

Town of Upper Marlboro

14211 School Lane • Upper Marlboro, Maryland 20772

REGULAR TOWN MEETING

Tuesday, February 11, 2020 – 7:00 p.m.

AGENDA

Call to Order

- Roll Call
- Pledge of Allegiance
- Consent to the Agenda

Approval of Meeting Minutes & Financial Reports

- Approval of the January 13, 2020 Organizational Meeting minutes
- Approval of the January 14, 2020 Regular Town Meeting minutes
- Approval of the January 28, 2020 Board Work Session minutes
- Approval of the January 14, 2020 Special Work Session minutes
- Finance Report & Approval of the Treasurer's Report, as of January 31, 2020.

Reports

- Department Reports — Public Safety, Public Works, Finance and Clerk's Office
- Committee Reports — Historical, Events, Sustainable Communities, CERT
- Commissioner Reports

Business

Public comment will be taken prior to Business line items (2 minutes per item)

- 1) Resolution 2020-02 Establishing Town Arts Council (Board vote)
- 2) Resolution 2020-03 Establishing Green Team (Board vote)
- 3) Resolution 2020-04 Establishing Marlboro Day Date & Vendor Fees (Board Vote)
- 4) Ordinance 2020-01 Food Trucks (Introduction)
- 5) Ordinance 2020-02 FY2020 Budget Amendment (Introduction)
- 6) Sparks@Play Playground Construction Contract (Board Approval)
- 7) Property Surplus- 2011 Dodge Charger (Board approval)

Administrative Updates

- 8) Legislation, Projects and Initiatives
- 9) General Commissioner & Staff items

Public Comment

For items not necessarily on the immediate agenda (3 minutes per item)

Adjournment

*All meetings are subject to closure in accordance with the State Open Meetings Act—House Bill 217
See back of Agenda for Public Comment Procedures*

Kai Bernal-LeClaire
Commissioner/Treasurer

Wanda Leonard
Commissioner

Linda Pennoyer
Commissioner/President

PUBLIC COMMENT PROCEDURES

Your Town government appreciates citizen input. So, in an effort to maximize effective resolutions on resident's issues, we encourage Town residents and businesses to contact us at Town Hall first, weekdays: 9 a.m.–5 p.m., or by written correspondence (or email to info@uppermarlboromd.gov). You are always welcome to schedule an appointment with the President or a Commissioner to discuss municipal problems and quality-of-life issues one-on-one, and work together towards a satisfactory solution.

Agendas for meetings are posted on our website and a synopsis of the monthly Town Meeting Agenda is also provided in the “On the Agenda” column of our monthly newsletter, the *Landings*. Outreach and notices of legislative items are also posted on the Town's social media accounts (Facebook & Twitter).

Our meetings are open to the public, and we ask that residents who want to comment to please follow the rules that have been established by “Resolution 2019-02: Adoption of Rules of Order and Regulations for Public Meetings” . . .

III. Citizen Input

A. At regular and special meetings, residents of the Town may have the opportunity to address the Board on any item on the agenda provided a resident is recognized and allowed to speak by the President. Recognized public comment and/or questions that are germane to the immediate agenda item shall be limited to (1) minute. Furthermore, each regular meeting shall also have an agenda item for citizen input regarding any municipal question, during which time any resident of the Town may address the Board for up to three (3) minutes on matters or items not necessarily placed on the agenda. Individuals not residing in the Town may speak at regular or special meetings under conditions specified by the Board. The President or the Board may uniformly change or adjust the time limitations for all speakers depending on the circumstances or provide additional time for experts or other officials.

B. Except in instances where the presiding officer expressly invites or allocates time for public testimony, questions, comments, or other forms of participation, or when public participation is otherwise authorized by law, no member of the public attending an open meeting session may actively participate in the session. Public comment by members of the public is not typically designed or intended for interactive dialogue between the Commission and the public, unless the presiding officer specifically allows it or the Commission elects to suspend its rules to allow such colloquy.

C. Speakers shall state their name for the record, and their address (**street name only**). Ordinarily, for each agenda item, including citizen input, speakers shall have one opportunity to speak and may not poll or ask questions of individual commissioners, staff or public officials. Otherwise, the Board shall determine the conduct of the public discussions on any issue and may set reasonable time limits for such.

D. Ordinarily, work sessions are open to public observation only and public participation is at the discretion of the Board. At work sessions, residents and non-residents may be allowed to speak on any municipal issue, but only under conditions specified by the Board.

Each individual speaker must stand, state their name and home of record (street name only) and approach the Board to a designated position in order to be recognized by the Chair of the Board, and to be heard by the recording Clerk, as well as others in attendance.

Town of Upper Marlboro

14211 School Lane • Upper Marlboro, Maryland 20772 • 301-627-6905

Organizational Meeting Minutes

Monday, January 13, 2020 - 8:00 p.m.

unApproved

Oath of Office

The Oath of Office was administered to the newly elected Board of Commissioners by the Deputy Clerk of the Circuit Court Office Gerry Mobley. Certificates were signed.

Call to Order

Commissioner Bernal-LeClaire was selected by acclamation as acting Chair for the Organizational Meeting that was then brought to order at 8:04 p.m.

Roll Call – Commissioner Linda Pennoyer; Commissioner Wanda Leonard; Commissioner Kai Bernal-LeClaire; and, Town Clerk M. David Williams. Also present: Deputy Clerk of the Circuit Court Gerry Mobley; Chief of Staff Kyle Snyder; and, various citizens and interested parties.

Pledge of Allegiance

Board Approval of Election Results

Clerk Williams read aloud the January 6th, 2020 Town Election results signed and certified by the BoSE to be entered into record.

- Voter count: -112; Total absentee ballots-4; Total ballots cast-116
- Tabulation of votes (in alphabetical order): Kai Bernal-LeClaire -70; Janice Duckett-52; Wanda M. Leonard-77; George M. Leonnig-36; Linda Pennoyer-74; Write-in vote-1.

Commissioner Bernal-LeClaire moved to receive the certified results as presented by the Clerk for the record, and further moved to declare the three (3) candidates receiving the highest number of votes, namely, Kai Bernal-LeClaire, Linda Pennoyer and Wanda M. Leonard, have been judged qualified by this Board. The motion was unanimously approved.

Closed Session (8:13 p.m.)

The Chair motioned to close this meeting to discuss the appointment of officials over whom this public body has jurisdiction, and any other personnel matter(s) that affects one or more specific individuals, under General Provisions Article 3-305(b)(1). Board approval was unanimous.

Reopening of Board Organizational Meeting (8:35 p.m.)

The Chair stated no votes were taken during the closed session, and the course of discussions fell within the parameters set forth under MD Code General Provisions Article 3-305(b).

Business

- 1) Selection of new President: Chair Bernal-LeClaire motioned to nominate Commissioner Linda Pennoyer as President. Upon accepting the nomination, Commissioner Pennoyer seconded the motion. The motion passed 2-1 with Commissioner Leonard opposed.

Commissioner Linda Pennoyer was then administered the Oath of Office as President for the Board of Town Commissioners for the 2020-2022 term of office by Deputy Clerk of the Circuit Court.

- 2) Selection of new Town Treasurer: President Pennoyer nominated Commissioner Kai Bernal-LeClaire as Treasurer for the Town of Upper Marlboro, accepting the nomination, Commissioner Bernal-LeClaire seconded. With all on favor, the motion was approved unanimously.

Adjournment

Chair Bernal-LeClaire adjourned the meeting at 8:40 p.m.

Respectfully submitted,

M. David Williams/Town Clerk

Town of Upper Marlboro

REGULAR TOWN MEETING

January 14, 2020 • 7:00 p.m.

unApproved Minutes

Call to Order

The meeting was called to order at 7:00 p.m.

Roll Call: Commissioner Wanda Leonard; Linda Pennoyer, President of the Board of Town Commissioners; Kai Bernal-LeClaire, Commissioner/Treasurer

Staff present: M. David Williams, Town Clerk; UMPD Chief Burse; UMPD Sgt. Samuel Irby; William Morgan/Director of Finance; Superintendent Darnell Bond/Public Works; UMPD Code Officer Vickie Stewart; UMPD Cpl. Katherine de Barros; and, Kyle Snyder/Chief of Staff

Also present: Ray Feldman/Feldman Communications Strategies LLC; MVFD President Jeffrey Beavers; TUMHC Archivist Brian Callicott; BoSE Judge Joseph Hourclé; plus, various citizens and interested parties.

Pledge of Allegiance

Consent to the Agenda

The President received unanimous consent to the Agenda.

Approval of Meeting Minutes & Financial Reports

President Pennoyer asked for a motion to approve the Regular Town Meeting minutes from December 10, 2019, the Board Work Session minutes from December 17, 2019, and, the Treasurer's Report as of December 31, 2019. All December's Town Meeting and Work Session minutes, plus, the December 2019 Treasurer's Report were unanimously approved by motions from the Board.

