

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “Memorandum”) is made and entered into the date its execution is completed (the “Effective Date”), by and between **The City of Frostburg** (the “City”), a Maryland municipal corporation, and the **Board of County Commissioners of Allegany County, Maryland** (the “County”), a body politic of the State of Maryland.

RECITALS

WHEREAS, the Department of Housing and Community Development (the “Department”) and the County entered into a Department of Housing and Community Development Strategic Demolition Fund Program Grant Agreement (the “Agreement”), effective as of _____, a copy of which is attached hereto and incorporated by reference herein as **Exhibit 1**.

WHEREAS, the Agreement was issued pursuant to §4-508 of the Housing and Community Development Article (the "Act") and the regulations promulgated thereunder and set forth in COMAR 05.20.01 (the "Regulations"). The Act establishes the Strategic Demolition and Smart Growth Impact Fund (the “Fund”).

WHEREAS, the Fund was established to provide grants and loans to assist in predevelopment activities, including interior and exterior demolition, land assembly, architecture and engineering, and site development for revitalization projects in designated areas of the State of Maryland (the "State").

WHEREAS, subject to the terms of the Agreement, the Department approved a grant to the County for Two Hundred Fifty Thousand Dollars (\$250,000.00) to fund the Frostburg Main Street Structural Stabilization Grant Program (the “Program”).

WHEREAS, the purpose of the Program is to provide funding for the stabilization of buildings to complete structural and other critical repairs necessary to prevent further deterioration, remediate environmental hazards, and prepare properties for rehabilitation and reuse. The geographic area covered by the Program is the Sustainable Communities designated area on Main Street in Frostburg, Maryland. The buildings presently slated to receive Program funds are identified in Exhibit B of the Agreement.

WHEREAS, this MOU is for the purpose of setting forth the parties’ respective obligations for the administration of the Program.

WITNESSETH

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby expressly acknowledged, and intending to be legally bound hereby, the parties hereto, each with full legal capacity and authority, do hereby agree as follows:

1. **Recitals; Grant Agreement.** The Recitals set forth above are not merely prefatory. They are incorporated by reference herein and form a part of this Memorandum as though they were set forth again herein.

2. **Parties' Respective Obligations for Grant Administration.** The parties shall share responsibility for administering the Program.

2.1. **Pre-Application Review.** The City's Department of Community Development, with the assistance of FrostburgFirst, shall identify and evaluate projects that could be eligible for Program funds, and they shall assist prospective applicants at the conceptual stage.

2.2. **Applications.** The City shall create a form for application to participate in the Program. Completed applications shall be submitted to the City's Department of Community Development. The said Department shall submit copies of the applications to the Review Committee identified hereinafter and to the Mayor and City Council.

2.3. **Application Review & Approval.**

2.3.1. **Review Committee.** Applications shall be reviewed by a committee (the "Review Committee" or "Committee") consisting of three (3) stakeholders selected by the City and two (2) stakeholders selected by the County. The Review Committee shall submit written recommendations to the City's Mayor and City Council. The Review Committee shall consider the following criteria in making its recommendations:

- (i) The extent to which a proposal is likely to revitalize the neighborhood or the immediately surrounding area.
- (ii) Whether a proposal is expected to eliminate or remediate blight.
- (iii) Whether a proposal is likely to accelerate economic development and job production.
- (iv) Whether a proposal is likely to improve the economic viability of a building or buildings that have suffered from a lack of reinvestment.
- (v) The proposal's potential positive impact, including improvement in the quality of life, enhancement of public safety, and community aesthetics.

- (vi) The proposal's feasibility in terms of planning, design, and timeline. Projects that are ready to proceed and have clear, realistic timelines are preferred.
- (vii) The financial feasibility of the proposal, i.e., whether additional funding resources are required and whether they have been secured.
- (viii) The applicant's track record with similar projects and with other grant-funded projects.
- (ix) Whether the applicant or its known principals have been cited for violations of the City Code.
- (x) Whether the applicant or its known principals have convicted of or granted probation before judgment (i) as to any felonies, or (ii) or any crimes which are relevant to those individuals' moral turpitude, like theft, bad checks, breaking and entering, fraud, child abuse and sex offenses.
- (xi) Such other considerations as the Committee deems to be relevant to the approval of an application.

The written recommendations shall be made using a form to be created by the City's Department of Community Development.

