

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
JOHN L. RIELEY, VICE PRESIDENT
CYNTHIA C. GREEN
DOUGLAS B. HUDSON
MARK G. SCHAEFFER



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

AGENDA

June 25, 2024

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - June 18, 2024

[Draft Minutes 061824](#)

Reading of Correspondence

Public Comments

Presentation – Blue Zone Project

Discussion and possible action related to an Appeal on the Sussex County Planning and Zoning Commission's decision to deny Subdivision Application No. S-2023-09 (Lorriane Brown Subdivision)

Todd Lawson, County Administrator

1. **Recognition of Retiree – Paula Marvel**
2. **Administrator's Report**



Hans Medlarz, County Engineer, Ret.

1. **Western Sussex Unified Sewer District: Contract 5, Project S19-29**

A. Substantial Completion

[S19-29 5A Substantial Completion](#)

2. **Artesian Wastewater Management, Inc.**

A. Memorandum of Understanding

[Artesian MOU](#)

John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Winding Creek Village Water District – Individual Water Meters**

[Winding Creek Village](#)

Robert Bryant, Airport Manager

1. **Discussion and Possible Action related to FFA Airport Improvement Program**

[Airport Improvement Program](#)

Old Business

1. **[Ordinance No. 24-02](#)**

“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53, 115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS”

[Ord. 24-02](#)

2. **[Ordinance No. 24-03](#)**

“AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21A, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45, 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT”

[Ord. 24-03](#)

Grant Requests

1. **Town of Delmar for their State Street park shade project**
[Town of Delmar](#)
2. **Town of Bridgeville for their Back to School Bash**
[Town of Bridgeville](#)
3. **Town of Greenwood for their Downtown Revitalization Plan/Town Square**
[Town of Greenwood](#)
4. **Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for their Wishes Transforming Lives program**
[Make-a-Wish Foundation](#)

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session - Land Acquisition & Pending & Potential Litigation pursuant to 29 Del.C.§10004(b)

Possible action on Executive Session Items

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on June 18, 2024 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 18, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 18, 2024, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 324 24
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the agenda as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of June 11, 2024, were approved by consent.

Correspondence

Mr. Moore reported that correspondence was received from Love Inc. thanking Council for their donation.

**Public
Comments**

Public comments were heard.

Mr. Donald Burdick spoke about the Inland Bay Wastewater Facility.

Ms. Diane Longo spoke about the condition of her water.

Mr. Tyrone Romano spoke about the Inland Bay Wastewater Facility.

Dr. Gerald Bell spoke about the Inland Bay Wastewater Facility.

**Adminis-
trator's
Report**

Mr. Lawson read the following information in his Administrator's Report:

1. Delaware State Police Activity Report

**Adminis-
trator's
Report
(continued)**

The Delaware State police year-to-date activity report for May 2024 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of May.

2. Holiday Schedule

County offices will be closed on Wednesday, June 19th, in observance of Juneteenth. Offices will reopen on Thursday, June 20th.

[Attachments to the Administrator's Report are not attachments to the minutes.]

Public Hearings were held on the FY 2025 budget.

**Public
Hearing/
Assessment
Rolls/Sewer
& Water
Districts**

A Public Hearing was held on the Assessment Rolls for Sewer and Water Districts. Mrs. Jennings reported that the Assessment Rolls reflect the County's records for equivalent dwelling units (EDUs) and billable front footage for each sewer and water district. These records have been made available in the billing office for public inspection and review. These records are subject to individual appeal via the Board of Assessment Review. Mrs. Jennings noted that this Public Hearing is on the list of properties and their applicable front footage and EDU's that will be billable by the rates established in the rate ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 325 24
Adopt
Assessment
Rolls**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council adopts the Assessment Rolls for the Sussex County Unified Sewer and Water Districts for the period July 1, 2024, through June 30, 2025.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Establish
Sewer &
Water Rates**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS".

Public Hearing/ Proposed Ordinance/ Establish Sewer & Water Rates (continued) Mrs. Jennings reviewed highlights of the sewer and water budget. (A comprehensive presentation was given at the May 21, 2024 Council meeting.)
Public comments were heard.
Ms. Diane Longo questioned if there would ever be water and sewer available for her development.

The Public Hearing and public record were closed.

M 326 24 Adopt Ordinance No. 3023 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3023 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

Public Hearing/ Proposed Ordinance Marriage Bureau Fees A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V, § 62-16 OF THE CODE OF SUSSEX COUNTY TO INCREASE THE FEES FOR RESIDENTS AND NON-RESIDENTS FOR OUT-OF-OFFICE MARRIAGE CEREMONIES AND RENEWAL OF MARRIAGE VOWS AND TO INSTITUTE FEES FOR MISCELLANEOUS SERVICES”.

Mrs. Jennings reviewed highlights of the Proposed Ordinance. (A comprehensive presentation was given at the May 21, 2024 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

M 327 24 Adopt Ordinance No. 3024 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3024 entitled “AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V, § 62-16 OF THE CODE OF SUSSEX COUNTY TO INCREASE THE FEES FOR RESIDENTS AND NON-RESIDENTS FOR OUT-OF-OFFICE MARRIAGE CEREMONIES AND RENEWAL OF MARRIAGE VOWS AND TO INSTITUTE FEES FOR MISCELLANEOUS SERVICES”.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Recorder of
Deeds Fees**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE VI., § 62-18A. OF THE CODE OF SUSSEX COUNTY TO MODIFY CURRENT FEES CHARGED BY THE RECORDER OF DEEDS AND TO ENUMERATE SUCH OTHER RECORDER OF DEEDS FEES ADOPTED IN THE BUDGET PROCESS AND SET FORTH IN THE DELAWARE CODE”.

Mrs. Jennings reviewed highlights of the Proposed Ordinance. (A comprehensive presentation was given at the May 21, 2024 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

**M 328 24
Adopt
Ordinance
No. 3025**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Ordinance No. 3025 entitled “AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE VI., § 62-18A. OF THE CODE OF SUSSEX COUNTY TO MODIFY CURRENT FEES CHARGED BY THE RECORDER OF DEEDS AND TO ENUMERATE SUCH OTHER RECORDER OF DEEDS FEES ADOPTED IN THE BUDGET PROCESS AND SET FORTH IN THE DELAWARE CODE”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
FY25
Budget**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2025”.

Mrs. Jennings reviewed highlights of the \$265.8 million annual operating budget for Fiscal Year 2025. (A comprehensive presentation was given at the May 21, 2024 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

**M 329 24
Adopt
Ordinance
No. 3026**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 3026 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2025”.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

FY 2025 Insurance Recommendations Andrea Wall, Accounting Manager, discussed the renewal of the County's insurance package for FY 2025. The County's broker, Alliant, recommended that the County not market its property and liability package; all other lines were marketed.

This recommendation also includes the non-renewal of the Pipeline Floater coverage for the Ocean Outfall, and instead to a decision to self-insure this risk. This recommendation to non-renew this coverage is based on multiple factors:

- Discussions with the County Engineer, Hans Medlarz citing low overall risk for damage to the pipe, and contingency plans in place in the event of damage.
- Lack of available insurance carriers. Only one carrier was willing to quote the coverage last year, and the price continued to increase significantly. The FY 24 premium was a 45% increase over FY 23.
- Other neighboring entities do not purchase commercial insurance for their Ocean Outfalls.

Although a cost increase is being presented, it reflects increases to our insured values, current market conditions and not the insurability of Sussex County.

Angela Tennis, the County's insurance consultant, was also in attendance.

M 330 24 Approve FY 2025 Insurance Recommendations A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, based upon the recommendation of Alliant Insurance Services, Inc. and Insurance Buyers Council, and the Sussex County Finance Department, that Sussex County Council authorizes the placement of insurance coverage, as presented, for the period of July 1, 2024 through June 30, 2025, at a cost not to exceed \$2,238,896.00.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Annual Comprehensive Land Plan Report Jamie Whitehouse, Planning & Zoning Director presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was completed by the County in 2018 and at the end of June each year, the staff prepares a report to the Governor's Advisory Council on Planning.

Mr. Whitehouse highlighted some new initiatives that were implemented in the last year that were included in the report for the time frame of July 1, 2023, through the end of June.

(The full report was included in the Council packet for this meeting.)

M 331 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that the**
Approve **Sussex County Council approves the submitted report to the Governor’s**
Annual **Advisory Council on Planning.**

Comprehen- **Motion Adopted: 5 Yeas**
sive Land
Plan Report

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Dissolution **John Ashman, Director of Utility Planning & Design Review presented a**
of **Resolution for the Dissolution of the Blackwater Village Area from the Sussex**
Blackwater **County Unified Sanitary Sewer District for Council’s consideration.**
Village

M 332 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt**
Adopt **Resolution No. R 011 24 entitled “A RESOLUTION FOR THE**
Resolution **DISSOLUTION OF THE BLACKWATER VILLAGE AREA OF THE**
No. R 011 24/ **SUSSEX COUNTY UNIFIED SANTIARY SEWER DISTRICT**
Blackwater **DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF**
Village **THE DELAWARE CODE”.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Waterside **Patrick Brown, Project Engineer III presented election results and a**
Chapter 96 **Resolution to authorize the project for Waterside, Chapter 96 Sussex**
Improvem- **Community Improvements for Council’s consideration.**
ents

M 333 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt**
Adopt **Resolution No. R 012 24 entitled “A RESOLUTION AUTHORIZING THE**
Resolution **SUSSEX COUNTY ENGINEER TO PERFORM IMPROVEMENTS, AND**
No. R 012 24/ **THE SUSSEX COUNTY ENGINEER AND FINANCE DIRECTOR TO**
Waterside **DETERMINE A UNIFORM ASSESSMENT RATE FOR BILLING, UPON**
SUBSTANTIAL COMPLETION OF THE IMPROVEMENTS FOR THE
WATERSIDE CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT
PROJECT”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Grant

Requests

Mrs. Jennings presented grant requests for Council's consideration.

**M 334 24
True Blue
Jazz, Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$10,000 (\$2,000 from Countywide Youth Grant Account, \$2,000 from Mr. Schaeffer's Councilmanic Grant Account, \$1,000 from Mr. Vincent's Councilmanic Grant Account, \$2,000 from Mr. Hudson's Councilmanic Grant Account, \$2,000 from Mr. Rieley's Councilmanic Grant Account and \$1,000 from Mrs. Green's Councilmanic Grant Account) to True Blue Jazz, Inc. for their 12th annual True Blue Jazz festival.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 335 24
Milton
Police
Department**

A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$1,700 (\$1,500 from Mrs. Green's Councilmanic Grant Account and \$200 from Mr. Rieley's Councilmanic Grant Account) to Milton Police Department for their National Night Out.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 336 24
AIDS
Delaware**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to AIDS Delaware for their AIDS Walk Delaware program.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 337 24
Village
Improve-**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to Village Improvement Association, Inc. for their history book of the VIA 1909-2024.

**ment
Association,
Inc.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Proposed
Ordinance
Introductions**

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE AND EXCAVATION BUSINESS TO BE LOCATED ON A CERTAIN PARCELOF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.86 ACRES, MORE OR LESS” filed on behalf of Jason Torlish.

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GENERAL CONTRACTOR AND CONSTRUCTION BUSINESS WITH AN OFFICE, SHOWROOM, AND STORAGE INCLUDING VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS” filed on behalf of Paulina Owedyk.

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (42 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.86 ACRES, MORE OR LESS” filed on behalf of Roxanna Apartments, LLC.