Reports

Departments/Committees: Chief Burse delivered the UMPD report for the month of December 2019, a handout was provided in the Board Meeting packet. He added an update on the status of the Dodge Charger police cruiser, noting additional quotes for repair were comparable to original County quote of \$8.6K. He recommended that the vehicle be dead-lined as it also has four open recalls.

Superintendent Bond delivered the Public Works projects status report for December 2019, a handout was provided in the Board Meeting packet.

Director of Finance Morgan reviewed highlights of the December 2019 Treasurer's Report, noting revenues from Fines, Licenses and Permits are trending high, and will be looking into the possible transfer of excess to the Town's Reserve Fund. He added the FY19 Financial Audit was completed and filed by the deadline.

MVFD President Beavers delivered a brief report on his Station's status of operations.

TUMHC Archivist Callicott announced they did not meet in December but will hold a meeting on January 18th at 10 a.m., adding there will also be a meeting of the MD Lynching Memorial Project at 2 p.m.

CoS Snyder reported for the Events Committee stating the EC is working on scheduling a "Coffee with the Commissioners-Meet & Greet" event, and, have started preparations for the 2020 Marlboro Day Festival.

President Pennoyer reported for SCW Chair Stephens stating the Workgroup will be meeting next week with the PG Arts Council to discuss the Town's current Mural Project. She added that one more application has been received for the Town's Façade Improvement Program.

CERT President Leonard reported a "2019 Year-End Report" has been submitted to Chief Burse for review.

Commissioner Bernal-LeClaire: Announced he had attended the Holiday Party and urged others to attend the upcoming MD Lynching Memorial Project meeting. He also thanked all who came out to vote.

Commissioner Leonard: Reported that she met with MD Senior Affairs PEPCO representative about the possible future installation of charging stations in Town.

President Pennoyer: Thanked all for voting and is pleased that the same Board can continue its work. Delivered updates on the following topics: 1.) Offices will be closed on Monday Martin Luther King, Jr. Day, so Yard Waste and Bulk items will be picked up on Tuesday after the Holiday; 3.) The *Landings* newsletter will be distributed in February; 4.) Will be placing a classified ad for a full-time Deputy Clerk position soon; and, 5.) The Annual Beltway Barbeque will be held June 6th this year in the downtown area, and the Wine Festival is scheduled for the next day on the 7th at the Show Place Arena. She added that diversity and inclusion will continue to be a priority for the Board and welcomed resident's input on Town operations.

Business

- 1.) Swearing-in of Board selected Treasurer: President Pennoyer administered the Oath of Office to Commissioner Bernal-LeClaire to serve as the Town's Treasurer for the 2020-2022 term. An Oath of Office form was signed and sealed.
- 2.) Resolution 2020-01 Check Signatures: Clerk Williams explained the need for the resolution that gives authority for specific officials or staff members to render their signatures for checks over a certain amount, and/or, when the need arises due to specific circumstances of temporary absence. After the reading of the Resolution, Commissioner Bernal-LeClaire motioned to approve Resolution 2020-01, Commissioner Leonard seconded. The motion passed unanimously.

Administrative Updates

- 3.) Legislation, Projects and Initiatives: CoS Snyder reviewed the spreadsheet on ongoing Town Projects. Copies were distributed.
A resident inquired about a missing "No Thru Trucks" sign at Old Crain and Church Street, CoS Snyder replied that probably could be handled through the Town's Maintenance budget. Friends of the Library President Joseph Hourclé requested the Town include a bike rack for the Library on Main Street in the \$100K Streetscape Grant.
- 4.) General Board and Administration Staff Items: There were no additional items brought forth to the Board at this time.

Public Comment

No public comment was offered to the Board at this time.

Adjournment

President Pennoyer motioned to adjourn, Commissioner Bernal-LeClaire. With all in favor, the meeting was adjourned at 7:41 p.m.

Respectfully submitted,

M. David Williams
Town Clerk/Administrator

Town of Upper Marlboro

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Work Session Minutes

January 28, 2020 - 7:00 p.m.

unApproved

Call to Order

- Meeting was brought to order at 7:01 p.m.
- Roll Call – President Linda Pennoyer; Commissioner Wanda Leonard; Commissioner Kai Bernal-LeClaire; Town Clerk M. David Williams; Director of Finance William Morgan; UMPD Chief David Burse; and, Chief of Staff Kyle Snyder.
- Pledge of Allegiance

Business

- 1) RFP #UM 2020-01 Media Relations: Board discussed process options for Board approval, Town Attorney review, service needs, plus, proposal terms and posting details.
- 2) RFP #UM 2020-02 Parking Enforcement: Current service provider may opt to resubmit.
- 3) RFP #UM 2020-03 Town Hall Solar: Already have 2 proposals. After review, the Board unanimously approved, by motion, discussed edits to all 3 Requests For Proposals.
- 4) Playground Contract: Board discussed the draft by Attorney Best and contractor edits, plus, terms, timelines, bond & budget thresholds/issues, comparative project research, and State grant reimbursement process.
- 5) Personnel Ordinance & Organizational Chart: Board reviewed and discussed edits to the organizational chart. Elements of the draft ordinance needed, such as, hiring requirements, job descriptions and departmental review were also discussed. Drafting of a separate salary ordinance and the Employee Handbook were reviewed as well.
- 6) County Streetscape Grant Proposal: Discussion included—needed edits to define the scope of area affected, elaboration on specific project(s) details, input from the Sheriff's Department, downtown Business, as well as, Public Safety and Public Works departments. The CIP Budget line item requirements and allocation timelines were also discussed.
- 7) Old Line Bank Investment Account: A handout was provided by Director Morgan for Board discussion that included a breakdown of investments. Recommendations were submitted, plus, investment policies and reserve account balance(s) were also discussed.
- 8) Marlboro Day schedule & fees Resolution: Board discussed proposed fee schedule, proposed May 9th and 16th as event and rain dates, and noted need for program and map.
- 9) Resolution 2019-02 Commission Meeting Regulations: Board to highlight edits and send back to Attorney Best to work on reducing page count.
- 10) Upcoming Food Truck Ordinance: CoS Snyder noted the County has no guidelines for municipal governance and the Town could develop first template for process. The Board proposed best practices research with other entities/agencies (i.e.; Washington, D.C.)

Adjournment

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

M. David Williams
Town Clerk/Administrator

Town of Upper Marlboro

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Special Work Session Minutes

Friday, January 31, 2020 - 11:30 a.m.

unApproved

Call to Order

- Meeting was brought to order at 11:35 a.m.
- Roll Call – Commissioner Wanda Leonard; Commissioner/Treasurer Kai Bernal-LeClaire; President Linda Pennoyer; Town Clerk M. David Williams. Also present: Calvin Brown and Charles Harrison / C. Brown & Associates Inc.; and, Chief of Staff Kyle Snyder.
- Pledge of Allegiance

Closed Session

President Pennoyer announced the meeting will now recess to discuss an administrative matter under General Provisions Article 3-104, and, under General Provisions Article 3-305(b)(1): To discuss the appointment, employment, assignment, compensation, or removal of appointees, or employees, over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals.

Commissioner Bernal-LeClaire motioned to close the open meeting for the reasons previously stated, Commissioner Leonard seconded. With all in favor, the Board entered into closed session at 11:39 a.m. In attendance: Full majority of the Board of Town Commissioners; Calvin Brown; Charles Harrison, Director of Finance William Morgan; and, Chief of Staff Kyle Snyder.

Business

A consultation with Accounting Firm: C. Brown & Associates, concerning review of the FY2019 Financial Audit by Lindsey & Associates, LLC

Reopening of Board Organizational Meeting

Commissioner Bernal-LeClaire motioned to reopen the Regular Work Session, President Pennoyer seconded. With all in favor, the Special Work Session was reopened.

Adjournment

Commissioner Leonard motioned to adjourn, Commissioner Pennoyer seconded. With all in favor, the meeting was adjourned at 1:04 a.m.

Respectfully submitted,

M. David Williams
Town Clerk/Administrator



Town of Upper Marlboro

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Town of Upper Marlboro Budget vs. Actuals July 2019 – January 2020

	Actual	Budget	% of Budget
Revenue			
Fines, Licenses, Permits	\$181,151.65	\$567,935.00	32%
Grants	\$33,978.15	\$750,829.00	5%
Intergovernmental	\$15,329.03	\$41,315.00	37%
Other Revenue	\$138,578.50	\$379,432.00	36%
Taxes	\$710,509.04	\$813,209.00	87%
Total Revenue	\$1,079,546.37	\$2,552,720.00	42%
Expenses			
General Government	\$610,500.27	\$1,624,167.00	38%
Public Safety	\$167,798.84	\$524,882.00	32%
Public Works	\$157,035.94	\$403,671.00	39%
Total Expenses	\$935,335.05	\$2,552,720.00	37%

Committee Overview

Historical Committee	\$285.54	\$1,500.00	19%
CERT Team	\$238.45	\$1,500.00	16%
Events Committee	\$5,220.12	\$12,500.00	42%



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MONTHLY NARRATIVE

The Town has accomplished one of its goals as being a business-oriented administration. The Town provides a 50% match for those businesses who wish to improve on their business establishment and in the month of January two (2) local businesses took advantage of this grant.

