a resident, tax-payer, and voter in Frederick County since 1984. Last night (10-17) I attended my first meeting at Winchester Hall.

I am writing to ask you to accept the conclusion of the County Attorney with regard to Article 4, Section 402(f).

I see the 287(g) program as effective, low (no) cost to the County, and non-discriminatory. Running fingerprint checks on ALL individuals ARRESTED in Frederick County seems reasonable and appropriate. I don't see a reason for local county government to interject itself between county law enforcement and Federal law enforcement.

I also support providing a more open and transparent process for BOE vacancies to be filled when the need arises. I do not see a conflict with moving forward with this within the framework of existing state law.

Given the huge divide on political and social issues in our country, I think it makes sense to make sure that the process is transparent and reflects the choices made by the voters rather than the County Executive and Council in isolation.

Thank you for taking the time to consider my email. God bless you as you serve our county.

John Steven Cowan

6237 Rainier Drive

Frederick 21703

Redmond,Lee

From: Mathias, John
Sent: Saturday, October 19, 2019 2:57 PM
To: 'April Miller'; Black, Bryon; Cherney, Ragen; 'Dylan Diggs'; 'John Daniels'; 'Lisa Jarosinski'; 'Paul Gilligan'; Redmond,Lee; 'Stephen Slater'; 'Walter Olson'
Subject: RE: County Attorney's Opinion

Charter Review Commission Members,

Please allow me these Saturday Fall afternoon musings and observations.

I do want to express my thanks and appreciation for your comments and support at the recent meeting, not only for me but also for all staff. At the same time, I don't want to personally become the focus or a distraction. You have far more important issues to consider. In my position, I recognize that I'm fair game for criticism (though I'll never fully understand the personal, ad hominem attacks). I could not have been in this job this long if I let these kinds of comments bother me (much).

By the way, the gentleman who made the next-to-the-last public comments (I think Mr. Morse, but maybe Mr. Lerner), did apologize to me after the meeting (while continuing to mention the poor quality of my memorandum). I thanked him for the apology.

By all means, feel free to support staff, but you don't need to do it on my behalf in the future. I'm much more comfortable staying blissfully in the background.

On a somewhat related matter, mention was made (mostly by the public, not the CRC) of the "lateness" of my memorandum. Please don't hesitate to remind me if I have not timely responded to any of your requests. Our Office is constantly trying to properly prioritize our work, not always with complete success. If you had a greater urgency for this memorandum than I perceived, we might have reorganized assignments and provided an earlier response. I do apologize for any delay. I'll try and do a better job of responding promptly. I fully recognize that the CRC's time to act is dwindling so responses are becoming more urgent. Gentle nudges about needed requests are always welcome.

John

John S. Mathias
Frederick County Attorney
12 E. Church St.
Frederick, MD 21701
(301) 600-1031

From: Mathias, John
Sent: Thursday, October 17, 2019 6:13 PM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: RE: County Attorney's Opinion

Charter Review Commission Members,

A few emails have now made comments suggesting that my Memorandum to you was not serious because of a mention of Robin Hood. While I readily acknowledge that part of my intent was to possibly bring a smile to your face, this does not mean I was not entirely serious in my memorandum. In fact, I was using the contrast between the often deadly dull writing in a legal opinion and Robin Hood to emphasize an important point: The long history of the relationship between the office of Sheriff and the local government is complex.

I used the term "common law roots in England" and was not certain that everyone reading the memo might know the meaning of the term. I used the reference to Robin Hood to point out that it goes way back in history and even mentioned the approximate time frame "13th/14th Centuries". The somewhat light-hearted mention of Robin Hood was meant to be a sharp contrast from the otherwise more formal legal writing in the rest of the memorandum. The contrast served to emphasize the point of the long history of the office of Sheriff. I could think of no Sheriff that might be better recognized from this earlier era other than the Sheriff of Nottingham.

The Maryland appellate courts have referred to the common law roots of the office of Sheriff. For example, in Harford County v. U of Md. Medical System, 318 Md. 525, 528 (1990), the Court of Appeals observed:

> One of the principal duties of the sheriff at common law was to act as the jailor of the shire or county in which he served. As such, the sheriff was the custodian of all persons arrested and charged with a criminal offense pending their trial before the court having jurisdiction over them.

In Watson v. Watson, 304 Md 48, 61 (1985) the Court of Appeals cited this law review article:

See also Soled, *Robin Hood Was Right, or, Never Trust a Sheriff: The Relationship Between Sheriffs' Sales and the Maryland Recording Act*, 38 Md.L.Rev. 633, 640-41 (1979).

This use of a light-hearted reference to make a serious point is well-known to those who have read some of the Maryland appellate court opinions of Judges Harrell and Moylan.

Perhaps this email of mine is a bit of overkill and overly defensive, but I did want you to emphasize that my Memorandum was quite serious.

John

John S. Mathias
Frederick County Attorney
12 E. Church St.
Frederick, MD 21701
(301) 600-1031

From: Charter Review
Sent: Thursday, October 17, 2019 5:11 PM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>;

Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: FW: County Attorney's Opinion

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Wednesday, October 16, 2019 9:54 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: County Attorney's Opinion

[EXTERNAL EMAIL]

Charter Review Commission members,

In reference to the attached opinion from County Attorney John Mathias, I ask that you table the matter until the folks who have raised the issue and the commission members have an adequate opportunity to review the opinion and any relevant documents that may support or refute the county attorney's opinion.

The county attorney's 11th hour production of the opinion is an old trick used to prevent any opposition from having adequate time to raise a counter argument, particularly when the opinion is a weak one.

I am certainly no attorney, but even to the layman's eye, on its face, the opinion seems flawed on several levels. First, it is inconsistent with the existing custom and practice of the county executive signing off on a variety of documents covering the activities/obligations of the sheriff's office for which the county taxpayer is financially responsible. The current custom and practice is consistent with Frederick County Code – Chapter 1-2, Article II Purchases. Section 1.2.16 Definitions that reads that agency is: "Any service area, division, department, board or commission of the county except the County Board of Education and Frederick Community College". The sheriff's office is not excluded.

Additionally, Code Section 1-2-17 Purpose and Applicability, (B) states "The provisions of this chapter shall apply to the following: (1) Every expenditure of public monies by this county unless otherwise exempted by the county, irrespective of their source, including federal assistance monies;"

Secondly, the county executive is not signing on behalf of the sheriff, but is signing on behalf of the county taxpayer who is funding the activity/obligation consistent with the provisions of the County Code.

Thirdly, it is curious that the argument is being supported by referencing fictitious characters such as Robin Hood and the Sheriff of Nottingham instead of relevant legal opinions rendered in the Maryland Courts. I for one, find this very troubling and question the seriousness with which the county attorney has addressed the task assigned by the commission. This is not a Walt Disney production but a serious matter regarding the governance of our county.

If, as the county attorney asserts, the county executive is not obligated to sign or causing to be signed on the county's behalf all deeds, contracts, and other instruments it seems that it would call for a modification in the charter.

Once again, I ask that the issue be tabled until all concerned parties have an opportunity to review the county attorney's opinion and provide comment.

Thank you very much for your time and thoughtful consideration.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

Redmond,Lee

From: Charter Review
Subject: FW: comments

From: michael lerner <mlerner52@gmail.com>
Sent: Saturday, October 19, 2019 6:43 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: comments

[EXTERNAL EMAIL]

I am submitting these comments for you further deliberations on the references below. (Reference numbers are matched to the CRC spreadsheet).

Reference 20 – Article 4, Sec 408 (b) – Vacancies of the County Executive: hold special election if vacancy occurs during first two years of term of CE.
Special elections are seldom well attended by the voting public. They are costly and time consuming to stage. I support the option of the president of the Council moving into the position of CE for the remainder of the term, no matter how long or short. The new CE derives from an elected CM, so it is for the smaller jurisdiction of the County that the CM represented to choose its new representative – thus, an aligned group chooses a representative directly in sync with their views rather than a small percentage of people deciding for the County as a whole. It would then be for the entire CC to identify its new president. The format for this option can be found in other charters. I suggest that writing such a plan could more easily - and quickly - be done by adapting the language of other jurisdictions to suit Frederick's needs and structure.

Reference 17 – Article 4, Sec 402 (f) – County Executive Powers and Duties

I am truly sorry that this has become so contentious. I am grateful for your determination to exercising due process, fairness and transparency. I regret that Mr. Mathias's opinion was not more considered as to the Frederick Code, case, administrative and legislative law tied together for comparisons and conclusions. Therefore, I ask that you properly reframe the question to reflect the issue that was brought to you - who signs all contracts for the County. I ask for your review and consideration for Code references brought to you by others, as I feel that they carry the appropriate and necessary weight for proper debate on the merits of this issue.

All documents related to governance – Codes, Charters, etc. – must be in parity with one another for purposes of usage, clarity, interpretation, intent and purpose. This should be the minimum requirement for considering a clear and meaningful interpretation of Art.4, sec 402(f), which supports – and is supported by – all of our governing dictates.

I read the article in the 10/19 FNP article on the 10/17 CRC meeting. I will not debate its merits, but do note that the writer correctly cited the question as the same that was posed in August. How the question became what it became is a matter that I leave for others to debate.

I read a quote from Mr. Olson in that same article – he is quoted as saying that he is wary of changing (the) relevant clause in the Charter. I repeat here what I spoke to at the 10/17 CRC meeting: ***we are not asking for changes to the relevant clause***. We are asking that it be made clear in meaning (even if by reference only) and to be properly brought into parity with the Frederick Code, which is a necessary and sound practice for any form of governance

I have heard Mr. Diggs speak to "voting now" so as not to "lead people on in dragging this issue out". This is not a reason to vote for something, especially since it has never been properly debated. So I reverse the notion – mine is not an effort to drag this out, nor is it a ninth hour change in strategy or even a challenge to a legal opinion that we didn't like. If you look carefully at our requests, listen carefully to what we have said, you will find that we have remained constant – make the Charter clear in meaning regarding Art4.402.f, by bringing it into parity with the Frederick Code.

Thank you for your time and consideration.

Ellen Lerner

Redmond,Lee

From: Charter Review
Subject: FW: Item #17 Subsection 402(f)

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Monday, October 21, 2019 10:32 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: erbenecke@gmail.com
Subject: RE: Item #17 Subsection 402(f)

[EXTERNAL EMAIL]

Charter Review Commission Members,

First and foremost, I want to thank you for tabling your item # 17 that addresses Subsection 402(f) of the Frederick County Charter, until you have sufficient time to review relevant documents and hear additional public comment, in light of the County Attorney's October 16th opinion.

The issue at hand, the wording of Subsection 402 (f) and its applicability to the signing of contracts involving county funds related to the Sheriff's Office, was raised by folks who are opposed to the 287(g) agreement between the sheriff and Immigration and Customs Enforcement (ICE). That was both propitious and unfortunate because it is not an issue in support of or in opposition to 287(g) and/or the Sheriff, something that is clouding the issue. It obscures the fact that there may be implications beyond the two ICE agreements and the Sheriff's Office.

It is clearly not about 287(g) or the Sheriff even though that may have prompted the focus of attention. It is about good governance, consistency in interpretation and execution of Subsection 402 (f) of the Charter and the County Executive's responsibility for the use of taxpayer dollars.

As previously stated, I found the County Attorney's opinion sophomoric with only a passing reference to the establishment of the office of Sheriff under the State Constitution as support for his opinion (Article IV, Section 44) which reads in totality:

> Text of Section 44:
> There shall be elected in each county and in Baltimore City one person, resident in said county or City, above the age of twenty-five years and for at least five years preceding his election a citizen of the State, to the office of Sheriff. He shall hold office for four years, until his successor is duly elected and qualified, give such bond, exercise such powers and perform such duties as now are or may hereafter be fixed by law.
> In case of vacancy by death, resignation, refusal to serve, or neglect to qualify or give bond, or by disqualification or removal from the County or City, the Governor shall appoint a person to be Sheriff for the remainder of the official term.
> The Sheriff in each county and in Baltimore City shall receive such salary or compensation and such expenses necessary to the conduct of his office as may be fixed by law. All fees collected by the Sheriff shall be accounted for and paid to the Treasury of the several counties and of Baltimore City, respectively.

The aforementioned reference to the State Constitution is clearly insufficient support for the opinion rendered by the County Attorney. We have been left with more questions than answers. During the August 19th meeting of the

Commission, the County Attorney said "... I can send you several opinions..." yet none of those are referenced in support of his opinion.

§ 9-108 of the State Finance and Procurement Article categorizes "functions" performed by the sheriffs as either "State" or "County." State functions include courthouse security; service of process; and, the transfer of inmates to and from court proceedings. County functions include law enforcement and the operation of the county detention center. This is relevant because the 287(g) agreement is supported by county funds that are used for a "County" function, the operation of the Frederick County Adult Detention Center.

When the Sheriff is performing functions related to courthouse security; service of process; and, the transfer of inmates to and from court proceedings, he is clearly acting on behalf of the State, and while he is performing functions related to the Frederick County Adult Detention Center he is clearly operating on behalf of the County.

The County Attorney has stated, "The Frederick County Charter, particularly Subsection 402(f), does not require the County Executive to sign documents where the Sheriff's Office is a party and Frederick County is not." The County is clearly a party in the operation of the Frederick County Adult Detention Center. It is a "County" function funded through the county budget process for which the County Executive and County Council are responsible.

In Dotson v. Chester, 937 F. 2nd 920 (4th Cir. 1991), the United States Court of Appeals for the Fourth Circuit, the judge stated: "While the sheriff, an independently elected official, is charged with the care and custody of prisoners committed to him, he cannot operate without the fiscal cooperation of the Board of County Commissioners." This is consistent with County Attorney Mathias's comment in your August 19th meeting where he said the sheriff "can't enter into a contract unless there is sufficient money to pay for the goods and services." He further stated that the Sheriff is "subject to the county budget and financial type procedures under state law."

This should clearly establish the County as a party to the contracts in question and the responsibility of the County Executive to exercise due diligence in approving and signing said contracts as the funding authority.

Mr. Mathias has further stated that "The County Executive lacks the legal authority to bind the Sheriff or the Sheriff's Office." This then begs the question, does the Sheriff have the legal authority to bind the County, committing taxpayer funds without the approval of the funding authority? In signing these contracts, the County Executive is not binding the Sheriff, but simply approving the use of taxpayer dollars for what is a contract for services provided by the Frederick County Adult Detention Center, a County function.

The County Attorney has stated "In legal jargon, if the County Executive were to sign an agreement on behalf of the Sheriff's Office, the contract would be ultra vires or void as beyond the County Executive's legal authority? If this is so, then are all of contracts involving the Sheriff's Office that have been signed by the County Executive "ultra vires or void"?

It seems that a can of worms has been opened and landed on the plate of the Charter Review Board. Any quick remedy through modifying the County Charter is bound to produce unintended consequences, yet there is an expectation that clarification will be provided.

As it stands now, the way the Charter presently reads it may be consistent with the custom and practice except for the two ICE agreements. However, it would take an examination of all Sheriff's Office contracts and agreements to determine that, a task that may take more time and resources that your Commission has.

Particularly given the weak opinion rendered by the County Attorney that failed to provide any clarity at all, it seems that the public is entitled to either a final decision that includes some detail in its explanation or recommendation for future action regarding Subsection 402 (f).

Thank you very much for your time and thoughtful consideration.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review on Recall Elections
Attachments: Recall Officials Frederick Charter.docx

From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Sent: Saturday, October 26, 2019 1:44 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Charter Review on Recall Elections

[EXTERNAL EMAIL]

Please find the attached letter directed to all members of the charter review commission regarding the amendments to include recall elections of any county elected official.

Respectfully,
James Grose
President
Frederick County Conservative Club
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.frederickconservatives.org&c=E,1,vizBhx8ZKNg8FV0Jzr3VDFUQnH9wN9Ba7OLa5WI8pUq6QB1W6MYmKguFzyDY9AHI3wXjtgAfkK_1MOjcOsYBjO33inWPJYES6oklsAOTgTBg,,&typo=1

October 25th, 2019

Charter Review Commission
Winchester Hall
12 East Church Street
Frederick, MD 21701

Dear Members of the Charter Review Commission:

I am requesting a possible charter change request to be reviewed by the Frederick County Charter Review Commission. I request this review on behalf of the board of directors of the Frederick County Conservative Club. I am requesting that the Charter Review Commission review a charter change which would allow for the recall of elected officials by the people of Frederick County.

All elected county officials should be able to be recalled by 30% of the voters of their district. Including at large officials so long as 30% of the voters at large sign the petition for recall.

Below you will find proposed changes to the Frederick County Charter which we feel are in line with maintaining a transparent, fair, and unbiased Frederick County government:

RECALLS OF ELECTED OFFCIALS

(a) Application - Any holder of an elective office may be recalled therefrom by the voters of the county as herein provided. No recall petition shall be filed against an officer within 3 months after the officer takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least 270 days after that election.

(b) Recall Petition - Any 10 voters of the county may file with the Frederick County Board of Elections Director an affidavit containing the name of the officer or officers sought to be recalled and a statement of the grounds for recall. The Frederick County Board of Elections Director shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall,

printed forms of which the Frederick County Board of Elections Director shall keep available. Said blanks shall be issued by the Frederick County Board of Elections Director with the director's signature and official seal attached thereto. Said blanks shall be dated and addressed to the county council, and shall contain the names of the 10 persons to whom they are issued, the name of the official (or officials) whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the Frederick County Board of Elections Director. The recall petition shall be returned and filed with the Frederick County Board of Elections Director within 60 days after the filing of the affidavit and shall have been signed by at least 30 percent of the voters residing within the officials district who shall add to their signatures the street and number of their residences. The Frederick County Board of Elections Director shall submit the petition to the board of election commissioners in the county, and the board shall forthwith certify thereon the number of signatures which are names of voters of the county.

(c) Recall Election - If the petition shall be found and certified by the Frederick County Board of Elections to be sufficient, the Frederick County Board of Elections Director shall submit the same with the Board's certificate to the county council without delay, and said county council shall forthwith give written notice of the receipt of the certificate to the official or officials sought to be recalled, and shall, if the official (or officials) does not resign within 5 days thereafter, thereupon order a recall election to be held on a Tuesday fixed by said county council at least 65 days after the date of the Board of Elections certificate that a sufficient petition is filed; provided, however, that if any other county election is to occur within 75 days after the date of the certificate, the county clerk shall postpone the holding of said recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this provision.

(d) Recall of One or More Office Holders - The question of recalling any number of officers may be submitted at the same election. For each officer whose recall is sought there shall be a separate ballot. The nomination of candidates to succeed an officer whose recall is sought, the publication of the warrant for said recall election, and the conduct of such election, shall all be in accordance with the provisions of the General Laws.

(e) Office Holder - The office holder shall continue to perform the duties of the office to which elected until the recall election. If not recalled, the office holder shall continue in office for the remainder of the unexpired term, subject to recall

as the charter provides. If recalled, the office holder shall be deemed removed upon the qualification of the successor elected to the office, who shall hold office during the unexpired term. If the successor fails to qualify within 30 days after receiving notification of election to the office, the recalled office holder shall thereupon be deemed removed and the office vacant.

(f) Recall Election Ballots - Ballots used in a recall election shall submit the following propositions in the order indicated:
For the recall of (name of officer)
Against the recall of (name of officer)
Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of such propositions. Under the proposition shall appear the word "Candidates" and the direction "Vote for one" and beneath this the names of candidates nominated as hereinbefore provided.

(g) Office Holder Recalled - Any person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against said office holder shall not be appointed to any county office within 4 years after such recall or such resignation.

Respectfully,

James Devlin Grose

President

Frederick County Conservative Club

Redmond,Lee

From: Charter Review
Subject: FW: Charter Amendment Suggestion - Ethics Board Required to be Elected not Appointed
Attachments: Elected Ethics Commission Frederick Charter.docx

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From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Sent: Saturday, October 26, 2019 1:52 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Charter Amendment Suggestion - Ethics Board Required to be Elected not Appointed

[EXTERNAL EMAIL]

Please find the letter which includes the amendments to charter to allow for the ethics board to be elected officials rather than appointed and possibly biased office holders which are tied to the same officials they have to judge the ethics of.

Sincerely,
James Grose
President
Frederick County Conservative Club
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.frederickconservatives.org&c=E,1,elYyxwm4vD5_rfDg9mIie584RQqIRi7E1Cpv7UGEnjDqTNIxP9DekZH7_QNSnpjYqxdIipr3diiGtMyIETR3-jDheERNn0ysbZcjCXQik0bx5hViQxU,&typo=1

October 25th, 2019

Charter Review Commission

Winchester Hall

12 East Church Street

Frederick, MD 21701

Dear Members of the Charter Review Commission:

I am requesting a possible charter change request to be reviewed by the Frederick County Charter Review Commission. I request this review on behalf of the board of directors of the Frederick County Conservative Club. I am requesting that the Charter Review Commission review a charter change which would require ethics committee members to be elected by the people of Frederick County via at large election, and that these Ethics Committee members are not to be appointed by the same public officials the Ethics Commission would be responsible to hold accountable for possible ethics violations.

Below you will find proposed changes to the Frederick County Charter which we feel are in line with maintaining a transparent, fair, and unbiased Frederick County government:

ETHICS COMMISSION:

(a) Creation. There is elected to the Executive Branch an independent commission named the Frederick County Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of governmental conduct regulated by law, of the Department of Human Resources Code of Ethics, and of the State's campaign finance law set forth in ; Title 13 of the Election Law Article of the Annotated Code of Maryland, to

provide ethics training; and to issue guidance and advisory opinions regarding ethical conduct.

(b) Membership.

(1) The Commission shall be composed of the five at large members:

(2) The Commission shall elect the Chair of the Commission from among its membership.

(3) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government County Government or otherwise be employed by the State or County.

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate for State or County legislative office; or

(E) hold any office in a State or County legislative office candidate's committee, a political committee, or a political party.

(4) A member may be removed for cause by the remaining members of the Commission in accordance with the State of Maryland Administrative Procedure Act.

(5)(A) A member shall serve a term of four years and until a successor is appointed. A term shall begin on January 1 of the year following their election and run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two consecutive terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision

(C) Executive Director

(1) The Commission shall be staffed by an Executive Director who shall be appointed by and serve at the pleasure of the Commission and who shall be a part-time exempt County employee.

(2) The Executive Director shall maintain the records of the Commission and shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

(a) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(b) Meetings. Meetings of the Commission:

(1) shall be held at least quarterly for the purpose of the Executive Director updating the Commission on his or her work;

(2) may be called by the Chair and shall be called upon the request of any other two Commission members.

Respectfully,

Mr. James Devlin Grose

President

The Frederick County Conservative Club

Redmond,Lee

From: Charter Review
Subject: FW: Charter Amendment Suggestion - Officials Code of Conduct
Attachments: Executive and Council Code of Conduct Frederick Charter.docx

From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Sent: Sunday, October 27, 2019 12:04 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Fwd: Charter Amendment Suggestion - Officials Code of Conduct

[EXTERNAL EMAIL]

Begin forwarded message:

From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Date: October 26, 2019 at 1:48:25 PM EDT
To: charterReview@frederickcountymd.go
Subject: Charter Amendment Suggestion - Officials Code of Conduct

Please find the attached letter directed to all members of the charter review commission regarding the amendments to include wording which would limit elected officials from supporting or showing support of private groups or business entities who have a lawsuit filed against Frederick County.

Sincerely,
James Grose

October 25th, 2019

Charter Review Commission
Winchester Hall
12 East Church Street
Frederick, MD 21701

Dear Members of the Charter Review Commission:

I am requesting a possible charter change request to be reviewed by the Frederick County Charter Review Commission. I request this review on behalf of the board of directors of the Frederick County Conservative Club. I am requesting that the Charter Review Commission review a charter change which would add additional wording to the Ethics Law section.

Below you will find proposed changes to the Frederick County Charter which we feel are in line with maintaining a transparent, fair, and unbiased Frederick County government:

ETHICS LAW: COUNTY EXECUTIVE AND COUNCIL CONDUCT

No sitting County Executive, nor any sitting member of the Frederick County Council, may publicly promote or assist in any fashion a business entity (as defined by the Frederick County Ethics Code) that is named in a lawsuit against Frederick County, and any such behavior shall be automatically considered a conflict of interest and a willful violation of using prestige of office to support said entity.

Respectfully,

James Devlin Grose

President

Frederick County Conservative Club

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review on Recall Elections
Attachments: 1995 Md. AG LEXIS 48.PDF

From: Mathias, John <JMathias@FrederickCountyMD.gov>
Sent: Monday, October 28, 2019 4:50 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: RE: Charter Review on Recall Elections

Charter Review Commission Members:

Anticipating a question from the Commission, the Maryland Office of the Attorney General has issued a formal opinion (attached) that a recall provision in a County Charter would violate the Maryland Constitution. The Conclusion to this opinion is short and direct:

In summary, it is our opinion that adoption of a recall provision in a county charter would violate the Fewer Elections Amendment of the Maryland Constitution.

John
John S. Mathias
Frederick County Attorney
12 E. Church St.
Frederick, MD 21701
(301) 600-1031

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From: Charter Review
Sent: Monday, October 28, 2019 4:00 PM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: FW: Charter Review on Recall Elections

From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Sent: Saturday, October 26, 2019 1:44 PM

To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Charter Review on Recall Elections

[EXTERNAL EMAIL]

Please find the attached letter directed to all members of the charter review commission regarding the amendments to include recall elections of any county elected official.

Respectfully,
James Grose
President
Frederick County Conservative Club
https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.frederickconservatives.org&c=E,1,vizBhx8ZKNg8FV0Jzr3VDFUQnH98twN9Ba7OLa5WI8pUq6QB1W6MYmKguFzyDY9AHI3wXjtgAfkK_1MOjcOsYBjO33inWPJYES6oklsAOTgTBg,,&typo=1

1995 Md. AG LEXIS 48

Office of the Attorney General of the State of Maryland

80 Op. Atty Gen. Md. 17

Reporter
1995 Md. AG LEXIS 48 *; 80 Op. Atty Gen. Md. 17

Opinion No. 95-045

October 18, 1995

Core Terms

elect, charter, county charter, voter, four year, home rule, referendum, ultimate determination, county government, legal proceedings, elected official, fixed term, partnership, official's, municipal, proponent, terminate, tenure

Syllabus

[*1]

CHARTER HOME RULE COUNTIES -- PUBLIC OFFICERS AND EMPLOYEES -- CONSTITUTIONAL LAW -- RECALL PROVISION IN COUNTY CHARTER WOULD BE UNCONSTITUTIONAL

Request By: The Honorable Marvin H. Smith, Chairman

Caroline County Governmental Study Commission

P.O. Box 207

Denton, Maryland 21629

Opinion By: /s/ J. Joseph Curran, Jr., Attorney General; Richard E. Israel, Assistant Attorney General; Jack Schwartz, Chief Counsel, Opinions & Advice

Opinion

You have requested our opinion concerning the validity of a recall provision in a county charter. In our opinion, such a provision would be unconstitutional.

I

Nature of Recall

The County Commissioners of Caroline County have appointed a commission to study the county government. The commission, known as the Caroline County Governmental Study Commission, has been asked to consider whether it would be better for the county to adopt charter government under Article XI-A of the Constitution in lieu of the present code county government under Article XI-F. Among the arguments advanced by the proponents of charter government is that the charter could provide for the recall of the county's elected officials.

Recall generally refers to the termination of an elected official's **[*2]** tenure before the end of the term as the result of a special election called by a certain percentage of voters. Poprosky v. Shea, 573 A.2d 756, 758 (Conn. App. 1990);Collins v. Morris, 438 S.E.2d 896, 897 (Ga. 1994);Wallace v. Tripp, 101 N.W.2d 312, 314 (Mich. 1960). [1] In advocating a recall provision in a county charter, the proponents are evidently referring to the recall of the elected officials whose positions would be established by a charter -- that is, the council and the executive, if the executive is elected. *See* Article XI-A, § 3.

II

Constitutional Conflict

In interpreting the Charter County Home Rule Article, Article XI-A, the Court of Appeals has said that a county charter is the equivalent of a constitution, concerned with the distribution of power among the agencies of government and between the government and people. *Board of Supervisors of Elections v. Smallwood, 327 Md. 220, 236-37, 608 A.2d 1222 (1992).* The power to adopt a charter is derived directly from the Constitution and does **[*3]** not require implementing legislation. *Ritchmount Partnership v. Board of Supervisors of Elections, 283 Md. 48, 58, 388 A.2d 523 (1978).*

A recall provision can reasonably be regarded as proper charter material, not requiring statutory authorization. [2] Nevertheless, all charter provisions are subject to the federal and State constitutions and public general laws of the State. *See* Maryland Constitution, Article XI-A, § 1; *Ritchmount, 283 Md. at 59.* As you suggested in your letter, there is a substantial question of whether a recall provision would be contrary to the Fewer Elections Amendment of the State Constitution.

In relevant part, the Fewer Elections Amendment (or Quadrennial Elections Amendment, as it is sometimes called) provides that elections for State and county officials shall be held every four

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[1] Recall is to be distinguished from removal for cause as the result of legal proceedings. *See, e.g.,* Article XV, § 2 of the + Constitution.

[2] Of the related voter participation devices of legislative initiative and referendum, the Court of Appeals has held that, on the one hand, the initiative violates the Charter County Home Rule Article, Article XI-A, § 3. *Maryland State Administrative Board of Election Laws v. Talbot County, 316 Md. 332, 349, 558 A.2d 724 (1988).* On the other hand, the Court held that the referendum is proper charter material. *Ritchmount Partnership, 283 Md. at 64.* The distinction is that the initiative completely deprives the county council of its legislative power in violation of Article XI-A, § 3, while the referendum does not. *Talbot County, 316 Md. at 347-49.*

years. Article XVII, § 2. Except for judges, all elected State and county officials "shall hold office for terms of four years, and until their successors shall qualify." Article XVII, § 3.

The evident purpose underlying the mandatory term "shall hold" is to promote stability in government through fixed terms. Of course, the general rule of a four-year term is subject to qualification in the case of removal for cause as the result of legal proceedings. *See* Article XV, § 2. A term can also be shortened due to the adoption of charter home rule under Article XI-A. *County Commissioners v. Supervisors of Elections, 192 Md. 196, 213, 63 A.2d 735 (1949).* However, the recall concept -- allowing a popular vote to terminate an elected official's tenure prior to the end of the four-year term -- is flatly inconsistent with the general principle that once officials have been elected, they are to serve a fixed term of four years. [3]

As the Georgia Supreme Court put it, "Recall is a procedure whereby it is the voters themselves who make the ultimate determination as to whether an official should retain his office for the duration of the term to which he was elected. " Collins v. Morris, 438 S.E.2d at 897. In Maryland, however, that "ultimate determination" is made by Article XVII, § 3 of the Constitution, not the voters.

III

Conclusion

In summary, it is our opinion that adoption of a recall provision in a county charter would violate the Fewer Elections Amendment of the Maryland Constitution.

Very truly yours,

Load Date: 2014-10-02

End of Document

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[3] Article XVII, § 3 does not apply to municipalities. We express no opinion about the constitutionality of recall provisions in a municipal charter. *See generally Town of Glenarden v. Bromery, 257 Md. 19, 262 A.2d 60 (1970)* (issue raised but not decided).

Redmond,Lee

From: Charter Review
Subject: FW: Charter review comments and additional proposals

From: Sepe <cjaarsepe@aol.com>
Sent: Monday, October 28, 2019 5:02 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Charter review comments and additional proposals

[EXTERNAL EMAIL]

Dear members:

I respectfully submit my comments on the proposals you are currently reviewing.

Proposals 6 - 7 and 9 - Section 207 - I am against an increase to council member salary- However I do believe the salary of the Council President should be increased up to an additional $5000. There should be no benefits to part time council members.

Proposal 11 - Section 211 - Agree that Subpoena should be allowed with a vote of five instead of six.

Proposals 13 and 14 - Section 212- Agree any council members should be able to request information from the CE. OPEN and transparent communication between CE and CM.

Proposal 15- Section 213 - Council assistance - By resolution the council can already add staff at its discretion subject to its budget appropriation. A budget director is only necessary during a limited period, and council can engage a certified public accountant to provide audit as noted in Section 704- In the same manner the council could allocate within their budget for a third party consultant to provide the budget review service. I do believe however that the council SHOULD have their own legal representation to help craft bills.

Proposal 25- Section 506 - Budget - Council should be able to increase line items in the budget by decreasing or deleting other proposed line items, without increasing the total overall recommended CE proposed budget.

I would also like to propose a review of the following sections:

Section 305- f) "A Bill not enacted within 90 days of introduction is void" The 90 days should be extended to 120 days if amendments constituting a change in substance are introduced.

Section 412- Appointments
Process for appointments to boards and commissions by the council should be reviewed. Codifying the open transparent interview process of certain prominent boards and commissions. Appointments to boards and commissions should be promptly filled. CE should forward appointment to the council within 30 days of vacancies. or consider adding to Section 413 to allow temporary appointments to boards and commissions for a period not to exceed.

Thank you for your time and willingness to work on this important charter review.

Carole Jaar Sepe,
cjaarsepe@aol.com
301-473-5292
Jefferson, MD

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review Commission Emails

From: Frederick FCCC <frederickcountyconservatives@gmail.com>
Sent: Wednesday, October 30, 2019 8:50 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Re: Charter Review Commission Emails

[EXTERNAL EMAIL]

Mrs. Lee Palmer Redmond,

Thank you for the follow up. I would also like to submit the following information for the charter review commission to take into consideration prior to their discussion regarding recall of elected officials.
There is indeed precedent for this and a recall was petitioned and a Mayor was recalled in Brunswick, MD and within Frederick County.
Please see the attached link and review section 16-20.

https://brunswickmd.gov/vertical/Sites/%7B6128680E-2B73-4AA3-90D8-2ADE82D7827D%7D/uploads/Charter_2017-06-30.pdf

Respectfully,
Mr. James Devlin Grose
President
Frederick County Conservative Club

On Oct 29, 2019, at 11:20 AM, Charter Review <CharterReview@frederickcountymd.gov> wrote:

Good Morning,

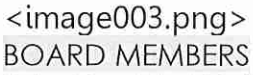
Your emails concerning the Frederick County Charter Review Commission have been received and were forwarded to the Commission members yesterday. I will be in contact with you if there are any questions or comments.

Thank you for your email and for your interest in the Charter review process.

Regards,

Mrs. Lee Palmer Redmond
Executive Assistant
Office of the Frederick County Council
12 East Church Street

Frederick, MD 21701
301-600-1034



John Daniels | Dylan Diggs | Paul Gilligan | Lisa Jarosinski | Dr. April Miller | Walter Olson | Stephen Slater

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CHARTER

OF THE CITY

OF

BRUNSWICK

FREDERICK COUNTY

MARYLAND

As found in the
Public Local Laws of Frederick County, 1959 Edition
supplemented to December 1975, as amended,
as deposited at the State of Maryland Legislative Services through March 2004,
and as amended through January 2009.
Last amended June 2017 by City staff.

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CHARTER

BRUNSWICK

(See note (7))

Article I. In General.

Section 16-1. Continuation of corporation.

The citizens of the City of Brunswick are and shall continue to be a body corporate, by the name of the mayor and council of Brunswick and by that name shall have perpetual succession, sue, and be sued, have and use a common seal and may purchase and hold real estate or dispose of the same for the benefit of the city. (Code 1930, art. 11. § 32; 1943, ch. 740, § 1.)

Section 16-2. Boundaries.