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.529 ACRES, MORE OR LESS” filed on behalf of Oscar H. Jr. & Thelma M. Warrington Trustees.

**CC Member
Comments**

There were no Council Member comments.

**M 338 24
Recess**

At 11:09 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess until 1:30 p.m.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 339 24 **At 1:30 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson**
Reconvene **to come out of recess for the appeal.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Appeal/
Lorriane
Brown
Subdivision** **The Council considered an Appeal on the Sussex County Planning & Zoning
Commission's decision to deny Subdivision Application No. 2023-09,
Lorriane Brown.**

**Mr. Moore read the guidelines and standards that the Council uses when
making any decision on appeals.**

**The Honorable Charles H. Toliver, IV, Retired Superior Court Judge
introduced himself.**

**Judge Toliver reported that this is the appeal of the decision of the Planning
& Zoning Commission decision for Application No. 2023-09, Lorriane
Brown. The appellant is Ms. Lorriane Brown, owner of the property who is
representing herself and the Sussex County Planning & Zoning Commission,
are the appellees represented by Mr. Robertson. The Sussex County Council
is being represented by Mr. Moore.**

**Judge Toliver reported that the hearing was scheduled in accordance with
the discussion during the prehearing conference held with the parties. He
added that both parties have submitted prehearing memorandums which are
part of the record.**

**Ms. Brown stated that she attended the first meeting on February 21, 2024
for her application. At that time, she did not realize that she could have
brought neighbors and other people to affirm the subdivision of her lot. She
was only told that she needed to be present for the hearing which is what she
did. To her surprise, she had three neighbors that spoke in opposition of her
application. At the end of the meeting, she asked if she needed to be in
attendance for the decision meeting. She was informed that there was nothing
that she needed to do, and she did not need to be present. Therefore, she kept
her medical appointment that was previously scheduled two months prior.
On March 20, 2024, the Planning & Zoning Commission decided on her
application. However, she was not present to defend her case; she is at a loss
as to why the subdivision of her property would cause such hardship to her
neighbors as long as she stays within her property lines. She added that she
is not sure how the road became such a big issue since her daughter and son-**

**Appeal/
Lorriane
Brown
Subdivision
(continued)**

in-law have been living with her since 2018. She plans to give them the lot to help them out and her husband prior to his passing wished to give her daughter the land. Ms. Brown stated that she is not sure what her daughter will do with the land; she may not do anything, or she may sell the land. She desires to keep it as a legacy for the family. Ms. Brown said that she does not see it as an increase of people using Victory Lane; the same number of people will continue to use the road. Ms. Brown stated that she is confused; setbacks were discussed, and it seems like the biggest issue is the road. She is looking to get her lot subdivided so that it can be put in the records and in her will. She would like her daughter to have her own like her son has his own. Ms. Brown stated that there is no impact to the road, the same number of people will be traveling on that road.

Judge Toliver stated when the prehearing meeting was held, there were a few things that Mr. Robertson wanted to put on the record regarding the transcript. Mr. Robertson replied that the transcript for the February 21, 2024, meeting did not include the discussion at the end of that meeting. It was his thought that he made that presentation during the conference, and it was decided it was noted but it was moving forward which he is fine with. In addition, in Ms. Brown's supplemental submission, there were things that were cited that were not in the record during the Planning & Zoning Commission hearing. He requested that the information that was submitted in writing or today that is outside of what was presented during the Planning & Zoning Commission meeting not be considered. Judge Toliver also discussed the point that Mr. Robertson brought up about the transcript not being certified. Mr. Robertson replied that the transcript was incomplete and was not certified. He noted that it was hard to tell who was speaking on the transcript. Judge Toliver stated that the transcript must be certified by a court reporter, it was decided to proceed with the hearing.

Vince Robertson representing the Sussex County Planning & Zoning Commission came forward to present. Mr. Robertson stated that Ms. Brown stated she was not present to defend herself during the vote, at that point the record has been closed. Therefore, Ms. Brown would not have been able to defend herself any more than the opposition or anyone from the public being able to speak. Mr. Robertson stated that it sounds like Ms. Brown was led to believe that the standards are waived or loosen or that a sufficient record was not necessary. Ms. Brown had a surveyor that should have discussed the process with her as they know the process for subdivisions. Mr. Robertson stated that this is a subdivision like any other. He added that it was stated during the hearing that this lot and Ms. Brown's lot can be sold to someone else. The Commission has to look it at as a lot and be sure that everything is followed correctly. If the Commission's decision was based on the record or lack of a record, then it must affirm the Commission's decision. Mr. Robertson stated that it largely comes down to Victory Lane which is about 250 feet from Shawney Road to this proposed new lot. The issue is that there is nothing in the record to confirm who owns the road. Ms. Brown stated that no one owns it, there was no easement document provided that states the

**Appeal/
Lorriane
Brown
Subdivision
(continued)**

rights of the other 11 properties who have access to the road. There was no documentation in the record that state who maintains the road. In the record, Ms. Brown stated that the person that used to maintain the road passed away. In addition, there was no indication how a new lot owner would join in any maintenance obligation if any existed. Ms. Brown is able to use the road but there was no other documentation of any easement rights. There are standards in our subdivision code that address subdivisions. The big one that everyone discusses is 99C which were also not addressed. Mr. Robertson stated that 99C-11 discusses the provision of safe, vehicular movement to adjacent ways. In addition, 99-17 & 18 regarding road access and street layout apply to every subdivision. Also, 99-9C 13 & 16 discuss the effects on farmland which there was testimony in the record and 16 deals with the capability with area land uses. The Commission was sympathetic to Ms. Brown's situation, but they do not have the jurisdiction over the 11 or so other properties that use Victory Lane. The Commission cannot determine ownership of that road and cannot impose maintenance obligation upon other people or have the jurisdiction to bind other people with conditions of the subdivision when they were not a part of the application. In addition, the Commission cannot ignore Code requirements or the need of a record to support subdivisions. In this case, there were too many off site issues with no documentation to support. The property is next to a farm that is actively being farmed which was discussed during the hearing. This creates under 99-6 G2, the agricultural use setbacks which is 50-feet from any structure. In addition, there is also the perimeter buffer requirements. Neither one of these was shown on the survey. There was a request for the waiver of the perimeter buffer that came in to PZ staff. But given the opposition that was received, it would have been hard to waive given the fact that there was a farm next door. During the hearing, one of the neighbors stated that Victory Lane is not defined on the ground, so it is unclear where it is located, and it has been improperly expanded. With the creation of an additional lot, it would create more issues. In addition, there was testimony that Victory Lane currently has erosion and runoff issues that impact adjacent properties. There was also testimony that Victory Lane is unable to handle the current traffic including the farm traffic that exists. In addition, there was more testimony about nobody maintaining the lane. There was a concern about if the lot was unbuildable due to the vegetative buffer and the ag setbacks and the front and rear yard setbacks. Based on the testimony, there was not a record in support of the application, there were too many unanswered questions and the opposition, the Commission had no choice but to deny the application. For all of the reasons, the Commission's decision to deny should be affirmed. Mr. Robertson added that all of the neighbors need to sort out Victory Lane rights and obligations.

Ms. Brown stated that she reviewed 99-9C and she did not see how her doing a subdivision of her lot impacted or was not in line. She added that the lot is big enough to have the setbacks and easement. The person that was doing her survey work retired before all of this took place and she believed that they sent the wrong document to the County. She added that she looked into a

**Appeal/
Lorriane
Brown
Subdivision
(continued)**

buffer what one was and how she could get one on her lot. She is not sure how 99-9C affects this small lot because the lot is pretty big. As far as the easement, she is not sure what happened, but she can get back to the surveyor to get that added to the final drawing. With the lane, she is willing to help out and pitch in any way that she can. She added that the same number of people will be traveling the lane. She requested that matter be remanded back to the Planning & Zoning Commission. Ms. Brown explained that there are several people that state that they own the road. She added that if her application is not strong enough, she would like to have it remanded back to the Planning & Zoning Commission. Ms. Brown discussed the 50-foot buffer which can create weeds and vegetation that she does not wish to have on her property. Mr. Robertson stated that it was an agricultural setback that he discussed, and it does not have to be vegetation. However, there does have to be a 30-foot vegetative buffer which existing vegetation can be used for all four sides.

Mr. Schaeffer questioned if the applicant could reapply at the proper time and bring it back to the Planning & Zoning Commission. Judge Toliver stated that Mr. Moore could discuss that option during the Council's deliberations. Mr. Schaeffer stated that he wanted the applicant to understand her options.

Judge Toliver stated that Mr. Robertson has repeatedly made the argument that the record is insufficient for this subdivision. The law requires that certain things be met and explained.

Mr. Rieley questioned if the County map indicated who owned the land. Judge Toliver replied that the owner of the land is not in question; the road or if there is an easement or how that is titled is probably what is being asked. Mr. Rieley replied that adverse possession has been discussed and he wondered how long the applicant has used that lane. Judge Toliver stated that it gets to be complicated as a matter of fact because there are 11 parcels along this road. Judge Toliver explained adverse possession. Mr. Moore explained that it has to be looked at what was discussed during the Planning & Zoning Commission meeting. There was no discussion or anything in the record about ownership, possession, or descriptive rights. Therefore, regardless of what the County maps show, the Council needs to look at what was presented at that time. The only issue for a remand at this stage would be if the Planning Commission did not apply the law correctly or if the facts did not support their position in any way.

Mr. Robertson stated that the Commission must act on what is provided; it is unknown if there is an easement. Also, there was not anything provided that stated who owns Victory Lane.

During the Commission hearing, there was a discussion about the lot and redesigning the subdivision so that she could put the building in a different place. Mr. Robertson stated that the Commission did not act on that because it was not in front of them. Ms. Brown moved forward with the appeal

**Appeal/
Lorriane
Brown
Subdivision
(continued)**

process. The ownership and maintenance of Victory Lane still exists which needs to be worked out with the property owners. Mr. Robertson added that a remand would still be based on the record provided. Judge Toliver stated that Mr. Moore will advise Council what the options are; Mr. Robertson has argued that there is not sufficient information in the record.

Ms. Brown stated that it seems like everything is based on the road. As she stated earlier, there is not going to be an increase in the number of people using the lane. There is not going to be a different impact on the lane. Her parcel has access to Victory Lane which is documented. Judge Toliver stated that the issue is that the record is not clear enough to make any other decision. She added that if the lane is such a big issue, why was it not such a big issue when other people subdivided. She is unsure how her land affects her neighbor's farm.

**M 340 24
Close
Appeal
Hearing**

At 2:30 p.m., A Motion was made Mr. Schaeffer, seconded by Mr. Hudson that be it moved that the appeal hearing before Sussex County Council on Sussex County Planning & Zoning Commission to deny be closed.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea;**

**M 341 24
Go Into
Executive
Session**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to recess the Regular Session and go into Executive Session to discuss matter relating to pending & potential litigation.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Executive
Session**

At 2:36 p.m. an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation. The Executive Session concluded at 2:50 p.m.

**M 341 24
Reconvene**

At 2:52 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to come out of Executive Session back into Regular Session.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 342 24
E/S Action/
Defer Action**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to defer action until next week's meeting for action.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 343 24
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to adjourn at
2:53 p.m.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

{An audio recording of this meeting is available on the County's website.}

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

(302) 854-5391 F

mike.harmer@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable Mark G. Schaeffer

FROM: Hans Medlarz, P.E., County Engineer, ret.