1. Grants
2. Budget Amendment

Town of Upper Marlboro

Profit & Loss January 2020

REVENUE

FINES, LICENSES, PERMITS	\$38,328.71
GRANTS	\$26,418.65
INTERGOVERNMENTAL	\$0.00
OTHER REVENUE	\$601.27
TAXES	\$64,808.29
TOTAL REVENUE	\$130,066.86

EXPENSES

GENERAL GOVERNMENT	\$74,538.34
PUBLIC SAFETY	\$30,102.86
PUBLIC WORKS	\$19,057.37
TOTAL EXPENSES	\$123,698.57



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Town of Upper Marlboro Balance Sheet As of January 31, 2020

	<u>Total</u>
Cash on Hand and in Banks	0.00
1000 PGFSB Operating Checking	157,747.29
1001 Petty Cash	300.00
1010 PGFSB Payroll Account	0.00
1040 M&T Checking	110,018.19
1060 Sona CD 7977	0.00
1063 Sona CD 1577	0.00
1068 SONA Bank CD 8641	269,594.77
1117 Old Line Bank	102,610.72
1122 Congressional Bank CD 5756	212,310.55
1140 MLGIP	1,989.94
Total Cash on Hand and in Banks	<u>\$ 854,573.46</u>



Town of Upper Marlboro Police Department

14211 School Lane, Upper Marlboro, MD 20772 Tel: (301) 627-6905

Monthly Town Police Department Report For the Month of January 2020

Incidents Reported in Town:

Theft from Auto 4	Lost Property 1	House Alarms 2
Theft Report 1	Accident Report 1	Domestic Call 1
Drug Complaint 1	Disorderly 1	Suspicious Person 1
Sexual Assault 1		

Last Month Incidents:

Stolen Auto 1	Theft from Auto 1	House Alarms 3
Business Alarms 2		

Chief Burse monitored the voting process of the Commissioners' Town Election.

Chief Burse attended the CERT meeting and went over plans for 2020.

Chief Burse attended the Prince George's Chiefs Association meeting.

Chief Burse attended the Building Security Committee Meeting at the Courthouse.

Chief Burse updated security measures within Town Hall.

Chief Burse attended the Maryland Chiefs of Police Association meeting in Annapolis, MD.

Chief Burse, Sgt. Irby, Cpl. de Barros and CERT members attended the District 2 Coffee Club.

Chief Burse attended a Hate Crimes Training.

Chief Burse, Mayor Pennoyer and Mr. Snyder meet with members from Park and Planning to discuss the Beltway BBQ & Wine Festival.

Chief Burse and Cpl. de Barros meet with several business owners on Main Street.

Code Enforcement Officer Stewart met with the City of Bowie supervisor of Code Compliance to participate in a three-day ride-along training.



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Mailing address: P.O. Box 280 • Upper Marlboro, MD 20773-0280

Date: Monday, February 3, 2020

Subject: Public Works' Status Report

RE: January 2020 – Monthly Status Report

Capital Improvements - Public Works Superintendent attended the P.G. County Clean Water Partnership meeting, along with our Chief of Staff, to discuss maintenance schedules moving forward at the schoolhouse pond and maintenance contact personnel.

Maintenance and Beautification - Brush along Old Crain Highway, Old Marlboro Pike, School Lane, and the top of Main Street were cleared back to allow better access for our lawn equipment. Dead or leaning trees and brush that could eventually impede the lane of travel were also removed. Holiday decoration storage was wrapped up.

Public Works Superintendent reached out to 3 electrical contractors for the minor existing issues, to which no quotes were returned.

PW also acquired a dual function salt/seed spreader for our Kubota Tractor to assist in winter and spring operations, and a 6-inch hazard light bar was added for increased visibility and safety. PW Superintendent placed a call to Asplundh tree removal specialist's corporate office to report downed trees that have yet to be removed from their summer power line trimming along Main St and Old Mill.

Street and Sidewalk Repairs – A “No Thru Truck Sign” was mounted at the entrance of Church Street, and a separate “No Thru Bus Sign” was ordered to be added to that location upon arrival. Multiple service requests were entered to MDOT to re-stripe crosswalks along Old Marlboro Pike and to erect a new crosswalk sign at Main Street.

Refuse Accumulations – Bulk day accumulations for solid wastes (Landfill) are: 4.54 tons or \$267.86. Bulk day accumulations for yard waste collections are: 3.13 tons, or \$81.00.

Weather Related Activities- January had one winter weather event, which resulted in a decrease of our salt reserves from last year and had to be replenished.

Sincerely,

Darnell F. Bond III
Public Works Superintendent

Kai Bernal-LeClaire
Commissioner/Treasurer

Wanda Leonard
Commissioner

Linda Pennoyer
Commissioner/President

Town of Upper Marlboro

RESOLUTION: 2020-02
SESSION: Regular Town Meeting
DATE: February 11, 2020

DRAFT

RESOLUTION BY THE BOARD OF TOWN COMMISSIONERS TO ESTABLISH, APPROVE AND MAINTAIN A TOWN OF UPPER MARLBORO ARTS COUNCIL.

WHEREAS, the Board of Commissioners of the Town of Upper Marlboro has authority pursuant to Ordinance 2019-02: Authorizing Creation and Governance of Committees and Other Town Bodies, and, Section 82-16 (1) General Powers; and (2)(p) and (2)(rr) Specific Powers, of the Town Charter to create departments to further the public interest of the Town, and to establish programs to promote the health, welfare, and enjoyment of the inhabitants of the Town; and

WHEREAS, the Board of Commissioners has established goals and initiatives to strengthen community relations through proactive partnership with its residents, businesses and surrounding area communities; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Town of Upper Marlboro sitting in regular session this _____ day of _____, 2020 the following:

1. That the Board of Commissioners has determined that it is in the public interest to create a Town of Upper Marlboro Arts Council.
2. That the Board of Commissioners shall appoint a Chairperson and at least two (2) members to the Committee for two-year terms, said terms starting on March 1st, 2019, to serve without compensation and at will.
3. That the Committee shall elect a Vice-Chairperson and Secretary by majority vote.
4. That the mission of the Committee is to provide recommendations to the Board of Commissioners on public art and art object decisions. The Arts Committee is directed to advance public understanding of visual arts, enhance the aesthetic quality of public places, and help stimulate the vitality and economy of the Town.
5. The Committee shall assist Town personnel with the selection and management of art displayed at Town Hall, and other art exhibits and installations within the Town's corporate boundaries.
6. That the Committee shall report to the Board of Town Commissioners, at least quarterly, on their work and submit a proposed budget to the President during the month of March of each year.
7. That the meetings of the Committee are subject to and in compliance with the Maryland Open Meetings Act, Chapter 3, Sections 3-102 and 3-303.

Town of Upper Marlboro

8. That the Committee adopt such bylaws, within 30 days of appointment, as it deems appropriate for final approval by the Board.

INTRODUCED AND PASSED by the Board of Commissioners for the Town of Upper Marlboro, Maryland at a Public Meeting held on _____, 2020.

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

Linda Pennoyer, President

Kai Bernal-LeClaire, Commissioner

M. David Williams, Town Clerk

Wanda Leonard, Commissioner

CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Resolution, and that said Resolution is in full force and effect and has not been amended or repealed.

In witness whereof, I have hereunto set my hand and seal of the municipal corporation, this _____ day of _____, 2020.

M. David Williams, Town Clerk

Town of Upper Marlboro

RESOLUTION: 2020-03 **DRAFT**

SESSION: Regular Town Meeting

DATE: February 11, 2020

A RESOLUTION BY THE BOARD OF TOWN COMMISSIONERS SUPPORTING PARTICIPATION IN THE SUSTAINABLE MARYLAND MUNICIPAL CERTIFICATION PROGRAM AND ESTABLISHING A TOWN OF UPPER MARLBORO GREEN TEAM.