The limits of said town of Brunswick begin at a stone planted at the northeast corner of a culvert under the Chesapeake and Ohio Canal, said place of beginning being at the end of the thirteenth line of a tract of land conveyed to the Real Estate and Improvement Company at Baltimore City by Mary Gertrude Orrison, by deed dated December seventh, eighteen hundred and eighty-nine and recorded among the Land Records of Frederick County, in Liber W.I.P. number nine, folio five hundred and eighty-six, etc., and running thence with and binding reversely on the lines of the above mentioned conveyance in the Maryland State Plane NAD 83/91 Datum the following courses and distances, to wit:

1. North 17°38'45" East, 651.75 feet to a stone, thence
2. North 01°21'15" West, 660.00 feet to a stone, thence
3. North 02°21'15" West, 173.25 feet to a stone, thence
4. North 12°08'45" East, 2,128.50 feet to a stone, planted in the center of a lane leading to the property owned by John Frazier, said stone being also planted at the corner of said Frazier's property, thence with the center of said lane
5. North 41°51'15" West, 1,089.00 feet to a stone, planted in the road leading from Parker's Mill to the City of Brunswick, thence with said road
6. North 30°23'45" East, 115.50 feet to a stone, thence
7. North 68°36'15" West, 95.70 feet to a stone, thence
8. North 70°36'15" West, 316.80 feet to a stone, thence
9. North 31° 51' 15" West, 610.46 feet to a P.K. nail set at the westerly end of the North 58° 50' 22" East, 249.10 foot plat line of the area dedicated to public use and as shown as Line Number 2 on a plat entitled "Plat of Lot Created by Public Taking, Biser's Overlook" recorded among the aforesaid Land Records in Plat Book 39 at Page 158, said point also being on the centerline of Maryland Route 464; thence leaving the ninth (9th) line of the limits of the City of Brunswick as described in the 1957 Town Charter and running with all of said line along the centerline of said Maryland Route 464 and with the lands of John H. Kelly as described by a deed dated August 27, 1976 and recorded among the aforementioned Land Records in Liber 997 at folio 662
10. North 52° 58' 58" East, 249.58 feet to a P.K. nail set; thence continuing with the said dedication area as shown on the aforementioned plat and with the lands of said John H. Kelly
11. South 36° 30' 18" East, 40.00 feet to a rebar and cap set; thence continuing with the said dedication area as shown on the aforementioned plat, with the northerly line of Lot 2, Section 2 as shown on a plat entitled "Combined Preliminary/Final Plat, Lots 1, 2, and 3, Section 2, Biser's Overlook" and recorded in Plat Book 41 as Page 51 among the aforementioned Land Records and conveyed to L.K. and T.O. Murray by a deed recorded in Liber 1576 at Folio 276 among the aforementioned Land Records, with part of the lands conveyed to Roland M. and Evelyn L. Biser in a deed recorded in Liber 1875 at Folio 578,and with the northerly line of Lot 3, Section 2 as shown on a said plat recorded in Plat Book 41 as Page 51 among the aforementioned Land Records and conveyed to G. L. and R. L. Grams by a deed recorded in Liber 1576 at Folio 281 among the aforementioned Land Records
12. North 52° 58' 58" East, 624.89 feet to a rebar and cap set; thence continuing with the said dedication area as shown on the aforementioned plat recorded in Plat Book 41 as Page 51 and with the lands conveyed to J. F and R. M. Gordon by a deed recorded in Liber 817 at Folio 392 among the aforementioned Land Records
13. North 36° 32' 54" West, 40.00 feet to a P.K. nail set on the centerline of Maryland Route 464; thence along the centerline of said Maryland Route 464, continuing with the said dedication area as shown on the aforementioned plat, with the northerly line of aforementioned lands conveyed to J. F and R. M. Gordon, with the northerly line of the lands conveyed to W. A. and G. L. Arvin by a deed recorded in Liber 491 at Folio 493, with the northerly line of the lands conveyed to W. A. and G. L. Arvin by a deed recorded in Liber 651 at Folio 45, and with the northerly line of the lands conveyed to F. L. and S. K. Cuddlip by a deed recorded in Liber 2174 at Folio 753 among the aforementioned Land Records
14. North 52° 58' 58" East, 255.14 feet to a P.K. nail set; thence continuing with the said centerline, with the dedication area as shown on the aforementioned plat, with the northerly line of the lands conveyed to F. L. and S. K. Cuddlip by a deed recorded in Liber 2174 at Folio 753, and with the lands conveyed to R. E. Wheeler by a deed recorded in Liber 1596 at Folio 153 among the aforementioned Land Records
15. 457.80 feet along the arc of a curve deflecting to the right, having a radius of 1269.28 feet (chord: North 63° 18' 55" East, 455.33 feet) to a P.K. nail set; thence with all of Line Number 3 of said dedication area as shown on the aforementioned plat entitled "Plat of Lot Created by Public Taking, Biser's Overlook" recorded among the aforesaid Land Records in Plat Book 39 at Page 158 as shown on the aforementioned plat, leaving said Maryland Route 464 and binding with the first (1st) or North 03°45' West, 435.6 foot line of a deed recorded among the Land Records of Frederick County, Maryland in Liber 703 at folio 283, with the ninth (9th) line or south 03°52'19" East, 525.25 foot line of a deed recorded among the aforesaid Land Records in Liber 2221 at Folio 406 and

with the North 02°56'00" West, 1142.81 foot plat line of a plat entitled "Boundary Survey of Property Now Known as Wire Bender Farm" recorded among the aforesaid Land Records in plat book 15 at page 69 the following course and distance:

16. North 04° 31' 32" West, 2101.81 feet to a point; thence binding with the fourth (4th) and fifth (5th) lines of a deed recorded among the aforementioned Land Records in Liber 1471 at Folio 570 the following two (2) courses:
17. North 84° 49' 31" West, 1365.16 feet to a point; thence
18. North 47° 23' 14" West, 625.85 feet to a point on the North 55°52' East, plat line of a plat entitled "Plat of Rosemont" recorded among the aforesaid Land Records in Plat Book STH1 at Page 95; thence binding with the southerly limits of Lots 50, 51, 52 and part of Lot 56 as shown on said plat:
19. South 50° 00' 32" West, 746.75 feet to a point; thence continuing with the southerly limits of Lots 49, 48, 47 and part of Lot 46 as shown on the aforesaid plat of Rosemont, the following course and distance:
20. South 49° 06' 33" West, 638.64 feet to a stone found; thence continuing with the southerly limits of Lots 46, 45, and 44 as shown on the aforesaid plat of Rosemont the following course and distance
21. South 44° 54' 46" West, 376.71 feet to a t-bar found; thence continuing with the southerly limits of Lots 43, 42, 41, 40, 39, 38, and 37 as shown on the aforesaid plat of Rosemont, with the southerly lines of Parcel 2, Tract 1 and Parcels 1 and 2, Tract 2 of the lands conveyed to Gary R. Cooper and W. Kay Cooper by a deed recorded in Liber 2808 at Folio 907, and with the lands conveyed to R. N. Grove, Jr. and Melody A. Grove by a deed recorded in Liber 879 at Folio 84 among the aforementioned Land Records the following course and distance
22. South 44° 43' 52" West, 1167.79 feet to a point; thence continuing with the lands conveyed to R. N. Grove, Jr. and Melody A. Grove by a deed recorded in Liber 879 at Folio 84 among the aforementioned Land Records the following course and distance
23. South 38° 37' 59" West, 194.08 feet to a rebar and cap set at the beginning of the fourteenth line of the 1957 Town Charter; and running thence with all of said line
24. North 69° 36' 15" West, 1515.00 feet to a point; thence
25. North 57°06'15" West, 558.00 feet to a stone, thence
26. North 48°06'15" West, 337.00 feet to a stone in the southeast line of Maryland Route 17 (former Brunswick Road), thence crossing said Route 17 and the farm formerly owned by Daniel Shafer and now owned by Olive S. Long.
27. North 59°06'15" West, 1,720.00 feet to a point, said point being on the eleventh (11th) or North 20°15' East, 256.18 perch line as described in a conveyance from John A. Hope, Jr. and Lillie V. Hope to the Hope family limited partnership by deed dated December 29, 1994 and recorded among the Land Records of Frederick County, Maryland in Liber 2068 at Folio 896, thence binding with part of said line as now surveyed:
28. North 18°18'45" East, 310.00 feet to a point, said point being on the southerly right-of-way limits of relocated Maryland Route 17 as delineated on State Roads Commission Right-of-Way Plat no. 24594, said point being 40.00 feet left of base line station 17+91.23 as delineated on the aforesaid plat, thence binding with the southerly limits of said Maryland Route 17 (as shown on Maryland State Road Plats 24595, 29405, 29406) the following thirteen (13) courses:

29. North 48°16'29" West, 483.77 feet to a point, thence
30. South 41°43'31" West, 60.00 feet to a point, thence
31. North 48°16'29" West, 175.00 feet to a point, thence
32. North 17°18'40" West, 116.62 feet to a point, thence
33. North 48°16'29" West, 925.00 feet to a point, thence
34. South 41°43'31" West, 50.00 feet to a point, thence
35. North 48°16'29" West, 225.00 feet to a point, thence
36. North 34°14'19" West, 206.16 feet to a point, thence
37. North 48°16'29" West, 400.00 feet to a point, thence
38. North 64°58'27" West, 52.20 feet to a point, thence
39. North 39°44'38" West, 101.12 feet to a point, thence
40. North 48°16'29" West, 269.21 feet to a point, thence
41. 384.61 feet along the arc of a curve deflecting to the right, having a radius of 1,949.86 feet and a chord bearing and length of North 42°37'27" West, 383.98 feet to a point, said point being 40.00 feet left of baseline station 50+95.93 as delineated on State Road Commission Right-of-Way Plat no. 29406, then leaving said Maryland Route 17 and binding with the first (1st) line as described in a conveyance from Leon B. Enfield et ux to Leon B. Enfield and Shirley G. Enfield, husband and wife, by deed dated June 17, 1991 and recorded among the Land Records of Frederick County, Maryland in Liber 1716 at Folio 1026 and also the centerline of that portion of the Burkittsville-Brunswick Road now abandoned (SRC Plat 35592)
42. North 65°56'34" West, 587.65 feet to a point, thence leaving said centerline of the Burkittsville-Brunswick Road (now abandoned) to cross and include part of the said Liber 1716 at Folio 1026, the following three (3) courses:
43. North 86°59'36" West, 35.80 feet to a point, thence
44. North 65°56'34" West, 22.88 feet to a point, thence
45. North 39°20'44" West, 28.72 feet to a point, said point being at centerline station 0+44.91 of the aforesaid Burkittsville-Brunswick Road as delineated on State Roads Commission Right-of-Way Plat No. 35592, thence binding with said centerline and the first (1st) line of Parcel No. 1 as described in the aforesaid Liber 1716 at Folio 1026 as now surveyed:
46. North 71°59'06" West, 8.49 feet to a point, thence binding with easterly and southerly dedication limits as delineated on Maryland State Roads Plat No. 35592 the following two (2) courses:
47. South 50°39'16" West, 87.73 feet to a point, thence
48. North 39°20'44" West, 32.73 feet to a point, said point being in or near the centerline of Jefferson Pike (Maryland Route 180), thence binding with said Jefferson Pike in or near the said centerline, thence
49. South 43°55'28" West, 436.29 feet to a point, thence
50. South 43°37'02" West, 2,051.86 feet to a point, thence leaving said centerline of Jefferson Pike
51. South 47°01'58" East, 32.61 feet to a concrete monument found, said point being the northeast front corner of Lot 1, Section 1 as delineated on a plat entitled

"Combined Preliminary/Final Plat, Enfield Division" and recorded among the Land Records of Frederick County, Maryland in plat book 20 at page 112, thence binding with the westerly platted limits of said Lot 1

52. South 43°32'29" West, 220.82 feet to a point, thence
53. North 61°56'42" West, 34.15 feet to a point, said point being in or near the centerline of the aforesaid Jefferson Pike, thence binding with said Jefferson Pike in or near the centerline
54. South 43°37'02" West, 119.28 feet to a point, thence
55. South 41°12'19" West, 720.69 feet to a point, thence leaving the centerline of Jefferson Pike (Maryland Route 180, aka Ridge Road from Frederick to Harpers Ferry) and binding with the eleventh (11th) through ninth (9th) lines as described in the aforesaid Liber 1716 at Folio 1026 (Parcel No. 1) as now surveyed:
56. South 64°53'54" East, 1,701.15 feet to a point, thence
57. South 27°53'51" West, 1,567.45 feet to a rebar and cap found, thence
58. South 72°13'44" East, 1,216.24 feet to a point, thence
59. South 56°58'53" East, 410.52 feet to a rebar and cap found, thence
60. South 11°00'50" West, 274.10 feet to a rebar and cap found, said point being the northeast corner of the "Moore Farm" as conveyed in a personal representative's deed dated September 17, 1996 and recorded in the Frederick County Land Records in Liber 2227 at Folio 303 between Mary Ann Daugherty and Shawn Elaine Daugherty, personal representatives and the Herbert L. Daugherty trust of 1994-cst and the Herbert L. Daugherty trust of 1994-marital, said "Moore Farm" being more particularly described in Liber 409, Folio 503 among the Land Records of Frederick County, Maryland, thence binding with the northerly, westerly and southerly limits of said "Daugherty Trust" property as now surveyed:
61. North 56°56'06" West, 479.15 feet to a rebar found, thence
62. North 72°18'39" West, 1,205.59 feet to a point, thence
63. North 61°38'42" West, 623.03 feet to a rebar found, thence
64. North 61°23'09" West, 254.92 feet to a rebar and cap found, thence
65. South 10°04'12" West, 1,285.08 feet to a point, thence
66. South 64°21'58" East, 196.38 feet to a point, thence
67. South 60°21'58" East, 80.65 feet to a point, thence
68. South 64°21'58" East, 349.55 feet to a point, thence
69. South 64°51'06" East, 642.73 feet to a point, thence
70. South 68°20'38" East, 625.36 feet to a point, thence
71. South 70°56'00" East, 835.73 feet to a point, thence
72. South 18°51'54" West, 16.68 feet to a concrete monument found on the East side of a 14' alley as delineated on a subdivision record plat entitled "Brunswick Industrial Company's Addition to the Town of Brunswick" and recorded among the Land Records of Frederick County, Maryland in plat book STH 276 at plat 186, thence binding with said East side of said alley
73. South 18°51'54" West, 464.71 feet to a concrete monument found on the North side of Route 478 (Potomac Street also the road leading from Knoxville to Brunswick) thence
74. South 18°51'54" West, and continuing the same until it intersects the Maryland State Line; thence southeasterly, binding on the Maryland State Line until it intersects a line drawn South 24°51'15" East, from the beginning; and thence reversing the said line so drawn and binding thereon, North 24°51'15" West, to the place of beginning.

(Code 1930, art. 11, § 33; 1943, ch. 740, § 1; 1949, ch. 661, § 1; 11-12-57; Char. Res. 04-06, 04-27-04, Rev. 06/04, **(Char. Res. 08-06, 05-27-08, Char. Res. 08-07, 05-27-08)**

Section 16-2.1

(Repealed.) (Char. Res. 04-06, 4-27-04.)

Section 16-3. Powers generally.

The mayor and council of Brunswick shall have the power to pass such ordinances not contrary to the laws and constitution of this state as it may deem necessary.

(1) For the good government of the city.

(2) For the protection and preservation of the city's property, rights and privileges.

(3) For the preservation of peace and good order and securing persons and property from violence, danger and destruction.

(4) For the protection of the health, comfort and convenience of the citizens of Brunswick and visitors thereto or sojourners therein.

(5) For the appointment of a board of health and defining and regulating its powers and duties.

(6) For establishing and maintaining a fire department.

(7) For erecting and maintaining bridges.

(8) For establishing, maintaining and regulating an adequate police force.

(9) To prevent, remove and abate or cause to be removed or abated, all nuisances or obstructions in or upon the sidewalks, streets, highways, lanes or alleys, drains or watercourses or in or upon any lot adjacent thereto and to provide for imposing a fine upon any person causing, creating or maintaining any such nuisances or obstructions.

(10) To open, close and widen or narrow streets, lanes, roads or alleys within the limits of the city.

(11) To remove or cause to be removed or to render secure any house, building or other structure or objects that may be dangerous to property, health or to the life or to the limbs of persons entering such house or building, passing along or over any of the highways of the city or residing in the neighborhood thereof.

(12) To make reasonable regulations in regard to buildings to be erected in the city, including a Building Code.

(13) To make and establish grades upon the streets and highways of the city.

(14) To cause sidewalks along the public streets and highways of the city to be graded, paved, repaired or made and curbs to be set, at the cost and expense of the abutting property or the owner thereof, which cost and expense shall be a lien upon the abutting property in favor of the Mayor and council until paid. Such lien may be enforced by distraints and sale in the same manner as the collection of corporate taxes are enforced or the mayor and council may, by fine or otherwise, compel the owner or proprietor of any lot to pave or repave the sidewalks or footways of any street adjacent to such lot and to set curbs along the same, agreeably to the ordinances of the city.

(15) To cause the streets, ways and alleys, the watercourses, drains, sewers and gutters to be macadamized or paved, kept in repair and cleaned.

(16) To control and protect the public buildings, ground and property of the city.

(17) To establish, enact, maintain and regulate a station house or lockup in the city for the confinement of violators of the law and ordinance thereof, and such other buildings for municipal purposes as they may deem necessary and proper.

(18) To levy a tax and impose a license on dogs and bitches and to prevent horses, cattle, goats, swine, dogs and fowl from running at large in the streets of the city and through vacant buildings and lots thereof.

(19) To regulate and control all offensive trades, manufactures and traffic in offensive fertilizers and other commodities.

(20) To prohibit hogpens and slaughterhouses within the limits of the city.

(21) To require a license or permit to be applied for and obtained by the parties or persons hereinafter mentioned, to fix the amounts for such licenses and permits and to prescribe the penalties to be imposed for failure to procure the license or permits and pay for the same. The money paid for any and all such licenses and permits required by ordinance and issued under the order of the mayor and council shall belong to them for the corporate purposes of the city. The mayor and council may, by and under ordinance, require the following parties or persons, whether individual, firms, associations or incorporated bodies, to apply for and obtain a license or permit:

(a) All parties or persons, who hawk, peddle, huckster or vend any marketable commodities, wares or merchandise of any description upon or along the streets, alleys or thoroughfares of Brunswick; provided that no license shall be required of the producer, grower or the manufacturer of such marketable commodities.

(b) All persons who go from house to house or place to place in the city to sell or dispose of any wares, merchandise, marketable articles or other commodities; provided, that no license shall be required of the producer or manufacturer of such marketable articles or commodities and no license shall be required if the party has already a trader's license issued by the city.

(c) All persons, whether they are persons who travel about or otherwise, not being resident physicians or druggists of the city, who dispose of medicine, remedies, nostrums or patent medicines or who dispense medical advice on the streets or in other places of the city; provided, that nothing herein shall prevent the sale of medicine under an ordinary trader's license. When the sales are made from a wagon, carriage or other vehicle, a license for it may also be required.

(d) All persons who keep livery stables for the hire of horses, carriages or teams or who keep feed stables.

(e) The proprietors of circuses, either for showing or parading in the city.

(f) The proprietors or promoters for any theatrical performance, troupe or company and moving picture exhibition or public entertainment who charge an admission fee. Such persons may be required to procure a license for such performance, exhibition or entertainment.

(g) The owner or promoter of every merry-go-round or flying horses.

(h) All keepers or owners of bowling alleys, bowling saloons, billiard saloons, bagatelle saloons and all pool tables and saloons, whether kept or used by a corporation, firm or individual, and all skating rinks.

(i) All persons who keep or own any dray, cart, wagon or other vehicle for transportation in the city of goods, merchandise or other personal chattels.

(j) All telephone and telegraph companies having offices in the city and doing business therein.

(22) To preserve the cleanliness, health, safety, peace and good order of the city and to protect the lives and property of the citizens thereof.

(23) To punish and suppress vagrancy, gambling and the sale or giving away of spirituous or fermented liquors, lager beer or intoxicating drinks of any kind within the limits of the city.

(24) To purchase, construct, receive and hold such real and personal property, including buildings as may be necessary or proper for municipal or other purposes, and to control, operate, dispose of and convey the same for the benefit of the city. Also, to establish a market and to regulate the same, and to license the sale of marketable commodities.

(25) They shall also have power to provide for the codification of all ordinances of the city and to cause the same to be printed, together with the Charter of the city.

(26) They shall also have power to grant, for a period not exceeding ten years, upon such terms, rates, fares and charges and conditions as may be presented by ordinances, specified franchises or rights in and relating to any of the public property or places, as the right to use any highway, avenue, street, lane or alley, either on, above or below the surface of the surface of the same, and in and along its waterfront. Every such grant shall specifically set forth and define the nature, extent and duration of the franchise or right, shall make provision by way of forfeiture or otherwise of the grant and to secure efficiency of public service at reasonable rates and the maintenance of property in good condition throughout the full term of the grant.

(27) To suppress, abate and discontinue all nuisances within the corporate limits of the city.

(28) In addition to the power providing by contract for the lighting of its streets, lanes, alleys, public places and buildings of the city, they shall have the power to construct or purchase, own, improve, extend, repair, maintain and operate an electric light plant for the purpose of lighting the streets, etc., and for furnishing light and power for the use of the citizens thereof and, to this end, to acquire, by gift, grant, lease, purchase or condemnation proceedings, all lands, tenements, rights, ways, privileges and franchises necessary to carry this power into effect.

(29) To provide for the punishment of any person keeping a vicious or annoying dog and to provide for the killing of any such dog.

(30) To provide for zoning and the removal of fire hazards. (Code 1930, art. 11, § 43; 1943, ch. 740, § 1.)

Section 16-4. Penalties for violation of city ordinances.

The mayor and council of Brunswick shall have the power to pass ordinances and to fix fines, not to exceed one thousand dollars--$1,000 in any one case, for a violation of any of the ordinances of the city. In case of nonpayment of any such fines, they may provide by ordinance for the confinement of the party failing or refusing to pay such fine in the County Jail or the county jail for a period not exceeding six (6) months for any single failure to pay a fine. All fines, penalties or forfeitures imposed by this Charter or any ordinance of the mayor and council may be recovered in the name of the mayor and council of Brunswick before a Judge of the District Court of Maryland, as small debts are recovered, and the money arising therefore shall be paid to the mayor and council for the use of the city. (Code 1930, art. 11, § 44; 1943, ch. 740, § 1; Res. 1, 1-11-72.)

Section 16-5. Authority to require prisoners to do certain work.

The mayor and council of Brunswick are authorized and empowered to pass an ordinance authorizing and directing the chief of police of the city to require all persons of sufficient ability who shall be sentenced to imprisonment in the city lockup by the trial magistrate as a punishment of any crime or misdemeanor committed therein to work upon the public streets and highways of the city or to do some work in connection with the improvements thereof as part of the prison discipline and management. (Code 1930, art. 11, § 45; 1943, ch. 740, § 1.)

Section 16-6. Contracts and purchases—Mayor and councilman prohibited form dealing with city.

No person, elected and qualified as mayor or councilman or any person holding any office by election, appointment or otherwise under the provisions of this Charter shall, during the term of his office, enter into any contract to which the city is a party for the construction of any street, alley, sewer, building or other structure. Any person violating the provisions of this section shall be proceeded against by indictment by the circuit court of the county, and upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both, in the direction of the court. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1.)

Section 16-7. Same—Competitive bidding required for certain material and supplies.

Before the mayor and council makes any purchase of or contract for supplies, materials, or equipment, they shall give ample opportunity for competitive bidding, under such rules and regulations as they from time to time may provide; provided, however, that competitive bids shall not be required for purchases of five hundred dollars ($500.00) or less. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1; Char. Res. 1976-2, 4-29-76.)

Section 16-8. Eminent domain.

The mayor and council of Brunswick are authorized to acquire, by purchase from the owner thereof, any real or leasehold estate, improved or unimproved, right of way easement, water right or watercourse which they may deem expedient or necessary to purchase and hold for the purpose of building sewers and drains, for the purpose of constructing and operating a general sewerage and drainage system of the city or for the purpose of carrying out or exercising any of the privileges and powers granted the mayor and council by law. If the mayor and council cannot agree with the owners or if any of them are absent from the state, or unknown or without legal capacity to contract by reason of infancy, coverture, insanity or otherwise, it shall be lawful for the mayor and council to acquire by condemnation any such real or leasehold estate, improved or unimproved, right of way, easement, water right or watercourse in the same manner and by the same proceedings as are provided for condemnation by corporations under Article 33A of the Annotated Code of Maryland, 1957. (Code 1930, art. 11, § 48; 1943, ch. 740, § 1.)

Section 16-9. Effect of Charter.

Nothing contained in this Charter shall affect or in any manner make invalid any of the present ordinances of the mayor and council of Brunswick. Nothing in this Charter shall be construed to release any person from the payment of any taxes now owing by him to the mayor and council of Brunswick. Nothing in this Charter shall affect the tenure of office of the present mayor and council of Brunswick who, by virtue of their election, shall hold office until the mayor and councilmen herein provided for are duly elected and qualified, according to the manner and terms prescribed.

Nothing in this Charter shall be construed to dissolve the corporation known as the mayor and council of Brunswick. Nothing in this Charter shall be construed to release any person from any debt or obligation now due by him to the mayor and council of Brunswick. Nothing in this Charter shall affect in any manner whatsoever the rights, actions, choses in action, suits, either at law or in equity, obligations, properties and effects of the corporation known as the mayor and council of Brunswick. (Code 1930, art. 11, § 54; 1943, ch. 740, § 1.)

Section 16-9.1. (See note (1)) Authority to borrow money; issuance of general obligation bonds and tax anticipation notes.

(a) The mayor and council of Brunswick shall have the power to borrow money for any public purpose, including the refinancing of any outstanding indebtedness, and to evidence such borrowing by the issue and sale of its general obligation bonds, or notes issues in anticipation thereof, and shall likewise have authority to borrow money in anticipation of the receipt of current taxes and to evidence such borrowing by the issue and sale of its tax anticipation notes, payable as to principal and interest from said taxes when received, the same to be issued and sold in the manner prescribed in sections 31-37, inclusive, of Article 23A of the Annotated Code of Maryland (1966 Replacement Volume), title "Corporations—Municipal," subtitle "Home Rule," subheading "Creation of Municipal Public Debt"; provided, however, that if the ordinance or ordinances authorizing the issue and sale of any of such bonds or notes shall so specify, the bonds or notes may be sold at private sale, without advertisement or publication of notice of sale, or solicitation of competitive bids.

(b) The issuance and sale of such general obligation bonds, or tax anticipation notes, shall constitute a pledge of the full faith and credit of the mayor and council of Brunswick to the prompt payment, when due, from ad valorem taxes and such other revenues as may be described in the authorizing ordinance or ordinances, of the principal of and interest on such bonds or notes. The maturing principal of and interest on any general obligation bonds may be paid, in whole or in part, from the proceeds of such benefit assessments or charges, or any combination thereof, as the mayor and council may impose and collect during the life of the bonds, power and authority so to do being hereby specifically granted where appropriate to the public purpose for which the bonds may be issued. In any event, the mayor and council shall, if and to the extent necessary, annually levy upon all property subject to taxation within the corporate limits of Brunswick ad valorem taxes sufficient to provide for the payment of the maturing principal of and interest on any such bonds or notes, without limitation as to rate or amount notwithstanding any limitation contained in this Charter or in any other law, and the issuance and sale of any such bonds or notes shall constitute a covenant to that effect.

(c) In order to carry out the meaning and intent of this section, the mayor and council are empowered to do all things and to take any action, by ordinance or otherwise, deemed necessary for the regulation, efficient operation and maintenance of any work, plant or system of public improvement, or any part thereof, financed pursuant to the authority of this section.

(d) The authority and powers contained in this section shall be supplementary to existing law and such authority or powers or any of them may be exercised by the mayor and council of Brunswick notwithstanding any other provision or limitation of law. (2-11-69.)

Article II. Elections.

Section 16-10. Registration of voters—Required.

Registration shall be essential to the right to vote at any election held under the provisions of this article or under the provisions of any Act of the General Assembly of the state, submitting any proposition or question to the decision of the voters of the City of Brunswick. The registration heretofore made in the year 1941, together with such additions, changes and alterations as may have been made in accordance with the law in force at the time of such registration and together with such additions, changes, and alterations as are hereafter lawfully made, shall constitute such registration. (Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 1976-1, 3-3-76; Char. Res. 6-90, 4-4-90.)

Section 16-11. Same—Procedure.

Registration with the Board of Supervisors of Elections, Frederick County, Maryland, by a voter who resides in the City of Brunswick, shall be deemed registration for elections in the City of Brunswick. An individual who wishes to register to vote shall register with the Board of Supervisors of Elections of Frederick County. (Code 1930, art. 11, § 34; 1943, ch. 740, § 1; 5-10-56, § 1; Char. Res. 5-8-73; Char. Res. 2-12-74; Char. Res. 6-90, 4-4-90.)

Section 16-12.

(Repealed.) (Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 2-12-74; Char. Res. 6-90, 4-4-90.)

Section 16-13. Qualifications of voters.

Individuals who reside within the corporate limits of the City of Brunswick shall be qualified to vote at any municipal election if they are qualified to vote and are registered as qualified voters pursuant to the laws of the State of Maryland. (1943, ch. 740, § 1; Char. Res. 4-11-72; Char. Res. 6-90, 4-4-90.)

Section 16-14. Nominations of candidates.

(Repealed.) (Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 7-11-72; Char. Res. 12-11-73; Char. Res. 2-93, 7-14-93.) (Rev. 9/93) (Char. Res. 06-06, 5-9-06.)

Section 16-15. How conducted generally.

(a) On the first Tuesday in August in the year 1956 there shall be selected by the qualified voters of the City of Brunswick a mayor who shall have certain qualifications as hereinafter prescribed, and who shall hold office for a term of four years or until his successor is duly elected and qualified.
(b) There shall also be selected on the first Tuesday in August in the year 1956 and on the first Tuesday in August every four years thereafter, by the qualified voters of the City of Brunswick three council members who shall have certain qualifications as hereinafter prescribed, and who shall hold office for a term of four years, or until their successors are duly elected and qualified.
(c) There shall also be selected on the first Tuesday in August in the year 1958 and on the first Tuesday in August every four years thereafter, by the qualified voters of the City of Brunswick, three council members who shall have certain qualifications as hereinafter prescribed, and who shall hold office for a term of four years, or until their successors are duly elected and qualified.
(d) Candidates for the above named offices are nominated by petition for the general election.
(e) The City of Brunswick does not conduct Primary Elections.
(f) The council may by ordinance provide for other details not herein enumerated. In every election, whether such election be the regular election or any special election, the polls shall be opened at eight o'clock A.M. and closed at eight o'clock P.M.
(g) The use of voting machines is hereby authorized for all regular and special municipal elections in the City.

(Code 1930, art. 11, § 34; 1943, ch. 740, § 1; 5-10-56, § 1; 4-11-61, § 1; 8-9-66, § 1; Char. Res. 2-12-74; Res. 12-13-77; Char. Res. 2-93, 7-14-93.) (Rev. 9/93) (Char. Res. 06-06, 5-9-06.)

Section 16-16. Clerks and judges of election.

(Repealed.) (Code 1930, art. 11, § 34; 1943, ch. 740, § 1; Char. Res. 2-12-74.) (Char. Res. 06-06, 5-9-06.) *Covered by Ordinance*

Section 16-17. Election returns; filing of certificates.

(Repealed.) (Code 1930, art. 11 § 34; 1943, ch. 740, § 1; Char. Res. 2-12-74; Char. Res. 2-93, 7-14-93.) (Rev. 9/93) (Char. Res. 06-06, 5-9-06.) *Covered by Ordinance*

Section 16-18. Bribing, etc., of voters prohibited.

(Repealed.) (Code 1930, art. 11, § 34; 1943, ch. 740, § 1.) (Char. Res. 06-06, 5-9-06.) *Covered by Ordinance*

Section 16-19. Appeals of election results.

The city council shall receive all election returns and determine all questions arising thereon. Any person conceiving himself aggrieved by the reason of such decision may appeal to the circuit court for the county, which shall hear and determine the same and determine who shall pay the costs of appeal. In case of a tie vote in any election for mayor, members of the council or any proposition or question submitted to the voters, another election shall be held within twenty days thereafter pursuant to the provisions of this Charter in regard to elections. In case of a vacancy of the office of mayor or council member by death, resignation, disqualification or removal from the city, the council shall, within twenty days thereafter, order a special election to be held within 120 days, unless a general election falls within this 120 day time frame to fill such vacancy. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-20. Recall of elective officers—Generally.

A. A mayor or council member may be removed from office at any time by voters qualified to vote for a successor to that office pursuant to the procedure set forth in subsection B. hereof.

B. Procedure

1. A petition in substantially the form set forth in subsection C. hereof shall be filed with the City Administrator which contains the signatures of 20% of registered voters and a statement of the reasons for the recall.

   Sufficient reason for recall shall be limited to the following:

   (a) Failure to uphold the oath of office;
   (b) Malfeasance (wrongdoing or misconduct) in office;
   (c) Misfeasance (the performance of lawful action in an illegal or improper manner) in office;
   (d) Nonfeasance (failure to act or do what ought to be done) in office;
   (e) Conviction of a criminal offense of a felony category;
   (f) Engaging in illegal conduct involving moral turpitude, fraud or deceit;
   (g) Engaging in conduct involving mismanagement or misappropriation of public funds, a gross abuse of public authority or a substantial and specific danger to public health, safety or welfare;
   (h) Coercion of any City employee into taking illegal or improper action or taking any retaliatory action against any City employee because of that employee's disclosure of information relating to illegal and improper action in the City Government;
   (i) Gross negligence or incompetence in the performance of public duties;
   (j) Engaging in personal conduct injurious to the reputation and well-being of the government of this City and its' citizens;
   (k) Failing or refusing to perform, or acting contrary to, an official duty or obligation imposed by the City's Charter or duly enacted law or ordinance;
   (l) The inability or incapacity to properly perform public duties due to a permanent or chronic physical or mental ailment or other incapacitating defect.

2. Each signer shall state his or her name and address and shall indicate the date on which he or she signed the petition. A signature shall be valid for ninety (90) days, except that signatures valid at the time of the submission of a petition to the City Administrator for review for sufficiency shall remain valid until a referendum election on a valid petition is concluded or the expiration of the ten-day period set forth in Subsection B.5 below for amendment and resubmission of a deficient petition, whichever is later. Each signer shall print his or her name legibly beneath his or her signature.

3. Each signer shall make an oath or affirmation, under penalty of perjury, that he or she is a registered voter in the City of Brunswick and that the stated date of signature is accurate.

4. After initial examination for sufficiency by the City Administrator, a petition shall be given to the Frederick County Board of Elections for validation of signatures.

5. If a petition is found to be insufficient by either the Administrator or the County Board of Election, the petitioners shall be so notified by the City Administrator. The petition may be amended by the petitioners and resubmitted within ten days of the date on which the petitioners are notified of the insufficiency.

6. If a petitioner is found to be sufficient, the petitioners shall be so notified by the City Administrator and the petition shall be submitted to the Mayor and Council who shall by resolution fix a date for an election upon the petition to be held no earlier than fifteen (15) days, nor later than ninety (90) days from the date that the petitioners are notified that the petition is sufficient.

7. No recall petition shall be filed against any person until that person shall have been in office for at least three months, nor shall any recall petition deal with more than one public official. The election shall be held in accordance with Section 16-15 of this Charter.

8. The question on the ballot shall read: "Should _____(name of official) be removed from the office of _____?" Yes or No?

9. If a majority of the persons voting in the recall election vote in favor of removal of the official, the office shall be deemed vacant upon the certification of the election results by the Frederick County Board of Elections.

10. Promptly after a recall election in which the voters remove an official from office, an election shall be called to fill the office at the next regular City election or, in the Council's discretion, at a special election occurring before the next regular election.

C. A recall petition shall contain the following:

1. A statement: "We petition the Mayor and Council of Brunswick to hold an election to recall (name of official) from the office of _____ for the following reason(s):

2. A statement of the reason(s) for the recall Authentication: "Each signer of this petition affirms under penalty of perjury that he or she is a registered voter in the City of Brunswick, MD and that the date indicated below his or her signature is the date upon which he or she signed this petition."

Printed Name	Signature	Address	Date

(repeated as necessary to fill a standard sheet)

Petition circulator's statement:
"I affirm, under penalty of perjury, that I am a registered voter in the City of Brunswick, MD and that I described the contents of this petition to each signer and am satisfied that each signer understands the nature of the petition and the responsibilities which accompany the signing of it."

Printed Name Signature Address

Section 16-21. Same—Successor to serve unexpired term; incumbent eligible as candidate.

The successor of any officer removed by recall shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and, unless he requests otherwise in writing, the city clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The method of removal shall be cumulative and additional to the methods heretofore provided by law. (Code 1930, art. 11, § 42; 1943, ch. 740, § 1.)

Article III. Mayor.

Section 16-22. Election.

The inhabitants of the City of Brunswick qualified to vote at any municipal election held therein shall on the first Tuesday in August, 1956, and in every fourth year thereafter, as hereinbefore provided, elect by a ballot a person of known integrity, experience and sound judgment, at least twenty-one years of age, a citizen of the United States and for not less than one year next preceding the election a resident of the city, to be mayor of the City of Brunswick. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; 5-10-56, § 1; Char. Res. 4-11-72; Char. Res. 1-79, 8-7-79.) (Char. Res. 06-06, 5-9-06.)

Section 16-23. Term of office.

The term of mayor shall commence on the second Tuesday in August succeeding his election and continue for four years, and until his successor shall be elected and qualified. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; 5-10-56, § 1; Char. Res. 12-10-74.)

Section 16-24. To be executive officer of city; powers and duties generally.

The mayor, by virtue of his office, shall be the chief executive officer of the City of Brunswick. He shall see that the ordinances are fully and faithfully executed and observed. He shall exercise a general supervision over the various municipal activities and shall report to the council the condition of municipal affairs. It shall be his duty to make such suggestions as are proper for the wise, prudent and economical government and management of the city. The mayor shall preside at all meetings of the council; he may debate all questions before the council and, in case of a tie vote, except in passage of ordinances, he shall decide the same. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1.)

Section 16-25. Mayor pro tempore to be ex officio mayor during sickness or absence of mayor.

In case of sickness or necessary absence of the mayor, the mayor pro tempore shall be ex officio mayor of the City of Brunswick during the continuance of such sickness or necessary absence. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; 5-10-56, § 1.)

Section 16-26. Salary.

The mayor shall receive the monthly salary of eight hundred dollars ($800.00) and no other compensation whatever; provided, that the mayor may be reimbursed for any expense actually incurred in prosecuting the official business of the municipality. Such salary shall become effective on the second Tuesday in August, 2000. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; 1943, ch. 879, § 1; 1951, ch. 94, § 1; 3-10-67, § 1; Res. 1-84, 4-4-84; Res. 00-1, 9-01-99.) (See note (4)) (Rev. 11/00)

Section 16-27. Veto power.

The mayor shall have the power to veto any order, resolution or ordinance which shall in any way whatsoever effect the interest and welfare of the City of Brunswick. Such order, resolution or ordinance, when passed by the council, shall be sent to the mayor for his approval. The mayor may return the same with his approval or disapproval written thereon and signed by him to the meeting at which it was passed or he may have until the next regular meeting to return the same. If returned with his disapproval, it shall not become a law unless subsequently at the meeting to which it was returned, or at the next regular meeting thereafter, it be passed by the unanimous vote of all the councilmen present and entitled to vote. If not returned at all to the next regular meeting of the council, it shall become a law notwithstanding the mayor's failure to approve.

No member of the council who is a stockholder in any corporation or any employee of any corporation, partnership or individual benefited by the passage of such order, resolution or ordinance shall be entitled to vote in favor of such order, resolution or ordinance after the same has been vetoed by the mayor. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1.)

Section 16-28. Concurrence with council in city business; signature of council minutes.

The concurrence of the mayor with a majority of the council shall be necessary for the transaction of corporate business and contracts made by the City of Brunswick, under such policies and regulations as they from time to time may provide; but it shall not be necessary to note in the minutes the approval of the mayor of each transaction therein stated or acted upon by the council. The city administrator shall present to the mayor the corrected and approved minutes of each meeting of the council and the mayor shall sign his name to such minutes to signify his approval of all the matters and transaction therein recorded, he shall note his disapproval at the foot of the minutes, and such disapproval shall be an effective veto of the action so disapproved of, unless such veto is overruled by the unanimous vote of the council present and entitled to vote. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/94)

Section 16-29. Authority to suspend councilmen, officials and employees.

The mayor may suspend from office, subject to review and final action by the council, any official or employee appointed or employed by the mayor and council of Brunswick for any neglect of duty or improper conduct in his office. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; 1943, ch. 879, § 1; 1951, ch. 94, § 1.)

Section 16-30. Authority as to denial of licenses for certain shows or entertainment.

The mayor shall have the power to direct the city administrator not to issue a license for any show, circus, theatrical performance or other entertainment whenever, in his judgment, the production of such show or entertainment would tend to demoralize the community or create a disturbance or disorder or be against the best interests of the city; provided, however, that if the council should by a unanimous vote authorize the issuing of such license, then the same shall be issued by the administrator. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/94)

Section 16-31. Appointment of certain city officials.

At the first regular meeting after each regular election for mayor and after the qualification of the newly elected members or as soon thereafter as may be convenient, the mayor, with the advice and consent of the council, shall appoint one person to be city administrator, one person to be attorney and counsel to the mayor and council, one person to be director of public facilities, one person to be superintendent of public works, one person to be assistant superintendent of public works, one person to be chief of police, one person to be assistant chief of police, one firm to be city engineer, one person to be auditor, one person to be superintendent of water/wastewater, and one person to be assistant superintendent of water/wastewater, all of whom shall hold office for four years and until the qualification of their successors. The mayor, with the advice and consent of the council shall appoint such other officers and committees as may be required for the conduct and regulation of municipal affairs. The mayor shall have the sole power of appointments of all officers provided for in this section, subject to the confirmation by a majority of all the members elected to the council, which confirmation shall not be later than the next regular meeting after the receipt of such appointments. If the council fails to take action within the stated time, then the person nominated shall be to all intents and purposes such officer as if he had been confirmed by the city council.

If the council shall by the required vote and in the prescribed time refuse to confirm such nomination, the mayor shall, at the next regular meeting of the council send to it another name for such office. The duties of the city council and mayor shall continue to be as above prescribed until a confirmation is had or a failure to act by the council. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; Char. Res. 1974; Char. Res. 2-93, 7-14-93; Char. Res. 1-94, 11-93.) (Rev. 9/94)

Section 16-32. Filling of vacancies in certain city offices.