RE: ***Western Sussex Unified Sewer District:
Contract 5A, Project S19-29
A. Recommendation for Substantial Completion***

DATE: June 25, 2024

In February 2017, the municipal councils of Bridgeville and Greenwood requested investigation of an alternate County Sewer District based scenario. Upon review of the findings both municipal Councils requested formation of a County sewer district pursuant to Title 9 Del. Code § 6501, and on August 22, 2017, County Council adopted a resolution establishing the Western Sussex Area of the Unified Sanitary Sewer District.

The County requested funding consideration under the Clean Water State Revolving Fund and on August 14, 2018, the State issued a binding commitment offer in the overall amount of \$16,634,748 to be repaid within 30-years with 2.5% interest. On November 27, 2018, Council accepted the offer and approved the associated borrowing ordinance. After project completion, \$3,200,000 will be applied in principle forgiveness.

On May 15, 2020, the County filed a supplemental CWSRF funding request in the amount of \$850,000 to cover unanticipated change orders associated with the DelDOT restoration on RT-13. On October 27, 2023, the County filed the second supplemental funding request in the amount of \$1,947,264.00 associated with various bid overruns.

On December 15, 2023, DNREC notified the County that the aggregate Supplemental Loan had been authorized in the amount of \$2,797,264 for the existing term of the original loan. This loan will be used to finance the increased costs in the project which include various change orders and inflationary and supply chain issues associated with a four-year long project occurring during a pandemic. After project completion \$2,797,264 of principal forgiveness will be applied, collectively \$5,997,264 from the original terms.



The project has three components; transmission under Contracts 1-4, treatment plant demolition/system rehabilitation Contract 5, maintenance garage under Contract 6 and a Bridgeville Branch restoration project spearheaded by the Sussex Conservation District.

The construction of the transmission project was further broken down in the following four (4) individual contracts based on DelDOT's schedule requirements:

- Contract No.1 to A-Del Construction Co, Inc. in the amount of \$3,224,820.00, for the force main work in the RT-13 rights-of-way. Awarded by Council on May 14, 2019.
- Contract No.2 to Pact One LLC in the amount of \$2,063,255.00, for the gravity sewer upgrades. Awarded by Council on May 14, 2019.
- Contract No.3 to A-Del Construction Co, Inc. in the amount of \$2,980,602.00, for the force main work in the RT-13 Alternate and Herring Road rights-of-way. Awarded by Council on January 7, 2020.
- Contract No.4 to Zack's Excavating, Inc. in the amount of \$3,236,939.00, for gravity sewer equalization chambers and two (2) pump stations. Awarded by Council on November 12, 2019.
- Contract No. 6 to GGI, Inc. in the amount of \$410,525.00, for construction of a new Office/Garage Building. Awarded by Council on June 23, 2020.

During the construction of Contract No.1 awarded to A-Del Construction Co, Inc., DelDOT did not allow the reuse of most of the excavated trench material and required Type C Borrow instead. Therefore, this unit price item went considerably above the bid quantity. In addition, a wider concrete base course was encountered under the Cannon Road crossing. Rather than using hot-mix for restoration, DelDOT required reinstallation of the concrete base course adding 25% to the cost of this lump sum item. On February 4, 2020, Council approved the associated Change Order No.1 in the amount of \$254,188.92. During the final restoration phase DelDOT required additional matting and utility adjustments resulting in a final balancing Change Order No. 2 in the amount of \$26,486.65. Council issued Change Order No.2 and granted final project completion on June 2, 2020.

The award of Contract No.2 to Pact One, LLC included the base bid and two alternate bid items. At the time of award, the Alternate Bid Item D5 was not awarded due its significantly higher than anticipated cost. In subsequent discussions, Pact One LLC realized they had misinterpreted the scope for Item D5 and submitted an alternate proposal at approximately 16% of the original bid. On September 10, 2019 Council awarded Change Order No. 1 in the amount of \$96,840.00 to cover item D5. On June 2, 2020 Council approved a final balancing Change Order No. 2 in the credit amount of (\$128,708.70) and granted final project completion.

Contract No.3 awarded to A-Del Construction Co, Inc. encountered no issues and on June 15, 2021, Council approved the balancing Change Order No. 1 in the credit amount of

\$643,915.22 together with final project completion as of April 7, 2021.

During the construction of Contract No. 4 awarded to Zack's Excavating, Inc. a groundwater contamination was encountered, in addition to a construction sequencing issue at the Bridgeville site. In response, the Department developed a value engineering approach approved by Council on June 2, 2020, under Change Order No.1 in the amount of \$40,045.00. The north Seaford pump station included RT-13 entrance improvements which required a more substantial reconstruction due to lack of an existing base course as well as a compromised subbase. In response Council approved Change Order No. 2 in the amount of \$22,642.78 on July 28, 2020. On September 30, 2020, Zack's Excavating, Inc. encountered a previously unknown ductile iron water pipe within the area of the deep excavation of the Bridgeville pump station structures. On November 10, 2020, Council approved Change Order No. 3 in the total amount of \$32,644.19 for the time and material relocation effort.

On February 3, 2021, Delmarva Power and Light contacted Sussex County with an opportunity for net schedule and cost savings by adjusting the transformer type from pad mount to a pole mounted system. While this decreased the charges from Delmarva Power and Light, it increased Zack Excavating Inc.'s electrical subcontractor's scope by \$5,504.87. However, the coordination with DP&L did affect the critical schedule and caused a two-week delay. In addition, the Environmental Services team did additional assessments of the Heritage Shores Pump Station pre-existing conditions and recommended additional upgrades to the existing SCADA system to bring it up to the current county standard exceeding the stipulated contract allowance by \$16,000.00. On March 9, 2021 Council approved Change Order No. 4 in the amount of \$21,504.87 and the associated two-week contract time extension.

The final gravity sewer line to transferred to the new Bridgeville pump station had significant, previously unknown, infiltration. The Department requested a change order for the necessary repairs but Zack's Excavating, Inc. declined any further change orders. Subsequently, after receiving concurrence from the funding agency, the Engineering Department mobilized the County's General Labor & Equipment contractor to the site. Furthermore, the Department suggested to transition Zack's contract to a lump sum approach, requesting credit proposals for several remaining incidental work items and allowances. On May 25, 2022, Council issued the close out credit Change Order No. 5 in the amount of (\$92,704.30) as well as the granting of substantial project completion.

The Invitation to Bid for the last remaining Western Sussex Unified Sewer District, Contract 5, Project S19-29 was advertised in the local newspaper, available to view on the County website and directly forwarded to interested contractors. On February 9, 2022, seven (7) bids were received.

On February 22, 2022, Council made the following three awards 7 one rejection:

- Segment A to A-Del Construction Co., Inc. for \$427,000.00
- Segment B to Richard E. Pierson Construction Co., Inc. for \$920,800.00
- Segment D to Standard Pipe Services, LLC for \$525,100.00

- Segment C due to irregularities in the low bid, Council rejected all bids for Segment C and authorized an immediate re-bid.

On March 25, 2022, two (2) re-bids were received and on April 26, 2022 Council awarded Segment C to Zack's Excavating, Inc. in the amount of \$551,585.16.

Western Sussex Unified Sewer District Contract 5, Project S19-29 change order requests and substantial completion summary.

- Segment A was awarded to A-Del Construction Co, Inc for \$427,700.00. The contractor stated they were 'substantially complete' as of June 23, 2022, with the last remaining waste materials picked up from the Bridgeville Wastewater Treatment plant for disposal. Part of this last removal were some additional chemicals not in the original bid inventory sheets. The additional chemicals in Change Order No. 1 amounted to \$2,628.88 for a new contract amount of \$430,328.88. The substantial complete balancing Change Order No. 2 with consideration for less than anticipated removal of residual liquids, solids and sludger resulted in a surplus of \$216,097.35. On July 12, 2022, Council approved Change Order No. 1. On June 23, 2022 Council approved the balancing Change Order No. 2 and granted substantial completion.
- Segment B was awarded to Richard E. Pierson Construction Co., Inc. for \$920,800.00. In the process of demolition, Richard E. Pierson recognized that the existing water main crossing the site could not be sustained in its current location. Therefore, Richard E. Pierson Construction Co., Inc. proposed Change Order No. 1 for the relocation of the main in the amount of \$27,743.89 which was approved by Council on July 12, 2022. The project contained contingency items which were not all used and on October 18, 2022, Council approved the balancing Change Order No. 2 in a credit amount of \$177,857.89 as well as the granting substantial completion effective October 11, 2022.
- Segment C rebid was awarded to Zack's Excavating, Inc. for \$551,585.16. Zack's Excavating, Inc. requested a Change Order No.1 for additional unit price work at the Bridgeville Pump Station and the Engineering Department is requesting to uncouple the work at the heritage Shores Pump Station.
 - Bridgeville Pump Station repair with existing condition challenges relative to the position of the existing gravity sewer pipe and the existing inverts at the manholes required 62.75 feet of additional length to ensure adequate slope.
 - The railing system of the equalization chamber was damaged in a recent emergency response triggering an increase of the previously bid repair amount.
 - Heritage Shores Pump Station has new upgrade requirements for the pump station including access and odor control triggering another redesign.

On December 6, 2022 County Council approved Change Order No. 1 for Zack's Excavating, Inc. in the aggregate credit amount of (\$229,133.70).

- Segment D was awarded to Standard Pipe Services, LLC for \$525,100.00. Standard Pipe Services, LLC proposed Change Order No. 1 in the amount of \$52,500.00 for unit rates covering camera work beyond the main for locating, cleaning and televising laterals estimated and Change Order No. 2 in the amount of \$33,900.00 or contingent unit rates approval for heavy cleaning services prior to camera work. Council approved both change orders on July 12, 2022.

At the end of 2022 Standard Pipe Services, LLC proposed a no-cost extension of the contract timeline by 180-day due in part to:

- Equipment down time associated with the heavy cleaning effort.
- Delays associated with the consolidation, formatting, reviewing, and analysis of the videos from Standard Pipe Services and supplemental video support from the Sussex County team.
- Based on the video more lining work than the original bid quantities is proposed.

On December 6, 2022, County Council approved Standard Pipe Services, LLC's Change Order No. 3. for a 180-day no-cost extension from December 18, 2022, to June 23, 2023.

The Standard Pipe Services, LLC is now requesting Change Order No. 4 for repairs to additional compromised infrastructure discovered while completing the original scope within the Town of Bridgeville. In addition, the County camera crews have identified repairs, as they were mapping lateral connections to the mains. In total, these repairs are estimated using the unit prices bid, at approximately \$75,500.00. With the June 23rd contract completion date approaching, the Department is also proposing a four-week contract time extension to July 21st, 2023.

On June 20, 2023, Council approved Change Order No. 4 to Standard Pipe Services, LLC's contract in the not to exceed amount of \$75,500.00 for additional repair scope at the unit prices bid and a four (4) week contract extension associated with the scope expansion contingent upon SRF concurrence.

The Heritage Shores Pump Station scope was originally included in the Segment C rebid but Council removed it on December 6, 2022 via Change Order No. 1 from Zack's Excavating, Inc.'s contract. The Heritage Shores Pump Station upgrade requirements including access and odor control were redesigned and invitations to bid were advertised on May 17th and 24th in the local newspaper, and available to view on the County website. In addition, the information was directly forwarded to a number of contractors.

On June 14, 2023, three (3) bids were received and June 27, 2023 County Council awarded Contract 5A to Hopkins Construction, Inc. in the amount of \$786,810.00.