WHEREAS, the Board of Commissioners of the Town of Upper Marlboro has authority pursuant to Ordinance 2019-02: Authorizing Creation and Governance of Committees and Other Town Bodies, and, Section 82-16 (1) General Powers; and (2)(p) and (2)(rr) Specific Powers, of the Town Charter to create departments to further the public interest of the Town, and to establish programs to promote the health, welfare, and enjoyment of the inhabitants of the Town; and

WHEREAS, the Board of Commissioners has established goals and initiatives to strengthen community relations through proactive partnership with its residents, businesses and surrounding area communities; and

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, The Town of Upper Marlboro strives to save tax dollars, assure clean land, air and water, improve working and living environments as steps to building a sustainable community that will thrive well into the new century; and

WHEREAS, The Town of Upper Marlboro hereby acknowledges that the residents of Upper Marlboro desire a stable, sustainable future for themselves and future generations; and

WHEREAS, The Town of Upper Marlboro wishes to support a model of government which benefits our residents now and far into the future by exploring and adopting sustainable, economically- sound, local government practices; and

WHEREAS, by endorsing a sustainable path The Town of Upper Marlboro is pledging to educate itself and community members further about sustainable activities and to develop initiatives supporting sustainable local government practices; and

WHEREAS, the elected representatives of the Town of Upper Marlboro have a significant responsibility to provide leadership in seeking community-based sustainable solutions to strengthen its community:

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Town of Upper Marlboro sitting in regular session this _____ day of _____, 2020 the following:

Town of Upper Marlboro

1. That in order to focus attention and effort within The Town of Upper Marlboro on matters of sustainability, the Board of Town Commissioners wishes to pursue local initiatives and actions that will lead to Sustainable Maryland Municipal Certification.
2. That the Board of Town Commissioners has determined that it is in the public interest to create a Town of Upper Marlboro Green Team.
3. That the Board of Commissioners shall appoint a Chairperson and at least two (2) members to the Committee for two-year terms, said terms starting on March 1st, 2019, to serve without compensation and at will.
4. That the Committee shall elect a Vice-Chairperson and Secretary by majority vote.
5. That the mission of the Committee is to provide recommendations to the Board of Commissioners on how the Town can go green, save money and take steps to sustain their quality of life over the long term.
6. That the Committee shall report to the Board of Town Commissioners, at least quarterly, on their work and submit a proposed budget to the President during the month of March of each year.
7. That the meetings of the Committee are subject to and in compliance with the Maryland Open Meetings Act, Chapter 3, Sections 3-102 and 3-303.
8. That the Committee adopt such bylaws, within 30 days of appointment, as it deems appropriate for final approval by the Board.

INTRODUCED AND PASSED by the Board of Commissioners for the Town of Upper Marlboro, Maryland at a Public Meeting held on _____, 2020.

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

Linda Pennoyer, President

Kai Bernal-LeClaire, Commissioner

M. David Williams, Town Clerk

Wanda Leonard, Commissioner

Town of Upper Marlboro

CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Resolution, and that said Resolution is in full force and effect and has not been amended or repealed.

In witness whereof, I have hereunto set my hand and seal of the municipal corporation, this _____ day of _____, 2020.

M. David Williams, Town Clerk

Town of Upper Marlboro

RESOLUTION: 2020-04
SESSION: Regular Town Meeting
DATE: February 11, 2020

DRAFT

RESOLUTION BY THE BOARD OF COMMISSIONERS FOR THE TOWN OF UPPER MARLBORO TO ESTABLISH THE STANDING DATE AND VENDOR FEES FOR THE ANNUAL MARLBORO DAY FESTIVAL AND PARADE

WHEREAS, Section 82-16(2)(l) (Community Services) of the Town Charter authorizes the Board of Commissioners of the Town of Upper Marlboro to pass ordinances to provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the Town; and

WHEREAS, the Board of Commissioners has authority pursuant to Ordinance 2019-02: Authorizing Creation and Governance of Committees and Other Town Bodies; and Section 82-16 (1) General Powers; and (2)(p) and (2)(rr) Specific Powers, of the Town Charter to create departments to further the public interest of the Town, and to establish programs to promote the health, welfare, and enjoyment of the inhabitants of the Town; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, a municipality may establish and collect reasonable fees and charges associated with the exercise of a governmental or proprietary function exercised by the municipality; and

WHEREAS, Ordinance 97-2 (Parade and Special Event Ordinance of the Town of Upper Marlboro) was enacted on August 12, 1997, which governs the conduct of the public during such events; however, the Board finds that the Town as the event organizer is not a “person” within the meaning of the ordinance and in the exercise of its municipal powers is generally exempt from said ordinance; *See, e.g., Unnamed Physicians v. Commission on Medical Discipline*, 285 Md. 1, 12-14 (1979); and

WHEREAS, the Board of Commissioners of the Town of Upper Marlboro finds that the Town was first incorporated on April 4, 1870 by Chapter 363 of the Acts of Md. of 1870, which was signed into law by Governor Oden Bowie; and

WHEREAS, the Board of Commissioners wishes to promote community engagement, and continue the tradition of the Marlborough Day Festival; and

WHEREAS, the Board of Commissioners has established goals and initiatives to strengthen

Town of Upper Marlboro

community relations through proactive partnership with its residents, businesses and surrounding area communities.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Town of Upper Marlboro sitting in regular session this _____ day of _____, 2020 approves and declares the following:

1. The Marlboro Day Festival and Parade shall be held the 2nd Saturday of May in Downtown Upper Marlboro, with a rain date to be set by separate motion as deemed necessary.
2. The Town may charge vendors a fee of \$50.00 per space or unit with no charge for non-profit groups and government agencies.
3. The Town may contribute funds as appropriated by the annual budget, assign personnel and enroll other support as needed to ensure the safety and success of this annual community-wide event.
4. Parade and vendor applicants or representatives shall be required to sign appropriate liability waiver forms and/or provide certificates of insurance naming the Town as an additional insured as deemed sufficient by the President.
5. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles or flow of traffic along a highway or part thereof constituting part the route of a parade or special event, and take other reasonable precautions to protect the health, safety and welfare of the public.

INTRODUCED AND PASSED by the Board of Commissioners for the Town of Upper Marlboro, Maryland at a Public Meeting held on _____, 2020.

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

Linda Pennoyer, President

Kai Bernal-LeClaire, Commissioner

Town of Upper Marlboro

M. David Williams, Town Clerk

Wanda Leonard, Commissioner

CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Resolution, and that said Resolution is in full force and effect and has not been amended or repealed.

In witness whereof, I have hereunto set my hand and seal of the municipal corporation, this _____ day of _____, 2020.

M. David Williams, Town Clerk

**BOARD OF COMMISSIONERS
FOR THE
TOWN OF UPPER MARLBORO**

ORDINANCE: 2020-01
SESSION: Regular Town Meeting
INTRODUCED: February 11th, 2020

DRAFT

AN ORDINANCE TO AMEND ORDINANCE 04-01 REGARDING TRANSIENT OR ITINERANT MERCHANTS AND VENDORS, AND ASSIGN A TOWN FOOD TRUCK HUB COORDINATOR, TO ESTABLISH CERTAIN FEES, AND PERMIT FOOD TRUCK VENDING, AND DESIGNATE CERTAIN LOCATIONS OR HUBS USED FOR CLUSTERED OR MULTIPLE FOOD TRUCK VENDING SITES BY CERTAIN COUNTY-LICENSED MOBILE FOOD SERVICE FACILITIES OR UNITS CONDUCTING BUSINESS WITHIN THE CORPORATE LIMITS OF THE TOWN OF UPPER MARLBORO

WHEREAS, the Town Board of Commissioners passed Ordinance 04-01 on September 14, 2004 defining and regulating transient merchants, itinerant merchants and itinerant vendors and providing penalties for the violation thereof; and

WHEREAS, said Ordinance 04-01 made it unlawful for any transient or itinerant merchant, or itinerant vendor to sell or deliver his or her goods within the town limits but provided exceptions for ice cream trucks, home hostess (e.g., Tupperware®) parties, and Board approved celebrations or functions; and

WHEREAS, Prince George's County has implemented a regulated Food Truck Hub Program administered by the County Department of Permits, Inspections and Enforcement ("DPIE") to increase access to food options, encourage economic development and community revitalization and promote innovative entrepreneurship; and

WHEREAS, rulemaking by the Maryland Department of Health and Mental Hygiene governs food service facilities as set forth in the Code of Maryland Regulations (COMAR Reg. 10.15.03 *et seq.*) and the Prince George's County Health Department inspects food trucks for compliance with said regulations; and

WHEREAS, a County Resolution (CR-73-2019) was passed on October 8, 2019 giving municipalities of the County the right to allow the operation of county-licensed food trucks within their respective jurisdictions without the need for a special resolution as mandated by Section 5-189.01 of the Prince George's County Code provided they agree to designate a coordinator and set locations for food truck vending and limit their food hub vendor fees to no more than \$75 per event; and

WHEREAS, pursuant to LG Art., § 5-202 of the Md. Ann. Code and § 82-16(1) of the Town

Charter, the Board of Commissioners shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Town Charter as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein; and

WHEREAS, Section 82-16(2)(p) (Departments) of the Town Charter authorizes the Board to enact ordinances to create, change, and abolish offices, departments, or agencies, other than offices, departments, and agencies established by this Charter; to assign additional functions or duties to offices, departments or agencies, established by this Charter, but not including the power to discontinue or assign to any other office, department, or agency, any function or duty assigned by the Charter to a particular office, department, or agency; and

WHEREAS, Section 82-16(2)(x) (Food) of the Town Charter authorizes the Board to pass ordinances to inspect and to require the condemnation of, if unwholesome, and to regulate the sale of any food products; and

WHEREAS, Section 82-16(2)(aa) (Garbage) of the Town Charter authorizes the Board to enact ordinances to prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal; and

WHEREAS, pursuant to § 82-16(2)(gg) of the Town Charter, the Board shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State and subject to any restrictions imposed by the public general laws of the State, the power to pass ordinances for the specific purpose of licensing and regulating all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of the Charter.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of The Town of Upper Marlboro sitting in regular session this _____ day of _____, 2020 the following:

THE TOWN OF UPPER MARLBORO

MOBILE FOOD TRUCK ORDINANCE

Sec. 1. – Intent and Scope.