All vacancies occurring in the offices which the mayor has the power to fill, subject to the ratification or confirmation of the city council, shall be filled by the mayor temporarily until a qualified successor can be found. As soon as a qualified successor to fill the vacancy can be found the mayor shall present the successor's name to the council for confirmation at the next regular meeting. The mode and manner of procedure in such cases shall be the same as provided in this article for other appointments by the mayor and confirmation by the council. Any person appointed by the mayor to fill any vacancy in any office shall hold the same until his successor has been confirmed by the council; during such temporary appointment the title of the person so appointed shall be preceded by the word "acting." (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; Char. Res. 81-1, 4-2-81.)

Section 16-33. Oath of office.

Before entering upon his office, the mayor shall qualify by taking the oath of office before the clerk of the circuit court of the county. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1.)

Section 16-34. Administration of oath of office to councilmembers and certain appointed officials.

The councilmembers and all persons appointed by the mayor and confirmed by the council shall, before entering upon the discharge of their respective duties, qualify by taking before the mayor an oath to faithfully perform the duties of their respective offices and that they will support the laws and Constitution of the United States and of this state. A test book shall be kept by the mayor which shall be signed at the time of taking such oath by each official. After the qualifications, the mayor shall issue to each official a commission signed by himself, with the corporate seal attached. (Code 1930, art. 11, § 35; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Article IV. City Council.

Section 16-35. Membership: qualifications. (See note (2))

The council shall consist of six members at large who shall hold office for four years or until the qualifications of the successors. Each shall be at least twenty-one years of age, a citizen of the United States, and for one year next preceding his election a resident of the city. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1; 1943, ch. 878, § 1; 1951, ch. 94, § 1; 5-10-56, § 1; Char. Res. 4-11-72; Char. Res. 2-93, 7-14-93.) (Rev. 9/93) (Char. Res. 06-06, 5-9-06.)

Section 16-36. Salary of councilmembers.

Each member of the city council shall receive a monthly salary of Three Hundred Dollars ($300.00) and no other compensation whatever; provided, that the members of the council may be reimbursed for any expenses actually incurred in prosecuting the official business of the municipality.

Such salary shall become effective on the second Tuesday in August, 2000, as to those individual Council members who take office on that date, and thereafter as to any Council

member who takes office for a new term or is elected to fill any unexpired term of a former Council member. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1; 1943, ch. 878, § 1; 1951, ch. 94, § 1; 5-10-56, § 1; 3-10-67, § 1; Res. 2-84, 4-4-84; Char. Res. 2-93, 7-14-93; Res. 00-2, 9-01-99.) (See note (5)) (Rev. 11/00)

Section 16-37. Meetings.

The members-elect of the city council shall meet on the second Tuesday in August succeeding their election and shall take before the mayor the oath of office required by this chapter, and they shall meet on the second Tuesday in every month thereafter or as often as may be necessary to discharge the duties of their office. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1; Char. Res. 12-10-74.)

Section 16-38. Mayor pro tempore; special meetings; quorum; rules and bylaws of the Council.

The city council shall elect one of their number mayor pro tempore to serve at the pleasure of the council until his successor is elected who, in the absence of the mayor, shall be clothed with all the powers and authority of the mayor. The mayor, or in his absence the mayor pro tempore, or any four members of the council, may call such meetings of the council, from time to time, as they may deem necessary, due notice of which shall be given. When the call is made by four members, it shall be in writing and signed by them. A majority of the council shall constitute a quorum for the transaction of business, but no ordinance shall be adopted without the affirmative vote of four members. The council shall pass rules and bylaws for their government while in session. (Code 1930, art. 11, § 36; 1943, ch. 740, § 1.)

Article V. City Officers and Commissions.

Section 16-39. City Administrator.

There shall be a City Administrator appointed by the Mayor with the approval of the Council. He or she shall serve at the pleasure of the Mayor. His compensation shall be determined by the Council. He or she shall exercise the following duties under the supervision of the Mayor:

A. Administration. The City Administrator shall:

1. Attend all meetings of the Mayor and Council and provide for the recording and maintaining of minutes of meetings.

2. Attest the seal of the City on all resolutions, ordinances, bonds, notes and other official documents executed by the Mayor with the authority of the Council.

3. Be responsible for maintaining the minutes, ordinances, resolutions and other official records of the City.

4. Assist the Mayor in the development and execution of administrative policies in the City.

5. Advise the Mayor with regard to personnel matters concerning City office personnel.

6. Supervise and manage the City office.

7. Coordinate the City's economic and community development program within the policies established by the Mayor and Council.

B. Finance. Under the supervision of the Mayor exercise the financial powers of the City and:

1. Assist the Mayor in the preparation of an annual budget to be submitted to the Council.

2. Supervise and be responsible for the disbursement of City monies and control expenditures to adhere to the limits of the annual budget enacted by the Mayor and Council.

3. Maintain a general accounting system for the City in such form as the Council may require, not contrary to state law.

4. Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the Mayor.

5. Ascertain that all taxable property within the City is assessed for taxation.

6. Collect all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the City, and all other revenues for whose collection the City is responsible, and receive any funds receivable by the City.

7. Have custody of all public monies belonging to or under the control of the City, except as to funds in control of any set of Trustees and have custody of all bonds and notes of the City.

8. Do such other things in relation to the fiscal or financial affairs of the City as the Mayor or the Council may require or as may be required elsewhere in this Charter. (Code 1930, art. 11, § 37; 1943, ch. 740, § 1; Res. 2-90, 1-3-90.)

Section 16-40.

(Repealed.) (Code 1930, art. 11, § 37; 1943, ch. 740, § 1; Res. 2-90, 1-3-90.)

Section 16-41.

(Repealed.) (Code 1930, art. 11, § 37; 1943, ch. 740, § 1; Res. 2-90, 1-3-90.)

Section 16-42.

(Repealed.) (Code 1930, art. 11, § 37; 1943, ch. 740, § 1; Res. 2-90, 1-3-90.)

Section 16-43. Finance commission—Composition; salary.

(Repealed.) (Code 1930, art. 11, § 38; 1943, ch. 740, § 1; Res. 7-9-74.)

Section 16-44. Same—Advisory powers as to city finances and appointments by mayor.

(Repealed.) (Code 1930, art. 11, § 38; 1943, ch. 740, § 1; Res. 7-9-74.)

Section 16-45. Auditor—Nominations.

There shall be an auditor for the City of Brunswick. On or before the fifteenth day of August in each year in which the mayor is elected, the mayor-elect shall send to the council a list containing the names of two or more qualified certified public accountants as nominees for the office of city auditor. (Code 1930, art. 11, § 39; 1943, ch. 740, § 1; Char. Res. 7-9-74; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-46. Same—Appointment; oath.

On or before the fifteenth day of August in the year the mayor is elected, the mayor, with the advice and consent of the council, shall appoint one of such nominees as city auditor. Before taking office, the city auditor shall take and subscribe before the mayor an oath that he will well and truly perform the duties of his office. (Code 1930, art. 11, § 39; 1943, ch. 740, § 1; Char. Res. 7-9-74; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-47. Same—Powers and duties; salary.

The city auditor shall make a careful examination of the books, accounts and statements of the city clerk, treasurer and collector and of such other matters relating to such offices, as the mayor and council may direct, and shall report in writing to the mayor and council the result of his examinations as soon as practical. For his services he shall receive a sum as the mayor and council may fix. The auditor is hereby authorized and empowered to require the production before him of the books, accounts and papers of the mayor and council, to examine upon oath administered by him, the mayor or any councilman or any matter touching the affairs of the mayor and council or to examine, upon oath administered by him, any person as a witness whom he may be advised has important information in regard to the conduct and acts of the mayor or councilmen in matters pertaining to their office.

He shall have power to issue process compelling such witnesses to attend before him, which shall be directed to the chief of police of Brunswick, and it shall be the duty of the chief of police to serve such process promptly. Any mayor or councilman who shall refuse to allow an examination of all the books and accounts of his office and any witness duly served with process who shall refuse to testify upon oath touching the conduct or acts of the mayor and council or as to the books, accounts and papers of such offices shall, on indictment and conviction thereof, be fined not more than five hundred dollars, in the discretion of the court; provided, however, that the examination of such books, accounts and papers shall be made in the office of the mayor and council. (Code 1930, art. 11, § 39; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-48. Non-Discrimination.

The Mayor and Council of Brunswick prohibit discrimination against any employee, applicant for employment or individual with whom the Mayor and Council of Brunswick may contract for the provision of goods and services on the basis of (1) political or religious opinion or affiliation, marital status, race, color, creed, or national origin, or (2) sex or age, except when sex or age constitutes a bonafide occupational qualification, or (3) the physical or mental handicap of a qualified handicapped individual. (Res. No. 3-88, 4-27-88.)

Section 16-49. (Repealed by Res. No. 2-88, 4-27-88.)

Section 16-50. (Repealed by Res. No. 2-88, 4-27-88.)

Section 16-51. (Repealed by Res. No. 2-88, 4-27-88.)

Section 16-52. Chief of police—Oath; term of office. (See note (6))

The chief of police of Brunswick, before entering upon the discharge of his duties, shall take the required oath. He shall hold office for four years, and until his successor has been appointed and qualified. (Code 1930, art. 11, § 41; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-53. Same—Salary.

The chief of police of Brunswick and other police of the city shall receive such compensation as may be determined by the mayor and council. (Code 1930, art. 11, § 41; 1943, ch. 740, § 1.)

Section 16-54. Same—Appointment of assistant and other police; powers and duties of same.

The mayor of Brunswick shall appoint an assistant chief of police and such other police as urgent necessity may require, all of whom shall be vested and clothed with all the powers and authority conferred upon the chief of police by this Charter.
(Code 1930, art. 11, § 41; 1943, ch. 740, § 1.)

Section 16-55. Same—Powers and duties; arrest without warrant.

The chief of police of the City of Brunswick shall be vested and clothed with all the power and authority of a sheriff at common law and with those powers which a municipality has been authorized by the State of Maryland to extend to a police force. Anyone resisting him or interfering with him in the discharge of his duties shall be guilty, upon conviction in the circuit court for Frederick County or in the District Court of Maryland for Frederick County in the same manner and to the same extent as if he had resisted or interfered with a police officer. The chief of police shall assist the mayor in the enforcement of the ordinances, and to that end, he shall have the authority to make arrests, issue citations, and take those appropriate measures to enforce the ordinances of the City. He shall be authorized to serve, deliver or post any order or notice that, under any law, ordinance of the town or this charter is to be served, delivered or posted.
He shall be authorized, as a peace officer, to maintain and preserve peace, good order and good conduct within the limits of the city and among all persons found therein. The chief of police shall attend the meetings of the council. The chief of police shall perform such other duties mentioned in this Charter or as the mayor and council shall assign him by ordinance or otherwise. (Code 1930, art. 11, § 41; 1943, ch. 740, § 1.)

Article VI. Taxation.

Section 16-56. Authority of city generally.

The Mayor and Council of Brunswick are hereby authorized to use the state and county assessment on all real and personal property of any person or business within the corporate limits of the City which is subject to such assessment for state and county taxes. They shall have the power to levy and collect taxes on all real property of any person or business in the City, not exceeding for general purposes in any one year eighty cents on each one hundred dollars of assessable real property. They shall have the power to levy and collect on any assessable business personal property in the City, at a rate or rates set by the City Council from time to time on each one hundred dollars of assessable personal property. They shall also levy and collect the taxes required to meet the interest and redeem at maturity all bonds legally issued.
(Code 1930, art. 11, § 44; 1943, ch. 740, § 1, Char. Res. 08-02.)

Section 16-57. Mayor and Council may exempt hospitals, charitable institutions, and manufacturers from municipal taxation by ordinance.

The Mayor and Council of Brunswick may, in their discretion, by general ordinance, exempt from any or all municipal taxes or other municipal charges any or all of the taxable real or personal property, in whole or in part, of any hospitals or charitable institutions located within the corporate limits of the City, but any ordinance, resolution, or contract which exempts any such property for a period longer than five years shall be absolutely void in all respects whatsoever. (Code 1930, art. 11, § 51; 1943, ch. 740, § 1.)

The Mayor and Council of Brunswick, in their discretion, may by general ordinance exempt, in whole or in part, stock in business, tools, implements, and the like, and/or raw materials in the possession of a person or business engaged in the business of manufacturing in the City from any personal property tax levied in accordance thereunder.

The Mayor and Council of Brunswick, in their discretion whenever it seems expedient for the encouragement of growth and development of manufacturers and manufacturing in the City, upon the sworn application of any person or business actually engaged in the business of manufacturing in the City before the annual revision of the tax list, may abate, in whole or in part, taxes for any one (1) year on any assessable business real or personal property which may be levied for City purposes. (Char. Res. 08-02)

Section 16-58. Advertisement of tax levy.

The annual tax levy shall be made by ordinance by the City Council on or before the first (1st) day of each year. It shall be the duty of the City Administrator and tax collector, as soon as the annual tax levy is made and certified for collection, to give notice by advertisement in one newspaper published or circulated in Brunswick, which notice shall state the applicable tax rates, time from which the taxes bear interest and shall warn all persons and businesses of their liability to be published as delinquent taxpayers and to have their property sold unless the taxes, with which they are respectively charged, are paid on or before the first day of January next ensuing. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93) (Char. Res. 08-02)

Section 16-59. Tax bills.

The city administrator and tax collector shall, immediately after the annual tax levy is made, make out the bills of each taxpayer, to which notice similar to that provided for in the preceding section shall be annexed, and shall forward the bill by mail or otherwise to the person to whom taxes have been assessed or his agent. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-60. Sale of property for delinquent taxes—List of delinquent property.

Immediately after the first day of January in each and every year, the city administrator and tax collector shall make out an alphabetical list of taxes due and in arrears, which list shall contain the name of the person assessed with property upon which taxes are due and in arrears, a brief description of the property and such references to title as will render the same certain of identification and the amount of taxes levied and in arrears, with interest and costs accrued and to accrue thereon to the date of sale, to which list shall be appended a notice that if the taxes are not paid on or before the second Monday in April next ensuing together with the interest accrued thereon and a proportional cost of advertising and fees, he will proceed, at 10:00 A.M. on the

second Monday in April at the mayor's office in the City of Brunswick, to offer the property assessed or so much thereof as may be necessary for sale to the highest bidder for cash, which list and notice shall be published in a newspaper, published or circulated in Brunswick for two successive weeks prior to the first Monday in March. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-61. Same—How sale conducted generally.

On the second Monday in April, the city administrator and tax collector shall, at the hour and place named in the advertisement required by the preceding section, proceed to sell the property assessed or so much thereof as may be necessary, beginning with the first on the list and so on in order upon which taxes, interest, costs and fees shall not have been paid. He shall continue such sales on each secular day, legal holidays excepted, from 10:00 A.M. until 3:00 P.M., until every parcel shall have been offered. Should the city administrator and tax collector, by reason of illness or other disability be unable to attend and conduct such sale, the deputy shall conduct such sale. In such case, the deputy shall make the affidavit to the report of sale as provided by law. The real estate of a delinquent taxpayer may be sold to pay corporation taxes, whether there be personal property or not.

Whenever it shall be unnecessary for the city administrator and tax collector to sell the entire real property with which a delinquent taxpayer is assessed, he shall estimate the quantity thereof which, in his judgment, will be sufficient to pay the taxes in arrears, interest, costs and expenses above set forth and shall require a competent surveyor to lay off and make a plat and description of the same. The part so laid off shall be sold by the plat and description so made.

It shall be sufficient in the advertisement of the list of delinquent taxpayers to designate the quantity of land to be sold from the property described as per plat and description to be exhibited at the time of sale. In case of sale, the city administrator and tax collector shall file such plat and description with his report of sale; provided, however, that if the city administrator and tax collector shall deem it impracticable to divide the property assessed, he shall set aside the vote. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-62. Same—Report to circuit court; confirmation of sale by court; distribution of proceeds.

The city administrator and tax collector shall, within thirty days after the close of a sale of property for delinquent taxes, make a full report thereof to the circuit court for the county, setting forth his proceedings in the premises in detail, showing to whom and at what price such several parcels were respectively sold, the amount of taxes and interest accrued, the pro rata of costs and advertising such sale and all other expenses and the surplus fund in each instance. With such report, he shall file a copy of the printed list and notice of sale.

The court shall examine such proceedings. If the same appear to be regular and the provisions of the law in relation thereto have been complied with, the court shall order notice to be given by advertisement warning all persons interested in the property sold to be and appear in the court by a certain day to be named in such order, to show cause, if they have any, why such sale should not be ratified and confirmed. After hearing the objections, if any, the court, in its discretion, shall in one order ratify and confirm all sales so made and then entitled to be ratified and confirmed, and the purchaser thereof, shall, on payment of the purchase money, have a good title to the property sold, subject only to the owner's right to redeem. But, if in the judgment of the court, good cause is shown against the ratification of the sale of any parcel of land or other property, the city administrator and tax collector shall, within thirty days, proceed to a new sale of such property and bring the proceeds into court, out of which shall be paid the purchase money paid to the city administrator and tax collector on such rejected sale, all taxes assessed on such property since such sale and all costs and expenses properly incurred in the court, with interest on all such sums from the time of payment, but such sale shall not be set aside if the provisions of the law appear to have been substantially complied with. The burden of proof shall be on the exceptant to show the same to be invalid. For the purpose of making a just distribution of the proceeds of any sale ratified and confirmed, the court may pass all such orders as may be just and equitable and shall have as full and complete jurisdiction as though it were sitting as a court of equity. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-63. Same—Redemption by owner; conveyance by City Administrator when property not redeemed.

Whenever real estate shall be sold by the city administrator and tax collector, the person who was the owner thereof prior to the sale may redeem same within the period of twelve calendar months from the date of such sale by paying into court, to be paid to the purchaser thereof, the amount of the purchase money, all subsequent taxes paid by the purchaser and all court costs, with interest thereon, at the rate of fifteen percent per annum from the date of sale and the date of the payment of such taxes and costs, respectively.

After the expiration of such period of twelve calendar months; provided, that the property has not been redeemed and the sale has been finally ratified and confirmed by the court, the city administrator and tax collector then in office shall, at the expense of the purchaser, by a good and sufficient deed, executed and acknowledged according to law, convey to the purchaser the parcel of land sold to him. The deed of the successor in office of the city administrator and tax collector who makes the sale shall be valid in law as though it had been executed and delivered by the last named city administrator and tax collector. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Section 16-64. Same—Authority of mayor and council to purchase property.

The mayor and council of Brunswick may purchase, in their discretion, at a tax sale, any property offered for sale for the payment of taxes; provided that they shall not bid a sum greater approximately than the taxes in arrears on such property and the interest and expenses of sale and costs. They may sell and convey or lease the same, as in their judgment and discretion shall be deemed best for the interest of the city. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1.)

Section 16-65. Same—Personal property.

If any person shall be assessed upon the assessment books of the city with personal property only and the amount of taxes levied thereon shall remain unpaid on the first day of January next succeeding the annual levy of taxes in the city, the city administrator and tax collector shall, within one month after the first day of January in each year or within one month after the discovery of any property belonging to such delinquent, levy upon such portions of the personal property assessed to such delinquent taxpayers, as may be necessary to pay such taxes, interest, costs and fees, as herein provided, in the same manner as the sheriff of the county is authorized by law to levy upon property on execution on judgments issued out of the circuit court for the county and shall advertise and sell such property in the same manner as is required by law in case of sales of personal property by the sheriff of the county and deliver the property so sold to the purchaser thereof. For the purpose of the levy of the sale, the city administrator and tax collector shall have all the powers lawfully exercised by the sheriff of the county in enforcing executions on judgments of the circuit court for the county and shall, if necessary, have the same powers prescribed by law for the levy upon and sale of shares of stock in any association or corporation which the sheriff of the county may possess in enforcing executions on judgments of the court. The city administrator and tax collector shall be entitled to receive out of the proceeds of sales made under this section the same fees and allowances as are allowed by law to the sheriff of the county on executions. Out of the proceeds of sale of such personal property, the city administrator and tax collector shall pay all costs and expenses incident to such sale and the taxes in arrears thereon, together with interest, and the surplus, if any shall be paid over to such delinquent taxpayer.

This section shall be construed as an addition to, and not as a substitution for, the powers of the city administrator and tax collector to collect taxes assessed upon personal property by suit. It is hereby expressly provided that the city administrator and tax collector, if he deems such course advisable, may proceed to collect any and all taxes due upon such personal property by suit, in the name of the mayor and council of Brunswick, before any justice of the peace, in and for the county or in the circuit court for the county. (Code 1930, art. 11, § 47; 1943, ch. 740, § 1; Char. Res. 2-93, 7-14-93.) (Rev. 9/93)

Article VII. Taxicabs.

Section 16-66. "Taxicab" defined.

The word "taxicab," when used in this article, shall mean a taxicab as defined in section 361 of Article 23 of the Annotated Code of Maryland, 1957. (1951, ch. 93, § 1.)

Section 16-67. Authority of city to regulate taxicabs.

The mayor and council of Brunswick are hereby authorized and empowered to enact ordinances providing regulations for the operation of taxicabs in the city and for the registration and fixing requirements for the owners and operators of the taxicabs so as to protect the safety, health and general welfare of the city and its residents, citizens and occupants; provided, that such regulations are not in conflict with the laws of the state and regulations adopted by the commissioner of motor vehicles. (1951, ch. 93, § 1.)

Section 16-68. Aid from state public service commission.

The mayor and council of Brunswick shall be empowered to request the aid of the public service commission of the state in the determination of rates which may be established under this article. The public service commission shall be empowered to extend such aid as may be requested from time to time by the mayor and council of Brunswick in the determination of rates so far as such aid is consistent with the statutory powers conferred upon such commission by the laws of the state. (1951, ch. 93, § 1.)

Section 16-69. Penalty for violation of city taxicab ordinance.

The violation of any of the provisions of any ordinance enacted pursuant to this article shall be considered a misdemeanor. Upon conviction thereof before a trial magistrate of the city or other competent court, the offender shall be subject to a fine of not exceeding twenty-five dollars for each offense and, in default of payment of the fine, to imprisonment for not exceeding twenty-five days. (1951, ch. 93, § 1.)

Article VIII. Waters and Sewers.

Section 16-70. Powers.

The mayor and council of Brunswick shall have the following authority and power:

A. To construct, operate and maintain a water supply system and water plant.
B. To construct, operate and maintain a sanitary sewerage system, a sewerage treatment plant and storm water sewers and drainage system.
C. To inspect, reconstruct, enlarge, alter, repair, improve or dispose of the above plants and systems and all parts, installation and structures thereof.
D. To have surveys, plans, specifications and estimates made for any of the above plants or systems or parts or extensions thereof.
E. To assess fees, charges and assessments, including but not limited to deposits, connection fees, and service charges in connection with the construction, operation, use, and maintenance of the above systems.
F. To require the submission of plans and specifications for construction of the above systems, and to approve, disapprove or conditionally approve said plans and specifications.
G. To inspect and regulate the use and operation of any such plant or system or parts thereof in any manner which it deems to be in the public interest.
H. To enact and pass all ordinances or resolutions which it may deem necessary and proper to execute the objects specified in this Article, to regulate the management, protection, and use of the above plants and systems, and to do all things which it deems necessary for the efficient operation and maintenance of the above plants and systems.
I. To engage in any act or procedure authorized by the law of the State of Maryland, as it may exist or be amended from time to time. (Code 1930, art. 11, § 49; 1943, ch. 740, § 1; Char. Res. 04-05, 4-27-04.)

Section 16-71. Authorization of work by town.

Any individual, firm, corporation or entity may be required by the mayor and council of Brunswick or its designee to submit plans and obtain written approval prior to beginning any construction of or placing or changing the location of any main, conduit, pipe or other structure in the public ways of the City. Such approval may be subject to such limitations as may be imposed by the mayor and council or its designee. The mayor and council may order the removal of any unauthorized or unapproved main, conduit, pipe or other structure which interferes with the operation of the City water, sewerage, or storm water systems. (Code 1930, art. 11, § 49; 1943, ch. 740, § 1; Char. Res. 04-05, 04-27-04.)

Section 16-72. Obstructions.

Any individual, firm, corporation or entity which has mains, pipes, conduits or other structures in, on or over any public way in the City and which impede the establishment, construction or operation of any sewer or water main or storm water sewer shall, upon reasonable notice, remove or adjust the obstructions at their own expense and to the satisfaction of the City. (Code 1930, art. 11, § 50; 1943, ch. 740, § 1; Char. Res. 04-05, 04-27-04.)

Section 16-73. Connections; charges.

When any water main or sanitary sewer is declared ready for operation by the City, all abutting property owners, after reasonable notice, may be required to connect all fixtures with the water or sewer main. The City may charge, in an amount to be determined by the mayor and council, for each connection made to the City's water and sewer mains. The mayor and council may establish and collect such charges, service fees, rates, water rent and other charges in accordance with the law of the State of Maryland. The manner and amount of such charges, fees, rates and rents shall be established by the mayor and council by resolution. All such charges, fees, rates and rents shall be liens upon the real estate on which the water or sewer services were used and may be collected in the same manner as real estate taxes are collected. (Char. Res. 04-05, 04-27-04.)

Section 16-74. Extensions beyond boundaries.

The City shall have the authority, but shall not be obligated, to extend its water system or its sewer system beyond the corporate limits of the City. (Char. Res. 04-05, 04-27-04.)

Section 16-75. Acquisition of property.

The mayor and council shall have the authority to acquire by gift, purchase, lease or condemnation any land, improvements, rights of way, sources of water or other property of any kind or interest, either in fee or as an easement, for the purpose of establishing, operating, extending or maintaining the water system, water plant, sanitary sewerage system, sewerage treatment plant or storm water sewers. Any condemnation proceedings shall be brought and conducted in accordance with the law of the State of Maryland. (Char. Res. 04-05, 04-27-04.)

Article IX. (Repealed.)

Article X. Special Assessments.

Section 16-76. Authority of City to levy special assessments.

The City shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the design, installation, construction, maintenance, repair and removal of water mains, sanitary sewer mains, storm water sewers, roads and public ways and sidewalks or parts thereof, curbs, gutters, walls and retaining walls, and other public improvements and projects, and to provide for the payment of all or any part of the above improvements and projects out of the proceeds of such special assessment. The cost of any improvement or project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the improvement or project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, and the reasonable charges for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the improvement or project. (Char. Res. 03-03, 4-8-03.)

Section 16-77. Procedure

The procedure for levying and collecting special assessments, wherever authorized in this Charter, shall be as follows:

(a) Costs. The cost of the improvement or project shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the mayor and council.

(b) Assessment. The amount assessed against any property for any improvement or project shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the City and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per cent (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(c) Classes. The mayor and council may, when it considers it to be beneficial, divide the affected property into different classes to be charged different rates, but except for this, any rate shall be uniform.

(d) Levy; hearing. All special assessment charges shall be levied by the mayor and council by ordinance. Before levying any special assessment charges, the mayor and council shall hold a public hearing. Notice shall be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to assessed, the number of installments

in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the mayor and council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. If the owner is unknown or is absent, then the affected property may be posted with the notice. The City Administrator shall present at the hearing a certificate of publication and mailing, or posting as the case may be, of copies of the notice; however, failure to present such certificate shall not invalidate the proceedings. The date of the hearing shall be set at least ten and not more than thirty days after the newspaper publication as provided in this section. Following the hearing the mayor and council, in its discretion, may vote in accordance with regular legislative procedures to proceed with the project and may levy the special assessment.

(e) Judicial Review. Any interested person aggrieved by the levying of any special assessment under the provisions of this section may, within thirty days after the levying of any assessment by the mayor and council, request judicial review of the levying of the assessment in accordance with the provisions of the Maryland Rules pertaining to Judicial Review of Administrative Agency Decisions.

(f) Payment. The mayor and council may make the special assessments payable in annual or more frequent installments over such period of time, not to exceed twenty years, and in such manner, as the mayor and council may determine. The mayor and council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the mayor and council. The mayor and council may provide that the entire special assessment, or any remaining portion thereof, shall be paid in full in the event of a sale, conveyance, or other transfer of any or all of the property.

(g) Overdue. All special assessment installments shall be overdue six months after the date on which they become due and payable. All special assessments shall be liens on the property, and all overdue special assessments shall be collected in the same manner as City taxes or any other means permitted by law for the collection of taxes.

(h) Bills. All special assessments shall be billed and collected by the City Administrator or the Treasurer for Frederick County. (Char. Res. 03-03, 4-8-03.)

NOTES

(1) The resolution which adopted this section designated it as section 16-10. Since a section numbered 16-10 is in existence, this section has been designated as 16-9.1.

(2) For case holding that a vested remainder interest in real property does not satisfy the property requirements of this section, see Flynn v. Parker, 130 Md. 429, 100 Atl. 739.

(3) The Act from which this article is derived was approved April 15, 1937, and took effect as of the date of passage.

(4) Charter Resolution 1-80, which would have raised the Mayor's salary to $500, was defeated in a referendum held on August 5, 1980.

(5) Charter Resolution 2-80, which would have raised the salary of members of the City Council to $200, was defeated in a referendum held on August 5, 1982.

(6) Although this section specifies a 2-year term of office for the chief of police, Section 16-31 was amended in 1974 to provide for a 4-year term for the chief of police and other city officials. That section apparently supersedes this section.

(7) Charter Resolution 3-92, effective December 11, 1991, changed the corporate name of Brunswick from Town to City. The resolution changed every reference in the charter from "town" to "city." The entire charter was reprinted in September, 1992 to reflect this change.

(8) Resolution BR-R00-06, effective October 27, 2000, provided for the annexation of 141.35257 acres of land, more or less. Resolution 02-05, effective May 10, 2002, provided for the annexation of 455.7 acres of land, more or less. These resolutions, however, failed to provide for the change in the boundary description that is contained in this charter. Accordingly, these annexations are simply noted pursuant to the municipal general powers section of this charter. (See Note (10) below.)

(9) Charter Resolution 03-03, effective April 23, 2003, to repeal Article X. "Streets, Sidewalks and Improvements" and sections 16-76, 16-77 and 16-78 thereof; to enact new Article X authorizing the City of Brunswick to levy and collect taxes in the form of special assessments for certain public improvements and projects; and to set forth the procedure to levy and collect such assessments.

(10) Charter Resolution 04-05 repealed Article VIII, "Waterworks" and sections 16-70, 16-71, and 16-72, to enact a new Article VIII authorizing the City of Brunswick to acquire, construct, operate, maintain and to exercise other authority pertaining to a water supply system, a water plant, a sanitary sewer system, a storm water drainage system and a sanitary disposal plant system in the City of Brunswick.

(11) Charter Resolution 04-06 amended sections 16-2 and 16-2.1 of this Charter, setting forth

the revised corporate boundaries of the City of Brunswick.

(12) Charter Resolution 06-06, effective May 9, 2006, repealed sections 16-14, 16-16, 16-17, and 16-18 and amended sections 16-15, 16-22, and 16-35 regarding elections in the City of Brunswick.

(13) Charter Resolution 08-07, effective May 27, 2008, provided for the reduction of the corporate boundaries of the Mayor and Council of Brunswick, a Municipal Corporation of the State of Maryland and in so doing to repeal and re-enact with amendments Section 16-2, entitled "Boundaries", of the charter to provide for the de-annexation of 0.64840 acres of land, more or less and recorded among the land records of Frederick County, Maryland, in liber 7121 at folio 596. Charter Resolution 08-06, effective May 27, 2008, provided for the enlargement of the corporate boundaries of the City of Brunswick and in so doing to repeal and re-enact with amendments Article I, entitled "IN GENERAL", Section 16-2, entitled "Boundaries", of the Charter of the City of Brunswick; to provide for the annexation of 126.21549 acres of land, more or less and recorded among the land records of Frederick County, Maryland, in liber 7121 at folio 609.

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review Commission, Section 402(f) Workshop Review

From: erbenecke@gmail.com <erbenecke@gmail.com>
Sent: Thursday, October 31, 2019 10:01 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: erbenecke@gmail.com
Subject: Charter Review Commission, Section 402(f) Workshop Review

[EXTERNAL EMAIL]

Steven Slater, Chairperson
Frederick County Charter Review Commission
12 East Patrick Street
Frederick, Maryland 21701

Dear Mr. Slater and Commission Members,

Your volunteer work on the Charter Review Commission reviewing our 2014 County Charter and whether and where to recommend changes to the County Council is appreciated. Your concern and respect for public input and participation is also appreciated. As you take up review of Charter Section 402 (f) in workshop, the undersigned request that CRC Spreadsheet item #17 be tabled, permanently, with the following explanation:

> Given the current political environment, the apparent review of Section 402 (f), narrowly, and only in connection with the 287 (g) program, the reality of limitations on Commission time and resources as well as conflicting legal opinions stemming from the complex relationship between the Sheriff and the County, it is not possible for the Charter Review Commission to recommend an appropriate disposition regarding CRC Spreadsheet Item #17 on Charter Section 402 (f). The taxpaying community will best be served if the signing of ALL documents involving the use of county funds would be reviewed by the Executive and Council with concern for establishing a consistent policy that is transparent and in accordance with appropriate budgetary oversight and financial accountability.

Thank you.

Eileen Benecke, Sea Raven Morse, Mike Morse, Ellen Lerner, Ed Burrell, Juliana Downey, Richard and Patricia Kaplowitz, Jo Harte, Gerald Flood, and Annette Breiling,

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review Commission, Section 402(f) Workshop Review

From: michael lerner <mlerner52@gmail.com>
Sent: Friday, November 1, 2019 6:33 AM
To: ER Benecke <erbenecke@gmail.com>
Cc: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Re: Charter Review Commission, Section 402(f) Workshop Review

[EXTERNAL EMAIL]

Thank you Eilee!

Should we plan to meet to discuss the next round for what we have to do?

Ellen

On Thu, Oct 31, 2019 at 10:01 PM <erbenecke@gmail.com> wrote:

Steven Slater, Chairperson

Frederick County Charter Review Commission

12 East Patrick Street

Frederick, Maryland 21701

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Thank you.

Eileen Benecke, Sea Raven Morse, Mike Morse, Ellen Lerner, Ed Burrell, Juliana Downey, Richard and Patricia Kaplowitz, Jo Harte, Gerald Flood, and Annette Breiling,

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review Commission, Section 402(f) Workshop Review

From: michael lerner <mlerner52@gmail.com>
Sent: Friday, November 1, 2019 7:09 AM
To: ER Benecke <erbenecke@gmail.com>
Cc: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Re: Charter Review Commission, Section 402(f) Workshop Review

[EXTERNAL EMAIL]

fyi: I'm planning at this time to go to the CRC meeting on the 4th at 6pm to listen to the the Executive speak. I also want to see if they will make a statement at this time to table our request. I have it in my head that a presence would be appropriate. I hope they will read our joint statement into the record so that it is clear that we were not intimidated. If they don't read it in\to the recvored, perhaps I should? If anyone would like to join me, please let me know.

Ellen

On Thu, Oct 31, 2019 at 10:01 PM <erbenecke@gmail.com> wrote:

Steven Slater, Chairperson

Frederick County Charter Review Commission

12 East Patrick Street

Frederick, Maryland 21701

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Thank you.

Eileen Benecke, Sea Raven Morse, Mike Morse, Ellen Lerner, Ed Burrell, Juliana Downey, Richard and Patricia Kaplowitz, Jo Harte, Gerald Flood, and Annette Breiling,

Redmond,Lee

From: Charter Review
Subject: FW: FOR THE RECORD

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Tuesday, November 5, 2019 6:17 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: erbenecke@gmail.com; Edward Burrell <burrell.edward1228@gmail.com>
Subject: FOR THE RECORD

[EXTERNAL EMAIL]

Charter Review Commission,

For the record, I just want to provide some clarification regarding an inaccurate statement the Sheriff made during the public comment portion of your October 28th meeting. The Sheriff referenced Memorandums of Understanding, "35 to 40" and specifically with the Washington County Sheriff's Office. I presume that the Sheriff would be aware of the Annotated Code of Maryland Criminal Procedures under § 2-105, Mutual aid agreements, as well as his request for specific approval of the County Executive, the County Council and the required signatures on the Washington County Agreement. The request for the County Executive's signature and the MOU with Washington County containing the County Executive's signature is attached for your review.

The relevant portions of Annotated Code of Maryland Criminal Procedures under § 2-105. Mutual aid agreements, reads:

> Title 2. Law Enforcement Procedures; Arrest Process Subtitle 1. Definitions; General Provisions Effective: March 27, 2019 MD Code, Criminal Procedure, § 2-105
> **Governing body defined**
> (a) In this section, "governing body" means:
> (1) the county executive and county council of a charter county with a county executive;
> (2) the county council of a charter county with no county executive;
> (3) the board of county commissioners of a county; or
> (4) the mayor and council, by whatever name known, of a municipal corporation.
> **Circumstances for going beyond county or municipal borders**
> (b) By action as in the regular routine for legislative enactment, the governing body of a county or municipal corporation may determine the circumstances under which the police officers and other officers, agents, and employees of the county or municipal corporation, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the county or municipal corporation to any place within or outside the State.
> This section is new language derived without substantive change from former Art. 27, § 602B.
> Subsection (a) of this section is revised as a definition of "governing body" to provide a shorthand method to refer to the entities included in the term "governing body" for purposes of this section. It is based on the list in the first sentence of former Art. 27, § 602B(a) of enumerated entities that may authorize police and others to go or be sent beyond the territorial limits of the jurisdiction.

Here are additional MOUs as well as video links to County Council meetings in which the Sheriff sought Council approval for MOUs.

Additional Mutual Aid Agreement information:
29 Mutual Aid Agreement, Baltimore City, https://www.frederickcountymd.gov/documentcenter/view/283264
30 Mutual Aid Agreement, Brunswick Police, https://www.frederickcountymd.gov/documentcenter/view/300158
31 Mutual Aid Agreement, Washington County, https://www.frederickcountymd.gov/documentcenter/view/302138

https://www.frederickcountymd.gov/DocumentCenter/View/319342/0604-Frederick-County-Sheriffs-Office-and-Mount-Airy-MOU-and-Resolution-for-Mutual-Aid-Agreement---C-Jenkins---Sheriffs-Office

Video links to council meetings:
1. June 2019: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6922
2. December 2018: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6256&meta_id=91273

In regard to another point raised by Ms. Miller, concerning the applicability of Subsection 402 (g) to the Board of Education (BOE), the County Code specifically exempts the BOE from the county purchasing procedures under Article II, Purchasing.

> § 1-2-16. DEFINITIONS.
> The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:
> ***AGENCY.*** Any service area, division, department, board or commission of the county, including all entities, however structured, that utilize the county's financial system, except the County Board of Education and Frederick Community College.

I believe that it is important that the record be accurate if the public is to have confidence in the hard work that the Charter Review Commission is doing.