On January 3, 2024, the contractor extended the ventilation piping the odor control system to the equalization structure. In order to make the connections the structure had to be bypassed revealing significant concrete delamination of one of the four-foot segments. (See attached pictures). With wet well lining already part of the contract

with Hopkins, it was decided to obtain pricing on lining the interior of the equalization structure as well. The degradation of concrete was aggressive at the seams between the precast sections partially exposing and potentially compromising the seal between the pre-cast sections. That would result in significant infiltration based on known groundwater elevations.

In addition, it was determined that the development's curved access road creates a difficult turning movement for Environmental Services' trucks entering the pump station. In order to accommodate Environmental Services specific equipment, the paving widths were expanded, and additional areas cleared and stoned for parking and staging during future maintenance and repair functions.

Two thirds of Change Order No.1 were associated with the liner. The offered price compared well with the bid price for the wet well liner in the original scope. Therefore, County Council awarded on March 12, 2024, Change Order No.1 to the Western Sussex Contract 5A with Hopkins Construction, Inc. in the amount of \$221,735.00.

Hopkins Construction, Inc. has substantially completed the full scope under Contract 5A of the Western Sussex Transmission Facilities project. Therefore, the Engineering Department recommends awarding substantial completion as of June 10th, 2024, with any held retainage released in accordance with the contract documents.

ENGINEERING DEPARTMENT

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

(302) 855-7370 T

(302) 854-5391 F

mike.harmer@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable Mark G. Schaeffer

FROM: Hans Medlarz, P.E., County Engineer, Retired

RE: *Artesian Wastewater Management, Inc.*
A. Bulk Wastewater Services Agreement – Memorandum of Understanding

DATE: June 25, 2024

In 2016, Sussex County Council started a proactive wastewater infrastructure interconnection process in the service area north of the Indian River Inlet. The goal was and still is expansion of utility coordination between wastewater service providers avoiding duplication of capital expenditures by utilizing existing sewer transmission and treatment capacity up to its permitted limits. The Council's efforts resulted in several agreements with other wastewater service providers for the utilization of available, existing wastewater treatment capacity as well as the creation of a regional County biosolids facility.

The approach of allowing the most cost-effective transmission and treatment of wastewater, represented by the tier style service system has been incorporated by ordinance in the County Code, Chapter 110 and the 2018 Sussex County Comprehensive Plan.

The base agreement with Artesian Wastewater Management, Inc. was approved by Council on August 30, 2016. On January 29, 2019, Council approved Addendum No. 1, expanding the exchange to treated effluent under a 4 to 1 ratio between effluent and wastewater. In addition, it established a ten-year term allowing for better long-term planning.

On September 10, 2019, Council approved Addendum No. 2 making the County's pretested land available for a potential spare Artesian disposal area in exchange for utilization of Artesian full effluent disposal quantity at the Stonewater Facility up to 450,000 gpd. In addition, it extended the term to twenty-five-years, matching the term at the Wolfe Neck lease with the State.



The physical connection to Artesian's Stonewater facility was completed and tested in January of 2020. Prior to commencement of the discharge, DNREC requested Artesian to file an authorization to operate, which was submitted on February 11, 2020. In addition, DNREC required a technical memorandum of understanding between the utilities on how to share operational responsibilities which was submitted on February 22, 2020. On July 1, 2020, DNREC issued the modified operations permit. Due to the extended time required to obtain the permit modifications, Council on June 2, 2020, approved Addendum No.3 delaying the required annual true up of flows until the end of fiscal year 2021.

The DNREC operations permits contain general statements about the "source" of the wastewater to be treated such as a specific County sewer district area or a specific subdivision. With all utilities moving towards regionalization of their respective systems this identification is obsolete and DNREC suggested updating the "wastewater" definition in the 2016 Bulk Wastewater Services Agreement. On November 10, 2020, County Council approved Addendum No.4 revising the definition accordingly.

In early June 2021, Artesian Wastewater Management, Inc. submitted a letter outlining their challenges to obtain DNREC construction permits under the State and Federal Covid-19 mandates. The delays in the construction of wastewater infrastructure resulted in difficulties to further interconnect the systems and better balancing of flows between the parties. The Engineering Department agreed with that assessment and Council approved Addendum No.5, extending the true up until the end of fiscal year 2022.

The Delaware Coastal Business Park, as well as the entities located at the Coastal Airport along Rudder Lane, currently receive wastewater treatment services from the Town of Georgetown under the May 15, 2018 agreement. Given the limited availability of municipal sewer capacity, it had an allowance for the surrender of capacity under Article VIII by redirecting it to alternate wastewater service provider with twelve (12) months prior notice.

In the summer of 2018, the Town and County Councils approved an addendum to the Agreement regarding the potential capacity surrender for both parties allowing the Town the option to also gain capacity beyond the County flows without initial capital contribution, while allowing the County to recuperate all capital funds over the life of the investment.

The same year Engineering Department developed an agreement with Artesian Wastewater Resources, Inc. providing alternate transmission and treatment at the same metered user rate as the Town of Georgetown. On February 7, 2019, Artesian and Sussex County entered into a bulk wastewater services agreement for the Delaware Coastal Business Park & Airport, for the purpose of allowing Artesian to accept, and ultimately treat and dispose of Sussex County wastewater, via an interconnection at Park Avenue.

The County would not be subject to Artesian's sewer connection charges but instead contribute \$750,000 towards the extension of the transmission system up to the interconnection point on Park Avenue. Once the capacity was surrendered it will trigger the issuance of the applicable sewer impact fee credits as set forth in the Town of Georgetown Code at the time of the Notice to Surrender.

In late summer of 2021, the Inland Bays RWF experienced significant algae growth in the effluent storage lagoons. The algae cause matting in rapid infiltration systems such as the one utilized by Artesian under the Bulk Wastewater Agreement. Not being able to discharge as much effluent as anticipated further impeded the flow imbalance. Therefore, Artesian suggested the following two actions:

1. Adjustment of the amounts owed by Artesian Wastewater Management, Inc. to Sussex County under the 2016 Bulk Services Agreement for the period from July 1, 2019 through June 30, 2022, by the sum owed by Sussex County under paragraph 3(a) "Connection Fees" of the 2019 3-way Bulk Services Agreement.
2. Approve Addendum No. 6 to the 2016 the Bulk Wastewater Services Agreement with Artesian addressing possible future impairment to the Artesian RIB system(s).

The adjustment actions were approved by Council on June 7, 2022.

In January of 2022, Artesian Wastewater Management, Inc. acquired Tidewater Environmental Services, Inc. of which five (5) systems (Plantations, The Ridings, Bay Front, Retreat & Harts Landing) will be permanently connected to County facilities.

Artesian is constructing the treatment portion of the Sussex Regional Recharge Facility near Milton, which is well equipped to serve the County's needs. The Slaughter Beach and North Ellendale projects will permanently connect to it. The Georgetown airport and business park will permanently connect to Artesian's Beaver Creek facility.

In order to streamline the tracking process, the Engineering Department suggested Addendum No.7, tracking permanently connected EDUs rather than flows. Council approved the associated Addendum No. 7 on July 11, 2023.

The two different bulk wastewater service agreements use slightly different exchange rates and accounting procedures. In order to streamline the process and have all tracking occur in one place, the Engineering and Finance Departments recommend the termination of the 2019 Bulk Wastewater Services Agreement and acceptance, treatment and disposal of Sussex County's wastewater via an interconnection, be governed by the 2016 Bulk Wastewater Services Agreement.

**MEMORANDUM OF UNDERSTANDING BETWEEN
ARTESIAN WASTEWATER MANAGEMENT, INC.
AND SUSSEX COUNTY, DELAWARE**

1. **Parties:** This Memorandum of Understanding (hereinafter referred to as “MOU”) is made and entered into by and between Artesian Wastewater Management, Inc. (hereinafter referred to as “Artesian”) and Sussex County, a political subdivision of the State of Delaware (hereinafter referred to as “Sussex County”).

2. **Nature of Relationship:** On August 30, 2016, Artesian and Sussex County entered into a bulk wastewater services agreement regarding the exchange of wastewater between Artesian and Sussex County (as thereafter amended, the “2016 Bulk Wastewater Services Agreement”). On February 7, 2019, Artesian and Sussex County entered into a bulk wastewater services agreement for the Delaware Coastal Business Park & Airport, for the purpose of allowing Artesian to accept, and ultimately treat and dispose of Sussex County wastewater, via an interconnection at or near the Delaware Coastal Business Park & Airport (as thereafter amended, the “2019 Bulk Wastewater Services Agreement”). These documents establish a relationship between the two parties where wastewater and/or treated effluent can be transferred between each party’s respective wastewater systems for treatment and/or disposal.

3. **Agreement:** The 2019 Bulk Wastewater Services Agreement is hereby terminated. The Connection Fee contemplated by Paragraph 3(a) of the 2019 Bulk Wastewater Services Agreement has been remitted and is not subject to refund. Artesian’s acceptance, treatment and disposal of Sussex County wastewater via an interconnection at or near the Delaware Coastal Business Park & Airport shall hereafter be governed by the 2016 Bulk Wastewater Services Agreement.

4. **Execution:** The Parties hereto have executed this MOU on the day stated below.

ARTESIAN WASTEWATER MANAGEMENT, INC.

By: _____

Title: _____

Date: _____

SUSSEX COUNTY

By: _____

Title: _____

Date: _____

ENGINEERING DEPARTMENT

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING & DESIGN REVIEW

(302) 855-7370 T
(302) 854-5391 F
jashman@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable Mark G. Schaeffer

FROM: John J. Ashman, Director of Utility Planning & Design Review

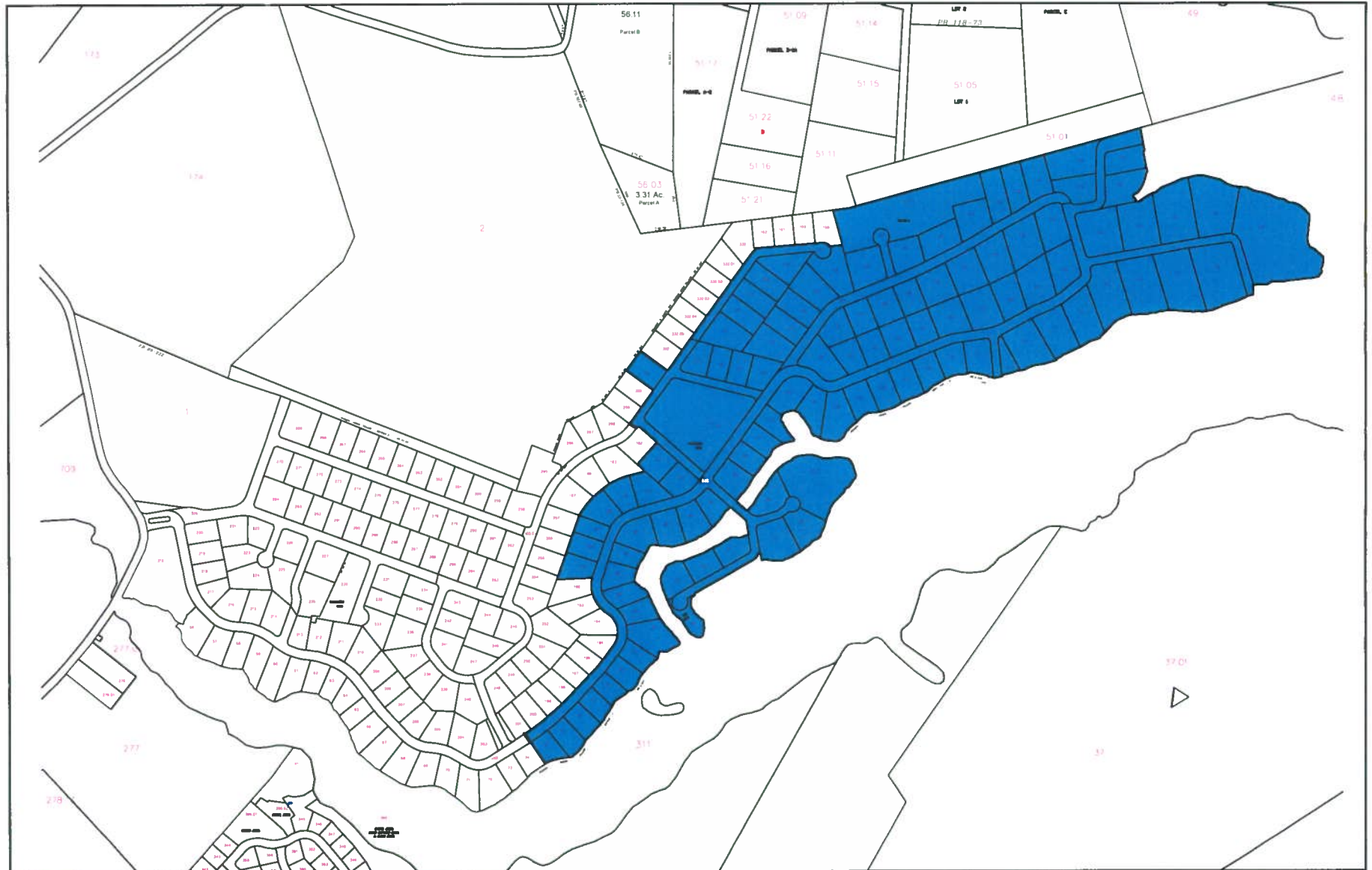
RE: ***Winding Creek Village – Water District
Public Hearing for Revising the Method of Billing
File: HCW-1.05***

