

ORDINANCE NO. 3806

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A CONTRACT OF SALE AND DEED FOR THE PURPOSE OF CONVEYING TO EDWARD M. COOK AND FRANCES L. COOK CERTAIN SURPLUS PROPERTY LOCATED AT 316 BALTIMORE AVENUE IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND."

WHEREAS, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property located at 316 Baltimore Avenue, in the City of Cumberland, Allegany County, Maryland;

WHEREAS, the said property was declared to be surplus property under the terms of Order No. 25,976 passed by the Mayor and City Council on May 17, 2016;

WHEREAS, Edward M. Cook and Frances L. Cook desire to purchase the said property for the sum of \$1,500.00, said offer being set forth in under the terms of a Contract of Sale attached hereto as Exhibit A; and

WHEREAS, the Mayor and City Council of Cumberland deem it to be in the interest of the City to enter into said Contract of Sale and grant the said conveyance.

NOW, THEREFORE

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that the Mayor be and he is hereby authorized to execute the Contract of Sale attached hereto as Exhibit A, agreeing to convey the real property located at 316 Baltimore Avenue, Cumberland, Maryland 21502 to Edward M. Cook and Frances L. Cook for the purchase price of \$1,500.00;

SECTION 2: AND BE IT FURTHER ORDAINED, that the Mayor and City Clerk be and they are hereby authorized to execute a deed effecting the conveyance of the aforesaid real property in accordance with the terms of the aforesaid Contract of Sale;

SECTION 3: AND BE IT FURTHER ORDAINED, that the City Solicitor be and he is hereby authorized to execute a HUD-1 or similar closing statement and such other documents as may be required or expedient for the purpose of facilitating and completing the closing for the sale of the property referenced herein in accordance with the terms of the aforesaid Contract of Sale and he is further authorized to deliver the deed executed by the Mayor and City Clerk to Edward M. Cook and Frances L. Cook at the said closing; and

SECTION 4: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this 5th day of July, 2016.



Brian K. Grim, Mayor

ATTEST:



Marjorie A. Woodring, City Clerk

1st reading: June 21, 2016
2nd reading: July 5, 2016
3rd reading: July 5, 2016
Passed 4-0

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made by and between **Mayor and City Council of Cumberland** ("Seller") and **Edward M. Cook and Frances L. Cook** ("Buyers") and is effective as of the date its execution is completed as shown in the signature provisions on the last page of this Contract.

1. **Property Description.** Seller does agree to sell to Buyers, and Buyers do agree to purchase from Seller, all of the following tract(s) or parcel(s) of land, together with the improvements thereon, if any, which are owned by Seller and are hereinafter referred to as the "Property": 316 Baltimore Ave, Cumberland, MD 21502, Allegany County Land Records Book 2168, Page 11, Tax Account No. 23-009633.

2. **Purchase Price.** The purchase price for the Property (the "Purchase Price") is One Thousand Five Hundred Dollars (\$1,500.00), which Purchase Price includes the real property and improvements described in Section 1 above.

3. **Payment Terms.** The Purchase Price shall be paid at settlement.

4. **Estate.** The Property is being conveyed in fee simple.

5. **Contingencies.** There are no contingencies for this Contract other than those expressly set forth herein.

6. **Representations & Warranties.** The Property is being sold in as-is condition, without any express or implied warranties or representations made as to its condition, the status of its title or otherwise, and subject to all defects, if any, known and unknown. **IF THE BUYERS WISH TO ASCERTAIN WHETHER TITLE TO THE PROPERTY IS GOOD AND MARKETABLE, THEY WILL NEED TO OBTAIN A TITLE SEARCH AT THEIR EXPENSE.**

7. **Risk of Loss.** The Property is to be held at the risk of Seller until legal title has passed or possession has been given to Buyers.

8. **Adjustments.** All general or special taxes, rents, ground rents, public, private or community water and/or sewer charges, including any deferred sewer and water tap fees, homeowners association charges and all other public, private or governmental charges or assessments, excluding liens which must be paid prior to deed recordation, which may exist, whether such have been levied or not, are to be adjusted and apportioned as of the date of settlement, and will be assumed and paid thereafter by Buyer.

It is understood that the Property is presently exempt from real estate taxes, but will become subject to such taxation upon the date of settlement. Buyers will need to pay the real estate taxes for the present tax year from the date of settlement through the end of the current tax year.

9. **Deed and Title.** Upon payment of the Purchase Price, a quitclaim deed for the Property containing a covenant of further assurances shall be executed by Seller at its expense, which shall convey the Property to Buyer. Title to the Property shall be good and merchantable, free of liens and encumbrances, except as specified herein and except use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property is located and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the Property.

10. **Agency.** Seller and Buyers agree that no real estate broker participated in the procurement or negotiation of this Contract.

11. **Settlement.** Settlement shall occur no later than thirty (30) days after Seller's passage of an Ordinance approving this Contract and the sale of the Property.

12. **Documentary Stamps, Recordation, Transfer Taxes.** All transfer and recordation taxes and fees payable in connection with the sale of the Property shall be paid by Buyers.

13. **Assignability.** This Contract may not be assigned without the written consent of Seller, which consent may be withheld for any reason or no reason at all. If Seller agrees in writing to an assignment of this Contract, the original Buyers shall remain obligated hereunder until settlement.

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

15. **Entire Agreement.** This Contract contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained.

16. **Maryland Law Applies.** This Contract 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 by means of an action commenced in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and Buyers and Seller waive the right to claim that such a proceeding is commence in an inconvenient forum or one that lacks proper venue.

17. **Breach of Contract and Default.** Buyers and Seller are required and agree to make full settlement in accordance with the terms of this Contract and acknowledge that failure to do so constitutes a breach hereof. In the event of a breach, each of the parties hereto is entitled to pursue such rights and remedies as may be available, in law or in equity, including, without limitation, an action for specific performance of this Contract and/or monetary damages. If either party defaults, the party committing the default, whether Buyers or Seller, shall reimburse and be liable to the non-defaulting party for the reasonable attorneys' fees and costs that party incurs as a result of the default.

18. **Binding Effect.** This Contract shall be binding upon the parties hereto and each of their respective heirs, personal representatives, administrators, executors, successors, assigns, and guardians.

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

20. **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 CONTRACT. 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 CONTRACT.

21. **Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Confirmation of execution by electronic transmission of a facsimile signature page shall be binding upon any party so confirming.

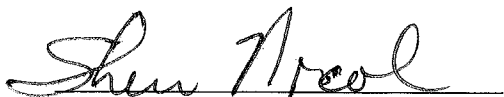
IN WITNESS WHEREOF, the parties hereto have affixed their signatures hereto as of the date written beneath those signatures.


WITNESS:

MAYOR AND CITY COUNCIL OF
CUMBERLAND


By: _____
Brian K. Grim

Date





Edward M. Cook




Date





Frances L. Cook



Date