Thank you very much for your service on the Commission.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

Redmond,Lee

From: Charter Review
Subject: FW: FOR THE RECORD (with attachment)
Attachments: FCSO MOU with Washington County.pdf

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Tuesday, November 5, 2019 8:19 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: FOR THE RECORD (with attachment)

[EXTERNAL EMAIL]

Charter Review Commission,

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> **Circumstances for going beyond county or municipal borders**
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Thank you very much for your service on the Commission.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

FREDERICK COUNTY, MARYLAND
STAFF REPORT CONCURRENCE FORM

To: Office of the County Executive Date: September 7, 2015

Through (Name of Div. Dir.): _____

From (Name & Division): Sheriff Charles A. Jenkins

Phone #: 301 600-1532

RECEIVED
SEP 16 2015
Office of Administrative Officer

Staff Report Topic:

Approval of Mutual Aid Agreement between FCSO and Baltimore City Police

County Funds Requested/Required? Yes ____ $ _____ No ✓

Action Requested:

Information Only ____

Requires County Executive's: Approval ✓ Signature ✓

Please remember to flag all pages that need to be executed by the County Executive.

Staff Report Review:

This staff report has been thoroughly reviewed first by the appropriate divisions/agencies noted on Page 2 followed by those outlined below:

	Initials	Date	Comments Y/N (Page 2)
☑ Budget Office		9.15.15	N
☑ Finance Division		9/15/15	N
☑ County Attorney's Office		9/16/15	Y
Refer to County Council? Yes X No ____ (If yes, requires County Executive's approval.)			
☑ Chief Administrative Officer		9/18/15	N
☑ County Executive		9/22/15	
Approval to forward to Council? Yes ✓ No ____			

For Office Use Only

Council Meeting Date: 10/6/15 Presenter: Sheriff Jenkins

Public Hearing? Yes ____ No ✓

Requires Council President's Signature? Yes ✓ No ____

Other Reviewing Divisions/Agencies:
(Click to place a check mark in the following appropriate spaces.)

		Initials	Date	Comments Y/N *(noted below)*
____	Animal Control			
____	Citizens Services			
____	Community Development			
____	Emergency Management			
____	Fire & Rescue Services			
____	Health Services			
____	Human Resources			
____	Interagency Information Technologies			
____	Internal Audit			
____	Parks & Recreation			
____	Public Works			
____	Utilities & Solid Waste Management			
____	Volunteer Fire & Rescue Services			
____	Other: _____			
____	Other: _____			
____	Other: _____			

Elected Officials or Independent Agencies:

		Initials	Date	Comments Y/N *(noted below)*
____	Board of Education			
____	Board of Elections			
____	Board of License Commissioners			
____	Frederick Community College			
____	Frederick County Public Libraries			
____	Sheriff's Office			
____	Social Services			
____	State's Attorney's Office			

Comments:

1. **From:** W. Kearney **Date:** 9/15/15
The Ann. Code of MD, Criminal Procedure Art., §2-105, requires County Council and County Executive approval of Mutual Aid Agreements.

2. **From:** _____ **Date:** _____

3. **From:** _____ **Date:** _____

4. **From:** _____ **Date:** _____

FREDERICK COUNTY SHERIFF'S OFFICE

HEADQUARTERS
FREDERICK COUNTY LAW
ENFORCEMENT CENTER
110 Airport Drive East
Frederick, Md. 21701
301-600-1046
301-600-1527 (Fax)
301-600-7655 (TTY)

JUDICIAL OPERATIONS
100 W. Patrick Street
Frederick, Md. 21701
301-600-2162
301-600-3690 (Fax)

CHARLES A. JENKINS
SHERIFF

DETENTION CENTER/
CENTRAL BOOKING
7300 Marcie's Choice Lane
Frederick, Md. 21704
301-600-2550 (D.C.)
301-600-2566 (D.C. Fax)
301-600-1790 (C.B.)
301-600-1791 (C.B. Fax)

WORK RELEASE CENTER
7281 Marcie's Choice Lane
Frederick, Md. 21704
301-600-1727
301-600-3404 (Fax)

TO: Jan H. Gardner
County Executive

FROM: Charles A. Jenkins
Sheriff of Frederick County

SUBJECT: Law Enforcement Mutual Aid Agreement between the Frederick County Sheriff's Office and the Baltimore City Police Department

DATE: September 7, 2015

ISSUE

The Frederick County Sheriff's Office is requesting that the County Executive and the County Council review and approve the proposed Mutual Aid Agreement between the Sheriff's Office and Baltimore City Police Department.

BACKGROUND

In late April, 2015, tensions grew between protesters and Baltimore City Police (BPD) as a result of a highly-publicized arrest and subsequent death of a prisoner in BPD custody. Tensions turned to general civil unrest, rioting crowds, looting, arson and assaults on both citizens and police, and quickly escalated to and beyond the capabilities of BPD to handle the situation and adequately protect the city's infrastructure and citizenry. BPD commanders reached out to surrounding law enforcement agencies and requested additional officers and resources to help handle those events and provide relief to deployed BPD field units.

On the afternoon of April 27, 2015 I met with my senior law enforcement commanders and determined, both legally and operationally, that we could provide BPD with about 30 appropriately trained staff and equipment. By midnight, our deputies reported to BPD commanders and were assigned to provide infrastructure security and relieve some BPD field units. This group of deputies remained for about 17 hours. Within the coming days, a State of Emergency was declared and we were able to provide two more similar deployments on May 2nd and 3rd prior to the close of the declaration and situation returning to 'normal'.

Since the conclusion of these events, members of participating agencies have met to review the response to the State of Emergency and discuss the preparation for future similar events throughout our region. One of the main points of emphasis from those meetings was for agencies to update or create reciprocal mutual aid agreements with regional partners for preparedness and response to future emergency events.

ANALYSIS/RECOMMENDATION

The Sheriff's Office has for years enjoyed similar mutual aid agreements with local allied law enforcement agencies, and now wish to participate in this agreement to plan for and respond to future emergency events.

ACTION REQUESTED

Staff recommends that the County Executive and County Council approve and sign this mutual aid agreement between the Sheriff's Office and Baltimore City Police to streamline the response for future emergency events.

FUNDING INFORMATION

New Account Number: Yes _____

Budget Transfer Required: No ____x_____ Yes _____

Amount of County Funding Requested:

Other Pertinent Information:

/Attachments

THE EFFECTIVE DATE OF THIS RESOLUTION IS _____

RESOLUTION NO._____

RE: MUTUAL AID AGREEMENT LAW ENFORCEMENT.

The County Council of Frederick County, Maryland, (the "Council") and other governing bodies throughout Maryland and in other states, recognize it to be in the best interests of their citizens to enhance their preparedness to respond to emergency situations to the greatest extent possible.

The Annotated Code of Maryland, Criminal Procedure Article, §2-105, authorizes the County Executive and the County Council to enter into reciprocal Mutual Aid Agreements with other Counties, municipal corporations, and certain other entities with respect to law enforcement efforts and activities.

Frederick County has in the past entered into Mutual Aid Agreements for law enforcement efforts and activities with several neighboring jurisdictions, which agreements remain in effect.

The Sheriff of Frederick County has requested that the County Executive and the County Council approve and execute a Mutual Aid Agreement between the Frederick County Sheriff's Office and Frederick County, and Baltimore City and the Baltimore Police Department.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Council hereby approves the Mutual Aid Agreement for law enforcement with the City of Baltimore attached hereto as Exhibit A.

The undersigned hereby certifies that this Resolution was approved and adopted on the _____ day of _____, 2015.

ATTEST:

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

_____
Ragen L. Cherney
Council Chief of Staff

By: _____
Bud Otis, President

MUTUAL AID AGREEMENT
BETWEEN
FREDERICK COUNTY, MARYLAND, THE FREDERICK COUUNTY SHERIFF'S OFFICE, AND THE CITY OF BALTIMORE, MARYLAND, AND THE BALTIMORE POLICE DEPARTMENT

THIS MUTUAL AID AGREEMENT, made this the _____ day of _____ 2015, by and between **FREDERICK COUNTY, MARYLAND,** a body corporate and politic of the State of Maryland, by and through the **COUNTY EXECUTIVE** and **COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND,** (collectively, **"FREDERICK COUNTY"**), the **FREDERICK COUNTY SHERIFF'S OFFICE ("FCSO")**, the **MAYOR AND CITY COUNCIL OF BALTIMORE,** a municipal corporation of the State of Maryland (the **"CITY")** , and the **BALTIMORE POLICE DEPARTMENT,** an agency and instrumentality of the State of Maryland **("BPD")**.

WHEREAS, it is in the public interest that law enforcement agencies throughout the State of Maryland cooperate to the greatest extent possible to provide prompt, effective, and professional police services.

WHEREAS, it is in the public interest that law enforcement agencies throughout the State of Maryland cooperate to the greatest extent possible to ensure effective, and professional police services are maintained by sharing resources between communities/jurisdictions during an emergency.

WHEREAS, the City, BPD, Frederick County and the FCSO anticipate that circumstances may arise in their respective jurisdictions where there is a need for outside assistance in the form of law enforcement personnel and equipment.

WHEREAS, all law enforcement officers (hereinafter sometimes called "police" or "officers") are trained in current law enforcement techniques and have completed a course of training prescribed by the Maryland Police Training Commission.

WHEREAS, Section 2-102 (b)(1) of the Criminal Procedure Article of the Maryland Annotated Code states, in pertinent part, the following: "[s]ubject to the limitations of paragraph (3) of this subsection, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the State without limitations as to jurisdiction."

WHEREAS, Section 2-102(b)(3) of the Criminal Procedure Article of the Maryland Annotated Code states, in pertinent part, the following: "(3) A police officer may exercise the powers granted by this section when: (i) 1. the police officer is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction; 2. the police officer is rendering assistance to another police officer; 3. the police officer is acting at the request of a police officer or State Police officer; or 4. an emergency exists; and (ii) the police officer is acting in accordance with regulations adopted by the police officer's employing unit to carry out this section."

WHEREAS, Section 2-105 (e)(1) of the Criminal Procedure Article of the Maryland Annotated Code states, in pertinent part, the following: "The governing body of a county or municipal corporation or the Maryland-National Capital Park and Planning Commission may make a reciprocal agreement for the period that it considers advisable with the District of

Columbia or a county, municipal corporation, or the Maryland-National Capital Park and Planning Commission, within or outside the State, and establish and carry out a plan to provide mutual aid by providing its police officers and other officers, employees, and agents, together with all necessary equipment as provided in subsection (b) of this section."

WHEREAS, the Commissioner of BPD, pursuant to Public Local Laws §16-7(11) has the authority "[t]o make and execute contracts and other instruments as may be authorized in the exercise and performance of the powers vested in him and the Department . . . ."

WHEREAS, the City and Frederick County enter into this Agreement to provide Mutual Aid, pursuant to the authority granted by Section 2-105(e)(1) of the Criminal Procedure Article of the Maryland Annotated Code.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, Frederick County, FCSO, the City, and the BPD do hereby agree as follows:

1. The foregoing recitals are hereby incorporated into, and made a part of this Agreement.

2. Whenever any of the conditions set forth in Section 2-102(b)(3) of the Criminal Procedure Article of the Maryland Annotated Code exists, and in the judgment of the SHERIFF OF FCSO (or designee) and the Commissioner of BPD (or designee) outside assistance is needed, each party may request assistance in the form of police personnel or equipment from the other jurisdiction.

3. Whenever practicable, the Commissioner of BPD (or designee) shall consult with the presiding officials of the City before requesting assistance or mutual aid under this Agreement. However the failure of the Commissioner of BPD (or designee) to consult with the presiding officials of the City does not make a request for assistance invalid.

4. Any request for assistance or mutual aid shall be directed to the Commissioner BPD (or designee), or the Sheriff of FCSO (or designee). The request shall describe in detail the nature of the circumstance meeting any of the conditions under Section 2-102(b)(3) of the Criminal Procedure Article of the Maryland Annotated Code, the number of police officers and the amount and type of equipment needed, and a reasonable estimate of the length of time they will be needed. If the request is made orally, it shall be confirmed in writing as soon as practicable.

5. A request for assistance will be evaluated by the responding agency's Commissioner/Sheriff (or designee), based on the circumstances of the request, and the capacity of the responding agency to provide the requested aid, while providing adequate services to the residents of the responding jurisdiction. The responding agency will engage in good faith efforts to provide necessary support to the requesting agency.

6. The Sheriff of FCSO (or designee) or the Commissioner BPD (or designee) shall have the authority to terminate their participation in meeting any request for assistance or mutual aid, at any time when circumstances are such that continued participation is deemed not in the best interest of either Frederick County or the City. However, the Sheriff of FCSO (or designee) or the Commissioner BPD (or designee) covenant to engage in good faith discussions with the other party, when feasible, before terminating any participation in response to a request for assistance or mutual aid.

7. In the circumstances where Frederick County or the City wish to terminate this Agreement, that party shall provide written notice to the other party, thirty (30) days prior to the proposed date of termination. Written notice of termination may be accomplished by email.

8. The Sheriff of FCSO (or designee) and the Commissioner of BPD (or designee) shall have the sole authority to determine, for their respective Departments, the personnel and equipment, if any, available for assistance or mutual aid.

9. Notwithstanding anything to the contrary herein, this Agreement shall not be construed to authorize the Sheriff of FCSO to "deputize" the law enforcement officers of BPD as officers and deputies of FCSO.

10. Notwithstanding anything to the contrary herein, this Agreement shall not be construed to authorize the Commissioner of BPD to "deputize" the law enforcement officers/deputies of FCSO as officers and deputies of BPD.

11. The manner of providing assistance, as set forth in this Agreement, shall be in addition to, and shall not limit, the authority granted police officers in matters involving fresh pursuit as provided in Section 2-301 of the Criminal Procedure Article or the powers granted by Sections 5-801, 5-802, 5-807, 5-808, and 5-901 of the Criminal Law Article of the Maryland Annotated Code.

12. Pursuant to Section 2-105(c), of the Criminal Procedure Article of the Maryland Annotated Code, Frederick County and the City acknowledge that any and all acts performed in furtherance of, or pursuant to, this Agreement by any police, deputies other public officials, or employees of Frederick County and the City shall be deemed to be for a public and governmental purpose.

13. This Agreement shall not be construed as a waiver of any immunity from tort liability, statutory, common law or otherwise, enjoyed by Frederick County, the City, the Sheriff of FCSO, the Commissioner of BPD, any police officer or deputy covered by this Agreement, or any employee of Frederick County or the City.

14. Pursuant to Section 2-105(c)(3) of the Criminal Procedure Article of the Maryland Annotated Code, Frederick County and the City acknowledge that their officers, agents and employees, when acting in furtherance of the authority of this Agreement beyond the boundaries of the jurisdiction within the State in which they are commissioned or employed, have all the immunities from liability described in Section 5-612 of the Courts & Judicial Proceedings Article of the Maryland Annotated Code, and exemptions from laws, ordinances and regulations, and all the same pension, relief, disability, workers' compensation, and other benefits enjoyed by them, to which these police officers, deputies and employees are otherwise entitled while performing their respective duties within the boundaries of the jurisdiction in which they are commissioned or employed.

15. Frederick County, FCSO, the City, and BPD each acknowledge that they shall only be responsible for all the pension, relief, disability, workers' compensation, other benefits and death claims of their own employees that may arise out of performance of this Agreement.

16. The Sheriff of FCSO and the Commissioner of BPD each acknowledge that he or she shall be solely responsible for the discipline of any police officer (under their respective commands) who may commit misconduct while taking law enforcement action under this Agreement. Upon learning of the facts and circumstances comprising potential misconduct by a law enforcement officer under their command committed within the jurisdiction of the other party, the Sheriff of FCSO (or designee) and the Commissioner of BPD (or designee) shall immediately (within twenty four (24) hours) notify the other party of the facts and circumstances comprising potential misconduct. Again, notification by email is deemed sufficient under this Agreement.

17. A police officer/deputy who acts under the authority granted by this Agreement remains at all times and for all purposes an employee of the employing unit (the unit acting beyond its boundaries).

18. Pursuant to Section 2-105 of the Criminal Procedure Article of the Maryland Annotated Code, Frederick County and the City each agree to the following:
    (a) To waive any and all claims that are against the other parties to this Agreement and that may arise out of their activities outside their respective jurisdictions under the Agreement; and
    (b) To indemnify and hold harmless the other parties to this Agreement from all claims by third parties that are for property damage or personal injury and that may arise out of the activities of the other parties to the Agreement outside their respective jurisdictions under the Agreement.

19. Frederick County, FCSO, the City, and BPD each agree to cooperate fully with the other party in the defense of claims, pursuant to the indemnifications of Paragraph 18(b) above. This cooperation will include, but is not limited to, the following:
    (a) Immediate notification to the other party of any accident, incident or enforcement action resulting in personal injury, damage or having the potential for liability;
    (b) Permit a party to this Agreement to conduct a parallel independent investigation of any accident or incident;
    (c) Make reports, records, and equipment available for purposes of the defense of any claim or suit.

20. Senior ranking personnel (and their contingent) responding to a request for assistance or for mutual aid under this Agreement shall report to the senior police officer of the agency requesting assistance or mutual aid, and Unified Command will be established. Command officers of the responding agency will work closely with command officers of the requesting agency in addressing their IAP's (Incident Action Plans), goals, objectives, and operational needs, and in determining parameters regarding deployment of assets. Overall command of the operation will reside in the senior police officer of the requesting agency.

21. Radio communication between the jurisdictions shall be coordinated through the Communications Section of the requesting agency.

22. A responding police officer/deputy who is providing assistance or mutual aid under this Agreement shall use the forms and reports of the requesting agency. Any responding police officer/deputy who makes an arrest shall transfer the arrestee to the custody of a police officer of the requesting agency for processing, in accordance with the procedures of the requesting agency. Any report that is filed by a responding police officer to a

requesting agency is deemed sufficient notice to the Sheriff of FCSO or the Commissioner of BPD under Section 2-102(c)(1) of the Criminal Procedure Article of the Maryland Annotated Code.

23. This Mutual Aid Agreement authorizes a police officer/deputy who is providing assistance or mutual aid beyond the officer's sworn jurisdiction, to enforce the Maryland Vehicle Law within the territorial jurisdiction of the requesting/receiving county or municipal corporation.

24. This Agreement shall be governed by the laws of the State of Maryland.

25. Any notification permitted under this Agreement shall be made to the parties listed below:

FOR FREDERICK COUNTY: **Jan H. Gardner** **County Executive** **12 East Church Street** **Frederick, MD 20701** **Email:jgardner@frederickcountymd.gov**	**FOR THE CITY:** Stephanie Rawlings-Blake Mayor City Hall 100 N. Holliday Street Baltimore, MD 21202 Email: Stephanie.Rawling-Blake@baltimorecity.gov
FOR FCSO: Sheriff Charles A. Jenkins 110 Airport Drive East Frederick, MD 21701 Email: cjenkins@frederickcountymd.gov	**FOR BPD:** Kevin Davis Commissioner of the Baltimore Police Department 601 East Fayette Street Baltimore, MD 21202 Email: Kevin.Davis@baltimorepolice.org

[SIGNATURES TO FOLLOW ON NEXT PAGE]

AS WITNESS the hands and seals of the Parties the day, month, and year first above written.

ATTEST:

MAYOR AND CITY COUNCIL OF BALTIMORE

_____
CUSTODIAN OF THE CITY SEAL

BY: _____
STEPHANIE RAWLINGS-BLAKE, MAYOR

BY: _____
BERNARD C. "JACK" YOUNG, PRESIDENT
BALTIMORE CITY COUNCIL

APPROVED BY THE BOARD OF ESTIMATES

_____
CLERK DATE

ATTEST:

FREDERICK COUNTY

_____

BY: Jan H. Gardner
JAN H. GARDNER, COUNTY EXECUTIVE

WLC 9/23/15

APPROVED BY THE FREDERICK COUNTY COUNCIL
RESOLUTION # _____

DATE: _____

POLICE DEPARTMENT OF BALTIMORE CITY

BY: _____
KEVIN DAVIS, INTERIM POLICE COMMISSIONER

FREDERICK COUNTY SHERIFF'S OFFICE

BY: _____
CHARLES A. JENKINS, SHERIFF

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
MARK DEWIRE
CHIEF CITY SOLICITOR
CITY OF BALTIMORE, DEPARTMENT OF LAW

APPROVED AS TO FORM:

_____
SENIOR ASSISTANT COUNTY ATTORNEY
FREDERICK COUNTY, MARYLAND

THE EFFECTIVE DATE OF THIS RESOLUTION IS September 19, 2017

RESOLUTION NO. 17-22

RE: MUTUAL AID AGREEMENT LAW ENFORCEMENT

The County Council of Frederick County, Maryland, (the "Council") and other governing bodies throughout Maryland and in other states, recognize it to be in the best interests of their citizens to enhance their preparedness to respond to emergency situations to the greatest extent possible.

The Annotated Code of Maryland, Criminal Procedure Article, §2-105, authorizes the County Executive and the County Council to enter into reciprocal Mutual Aid Agreements with other Counties, municipal corporations, and certain other entities with respect to law enforcement efforts and activities.

Frederick County has in the past entered into Mutual Aid Agreements for law enforcement efforts and activities with several neighboring jurisdictions, which agreements remain in effect.

The Sheriff of Frederick County has requested that the County Executive and the County Council approve and execute an updated Mutual Aid Agreement between the Frederick County Sheriff's Office and Frederick County, and the Brunswick City Police and Brunswick City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Council hereby approves the Mutual Aid Agreement for law enforcement with the City of Brunswick attached hereto as Exhibit A.

The undersigned hereby certifies that this Resolution was approved and adopted on the 19th day of September, 2017.

ATTEST:

Ragen L. Cherney
Council Chief of Staff

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

By: _____
Bud Otis, President
9/19/17

Exhibit A

AGREEMENT OF MUTUAL AID

BETWEEN THE SHERIFF AND COUNTY EXECUTIVE OF FREDERICK COUNTY, MARYLAND, AND THE MAYOR AND COUNCIL OF BRUNSWICK, MARYLAND

WHEREAS, the Sheriff of Frederick County, Maryland and the County Executive of Frederick County, Maryland (hereinafter referred to as the County) and the Mayor and Council of the City of Brunswick, Maryland (hereinafter referred to as the City) both realize and agree that the public interest is served best by law enforcement agencies which cooperate to the greatest extent possible to provide prompt, effective, efficient, and professional law enforcement services; and

WHEREAS, Law enforcement officers of the County and of the City are trained and certified in current law enforcement techniques and have completed successfully the courses of instruction which have been prescribed by the Maryland Police Training Commission pursuant to Public Safety Title 3, Subtitle 209 of the Maryland Code;

WHEREAS, Law enforcement administrators of the County and of the City are aware that emergency situations have developed from time to time both at locations and at times either in the County or in the City when sufficient law enforcement resources were not immediately available to enable law enforcement officers to render prompt, effective, efficient, and professional services to the public; and

WHEREAS, elected officials and law enforcement administrators of the County and of the City desire to extend prompt, effective, efficient, and professional law enforcement services to the public, both in the County and in the City, to the extent law enforcement resources are available; and

WHEREAS, The General Assembly of Maryland enacted Criminal Procedure Title 2, Subtitle 105 of the Maryland Code, which allows counties and municipalities to enter into "Police Mutual Aid Agreements" (as defined therein).

NOW, THEREFORE, the County and the City, by and through their respective authorized and undersigned elected officials and law enforcement administrators do enter into this Police Mutual Aid Agreement ("this agreement") and do hereby agree:

1. The word emergency, as it is used in this agreement, may consist of an unruly person who, or group which, demonstrates a potential for violence, of a hostage or barricaded subject situation, of a fire, flood, accident or other catastrophe, of a request for spontaneous backup assistance, or of a similar circumstance where prompt law enforcement action requiring at least one (1) law enforcement officer or specialized equipment is required.

2. Whenever, in the judgment either of the Chief of Police of the City or of the Sheriff of the County, or, in the event of his absence or unavailability, any other law enforcement officer designated either by the Chief of Police of the City or by the Sheriff of the County, an Emergency occurs and the law enforcement agency in the jurisdiction where that emergency occurs does not have sufficient law enforcement officers, equipment, or facilities immediately available to resolve properly that emergency, the designated law enforcement official may request assistance in the form of law enforcement officers, equipment, or facilities from the other jurisdiction. The request may be verbal or in writing, and shall be directed to either the Chief of Police of the City or to the Sheriff of the County, or, in the event of their absence or unavailability, to any other law enforcement officer designated either by the Chief of Police of the City or by the Sheriff of the County. If, in the judgment of the designated law enforcement official of the jurisdiction to whom the request has been made, the law enforcement officers, equipment, or facilities requested are available, such resources shall be dispatched as requested and such law enforcement officers shall take their orders from the law enforcement officer initiating said request.

3. No prior written request or authorization is required with regard to routine requests from dispatch such as assistance as a backup for traffic, K9-scan or search, ordinance, criminal violations that do not call for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act. Law enforcement officer(s) of either jurisdiction are hereby authorized to provide such routine backup assistance in the other jurisdiction.

4. Whenever any law enforcement officer of the County or of the City is traversing, while on official duty, any highway, road, street, or alley either in the County or in the City and observes any crime-in-progress either in the County or in the City, that law enforcement officer is authorized to act as a law enforcement officer pursuant to this agreement.

5. Whenever a criminal, ordinance, or traffic violation occurs on property owned by the City and located outside the corporate limits of the City, but within the County, any law enforcement officer of the City is authorized to act as a law enforcement officer.

6. The manner of providing assistance, as it is set forth in this Agreement, shall not affect the authority granted law enforcement officers in matters involving fresh pursuit as provided in Criminal Procedure Title 2, Subtitle 301 of the Maryland Code.

7. Pursuant to Criminal Procedure, Title 2, Subtitle 105(c)(2) of the Maryland Code, the parties to this Agreement acknowledge that the acts performed in furtherance of this agreement by law enforcement officers or other officers, agents, or employees, and the expenditures either made by the County and/or by the City shall be deemed conclusively to be for a public and governmental purpose; and all of the immunities from liability enjoyed by the County or the City when acting through its policemen or other officers, agents, or employees for a public or governmental purpose within its territorial limits shall be enjoyed by the County or by the City to the same extent when either is so acting, under this agreement or under other lawful authority, beyond its territorial limits.

8. Pursuant to Criminal Procedure Title 2, Subtitle 105(c)(3) of the Maryland Code, the parties to this Agreement acknowledge that the law enforcement officers and other officers, agents, and employees of the County or of the City, when acting under this agreement or under other lawful authority beyond the territorial limits of the County or of the City by which they are commissioned or employed, have the immunity from liability as described in Courts and Judicial Proceedings Title 5, Subtitle 612 of the Maryland Code, and exemptions from laws, ordinances, and regulations and have all of the pension, relief, disability, worker's compensation, and other benefits enjoyed by them while performing their respective duties within the territorial limits of the County or of the City by which they are commissioned or employed. However, the

jurisdiction by which any person is employed shall bear all costs for his pension, relief, disability, worker's compensation, and other benefits referred to in this paragraph.

9. Pursuant to Criminal Procedure Title 2, Subtitle 105(e)(2) of the Maryland Code, each of the parties to this Agreement (i) waive any and all claims against the other party to this Agreement which may arise out of its activities outside its respective jurisdiction under this Agreement; and (ii) agrees to indemnify and save harmless the other party to this Agreement from all claims by third parties for property damage or personal injury which may arise out of the activities of the other party to this agreement, outside its respective jurisdiction under this Agreement.

10. Nothing in this Agreement shall preclude any jurisdiction from entering into similar agreements with other jurisdictions.

11. When an Emergency pursuant to this Agreement occurs, this Agreement shall supersede any other memoranda of understanding that may conflict with this Agreement.

12. All assistance rendered under this Agreement shall be provided without reimbursement by either party, unless otherwise provided by law or contact.

13. The parties may jointly pursue recovery of any expenditures made or losses sustained because of the negligence or willful acts of a third party.

14. This Agreement shall become effective immediately upon its enactment into law by the party jurisdictions or by the operation of law upon execution.

15. This agreement shall remain in effect until it is cancelled either by the County or by the City by written notice either from ~~the Board of County Commissioners of~~ the County or from the Mayor and Council of the City.

16. If any part or provision of this Agreement or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Agreement which can be given effect without the invalid provision or application, and for this purpose the provisions of this Agreement are declared severable.

SIGNED THIS 19th DAY OF September, 2017.

SHERIFF OF
FREDERICK COUNTY, MARYLAND

Charles A. Jenkins, Sheriff

MAYOR AND COUNCIL
BRUNSWICK, MARYLAND

Jeffrey T. Snoots, Mayor

COUNTY EXECTIVE
FOR FREDERICK COUNTY, MARYLAND

Jan H. Gardner

Milt Frech, Chief of Police

Reviewed for form and legal sufficiency

3/13/17

Frederick County Attorney

Reviewed for form and legal sufficiency

Brunswick City Administrator

APPROVED BY THE FREDERICK COUNTY COUNCIL
RESOLUTION # 17-22
DATE: September 19, 2017

FREDERICK COUNTY, MARYLAND
STAFF REPORT CONCURRENCE FORM

To: Office of the County Executive Date: 12/08/2017

RECEIVED
DEC 19 2017
Office of
Administrative Officer

Through (Name of Div. Dir.): _____

From (Name & Division): Sheriff Charles A. Jenkins

Phone #: x13633 Call Scot Hopkins with any questions

Staff Report Topic:

Frederick County Sheriff's, Washington County Sheriff's, and Hagerstown City Police joint Mutual Aid Agreement for supplementary police services

Time Sensitive? Yes ☐ (if yes, deadline for approval: _____) No ☑

Action Requested by County Executive:

Signature Approval ☑ **OR** Information Only ☐

Staff Report Review:

This staff report has been thoroughly reviewed first by the appropriate divisions/agencies noted on Page 2 followed by those outlined below:

	Initials	Date	Comments Y/N (Page 2)
☑ Budget Office	RH	12/13/17	N
☑ Finance Division	cd	12/14/17	N
☑ County Attorney's Office	WK	12/19/17	N

Refer to County Council? Yes X No _____ (To be completed by the Co. Attorney's office.)

☑ Chief Administrative Officer		12-20-17	Y
☑ County Executive	JH	12/20/17	

Approval to forward to Council? Yes ✓ No _____

For Office Use Only

Council Meeting Date: _____ Presenter: _____

Public Hearing? Yes _____ No _____

Requires Council President's Signature? Yes _____ No _____

Other Reviewing Divisions/Agencies:
(Click to place a check mark in the following appropriate spaces.)

		Initials	Date	Comments Y/N (noted below)
_ _	Animal Control			
_ _	Citizens Services			
_ _	Economic Development			
_ _	Emergency Management			
_ _	Fire & Rescue Services			
_ _	Health Services			
_ _	Human Resources			
_ _	Interagency Information Technologies			
_ _	Parks & Recreation			
_ _	Planning & Permitting			
_ _	Public Works			
_ _	Sustainability & Environmental Resources			
_ _	Transit Services			
_ _	Utilities & Solid Waste Management			
_ _	Volunteer Fire & Rescue Services			
_ _	Other: _____			
_ _	Other: _____			
_ _	Other: _____			

Elected Officials or Independent Agencies:

		Initials	Date	Comments Y/N (noted below)
_ _	Board of Education			
_ _	Board of Elections			
_ _	Board of License Commissioners			
_ _	Frederick Community College			
_ _	Frederick County Public Libraries			
_ _	Internal Audit			
_ _	Sheriff's Office			
_ _	Social Services			
_ _	State's Attorney's Office			

Comments:

1. **From:** _____ **Date:** _____

2. **From:** Ray Barnes **Date:** 12-20-17
Request - Schedule for Jan 16, 2018 Council Agenda -

3. **From:** _____ **Date:** _____

4. **From:** _____ **Date:** _____

FREDERICK COUNTY SHERIFF'S OFFICE

HEADQUARTERS
FREDERICK COUNTY LAW
ENFORCEMENT CENTER
110 Airport Drive East
Frederick, Md. 21701
301-600-1046
301-600-1527 (Fax)
301-600-7655 (TTY)

JUDICIAL OPERATIONS
100 W. Patrick Street
Frederick, Md. 21701
301-600-2162
301-600-3690 (Fax)

CHARLES A. JENKINS
SHERIFF

DETENTION CENTER/
CENTRAL BOOKING
7300 Marcie's Choice Lane
Frederick, Md. 21704
301-600-2550 (D.C.)
301-600-2566 (D.C. Fax)
301-600-1790 (C.B.)
301-600-1791 (C.B. Fax)

WORK RELEASE CENTER
7281 Marcie's Choice Lane
Frederick, Md. 21704
301-600-1727
301-600-3404 (Fax)

CAJ/seh

TO: Jan H. Gardner, County Executive

FROM: Charles A. Jenkins, Sheriff of Frederick County

REF: Mutual Aid Agreement between the Frederick County Sheriff's Office, Washington County Sheriff's Office, and Hagerstown City Police

DATE: December 8, 2017

ISSUE:

Should the Frederick County Executive, Council and Sheriff's Office enter into a mutual aid agreement for requests of reciprocal law enforcement services between the Washington County Board of County Commissioners and Sheriff's Office, and the Mayor, City Council and Police Department of Hagerstown, Maryland?

BACKGROUND:

The Frederick County Sheriff's Office, the City of Hagerstown Police Department, and the Washington County Sheriff's Office are charged with providing law enforcement services to the citizens of their respective jurisdictions. On occasion, these entities require supplementary manpower to assist with their law enforcement operations, and have drafted this Agreement to establish terms and conditions under which each agency will provide aid to one another.

In accordance with MD. Crim. Proc. Code Ann. 2-105(b), the governing body of a county or municipal corporation may lawfully go or be sent beyond the boundaries of the county or municipal corporation. Furthermore, Md. Crim. Proc. Code Ann 2-105(g)(1), allows police officers coming from one county or municipal jurisdiction under the terms of a mutual aid agreement, to enforce the laws of the State of Maryland to the same extent as the authorized law enforcement officer of the receiving county or municipal corporation.

RECOMMENDATION:

Staff recommends approval of this Mutual Aid Agreement, and requests the County Executive's and Council's affirmative signature.

Approve? Yes ✓ No_____

Jan H. Gardner, County Executive
Frederick County, Maryland

12/20/17
Date

FUNDING IMPLICATION: No

ATTACHMENT(S):

Attachment 1 – Mutual Aid Agreement between the Frederick County Executive, Council and Sheriff's Office, and the Washington County Board of County Commissioners and Sheriff's Office, and the Mayor and City Council of Hagerstown, MD. (2 copies)

ATTACHMENT #1

MUTUAL AID AGREEMENT

THIS MUTUAL AID AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2018, by and between the **FREDERICK COUNTY SHERIFF'S OFFICE** ("Sheriff"), the **FREDERICK COUNTY COUNCIL, FREDERICK COUNTY, MARYLAND,** the **WASHINGTON COUNTY SHERIFF'S OFFICE** ("Sheriff"), the **BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY**, and the **MAYOR AND CITY COUNCIL OF HAGERSTOWN, MARYLAND.**

RECITALS:

WHEREAS, in accordance with Md. Crim. Proc. Code Ann. § 2-105(b), the governing body of a county or municipal corporation, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the county or municipal corporation;

WHEREAS, Frederick County Sheriff's Office, the City of Hagerstown Police Department, and the Washington County Sheriff's Office are charged with providing law enforcement services to the citizens of the Frederick County, Maryland, the City of Hagerstown, Maryland and Washington County, Maryland within their respective jurisdictions;

WHEREAS, in accordance with Md. Crim. Proc. Code Ann. § 2-105(g)(1), police officers coming from one county or municipal jurisdiction under the terms of a mutual aid agreement may enforce the laws of the State of Maryland to the same extent as the authorized law enforcement officers of the receiving county or municipal corporation;

WHEREAS, on occasion, the Frederick County Sheriff's Office, the City of Hagerstown Police Department and the Washington County Sheriff's Office require supplementary manpower to assist with respect to their law enforcement operations; and

WHEREAS, the parties hereto enter into this Agreement for the purpose of establishing terms and conditions under which their respective law enforcement agencies will provide aid to one another.

WITNESSETH:

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements as contained herein, the parties hereto agree as follows:

1. **Recitals.** The recitals set forth above are not merely prefatory. They are incorporated by reference herein and form a part of this Agreement.

2. **Definitions.** As used herein, the following terms shall have the following meanings:

"Assisting Party" means the participating governmental entity furnishing equipment, resources, supplies, and/or personnel to the Requesting Party under the terms of this Agreement.

"Emergency" includes a life threatening situation demanding an immediate police response, a situation in which there is a potential for violence as well as the definition of that term as defined in Md. Crim. Proc. Code Ann. § 2-101(b), i.e., "a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act."

"Requesting" means a request for assistance made by a Requesting Party to an Assisting Party under the terms of this Agreement.

"Requesting Party" means the participating governmental entity, which has primary jurisdiction at the location requesting aid, but due to insufficient resources, specialized units, supplies, equipment, and/or personnel, is unable to provide an adequate response to the situation without the assistance of others. "Requesting Party" shall also include the governmental entity which has primary jurisdiction where an Assisting Party is providing assistance in response to an Emergency.

Any reference to "police" or "police officers" in this Agreement shall include deputies of the Frederick County Sheriff's Office, police officers of the City of Hagerstown Police Department, and/or deputies of the Washington County Sheriff's Office.

3. **Purpose of Agreement.** This Agreement is made in recognition of the fact that there may be situations where law enforcement agencies require the assistance of the other law enforcement agencies with respect to their law enforcement operations. The Assisting Party shall aid and assist the Requesting Party by assigning some of its resources, specialized units, equipment, and/or law enforcement personnel to the Requesting Party as circumstances permit and in accordance with the terms of this Agreement. The specific intent of this Agreement is to safeguard the lives, persons and property of citizens by enabling other law enforcement agencies to provide additional resources, specialized units, equipment, and/or law enforcement personnel as needed.

4. **Actions Considered to be for Public and Governmental Purpose; Immunities.** The terms and provisions of Md. Crim. Proc. Code Ann. § 2-105(c), as amended from time to time, are incorporated by reference herein and form a part of this Agreement. Effective the date of this Agreement, those terms and provisions are as follows:

(c) *Actions considered to be for public and governmental purpose; immunities.-*

(1) The acts done by the police officers or other officers, agents, or employees of a county or municipal corporation under the authority of subsection (b) of this section and

the expenditures made by the county or municipal corporation are considered to be for a public and governmental purpose.

(2) When a county or municipal corporation is acting through its police officers or other officers, agents, or employees for a public or governmental purpose beyond its boundaries under this section or other lawful authority, the county or municipal corporation has the same immunities from liability that the county or municipal corporation has when acting through its police officers or other officers, agents, or employees for a public or governmental purpose within its boundaries.

(3) When the police officers or other officers, agents, or employees of a county or municipal corporation are acting beyond the boundaries of the county or municipal corporation within the State under this section or other lawful authority, the police officers and other officers, agents, and employees of the county or municipal corporation have the same immunity from liability described in § 5-612 of the Courts Article and exemptions from laws, ordinances, and regulations, and the same pension, relief, disability, workers' compensation, and other benefits as those persons have while performing their duties within the boundaries of the county or municipal corporation.

5. **Authority of Assisting Party's Officers.** Police officers of an Assisting Party shall exercise criminal law enforcement powers outside of the Assisting Party's jurisdiction and within the jurisdiction of the Requesting Party to the same extent as police officers of the Requesting Party acting within the jurisdiction of the Requesting Party provided the police officers of the Assisting Party are present in the Requesting Party's jurisdiction pursuant to a Request from the Requesting Party.

