

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

EMERGENCY ORDINANCE: 2023-09

SESSION: Regular Town Meeting

INTRODUCED: July 25, 2023

ENACTED: July 25, 2023

AN EMERGENCY ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO AUTHORIZING THE PURCHASE OF 5510 OLD CRAIN HIGHWAY ALSO KNOWN AS PARCEL 197, TAX ACCOUNT NO. 03-0235184, APPROXIMATELY 26.03 ACRES IN AREA, LOCATED NEAR THE TOWN OF UPPER MARLBORO AND THE EXECUTION OF A CONTINGENCY LAND SALES CONTRACT CONVEYING SAID REAL PROPERTY TO THE TOWN; AND GENERALLY RELATING TO THE ACQUISITION OF REAL PROPERTY FOR A PUBLIC PURPOSE.

WHEREAS, Md. Ann. Code, LG Art., § 5-204 and § 82-81 of the Town Charter authorizes the Town to acquire real, personal, or mixed property within or without the corporate limits of the Town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, convey, or otherwise dispose of or encumber any property belonging to the Town, at public or private sale after 20 days public notice, and convey to the purchaser any real or leasehold property belonging to the municipality if the legislative body of the municipality determines that the property is no longer needed for public use; and

WHEREAS, the real estate that is the subject of this ordinance (the “Subject Property”) has an address of 5510 Old Crain Highway, Upper Marlboro, MD 20772, is owned by AIM Manassas School Building, LLC and the Subject Property is depicted on Map 0101, Grid E2, Parcel 197, Neighborhood 3010001.17; and

WHEREAS, the subject parcel is located between MD Route 4 and Old Crain Highway in Upper Marlboro, Prince George’s County, and the site is unimproved, irregular in shape, and is zoned RR or Residential, Rural; and

WHEREAS, the Board of Commissioners has retained the legal services of Byron L. Huffman, P.C. for representation in the matter of the acquisition of 5510 Old Crain Highway, Upper Marlboro, MD 20772; and

WHEREAS, the Town has allocated funds in the FY 2024 Budget which may be utilized to purchase the subject property and is seeking Program Open Space (POS) Funding from the Md. Department of Natural Resources; and

WHEREAS, an Unimproved Land Contract of Sale for the Subject Property dated 5/22/2023, attached hereto as Exhibit A, provides that the seller agrees to sell the subject property for \$516,000.00 subject to certain contingencies including obtaining State POS funding; and

WHEREAS, the Board of Town Commissioners finds it to be in the best interest of the Town to

ratify and approve the purchase of the subject property which is planned to be used for a public purpose such as a park or open space; 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 states that in cases of emergency, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by unanimous vote of the Board of Commissioners; and

WHEREAS, the Board of Town Commissioners further finds there is a need to expedite the adoption of this ordinance to ensure the acquisition of property, facilitate cooperation and agreement between the parties to the transaction and further promote the health, safety and welfare of the public.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, that said Board hereby authorizes and approves the purchase and acquisition of certain real property located 5510 Old Crain Highway, Upper Marlboro, MD 20772 near the Town of Upper Marlboro, Maryland as further described in the above recitals for a purchase price of \$516,000.00 (credited by \$9,000.00 as earnest money deposit) for the land and other transactional costs provided that settlement costs shall be paid by the Town as follows and as indicated on the ALTA Settlement Statement – Combined dated 7/13/2023, attached hereto and incorporated herein as Exhibit B: (i) \$5,764.75 in County taxes, (ii) Title Charges of \$3,518.00, (iii) Recordation and Transfer Charges (shared 50/50) of \$6,381.00, and (iv) Added Settlement Charges of \$275.

AND BE IT FURTHER ORDAINED AND ENACTED, that the Town Board of Commissioners further ratifies and authorizes the President to enter into a Purchase Agreement, or Unimproved Land Contract of Sale for the Subject Property with the seller, AIM MANASSAS SCHOOL BUILDING, LLC, of said property, attached hereto and incorporated herein as Exhibit A, and to execute any documents necessary to complete the sale and transfer of fee simple title in said property to the Town.

AND BE IT FURTHER ORDAINED AND ENACTED, that the Town Board of Commissioners further authorizes and approves the Mayor to sign on behalf of the Town any and all documents and legal instruments to carry out the purposes and intent of this ordinance.

AND BE IT FURTHER ORDAINED AND ENACTED, that the Town Board of Commissioners further authorizes and approves engaging the services of Assurance Title, LLC to serve as the settlement agent for the subject transaction.

AND BE IT FURTHER ORDAINED AND ENACTED, that the Town Board of Commissioners further authorizes and directs the Town Treasurer to pay the amounts set forth in the applicable agreements regarding said real estate transaction upon receipt of appropriate documentation, and the Town Treasurer under the supervision of the Mayor is further authorized to amend the FY 24 Budget, as necessary before the transaction, to delineate, authorize and appropriate said real estate purchase in the total line item amount of \$516,000.00 or the actual costs, whichever is less, which if not done so at the time of levy, is to be approved by the requisite majority or 2/3rds vote of the legislative

body pursuant to LG Article, Section 5-205(b) of the Annotated Code of Maryland.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that due to the exigent circumstances and important governmental interests as indicated in the above recitals and herein and in order to further promote the health, safety and welfare of the Town and the general public, the Charter provision requiring that an ordinance may not be passed at the meeting at which it is introduced is hereby suspended by unanimous vote of the Board of Commissioners, and that this Emergency Ordinance shall become effective immediately following approval by the Board of Commissioners.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland, that this ordinance shall become effective immediately upon 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 pursuant to the Town Charter this Ordinance shall be posted in the Town office and a fair summary of it shall be published once in a newspaper of general circulation in the Town after passage by the Board.

INTRODUCED and **ADOPTED** in a public session of the Board of Commissioners on this 25th day of July, 2023.

ORDAINED, APPROVED, AND finally passed by the Board of Commissioners of the Town of Upper Marlboro, Maryland on this 25th day of July, 2023, by:

Attest:

THE TOWN OF UPPER MARLBORO
BOARD OF COMMISSIONERS

John Hoatson, Town Clerk

Sarah Franklin, President

Date: _____

Charles Colbert, Commissioner

Thomas Hanchett, Commissioner

Karen Lott, Commissioner

Linda Pennoyer, Commissioner

Reviewed and Approved for Legal Sufficiency:

Kevin J. Best, Esq.

Date: _____

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Clerk of the Town of Upper Marlboro, Maryland, that on the 25th day of July 2023 with _____ Aye (unanimous) votes and _0___ Nay votes, the aforesaid Ordinance 2023-09 passed.

John Hoatson, Town Clerk