DATE: June 25, 2024

In September 2017 eligible voters in the optimized water district boundary approved the creation of the Winding Creek Village Water District, based on a uniform service charge. The County has completed the design of the system, received the bids, applied for the supplemental funding and the apparent low bidder has agreed to maintain the price until the decision is made on the funding.

However there have been multiple inquiries to revising the uniform service charge and introducing a metered component. The Engineering Department has explained there would be additional costs associated with the metered system and that the vote was made on a uniform service charge similar to the existing Dewey Beach water district. The change to a metered system would require another referendum. Members of the community advanced with their request for the addition of the metered component and the department informed them of the process and information needed. The first item was the need for 50 valid petitions from within the existing boundary. On June 4, 2024, the residents provided the department with a binder containing 69 petitions. Two were found to be ineligible resulting in 67 valid petitions therefore the department would like to request permission prepare and post notices for a public hearing explaining the impacts of the metered component.





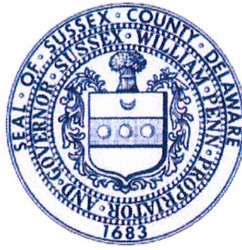
**SUSSEX COUNTY ENGINEERING DEPARTMENT
WINDING CREEK VILLAGE
PROPOSED BOUNDARY FOR OPTIMIZED WATER DISTRICT**

SUSSEX COUNTY ENGINEER
HANS MEDLARZ, P.E.
DATE: 6/15/17

SHEET
1 OF 1

ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718
AIRPORT & BUSINESS PARK (302) 855-7774
ENVIRONMENTAL SERVICES (302) 855-7730
RECORDS MANAGEMENT (302) 855-5033
UTILITY ENGINEERING (302) 855-7717
UTILITY PERMITS (302) 855-7719
UTILITY PLANNING (302) 855-1299
FAX (302) 855-7773



Sussex County

DELAWARE
sussexcountyde.gov

MIKE HARMER, P.E.
SUSSEX COUNTY ENGINEER

ROBERT L. BRYANT, A.A.E.
AIRPORT MANAGER

MEMORANDUM

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Douglas B. Hudson
The Honorable Cynthia Green
The Honorable Mark Schaeffer

FROM: Robert L. Bryant, A.A.E., Airport Manager 

DATE: June 25, 2024

REFERENCE: CONSTRUCT PARALLEL TAXIWAY B – PHASE 2 (CONSTRUCTION)

The Engineering Department, on behalf of the Delaware Coastal Airport, is seeking approval by the Sussex County Council for an “authority to sign” a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Agreement for work associated with construction of a New Parallel Taxiway Bravo (B) – Phase 2 (Construction).

On May 1, 2024, the Engineering Department, on behalf of the Delaware Coastal Airport, held a Bid Opening for the New Parallel Taxiway Bravo (B) – Phase 2 (Construction). The following three bids were received:

Allan Myers MD, Inc.	\$3,375,555.00
George & Lynch, Inc.	\$3,825,462.00
Atlantic Contracting & Materials Co., Inc.	\$4,077,074.00

County Administration has submitted to the FAA an AIP Grant Application in the amount of \$3,473,464 which will pay 90% of the total project cost of \$3,859,405. Sussex County is responsible to pay the remaining \$385,941 (10%) of the total project cost.

Allan Myers MD, Inc.	\$3,375,555.00
Delta Airport Consultants, Inc. (Construction Administrative Services)	\$ 480,000.00
Independent Fee Estimate Cost (FAA required)	<u>\$ 3,850.00</u>
TOTAL AIP Grant Application	\$3,859,405.00

As a reminder, the Overall Development Objective “Construct Parallel Taxiway B” project is a multi-year, multi-phased, Capitals project. The FAA has instructed Sussex County to submit separate AIP applications for each of the six (6 multi-years) anticipated Capitals (multi-phases). This Phase – 2 will cover costs associated with the construction of the new Taxiway B between Taxiway H and Taxiway G (effectively one quarter of the overall project’s construction). Then in Federal Fiscal Year (FFY) 2025, Sussex County will submit a third AIP application that will pay the cost associated with completing construction of the middle, one-half, of the Parallel Taxiway B project. Beginning in FFY 2026, 2027 and 2028, Sussex County will repeat the identical process to complete the construction of the entire Parallel Taxiway B project.

This Phase - 2 is an approved Sussex County Capital Improvement Project and was included in the Council approved Delaware Coastal Airport Fiscal Year (FY) 2024 Capital Improvement Budget.

Construct Parallel Taxiway B Phasing (middle, one-half, of the overall project)

FFY-2023	Phase 1 (Design through Bidding Phase)	Completed
FFY 2024	Phase 2 (Construction)	Bid and waiting for FAA AIP Grant
FFY 2025	Phase 3 (Construction)	\$3,100,000 (est.)

Construct Parallel Taxiway B Phasing (remaining one-half of the overall project)

FFY-2026	Phase 4 (Design through Bidding Phase)	\$300,000 (est.)
FFY 2027	Phase 5 (Construction)	\$3,300,000 (est.)
FFY 2025	Phase 6 (Construction)	\$3,400,000 (est.)

The overall project includes the construction of a New “full-length” Parallel Taxiway to our Primary Runway 4-22. The New Parallel Taxiway B will be designed to serve aircraft which meet Aircraft Design Group (ADG) III (three) with aircraft gross operating weight up to 100,000 pounds (737 aircraft will continue to taxi on RWY 4-22 for takeoff and landing). The New Parallel Taxiway B is being designed and constructed to meet FAA new standards that include safety enhancements not available on our current Taxiway A.

Discussion between the Engineering Department and the FAA has indicated that when the AIP Grant offer is received by Sussex County, the FAA will require a quick signature turn around (possibly same day). This is the reason for our seeking an “authority to sign” in advance of our receiving the AIP Grant offer.

The Airport Manager, in coordination with the Engineering Department recommends approval by the Sussex County Council for an “authority to sign” a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Agreement for work associated with construction of a New Parallel Taxiway Bravo (B) – Phase 2 (Construction).

Cc: Todd F. Lawson, County Administrator
Mike Harmer, P.E., County Engineer

J. Mark Parker, P.E., Assistant County Engineer

Attachments:

FAA AIP Grant Application

Federal Aviation Administration Airport Improvement Program Grant Assurances

Construct Parallel Taxiway B Exhibit 2 (Phase -2) Construction

Sussex County FY 2024 Airport Capital Improvement Budget

Sussex County FY 2025 Airport Capital Improvement Budget

Application for Federal Assistance SF-424	
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	
*2. Type of Application * If Revision, select appropriate letter(s): <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation * Other (Specify) <input type="checkbox"/> Revision	
*3. Date Received: 05/10/2024	4. Applicant Identifier: GED
5a. Federal Entity Identifier:	*5b. Federal Award Identifier: 3-10-0007
State Use Only:	
6. Date Received by State:	7. State Application Identifier:
8. APPLICANT INFORMATION:	
*a. Legal Name: Sussex County, Delaware	
*b. Employer/Taxpayer Identification Number (EIN/TIN): 51-6001054	*c. UEI: QNNDLPJ039L4
d. Address:	
*Street 1:	P.O. Box 589
Street 2:	2 The Circle
*City:	Georgetown
County/Parish:	Sussex
*State:	DE
*Province:	
*Country:	USA: United States
*Zip / Postal Code	19947-0589
e. Organizational Unit:	
Department Name:	Division Name:
f. Name and contact information of person to be contacted on matters involving this application:	
Prefix:	Mr. <input checked="" type="checkbox"/> *First Name: Robert
Middle Name:	L.
*Last Name:	Bryant
Suffix:	
Title: Airport Manager	
Organizational Affiliation:	
*Telephone Number: (302) 855-7775	Fax Number:
*Email: robert.bryant@sussexcountyde.gov	

Application for Federal Assistance SF-424

***9. Type of Applicant 1: Select Applicant Type:**

B: County Government



Type of Applicant 2: Select Applicant Type:

Pick an applicant type

Type of Applicant 3: Select Applicant Type:

Pick an applicant type

*Other (Specify)

***10. Name of Federal Agency:**

Federal Aviation Administration

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

***12. Funding Opportunity Number:**

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Georgetown, Sussex County, Delaware

***15. Descriptive Title of Applicant's Project:**

Construct Parallel Taxiway B - Phase II (Construction)

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: DE-ALL

*b. Program/Project: DE-ALL

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 09/01/2024

*b. End Date: 11/30/2025

18. Estimated Funding (\$):

*a. Federal	\$ 3,473,464
*b. Applicant	\$ 385,941
*c. State	\$ 0
*d. Local	\$ 0
*e. Other	\$ 0
*f. Program Income	\$ 0
*g. TOTAL	\$ 3,859,405

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- a. This application was made available to the State under the Executive Order 12372 Process for review on 05/10/2024
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372.

*20. Is the Applicant Delinquent On Any Federal Debt?