None of the provisions of this Agreement shall be construed to permit the police officers of the Assisting Party to perform routine patrols in the jurisdiction of the Requesting Party or to conduct investigations therein unless said patrols or investigations are the subject of a particular Request.

6. **Report Required.** Whenever a Request is made, a report will be generated within the Requesting Party's records management system to document such Request. Said report shall detail the reason for the Request, the expected duration of the same, as well as all other salient details regarding the Request and the activities of the law enforcement officers of the Assisting Party and the Requesting Party in responding to the situation giving rise to the Request.

Whenever assistance is provided under the terms of this Agreement in response to an Emergency, the Assisting Party shall be responsible for generating a report regarding the incident and it shall provide a copy of the same to the Requesting Party.

7. **Agency Policy and Procedures.** When conducting law enforcement activities within the jurisdiction of a Requesting Party, including, but not limited to, the use of force, the officers of the Assisting Party shall adhere to the Assisting Party's policies and procedures. They shall use only those weapons and tactics for which they are qualified and authorized to use in accordance with the Assisting Party's policies and procedures.

8. **Guidelines for Dispatching and Receiving Mutual Aid.**

A. A Request may be made whenever a situation or potential situation requires concentration of personnel or special equipment and personnel that exceeds the normal on-duty capacity of the Requesting Party.

B. The supervisor or highest-ranking police officer on duty or his designee must be the person making the Request.

C. The supervisor or highest-ranking police officer on duty for the Assisting Party, or his designee shall promptly acknowledge the request and shall, in the sole discretion of the Assisting Party determine whether to, when to, and how many officers of the Assisting Party will respond to the request based upon the availability of on-duty personnel and the situation or potential situation in the Assisting Party jurisdiction. The determination will be communicated to the Requesting Party immediately upon being made.

D. The Requesting Party will be responsible for communicating the necessary information to the Assisting Party's officers in order to safeguard their approach to the scene of the incident.

E. The Requesting Party will be responsible for arrests and detentions in its jurisdiction, unless circumstances dictate otherwise.

F. When a police officer of an Assisting Party makes an arrest in the Requesting Party's jurisdiction, that officer will immediately notify the Requesting Party, take the suspect to the Requesting Party's police station or Central Booking for processing, and take the suspect before a District Court Commissioner, if necessary, and prepare any necessary reports unless responsibility for the foregoing is expressly assumed by a police officer of the Requesting Party.

G. All follow-up investigation for all offenses will be conducted by the Requesting Party.

H. In the event that any police officer of an Assisting Party responds to an Emergency or a Request within a Requesting Party's jurisdiction, the command authority shall be determined as follows:

(i) The Requesting Party shall exercise command unless otherwise provided below.

(ii) In the event that a police officer of an Assisting Party is first on the scene, that individual shall assume command and secure the area, maintain the integrity of the

crime scene, establish a perimeter, as required, and begin to gather victim and witness information until a police officer from the Requesting Party's department arrives on the scene. Upon arrival, the Requesting Party's police officer shall assume command of the scene. Once command is transferred, the Assisting Party's police officer shall not remain on the scene unless requested to do so by the Requesting Party's officer in charge.

9. **Statutorily Required Waivers.** In accordance with Md. Crim. Proc. Code Ann. § 2-105(e)(2), each of the parties hereto: (i) waives any and all claims against the others that may arise out of the other parties' activities outside of their respective jurisdictions under this Agreement; and (ii) agrees to indemnify and hold the other parties harmless with respect to all claims by third parties that are for property damage or personal injury that may arise out of the activities of the other parties to this Agreement outside their respective jurisdictions under this Agreement.

10. **Term.** This Agreement shall remain in force and effect for a period of one (1) year from the date the Agreement takes effect and shall automatically renew for subsequent one (1) year terms on the same terms and conditions as are set forth herein unless any of the parties to this Agreement provides written notice to the other parties of its desire not to renew this Agreement no less than seven (7) days prior to the expiration of the then-current term. Additionally, any of the parties to this Agreement may cancel it and terminate its rights and obligations hereunder by providing no less than seven (7) days advance written notice of said termination to the other parties.

11. **Maryland Law Applies.** This Agreement, having been executed in the State of Maryland, shall be construed, interpreted, and enforced under the laws of the State of Maryland.

12. **Venue.** This Agreement is and shall be enforceable with an action commenced in a court of competent jurisdiction in Allegany County, Maryland, and the parties hereto agree to be subject to the jurisdiction of such court and further waive any claim that any action or proceeding arising out of or relating to this Agreement and commenced in such courts is commenced in an inconvenient forum or one that lacks proper venue. Any actions arising out of or relating to this Agreement must be instituted in the aforesaid court. The court in Allegany County has specifically been chosen as it is the county which is in closest proximity to the counties where the parties to this Agreement are located.

13. **Captions.** The marginal captions of this Agreement are for convenience and in no way define or limit the intents, rights, or obligations of the parties hereunder.

14. **Entire Agreement.** This Agreement contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions,

statements, warranties or representations, oral or written, not herein contained. This Agreement may not be modified except in a subsequent writing signed by all of the parties to this Agreement.

15. **Gender/Tense/Conjugation.** The use of any gender, tense, or conjugation herein shall be applicable to all genders, tenses, and conjugations. The use of the singular shall include the plural and the plural shall include the singular.

16. **Jury Trial Waiver. THE PARTIES HERETO WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH ANY OF THEM MAY BE PARTIES ARISING OUT OF, AS AN INCIDENT TO OR IN ANY WAY PERTAINING TO THIS AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS AGREEMENT.**

IN WITNESS WHEREOF, the parties hereto acknowledge that this Agreement is their act and that they have executed it effective the day and year first above written.

WITNESS/ATTEST:

FREDERICK COUNTY COUNCIL
FREDERICK COUNTY, MARYLAND

_____

By: _____
Bud Otis, President Frederick County Council

FREDERICK COUNTY EXECUTIVE
FREDERICK COUNTY, MARYLAND

_____

By: Jan H Gardner
Jan Gardner, Frederick County Executive

BOARD OF COUNTY
COMMISSIONERS OF WASHINGTON
COUNTY, MARYLAND

By:_____
Terry L. Baker, President

MAYOR AND CITY COUNCIL
OF HAGERSTOWN

By:_____
Robert Bruchey, Mayor

WASHINGTON COUNTY
SHERIFF'S OFFICE

By:_____
Douglas W. Mullendore, Sheriff

FREDERICK COUNTY
SHERIFF'S OFFICE

By:_____
Charles A. Jenkins, Sheriff

Approved as to form and content:

CITY OF HAGERSTOWN POLICE
DEPARTMENT

By:_____
Victor Brito, Chief

Redmond,Lee

From: Charter Review
Subject: FW: Disparity of Pay for Council President
Attachments: 20191105084743811.pdf

From: Black, Bryon <BBlack@FrederickCountyMD.gov>
Sent: Tuesday, November 5, 2019 8:55 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: Disparity of Pay for Council President

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion on the authority to grant a disparity of pay for the Council President. The short answer is that there is no prohibition to the Council President receiving a higher salary than other Council members or from receiving a stipend.

Maryland Constitution Article XI-A, section 6 gives the County voters the authority to set the number, compensation, and powers of the Council, which has been accomplished through the enactment of the Charter.

The Local Government Code §10-302, authorizes the establishment of a compensation review commission by the County which "shall submit to the county legislative body its recommendation for the compensation and allowances for members of the county legislative body." This provision does not draw any distinction between the Council members but also does not state the compensation must be equal.

A review of 2018 data provided by the Maryland Association of Counties shows that of the 11 Charter counties only Frederick and Cecil provide the same compensation for the president as the other Council members. A chart of the amounts paid is attached.

To compensate the Council President at a higher rate than other members would require an amendment to Charter §207 providing the authorization for the disparity in pay.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613

From: Charter Review <CharterReview@FrederickCountyMD.gov>
Sent: Tuesday, November 5, 2019 8:41 AM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: FW: FOR THE RECORD (with attachment)

From: Karl Bickel <KarlBickel@comcast.net>
Sent: Tuesday, November 5, 2019 8:19 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: FOR THE RECORD (with attachment)

[EXTERNAL EMAIL]

Charter Review Commission,

For the record, I just want to provide some clarification regarding an inaccurate statement the Sheriff made during the public comment portion of your October 28th meeting. The Sheriff referenced Memorandums of Understanding, "35 to 40" and specifically with the Washington County Sheriff's Office. I presume that the Sheriff would be aware of the Annotated Code of Maryland Criminal Procedures under § 2-105, Mutual aid agreements, as well as his request for specific approval of the County Executive, the County Council and the required signatures on the Washington County Agreement. The request for the County Executive's signature and the MOU with Washington County containing the County Executive's signature is attached for your review.

The relevant portions of Annotated Code of Maryland Criminal Procedures under § 2-105. Mutual aid agreements, reads:

> Title 2. Law Enforcement Procedures; Arrest Process Subtitle 1. Definitions; General Provisions Effective: March 27, 2019 MD Code, Criminal Procedure, § 2-105
> **Governing body defined**
> (a) In this section, "governing body" means:
> (1) the county executive and county council of a charter county with a county executive;
> (2) the county council of a charter county with no county executive;
> (3) the board of county commissioners of a county; or
> (4) the mayor and council, by whatever name known, of a municipal corporation.
> **Circumstances for going beyond county or municipal borders**
> (b) By action as in the regular routine for legislative enactment, the governing body of a county or municipal corporation may determine the circumstances under which the police officers and other officers, agents, and employees of the county or municipal corporation, together with all necessary equipment, may lawfully go or be sent beyond the boundaries of the county or municipal corporation to any place within or outside the State.
> This section is new language derived without substantive change from former Art. 27, § 602B.
> Subsection (a) of this section is revised as a definition of "governing body" to provide a shorthand method to refer to the entities included in the term "governing body" for purposes of this section. It is based on the list in the first sentence of former Art. 27, § 602B(a) of enumerated entities that may authorize police and others to go or be sent beyond the territorial limits of the jurisdiction.

Here are additional MOUs as well as video links to County Council meetings in which the Sheriff sought Council approval for MOUs.

Additional Mutual Aid Agreement information:
29 Mutual Aid Agreement, Baltimore City, https://www.frederickcountymd.gov/documentcenter/view/283264
30 Mutual Aid Agreement, Brunswick Police, https://www.frederickcountymd.gov/documentcenter/view/300158
31 Mutual Aid Agreement, Washington County, https://www.frederickcountymd.gov/documentcenter/view/302138

https://www.frederickcountymd.gov/DocumentCenter/View/319342/0604-Frederick-County-Sheriffs-Office-and-Mount-Airy-MOU-and-Resolution-for-Mutual-Aid-Agreement---C-Jenkins---Sheriffs-Office

Video links to council meetings:
1. June 2019: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6922
2. December 2018: http://frederick.granicus.com/MediaPlayer.php?view_id=9&clip_id=6256&meta_id=91273

In regard to another point raised by Ms. Miller, concerning the applicability of Subsection 402 (g) to the Board of Education (BOE), the County Code specifically exempts the BOE from the county purchasing procedures under Article II, Purchasing.

> § 1-2-16. DEFINITIONS.
> The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:
> ***AGENCY.*** Any service area, division, department, board or commission of the county, including all entities, however structured, that utilize the county's financial system, except the County Board of Education and Frederick Community College.

I believe that it is important that the record be accurate if the public is to have confidence in the hard work that the Charter Review Commission is doing.

Thank you very much for your service on the Commission.

Karl

Karl W. Bickel
(301) 639-9665
KarlBickel@comcast.net

President, County Council

Elected Official

Jurisdiction	Actual Salary	Minimum Salary	Maximum Salary	Comparable Title in Your County	# of Emp	Comments and additional benefits (including but not limited to: healthcare, pension, cell phone, computer, vehicle, mileage)
Allegany						
Anne Arundel	40,500	40,500	40,500	Chairman, County Council	1	New chair elected by council each year
Baltimore City	116,490	116,490	116,490	President, City Council	1	
Baltimore County	70,000	70,000	70,000	County Council Chair	1	Pension and healthcare offered
Calvert						
Caroline						
Carroll						NCC
Cecil	25,000	25,000	25,000		1	
Charles						
Dorchester	17,000	17,000	17,000		1	
Frederick	22,500				1	
Garrett						
Harford	41,146	41,146	41,146		1	Elected
Howard	66,485	66,485	66,485		1	Chair, Annual election by board-same as Council members
Kent						
Montgomery	141,371	141,371	141,371	Council President	1	Benefit package, including retirement/pension plans, comparable to other County employees. Has computer/cell phone. Receives mileage. Salary effective 12/03/2016
Prince George's	123,214	123,214	123,214	Chairman, County Council	1	Vice Chair 120,281
Queen Anne's						
St. Mary's						
Somerset						
Talbot	15,400	15,400	15,400	County Council President	1	
Washington						
Wicomico	18,000	18,000	18,000		1	
Worcester						
MNCPPC						
AVERAGE	58,092	61,328	61,328			

* Charles County Government is an 37.5 hour work week, unless otherwise indicated

Jobs with < 5 responses were omitted. "Match" column denotes position is >greater than, = equal to, or < less than job description.

Member, County Council or Commissioners

Elected Official

Jurisdiction	Actual Salary	Minimum Salary	Maximum Salary	Comparable Title in Your County	# of Emp	Comments and additional benefits (including but not limited to: healthcare, pension, cell phone, computer, vehicle, mileage)
Allegany	32,639	32,639	32,639		2	
Anne Arundel	36,000	36,000	36,000		6	7 members including 1 Chair ($40,500/yr) & 1 Vice Chair ($37,000/yr), Member $36K
Baltimore City	67,756	67,756	67,756	Council Member	13	
Baltimore County	62,500	62,500	62,500		6	Pension and healthcare offered
Calvert	42,000	42,000	42,000		4	
Caroline	15,000	15,000	15,000		2	Healthcare, Computers and Cell Phones
Carroll	45,000	45,000	45,000		4	Set by Legislature
Cecil	25,000	25,000	25,000			
Charles	48,000	48,000	48,000		4	Charles County Commissioner-part-time
Dorchester	16,000	16,000	16,000		4	
Frederick	22,500				6	
Garrett	32,500	32,500	32,500		2	
Harford	37,513	37,513	37,513		6	Elected
Howard	62,985	62,985	62,985		4	health care, pension, cell stipend, electronic devices & vehicle
Kent	20,000	20,000	20,000		2	
Montgomery	128,519	128,519	128,519	Council Member	8	Benefit package, including retirement/pension plans, comparable to other County employees. Has computer/cell phone. Receives mileage. Salary effective 12/03/2016
Prince George's	117,347	117,347	117,347	Councilman	7	
Queen Anne's	25,000	25,000	25,000		4	
St. Mary's	39,152			Commissioner	4	
Somerset	15,000	15,000	15,000		4	healthcare, pension
Talbot	14,400	14,400	14,400	County Council Member	4	
Washington	30,000	30,000	30,000		4	
Wicomico	16,000	16,000	16,000		6	
Worcester	26,000	26,000	26,000		6	
MNCPPC						
AVERAGE	40,700	41,598	41,598			

* Charles County Government is an 37.5 hour work week, unless otherwise indicated

Jobs with < 5 responses were omitted. "Match" column denotes position is >greater than, = equal to, or < less than job description.

Redmond,Lee

From: Black, Bryon
Sent: Tuesday, November 5, 2019 9:55 AM
To: Charter Review; April Miller; Cherney, Ragen; Dylan Diggs; John Daniels; Lisa Jarosinski; Mathias, John; Paul Gilligan; Redmond,Lee; Stephen Slater; Walter Olson
Subject: Health Insurance Benefits for Councilmembers

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion regarding Charter language that would remove the prohibition of Council Members receiving health insurance. The following language would accomplish this goal without venturing into the long list of benefits included under the term "fringe benefits" and provide specificity in conjunction with the removal of "in full." The decision as to whether the health insurance benefit would be offered would fall to the Compensation Review Commission but would be available for consideration.

207. Salary
For the performance of public duties under this Charter, each council member shall receive a Salary of $22,500 per annum and is eligible to receive health insurance benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any health insurance shall be **[**in full**]** compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613
F 301-600-1161

Redmond,Lee

From: Charter Review
Subject: FW: Information From CM McKay for CRC Meeting
Attachments: 19-09-19_Special Elections PDF Final.pdf; 19-11-03_Board of Education Special Elections.docx

---

From: Redmond,Lee <LRedmond@FrederickCountyMD.gov> **On Behalf Of** McKay, Steve
Sent: Tuesday, November 5, 2019 2:57 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: FW: Information From CM McKay for CRC Meeting

From: McKay, Steve
Sent: Sunday, November 3, 2019 9:14 PM
To: April Miller <aprilfmiller@comcast.net>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Paul Gilligan <pauljgilligan@comcast.net>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Cc: Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Mathias, John <JMathias@FrederickCountyMD.gov>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>
Subject: RE: Information From CM McKay for CRC Meeting

All

As you prepare to workshop the proposals on election-related changes to the Charter, I wanted to resend my proposal. I know you get a lot of material and I wanted ensure that this was at the top of your pile. ☺

I also would note that in your spreadsheet, you describe the proposal as applying to vacancies occurring in the first two years of the term. As you'll find in my write-up, this isn't actually possible. Instead, the vacancy could only be in the first year of the term to trigger the special election process. You see, in order to have a special election, the potential candidates need to participate in the full electoral process. In my proposal, the vacancy couldn't occur any later than 30 days prior to the candidate registration deadline for the primary election. The registration deadline is in January, so the vacancy cut-off would be in December, just after the end of the first year of the vacating CE or Council member's term. Under my proposal, any vacancy after this would be filled by an appointee to serve the remainder of the term.

I also note that one of the items that you may review is a proposal to provide for more transparency in the process to fill a vacancy for the Board of Education. Personally, I don't believe this to be an issue for the Charter because all of the current law regarding electing and filling vacancies on the Board of Education is in State law, specifically, Title 3 of the Education Article. Rules for each county in Maryland are found in Title 3, with Subtitle 5B covering Frederick County. In fact, I have brought forward a proposal for the Frederick County Delegation on filling vacancies on the BOE that is similar to the one I have proposed for the Charter. I have attached a draft of this proposal, simply for informational purposes, This proposal will also seek a special election for a vacancy in the first term of a vacating School Board member. Any other proposed changes to our process of filling vacancies on the BOE are more properly made to the Delegation and are not a Charter issue, in my opinion.

In a matter related to my proposal, and reflective of Council Member Blue's comments to you, the Council will take up a change to our rules and procedures this January, which will specify that we hold a public interview of an appointee to

the BOE, prior to our confirmation. I had initially proposed this as part of my revisions for Subtitle 5B but have agreed to make the change in our Council rules and procedures, instead. In our prior discussions of this idea, I found broad support on the Council to make such a change. This is the right place for this change – not the Charter, in my opinion.

Respectfully,

Steve McKay

From: Redmond,Lee <LRedmond@FrederickCountyMD.gov>
Sent: Wednesday, September 18, 2019 10:25 AM
To: April Miller <aprilfmiller@comcast.net>; Black, Bryon <BBlack@FrederickCountyMD.gov>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Cc: McKay, Steve <SMcKay@FrederickCountyMD.gov>
Subject: Information From CM McKay for CRC Meeting

Hello,

Please see the attached document from Council Member Steve McKay for your review. I will print copies for the meeting on Thursday night.

Thank you,

Lee Redmond

Council Member McKay
September18, 2019

Proposed Charter Amendment to Provide for Limited Special Elections to Fill Vacancies on the County Council and for the County Executive

Goal: A vacancy on the County Council or with the County Executive should be filled by a vote of Frederick County's residents.

What is the Current Process?
Vacancies on the County Council and with the County Executive are currently filled via an appointment-based process. For each position, the Central Committee of the vacating officer's party plays a pivotal role in the appointment.

- County Council. The Central Committee nominates three candidates to fill a vacancy on the Council. A majority of the Council is required to appoint the new Council Member from these three nominees. If the Council fails to reach a majority decision, then the County Executive has a role in making the appointment.
- County Executive. The Central Committee may nominate a single candidate to fill a vacancy in the County Executive position. The County Council MUST appoint that nominee. If the vacating County Executive was not a member of a party, then the Chief Administrative Officer must be appointed by the Council.

Appointments are a necessary component to fill a vacancy in either of these offices; however, it should not be the ONLY component. The Party Central Committees have a proper role in nominating individuals for appointment; however, a single Party Central Committee should not be the de facto appointing authority for a County Executive vacancy. My amendment includes a change to this process. The County Executive and County Council Members are elected officials with great authority and responsibility, particularly the County Executive. The voters should have a voice in this process.

What is being Proposed in this Amendment?
I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the County Council or with the County Executive. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the Presidential election which occurs mid-way through the terms of these elected County officials. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Presidential Primary registration deadline. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost $250,000-$300,000. Some counties allow for this option – Montgomery, Prince Georges, and Dorchester. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

Are Special Elections Authorized in Maryland Law?
Yes. Maryland law authorizes Counties to hold special elections to fill vacancies for County Council and County Executive.

Do Other Charter Counties Authorize Special Elections?
Yes. Most Charter counties provide for special elections to fill vacancies for County Council and/or County Executive. In fact, only Frederick, Baltimore and Cecil Counties do NOT allow for these elections. Here is a summary of the Charter counties that allow special elections:

- Montgomery, Prince Georges, and Dorchester Counties allow for special elections for both offices, as needed;
- Anne Arundel, Harford, Talbot, and Wicomico allow for special elections for both offices, to be held coincident with the Presidential election cycle; and
- Howard County allows for special elections only for a County Council vacancy, to be held coincident with the Presidential election cycle.

In short, there is ample precedent for this proposed Charter amendment.

There is Still a Role for Appointments
Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating official's term.

The Appointment Process Should be Improved
An appointee to an elected office should be treated differently than an appointee to a Board or Commission. An elected office carries far more authority and responsibility, and appointees deserve more scrutiny. The appointment process should be well documented and transparent, with the nominees presented by the Party Central Committees made available to the public as soon as possible, along with their credentials. Further, the County Council should hold public interviews of these nominees, including the opportunity for public comment.

Lastly, and this is an additional element of this proposed Charter amendment, the relevant Party Central Committee MUST nominate three individuals to fill a County Executive vacancy. The current language allowing only a single nominee must be changed. The Party Central Committee should NOT have the authority to replace the most powerful elected official in the County.

Proposed Charter Amendment Language

Article II – County Council, Sec. 209. Vacancies

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, or becomes disqualified to hold office pursuant to Section 209 of this Charter.

(b) When a vacancy occurs, the remaining council members within forty-five days shall appoint a person to serve [~~the unexpired term of office~~]**FOR A TERM PURSUANT TO SUBSECTION (F) OR (G), AS APPLICABLE.** The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a council member who was elected as a member of a political party, the appointee, shall be a member of the same political party as the council member vacating office was in the most recent election for council member.

(c) When succeeding a council member who was elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council the County central committee of the political party affiliated with the council member vacating office was in the most recent election for council member, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within thirty days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy **WITHIN SIXTY DAYS OF THE VACANCY**. If the County central committee submitted a list of names pursuant to subsection (c) of this section, the person appointed shall be selected from the list. If no such list has been submitted, the Executive shall appoint the person the Executive shall appoint the person the Executive deems best qualified to hold office regardless of the person's party affiliation, if any, provided the appointee meets the same qualifications and residence requirements as the person who vacated office.

(e) ALL PERSONS CONSIDERED BY THE COUNCIL OR COUNTY EXECUTIVE FOR APPOINTMENT UNDER EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY EITHER THE COUNCIL OR COUNTY EXECUTIVE, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT, PURSUANT TO EITHER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] Indicate matter deleted from the Charter.

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW MEMBER SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS OF THE COUNCILMANIC DISTRICT IN WHICH THE VACANCY OCCURS, AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL A NEW MEMBER IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION. A MEMBER APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE COUNCIL SEAT SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.

(g) IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW MEMBER SHALL BE APPOINTED PURSUANT TO SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING MEMBER'S TERM.

Article IV – Executive, Section 408. Vacancy in the Office of the County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of the office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy **AND TO SERVE A TERM PURSUANT TO SUBSECTION (F) OR (G) OF THIS SECTION, AS APPLICABLE.**

(b) [~~An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party.~~]**AN APPOINTEE, WHEN SUCCEEDING A PARTY MEMBER WHO WAS ELECTED AS A MEMBER OF A POLITICAL PARTY, SHALL BE SELECTED FROM A QUALIFIED LIST OF THREE PERSONS SUBMITTED TO THE COUNCIL BY THE COUNTY CENTRAL COMMITTEE OF THE POLITICAL PARTY AFFILIATED WITH THE COUNTY EXECUTIVE VACATING OFFICE WAS IN THE MOST RECENT ELECTION FOR COUNTY EXECUTIVE, PROVIDED THE LIST IS SUBMITTED WITHIN THIRTY DAYS FROM THE DATE A VACANCY OCCURS.** If the County central committee fails to provide [~~a nominee~~]**A LIST OF THREE QUALIFIED NOMINEES** within the first thirty days of a vacancy, the Council shall appoint any person the Council deems qualified who is a member of the political party.

(c) If the Council has not made an appointment within the forty-five day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter[~~: (1) the~~

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

~~nominee of the County central committee of the political party, if any, of the person who vacated the office, provided that the political party nominee was provided to the Council within the first thirty days of a vacancy, as required by subsection (b) of this section; or (2) the Chief Administrative Officer, if the person who vacated office was not a member of a political party.~~], **THE CHIEF ADMINISTRATIVE OFFICER.**

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) **ALL PERSONS CONSIDERED BY THE COUNCIL FOR APPOINTMENT UNDER EITHER SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, SHALL BE PRESENTED TO THE PUBLIC, INCLUDING THEIR NAMES AND QUALIFICATIONS. IN ADDITION, THE NOMINEES SHALL BE INTERVIEWED IN PUBLIC BY THE COUNCIL, INCLUDING THE OPPORTUNITY FOR PUBLIC COMMENT.**

(f) IF THE VACANCY OCCURS NO LATER THAN 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, A NEW COUNTY EXECUTIVE SHALL BE NOMINATED AND ELECTED BY QUALIFIED VOTERS AT THE SAME TIME AS THE PRESIDENTIAL GENERAL ELECTION AND IN THE MANNER PROVIDED BY LAW. IN THE INTERIM, UNTIL AN EXECUTIVE IS ELECTED, THE VACANCY SHALL BE TEMPORARILY FILLED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE. AN EXECUTIVE APPOINTED UNDER THESE CONDITIONS SHALL SERVE UNTIL THE FIRST MONDAY OF DECEMBER, FOLLOWING THE PRESIDENTIAL GENERAL ELECTION, AT WHICH TIME THE WINNER OF THE PRESIDENTIAL GENERAL ELECTION FOR THE EXECUTIVE POSITION SHALL ASSUME OFFICE AND SERVE FOR THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.

(g) **IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE REGISTRATION DEADLINE OF THE PRESIDENTIAL PRIMARY ELECTION, THE NEW EXECUTIVE SHALL BE APPOINTED PURSUANT TO SUBSECTION (B) OR (C) OF THIS SECTION, AS APPLICABLE, AND SERVE THE REMAINDER OF THE VACATING EXECUTIVE'S TERM.**

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] Indicate matter deleted from the Charter.

Proposed Amendment to Maryland State Law to Provide for Limited Special Elections to Fill Vacancies on the Frederick County Board of Education

Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?
Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?
I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election. For example, the next Presidential Primary will be 24 January 2020, so the deadline for a vacancy to trigger a special election in 2020 would be 25 December 2019.

Why not have an election whenever we need one? The simple answer is cost. A "one-off" election has been estimated to cost $250,000-$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

UPDATE - How Would the Special Election be Conducted?
In response to a question during our initial Council review, consultations were held with the Frederick County Election Director and the State Board of Elections. Under current State election law, during a non-partisan primary such as the one held for the Board of Education, twice as many candidates as there are open seats are nominated from the Primary Election. Thus, whenever a special election is needed to fill an unexpired term, two additional nominees will come from the Primary. No changes are required in this part of the law.

For the General Election, the State Board of Elections concurred with the idea that the winner of the special election is the next highest vote getter, after the regular BOE openings have been filled. For example, if there are four full-term openings on the ballot and one partial term, then the fifth highest vote-getter receives the partial term. Language has been added to the bill to reflect this information.

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

Are Special Elections Authorized in Maryland Law?
Yes. Maryland law authorizes Counties to hold special elections conducted during regularly scheduled elections to fill vacancies for Board of Education. The State Education Article for Frederick County (Title 3, § 5B-01(d)(2), on the other hand, must be amended to provide this option here.

Do Other Charter Counties Authorize Special Elections?
Yes. As provided by Stuart Harvey (Frederick County Election Director, the term "special election" is actually a misnomer, but is used here to refer to the filling of a vacancy via the next scheduled election. The process for filling vacancies on the Boards of Education for Maryland's charter counties varies greatly, including the following:

- Appointment Authority
  - Governor – Baltimore, Cecil, Harford (for appointed members only), Talbot
  - County Executive – Frederick, Howard, Prince Georges
  - County Council – Anne Arundel (effective 11/1/2020), Harford (for elected members only), Dorchester, Wicomico
  - Board of Education - Montgomery
- Nominating Commissions for Appointments – Anne Arundel, Baltimore, Wicomico
- Special Elections (next congressional election) – Howard, Talbot, Wicomico

As you may note, there is just as much precedent for vacancies to be filled by election, as there are for our current system of appointment by the County Executive.

There is Still a Role for Appointments
Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating member's term.

EXPLANATION:
BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.
[Brackets and ~~strikethrough~~**]** indicate matter deleted from the Charter.

Proposed Amendment Language

2018 Maryland Code; Education; Division II –Elementary and Secondary Education; Title 3 – Establishment of County Boards of Education; Subtitle 5B – Frederick County; 3-5B-01. Membership

(d) Vacancies. --

(1) The terms of voting members are staggered as provided in subsection (c) of this section.

(2) Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual to fill a vacancy on the county board[~~ for the remainder of the term and until a successor is elected and qualifies~~].

(3) **IF THE VACANCY OCCURS BEFORE 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL ONLY SERVE UNTIL A NEW MEMBER SHALL BE ELECTED BY QUALIFIED VOTERS AT THE NEXT GENERAL ELECTION, AND IN THE MANNER PROVIDED BY LAW. THE NEW MEMBER ELECTED TO FILL THE VACANCY SHALL BE THE CANDIDATE WITH THE NEXT HIGHEST NUMBER OF VOTES, FOLLOWING THE ELECTION OF THE REGULARLY SCHEDULED FULL TERM MEMBERS.**

(4) **IF THE VACANCY OCCURS AFTER 30 DAYS PRIOR TO THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THAN THE APPOINTEE SHALL SERVE FOR THE REMAINDER OF THE VACATING MEMBER'S TERM.**

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE CHARTER.

[Brackets and ~~strikethrough~~] indicate matter deleted from the Charter.

Redmond,Lee

From: Charter Review
Subject: FW: Health Insurance Benefits for Councilmembers

From: lisajaro@aol.com <lisajaro@aol.com>
Sent: Tuesday, November 5, 2019 6:35 PM
To: Black, Bryon <BBlack@FrederickCountyMD.gov>; Charter Review <CharterReview@FrederickCountyMD.gov>; aprilfmiller@comcast.net; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; dyldiggs@gmail.com; johndaniels64@gmail.com; Mathias, John <JMathias@FrederickCountyMD.gov>; pauljgilligan@comcast.net; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; sgslawslate@comcast.net; walterkolson@gmail.com
Subject: Re: Health Insurance Benefits for Councilmembers

[EXTERNAL EMAIL]

Mr. Black,

Thank you for your response. This, however, only refers to health benefits. My understanding was that we wanted to give the Compensation Review Commission the ability to possibly consider health benefits, but to also have the option of other - possibly less expensive - benefits such as a 401K and the like. So, with that in mind, could we use wording such as "and is eligible to receive fringe benefits" or " and is eligible to receive certain other benefits as recommended by the Compensation Review Commission." That would give the Compensation Commission the opportunity to offer something, but maybe not health insurance if they felt it would be too costly.

Thank you for your consideration,
Lisa

-----Original Message-----
From: Black, Bryon <BBlack@FrederickCountyMD.gov>
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Sent: Tue, Nov 5, 2019 9:55 am
Subject: Health Insurance Benefits for Councilmembers

Charter Review Commission Members,

During the October 24th meeting you asked for an opinion regarding Charter language that would remove the prohibition of Council Members receiving health insurance. The following language would accomplish this goal without venturing into the long list of benefits included under the term “fringe benefits” and provide specificity in conjunction with the removal of “in full.” The decision as to whether the health insurance benefit would be offered would fall to the Compensation Review Commission but would be available for consideration.

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of $22,500 per annum and is eligible to receive health insurance benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and any health insurance shall be **[**in full**]** compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council

shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613
F 301-600-1161

Redmond,Lee

From: Charter Review
Subject: FW: Budget Policy for transparency

From: mark schaff <mschaff91@gmail.com>
Sent: Wednesday, November 6, 2019 11:59 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Subject: Budget Policy for transparency

[EXTERNAL EMAIL]

For Frederick County to be completely transparent on all budget issues, The Frederick County Government shall post all salaries to the internet. This shall include the County Executive, County Council, Board of Education, as well as all county employees. This site should be updated no longer than 30 days after any changes.
This is the policy of many other local governments, State and federal governments to be completely transparent to their citizens. This will show the citizens of the county the cost of government and were their tax dollars going.

--

Mark Schaff
9455 Dunraven St
Frederick MD 21704
Cell: 240-285-9498
email: mschaff91@gmail.com

Redmond,Lee

From: Charter Review
Subject: FW: Charter Review Commission, County Attorney Memorandum dated October 16, 2019
Attachments: 20191016123619725.pdf; 17-251 EXECUTED Agreement.pdf

From: erbenecke@gmail.com <erbenecke@gmail.com>
Sent: Monday, November 11, 2019 7:30 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>
Cc: erbenecke@gmail.com
Subject: Charter Review Commission, County Attorney Memorandum dated October 16, 2019

[EXTERNAL EMAIL]

Steven Slater, Chairperson
Frederick County Charter Review Commission
12 East Patrick Street
Frederick, Maryland 21701

Dear Mr. Slater and Commission Members,

Please find attached a copy of a Memorandum dated October 16, 2019, from John Mathias, County Attorney to the Charter Review Commission regarding Charter Section 402(f) ("Memorandum") and its applicability to the County Executive signing contracts on behalf of the Frederick County Sheriff's Office.

Also attached is a copy of the Frederick County Maryland Contract Services Agreement No. 17-251 for Medical Services for the Sheriff's Office Detention Center/Work Release dated April 8, 2018 signed by Jan Gardner, County Executive ("Medical Services Contract").

The County Attorney's Memorandum provides in the first paragraph "... not only is the County Executive not required to sign such documents [where the Sheriff's Office is a party] she has no legal authority to sign an agreement on behalf of the Sheriff's Office. In legal jargon, if the County Executive were to sign an agreement on behalf of the Sheriff's Office, the contract would be ultra vires or void as beyond the County Executive's legal authority." The Medical Services Contract is signed by the County Executive and the contracted services are for medical services for the Sheriff's Office Detention Center/Work Release. On its face, the Medical Services Contract, if the explanation provided in the County Attorney's Memorandum is correct, is void as beyond the County Executive's legal authority.

The Charter Review Commission has the benefit of an update from the County Attorney provided by email and referred to by Steven Slater, Chairperson, in the Meeting of October 28, 2019. This update (a copy has been requested through a Public Information Act request, response pending), may provide clarification or nuance that explains the County Executive's signature on the Medical Services Contract (as well as others). However, using information currently available, there is at best inconsistency between the County Attorney's Memorandum explaining applicability of Charter Section 402(f) contract signing authority of the County Executive and the County practice and procedure on signing contracts such as the Medical Services Contract.

It is not within the Commission's responsibility to clarify this inconsistency. However, it is important that the inconsistency be noted for the record.

Eileen Benecke
New Market, Maryland

FREDERICK COUNTY GOVERNMENT

OFFICE OF THE COUNTY ATTORNEY

Jan H. Gardner
County Executive

John S. Mathias, County Attorney
Michael J. Chomel, Senior Assistant County Attorney
Linda B. Thall, Senior Assistant County Attorney
Wendy S. Kearney, Senior Assistant County Attorney
Kathy L. Mitchell, Assistant County Attorney
Bryon C. Black, Assistant County Attorney

MEMORANDUM

TO: Charter Review Commission

FROM: John S. Mathias, County Attorney

DATE: October 16, 2019

RE: Applicability of Charter provision to Sheriff's Office

You have asked for written advice on whether Subsection 402(f) of the Frederick County Charter requires the County Executive to sign documents where the Sheriff's Office is a party. For the reasons explained in more detail below, not only is the County Executive not required to sign such documents she has no legal authority to sign an agreement on behalf of the Sheriff's Office. In legal jargon, if the County Executive were to sign an agreement on behalf of the Sheriff's Office, the contract would be ultra vires or void as beyond the County Executive's legal authority.

Legal Background

Some have suggested to the Charter Review Commission that Subsection 402(f) of the Frederick County Charter requires the County Executive to sign certain agreements on behalf of the Sheriff's Office. More specifically, it has been suggested that the County Executive should have signed the 2 agreements between the Sheriff's Office and Immigration and Customs Enforcement (ICE) involving participation in the 287(g) program. Frederick County is not and was not a party to either of these agreements. The County Executive has no authority or ability to sign any document on behalf of the Sheriff's Office or the Sheriff, a state official established in the Maryland Constitution (Art. IV, Section 44).

The Frederick County Charter, Subsection 402(f) states (in relevant part):

The duties and responsibilities of the Executive shall include: ...

(f) signing or causing to be signed on the County's behalf all deeds, contracts, and other instruments.

The Charter provision specifically applies only to a contract on "behalf of the County". The ICE agreements are not "on behalf of the County". Rather they are both between ICE and the Sheriff's Office. Frederick County is not a party to and did not sign these agreements.

Understanding the complex relationship between a county government and a Sheriff is difficult as this relationship has evolved since Colonial times (to say nothing about its earlier common law roots in England, going back at least to the legendary days of Robin Hood and the Sheriff of Nottingham in the 13th/14th Centuries). Although funded in large part by County funds, the Sheriff is not a County official but rather a State Constitutional official. The County cannot direct the law enforcement activities of the Sheriff.

Because of these concepts, a Charter Amendment could not require the County Executive to sign the 287(g) agreement on behalf of the Sheriff's Office. The Charter could not require the County Executive to act on behalf of an elected State Constitutional Officer such as the Sheriff. The Charter could not direct the Sheriff's Office as to who may sign a document on behalf of the Sheriff. These are matters of state law and the General Assembly must act to change these laws, not the County.