- A. The intent of this Ordinance is to essentially compliment the Prince George's County Food Truck Hub Program, and supplement State and County regulations in order to further encourage mobile food vendors that operate locally to provide food service options in underserved areas, promote entrepreneurial activity, and increase vibrancy and culture within the Town of Upper Marlboro.

- B. An additional intent of this Ordinance is that it be read together with relevant law governing food service facilities and particularly Section 5-189.01 *et seq.* (Mobile Units—Food Truck Hubs) of the Prince George’s County Code, and that said sections are considered incorporated herein by reference. Nothing herein, however, is intended to prevent the operation of mobile food service facilities, whether clustered together or operating alone, or other vendors or merchants operating within the Town’s corporate limits provided said merchants and vendors comply with all applicable State and local laws and regulations.
- C. In addition to the limited exemptions and exceptions provided under Ordinance 04-01 regarding transient or itinerant merchants, and itinerant vendors, this Ordinance amends Ordinance 04-01 and further permits the operation of Special Food Service Facilities (Mobile Units) at a designated Food Truck Hub. A Special Food Service Facility—Mobile Unit may not operate at an unauthorized location outside of a Food Truck Hub within the Town.
- D. Prince George’s County may not designate a Food Truck Hub within the Town’s corporate limits without the consent and approval of the Town Board of Commissioners.

Sec. 2. – Definitions.

- (a) *County Food Truck Hub Oversight Committee* means a committee of the County government having county-wide jurisdiction and established to provide continuing oversight and support of the County Food Truck Hub Program. County law establishes the number of Food Truck Hubs allowed in the County, and this Committee recommends additional Food Truck Hubs to be specially designated by resolution of the County Council in addition to those already designated by county ordinance at certain parks and recreational facilities under the jurisdiction of the Park and Planning Commission or areas within close proximity to Metro and MARC stations. Municipal governing bodies may also designate Food Truck Hubs within their respective corporate limits without the need for a special County resolution.
- (b) *Depot* means a food service facility permitted by the County Health Department or other regulatory agency which provides services to mobile special food service facilities on a routine basis such as food, food preparation or storage, utensil wash facilities, potable water, or waste disposal facilities. A mobile unit is relocated following each day’s operation to an approved depot or other location acceptable to the approving authority pursuant to COMAR Regulations (Reg. 10.15.03 *et seq.*) and Section 12-103 *et seq.* of the County Code.
- (c) *Food Truck Hub*, as further defined in Section 5-189.01(a) of the County Code, means an outdoor area with an approved application certified by the County in which two or more mobile units may cluster in order to primarily sell freshly prepared foods or fresh fruits and vegetables. A Food Truck Hub shall only be located on an open area, parking lot or public right-of-way or other areas as designated by the Town Board of Commissioners and permitted by the property owner or entity having jurisdiction over the roadway.
- (d) *County Food Truck Hub License* means a County license issued on a yearly basis to a Food Hub Coordinator including the Town’s designated coordinator.

- (e) *Special Food Service Facility—Mobile Unit* means a licensed, motorized vehicle or mobile food unit or special food service facility that temporarily operates at a Food Truck Hub or other authorized location where food items are sold to the general public.
- (f) *Operate* means all activities associated with the conduct of business as a food truck vendor, including set up and take down and/or actual hours where the mobile food vending unit is open for business.
- (g) *Prince George's County Health Department Permit* means a health permit issued annually to a Special Food Service Facility – Mobile Unit vendor after an inspection and normally carries a fee of \$300.
- (h) *Proof of Review* means a document issued by the Prince George's County Fire Department to a Special Food Service Facility—Mobile Unit License applicant after an inspection and normally carries a fee of \$35.
- (i) *Town Food Truck Hub Coordinator* means the designated Town employee, official or volunteer who serves as a contact responsible for the operation and proper lawful functioning of food truck vending in Town, which includes but is not limited to litter, noise and disturbance control. The Coordinator is subject to a County citation that carries a fine for failure to ensure the proper operation of a Food Truck Hub.
- (j) *Town Food Truck Hub Vendor License* means a license issued by the Town to a County-licensed Special Food Service Facility—Mobile Unit to temporarily sell food items to the general public at a designated Food Truck Hub located within the Town.

Sec. 3. – Town License required.

No mobile food unit vendor shall engage in vending within the Town's corporate limits without a license issued from the Town Clerk authorizing such vending. The Town Clerk shall prescribe the form of such licenses and applications for such licenses. All such Town licenses shall be prominently displayed on the mobile food vending unit's front window along with the Prince George's County Health Department Permit and any required County Food Truck Hub License. No vending through a mobile food vending unit of food and/or other human consumables shall be licensed unless the mobile food vending unit has been properly licensed and permitted by the County Health Department and, if applicable, the County Department of Permitting, Inspections, and Enforcement. Prior to obtaining a Town License, a Town Food Truck Hub Vendor or any other special food facility or mobile vendors applicants must prove that the subject mobile unit is properly permitted and licensed through Prince George's County.

Sec. 4. – Duration; non-transferability.

Annual, event or daily licenses may be issued by the Town Clerk expiring at the end of each calendar year, event or day permitted. Licenses associated with a community event may also be issued. Such licenses may not be transferred to a new proprietor or business successor in interest or assignee. If for any reason, a County Food Truck Hub License is suspended, rescinded or lapses, any concurrent Town Food Truck Hub Vendor License shall likewise be considered suspended, lapsed or terminated. A

renewal of a County Food Truck Hub License shall not require the immediate renewal of a Town Food Truck Hub Vendor License provided there is time remaining on the Town license and the County renewal was obtained within thirty (30) days of its expiration.

Sec. 5 - Application.

Every vendor desiring to engage in mobile Food Truck Hub vending shall make a written application to the Town Clerk for a license under this Ordinance. The applicant shall truthfully state, in full, all information requested by the Town Clerk and be accompanied by a fee set forth in Section 6 of this Ordinance, or as established by resolution of the Town Board of Commissioners. Additionally, the applicant shall provide all required documentation, such as proof of insurance and proof of County licensure, as required by this Ordinance.

Sec. 6 - Fees.

An application for a Town Food Truck Hub Vendor License shall be accompanied by a fee in the amount established by this Ordinance or modified by separate ordinance or resolution of the Board of Town Commissioners. The fee may not exceed \$75.00 per event for each vendor, and unless modified by another ordinance or resolution the fee for a Town Food Truck Hub Vendor License shall be said amount. A fee schedule established by resolution or ordinance may provide for the payment of (i) an annual license fee, and (ii) a separate recurring fee for each separate Food Truck Hub operating day or event, or (iii) both annual and event or daily fees, provided any fee charged does not exceed \$75.00 per event for each vendor. There shall be no proration of fees. Fees are non-refundable once a license has been issued by the Town Clerk. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Ordinance.

Sec. 7 - Requirements.

Any vendor engaging in mobile food vending at a designated Food Truck Hub shall comply with the following requirements:

- (1) Obtain a fire inspection of the food truck and obtain a County Fire Department approval as required by County law;
- (2) Obtain a County Mobile Food Service Facility Permit from the County Department of Permits, Inspections and Enforcement ("DPIE") including a Prince George's County Health Department health inspection approval as required by County law;
- (3) Contact the Town Food Truck Coordinator to arrange vending opportunities in the Town.
- (4) Obtain a County Special Food Service Facility—Mobile Unit License from DPIE to vend at an approved Food Truck Hub as required by County law;
- (5) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis;
- (6) Mobile food vending units may park on Town or public property, along a roadway, or in a metered parking space with the prior permission and authorization of the Town provided the area is duly designated as a Food Truck Hub;
- (7) No vendor may operate on public property within 300 feet of a Town-authorized street fair, public festival, farmers market or event being conducted without authorization from the event

- sponsor and provided the area is duly designated as a Food Truck Hub;
- (8) No vendor may use flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward;
 - (9) No vendor shall use loud music, amplification devices or "crying out" or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the Town.
 - (10) Comply with all applicable federal, state, county and Town ordinances and regulations;
 - (11) May have one portable sign that is six square feet, with no dimension greater than three feet and no height (with legs) greater than four feet, located within three feet of the unit; and under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle safety;
 - (12) The hours, dates, and location of mobile food vending opportunities shall be set by the Town at least one week in advance to allow for a pre-designated number of mobile food units to sign up;
 - (13) No mobile food vending unit may be left unattended for more than two hours; and any mobile food vending unit not in operation shall be removed between the hours of 11:00 p.m. and 7:00 a.m;
 - (14) Mobile food vending units shall not utilize any electric or power without the prior written authorization of the power customer, and no power cable or similar device shall be extended across any Town street, alley or sidewalk;
 - (15) Mobile units may not park overnight within a designated Food Truck Hub;
 - (16) A food truck vendor must notify and obtain authorization from the Town of its intent to vend on private property within the Town limits and at a designated Food Truck Hub at least one week prior to the vending date; and
 - (17) Provide a release and waiver of liability form for participation in the Town's Food Truck Program, as deemed appropriate by the Town.