Yes No

If "Yes", explain:

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr. *First Name: J.
Middle Name: Mark
*Last Name: Parker
Suffix:

*Title: Assistant County Engineer

*Telephone Number: (302) 855-7382

Fax Number:

* Email: mark.parker@sussexcountyde.gov

*Signature of Authorized Representative: 

*Date Signed: 5/10/2024

Application for Federal Assistance (Development and Equipment Projects)

PART II – PROJECT APPROVAL INFORMATION

Part II - SECTION A	
The term "Sponsor" refers to the applicant name provided in box 8 of the associated SF-424 form.	
Item 1. Does Sponsor maintain an active registration in the System for Award Management (www.SAM.gov)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Item 2. Can Sponsor commence the work identified in the application in the fiscal year the grant is made or within six months after the grant is made, whichever is later?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Item 3. Are there any foreseeable events that would delay completion of the project? If yes, provide attachment to this form that lists the events.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Item 4. Will the project(s) covered by this request have impacts or effects on the environment that require mitigating measures? If yes, attach a summary listing of mitigating measures to this application and identify the name and date of the environmental document(s).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Item 5. Is the project covered by this request included in an approved Passenger Facility Charge (PFC) application or other Federal assistance program? If yes, please identify other funding sources by checking all applicable boxes.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
<input type="checkbox"/> The project is included in an <i>approved</i> PFC application. If included in an approved PFC application, does the application <i>only</i> address AIP matching share? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> The project is included in another Federal Assistance program. Its CFDA number is below.	
Item 6. Will the requested Federal assistance include Sponsor indirect costs as described in 2 CFR Appendix VII to Part 200, States and Local Government and Indian Tribe Indirect Cost Proposals?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
If the request for Federal assistance includes a claim for allowable indirect costs, select the applicable indirect cost rate the Sponsor proposes to apply:	
<input type="checkbox"/> De Minimis rate of 10% as permitted by 2 CFR § 200.414.	
<input type="checkbox"/> Negotiated Rate equal to	% as approved by (the Cognizant Agency)
on	(Date) (2 CFR part 200, appendix VII).
<i>Note: Refer to the instructions for limitations of application associated with claiming Sponsor indirect costs.</i>	

PART II - SECTION B

Certification Regarding Lobbying

The declarations made on this page are under the signature of the authorized representative as identified in box 21 of form SF-424, to which this form is attached. The term "Sponsor" refers to the applicant name provided in box 8 of the associated SF-424 form.

The Authorized Representative certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Sponsor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Authorized Representative shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The Authorized Representative shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

N/A

2. Defaults – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

N/A

3. Possible Disabilities – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of the Grant Assurances, either by limiting its legal or financial ability or otherwise, except as follows:

N/A

4. Consistency with Local Plans – The project is reasonably consistent with plans existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

Yes

5. Consideration of Local Interest – It has given fair consideration to the interest of communities in or near where the project may be located.

Yes

6. Consultation with Users – In making a decision to undertake an airport development project under Title 49, United States Code, it has consulted with airport users that will potentially be affected by the project (§ 47105(a)(2)).

Yes

7. Public Hearings – In projects involving the location of an airport, an airport runway or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

N/A

8. Air and Water Quality Standards – In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable and air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

N/A

PART II – SECTION C (Continued)

9. Exclusive Rights – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

N/A

10. Land – (a) The sponsor holds the following property interest in the following areas of land, which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

Yes

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

N/A

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A". [1]

N/A

¹ State the character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III – BUDGET INFORMATION – CONSTRUCTION

SECTION A – GENERAL	
1. Assistance Listing Number:	20.106
2. Functional or Other Breakout:	Airport Improvement Program

SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Latest Approved Amount (Use only for revisions)	Adjustment + or (-) Amount (Use only for revisions)	Total Amount Required
1. Administration expense	\$ 3,850		
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			
5. Other Architectural engineering fees			
6. Project inspection fees	480,000		
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement	3,375,555		
12. Equipment			
13. Miscellaneous			
14. Subtotal (Lines 1 through 13)	\$ 3,859,405		
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions (Section C, line 23 g.)			
18. Subtotal (Lines 16 through 17)	\$ 3,859,405		
19. Federal Share requested of Line 18	3,473,464		
20. Grantee share	385,941		
21. Other shares			
22. TOTAL PROJECT (Lines 19, 20 & 21)	\$ 3,859,405		

SECTION C – EXCLUSIONS	
23. Classification (Description of non-participating work)	Amount Ineligible for Participation
a.	
b.	
c.	
d.	
e.	
f.	
g. Total	

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
24. Grantee Share – Fund Categories	Amount
a. Securities	\$ 385,941
b. Mortgages	
c. Appropriations (by Applicant)	
d. Bonds	
e. Tax Levies	
f. Non-Cash	
g. Other (Explain):	
h. TOTAL - Grantee share	\$ 385,941
25. Other Shares	Amount
a. State	
b. Other	
c. TOTAL - Other Shares	\$ 0
26. TOTAL NON-FEDERAL FINANCING	\$ 385,941

SECTION E – REMARKS (Attach sheets if additional space is required)

PART IV -- PROGRAM NARRATIVE
(Suggested Format)

PROJECT: Construct Parallel Taxiway B - Phase II (Construction)
AIRPORT: Delaware Coastal Airport
1. Objective: Construct Parallel Taxiway B (partial) to eliminate traffic from taxiing through the apron area.
2. Benefits Anticipated: This project will improve the safety and efficiency of operations at the Airport. Additionally, the parallel taxiway will allow the terminal area to be expanded in the future as shown on the approved ALP.
3. Approach: (See approved Scope of Work in Final Application) This phase includes Sponsor administrative expenses, engineering CA phase services, and contractor costs for construction of parallel Taxiway B from existing Taxiway H to existing Taxiway B (proposed Taxiway G) (approx. 1,550' x 50') and the associated drainage, SWM, lighting and marking.
4. Geographic Location: Georgetown, Sussex County, Delaware
5. If Applicable, Provide Additional Information:
6. Sponsor's Representative: (include address & telephone number) Mr. Robert L. Bryant, Airport Manager 21553 Rudder Lane, Georgetown, Delaware 19947 (302) 855-7775

PROJECT COST SUMMARY - GRANT APPLICATION

CONSTRUCT TAXIWAY B, PHASE II (CONSTRUCTION)

Delaware Coastal Airport
Georgetown, Delaware

AIP Project No. 3-10-0007-040-2023 (Design)
AIP Project No. 3-10-0007-PENDING-2024 (Construction)
Delta Project No. 22033

GRANT AMOUNT	
FEDERAL (90%) :	\$3,473,464.00
SPONSOR (10%) :	\$385,941.00
TOTAL:	\$3,859,405.00

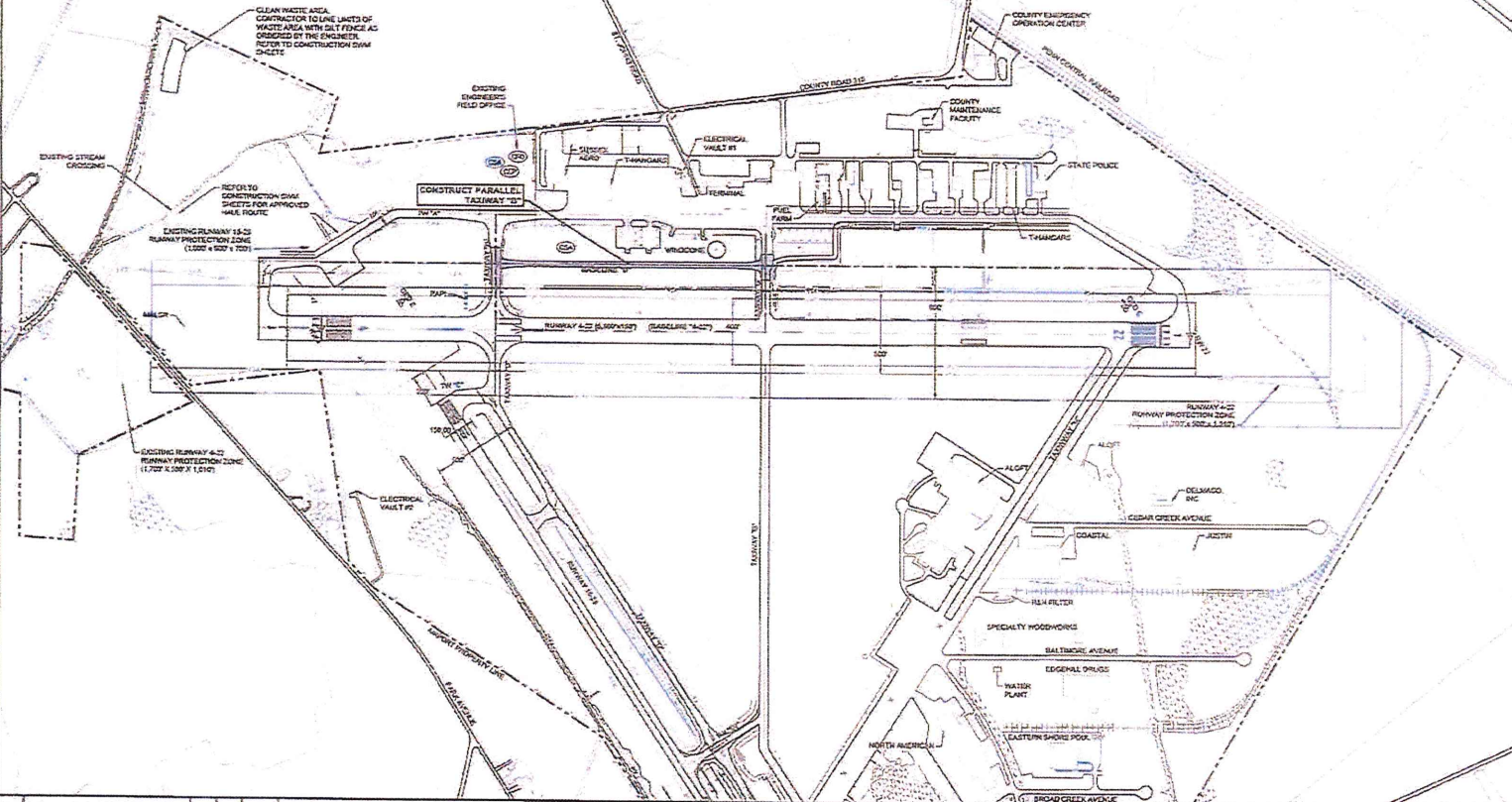
May 10, 2024

CLASSIFICATION	BUDGET AMOUNT	COSTS TO DATE	% COMP
ADMINISTRATIVE COSTS			
Independent Fee Estimate - MRB Group	\$3,850.00	\$0.00	0.00%
Administrative Costs Total:	\$3,850.00	\$0.00	0.00%
ENGINEERING (INSPECTION) SERVICES			
Task Order No. Five (5) - Delta Airport Consultants, Inc.	\$480,000.00	\$0.00	0.00%
Engineering (Inspection) Services Total:	\$480,000.00	\$0.00	0.00%
CONSTRUCTION COSTS			
Bid Package 1 - Allan Myers MD, Inc.	\$3,375,555.00	\$0.00	0.00%
Construction Costs Total:	\$3,375,555.00	\$0.00	0.00%
PROJECT TOTAL:	\$3,859,405.00	\$0.00	0.00%
FEDERAL (90%) :	\$3,473,464.00	\$0.00	0.00%
SPONSOR (10%) :	\$385,941.00	\$0.00	0.00%

BENCHMARK SCHEDULE						
BM #	STATION	OFFSET	HEIGHTING	ELEVATION	DESCRIPTION	VERIFIED
100-C	10+32.56 N. 74.32°	100'±	2008 APR	892.040±	4.0 TO	HOT DEK
100-F	12+29.26 N. 74.32°	100'±	2008 APR	870.680±	4.0 TO	HOT DEK
100-G	12+29.26 N. 74.32°	100'±	2008 APR	870.680±	4.0 TO	HOT DEK
100-H	12+29.26 N. 74.32°	100'±	2008 APR	870.680±	4.0 TO	HOT DEK
100-I	12+29.26 N. 74.32°	100'±	2008 APR	870.680±	4.0 TO	HOT DEK

SURVEY BENCHMARK NOTES:

1. ALL BENCHMARKS ARE REFERENCED TO RUNWAY 4-22 (BASELINE "A-C"), TANGIERS AND NAVD83.
2. CONTRACTOR SHALL VERIFY BENCHMARK INFORMATION AND EXISTING GROUND ELEVATIONS PRIOR TO STARTING CONSTRUCTION. DISCREPANCIES SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF ENGINEER. IN WRITING. DISCREPANCIES SHALL BE RESOLVED PRIOR TO STARTING CONSTRUCTION.