Conclusion

The Frederick County Charter, particularly Subsection 402(f), does not require the County Executive to sign documents where the Sheriff's Office is a party and Frederick County is not. Subsection 402(f) applies only to documents on behalf of the County. The County Executive lacks the legal authority to bind the Sheriff or the Sheriff's Office. The Frederick County Charter could not be amended to authorize the County Executive to sign documents on behalf of the Sheriff or the Sheriff's Office.

cc: Rick Harcum, Chief Administrative Officer
Ragen Cherney, Legislative Director/Chief of Staff

FREDERICK COUNTY, MARYLAND

CONTRACT SERVICES AGREEMENT NO. 17-251 FOR

MEDICAL SERVICES FOR THE SHERIFF'S OFFICE DETENTION CENTER/WORK RELEASE

THIS CONTRACT SERVICES AGREEMENT (herein "Agreement"), is made and entered into this 11th day of April, 2018, by and between Frederick County, Maryland, a body corporate and politic of the State of Maryland, (herein "County") and Correct Care Solutions, 1283 Murfreesboro Road, Suite 500, Nashville, Tennessee 37217 (herein "Contractor"). (The term Contractor includes professionals performing in a consulting capacity.) The parties hereto agree as follows:

1.0 SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the County entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the work and services contemplated herein and, in light of such status and experience, Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal. The Scope of Service shall include the Contractor's proposal or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the County and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless County against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against County hereunder.

1.5 Familiarity with Work. By executing this Contract, Contractor warrants that Contractor (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the County of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer.

1.6 Care of Work. The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, Plan, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by County, except such losses or damages as may be caused by County's sole negligence.

1.7 Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services. County shall have the right at any time during the performance of the services, without invalidating this Agreement, to request extra work beyond that specified in the Scope of Services or request changes altering, adding to or deducting from said work. No such change in work may be effective unless a written agreement is executed by the County and the Contractor, incorporating therein any adjustment in (i) the Contract Scope of Work, (ii) Contract Sum, and/or (iii) the time to perform this Agreement. This provision does apply to the anticipated fluctuation in the daily number of inmates for which services are to be provided by Contractor.

1.9 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of Two Million Three Hundred Eighty Six Thousand Two Hundred Ninety Six Dollars ($2,386,296.00) (herein "Contract Sum"), except as provided in Section 1.8. The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with the percentage of completion of the services, (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expense, transportation expense approved by the Contract Officer in advance, and no other expenses and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the County; Contractor shall not be entitled to any additional compensation for attending said meetings. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates, that Contractor shall not be entitled to additional compensation therefore, and the provisions of Section 1.8 shall not be applicable for such services.

2.2 Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation, in any month in which Contractor wishes to receive payment, no later than the first (1st) working day of such month, Contractor shall submit to the County in the form approved by the County's Director of Finance, an invoice for services rendered prior to the date of the invoice. Except as provided in Section 7.2, County shall pay Contractor for all expenses stated thereon which are approved by County pursuant to this Agreement no later than the last working day of the month.

3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D", if any, and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer, but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the County, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract

Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. In no event shall Contractor be entitled to recover damages against the County for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Section 7.7, 7.8 and 7.9 of this Agreement, this Agreement shall continue in full force and effect for an initial period of one year after approval and proper execution of the contract documents, with a renewal option for four additional years in one (1) year increments under the same terms and conditions, exercisable at the sole discretion of the County. The successful Contractor will be notified no later than sixty (60) days prior to the end of the contract term if the contract is to be renewed as provided in the Schedule of Performance (Exhibit "D").

4.0 COORDINATION OF WORK

4.1 Representative of Contractor. The following principal(s) of Contractor are hereby designated as being the principal(s) and representative(s) of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Patrick Cummiskey

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal(s) were a substantial inducement for County to enter into this Agreement. Therefore, the foregoing principal(s) shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principal(s) may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of County.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the Director of Procurement and Contracting of Frederick County. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions that must be made by County to the Contract Officer. Unless otherwise specified herein, any approval of County required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the County required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the County to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the County. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of County. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of County.

4.4 Independent Contractor. Neither the County nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. The County shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. The Contractor shall perform all services required herein as an independent Contractor of the County and shall remain at all times as to the County a wholly independent Contractor with only such obligations as are consistent with that role. The Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of the County. The County shall not in any way or for any purpose become or be deemed to be a partner of the Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with the Contractor.

5.0 INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to County, during the entire term of this Agreement including any extension thereof, the policies of insurance as set forth in Exhibit "E", attached hereto and incorporated by reference.

(a) All of the above policies of insurance required in Exhibit "B" shall be primary insurance. The insurer shall waive all rights of subrogation and contribution it may have against the County, its officers, employees and agents, and their respective insurers. In the event any of said policies of insurance are canceled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the County with Certificates of Insurance, endorsements or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance, endorsements, or binders are approved by the County.

(b) The Contractor agrees that the provisions of this Section 5.1 shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or person for which the Contractor is otherwise responsible.

(c) In the event the Contractor subcontracts any portion of the work in compliance with Section 4.3 of this Agreement the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same polices of insurance that the Contractor is required to maintain pursuant to this Section.

5.2 Indemnification. The Contractor agrees to indemnify the County, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the performance of the work, operations or activities of Contractor, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the acts or omissions of Contractor hereunder, or arising from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Agreement, but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the County, its officers, agents or employees, who are directly responsible to the County, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the County, its officers, agents or employees resulting from any of the above claims or liabilities subject to Contractor's indemnification obligation ; and

(c) In the event the County, its officers, agents or employees are made a party to any action or proceeding filed or prosecuted against Contractor arising from the above claims or liabilities subject to Contractor's indemnification obligation, Contractor shall pay to the County, its officers, agents or employees, any and all costs and expenses incurred by the County, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

~~5.3 Performance Bond. Concurrently with execution of this Agreement, Contractor shall deliver to County a performance bond in the sum of the amount of this Agreement, in the form provided by the County, which secures the faithful performance of this Agreement, unless such requirement is waived by the Contract Officer. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.~~

6.0 REPORTS AND RECORDS

6.1 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the County is greatly concerned about the cost of work and services to be performed pursuant to

this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.2 Records. The Contractor shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of County, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the County shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of County and shall be delivered to County upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by County of its full rights of ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to County of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify County for all damages resulting therefrom. County will not disclose Contractor's confidential policies and procedures, and those documents shall not be considered property of the County.

6.4 Release of Documents. The drawings, specifications, reports, records, documents and other materials prepared by Contractor in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.0 ENFORCEMENT OF AGREEMENT

7.1 Maryland Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of Maryland. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Circuit Court of Frederick County, State of Maryland, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Retention of Funds. The Contractor hereby authorizes the County to withhold from any amount payable to the Contractor (arising out of this Agreement), not to exceed the total of one month's fees (of the annual base compensation) for services that involve disputed costs, disputed audits, or services performed in an inadequate fashion. The County shall promptly provide the Contractor with written notice of the specific disputed services and related costs, as well as the specific deficiencies with the services deemed inadequate. The County will not withhold payments for any portion of an invoice or invoices from Contractor that are not in dispute. Payments withheld by County will be released and paid to the Contractor after the services are subsequently performed adequately and on a timely basis, the causes of disputes are reconciled or any other remedies or actions stipulated by the County are satisfied. If there is a good faith dispute regarding a portion of an invoice, the Contractor will notify County and detail the dispute before the invoice date. The County shall promptly pay the undisputed items contained in such invoices and after resolution of the dispute, disputed amounts owed to Contractor will be promptly paid by County.

7.3 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.4 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either

party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.5 Legal Action. Except with respect to disputes that are subject to Section 7.2 of this Agreement, either party may take such legal action, in law or in equity, to recover damages for any material default in a party's failure to perform this Agreement, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief in the event of a party's failure to perform this Agreement, or to obtain any other remedy consistent with the purposes of this Section.

~~7.6 Liquidated Damages. Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the County the sum of *(input LD amount, if any)* _____ ($_____) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The County may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.~~

7.7 Termination Prior to Expiration of Term. This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. Either party may terminate this Agreement at any time, with or without cause, providing nine (9) months written notice to the other party. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder as the effective date of the termination, except such as may be specifically approved by the Contract Officer. The Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event of termination without cause pursuant to this Section, the County need not provide the Contractor with the opportunity to cure pursuant to Section 7.8.

7.8 Termination for Default of Contractor. Failure of Contractor to provide services required pursuant to this Agreement shall be considered a default and grounds for termination of this Agreement. Except under circumstances where there is an immediate threat to the health, safety, and welfare of the inmates or County employees, the County who shall provide written notice to Contractor specifying the basis for default and termination and specify a reasonable time, not to exceed 30 days, for Contractor to cure the default. In the event the Contractor fails to cure the default within the time specified the contract will be terminated. When there is an immediate threat to the health, safety, and welfare of the inmates or County employees, to be determined in the County's sole discretion, the County may immediately terminate the Agreement. The County shall pay for services rendered up to the date of termination of the Agreement.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, the County may take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the County shall use reasonable efforts to mitigate such damages), and the County may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the County as previously stated.

7.9 Termination for Non-appropriation. If the County or other funding source fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period or part thereof of this Agreement, this Agreement shall be cancelled automatically as of the beginning of the fiscal year or part thereof for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the County's rights or the Contractor's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Contractor and the County from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. The County shall make a good faith effort to notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period or part thereof beyond the first fiscal year.

8.0 COUNTY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of County Officers and Employees. No officer or employee of the County shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the County or

for any amount, which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the County shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenants Against Discrimination. The Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally sent by prepaid, first-class mail, sent by facsimile or sent by email as follows:

(a) in the case of the County, to:

Michael V. Decker, CPPB
Department of Procurement & Contracting
12 East Church Street
Frederick, Maryland 21701
Office Phone: 301-600-6804
Email: mdecker@frederickcountymd.gov

with a copy to:

Capt. Timothy Selin
Frederick County Sheriff's Office
7300 Marie's Choice Lane
Frederick, Maryland 21704
Office Phone: 301-600-3065
Email: tselin@frederickcountymd.gov

(b) in the case of the Contractor, to:

Patrick Cummiskey
Correct Care Solutions
1283 Murfreesboro Road, Suite 500
Nashville, Tennessee 37217
Office Phone: 615-324-5777
Email: patrick@correctcaresolutions.com

Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

9.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

Signatures on next page

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

SIGNATURE SECTION

COUNTY:

ATTEST:

By: _____

Frederick County, Maryland
A body corporate and politic of the State of Maryland

By: Jan H. Gardner
Jan H. Gardner
County Executive

Approved via Infor

CONTRACTOR:

Contractor Legal Name (as it appears on BUSINESS LICENSE): Correct Care Solutions, LLC

Contractor Address: 1283 Murfreesboro Road, Suite 500, Nashville, Tennessee, 37217

Phone: 800-592-2974 x 5777 Email: patrick@correctcaresolutions.com

Contractor's Signatory PRINTED NAME: Patrick Cummiskey Title: President

Check one: ☐ Individual ☐ Partnership ☐ Corporation

By: _____
Signature, Authorized Representative (notarized)

COMPLETED BY NOTARY:

Notary Name: Omar Mossallati Title: Attorney

Address: 2875 Lynncrest Drive Nashville TN 37214

State of: Tennessee County of: Davidson

On this date: March 8, 2018 (DATE) before me, this person: Patrick Cummiskey (PRINT NAME FROM IDENTIFICATION PROVIDED);

personally appeared and proved to me on the basis of this satisfactory evidence: Drivers License (TYPE OF IDENTIFICATION PRESENTED)

to be the person whose name is subscribed to herein and acknowledged to me that they executed the same in their authorized capacity as signatory for named company. WITNESS my hand and official seal,

Notary Signature: _____ Notary Seal: OMAR MOSSALLATI STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Comm. Expires May 8, 2018

EXHIBIT "A"
SCOPE OF SERVICES

1 **SCOPE OF SERVICES:** The Frederick County Sheriff's Office requires Medical Services, as described herein, for the provision of inmate health care services to include medical, psychiatric services, x-ray, dental, pharmaceutical, ancillary services, health care personnel and program support services for an estimated population of four hundred thirty (430) inmates at the FCADC Central Booking, and FCWR in accordance with the terms, conditions and specifications of this solicitation.

2 **GOALS:** The objectives of this contract between the Contractor and the County is to meet the following goals:

2.1 To provide immediate preliminary screening and evaluation, nursing coverage, hospitalization, medical specialty services, behavioral health services, emergency medical care, medical records management, sick call, medical observation unit, delivery of medications, medical clearances for transfers, and work clearances, the continuing care of identified health problems, detoxification, health education and training services, cooperation with the Inmate Fee for Service Program, and other related services to incarcerated inmates.

2.2 To deliver high quality health care services that can be audited against established Maryland and National standards.

2.3 To operate the health services program at full staffing, as established according to Section 2.3, and to use only Maryland licensed and certified personnel who are able to meet healthcare requirements for inmates.

2.4 To operate the health services program in a cost effective manner with full reporting and accountability to the FCADC Administration.

2.5 The Contractor shall be responsible for the following services and all costs associated:

- 2.5.1 Staffing;
- 2.5.2 Pharmaceuticals and all related sundries;
- 2.5.3 Routine Care;
- 2.5.4 Labs;
- 2.5.5 X-rays;
- 2.5.6 Ambulance;
- 2.5.7 Specialist Care;
- 2.5.8 Eye care;
- 2.5.9 Medical Waste Disposal;
- 2.5.10 EKG Services;
- 2.5.11 Hospitalization;
- 2.5.12 Emergency Room inpatient and outpatient;
- 2.5.13 Dental Services

2.6 To implement a written health care plan with clear objectives, policies, procedures, and an annual evaluation of compliance.

2.7 To maintain an open collaborative relationship with the FCADC staff.

2.8 To maintain standards established by the MCCS, the NCCHC in Jails, 2000 I.C.E. Detention Standards, and the Health Insurance Portability & Accountability Act (HIPPA).

2.9 To offer a comprehensive program for staff and inmate education and training.

2.10 To maintain complete and accurate records of care and to collect and analyze health statistics on a regular basis. To operate the health services program in a humane manner with respect to the inmates' right to basic health care services.

3 **STATEMENT OF WORK:**
The Contractor shall provide onsite health care services for the inmates of the FCADC, FCWR, and all arrestees/offenders in the Frederick County Central Booking Unit.

Medical staff will be notified of new offenders/arrestees/inmates and will immediately respond when notified of any visible evidence of injury or illness or any medical complaint thereof and will be given prompt medical attention by medical staff, prior to accepting the person into the FCADC.

3.1 Position Definitions:

3.1.1 Medical Director - The Contractor will designate a qualified/licensed Physician as the medical director. The Medical Director will:

3.1.1.1 Be responsible for the medical services contract;
3.1.1.2 Visit FCADC a minimum of once per week;
3.1.1.3 Conduct sick call in the absence of the M.D. or P.A.;
3.1.1.4 Be on 24-hour call;
3.1.1.5 Approve all medical records;

3.1.2 Health Services Administrator - The Contractor will provide an RN/Administrator who will ensure that all services under the contract are adequately provided, including but not limited to:

3.1.2.1 Will work 40 hours per week, Monday through Friday 0800 to 1600;
3.1.2.2 Will carry a phone and provide FCADC with a phone number and a home telephone number. Must be able to be reached by phone 24 hours a day, every day of the year;
3.1.2.3 Ensure all appropriate services are provided;
3.1.2.4 Ensure compliance with all appropriate policies, standards, and laws;
3.1.2.5 Monitor quality assurance and utilization;
3.1.2.6 Coordination and control of Contractor's personnel;
3.1.2.7 Provide monthly statistics as required by FCADC;
3.1.2.8 Attend weekly Directors Meetings.

3.1.3 Nurse (RN/LPN) - RN's/LPN's will provide 24 hour coverage.

3.1.3.1 The Contractor will provide at a minimum an RN to testify in court concerning inmate medical records when requested by the Corrections Bureau Chief or designee;
3.1.3.2 The Contractor will provide at a minimum and RN to give a written summary of an inmate's medical condition when requested by the Assistant Corrections Bureau Chief/Corrections Bureau Chief.

3.1.4 Corporate Representative - The Contractor will provide a corporate representative to:

3.1.4.1 Visit FCADC at least bi-weekly and meet with FCADC Administrative Staff;
3.1.4.2 Attend quarterly Quality Assurance Program meetings.

3.1.5 Physician/Physician's Assistant - The Contractor will ensure that a qualified Physician or Physician's Assistant is on-site Monday through Friday to conduct sick call, at least three hours per day.

3.1.5.1 The Physician shall be on site three hours a day, two days a week;
3.1.5.2 The Physician's Assistant shall be on site for three hours a day, three days a week;
3.1.5.1 The Contractor's on-call Physician/Physician's assistant will carry and use a phone 24 hours a day, every day of the year.

3.2 Services Required:

3.2.1 Preliminary Screening Exam: A preliminary screening/exam of all inmates will be performed immediately upon their arrival at the facility by a qualified healthcare provider. This screening/exam will include, but not limited to, current illnesses, health issues, medical history, mental health problems, suicidal tendencies, and history of drug and/or alcohol use.

3.2.1.1 At a minimum, the preliminary exam/screening shall include the following inquiry into:

3.2.1.1.1 Current illness and health problems including mental health illness(s), and communicable diseases;
3.2.1.1.2 Body deformities and ease of movement;
3.2.1.1.3 Condition of skin, including trauma markings, bruises, lesions, jaundice, rashes and infestations, needle marks, and other indications of drug abuse; and
3.2.1.1.4 Substance abuse history.
3.2.1.1.5 Disposition may include but is not limited to:

3.2.1.1.5.1 Referral to an appropriate health care facility on an emergency basis; or
3.2.1.1.5.2 Placement in the general inmate population with referral to the appropriate health care service at the FCADC; or
3.2.1.1.5.3 Placement in the general inmate population.

3.2.2 Physical Examinations: A physical examination will be conducted by a Physician (M.D.) or Physician's Assistant (P.A.) on all inmates within fourteen (14) days of their incarceration by a M.D., Nurse Practitioner, or P.A. This is to include those inmates sentenced to incarceration on weekends only, when the incarceration period exceeds 14 or more days. One (1) year after the initial physical exam, all inmates will receive an annual physical.

3.2.2.1 The health appraisal must include the following:

3.2.2.1.1 Review of the receiving screening;
3.2.2.1.2 Complete history and physical examination;
3.2.2.1.3 Mental health evaluation;
3.2.2.1.4 Vision and hearing screening;
3.2.2.1.5 Laboratory tests including VDRL and TB Tine;
3.2.2.1.6 Other tests as required and indicated;
3.2.2.1.7 Initiation of therapy when appropriate; and
3.2.2.1.8 Dental Screening to evaluate medical records.

3.2.3 Sick Call: Sick call will be held Monday through Friday by an M.D. or P.A. Scheduled times for sick call will be established by the Contractor and approved by FDACD. All inmates housed in the medical unit will be seen daily by a Licensed Practical Nurse (LPN) or higher. All inmates signing up for sick call will try to be seen on the same day they signed up, excluding weekends or holidays.

3.2.4 Medical Unit: An M.D. will be on-call 24 hours per day and provide onsite supervision of the medical unit by a Registered Nurse (RN). A manual of nursing care procedures and separate, individual, confidential, and completed electronic medical records for each inmate in the medical unit and the institution is required. Inmates housed in the medical unit will be examined by an LPN or higher daily during sick call.

3.2.4.1 There is a nine (9) bed medical unit at the FCADC, which includes two (2) medical isolation cells. Contractors will be expected to use this facility to its fullest extent. In operating this unit the following guidelines must be obeyed:

3.2.4.1.1 M.D. on-call twenty-four (24) hours a day;
3.2.4.1.2 Supervision of the Medical Unit by the HSA, forty (40) hours per week and on-call evenings and weekends;
3.2.4.1.3 Nursing personnel (RN and/or LPN at all times) on duty twenty-four (24) hours per day, seven (7) days per week;
3.2.4.1.4 All Medical Unit patients being within sight or sound of a staff person;
3.2.4.1.5 A manual of Nursing Care protocols; and
3.2.4.1.6 A separate, individual and complete medical record for each inmate in the Medical Unit.

3.2.5 Specialty Services: Inmates may periodically require the services of a medical specialist as determined by the P.A. or the M.D. The Contractor will make referral arrangements with appropriate medical specialists and coordinate with the facility Transportation Supervisor.

3.2.5.1 The Contractor shall be responsible for the payment of specialty services to include emergency room visits that do not result in the inmate being admitted to the hospital.

3.2.5.2 The Contractor shall provide for interpreter services, when needed, to provide required medical services and shall be responsible for the payment of these services.

3.2.5.3 An M.D. or P.A. will see all segregation inmates at least one (1) time a week.

3.2.6 General Health Care: The Contractor will be responsible for all general health care provided to the inmates at the FCADC, FCWR, and all arrestees/offenders in the Frederick County Central Booking Unit.

3.2.7 PPD Testing: The Contractor will cover all PPD testing for inmates and for the Detention Center Staff.

3.2.8 Flu Shots: The Contractor will administer annual flu shots to FCADC/FCWR staff each year at no cost to the County.

3.2.9 Emergency Services: The Contractor will make provisions for 24 hour emergency medical, psychological, and dental care including 24 hour medical on-call services. Emergency transport requiring ambulance services will be arranged by and paid for by the Contractor. Routine transports will be provided by the FCADC Transportation Unit.

3.2.10 Emergency Transport Services: Will be provided by FCADC Staff with the exception of air and ambulance transportation which will be the responsibility of the Contractor. The Contractor will provide emergency treatment for FCADC/FCWR employees and visitors when injured, or who become ill, while on the premises.

3.2.11 Ancillary Services: The Contractor will be responsible for the provision of all Diagnostic (laboratory, x-ray, genetic testing, etc.), Therapeutic (rehabilitation - physical, occupational, speech, etc.), Custodial (hospice, long term acute care, urgent care, nursing home, etc.) care and other ancillary services as required and indicated. Where possible, these services will be provided onsite. The Contractor will assume all costs associated with Ancillary Services.

3.2.12 Hospital Care and Costs: When necessary, the Contractor will be responsible for arranging and providing in-patient hospitalization of an inmate. The Contractor will assume all costs associated with the hospitalization of the inmate. The use of an inmate's medical insurance is required when available for payment of hospital or medical bills. When practical, FCADC will make necessary efforts to have the hospitalized inmate(s) released from custody and care of the FCADC and the Contractor. The Contractor shall provide quarterly reports detailing each inmate's hospitalization to the Corrections Bureau Chief.

3.2.12.1 Prior to final contract execution, the contracting Physician shall have admitting privileges at Frederick Memorial Hospital or provide a solution agreed upon by the FCADC Administration so as to provide primary Physician care for hospitalized patients.

3.2.13 Dental Services: Contractor will be responsible for all dental services whether on or off site, excluding elective procedures. The Contractor shall be responsible for any cost for dental services.

3.2.13.1 The Contractor shall provide the following dental services to the FCADC inmates:

3.2.13.1.1 Initial dental screening and education within fourteen (14) days of admission;

3.2.13.1.2 Referral of dental treatment to the appropriate provider or Contractor. Consideration must be given when the health of the inmate could otherwise be adversely affected as determined by the Contractor's Dentist.

3.2.14 Eye exams and Corrective Lenses: The Contractor will provide for eye examinations and eyeglasses as deemed medically necessary. The Contractor will be responsible for any cost for emergency eye procedures.

3.2.15 Mental Health/Suicide Prevention: Medical staff will ensure the Policies and Procedures of the FCADC governing mental health assessments and suicide prevention are adhered to.

3.2.16 Health Education: As part of the primary health care, health education will be an important and required component of the total health care delivery system. Health education shall include patient education, in-service education and first aid and CPR training for the health care staff.

3.2.17 Contractor Responsibilities: All Contractor's personnel will be required to pass a background investigation conducted by FCADC as a prerequisite for initial and/or continued employment, prior to the start of employment and as deemed necessary throughout the contract terms as determined solely by FCADC . The Contractor will show proof of a clean drug screen which was conducted within the past 30 days for personnel prior to their service at FCADC and results of random testing afterwards.

3.2.18 Supplies and Inventory: The Contractor will provide for the procurement and control of all medical equipment and dental equipment instruments. Accurate records are to be maintained by the Contractor and loaded into the OnBase system at FCADC.

3.2.18.1 The Contractor will be responsible for conducting daily equipment inventories including:

3.2.18.1.1 Needles,

3.2.18.1.2 Sharps,

3.2.18.1.3 Syringes.

3.2.18.2 Accurate records are to be maintained by the Contractor and loaded into the digital archiving system at FCADC.

3.2.18.3 The Contractor will conduct a monthly recorded inventory of all first aid kits located within FCADC, FCWR, Central Booking, and departmental vehicles. Completed inventories will be submitted to the Commander of Accreditation and Facility Development by the 5th of each month.

3.2.18.4 The Contractor will conduct a monthly recorded inventory of all medical and dental equipment and instruments. Accurate records are to be maintained by the Contractor and loaded into the digital archiving system at FCADC.

3.2.18.5 In the event any items are missing and a facility search must be conducted, the Contractor will be responsible for any associated costs (e.g. Staffing/Overtime).

3.2.19 Equipment: The Contractor will maintain and stock all pharmaceutical cabinets and first aid kits. The Contractor must provide all office machines, toner, office supplies, and new office furniture for their area. The existing FCADC office furniture, equipment, and instruments will be inventoried by the Contractor and the warehouse supervisor. At the expiration of the contract, the existing inventories office furniture, equipment, and instruments will be returned to FCADC in at least as good condition as provided taking into consideration normal depreciation. All equipment and instruments purchased by the Contractor will be returned to the Contractor at the expiration of the contract.

3.2.19.1 The Contractor will ensure that staff are trained in the use of the AED and ensure that the AED located in the medical unit is operating on a daily basis and is working at all times. The AED is supplied and maintained by FCADC.

3.2.20 Detoxification Process: The Contractor will develop and implement a drug and alcohol detoxification program which must receive prior approval by the Medical Director.

3.2.21 Medical Records: All inmates will have a current medical/mental health record that is continually maintained and complies with the AMA, MCCS, and FCADC Policies and Procedures.

3.2.21.1 The Contractor must maintain all electronic records in the following systems utilized by FCADC:

3.2.21.1.1 CorEMR for electronic medical records;

3.2.21.1.2 ILEADS JMS for Jail Log and inmate management;

3.2.21.1.3 OnBase for digital archiving of records.

3.2.21.2 The medical record will accompany the inmate at all health encounters.

3.2.21.3 A copy of the medical record will be forwarded to the appropriate facility in the event of the inmate's transfer.

3.2.21.4 The Contractor's mental health professionals will be responsible for ensuring that confidential documents will not be released or discussed with the inmate and are appropriately labeled in accordance with the Annotated Code of Maryland. The mental health records will be a part of each inmate's medical record.

3.2.21.5 The Contractor will be responsible for releasing medical records as required by procedures and laws.

3.2.21.6 All medical records will remain the property of FCADC and may only be removed from FCADC property with the expressed written permission of the Corrections Bureau Chief or Assistant Corrections Bureau Chief. The Contractor may have access to these records for litigation purposes.

3.2.22 Obtaining Records on New Inmates: In the event that medical records are not obtained in a timely fashion, the minimum dosage of medications will be dispensed until the records are received.

3.2.23 Automated Records: FCADC will maintain the automated information system using the FCADC Jail Management System. The County will provide the Contractor with appropriate training and will limit access to CorEMR as agreed upon by the Assistant Corrections Bureau Chief/ Corrections Bureau Chief and the Onsite Medical Director.

3.2.24 Grievances: The Contractor will respond to FCADC, in writing, within five (5) working days to grievances from inmates and/or complaints from any member of the public, FCADC staff, or from subcontractors performing services relative to this contract. Failure to respond, as described, to such grievances shall be considered unsatisfactory performance and may result in contract termination.

3.2.25 Pre-Release and Transfer Screening: The Contractor will take the following steps to ensure continuity of medical and mental health care upon the inmate's release or transfer:

3.2.25.1 A medical file review will be conducted upon each inmate's release and, when indicated, a medical screening will be conducted;

3.2.25.2 Inmates requiring follow-up care in the community will be advised of the type of care required, where it may be obtained, and, when necessary, an agency contact will be made;

3.2.25.3 A medical file review will be conducted daily for all released inmates who have a physical assessment. Where medical follow-up care is required, a letter shall be forwarded to the inmate's last known address within seven (7) days of discharge advising him/her to contact the Detention Center's Medical Unit;

3.2.25.4 A medical file review will be conducted for each inmate scheduled for transfer to the Maryland Division of Corrections or another facility. The entire medical record will be printed and forwarded to the receiving institution at the time of the transfer, along with approved summary forms.

3.2.26 Quality Assurance Program: The Contractor will institute a Quality Assurance Program (QAP) that provides quality health care services to inmates. The QAP will evaluate the health care provided to inmates both onsite and at off-site facilities for quality, appropriateness, and continuity of care.

3.2.26.1 The HSA will submit a monthly report of the evaluation to the Assistant Corrections Bureau Chief/Bureau Chief that will also include a description of health environment factors that are substandard, changes effected since the last reporting period, and recommended changes. The report will also include a statistical report of all medical services, including sick call, hospital stay, referrals, and psychiatric evaluations.

3.2.26.2 A quarterly meeting will be held between the Corrections Bureau Chief, Assistant Corrections Bureau Chief, Director of Administrative Services, Commander of Accreditation and Facility Development, HSA, Medical Director, Corporate Representative, and any other staff as necessary to review significant issues and changes and to provide feedback relative to the QAP so that any deficiencies or recommendations may be acted upon.

3.2.27 Administration: The Contractor will provide for the clinical and managerial administration of the medical unit. This will be detailed for each position and include specific job duties.

3.2.27.1 The Contractor will provide a manual of nursing care procedures/protocols which must be approved by the Medical Director. These protocols will become the property of FCADC and will only be removed from the facility with the expressed written permission of the Assistant

Corrections Bureau Chief/ Corrections Bureau Chief. The Contractor may have access to the protocols for litigation purposes.

3.2.27.2 The Contractor will review all FCADC medical policies and procedures annually and submit all recommendations to the Assistant Corrections Bureau Chief/ Corrections Bureau Chief for approval.

3.2.27.3 The Contractor will be prepared to adjust the delivery of services to accommodate changing institutional programs.

3.2.27.4 All services will be scheduled with the approval of the Assistant Corrections Bureau Chief/ Corrections Bureau Chief.

3.2.28 Inmate Charges: Contractor must complete the FCADC Medical Unit Charge Sheet for each applicable inmate and submit a copy to the FCADC Account Department on a weekly basis.

3.2.29 Audits: The Contractor must have at a minimum the HSA available for all MCCS, ICE, NCCHC, and any other audits.

3.2.30 In-service Training: The Contractor will have medical staff available to instruct in-service training to FCADC staff.

3.2.31 Orientation of New Employees: The Contractor shall be responsible for ensuring that all of the Contractor's new health care personnel (including County employees) are provided with an orientation regarding the medical practices on-site at the FCADC. Orientation regarding other facility operations will be the responsibility of the FCADC.

3.2.32 Annual FIT testing for FCADC Security Staff: The Contractor will organize and conduct FIT testing annually as required and approved by OSHA in the respiratory standard 1910.134.

3.2.32.1 This shall include:

3.2.32.1.1 OSHA questionnaire (1910.134) and review by Physician;
3.2.32.1.2 Medical Examination (as needed);
3.2.32.1.3 Pulmonary Function testing;
3.2.32.1.4 Chest X-ray (when required);
3.2.32.1.5 Electrocardiogram (when required).

3.2.32.2 The Contractor will provide and pay for all supplies and tests required to complete the FIT Testing at no charge to FCADC.

3.2.32.3 The Contractor will maintain an adequate supply of the N-Type (95/97) disposable respiratory masks and provide instruction to FCADC and contract staff in the proper use and donning procedures.

3.2.32.4 The Contractor will ensure that all staff are tested annually and provide documentation of such to the County to keep for legal purposes.

3.2.32.5 A list of staff tested and approved to wear the N-Type (95/97) disposable respiratory masks will be kept up to date at all times and will be sent to the facility audit coordinator.

3.2.32.6 This list shall include:

3.2.32.6.1 Staff member name and ID;
3.2.32.6.2 Passed or failed;
3.2.32.6.3 Type of mask approved to wear;
3.2.32.6.4 Size of mask approved to wear;
3.2.32.6.5 Date of approval.

3.2.33 Security of Inmate Files: Inmate files are of a confidential nature. The Contractor's employees shall be allowed access to these files only as needed for their duties related to the contract and in accordance with the rules established by the FCADC. The Contractor shall honor all policies and procedures for safeguarding the confidentiality of such data.

3.2.34 Public Information: Neither the Contractor nor FCADC shall publish any findings based on data obtained from the operation of this contract without the prior written consent of the other party, whose written consent shall not be unreasonably withheld. Additionally, under no circumstances shall the Contractor or its

employees or affiliates speak to the press or release press information without the express, written consent of the Sheriff of Frederick County.

3.2.35 Pharmaceutical and Medical Supplies: All prescription and non-prescription medication, medical supplies, forms, office supplies, medical records, supplies, books, periodicals, prosthetic devises will be the management responsibility of the Contractor, the expenses shall be paid by the Contractor.

3.2.36 Other: The Contractor shall approve procedures, supervise, and provide the following:

3.2.36.1 Screening and referral of mentally ill or retarded inmates.
3.2.36.2 Detoxification;
3.2.36.3 Formulary for all medications;
3.2.36.4 Medication Administration;
3.2.36.5 Decide the emergency nature of illness of injury;
3.2.36.6 Delousing Procedures;
3.2.36.7 Develop and be responsible for Protocol Procedures;
3.2.36.8 Contractor shall have a licensed Physician review charts monthly and sign and date them.

3.2.37 Work Release Inmates: Per the Work Release Inmate Handbook, all Work Release inmates are responsible for the total cost of medical expenses and medications while on the program.

3.2.37.1 The following items are the Contractors responsibility:
3.2.37.1.1 The Contractor's medical staff must perform physicals for all inmates who are to be housed in FCWR;
3.2.37.1.2 The Contractor must provide Emergency Services to all FCWR inmates as needed;
3.2.37.1.3 The Contractor must provide medical clearance for a FCWR inmate to receive outside medical treatment;
3.2.37.1.4 The Contractor must approve all FCWR inmate's prescription medications if purchased at an outside pharmacy. If medical staff calls in a prescription, it is the inmate's responsibility for payment and pick-up;
3.2.37.1.5 FCWR inmates can be seen on sick call, and the inmates can be billed for these services.

3.2.38 Staffing Requirements:

3.2.38.1 Base Requirements: The Contractor will provide Adequate Qualified Health Care Personnel and a staffing plan will be submitted with the proposal. The following represents the minimum staffing requirements, but may be increased with detailed justification to comply with all other requirements of the RFP. All positions will be filled on the first day of the contract.

3.2.38.1.1 Health care services will be provided and made available by the Contractor onsite to all inmates of the FCACD, FCWR, and Central Booking, seven (7) days a week twenty-four (24) hours a day by qualified/licensed medical personnel.
3.2.38.1.2 All of the Contractor's personnel will meet the minimum requirements established by FCADC, MCCS, ICE 2000 Detention Standards, and NCCHC.
3.2.38.1.3 The Contractor and its personnel will comply with current and future State, Federal and local laws and regulations, court orders, Administrative Regulations, Administration Directives, and FCADC Policies and Procedures.
3.2.38.1.4 The Contractor must keep current all contractual personnel's licenses and certifications. The Contractor must submit these documents to the Assistant Corrections Bureau Chief/ Corrections Bureau Chief upon request.
3.2.38.1.5 All of the Contractor's personnel will be required to pass a background investigation conducted by FCADC as a requisite for initial and/or continued employment, prior to the start of employment. The Contractor will show proof of a clean drug screen which was conducted within the past 30 days for personnel prior to their service at FCADC and random testing afterwards.

3.2.38.1.6 FCADC reserves the right to revoke the Contractor's personnel security clearances.
3.2.38.1.7 The Contractor will immediately replace, or otherwise provide required coverage for any contractual employee who is unable to perform assigned activities in a reliable manner, demonstrates an uncooperative attitude or discourtesy, or is deemed unsatisfactory by the Corrections Bureau Chief or designee.

3.2.38.2 Minimum Staffing Requirements:
At a minimum, the Contractor will provide the following staffing:

Day Shift (8am to 4pm)

(1) Medical Director	2 hours per week/1 day a week
(1) Physician	6 hours per week/2 days a week
(1) Health Services Administrator	40 hours per week/5 days a week
(1) Medical Clerk	40 hours per week/5 days a week
(1) Charge RN	40 hours per week/5 days a week
(1) Physician Assistant	9 hours per week/3 days a week
(1) Dentist	8 hours per week/1 day a week
(1) Dental Assistant	8 hours per week/1 day a week
(1) Psychiatrist	16 hours per week/3 days a week One 8 hour day, two 4 hour days
(1) Mental Health Supervisor	40 hours per week/5 days a week
(1) Master/Social Work (LCSW)	40 hours per week/5 days a week
(1) Mental Health Coordinator (LSCW-C)	40 hours per week/5 days a week

Day Shift (8am to 8pm)

(1) RN	84 hours per week/7 days a week
(1) LPN	84 hours per week/7 days a week
(1) LPN – Float	36 hours per week

Evening Shift (3pm to 11pm)

(1) LPN	56 hours per week/7 days a week

Night Shift (8pm to 8am)

(1) RN	84 hours per week/7 days a week
(1) LPN	84 hours per week/7 days a week

3.2.39 Mental Health Services

3.2.39.1 Mental Health Services: The Contractor will implement and provide Mental Health Services to include, but not limited to, the following:

3.2.39.1.1 Early identification and assessment of inmates exhibiting signs of mental illness;
3.2.39.1.2 Timely, high quality treatment of inmates with serious mental illness utilizing program models specifically designed to individualize services according to the needs of the individual person;
3.2.39.1.3 Comprehensive discharge planning prior to the inmate's release and coordination with community agencies;
3.2.39.1.4 Advocacy and educational opportunities for interested professionals within the criminal justice system and related agencies.

3.2.40 Suicide Prevention: The Contractor will ensure that all inmates entering FCADC have a mental health assessment which will include a suicide prevention screening. The Contractor will refer inmates to the Mental Health Services and coordinate as needed:

3.2.40.1 Mental Health Evaluations;
3.2.40.2 Suicide Risk Identification;
3.2.40.3 Medication Management;
3.2.40.4 Crisis Intervention;
3.2.40.5 Medical staff is to ensure that the Policies and Procedures of FCADC governing mental health assessments and suicide prevention are adhered to;
3.2.40.6 The Contractor will ensure that each inmate placed on suicide precaution is observed at least once during each 8 hour shift with appropriate documentation to be prepared by a qualified health care provider. Medical staff will conduct checks on each inmate that has been classified on suicide precaution status in the medical unit at least every 15 minutes and documentation will be made on the JMS Jail Log and medical chart. Contractor will provide staffing for inmates on consistent/constant watch. Constant Watch is subject to review as the numbers increase during the life of the contract. All changes will be via Addendum;
3.2.40.7 The Contractor will ensure at the time of initial medical screening an assessment is completed to include a suicide prevention screening. Mental Health Staff are to ensure that the Policy and Procedures of FCADC governing suicide prevention is adhered to.