Sec. 8. – Duties and Responsibilities of the Town Coordinator.

The duties and responsibilities of the Town Food Truck Hub Coordinator shall be vested in the duly appointed Town of Upper Marlboro Code Enforcement Officer as a collateral duty, or some other designee named by written resolution. The Food Truck Hub Coordinator may be appointed and removed by the President, in accordance with rules and regulations in any merit system which may be adopted by the Board. The Coordinator's duties and responsibilities shall include the administration and enforcement of this Ordinance and those enumerated in Section 5-189.04 of the County Code as well as any other duties as may be prescribed by the President/Mayor. The Town's Coordinator, on behalf of the Town, shall obtain any required licenses and any available fee waivers from the County or any necessary private property owners for the successful permitting and operation of the Town's Food Truck Hub Program or related food vending assemblies.

Sec. 9. - Impoundment.

Any equipment associated with food vending that is not in compliance with this Ordinance and left on public property may be impounded at the owner's expense.

Sec. 10 - Other licenses or Inspections.

A license obtained under this Ordinance shall not relieve any vendor of the responsibility for obtaining any other license, inspection certificate, permit or authorization required by any other ordinance, statute

or administrative rule. A person possessing a valid Town Food Truck Hub Vendor License shall not be required to obtain a Town business license, or any other Town issued vendor license.

Sec. 11. - Revocation.

The Town Clerk shall revoke the license of any vendor engaged in mobile food vending who ceases to meet any requirement of this Ordinance or violates any other federal, state, county or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare. Immediately upon such revocation, the Town clerk shall provide written notice to the license holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the license shall become null and void.

Sec. 12. - Complaints; appeals.

If a written complaint is filed with the Town Clerk alleging that a food vendor has violated the provisions of this Ordinance, the Town Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the Town Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a license is denied or revoked by the Town Clerk, or if a written complaint is certified pursuant to this Ordinance, the applicant or holder of a license may appeal to and have a hearing before the Board of Town Commissioners. The Board of Town Commissioners shall make a written determination, after presentation by the applicant and investigation by the Town Clerk, as to whether or not the grounds for denial, revocation or complaint are legitimate. If the Board of Town Commissioners determines that such grounds are supported by a preponderance of the evidence, the action of Town Clerk or filing of the complaint shall be sustained and the applicant may file a petition for judicial review of the Board of Town Commissioners' decision to the Circuit Court for Prince George's County.

Sec. 13 - Violation and penalty.

A violation of this Ordinance is declared to be a municipal civil infraction and is subject to a \$500 fine for the first violation, and a fine of \$1,000 for each subsequent municipal infraction citation.

AND BE IT FURTHER ENACTED AND ORDAINED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

AND BE IT FURTHER ENACTED AND ORDAINED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance 2020-01 shall change and amend Ordinance 04-01, which previously amended Ordinance 86-1.

AND BE IT FURTHER ENACTED AND ORDAINED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance 2020-01 shall further change and amend Ordinance 04-01 by rescinding Section 1-5 thereof, as the penalty clause and replacing it with Section 13 of this Ordinance thereby making a violation of this ordinance regulating mobile food vending and any previous ordinances regulating transient merchants, itinerant merchants and itinerant vendors to be a municipal (civil) infraction instead of a criminal misdemeanor.

AND BE IT FURTHER ENACTED AND ORDAINED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

AND BE IT FURTHER ENACTED AND ORDAINED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall be posted in the Town Hall office, and it or a fair summary thereof, shall be published once in a newspaper of general circulation in the Town.

Adopted this _____ day of _____, 2020.

Attest:

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Linda Pennoyer, President

Kain Bernal-LeClaire, Commissioner

M. David Williams, Town Clerk

Wanda Leonard, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

**BOARD OF COMMISSIONERS
FOR THE
TOWN OF UPPER MARLBORO**

ORDINANCE: 2020-02 **DRAFT # 1**
SESSION: Regular Town Meeting
INTRODUCED: Tuesday February 11, 2020
DATE ENACTED:

**AN ORDINANCE RELATING TO ADOPTING AND APPROVING BUDGET
AMENDMENTS FOR THE FISCAL YEAR 2020 BUDGET**

WHEREAS, the Town of Upper Marlboro (the “Town”) is a municipal corporation of the State of Maryland expressly authorized by Maryland Code Annotated, Local Government (“LG”) Art., § 5-205(b)(1) to expend any municipal funds for any purpose deemed to be public and to affect the safety, health and general welfare of the municipality and its occupants; and

WHEREAS, pursuant to Md. Code Ann., LG Article, Section 5-205(b)(4), a municipality may spend money for a purpose different from the purpose for which the money was appropriated or spend money not appropriated at the time of the annual levy if approved by a two-thirds vote of all the individuals elected to the legislative body; and

WHEREAS, the Charter of the Town of Upper Marlboro (the “Town Charter”), Section 82-41 prescribes that the budget shall be adopted in the form of an ordinance, and that a favorable vote of at least a majority of the total elected membership of the Board shall be necessary for adoption; and

WHEREAS, the Town Charter, Section 82-11 mandates that except in cases of emergency, no ordinance shall be passed at the same meeting at which it is introduced and that at any regular or special meeting of the Board held not less than six nor more than sixty days after the meeting at which the ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date; and

WHEREAS, said Section 82-11 further mandates that each ordinance shall be posted in the Town office, and each ordinance or a fair summary thereof, shall be published at least once, in a newspaper of general circulation in the Town; and

WHEREAS, the Town Charter, Section 82-42 prescribes that no public money may be expended without having been appropriated by the Board, and that from the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein; and

WHEREAS, the Town Charter, Section 82-43 prescribes that any transfer of funds between

major appropriations for different purposes by the President must be approved by the Board before becoming effective; and

WHEREAS, the Town Charter, Section 82-44 proscribes any expenditures or contracts to expend money or to incur any monetary liability in excess of the amounts appropriated for or transferred to a particular general classification of expenditure in the budget, and

WHEREAS, the Board of Town Commissioners has previously approved Ordinance No. 2019-04 on May 14, 2019, which in Section 4 thereof states that all budget amendments transferring monies between general classifications of expenditures or appropriations as reflected in the budget ordinance shall be submitted to the Board for approval, from time to time, by ordinance pursuant to Md. Code Ann., Art. 23A, §2(b), now codified as Md. Code Ann., LG Article, Section 5-205(b)(4); and

WHEREAS, the Board of Town Commissioners finds that it is necessary to amend Ordinance No. 2019-04 by allocating and appropriating funds for the following reason: To adjust revenue line items with more accurate estimates, and enhancing or decreasing allocations between departments of expenditure line items, due to the elimination of certain staff positions; and

WHEREAS, the Board of Town Commissioners finds that it is necessary to amend Ordinance No. 2019-04 by reallocating Town funds and to limit expenditures in several Town Departments.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT AS FOLLOWS:

Section 1. The Fiscal Year 2020 Budget Ordinance 2019-04, as restated in the center column below, and as divided into the following indicated major anticipated revenue funds or having the estimated amounts at the time of the tax levy as indicated herein below, is hereby amended and readopted as indicated in the far-right column below as follows:

<u>REVENUE SOURCE</u>	<u>ADOPTED FY 20 BUDGET AMOUNT</u>	<u>AMENDED FY20 BUDGET AMOUNT</u>
Taxes	\$813,209	\$848,209
Intergovernmental	\$41,315	\$41,315
Fines, License and Permits	\$567,935	\$339,935
Other	\$32,450	\$19,950
Grants	\$750,829	\$550,829
From Designated Funds	\$346,982	\$321,482
Total Revenues:	\$2,552,720	\$2,121,720

Section 2. The total of the anticipated revenues and any estimated fund balance available for expenditure during the fiscal year within each of the aforesaid categories of the FY 2020 Budget Ordinance 2019-04, as amended by this FY 2020 Amendatory Budget Ordinance 2020-02 shall equal or exceed the total of the proposed expenditures within the following general classification of expenditure

or major appropriations having the amounts as indicated herein below, is hereby amended and readopted as indicated in the far-right column below as follows:

<u>EXPENDITURES</u>	<u>FY19 ADOPTED BUDGET AMOUNT</u>	<u>FY 19 AMENDED BUDGET AMOUNT</u>
General Government	\$1,624,167	\$1,186,517
Public Safety	\$524,882	\$556,122
Highways and Streets	\$403,671	\$379,081
Total Expenditures:	\$2,552,720	\$2,121,720

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that except for the revenue and expenditure amounts provided hereinabove in Sections 1 and 2 as amendments, the remaining provisions of the FY 2020 Budget Ordinance 2019-04 shall remain in full force and effect as if written word for word within this Ordinance and readopted herein.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that the tax levy for Fiscal Year 2020 for the Town of Upper Marlboro and all other taxes, liens and/or fees prescribed therein shall remain as previously approved and adopted in the FY 2020 Budget Ordinance 2019-04.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that pursuant to the Town Charter this Emergency Ordinance shall be posted in the Town office and this FY 2020 Amendatory Budget Ordinance 2020-02 or a fair summary thereof, shall be published once in a newspaper of general circulation in the Town.