- LEGEND**
- BENCHMARK LOCATION
 - CONTRACTOR CHALLENGE (RMPH)
 - CONTRACTOR SEALING AREA
 - PROPOSED FLAGSTONE DRAIN
 - HALF PIPE (P) STORM DRAIN
 - EXISTING FENCE
 - EXISTING APPROACH/PROPOSED LANE
 - EXISTING RUNWAY OBJECT FREE AREA
 - EXISTING RUNWAY SAFETY AREA
 - EXISTING TAXIWAY OBJECT FREE AREA
 - EXISTING OBSTACLE FREE ZONE
 - PROPOSED OBSTACLE FREE ZONE
 - WETLANDS

NOTES

1. REFER TO WORKSHEET PRELIMINARY LAYOUT FOR CONSTRUCTION PHASES.
2. ALL SETPOINTS AND DIMENSIONS SHALL BE WITH REFERENCE TO THE BENCHMARK LOCATIONS SHOWN ON THIS AND ALL OTHER CONVENTIONAL NOTES.



NO.	REVISIONS	BY	APP.	DATE

2544 North Progress Avenue, Suite 200
 Harrisburg, Pennsylvania 17110
 phone: (717) 652-8700 • fax: (717) 652-8071
 www.deltairport.com



DELTA AIRPORT CONSULTANTS, INC.



Digitally signed
 by Delia M. Jones
 Date: 2024.04.02 15:32:54-0400

CONSTRUCT TAXIWAY B - BID PACKAGE 1		APP NO. 2-19-0007-040-2022	453 NO. 22997
GENERAL LAYOUT		DESIGNED BY: CAD	SHEET 3
DELAWARE COASTAL AIRPORT		SCALE: 1" = 300'	DATE: APRIL 2024
			BY: DW

C:\Users\mccoy\OneDrive\Documents\20240320\Taxiway B\DelCoastal.dwg

Drug-Free Workplace Airport Improvement Program Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within federal grant programs are described in 2 CFR part 182. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A statement has been or will be published prior to commencement of project notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition (2 CFR § 182.205).

Yes No N/A

2. An ongoing drug-free awareness program (2 CFR § 182.215) has been or will be established prior to commencement of project to inform employees about:

- a. The dangers of drug abuse in the workplace;
- b. The sponsor's policy of maintaining a drug-free workplace;
- c. Any available drug counseling, rehabilitation, and employee assistance programs; and
- d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

Yes No N/A

3. Each employee to be engaged in the performance of the work has been or will be given a copy of the statement required within item 1 above prior to commencement of project (2 CFR § 182.210).

Yes No N/A

4. Employees have been or will be notified in the statement required by item 1 above that, as a condition employment under the grant (2 CFR § 182.205(c)), the employee will:

- a. Abide by the terms of the statement; and
- b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

Yes No N/A

5. The Federal Aviation Administration (FAA) will be notified in writing within 10 calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction (2 CFR § 182.225). Employers of convicted employees must provide notice, including position title of the employee, to the FAA (2 CFR § 182.300).

Yes No N/A

6. One of the following actions (2 CFR § 182.225(b)) will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:

- a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; and
- b. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Yes No N/A

7. A good faith effort will be made, on a continuous basis, to maintain a drug-free workplace through implementation of items 1 through 6 above (2 CFR § 182.200).

Yes No N/A

Site(s) of performance of work (2 CFR § 182.230):

Location 1

Name of Location: Delaware Coastal Airport
Address: 21553 Rudder Lane, Georgetown, DE 19947

Location 2 (if applicable)

Name of Location:
Address:

Location 3 (if applicable)

Name of Location:
Address:

Attach documentation clarifying any above item marked with a "No" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

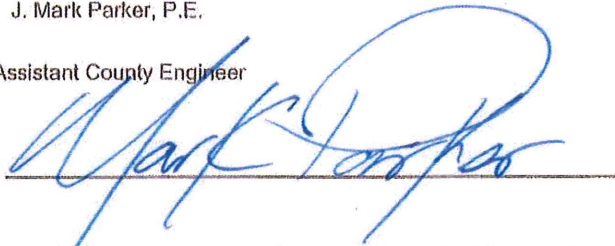
Executed on this 10 day of May, 2024

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official:



I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Certification and Disclosure Regarding Potential Conflicts of Interest Airport Improvement Program Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

Title 2 CFR § 200.112 and § 1201.112 address Federal Aviation Administration (FAA) requirements for conflict of interest. As a condition of eligibility under the Airport Improvement Program (AIP), sponsors must comply with FAA policy on conflict of interest. Such a conflict would arise when any of the following have a financial or other interest in the firm selected for award:

- a) The employee, officer or agent,
- b) Any member of his immediate family,
- c) His or her partner, or
- d) An organization which employs, or is about to employ, any of the above.

Selecting "Yes" represents sponsor or sub-recipient acknowledgement and confirmation of the certification statement. Selecting "No" represents sponsor or sub-recipient disclosure that it cannot fully comply with the certification statement. If "No" is selected, provide support information explaining the negative response as an attachment to this form. This includes whether the sponsor has established standards for financial interest that are not substantial or unsolicited gifts are of nominal value (2 CFR § 200.318(c)). The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance.

Certification Statements

1. The sponsor or sub-recipient maintains a written standards of conduct governing conflict of interest and the performance of their employees engaged in the award and administration of contracts (2 CFR § 200.318(c)). To the extent permitted by state or local law or regulations, such standards of conduct provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sponsor's and sub-recipient's officers, employees, or agents, or by contractors or their agents.

Yes No

2. The sponsor's or sub-recipient's officers, employees or agents have not and will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements (2 CFR § 200.318(c)).

Yes No

3. The sponsor or sub-recipient certifies that is has disclosed and will disclose to the FAA any known potential conflict of interest (2 CFR § 1200.112).

Yes No

Attach documentation clarifying any above item marked with "no" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

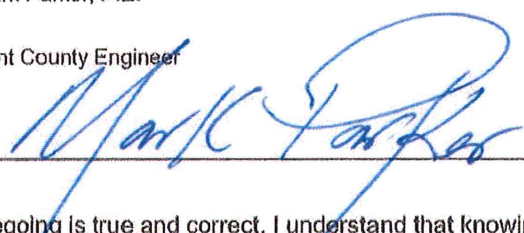
Executed on this 10 day of May, 2024.

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official: _____



I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Construction Project Final Acceptance Airport Improvement Program Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

49 USC § 47105(d), authorizes the Secretary to require me certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program. General standards for final acceptance and close out of federally funded construction projects are in 2 CFR § 200.343 – Closeout and supplemented by FAA Order 5100.38. The sponsor must determine that project costs are accurate and proper in accordance with specific requirements of the grant agreement and contract documents.

Certification Statements

Except for certification statements below marked not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgment and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The personnel engaged in project administration, engineering supervision, project inspection, and acceptance testing were or will be determined to be qualified and competent to perform the work (Grant Assurance).
 Yes No N/A
2. Construction records, including daily logs, were or will be kept by the resident engineer/construction inspector that fully document contractor's performance in complying with:
 - a. Technical standards (Advisory Circular (AC) 150/5370-12);
 - b. Contract requirements (2 CFR part 200 and FAA Order 5100.38); and
 - c. Construction safety and phasing plan measures (AC 150/5370-2). Yes No N/A
3. All acceptance tests specified in the project specifications were or will be performed and documented. (AC 150/5370-12).
 Yes No N/A

4. Sponsor has taken or will take appropriate corrective action for any test result outside of allowable tolerances (AC 150/5370-12).
 Yes No N/A
5. Pay reduction factors required by the specifications were applied or will be applied in computing final payments with a summary made available to the FAA (AC 150/5370-10).
 Yes No N/A
6. Sponsor has notified, or will promptly notify the Federal Aviation Administration (FAA) of the following occurrences:
- a. Violations of any federal requirements set forth or included by reference in the contract documents (2 CFR part 200);
 - b. Disputes or complaints concerning federal labor standards (29 CFR part 5); and
 - c. Violations of or complaints addressing conformance with Equal Employment Opportunity or Disadvantaged Business Enterprise requirements (41 CFR Chapter 60 and 49 CFR part 26).
-
- Yes
-
- No
-
- N/A
7. Weekly payroll records and statements of compliance were or will be submitted by the prime contractor and reviewed by the sponsor for conformance with federal labor and civil rights requirements as required by FAA and U.S. Department of Labor (29 CFR Part 5).
 Yes No N/A
8. Payments to the contractor were or will be made in conformance with federal requirements and contract provisions using sponsor internal controls that include:
- a. Retaining source documentation of payments and verifying contractor billing statements against actual performance (2 CFR § 200.302 and FAA Order 5100.38);
 - b. Prompt payment of subcontractors for satisfactory performance of work (49 CFR § 26.29);
 - c. Release of applicable retainage upon satisfactory performance of work (49 CFR § 26.29); and
 - d. Verification that payments to DBEs represent work the DBE performed by carrying out a commercially useful function (49 CFR §26.55).
-
- Yes
-
- No
-
- N/A
9. A final project inspection was or will be conducted with representatives of the sponsor and the contractor present that ensure:
- a. Physical completion of project work in conformance with approved plans and specifications (Order 5100.38);
 - b. Necessary actions to correct punch list items identified during final inspection are complete (Order 5100.38); and
 - c. Preparation of a record of final inspection and distribution to parties to the contract (Order 5100.38);
-
- Yes
-
- No
-
- N/A
10. The project was or will be accomplished without material deviations, changes, or modifications from approved plans and specifications, except as approved by the FAA (Order 5100.38).
 Yes No N/A

11. The construction of all buildings have complied or will comply with the seismic construction requirements of 49 CFR § 41.120.

Yes No N/A

12. For development projects, sponsor has taken or will take the following close-out actions:

- a. Submit to the FAA a final test and quality assurance report summarizing acceptance test results, as applicable (Grant Condition);
- b. Complete all environmental requirements as established within the project environmental determination (Order 5100.38); and
- c. Prepare and retain as-built plans (Order 5100.38).

Yes No N/A

13. Sponsor has revised or will revise their airport layout plan (ALP) that reflects improvements made and has submitted or will submit an updated ALP to the FAA no later than 90 days from the period of performance end date. (49 USC § 47107 and Order 5100.38).

Yes No N/A

Attach documentation clarifying any above item marked with "No" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

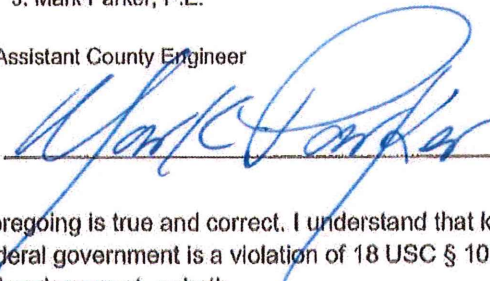
Executed on this 10 day of May, 2024.