3.2.41 Staffing: Mental Health Care services will be provided and made available by the Contractor on-site to all inmates of the facilities, seven (7) days a week twenty-four (24) hours a day by qualified licensed Mental Health Care personnel. All contractual personnel provided will meet the minimum requirements established by FCADC, MCCS, ICE 2000 Detention Standards, and NCCHC standards.

3.2.41.1 The Contractor and all contractual personnel will comply with current and future State, Federal, and local laws and regulations, court orders, Administrative Regulations, Administrative Directives, and FCADC Policy and Procedures;
3.2.41.2 The Contractor must keep current all contractual personnel's licenses and certifications. They must submit these documents to the Assistant Corrections Bureau Chief/ Corrections Bureau Chief upon request;
3.2.41.3 All contractual personnel will be required to pass a background investigation conducted by FCADC as a requisite for initial and/or continued employment, prior to the start of employment. The Contractor will show proof of a clean drug screen which was conducted within the past 30 days for personnel prior to their service at FCADC and random testing afterwards. FCADC reserves the right to revoke the Contractor's personnel security clearances;
3.2.41.4 The Contractor will immediately replace, or otherwise provide required coverage for any contractual employee who is unable to perform assigned activities in a reliable manner, demonstrates an uncooperative attitude or discourtesy, or is deemed unsatisfactory by the Corrections Bureau Chief or designee.

3.2.42 Mental Health Staffing:

3.2.42.1 All contractual personnel will be subject to all security regulations and procedures of FCADC;
3.2.42.2 FCADC will supply a photo id with name identifiers on the back. This ID must be worn at all times while in the facility;
3.2.42.3 The Contractor will ensure that all contractual personnel sign as receiving required FCADC Policies and Procedures and other forms of information as directed by the Corrections Bureau Chief and return these forms to the Commander of Accreditation and Facility Development within 14 calendar days of the personnel's employment.

3.2.43 Population to be Served: The targeted population for these services include adults over the age of eighteen (18) who are in FCADC and FCWR and are part of the priority population of the Public Behavioral Health System. For the sole purpose of jail-based mental health treatment an individual under the age of eighteen (18) detained as an adult who meets the priority population/SMI criteria is eligible for treatment.

3.2.44 Psychiatry: A Maryland licensed psychiatrist and/or a Maryland Licensed Certified Registered Nurse Practitioner-Psychiatric Mental Health (CRNP-PMH) will:

3.2.44.1 Provide a minimum of 16 hours of psychiatric care per week (832 hours annually);
3.2.44.2 Provide at least one face to face consultation with eligible inmates to conduct mental health examinations and evaluate for the appropriateness for tele-psychiatry services. The evaluation tool to determine appropriateness for tele-psychiatry as a viable treatment method to be submitted to the Behavioral Health Administration's Director of the Maryland Community Criminal Justice Treatment Program;
3.2.44.3 When tele-psychiatry is not appropriate or prevented due to technical failure, a Maryland licensed psychiatrist and/or a Maryland Licensed Certified Registered Nurse Practitioner-Psychiatric Mental Health (CRNP-PMH) shall provide face to face psychiatric treatment as not to disrupt the treatment plan;
3.2.44.4 Provide 24 hour on-call psychiatric consultation for 52 weeks a year as needed during emergencies as determined by FCADC;

3.2.45 Tele-Psychiatric Services: After appropriateness is determined, tele-psychiatry may be used as a primary service provided the following:

3.2.45.1 Documentation must be included in the individual's chart and show that:

3.2.45.1.1 The inmate was made aware of the tele-psychiatric services he/she was to receive and consent was obtained;
3.2.45.1.2 Tele-psychiatry was an appropriate clinical treatment for the individual inmate;
3.2.45.1.3 Electronic transmission of the individual's session including any information that identifies the individual fully complies with HIPPA regulations;
3.2.45.1.4 That the session was absent of equipment, connectivity, and transmission failures;
3.2.45.1.5 Inmate's response was satisfied/unsatisfied with tele-psychiatry.

3.2.46 Medication Management: (See section 2.2.50 Pharmaceuticals)
3.2.47 Mental Health Services: A minimum of two (2) Maryland licensed mental health professionals will be employed for a minimum of 80 hours a week (4,160 hours a year) to conduct and/or provide the following:

3.2.47.1 Mental Health Screening;
3.2.47.2 Mental Health Assessments;
3.2.47.3 Individual and/or group therapy sessions;
3.2.47.4 Short Term Crisis Intervention;
3.2.47.5 Facilitate admissions and transfers to State psychiatric hospitals;
3.2.47.6 Refer inmates needing post-release case management to programs/services within the county at least 60 days prior to release, in cases in which the release date is known.

3.2.48 Results to be Achieved: The Contractor will assess for serious mental illness for all inmates committed to FCADC. The Contractor shall attend scheduled meetings as stated herein.

3.2.48.1 The Contractor will conduct or arrange at least one (1) formal training program each year for staff of FCADC, other criminal justice staff, and mental health staff as appropriate on the topic of Mental Health at no cost to the County.

3.2.49 Deliverables: Quarterly financial reports and qualitative reports describing the status of the program.

3.2.49.1 The Contractor will track and report on a quarterly basis the following data:
3.2.49.1.1 Number of new inmates referred to mental health services;
3.2.49.1.2 Referral source;
3.2.49.1.3 Referral reason/status;

3.2.49.1.4 Number of NEW inmates actually served;
3.2.49.1.5 Number of hours of psychiatric services, including the number of inmates prescribed medications;
3.2.49.1.6 Number of hours of individual and group psychotherapy services;
3.2.49.1.7 Number of hours of case management services;
3.2.49.1.8 Number of inmates hospitalized for psychiatric reasons;
3.2.49.1.9 Number of inmates on Suicide Watch/Mental Health Watch;
3.2.49.1.10 Number of attempted/completed suicides;
3.2.49.1.11 Number of tele-psychiatry sessions;
3.2.49.1.12 Number of inmates released with a 30 day supply of medications;
3.2.49.1.13 Number of episodes of restraint;
3.2.49.1.14 Demographics of new inmates served.

3.2.50 Pharmaceuticals: The Contractor shall be solely responsible for the supply of pharmaceuticals at FCADC

3.2.50.1 Services Required:

3.2.50.1.1 Contractor must be insured and possess all applicable federal, state, and local licenses and certifications that apply;
3.2.50.1.2 The Contractor must adhere to the Maryland Board of Pharmacy Regulations while under this agreement;
3.2.50.1.3 Contractor must employ Maryland licensed Pharmacists, who have at least three (3) years of direct experience providing pharmaceutical services to an inmate population, who have achieved a Pharm D, completed advanced post graduate fellowship, are licensed in the State of Maryland and experienced in providing services in a corrections setting to provide Clinical Pharmacy Services, Quality Assurance, and attend meetings in person as required by the Frederick County Adult Detention Center. The Contractor must utilize Maryland licensed pharmacists that are direct hire, not per diem subcontracted employees;
3.2.50.1.4 Delivery of medications must be same day;
3.2.50.1.5 All orders submitted electronically, via facsimile, or telephone will be delivered to the facility (Frederick County Adult Detention Center, 7300 Marcie's Choice Lane, Frederick, Maryland 21704) the same day, six (6) days a week, excluding Sundays or national holidays;
3.2.50.1.6 The Contractor will arrange for same day delivery of all orders that the facility has faxed, telephoned of electronically submitted to the Contractor by 4:00 p.m. Monday – Friday and 12:00 p.m. (noon) on Saturday;
3.2.50.1.7 The Contractor will ensure their electronic system interfaces with the electronic medical records system utilized at the FCADC. FCADC utilizes CorEMR. The Contractor is responsible for all costs associated with the interface with the pharmacy;
3.2.50.1.8 The Contractor will include within the delivery manifest an exception report section that clearly indicates whether an item is not delivered due to back order, owed, too soon to refill, out of refills, or any other reason;
3.2.50.9 The Contractor must agree to cooperate and facilitate a quarterly audit of its pharmacy services provided to the FCADC. This audit will assess the compliance of the Contractor's services with all federal, state, local laws, rules and regulations, and guidelines governing the operation at the FCADC and the provision of pharmaceutical care for correctional facilities. The audit must also assess the cost of all medications;
3.2.50.10 The Contractor will be available to FCADC 24 hours a day, seven (7) days a week and on all major holidays. The Contractor's Maryland licensed pharmacists will be available via a toll free telephone or an answering service with a Maryland licensed pharmacist available to respond immediately to the answering service message;
3.2.50.11 The Contractor will provide a Maryland licensed pharmacist 24 hours a day, 365 days a year to perform routine and emergency consultations regarding all phases for the FCADC pharmacy operation;
3.2.50.12 The Contractor's Maryland licensed pharmacists will serve as standing active members of the clinical team providing consultations to the FCADC prescribers and nurses in relation to pharmaceutical therapy and cost effective recommendations;
3.2.50.13 The Contractor's Maryland licensed pharmacists will provide recommendations on all aspects of pharmacy utilization including costs, usage, drug interactions, and inappropriate usage;
3.2.50.14 When requested by the Frederick County Adult Detention Center, the Contractor will provide training to FCADC staff and Contractors;
3.2.50.15 When requested by the FCADC, the Contractor will provide guidelines which include cost effective pharmaceutical guidelines for chronic illnesses;
3.2.50.16 The Contractor will attend meetings to maintain the FCADC commitment to a cost effective formulary management program;
3.2.50.17 The Contractor and the Contracted medical staff will work as a team to continuously raise the standard of care and to help reduce cost;
3.2.50.18 The Contractor will provide a Maryland licensed pharmacist who is employed by the Contractor to review all areas within the FCADC relating to pharmacy, including but not limited to, medication records, storage, and security;
3.2.50.19 During onsite quarterly meetings the Contractor will report on and make recommendations concerning formulary management and usage, statistical reports, new medications, changes to the drug formulary, pharmacy inspections, drug regimen reviews, pharmacy operational issues, etc.;
3.2.50.20 The Contractor will provide each quarter an overall inspection of the medication room of the FCADC. The Contractor's inspection will ensure the facility is in compliance with all federal, state, local, and pharmacy laws and regulations and the policy and procedures of the facility. The Contractor will provide FCADC with signed and dated inspection sheets identifying any problems observed, recommendations made, or corrective actions implemented. The Contractor's inspection will include:

3.2.50.20.1 Cleanliness and proper organization of the medication room;
3.2.50.20.2 Medication ordering, charting, documentation, and record keeping;
3.2.50.20.3 Narcotic record keeping is properly maintained and that counts are accurate;
3.2.50.20.4 Upon request, review medication distribution procedures and conduct medication pass audits;
3.2.50.20.5 Examine contents of the emergency medication kit and/or crash cart for outdated or missing items;
3.2.50.20.6 Ensure that the refrigerator temperature is properly controlled and no outdated medications are stored within;
3.2.50.20.7 Remove any outdated medications from stock supplies;
3.2.50.20.8 Review all aspects of pharmaceutical care of the detainees;
3.2.50.20.9 Review medication utilization and individual therapies.

3.2.50.21 The Contractor will train medical Contractor's staff on proper medication pass techniques and provide FCADC medical Contractor with med pass training.

3.2.51 Packaging of Pharmaceuticals:

3.2.51.1 The Contractor will assist the FCADC contracted medical staff in the accounting, reconciliation and disposal/removal of unused mediations, including controlled substances as outlined by federal, state, and local laws and regulations. The Contractor will provide count sheets for strict accountability and to ensure all documentation will be enforced as required by law;

3.2.51.2 The Contractor will supply all prescription and non-prescription medications, pharmaceutical cabinets, fax machine and toner;

3.2.51.3 All prescription medications and, where applicable, non-prescription medications will be in unit dose format, identified by the inmate's name, start date, and stop date. Blister packs, when used, will be packaged in individual doses;

3.2.51.4 All deliveries will be delivered in accordance with the facility rules and regulations governing security for the facility;

3.2.51.5 Generic medications will be utilized unless the authorized prescribing Physician specifically designates to "disperse as written";

3.2.51.6 The Contractor's licensed pharmacist will select a therapeutically equivalent FDA approved AB-rated generic medication (comparable bioavailability and/or bioequivalence) and will substitute it for a brand name medication in accordance with the provisions of Maryland Law, unless the subscriber specifically states otherwise;

3.2.51.7 The Contractor will disperse and label medication for each inmate in complete compliance with all current and future federal, state, local laws, regulations, provisions, and court orders;

3.2.51.8 The Contractor will provide FCADC with only approved medications, biologicals, and other related materials;

3.2.51.9 The Contractor will dispense prescription and non-prescription medications in FCADC choice of tamper proof blister cards, conventional prescription bottles, stock bottles, or other systems. The Contractor will exert its best efforts to comply with any special packaging request FCADC might require;

3.2.51.10 The Contractor will send prescription medications in quantities as prescribed by Physicians but will not exceed a thirty (30) day supply unless the inmate is being released on a program that requires greater than a thirty (30) day supply. The Contractor will dispense maintenance medications in a thirty (30) day supply unless FCADC requests a different quantity, as in the case of medications that are used short term such as antibiotics, PRN and pain medications;

3.2.51.11 The Contractor will send any OTC medications in bulk packaging, unless the prescriber has ordered the medication for an individual patient, in which case the medication will be dispensed in blister packs or prescription bottles as requested;

3.2.51.12 The Contractor will ship IV mixtures compounded, labeled, and ready to administer;

3.2.51.13 The Contractor will work with the FCADC to facilitate KOP (keep on person) or self-medication system if requested;

3.2.51.14 The Contractor will package oral medications in tamper resistant unit dose blister packs or stock bottles. Each prescription will be properly dispensed and labeled inmate specific or as stock in complete compliance with all current and future federal, state, local laws, regulations, and provisions in accordance to all labelling regulations;

3.2.51.15 The following are the labeling requirements:

3.2.51.2.15.1 Inmate Name;
3.2.51.2.15.2 Inmate identification number;
3.2.51.2.15.3 Location;
3.2.51.2.15.4 Medication name and strength;
3.2.51.2.15.5 Dosage form;
3.2.51.2.15.6 Generic interchange information;
3.2.51.2.15.7 Quantity dispensed;
3.2.51.2.15.8 Manufacturers name;
3.2.51.2.15.9 Lot number;
3.2.51.2.15.10 Medication expiration date;

3.2.51.2.15.11 Route and times of administration;
3.2.51.2.15.12 Directions for use (Spanish available if requested);
3.2.51.2.15.13 Prescription number;
3.2.51.2.15.14 Prescriber name;
3.2.51.2.15.15 Original date;
3.2.51.2.15.16 Dispense date;
3.2.51.2.15.17 Discontinued date and/or refill information;
3.2.51.2.15.18 Dispensing Maryland licensed Pharmacists initials.

3.2.51.16 The Contractor will place warning/auxiliary labels on each prescription for safe and effective medication use describing reactions, cautions, warnings, interactions, and dietary instructions such as take with food, may cause drowsiness, shake well, etc.

3.2.51.17 The Contractor will place on all medications a thermal bar code label with a peel off refill tab with increased print clarity and print size. The Contractor will supply the tabbed refill labels on every medication order. Each refill tab will contain the inmate name and number, medication name, quantity, number of refills, prescriber and prescription number. The refill tab will be an easy reference to enable the medical staff to properly identify the information. On each re-order tab, medical staff will be able to easily refill the medication by peeling the tab off of the prescription label and placing it on a refill form or scanning it into the barcode system.

3.2.52 Ordering:

3.2.52.1 The Contractor will dispense prescriptions in the amounts prescribed by authorized FCADC providers. The Contractor will only accept orders from designated providers authorized to place orders;

3.2.52.2 The Contractor shall utilize only a toll free number in ordering pharmaceuticals;

3.2.52.3 Orders from the medical provider may be transmitted to the Contractor electronically, via facsimile, computer or by phone exactly as prescribed by providers. Orders may be transmitted 24 hours a day, 7 days a week;

3.2.52.4 The Contractor will immediately update its computer system when order changes or discontinuations are sent to the pharmacy;

3.2.52.4 Medical personnel may send refills to the Contractor by affixing the two (2) part peel off refill label to the Medication Re-order form. The FCADC medical Contractor may telephone refills to the Contractor's technicians by offender's name or prescription number or scan refills into the barcode system;

3.2.52.5 Medical Contractor will send STAT orders to the Contractor's pharmacy. The Contractor will maintain a computerized log of all faxed orders received for easy reference;

3.2.52.6 The Contractor will provide a barcode order check-in system, if requested, so that the facility can download its daily delivery sheet through a secure server and check orders with a barcode scanner and computer;

3.2.52.7 The Contractor will provide interim emergency medication for immediate administration until a detainee-specific prescription is received;

3.2.52.8 Medication quantities for starter doses will be determined in conjunction with the Medical Contractor's HSA;

3.2.52.9 The Contractor will supply all current and future medications at the request of the Medical Contractor's HAS;

3.2.52.10 The Contractor will provide accountability sheets for reconciliation of all doses;

3.2.52.11 The Contractor's clinical Maryland licensed pharmacist will screen the profiles of each inmate to ensure safe and therapeutic medication administration;

3.2.52.12 Prior to filling each prescription order, the Contractor will verify the accuracy, inquire about the unclear or illegible orders, and screen each inmate's complete computerized medical profile to ensure safe and therapeutic medications administration before the prescription leaves the pharmacy;

3.2.52.13 The Contractor will screen the inmate's prescription profile for the following:

- 3.2.52.13.1 Duplicate therapy from medications in the same therapeutic class;
- 3.2.52.13.2 Medication interactions and incompatibilities (including drug, drug order, and drug-age interactions);
- 3.2.52.13.3 Excessive/sub-therapeutic dosages;
- 3.2.52.13.4 Appropriateness of medication therapy;
- 3.2.52.13.5 Detainee medication allergies;
- 3.2.52.13.6 Medications which are filled too soon (more than 7 days early);
- 3.2.52.13.7 Medications ordered past the designated stop date;
- 3.2.52.13.8 Contractor will alert staff via phone or fax of such occurrences prior to shipping the order.

3.2.53 Emergency /STAT Medications:

- 3.2.53.1 The Contractor will provide emergency prescriptions for STAT orders through the Contractor's emergency kit/starter packs or a pre-arranged subcontracted local back-up pharmacy of the FCADC's preference. Emergency medications not found in either the emergency medication kit, starter packs, or unavailable from the Contractor will be provided to the FCADC by a pre-arranged contracted local back-up pharmacy or by the Contractor;
- 3.2.53.2 The Contractor will provide a contracted local back-up pharmacy to perform emergency pharmacy services;
- 3.2.53.3 Emergency prescriptions will be delivered directly to the FCADC utilizing the back-up pharmacy's delivery service. The Contractor will bill the Contractor. The Contractor will only be able to bill FCADC the agreed upon contracted monthly amount;
- 3.2.53.4 The Contractor will provide, with the Contractor's monthly invoice, detailed reports of all emergency prescriptions filled by the back-up pharmacies;
- 3.2.53.5 The Contractor will work with the FCADC's HSA or designee to determine which medications should be added to the emergency supply list to help minimize future emergency needs;

3.2.54 Reports:

- 3.2.54.1 The Contractor will provide any requested computer generated reports and statistical information in hard copy and/or electronically in a spreadsheet format;
- 3.2.54.2 The Contractor must supply to the FCADC, on a monthly basis, a drug utilization report identifying the medications utilized by each inmate and prescriber or detainee profile and drug formulary report containing a drug list formulated jointly with the prescribing M.D.;
- 3.2.54.3 The Contractor will provide the FCADC with monthly medication usage reports;
- 3.2.54.4 The Contractor's formulary management reports will contain data and statistics, including graphs and charts which will summarize specific medication utilization and trends, statistics, M.D. prescribing habits, and other necessary utilization data;
- 3.2.54.5 The Contractor will sort all reports in any requested format, order, or groupings, including by inmate name, medication, therapeutic class, prescribing M.D., facility, etc. Data elements which will be utilized are, but not limited to, Inmate Name, ID Number, Facility, Provider, Date of Service, Prescription Number, Medication by Name, Medication Class, Medication Strength, Quantity Dispensed, Day's Supply, and Drug Acquisition Cost;
- 3.2.54.6 The Contractor will provide proper invoicing and printouts to facilitate a full reconciliation of charges. This invoice will include an itemized printout of all medications and prices.
- 3.2.54.7 All invoices must be sent electronically and available in excel if requested;
- 3.2.54.8 The Contractor will, without limitations, provide the following reports upon request:

- 3.2.54.8.1 Computerized cost reports sorted by facility, inmate name, prescriber name. The reports will contain the requested date range that summarizes drug costs by inmate name, facility, date range, medication name, therapeutic class, number of doses, percentages, etc.;
- 3.2.54.8.2 Management data, including medications ordered, processed, delivered, and disposed;
- 3.2.54.8.3 Detailed inmate profiles;
- 3.2.54.8.4 Patient medication allergy and medication interaction alerts;
- 3.2.54.8.5 Monthly medication usage per inmate;
- 3.2.54.8.6 Medication utilization report;
- 3.2.54.8.7 Summary of total medication costs;
- 3.2.54.8.8 Continual narcotic controlled substance inventory and dose count;
- 3.2.54.8.9 Monthly psychotropic usage report;
- 3.2.54.8.10 Medication stop date reports (alphabetical by inmate) showing which prescriptions are approaching their discontinued date within a certain time frame. This report will show which orders are due to expire;
- 3.2.54.8.11 Total doses per inmate dispensed;
- 3.2.54.8.12 Percentage of inmate's on medications;
- 3.2.54.8.13 Percentage of inmate's on particular classes of medications such as controls, psychotropic, etc.;
- 2.2.54.8.14 Formulary vs. non-formulary medications dispensed;
- 2.2.54.8.15 Number of prescriptions per inmate;
- 2.2.54.8.16 Number of new and refill prescriptions dispensed;
- 2.2.54.8.17 Number of doses dispensed;
- 2.2.54.8.18 High to low usage of dollar amount of formulary and non-formulary medications dispensed;
- 2.2.54.8.19 High and low usage by quantity dispensed by medications, psychotropic, and OTC's;
- 2.2.54.8.20 Medication breakdown listed by specific Physician by class, specific medications and controls, psychotropic, all medications, etc.;
- 2.2.54.8.21 Medications therapeutic classification reports outlining detail and usage (i.e. psychotropic, HIV, controlled substances, etc.);
- 2.2.54.8.22 Top ten (10) most expensive inmate's profiles showing a detail listing;
- 2.2.54.8.23 Cost containment recommendation reports;
- 2.2.54.8.24 Side effects and medication interaction;
- 2.2.54.8.25 OTC medication listing reports;
- 2.2.54.8.26 Medication cost summaries;
- 2.2.54.8.27 Medication and quantity ordered;
- 2.2.54.8.28 Notification of medication ordered too soon;
- 2.2.54.8.29 Invoices containing medication name, NDC and AWP;
- 2.2.54.8.30 Itemized credit report showing prescription detail and credit for returned medications;
- 2.2.54.8.31 Brand vs. Generic detail report.

3.2.54.9 The Contractor must have some type of electronic/internet dashboard that FCADC and the contracted medical staff can see the status of all or one particular order.

3.2.55 Compliance:

- 3.2.55.1 Contractor will meet or exceed the quality standards of the facility, Controlled Substance Act, State Board of Pharmacy, FDA, and HIPPA. Contractor will have a minimum of 5 years' experience in helping correctional facilities achieve and maintain accreditation;

3.2.55.2 Contractor will strictly comply and adhere to HIPPA in keeping private and to secure information which is considered Individually Identifiable Health Information (IIHI). Contractor will provide a detailed action plan to ensure compliance with HIPPA regulations and will assist the facility in planning, developing, and adhering to these requirements at the facility;

3.2.55.3 Contract will monitor medication usage and distribution utilizing written policies and documentation sheets to ensure proper distribution of all medication throughout the facility;

3.2.55.4 Contractor and the Contractor will provide adequate safeguards for all psychotropic and all scheduled controlled medications;

3.2.55.5 Contractor will evaluate program effectiveness throughout the contract and will be a proactive member of the facility's Medical Team, working diligently to assure that compliance is maintained with all federal, state, local laws and regulations;

3.2.55.6 Contractor will be licensed by the Maryland Board of Pharmacy;

3.2.55.7 Contractor will supply all Safety Data Sheets (SDS) when requested;

3.2.55.8 Contractor will maintain all appropriate documentation, including but not limited to, prescription records, inventory records, medication destruction, controlled medication perpetual inventory, patient profiles, copies of all prescriptions, etc. All documentation relating to Contractor's performance will be maintained in an orderly fashion and is readily retrievable and will be open for review by the appropriate FCADC or assigned designee.

3.2.56 Formulary Development:

3.2.56.1 Contractor will submit a proposed formulary that will foster safe, appropriate, and effective drug therapy;

3.2.56.2 Contractor will assist in the development, implementation, compliance and ongoing maintenance of a cost effective drug formulary for the FCADC;

3.2.56.3 Contractor will review and analyze non-formulary medication usage on a monthly basis;

3.2.56.4 Contractor will implement an automatic therapeutic substitution program in conjunction with the Medical Director, if requested. Contractor will work with the prescribers to develop a listing of equivalent doses of more cost effective medications that will not compromise the care if switched. Then the M.D. prescribes an expensive non-formulary medication on the list, Contractor will automatically suggest a substitute for a pre-approved more cost effective equivalent in the proper dose and frequency. Contractor will outline this substitution in detail so all prescribers and nursing staff are well aware of all of the substitutions;

3.2.56.5 Extensive formulary management services will be provided by working in conjunction with the facility administration, medical director, and the prescribers to reduce medication cost and to provide monthly usage data accompanied with statistical graphs;

3.2.56.6 Contractor will provide a formulary exception report sorted by prescriber, medication name, and/or by patient listing of all the non-formulary medications prescribed for a particular period. That report will contain the following information: Medication name, strength, dispense date, inmate name and number, prescriber, cost per medication, and total cost of medication dispensed;

3.2.56.7 Contractor will systematically analyze aggregate patterns of medication usage in conjunction with the prescribers and recommend modifications such as eliminating the use of un-necessary or inappropriate medication, reducing waste, recommending more cost effective medications or therapies, reducing nursing time required for medication administration, etc.

3.2.57 Implementation:

3.2.57.1 The Contractor will provide a detailed implementation plan;

3.2.57.2 Develop a "Project Work Plan" identifying and documenting the detailed requirements/specifications for integrating the Pharmacy Services into the FCADC;

3.2.57.3 Contractor will exert best efforts to implement a smooth transitional period as the Contractor begins services under this contract;

3.2.57.4 The Contractor will include the following in the "Project Work Plan":

3.2.57.4.1 A start-up schedule, which covers the initial in-service of staff by a Maryland licensed pharmacist prior to the change of service;

3.2.57.4.2 A time frame for all transitional activities and resolution of identified problems;

3.2.57.4.3 Contractor will in-service FCADC staff/Contractors shortly after notification. Contractor will immediately send policy and procedure manuals, order forms, medication carts, formularies, etc. for initial review. The initial days of the schedule will consist of gathering basic information from the FCADC;

3.2.57.4.4 Contractor will train all staff/shifts as necessary. Contractor will perform a thorough training of the Contractor's ordering procedures, storage of pharmaceuticals, accounting procedures, pharmaceutical distribution, management and inventory, pharmaceutical trouble shooting, etc. Training and system support will be available throughout the contract period;

3.2.57.4.5 The Contractor will gather information such as M.D. licenses, contact persons' name, emergency kits, policy and procedure development, formulary development, etc.;

3.2.57.4.6 Contractor will propose a start-up schedule that all parties will review and implement;

3.2.57.4.7 Upon execution of the contract, the Contractor understands that a quick start-up is preferred;

3.2.57.4.8 The Contractor will provide complete training to FCADC staff or Contractors prior to, during, and after conversion;

3.2.57.4.9 The FCADC will provide the Contractor ample access to the FCADC medical staff and current pharmacy staff;

3.2.57.4.10 The FCADC will provide the Contractor with all necessary information concerning the medication carts, back-up pharmacy, and other pertinent information requested by the Contractor;

3.2.57.4.11 The Contractor will provide medication carts as requested;

3.2.57.4.12 The Contractor will provide onsite personnel to in-service staff for the conversion of service;

3.2.57.4.13 The Contractor will identify equipment, software, logistical support, and personnel available to the FCADC during and after implementation;

3.2.57.4.14 The Contractor will identify how the current patient prescription database will be transferred to the Contractor's maintained database.

3.2.58 Credits/Current Inventory:

3.2.58.1 The Contractor will specify how existing drug inventory and returns of unused medications/supplies, in the future, will be used/credited;

3.2.58.2 The Contractor will review the current medication room and provide a program to help the Frederick County Adult Detention Center minimize waste. The Contractor will provide the FCADC with an organized plan based on the actual usage to taper down excess medications;

3.2.58.3 The Contractor will offer credit on returned medications remaining in their original sealed blister pack which are within three (3) months of expiration, have not been released to the inmate population, are not a controlled substance, and were permitted by the Maryland State Board of Pharmacy;

3.2.58.4 The Contractor will provide a written plan and arrange for their own drivers to pick up and all returned medications.

3.2.59 Pricing:

3.2.59.1 The Contractor pricing for pharmaceuticals in response to this solicitation will use the formula of base cost (actual acquisition cost) of medications or pharmaceutical supplies plus (+) a dispensing fee per prescription;

3.2.59.2 Contractor will specify the method for calculating any cost increase (if any) over the term of the contract. The Contractor or Contractor will not increase its pricing rate for the duration of the contract. The only price change that will occur is the Actual Acquisition Cost (AAC) as the manufacturer's update pricing fluctuates up or down;

3.2.60 Staffing:

3.2.60.1 All contractual personnel will meet the minimum requirements established by FCADC, MCCS, ICE 2000 Detention Standards, and the NCCHC;

3.2.60.2 The Contractor and all contractual personnel will comply with current and future State, Federal, Local Laws and Regulations, Administrative Regulations, Administrative Directives, and FCADC Policy and Procedures;

3.2.60.3 The Contractor must keep all contractual personnel's licenses and certifications. The Contractor must submit these documents to the FCADC Bureau Chief or designee upon request;

3.2.60.4 Contractor will be required to pass a background investigation conducted by FCADC as a requisite for initial and/or continued employment, prior to the start of the employment. The Contractor will show proof of a clean drug screen which was conducted within the past 30 days for personnel prior to their services at FCADC and random testing afterwards at the Contractor's expense;

3.2.60.5 FCADC reserves the right to revoke the Contractor's personnel security clearances at any time;

3.2.60.6 The Contractor will immediately replace or otherwise provide required coverage for any contractual employee who is unable to perform assigned activities in a reliable manner, demonstrates an uncooperative attitude, discourtesy, or is deemed unsatisfactory by the FCADC Bureau Chief or designee.

3.2.61 Penalties/Fees: In the event that the Contractor fails to provide coverage for any absent or incapacitated contractual employee, which results in a lapse of service whatsoever, the Contractor will be required to reimburse the County for hours not worked by that employee.

3.2.61.1 Should at any time the Medical Director position become vacant, the Contractor shall have one (1) day to fill the position with an interim Medical Director. Should the position be unfilled after the one (1) day period, the Contractor will initially pay the County $5,000.00 with an additional $500.00 for each day thereafter until the position is filled. Contractor shall have 30 days to provide a permanent Medical Director, an individual acceptable to the Corrections Bureau Chief, in the sole discretion of the County.;

3.2.61.2 Should any position, other than the Medical Director, become vacant, the Contractor will deduct the amount of that position's wages from the monthly invoice amount at the sole discretion of the County. Lapses in service will be considered unsatisfactory performance and the County may terminate the contract for default;

3.2.61.3 Should the Contractor fail to comply with any minimum standards set forth by the Maryland Commission on Correctional Standards, ICE 2000 Detention Standards, or the National Commission on Correctional Health Care, the Contractor shall initially pay the County $3,000.00 and with an additional $500.00 per month for each month of non-compliance for each standard. At the sole discretion of the County.

3.2.62 Detention Center Representative:

The following individual is appointed as the Detention Center Representative.
Director of Administrative Services
Frederick County Adult Detention Center
7300 Marcie's Choice Lane

3.2.63 Legal Actions: Each Contractor bidding on this RFP will supply a list of any court actions or lawsuits (current and past 10 years) against their company or representatives to include outcomes/dispositions in any of the 50 states within the United States of America and any US territories;

3.2.64 Cost Containment Program: The Contractor shall propose a detailed plan for the implementation and operation of a cost containment program for County review and approval, which shall be the mechanism by which the Contractor controls health care costs, areas in which cost savings will be achieved, and evidence of the success of such a program at other contract sites;

3.2.65 Compliance with Specifications: The Contractor shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the scope of services as decided by the Director of DP&C of Frederick County, and as described hereinafter.

3.2.66 Additional Program Support Services

3.2.66.1 Medical Audit Committee - The Contractor shall institute and maintain a Medical Audit Committee (MAC). The committee shall be responsible for developing, recommending and implementing all policies and procedures necessary for the operation of the medical program at FCADC. The objectives of the committee are to ensure that quality health care services are available to all inmates. The Contractor shall identify the membership of the committee and propose how often the committee will meet. FCADC shall have final approval of this proposal;

3.2.66.2 Management Information Systems - Contractor shall employ approved methods for implementing a system for collecting and analyzing the trends in the utilization of health care services. Contractor must provide a copy of the format to be utilized for reporting the data, for FCADC review and approval;

3.2.66.3 Complaint Procedure - Contractor will provide for FCADC approval proposed policies and procedures to be followed in dealing with inmate complaints regarding any aspect of the health care delivery system and in accordance with the FCADC regulations;

3.2.66.4 Policies and Procedures - Contractor will provide for FCADC approval a proposed method the Contractor will follow in establishing and revising health care policies and procedures;

3.2.66.5 Accreditation - Contractor must maintain MCCS and NCCHC accreditation for the healthcare delivery system at the FCADC.

EXHIBIT "B"
SPECIAL REQUIREMENTS

Section 5.3 The requirement for providing a Performance Bond is waived.

Section 7.6 The requirement for Liquidated Damages is waived.

The Contractor shall procure and maintain, at its sole cost and expense all licenses and certifications required during the entire term of this Agreement including any extension thereof. If the licenses or certifications are terminated or lapses at any time during the term of this Agreement or any extension thereof, the Contractor shall immediately notify the County in writing, in any event not less than five business days after the cancellation or lapse, Contractor shall immediately cease providing services hereunder, and this Agreement shall terminate.

The Contractor shall comply with the Maryland Confidentiality of Medical Records Act (Md. Code Ann. Health-General, §4-301 et seq.) as it applies to the Contractor's operations pursuant to this Agreement and is subject to the provisions of that law; therefore, a Business Associate Agreement is incorporated into this Agreement as Exhibit "F". If the provisions of this Agreement and the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (the Social Security Act, 42 U.S.C. 1320a-7(c)(a)(5) and 1320d-2 and 1320d-4 and 45 CFR Parts 160 and 164, HIPAA) Privacy Rule conflict with the Maryland Confidentiality of Medical Records Act regarding the degree of protection provided, the Contractor shall comply with the more restrictive protection requirement.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

1 Pricing

CCS has developed our price proposal for the Medical Services for the Frederick County Sheriff's Office Detention Center and Work Release (FCADC) based on our extensive experience in Frederick County and in the State of Maryland; our perspective on the specific needs of the FCADC; and the requirements of the RFP. CCS developed our proposal with a focus on efficiency and value. Simply stated, our goal is to provide Frederick County with the best healthcare services program that meets or exceeds your requirements. We look forward to discussing our proposal with you.

1.1 Base Price

CCS presents this ***REVISED*** Best and Final Offer based on negotiations, to reflect the agreed upon Staffing Plan and agreed upon full risk options for our Year One price.

Staffing

We have provided the matrix staffing plan below. This plan varies from our current staffing plan at FCADC in that it contains:

- Additional Two (2) hours of Medical Director/Physician per week;
- Additional Three (3) hours of Physician Assistant per week;
- Additional Four (4) hours of Psychiatrist staffing per week;
- Additional 40 hours of Mental Health Coordinator staffing per week; and
- 56 hours of LPN staffing on the night shift replaced with 84 hours of RN.

Our pricing also takes into consideration Cost of Living salary increases to ensure we continue to retain and recruit the best medical professionals in your local area.

1.1.A RFP Staffing

Frederick County, MD

Correct Care Solutions										
Adult Detention Center										
Position	**MON**	**TUE**	**WED**	**THU**	**FRI**	**SAT**	**SUN**	**FLOAT**	**Hrs/WK**	**FTE**
DAY SHIFT										
HSA (RN)	8	8	8	8	8				40	1.00
Medical Director	2								2	0.05
Physician		3		3					6	0.15
Physician Assistant	3		3		3				9	0.225
Administrative Assistant	8	8	8	8	8				40	1.00
Charge RN	8	8	8	8	8				40	1.00
RN	12	12	12	12	12	12	12		84	2.10
LPN	12	12	12	12	12	12	12		84	2.10
LPN (See note 1)-FLOAT								36	36	0.90
Psychiatrist	8		4		4				16	0.40
Mental Health Professional	8	8	8	8	8				40	1.00
Master/ Social Work (LCSW)	8	8	8	8	8				40	1.00
Mental Health Coordinator	8	8	8	8	8				40	1.00
Dentist								8	8	0.20
Dental Assistant								8	8	0.20
									493	12.325
EVENING SHIFT										
LPN	8	8	8	8	8	8	8		56	1.40
Total Hours/FTE-Evening									56	1.40
NIGHT SHIFT										
RN	12	12	12	12	12	12	12		84	2.10
LPN	12	12	12	12	12	12	12		84	2.10
Total Hours/FTE-Night									168	4.20
Total Hours/FTE									**717**	**17.925**

1. The LPN- FLOAT is to be provided three days per week, 12 hours per day with availability for either the day or evening shift.

Pharmacy and Out of Facility: Full Risk

Combined with the RFP staffing level presented above, CCS will be financially responsible for all pharmaceutical, out-of-facility, onsite laboratory, onsite radiology and medical supply costs associated with the care for the inmates at FCADC.

Per Diem

With the Full Risk Option, CCS requires a Per Diem adjustment for excess population in order to fund changes in variable cost items such as, but not limited to, pharmacy, X-ray, laboratory, medical and dental supplies, and out-of-facility costs. The adjustment under this option will be $1.32 Per Inmate Per Day (PIPD), to be applied to the difference between the actual ADP and 430, when the ADP exceeds 430.

Full Risk Option
A per diem rate is meant to cover changes in variable cost items such as, but not limited to, pharmacy, X-ray, laboratory, and medical and dental supplies. It is not meant to provide compensation for any change in staffing that might become necessary in the event of a sustained significant change in the inmate population. Should the ADP of the facilities grow to exceed 480 inmates for three consecutive months, CCS requests the opportunity to initiate discussion on adjustments in staffing to ensure we can continue to provide timely and effective services.