AYES: ____

NAYES: ____

ABSENT: ____

INTRODUCED in a public session of the Board of Commissioners on this ____ day of _____, 20____:

Town Clerk

ORDAINED, APPROVED AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this ____ day of _____, 20____, by:

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

M. David Williams, Town Clerk

Linda Pennoyer, President

Kai Bernal-LeClaire, Commissioner

Wanda M. Leonard, Commissioner

Reviewed and Approved for Legal Sufficiency

Kevin J. Best, Esq.

Date: _____

TOWN OF UPPER MARLBORO
FY2020 MID-YEAR BUDGET ADJUSTMENTS (Draft 1)

Income

Revenue	ORIGINAL	AMENDED
6154 Franchise Fee	25,000.00	16,000.00
6280 Trader's License Fees	1,200.00	1,200.00
6350 Permits/Rentals	41,000.00	17,500.00
6355 Parking Meters	439,235.00	291,235.00
6381 Parking Fines/Penalties	50,000.00	10,000.00
6550 Pub/Edu/Govt Broadcasting	11,500.00	4,000.00
6530.01 FIP	59,510.00	59,510.00
6530.02 MNCPPC=Grant	40,140.00	40,140.00
6530.03 Assigned Fund Municipal Capital	30,000.00	30,000.00
6530.04 Conservation Energy Grant	25,000.00	25,000.00
6530.05 State Police Aid	19,179.00	19,179.00
6530.06 State Bond Bill	175,000.00	175,000.00
6530.07 Police Body Armor	2,000.00	2,000.00
6530.08 Park Conservation Grant	200,000.00	-
6530.09 Community Open Space Grant	200,000.00	200,000.00
6240 Financial Corporation Tax	9,145.00	9,145.00
6260 Highway User Fee	30,094.00	30,094.00
6310 Disposal Fee Rebate	2,076.00	2,076.00
6390 Interest Earnings	15,000.00	5,000.00
6392 Sale of Property	2,500.00	1,000.00
6394 Miscellaneous Revenue	8,950.00	7,950.00
6396 Special Events/Donations	6,000.00	6,000.00
6100 Real Estate Taxes	298,239.00	303,239.00
6101 Personal Property Taxes	335,475.00	365,475.00
6230 Income Taxes	179,495.00	179,495.00
Total Revenue	2,205,738.00	1,800,238.00
9000 Capital Outlay Balance	346,982.00	321,482.00
Total Capital Outlay	346,982.00	321,482.00
Total Income	2,552,720.00	2,121,720.00

Expenses

General Government

8030 Salaries - Commissioners	3,600.00	3,600.00
8035 Salaries	419,153.00	325,403.00
8073 Accounting	9,500.00	27,750.00

8074 Audit	16,000.00	2,750.00
8075 Payroll Processing	5,200.00	5,700.00
8077 Public Notices	3,100.00	3,850.00
8080 Bank Charges	11,000.00	32,250.00
8083 Official Use	15,000.00	2,500.00
8086 Staff Development & Training	12,000.00	12,000.00
8090 Postage	3,000.00	2,000.00
8092 Printing	10,000.00	7,000.00
8095 Community Events & Recreations	18,000.00	18,000.00
8110 Legal	30,000.00	30,000.00
8115 Computer Software & Support	7,500.00	7,500.00
8120 Insurance	4,000.00	14,000.00
8130 Supplies	4,000.00	6,300.00
8131 Ofc Equipment R&M	3,000.00	1,300.00
8160 Telephone	7,000.00	9,000.00
8165 Utilities	8,500.00	8,500.00
8175 Bldg Maintenance - Town Hall	7,000.00	7,000.00
8180 Grants & Awards (FIP)	459,510.00	259,510.00
8185 Historical Committee	1,500.00	1,500.00
8191 CERT	1,500.00	1,500.00
8200 Other	2,500.00	7,000.00
8205 Consulting Fees	45,000.00	45,000.00
8210 Payroll Tax Expenses	109,604.00	152,604.00
8230 Capital Outlay - Assigned Municipal Capital Fund	288,000.00	148,000.00
8231 Contingency Fund	120,000.00	45,000.00
Total 8000 General Government	1,624,167.00	1,186,517.00

Public Safety

8260 Salaries	331,000.00	329,000.00
8261 Overtime	5,000.00	5,000.00
8273 Uniforms	9,000.00	7,000.00
8274 Weapons & Duty Equipment	5,000.00	24,179.00
8275 Staff Training	2,000.00	1,261.00
8277 Substance Testing/Pre Employment	2,000.00	1,000.00
8280 Supplies	2,500.00	7,500.00
8281 Association Dues	1,000.00	800.00
8282 PS Insurance	17,641.00	17,641.00
8290 Payroll Tax Expenses	57,741.00	74,741.00
8300 Vehicle Repairs	6,000.00	4,000.00
8301 Vehicle Maintenance	6,000.00	4,000.00
8302 Vehicle Fuel	6,000.00	6,000.00
8320 Other	2,000.00	2,000.00
8330 Capital Outlay - Other		
8330.01 Capital Outlay - Technology	12,000.00	12,000.00
8330.02 Capital Outlay - Vehicles	60,000.00	60,000.00

Total 8330 Capital Outlay	72,000.00	72,000.00
Total 8250 Public Safety	524,882.00	556,122.00

Public Works

8360 Salaries	163,920.00	133,080.00
8361 Overtime	6,000.00	6,000.00
8370 Payroll Tax Expenses	56,381.00	69,381.00
8375 Uniforms	3,500.00	1,500.00
8377 Dues	750.00	500.00
8380 Other	1,500.00	1,500.00
8383 PW Insurance	8,000.00	8,000.00
8390 Streets Maintenance	5,000.00	4,500.00
8391 Weather Related Expenses	3,000.00	3,000.00
8400 Highway Lighting	26,000.00	26,000.00
8405 Vehicle Repairs	2,000.00	1,000.00
8410 Vehicle Maintenance	2,000.00	2,000.00
8415 Vehicle Fuel	6,000.00	6,000.00
8487 Substance Testing	200.00	200.00
8490 Utilities	1,000.00	1,000.00
8491 PWF-Maint/Repairs/Beautificatio	14,000.00	18,500.00
8493 Portajohn	1,200.00	1,200.00
8545 Sanitation	58,220.00	58,220.00
8550 Capital Outlay (Hwys & Streets)		
8550.01 Capital Outlay -Street&Sidewalk	5,000.00	5,000.00
8550.02 Capital Outlay - H&S Equipmnt	15,000.00	7,500.00
8550.03 Energy Conservation	25,000.00	25,000.00
Total 8550 Capital Outlay (Hwys & Streets)	45,000.00	37,500.00
Total 8350 Public Works	403,671.00	379,081.00

Total Expenses	2,552,720.00	2,121,720.00
Net Operating Income	-	-

AGREEMENT FOR GOODS AND SERVICES
FOR
TOWN OF UPPER MARLBORO COMMUNITY PLAYGROUND

THIS AGREEMENT is made this _____ day of _____, 2020, by and between: THE TOWN OF UPPER MARLBORO, MARYLAND, a municipal corporation organized and existing under the Constitution and laws of the State of Maryland (the "Town"); and SPARKS @ PLAY, LLC (the "Contractor"), a Maryland Limited Liability Company.