2.3.2. Mayor and City Council Approval. The Mayor and City Council shall consider the said recommendations and vote on whether to approve or deny the application or applications at a public meeting. The City's Department of Community Development shall provide the Mayor and City Council with copies of the application(s) in advance of the public meeting. The City shall notify the County in writing as to whether a particular application has been approved or rejected. Rejected applications will not be processed further. For approved applications, the City shall provide the County with copies of the Review Committee's recommendations and, if the City's findings differ from those of the Review Committee, the City will provide the County with a written explanation as to how its findings differ from the Review Committee's recommendations. As to each application, the City's responsibilities for its administration and processing end upon the completion of the tasks set forth in this subsection.

2.3.3. County Review. Applications approved by the City shall be forwarded to the Allegany County Department of Economic and Community Development ("ACDECD") for processing and submission to the County Commissioners as action items.

2.3.4. Further County Review and Processing,

(a) The County Commissioners shall vote on the applications at a public meeting or meeting(s). Rejected applications shall not be processed further.

(b) The ACDECD shall create a form Subrecipient Grant Agreement (“SGA”). Upon the approval of an application, the ACDECD shall process the grant award and prepare an SGA for the successful applicant’s execution. The successful applicant must execute the SGA and return it to the ACDECD within three (3) weeks from the date the application is approved. The President of the County Commissioners shall then execute the SGA. SGAs that are not signed and returned to the ACDECD before the expiration of that deadline shall be automatically rejected.

(c) The ACDECD shall work with the County Department of Finance to create a payment profile for the successful applicant.

(d) The ACDECD shall be responsible for all other aspects of grant administration, including the payout of the grant award.

3. Term of Memorandum. This Memorandum shall take effect on the Effective Date, and it shall terminate on August 15, 2027, unless terminated earlier upon the consent of the parties. It shall also terminate upon the rescission of the Agreement. The County shall notify the City of the rescission of the Agreement as soon as is practicable after it learns of the rescission.

4. Default. This Memorandum may be enforced exclusively by means of an action for a writ of Mandamus or an action for its specific performance. The parties shall have no other remedies against one another.

5. Miscellaneous Provisions.

5.1. Invalidity. If any provision or part of any provision of this Memorandum shall be found for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other Sections or the remaining part of any effective Section of this Memorandum and this Memorandum shall be construed as if such invalid, illegal or unenforceable provision or part thereof had never been contained herein, but only to the extent of its invalidity, illegality or unenforceability.

5.2. Binding Effect. This Memorandum shall inure to the benefit of the parties hereto, and it shall be binding upon them and their respective successors and assigns.

5.3. No Third-Party Beneficiaries. Nothing expressed or referred to in this Memorandum will be construed to give any person other than the parties to this Memorandum any legal or equitable right, remedy, or claim under or concerning this Memorandum or any of

its provisions. This Memorandum and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Memorandum and their respective successors and assigns.

5.4. Captions. The captions and various sections and paragraphs of this Memorandum have been inserted only for the purposes of convenience. Such captions are not a part of this Memorandum and shall not be deemed in any manner to modify, explain, enlarge, or restrict any of the provisions of this Memorandum.

5.5. Construction of Memorandum. This Memorandum, having been executed in the State of Maryland, shall be construed, interpreted, and enforced under the laws of the State of Maryland.

5.6. Maryland Law Applies. This Memorandum shall be governed and construed according to the laws of the State of Maryland without regard to principles of conflict of laws. It shall be enforceable exclusively through an action commenced and maintained in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and both parties waive the right to claim that such a proceeding is commenced or maintained in an inconvenient forum or one that lacks proper venue.

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

5.8. 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 OR IN ANY WAY PERTAINING TO THIS MEMORANDUM. 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 MEMORANDUM.

5.9. Counterparts; Electronic Signatures. This Memorandum may be executed in two or more counterparts, each of which, when so executed, shall be deemed to be an original and all of which, when taken together, shall constitute the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Memorandum or any other certificate, agreement or document related to this Memorandum, shall include images of manually executed signatures transmitted by electronic format, but not by facsimile transmission (including, without limitation, “pdf” “tif” or “jpg”) and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act and any other applicable law.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed as of the day and year written above.

WITNESS/ATTEST:

THE CITY OF FROSTBURG

By:_____ (SEAL)
Todd Logsdon, Mayor

**BOARD OF COUNTY COMMISSIONERS OF
ALLEGANY COUNTY, MARYLAND**

By:_____ (SEAL)
David J. Caporale, President

EXHIBIT 1

**Department of Housing and Community Development Strategic
Demolition Fund Program Grant Agreement**