1.1.B Year One Price

	CCS Proposed Staffing Monthly Cost	CCS Proposed Staffing Annual Cost	Per Diem Excess ADP Cost
1. Full Risk Option	$198,858.00	$2,386,296.00	$1.32

1.2 Annual Adjustment
Per the language of the RFP, the cost of services, per diem, and Cap, if applicable, for each subsequent year will be increased by an amount equal to the U.S Bureau of Labor Statistics Consumer Price Index-All Urban Consumers (CPI-U), Washington-Baltimore, DC-MD-VA-WV, All Items, Not Seasonally Adjusted, applied to the previous year's cost, not to exceed five percent (5%).

1.3 Change in Scope of Work
The proposed prices reflect the scope of care as outlined in our technical proposal, in the RFP requirements, and based on the current community standard of care with regard to correctional health care services. Should there be any change in or modification of the local, national, or community standards of care or scope of services, court rulings or interpretation, state or federal law or statute, or interpretation thereof that results in a material increase in costs to CCS, coverage of costs related to such changes are not included in this proposal and may need to be negotiated with the County.

1.4 Reimbursements to Frederick County from the State of Maryland
According to the Maryland Correctional Services Code: §9-405, after each fiscal year, the State of Maryland is required to reimburse Frederick County for all medical expenses that exceed $25,000 for each inmate confined at the Frederick County Adult Detention Center and Work Release. CCS submits this proposal with the assumption and understanding that Frederick County, with assistance and documentation from CCS, will pursue such §9-405 reimbursements from the State of Maryland and, in turn, reimburse CCS for payments made in excess of $25,000 for a single inmate within a fiscal year, specifically, but not limited to, documented payments for pharmacy and off-site services.

1.5 Affordable Care Act

CCS's experience in the State of Maryland extends to implementation of the Affordable Care Act for our participating clients. CCS has staff in the State of Maryland trained to assist inmates and complete the online Medicaid enrollment application. We have an established relationship with the Maryland State Medicaid office to facilitate and resolve any enrollment application issues.

In 2016, Frederick County had a total of 11 inpatient stays: CCS enrolled seven (7) in Medicaid (87.5%) and seven (7) were approved (100%) for an estimated Medicaid savings of $99,000.

In 2017 year-to-date, Frederick County has had a total of two (2) inpatient stays: CCS enrolled both in Medicaid (100%) and both were approved (100%) for an estimated Medicaid savings of $27,000 year-to-date.

CCS will continue to assist Frederick County by identifying patients who satisfy the current Medicaid eligibility requirements, enrolling them accordingly, and billing Medicaid directly for inpatient hospitalizations when possible. If a patient without health insurance requires hospitalization and is not enrolled in Medicaid, CCS has the ability to complete a Medicaid application on the patient's behalf. Following acceptance of their Medicaid application, the hospital bills the patient's expenses directly to Medicaid for reimbursement.

BEST AND FINAL OFFER (BAFO)
RFP #17-251
MEDICAL SERVICES FOR THE SHERIFF'S OFFICE DETENTION CENTER/WORK RELEASE

Total weekly operating price based on 450 inmates: $44,991.46 (Full Risk Option)

Item No.	Position: Day Shift (8:00 a.m. to 4:00 p.m.)	Qty.	Weekly Hours Worked	Weekly Price
1.	Medical Director	1	2 hours per week/1 day a week	$ 301.00
2.	Physician	1	8 hours per week/2 days a week	$1,235.00
3.	Health Services Administrator	1	40 hours per week/5 days a week	$2,010.00
4.	Medical Clerk	1	40 hours per week/5 days a week	$ 944.00
5.	Charge RN	1	40 hours per week/5 days a week	$2,032.00
6.	Physician Assistant	1	12 hours per week/3 days a week	$1,060.00
7.	Dentist	1	8 hours per week/1 day a week	$ 971.00
8.	Dental Assistant	1	8 hours per week/1 day a week	$ 204.00
9.	Psychiatrist	1	16 hours per week/3 days a week, One 8 hr. day, two 4 hour days	$2,535.00
10.	Mental Health Supervisor	1	40 hours per week/5 days a week	$1,400.00
11.	Master/Social Work (LCSW)	2	80 hours per week/5 days a week	$3,314.00
Item No.	**Position: Day Shift (8:00 a.m. to 8:00 p.m.)**	**Qty.**	**Hours worked**	**Weekly Price**
12.	RN	1	84 hours per week/7 days a week	$4,007.00
13.	LPN	1	84 hours per week/7 days a week	$3,265.00
14.	LPN Float	1	36 hours per week	$1,370.00
Item No.	**Position Evening Shift (3:00 p.m. to 11:00 p.m.)**	**Qty.**	**Hours worked**	**Weekly Price**
15.	(1) LPN	1	56 hours per week/7 days a week	$2,290.00

Item No.	Position: Night Shift (8:00 p.m. to 8:00 a.m.)	Qty.	Hours worked	Weekly Price
16.	(1) RN	1	84 hours per week/7 days a week	$4,245.00
17.	(1) LPN	1	84 hours per week/7 days a week	$3,503.00

Total Proposal Price (Items 1-17): $34,686.00

Pharmaceutical Pricing

Item No.	Description	Dose	Unit Price
1.	Bupropion (Wellbutrin)	75 mg.	$0.1661
2.	Clonidine (Catapres)	0.1 mg.	$0.0200
3.	Fluoxetine (Prozac)	20 mg.	$0.0182
4.	Sertraline (Zoloft)	50 mg.	$0.0304
5.	Citalopram (Celexa)	20 mg.	$0.0350
6.	Chlordiazepoxide (Librium)	25 mg.	$0.0491
7.	Buspirone (Buspar)	5 mg.	$0.0170
8.	Amoxicillin (Trimox)	500 mg.	$0.0960
9.	Venlafaxine (Effexor)	75 mg.	$0.0566
10.	HCTZ	25 mg.	$0.0081

Pharmaceutical Dispensing
Fee: $2.88 per Prescription** %
**Dispensing fee in not a percentage.

THE PERSON COMPLETING THE BEST AND FINAL OFFER MUST INITIAL ANY ALTERATIONS IN FIGURES IN INK

COMPANY NAME: Correct Care Solutions, LLC
FIRM COMPANY NAME

REPRESENTATIVE'S NAME: Patrick Cummiskey
FIRM REPRESENTATIVE'S NAME

REPRESENTATIVE'S TITLE: President
FIRM REPRESENTATIVE'S TITLE

TELEPHONE NUMBER: 615-324-5777
FIRM REPRESENTATIVE'S TELEPHONE NUMBER

EMAIL ADDRESS: Patrick@correctcaresolutions.com
FIRM REPRESENTATIVE'S EMAIL ADDRESS

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

The contract period shall be for one year commencing April 1, 2018 after approval and proper execution of the contract documents, with a renewal option for four additional years in one-year increments, exercisable at the sole discretion of the County.

EXHIBIT "E"
Insurance

The Contractor shall purchase and maintain, during the entire term of the contract, including any renewals thereof, the following policies of insurance acceptable to the County:

1. General Liability coverage with minimum limits of:
   $1,000,000 per Occurrence; $2,000,000 General Aggregate
   $5,000,000 Products/Completed Operations Aggregate

   General Liability policy (and any applicable Excess) **must include FREDERICK COUNTY, MARYLAND as an Additional Insured.**

2. Auto Liability coverage with minimum limits of:
   $1,000,000 Combined Single Limit or
   $1,000,000 each Person, $1,000,000 each Accident, $1,000,000 Property Damage

   Auto Liability policy **must include FREDERICK COUNTY, MARYLAND as an Additional Insured.**

3. Workers' Compensation coverage with minimum statutory limits

   Employers Liability coverage with minimum limits of $100,000 per Accident, $100,000 per Employee; and $500,000 per Policy
   NOTE: Out of State employers must show evidence of coverage in Maryland by listing Maryland as a covered State. A copy of the Declarations Page showing evidence of coverage in Maryland must be provided.

4. Professional Liability/Errors & Omissions coverage with minimum limits of: $1,000,000 per Occurrence and $2,000,000 Aggregate
   a. Professional Liability coverage must indicate if it provides Occurrence or Claims Made coverage.
   b. Coverage written on a Claims Made form must indicate retro date.

5. Sexual Abuse/Molestation Coverage
   $1,000,000 per Occurrence and $1,000,000 Aggregate

6. Pollution Liability coverage with minimum limits of:
   $1,000,000 per Occurrence and $1,000,000 Aggregate
   a. Pollution Liability must name **FREDERICK COUNTY, MARYLAND** as an Additional Insured.
   b. May be added as an endorsement to the General Liability policy.
   c. Pollution liability coverage may be provided through a subcontractor if the Contractor and County are both named as additional insured and provided certificates.

PLEASE NOTE THE FOLLOWING:

1. The Certificate Holder must be:
   Frederick County, Maryland
   c/o Risk Management
   12 East Church Street
   Frederick, MD 21701
2. If policy requires additional insured status, the endorsement must be provided. An exception may be made is if the policy has a blanket additional insured endorsement, in which case the blanket additional insured status must be specifically noted on the certificate.
3. If any primary policy's limits fall short of the stated requirements, a certificate shall be provided for all any excess policies that

supplement or extend these limits.

4. Any insurance written on a Claims Made form must be identified as such and indicate a retroactive or knowledge date.
5. Coverages must be maintained for the duration of the contract or business relationship.
6. If applicable, the Contractor shall assure that all subcontractors performing services for the County carry identical insurance coverage as required of the contract, either individually or as an Additional Insured on the policies of the Contractor. Exceptions may be made only with the approval of the County. Contractor shall indemnify the County for any uninsured losses relating to contractual services involving subcontractors, including workers' compensation claims.
7. The Contractor shall not commence work for Frederick County, Maryland until evidence of all required coverage is approved by the Risk Director.
8. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
9. The Contractor will not hold the County liable for any injuries to the employees, servants, agents, subcontractors or assignees of the contract arising out of or during the course of services relating to this agreement.
10. The providing of any insurance required herein does not relieve the Contractor of any of the responsibilities or obligations assumed by the Contractor in the contract awarded or for which the Contractor may be liable by law or otherwise.
11. All of the above coverages must be written by a carrier with a minimum A.M. Best rating of A- or better AND a financial size classification of VI or higher. All insurance policies must also be underwritten by companies licensed to do business in the State of Maryland and all certificates must include an authorized signature.

Exhibit "F"
Business Associate Agreement

This Business Associate Agreement, dated as of this _____ day of _____, 2018 (the "Agreement"), is entered into by and between _____ (the "Contractor"), and Frederick County, Maryland (the "County").

WHEREAS, the Contractor and the County have entered into, or intend to enter into, an agreement or other documented arrangement (the "Contract Services Agreement") pursuant to which the Contractor may provide services for the County that require the Contractor to access, create, and use Protected Health Information and electronic Protected Health Information (collectively, "PHI") that is confidential under state and/or federal law; and

WHEREAS, the County and the Contractor intend to protect the privacy and provide for the security of PHI disclosed by the County to the Contractor, or collected or created by the Contractor pursuant to the Contract Services Agreement, in compliance with the Health Insurance Portability and Accountability Act of 1996, and related regulations set forth at 45 C.F.R. parts 160 and 164 and any other applicable regulations promulgated thereunder (collectively known as "HIPAA"); and the Health Information Technology for Economic and Clinical Health Act, as incorporated in Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L, No. 111-5, and its implementing regulations and guidelines issued by the Secretary of the Department of Health and Human Services (the "Secretary") (the "HITECH Act"); and all other applicable state and federal laws, all as amended from time to time;

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1) **Definitions.**

(a) For the purposes of this Agreement, all capitalized terms used herein without definition shall have the meaning ascribed to them in HIPA or the HITECH Act, as applicable.

(b) As used in this Agreement the following terms have the meanings indicated:

1. "County" means Frederick County, Maryland.
2. "Designated Record Set" means a group of records maintained by or for the County that is (i) the medical records and billing records about individuals maintained by or for the County, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan, or (iii) used, in whole or in part, by or for the County to make decisions about individuals. As used in this Agreement, the term "record" means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for the County (45 CFR §164.501).
3. "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information (45 CFR §160.103).
4. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (the Social Security Act, 42 U.S.C. 1320a-7(c)(a)(5), and 1320d-2 and 1320d-4).
5. "Individual" has the same meaning as the term "individual" in 45 CFR § 160.103 and includes a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
6. "MCMRA" means the Maryland Confidentiality of Medical Records Act, Md. Code Ann., Health-Gen., §4-301, et seq.
7. "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
8. "Protected health information" as defined in the Privacy Rule §§ 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer. For purposes of this Agreement,

protected health information is limited to the information created or received by the Contractor from or on behalf of the County.

9. "Required by law" means a mandate contained in law that compels an entity to make use or disclosure of protected health information, that is enforceable in a court of law, and includes but is not limited to the itemized activities set forth in 45 CFR §164.501.
10. "Use" means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information (45 CFR § 164.50 1).

2) **Obligations of the Contractor:**

a) Permitted Use and Disclosure. The Contractor will not use or disclose PHI except for the purpose of performing the Contractor's obligations under the Contract Services Agreement and as permitted by this Agreement or as required by law.

b) Appropriate Safeguards. The Contractor will implement administrative, physical, and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of the County, and (ii) prevent the use or disclosure of PHI other than as provided in the Contract Services Agreement and this Agreement.

c) Compliance with Security Provisions. The Contractor shall: (i) implement and maintain administrative safeguards as required by 45 CFR 164.308, physical safeguards as required by 45 CFR 164.310, and technical safeguards as required by 45 CFR 164.312; (ii) implement and document reasonable and appropriate policies and procedures as required by 45 CFR 164.316; and (iii) be in compliance with all requirements of HIPAA and the HITECH Act, and any guidelines issued pursuant to Section 13401© thereof, related to security and applicable as if the Contractor were the County.

d) Compliance with Privacy Provisions. The Contractor shall only use and disclose PHI in compliance with each applicable requirement of 45 CFR 164.504(e). The Contractor shall comply with all requirements of HIPAA and the HITECH Act, and any guidelines issued pursuant to Section 13401(e) thereof, related to privacy and applicable as if the Contractor were the County.

e) Permitted Uses and Disclosure:

1. The Contractor may use PHI for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.
2. The Contractor may disclose PHI for the proper management and administration of the Contractor, provided that disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used, or further disclosed, only as required by law, or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.
3. The Contractor may use PHI to provide Data Aggregation services to the County as permitted by 45 CFR §164.504(e)(2)(i)(B).

3) **Obligations of the County:**

a) Notifications. The County shall notify the Contractor of the following:

1. The provisions and limitations in its notice of privacy practices to the extent such provisions may affect the Contractor's use or disclosure of PHI;
2. Any changes in, or revocation of, permission by individuals to the use and/or disclosure of PHI, if such changes may affect the Contractor's use or disclosure of PHI; and
3. Any restriction to the use and/or disclosure of PHI that the County has agreed to in accordance with 45 CFR 164.522.

4) **Reporting:**

a) Security Incidents and/or Unauthorized Use or Disclosure of PHI. The Contractor shall notify the County within thirty (30) business days after discovery of an unauthorized use or disclosure of PHI.

b) Breach of Unsecured PHI. The Contractor shall, within thirty (30) calendar days after discovery, report to the County any breach of unsecured PHI. This notice shall include, if available, the identification of each individual who's unsecured PHI has been, or is reasonably believed by the Contractor to have been accessed, acquired, used, or disclosed by the breach. The Contractor shall cooperate with the County in complying with the HITECH Act with respect to such breach.

5) **Agreements by Third Parties.** To the extent the Contractor discloses or provides access to PHI to a nonaffiliated third party (including agents and subcontractors) in the course of performing its obligations pursuant to the business relationship between the parties, the Contractor shall obtain, prior to making any such disclosure, an agreement from such third party that it will be bound by the same statutory restrictions, terms and conditions with respect to such PHI that apply to the Contractor pursuant to this Agreement.

6) **Rights of Individuals.**

a) Access to Information. Within ten (10) business days of receipt of a written request by the County for access to PHI received from the County about an individual contained in a Designated Record Set, the Contractor will make available to the County such PHI for so long as such information is maintained n the Designated Record Set. If any other individual or entity requested access to PHI directly from the Contractor, the Contractor will forward such request to the County within ten (10) business days, unless direct response to such request by the Contractor is permitted by the Privacy Standards or otherwise by law ("Permitted Response"). For any requests to which the Contractor cannot give a Permitted Response, the County will be solely responsible for approving or disapproving such request, and the Contractor will comply with the County's directions regarding such requests.

b) Availability of PHI for Amendment. Within ten (10) business days of receipt of a written request from the County for the amendment of the PHI of any individual or a record regarding an individual contained in a Designated Record Set (for so long as the PHI is maintained in the Designated Record Set), the Contractor will provide such information to the County for amendment and incorporate any such amendments into the PHI, as required by 45 CFR §164.526.

c) Accounting of Disclosures. Within ten (10) business days of receipt of written notice by the County to the Contractor that the County has received a request for an accounting of disclosures of PHI of an individual during the six (6) years prior to the date on which the accounting was requested, the Contractor will make available to the County any such information required by 45 CFR §164.528 for the County to make such disclosure to the extent that such information that is in the Contractor's possession; provided, however, that if such request is received less than six (6) years after compliance deadline for the Privacy Standards as required by HIPAA (the "Compliance Date"), then such accounting shall include disclosures made from the Compliance Date through the date of such request. At a minimum, the Contractor will provide the County with the following information, to the extent the Contractor has such information: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure; provided, however, that such accounting shall not include any disclosures not required to be included by HIPAA. It shall be the sole responsibility of the County to prepare and deliver such accounting requested.

d) Availability of Books and Records. The Contractor will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by the Contractor on behalf of the County, available to the Secretary for purposes of determining the County's and the Contractor's compliance with HIPAA.

7) **Termination of Agreement:**

a) Termination Upon Breach. This Agreement may be terminated by the County or the Contractor upon thirty (30) days written notice to the other party of a material breach or pattern or practice that constitutes a material breach of this Agreement and such breach is not cured within the thirty (30) day period. Provided however, the notifying party may immediately terminate this Agreement if it determines a cure is not possible or if neither termination nor cure is possible the notifying party shall report the violation to the Secretary.

b) Return or Destruction of PHI and Confidential Information Upon Termination. Upon termination of this Agreement, the Contractor will either return or destroy all PHI received at or from the County or created or received by the Contractor on behalf of the County and which the Contractor still maintains in any form. The Contractor will not retain any copies of such PHI. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy PHI, the terms and provisions of Section 2 shall survive termination of this Agreement and such PHI shall be used or disclosed solely for such purpose or purposes that prevented the return or destruction of such PHI.

8) General:

a) Survival of Obligations. The obligations of the parties under this Agreement shall survive indefinitely any termination of this Agreement pursuant to Section 7(b).

b) Notice Regarding Compelled Disclosure. If the Contractor is requested pursuant to, or believes it is required by, applicable law or regulations or by legal process to disclose any PHI, the Contractor will provide the County with prompt written notice of such request(s) to enable the County to control the response to such request(s) and, where appropriate, to seek an appropriate protective order to pursue other authorized procedures to challenge the attempt to compel disclosure. The Contractor will cooperate with the County in its efforts to challenge such compelled disclosure.

c) Entire Agreement. This Agreement constitutes the entire agreement between the parties on the subject matter of this Agreement, and supersedes all oral and written prior representations, agreements, and understandings relating to the subject matter.

d) Modification, Waiver, and Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time to ensure consistency with amendments to and changes in applicable federal and state laws and regulations, including, but not limited to, HIPAA and the HITECH Act. However, this Agreement may not be amended, modified, supplemented, or rescinded except by a writing signed by both parties. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provisions of this Agreement.

e) Severability. If any provisions of this Agreement are held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement which can be given effect without invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

f) Governing Law. The rights, duties, and obligations of the parties and the validity, interpretation, performance, and legal effect of this Agreement shall be governed and determined by the laws of the State of Maryland, exclusive of its conflict with law rules.

Redmond,Lee

From: Charter Review
Subject: FW: Health Insurance Benefits for Councilmembers, Salary and Compensation definitions

From: Black, Bryon <BBlack@FrederickCountyMD.gov>
Sent: Monday, November 18, 2019 7:50 AM
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: Health Insurance Benefits for Councilmembers, Salary and Compensation definitions

Charter Review Commission Members,

I have amended my proposed language below to reflect broader benefits being available to Council Members. The Charter defines Fringe Benefits as:

> **104. Definitions**
> (o) The term "Fringe Benefits" means employment benefits that are generally available to all salaried County employees and that do not discriminate in favor of elected officials. Fringe Benefits may include group life, health, hospitalization or medical insurance and retirement benefits.

In looking closer at the Charter language John noticed that the terms "salary" and "compensation" may also be key considerations for you. The Charter defines "salary":

> **104. Definitions**
> (t) The term "Salary" means the fixed amount of money paid annually to an office holder for the duties performed.

The term "compensation" is given a broader meaning to include both salary and benefits. This difference creates a situation in which the future Compensation Review Commission, despite its name (*Compensation* Review) is only authorized under the Charter to review Council Member's *Salary*.

> **207. Salary**
> For the performance of public duties under this Charter, each council member shall receive a Salary of $22,500 per annum. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary shall be in full compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's Salary in accordance with the provisions of Article 25A Subsection 5(AA) of

the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

This also creates the same problem with the Compensation Review Commission and its review concerning the County Executive's *Salary*.

406. Compensation of the County Executive

(a) Subject to subsection (b) of this section, the Executive shall receive a Salary of $95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.

(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's Salary and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.

The County Executive receives Fringe Benefits as a part of the compensation in paragraph (a) above but the Compensation Review Board is limited in reviewing only the Executive's salary. If it is the intention of the Charter Review Commission to clarify the role of the Compensation Review Commission and create consistent Charter provisions the following are possibilities:

207. Salary

For the performance of public duties under this Charter, each council member shall receive a Salary of $22,500 per annum and may receive Fringe Benefits. A council member may not accrue annual leave or be entitled to any payment in lieu thereof. The Salary and Fringe Benefits, if any, shall be [in full] compensation for all services performed, but may not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's [Salary] compensation in accordance with the provisions of [Article 25A Subsection 5(AA)] Local Government section 10-302 of the Annotated Code of Maryland. The Council may accept, reduce or reject the Commission's recommendation, but it may not increase any recommended item.

406. Compensation of the County Executive

(a) Subject to subsection (b) of this section, the Executive shall receive a Salary of $95,000. In addition to Salary, the Executive shall be entitled to receive Allowances and Fringe Benefits as those terms are defined in this Charter. The Executive may not accrue annual leave or be entitled to any payment in lieu thereof.

(b) The Compensation Review Commission established pursuant to Section 207 of this Charter shall review the Executive's [Salary] compensation and make recommendations to the Council. The Council shall have the power to increase the Salary by the affirmative vote of not less than four council members. To reduce the Salary, the affirmative vote of not less than five council members is required. In no event shall the Salary be reduced to a figure lower than that provided in subsection (a) of this section except by amendment thereto. The Salary of the Executive may not be increased or reduced during his or her current term.

The term "Salary" can also be amended in 406(b) if the Charter Review Commission wishes to allow the review of the Executive's Fringe Benefits as well as salary.

The only other suggestion is to update Charter 207 reference to the old Article 25A with the Local Government section which took its place.

Bryon

Bryon C. Black
Assistant County Attorney
Frederick County, MD
12 E. Church Street
Frederick, MD 21701
T 301-600-2613
F 301-600-1161

Redmond,Lee

From: Charter Review
Subject: FW: County Executive - devoting full time
Attachments: Executive full time job list by county.pdf

From: Black, Bryon <BBlack@FrederickCountyMD.gov>
Sent: Thursday, November 21, 2019 12:59 PM
To: Charter Review <CharterReview@FrederickCountyMD.gov>; April Miller <aprilfmiller@comcast.net>; Cherney, Ragen <RCherney@FrederickCountyMD.gov>; Dylan Diggs <dyldiggs@gmail.com>; John Daniels <johndaniels64@gmail.com>; Lisa Jarosinski <lisajaro@aol.com>; Mathias, John <JMathias@FrederickCountyMD.gov>; Paul Gilligan <pauljgilligan@comcast.net>; Redmond,Lee <LRedmond@FrederickCountyMD.gov>; Stephen Slater <sgslawslate@comcast.net>; Walter Olson <walterkolson@gmail.com>
Subject: County Executive - devoting full time

Commission Members,

Attached is the document I referred to at your last meeting during your discussion on the County Executive and the full time requirement in the Charter. This will allow you to see the various language options concerning the topic when you workshop the issue.

Bryon

Bryon C. Black
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Frederick County

§405(b) The Executive shall devote full-time to the duties of the office. The Executive may not participate in any private occupation for compensation.

There are no other provisions in the Charter on the issue.

Anne Arundel:

§401 …The County Executive shall devote full time to the duties of the office and, subject to any increase authorized by the County Council under the provisions of Section 406 of this Article, shall be paid an annual salary of Thirty Thousand Dollars ($30,000.00)…

§404 (a) The office of the County Executive may be declared vacant by ordinance of the County Council with an affirmative vote of not less than five (5) members if, during his elected term, the County Executive:

(1) fails to meet the requirements of Section 401 of this Article

An argument could be made that by not devoting "full time to the duties" of County Executive by working another job subjects the CE to removal under §404, which would require Council action.

Baltimore County

§401 … He shall devote his full time to the duties of his office and shall be paid an annual salary pursuant to Section 405 of this Charter.

There are no other provisions in the Charter on the issue.

Cecil County

§405(b) The Executive shall devote full-time to the duties of the office. The Executive shall not participate in any private occupation for compensation. During the term of office, the Executive shall not hold any other office of profit.

There are no other provisions in the Charter on the issue.

Harford County

§302 The County Executive shall devote full time to the duties of office.

There are no other relevant provisions in the Charter on the issue.

Howard County

§302 … The County Executive shall devote full time to the duties of his or her office.

There are no other provisions in the Charter on the issue.

Montgomery County

§203 Qualifications. … The County Executive shall devote full time to the duties of the office and shall not participate in any private occupation for compensation.

§205 A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive.

An argument could be made that by participating in a private occupation renders the Executive no longer qualified; however, there is no provision in the Charter to enforce such a situation.

Prince George's County

§405 … He shall devote his full time to the duties of his office.

There are no other provisions in the Charter on the issue.

Wicomico County

§402 … The County Executive shall devote his full time to the duties of the office.

There are no other provisions in the Charter on the issue.

Redmond,Lee

ubject: FW: Letter to the Attorney General
Attachments: OAG 287(g)letter2.docx

From: "Young, Karen Delegate" <Karen.Young@house.state.md.us>
Date: December 10, 2019 at 16:53:00 EST
To: "sgslawslate@comcast.net" <sgslawslate@comcast.net>
Subject: Letter to the Attorney General

Mr. Slater,

This is Ben, Delegate Karen Lewis Young's legislative director. Delegate Lewis Young wanted me to send you a copy of her recent response letter to the Attorney General's office. Please find a copy of the letter attached to this email.

I am happy to answer any questions.

Thank you,

Ben Reese

Legislative Director

Delegate Karen Lewis Young

THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

12/10/19

Sandra Benson Brantley
Counsel to the General Assembly
The Attorney General of Maryland
104 Legislative Services Building
90 State Circle
Annapolis, Maryland 21401-1991

Dear Attorney Brantley:

Thank you for your letter of November 18, 2019, in response to our request for advice on the authority of the Frederick County Sheriff to enter a 287(g) agreement with U.S. Immigration and Customs Enforcement.

Your responses have generated some additional questions as well as a desire to share information we have collected for your consideration regarding those questions.

Question 1: "Is Frederick County Maryland Government, through its budget process authorizing the sheriff's 287(g) program?"

John Mathias, County Attorney, notes in his Memorandum of October 16, 2019, to the Frederick County Charter Review Commission that "[u]nderstanding the complex relationship between a county government and a Sheriff is difficult as this relationship has evolved since Colonial times. Although funded in large part by County funds, the Sheriff is not a County official but rather a State Constitutional official. The County cannot direct the law enforcement activities of the sheriff."[1]

In your November 18, 2019 letter, you specifically reference Article IV, Section 44 of the Maryland Constitution and Rucker v. Harford Co., 316 Md. 275 (1989) noting that "[s]heriffs and deputy sheriffs are officials and employees of the State, not the counties."[2]

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[1] Memorandum from John Mathias to Charter Review Commission, Oct. 16, 2019, "Memorandum."
[2] November 18, 2019 Letter by Sandra Benson Brantley to Senator Young and Delegate Young, "Brantley letter".

County Attorney Mathias provided nuanced explanation of the sheriff's employment status for purposes of legal representation in response to a Public Information Act request dated August 26, 2019, to Eileen Benecke where he notes:

"The legal representation of the Sheriff's Office is divided between the Office of the Maryland Attorney General and the County Attorney's Office. The unique structure of the Sheriff's Office as a State Elected Official funded in large part by the County requires this. The precise division of the legal responsibilities is a bit unclear but generally the County Attorney represents the Sheriff's Office in Law Enforcement and Detention Center matters and the Attorney General represents the Sheriff's Office in the common law duties of service of process, transportation of prisoners and courthouse security. This distinction is not as clear as it might initially appear and sometimes legal representation is done on a case by case basis, too. Traditionally, the Attorney General advises the Sheriff on Public Information Act matters including handling any litigation."[3]

John Bread, Jr., the Director of Legal Services of the Local Government Insurance Trust, provides a more comprehensive analysis of the legal relationship between the county and sheriff in "The Legal Relationship Between Counties and Sheriff, Past, Present and Future "[4]. Mr. Bread notes:

"In counties where the sheriff performs law enforcement and/or detention center functions, it is virtually conceded that the sheriff and his deputies are county agents. The functions they perform are local and the duty to defend and indemnify does, and should, rest with the county."[5]

"Each county is different as is each county's relationship with its sheriff. Ultimately, it is up to each county to determine and define the relationship with its sheriff that best serves the county's needs." [6]

Dotson v. Chester, 1991, provides, [t]hus, the sheriff is not always a state employee or always a county employee. He may, on occasion, be both, or sometimes one and sometimes the other. It all depends on the particular function the Sheriff is performing.[7]

The Dotson case concerned liability arising from operations of a Maryland county jail. As noted in Dotson, "Charter ("home-rule") counties are expressly granted the power to "establish, maintain, regulate and control county jails, and county houses of correction or detention… Md.

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[3] John Mathias email response to Public Information Act request from Eileen Benecke, dated August 26, 2019.
[4] The Legal Relationship Between Counties and Sheriff's Past, Present and Future, John Breads, Jr. Director of Legal Services, Local Government Insurance Trust, http://www.lgit.org/DocumentCenter/View/1854/LOVE-YOUR-LOCAL-SHERIFF?bidId=
[5] Ibid. p. 5.
[6] Ibid. p. 6.
[7] Dotson v. Chester 937 F2d 920 (4th Cir. 1991), https://www.leagle.com/decision/19911857937f2d92011720, p8.

Ann. Code art 25A, Section 5(C). In charter counties, state statutes confer authority on the counties to transfer control of the jail from the sheriff to a county warden. Md. Ann. Code art 87, Section 48."

Frederick County is a Charter Government County. The 287(g) program is operated solely out of the Frederick County Detention Center by detention center staff in a county building owned and funded by Frederick County taxes. Frederick County government may appoint a warden of the detention center[8] and controls the funding source for its operations (i.e. the County Executive approves or denies the annual budget submission of the sheriff for operations of the Frederick County Detention Center and the County Council approves the county budget). Like Dorchester County in Dotson, Frederick County Government may have delegated its authority and responsibility for operation of the Frederick County Detention Center to the sheriff, but by Dotson analysis, remains and is responsible for the operations of the Detention Center. And, though County Attorney notes in his Memorandum that "the County cannot direct the law enforcement activities of the sheriff", running the detention center is not a law enforcement activity.

Follow up to Question 1: After reviewing the Dotson case regarding county responsibility for the detention center operations, is Frederick County authorizing the sheriff's 287 (g) program which operates solely out of the Frederick County Detention Center?

Question 2: Does the Frederick County Sheriff have the authority to enter [into] a 287(g) program to enforce Federal immigration law without the State of Maryland authorizing it?"

In your November 18, 2019 letter, you noted "[n]othing in State law prohibits a sheriff from signing a 287(g) agreement with ICE as this activity arguably falls within the sheriff's common law powers."[9] In contrast to that argument, in "Dillon's Rule, A Check on the Sheriff's Authority to Enter 287(g) Agreements", Gregory Taylor, American University Law Review, Vol. 68, March 2019, posits that absent enabling state legislation, a sheriff has no authority to enter a 287(g) Agreement and that 8 U.S.C. Section 1357 (g) while it enables ICE to authorize local law enforcement to perform federal immigration enforcement does not and cannot provide authority for the local law enforcement agency to enter the agreement.[10] Mr. Taylor's analysis of Dillon's Rule and 287(g) applies to Home Rule states as well as to Dillon's Rule states.

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[8] Maryland Code, Correctional Services, Section 11-201 (b)(1) Safekeeping of Inmates. https://law.justia.com/codes/maryland/2013/article-gcs/section-11-201/

[9] Brantley Letter p. 5.

[10] Dillon's Rule, A Check on the Sheriff's Authority to Enter 287(g) Agreements, Gregory Taylor, American University Law Review, Vol. 68, March 2019. http://www.aulawreview.org/au_law_review/wp-content/uploads/2019/03/06-Taylor.pdf

8 U.S.C Section 1357 (g) Performance of immigration officer functions by State officers and employees provides in subsection (1):

"Notwithstanding section 1342 of title 31, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an *officer or employee of the State or subdivision*, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), *may carry out such function at the expense of the State or political subdivision and to the extent* ***consistent*** *with State and local law."* [italics added]

In your letter of November 18, 2019, you distinguish a 287(g) program from a Mutual Aid Agreement which by Maryland Code, Criminal Procedures Section 2-105 requires approval by the relevant local governing body. And you note "The OAG has advised that the foregoing provision applies to sheriffs, but the section has not been applied to a 287(g) agreement with ICE."[11]

Contrast Maryland Code Public Safety Title 7 – Fire, Rescue, or Emergency Medical Services Entities, Subtitle 1 – Mutual Aid Agreements by Fire, Rescue or Emergency Medical Services Section 7-104. Agreements with federal government to provide fire fighting or rescue activities. Subsection (a) provides "Authorized. -- A fire, rescue, or emergency medical services entity may enter into an agreement with the federal government in accordance with this section to provide fire fighting or rescue activities on property under the jurisdiction of the United States."

If the Maryland legislature intended that local law enforcement agencies have the authority to enter a Mutual Aid Agreement with the federal government, i.e. in enforcing immigration laws, presumably it would have provided or should have provided authority similar to that granted in Public Safety Title 7, Section 7-104 (a) to the fire, rescue or emergency medical services entity.

Follow up to Question 2. How is the 287(g) program consistent with Maryland State law (a) in a Dillion Rule analysis and (b) as Maryland law does not specifically authorize state or local enforcement of federal immigration law and ICE cooperation (though it does specifically authorize fire and rescue entity cooperation with the federal government)?

Charles Jenkins, Sheriff, Frederick County, Maryland is listed as an attendee in support of ICE's Deputy Director remarks on the Gonzales v. ICE Final Detainer Order 9.27.19.

At that event, Matt Albence, Deputy Director is quoted as follows: "The reality is we live in an electronic age where information is increasingly digitized, and evidence used to support a finding of probable cause will likely stem from databases – to include those that contain biometric data – and other similar data sources. Despite this reality, a judge in California has

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[11] Brantley Letter p.2.

opined that immigration officers cannot develop probable cause to believe that an individual may be a removable alien based on certain database checks alone. This conclusion is out of step with the realities of modern law enforcement, endangers the public, and construes probable cause in an unfairly restrictive way. Moreover, this decision, issued by a single judge in Los Angeles, will impact at least 43 states, threatening communities far beyond the one in which this judge sits. https://www.ice.gov/factsheets/acting-ice-directors-remarks-state-and-local-cooperation-and-gonzalez-decision

See https://www.ilrc.org/explaining-gonzalez-v-ice-injunction, "The court in Gonzalez v. ICE held:1. ICE violates the Fourth Amendment by relying on an unreliable set of databases to make probable cause determination for its detainers. 2. ICE violates the Fourth Amendment by issuing detainers to state and local law enforcement agencies in states that do not expressly authorize civil immigration arrests under state law. The Court issued a permanent injunction barring ICE from issuing detainers:1. To anyone who may be subject to an immigration detainer based solely on ICE's search of databases, and 2. To state and local law enforcement agencies in states where there is no explicit statute authorizing civil immigration arrests based on detainers.

See https://truthout.org/articles/judge-tells-ice-not-to-use-faulty-databases-to-order-detentions-will-it-comply/, "Multiple courts nationwide have ruled that ICE detainers are requests, not mandatory orders, but ICE has issued more than 2 million detainers through Secure Communities over the last decade, and they have led to 70 percent of ICE arrests under Trump. Now, a landmark federal ruling that strikes at the heart of the program could help cities and states push back against ICE's increasing attacks on "non-cooperative jurisdictions" that place limits on the detainers they comply with, especially since local law enforcement agencies may face massive payouts to people they unlawfully arrest for the agency."

QUESTIONS FOR THE MARYLAND OFFICE OF THE ATTORNEY GENERAL REGARDING THE SECURED COMMUNITIES PROGRAM AFTER GONZALES V. ICE:

- Does the State of Maryland provide an explicit statute authorizing civil immigration arrests based on detainers? While the Guidance Memorandum Local Enforcement of Federal Immigration Law: Legal Guidance for Maryland State and Local Law Enforcement Officials from the Maryland Office of the Attorney General, December 2018 does not report such statute, please confirm.
- Will the Maryland Office of the Attorney General issue an updated Guidance to clarify local enforcement of immigration law in light of Gonzales v. ICE? Frederick County, Maryland participates in both the 287(g) program and Secured Communities program. The Frederick County sheriff has been sued for violation of residents' Fourth Amendment rights in the Santos and Medrano cases, each for profiling by deputies on the street. In the Santos case, Frederick County is liable for the violation. The Medrano suit is pending. Nevertheless, the County Executive has referenced the Rucker v Harford County decision to confirm that as the sheriff is an employee of the state, the county has no authority to regulate the sheriff's law enforcement actions. The County Executive fails to note the authority of Dotson v. Chester regarding county responsibility for the operation of the Detention Center (Frederick County is a Charter county with

authority to appoint a warden) where arrestees are booked for 287(g) and Secured Communities processing. Frederick County's Executive and Council avoid any oversight of the Frederick County Sheriff's Office and thus do not review the Detention Center programs that involve cooperation with ICE.

- Will/does the Maryland Office of the Attorney General examine/investigate/oversee federal immigration enforcement practices of Maryland local law enforcement agencies to confirm compliance with Maryland law (especially in light of Gonzales v ICE confirming the need for explicit state statute authorizing civil immigration arrests based on detainers)?
- Will/does the Maryland Office of the Attorney General offer clarifications/guidance for immigration rights attorney to aid in their effective representation of citizen and non-citizen clients caught up in ICE's detainer programs and federal immigration law enforcement especially when aided by Maryland local law enforcement agencies?

Thank you for your time and consideration of these questions.

Senator Ronald Young, District 3

Delegate Karen Lewis Young, District 3A