WHEREAS, the Town has obtained grant funding from the Maryland Department of Natural Resources to construct the Town's first public playground; and

WHEREAS, the playground is to be located at or near 5505 Old Crain Highway Upper Marlboro MD 20772, which lot was formerly a train depot and station for the Chesapeake Beach Railway; and

WHEREAS, the theme of this play structure is expected to reflect its former use, and work to incorporate custom elements from the Town and the railroad's history; and

WHEREAS, the proposed Playground and Recreation Area will be located on a Town-owned vacant lot adjacent to the Sasser Athletic Fields regularly used by the Marlboro Boys & Girls Club, and this playground will be built around the existing mature tree canopy to provide shade to the play structures and seating areas; and

WHEREAS, the Contractor, Sparks @ Play, LLC, a company in good standing with the State, has offered a proposal (Proposal Number: 003727-1, dated October 17, 2019) based on an updated master or concept plan including two phases consisting of a Train (Phase #1, 2-5 Years) and a Train Depot (Phase #2, 5-12 Years); and

WHEREAS, the parties desire to contract for such goods and services, to their mutual benefit.

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. Scope of Work. The Town Board of Commissioners has selected to initially pursue Phase #2 of Proposal Number: 003727-1 at this time which scope includes: (i) Site Work to Level Area, (ii) Poured-in-Place Surfacing and Stone Base, (iii) Installing Depot Playground Materials, (iv) Wood Borders, and (v) 4' Tall Fence and Gate. Contractor shall supply all labor, materials, and equipment necessary to complete the scope of work:

The Minimum Scope of Services for this project includes, but is not be limited to the following:

- Design and construct a Railroad/Train Depot themed play structure for ages 5-12,
- Obtain necessary permits from Prince George's County, and hire permit expediter as necessary,

- Contract professional engineering service for the project as needed,
- Attend one community meeting, and one meeting with the Board of Town Commissioners,
- Install themed play structure for ages 5-12 (including ordering and shipping of parts),
- Install rubberized playground surfacing to meet ASTM standards,
- Management of any sub-contractors,
- Install perimeter fence 48 inches in height, including one gate,
- Proposal shall include plans for a future expansion of the play area with equipment for ages 2-5,
- Installation of a playground welcome sign, and
- The Scope of Work and Unit Prices to be performed are as further stated in Proposal Number: 003727-1, dated October 17, 2019 as referenced above and incorporated herein by reference.

2. Time for Performance. Contractor shall complete its performance hereunder, on or before November 30th, 2020 or no more than 46 weeks after execution of this Agreement, whichever occurs later. The anticipated construction timeline includes 3 weeks for the site survey, 12 weeks for design revisions and review, 8 weeks for permit submissions and approvals, 12 weeks for material ordering and production, 8 weeks for installation, and 1 week for closeout.

3. Liquidated Damages. The Town and Contractor recognize that time is of the essence of this Agreement and that the Town will suffer financial loss if the Work is not completed by the deadline and ready for acceptance by the Town within the time specified in Paragraph 2. However liquidated damages will not be assessed against Contractor if the delay(s) in the commencement, completion, or milestone achievement was not caused solely by the negligent acts or omissions of the Contractor.

Further, the parties recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual losses or damages (including special, indirect, consequential, incidental and any other losses or damages) suffered by Town if complete acceptable Work is not completed on time. Accordingly, and instead of requiring proof of such losses or damages, the Town and Contractor agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay TOWN one hundred twenty-five dollars (\$125.00) for each day that expires after the time specified in Paragraph 2 for completion of acceptable Work.

4. Compensation. A 50% payment of \$112,500.00 is due upon signing of this Agreement with the balance to be paid upon Completion. The budget of the above scope of work is not to exceed \$225,000.00.

5. Workmanship. All work performed hereunder shall be completed in a good and workmanlike manner and to the satisfaction of the Town's Public Works Director. All materials applied or incorporated into the Work shall comply with the product specifications found in the Contractor's proposal, or if not specifically identified in the proposal, all materials shall be approved by the Town's Public Works Director prior to being so applied or incorporated.

6. Restoration of Work Areas and Pathways. Contractor shall restore all property affected by work performed hereunder to the same, or better, condition as when Contractor commenced work. The

Town of Upper Marlboro shall be responsible for any pathways or tree services required by this project.

7. Compliance with Laws & Tax Status. Contractor agrees that, at all times during the term of and while performing the terms of this Agreement, it will comply with all federal, state and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964. The Town of Upper Marlboro is a tax-exempt government organization. Upon request, the Town will furnish a tax-exempt certificate for Contractor's information.

8. Insurance. Contractor shall procure and maintain the following insurance, with policy limits as hereinafter set forth throughout the term of this agreement and any supplemental agreements to protect the Town from damages resulting from the errors, acts, or omissions of the Contractor, its agents, officers, employees, or subcontractors in the performance of services rendered under this agreement and for which it is legally liable:

- Comprehensive General Liability: \$1,000,000 Each Occurrence,
- \$1,000,000 Personal Injury,
- \$2,000,000 General Aggregate,
- \$2,000,000 Products - Completed/Operation Aggregate,
- Automobile Liability: \$1,000,000 Combined Single Limit,
- Workers Compensation: Workers' Compensation – Statutory,
- \$500,000 Each Accident,
- \$500,000 Disease-Policy Limit, and
- \$500,000 Disease-Each Employee

Prior to commencing any work under this agreement, Contractor shall provide the Town with satisfactory Certificates of Insurance with the Town named as an additional insured under General Liability and Automobile Liability. Contractor shall furnish the Town with copies of all insurance policies or certificates of insurance that relate to the insurance policies required to be maintained hereunder. In addition, insurance policies applicable hereto shall contain a provision that provides that the Town shall be given thirty (30) days' written notice by the insurance company before such policy is substantially changed or cancelled.

9. Bonds. Performance and Payment Bonds shall be furnished to the Town by Contractor, in an amount equal to 50% of the Contract Sum with a corporate surety acceptable to the Town as security for the faithful performance of the contract and payment of all persons performing labor and furnishing materials in connection with the Work covered by this Contract. Contractor shall provide the Town with certified copies of all required bonds prior to the issuance of a Notice to Proceed. An irrevocable assignment of savings account, certified check, or money order made payable to the Town of Upper Marlboro, Maryland may be accepted in lieu of said Performance Bond. As bonding was not a requirement during initial pricing of the project, all costs for required bonds will be addressed through a change order.

10. Term. This agreement shall be effective upon its execution by both parties.

11. Termination by Town. The parties agree that Town may terminate this agreement at any time upon written notice, in the event the Project associated with the Work is to be abandoned or indefinitely postponed; because of Contractor's inability to proceed with the work; because the services of Contractor are deemed unsatisfactory; or for the convenience of the Town; provided, that Contractor shall be paid the reasonable value of the services actually rendered pursuant to this agreement up to the time of termination, but in no case shall Town be liable for payment of any amount in excess of Contractor's actual costs or the compensation due under this contract, whichever is less.

12. Warranty. Contractor guarantees that its work will be free from defects in material and workmanship under normal use for two (2) years from the date of acceptance of the completed Work by Town. Contractor agrees to repair or replace, at no cost to owner, components of protective surfacing that fail or are deficient in materials or workmanship if the failure or deficiency occurs within two (2) years from the date of acceptance of the completed Work by the Town. With regard to repairs or replacement due to failure or deficiencies in materials or workmanship which occur more than two (2) years from the date of acceptance of the completed Work by the Town, Contractor agrees that (this section will be finalized with on a prorated basis based upon the details of the manufacturer's warranty).

13. This Agreement is in all respects subject to the laws of the State of Maryland and shall be construed and interpreted so as to ensure that the Town is at all times in compliance with such laws. The Town reserves the right to unilaterally modify or terminate this contract at any time if, in the opinion of its legal counsel, the contract is deemed to violate the terms of such laws. Additionally, this Agreement may also be modified by direction from a court of competent jurisdiction within the State of Maryland to remain in compliance with all applicable laws, rules, and regulations.

14. Indemnification. The Contractor will hold and save the Town of Upper Marlboro and its officers, agents, servants/employees, and officials harmless from liability of any nature or any kind connected with the work to be performed under this Agreement which arises out of any negligent or willful act or omission of any officer, owner, employee, agent, or individual working on behalf of Contractor in the performance of the Contract.

15. Assignment. Neither party hereto shall assign rights or delegate duties created pursuant to this agreement without the express written consent of the other.

16. Choice of Law and Venue. This agreement shall be construed in accordance with the laws of the State of Maryland and any action brought to enforce this Agreement shall be valid only if filed in the District Court of Maryland for Prince George's County, or the Circuit Court for Prince George's County, Maryland.

17. Binding Effect. This agreement shall be binding upon and inure to the benefit of the parties and their respective successors or assigns.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year as set forth herein below.

THE TOWN OF UPPER MARLBORO

SPARKS @ PLAY, LLC

By: _____
Signature

By: _____
Signature

Print Name, President, Board of Commissioners

Print Name/Title

Date

Date

Attachments:

1. Town's REQUEST FOR PROPOSALS (11/27/19 deadline) entitled "Town of Upper Marlboro Community Playground," and
2. Sparks @ Play, LLC's Proposal Number: 003727-1, dated October 17, 2019.