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official: _____



I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Equipment and Construction Contracts Airport Improvement Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General procurement standards for equipment and construction contracts within Federal grant programs are described in 2 CFR §§ 200.317-200.326. Labor and Civil Rights Standards applicable to the AIP are established by the Department of Labor (www.dol.gov) AIP Grant Assurance C.1—General Federal Requirements identifies all applicable Federal Laws, regulations, executive orders, policies, guidelines and requirements for assistance under the AIP. Sponsors may use state and local procedures provided the procurement conforms to these federal standards.

This certification applies to all equipment and construction projects. Equipment projects may or may not employ laborers and mechanics that qualify the project as a "covered contract" under requirements established by the Department of Labor requirements. Sponsor shall provide appropriate responses to the certification statements that reflect the character of the project regardless of whether the contract is for a construction project or an equipment project.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A written code or standard of conduct is or will be in effect prior to commencement of the project that governs the performance of the sponsor's officers, employees, or agents in soliciting, awarding and administering procurement contracts (2 CFR § 200.318).

Yes No N/A

2. For all contracts, qualified and competent personnel are or will be engaged to perform contract administration, engineering supervision, construction inspection, and testing (Grant Assurance C.17).
 Yes No N/A
3. Sponsors that are required to have a Disadvantage Business Enterprise (DBE) program on file with the FAA have included or will include clauses required by Title VI of the Civil Rights Act and 49 CFR Part 26 for Disadvantaged Business Enterprises in all contracts and subcontracts.
 Yes No N/A
4. Sponsors required to have a DBE program on file with the FAA have implemented or will implement monitoring and enforcement measures that:
- a. Ensure work committed to Disadvantaged Business Enterprises at contract award is actually performed by the named DBEs (49 CFR § 26.37(b));
 - b. Include written certification that the sponsor has reviewed contract records and has monitored work sites for performance by DBE firms (49 CFR § 26.37(b)); and
 - c. Provides for a running tally of payments made to DBE firms and a means for comparing actual attainments (i.e. payments) to original commitments (49 CFR § 26.37(c)).
- Yes No N/A
5. Sponsor procurement actions using the competitive sealed bid method (2 CFR § 200.320(c)). was or will be:
- a. Publicly advertised, allowing a sufficient response time to solicit an adequate number of interested contractors or vendors;
 - b. Prepared to include a complete, adequate and realistic specification that defines the items or services in sufficient detail to allow prospective bidders to respond;
 - c. Publicly opened at a time and place prescribed in the invitation for bids; and
 - d. Prepared in a manner that result in a firm fixed price contract award to the lowest responsive and responsible bidder.
- Yes No N/A
6. For projects the Sponsor proposes to use the competitive proposal procurement method (2 CFR § 200.320(d)), Sponsor has requested or will request FAA approval prior to proceeding with a competitive proposal procurement by submitting to the FAA the following:
- a. Written justification that supports use of competitive proposal method in lieu of the preferred sealed bid procurement method;
 - b. Plan for publicizing and soliciting an adequate number of qualified sources; and
 - c. Listing of evaluation factors along with relative importance of the factors.
- Yes No N/A
7. For construction and equipment installation projects, the bid solicitation includes or will include the current federal wage rate schedule(s) for the appropriate type of work classifications (2 CFR Part 200, Appendix II).
 Yes No N/A

8. Concurrence was or will be obtained from the Federal Aviation Administration (FAA) prior to contract award under any of the following circumstances (Order 5100.38D):
- a. Only one qualified person/firm submits a responsive bid;
 - b. Award is to be made to other than the lowest responsible bidder; and
 - c. Life cycle costing is a factor in selecting the lowest responsive bidder.
- Yes No N/A
9. All construction and equipment installation contracts contain or will contain provisions for:
- a. Access to Records (§ 200.336)
 - b. Buy American Preferences (Title 49 U.S.C. § 50101)
 - c. Civil Rights - General Provisions and Title VI Assurances(41 CFR part 60)
 - d. Federal Fair Labor Standards (29 U.S.C. § 201, et seq)
 - e. Occupational Safety and Health Act requirements (20 CFR part 1920)
 - f. Seismic Safety – building construction (49 CFR part 41)
 - g. State Energy Conservation Requirements - as applicable(2 CFR part 200, Appendix II)
 - h. U.S. Trade Restriction (49 CFR part 30)
 - i. Veterans Preference (49 USC § 47112(c))
- Yes No N/A
10. All construction and equipment installation contracts exceeding \$2,000 contain or will contain the provisions established by:
- a. Davis-Bacon and Related Acts (29 CFR part 5)
 - b. Copeland "Anti-Kickback" Act (29 CFR parts 3 and 5)
- Yes No N/A
11. All construction and equipment installation contracts exceeding \$3,000 contain or will contain a contract provision that discourages distracted driving (E.O. 13513).
- Yes No N/A
12. All contracts exceeding \$10,000 contain or will contain the following provisions as applicable:
- a. Construction and equipment installation projects - Applicable clauses from 41 CFR Part 60 for compliance with Executive Orders 11246 and 11375 on Equal Employment Opportunity;
 - b. Construction and equipment installation - Contract Clause prohibiting segregated facilities in accordance with 41 CFR part 60-1.8;
 - c. Requirement to maximize use of products containing recovered materials in accordance with 2 CFR § 200.322 and 40 CFR part 247; and
 - d. Provisions that address termination for cause and termination for convenience (2 CFR Part 200, Appendix II).
- Yes No N/A

13. All contracts and subcontracts exceeding \$25,000: Measures are in place or will be in place (e.g. checking the System for Award Management) that ensure contracts and subcontracts are not awarded to individuals or firms suspended, debarred, or excluded from participating in federally assisted projects (2 CFR parts 180 and 1200).

Yes No N/A

14. Contracts exceeding the simplified acquisition threshold (currently \$250,000) include or will include provisions, as applicable, that address the following:

- a. Construction and equipment installation contracts - a bid guarantee of 5%, a performance bond of 100%, and a payment bond of 100% (2 CFR § 200.325);
- b. Construction and equipment installation contracts - requirements of the Contract Work Hours and Safety Standards Act (40 USC 3701-3708, Sections 103 and 107);
- c. Restrictions on Lobbying and Influencing (2 CFR part 200, Appendix II);
- d. Conditions specifying administrative, contractual and legal remedies for instances where contractor or vendor violate or breach the terms and conditions of the contract (2 CFR §200, Appendix II); and
- e. All Contracts - Applicable standards and requirements issued under Section 306 of the Clean Air Act (42 USC 7401-7671q), Section 508 of the Clean Water Act (33 USC 1251-1387, and Executive Order 11738.

Yes No N/A

Attach documentation clarifying any above item marked with "No" response.

Sponsor's Certification

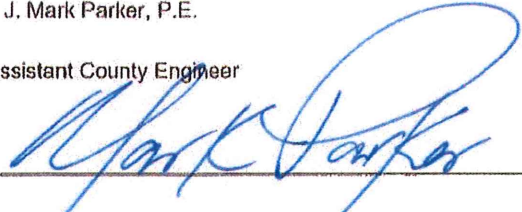
I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this 10 day of May, 2024.

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official: 

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Project Plans and Specifications

Airport Improvement Program Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). Labor and civil rights standards applicable to AIP are established by the Department of Labor (www.dol.gov/). AIP Grant Assurance C.1—General Federal Requirements identifies applicable federal laws, regulations, executive orders, policies, guidelines and requirements for assistance under AIP. A list of current advisory circulars with specific standards for procurement, design or construction of airports, and installation of equipment and facilities is referenced in standard airport sponsor Grant Assurance 34 contained in the grant agreement.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. The plans and specifications were or will be prepared in accordance with applicable federal standards and requirements, so that no deviation or modification to standards set forth in the advisory circulars, or FAA-accepted state standard, is necessary other than those explicitly approved by the Federal Aviation Administration (FAA) (14 USC § 47105).

Yes No N/A

2. Specifications incorporate or will incorporate a clear and accurate description of the technical requirement for the material or product that does not contain limiting or proprietary features that unduly restrict competition (2 CFR §200.319).

Yes No N/A

3. The development that is included or will be included in the plans is depicted on the current airport layout plan as approved by the FAA (14 USC § 47107).
 Yes No N/A

4. Development and features that are ineligible or unallowable for AIP funding have been or will be omitted from the plans and specifications (FAA Order 5100.38, par. 3-43).
 Yes No N/A

5. The specification does not use or will not use "brand name" or equal to convey requirements unless sponsor requests and receives approval from the FAA to use brand name (FAA Order 5100.38, Table U-5).
 Yes No N/A

6. The specification does not impose or will not impose geographical preference in their procurement requirements (2 CFR §200.319(b) and FAA Order 5100.38, Table U-5).
 Yes No N/A

7. The use of prequalified lists of individuals, firms or products include or will include sufficient qualified sources that ensure open and free competition and that does not preclude potential entities from qualifying during the solicitation period (2 CFR §319(d)).
 Yes No N/A

8. Solicitations with bid alternates include or will include explicit information that establish a basis for award of contract that is free of arbitrary decisions by the sponsor (2 CFR § 200.319(a)(7)).
 Yes No N/A

9. Concurrence was or will be obtained from the FAA if Sponsor incorporates a value engineering clause into the contract (FAA Order 5100.38, par. 3-57).
 Yes No N/A

10. The plans and specifications incorporate or will incorporate applicable requirements and recommendations set forth in the federally approved environmental finding (49 USC §47106(c)).
 Yes No N/A

11. The design of all buildings comply or will comply with the seismic design requirements of 49 CFR § 41.120. (FAA Order 5100.38d, par. 3-92)
 Yes No N/A

12. The project specification include or will include process control and acceptance tests required for the project by as per the applicable standard:
 - a. Construction and installation as contained in Advisory Circular (AC) 150/5370-10.
 Yes No N/A

b. Snow Removal Equipment as contained in AC 150/5220-20.

Yes No N/A

c. Aircraft Rescue and Fire Fighting (ARFF) vehicles as contained in AC 150/5220-10.

Yes No N/A

13. For construction activities within or near aircraft operational areas(AOA):

a. The Sponsor has or will prepare a construction safety and phasing plan (CSPP) conforming to Advisory Circular 150/5370-2.

b. Compliance with CSPP safety provisions has been or will be incorporated into the plans and specifications as a contractor requirement.

c. Sponsor will not initiate work until receiving FAA's concurrence with the CSPP (FAA Order 5100.38, Par. 5-29).

Yes No N/A

14. The project was or will be physically completed without federal participation in costs due to errors and omissions in the plans and specifications that were foreseeable at the time of project design (49 USC §47110(b)(1) and FAA Order 5100.38d, par. 3-100).

Yes No N/A

Attach documentation clarifying any above item marked with "No" response.

Sponsor's Certification

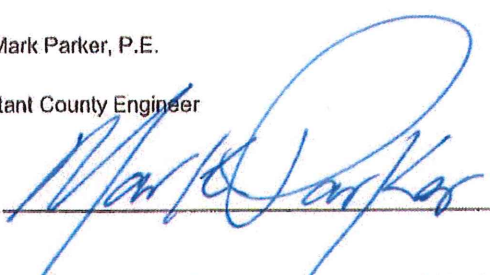
I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this 10 day of May, 2024.

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official: 

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Selection of Consultants

Airport Improvement Program Sponsor Certification

Sponsor: Sussex County, Delaware

Airport: Delaware Coastal Airport

Project Number: 3-10-0007-PENDING-2024

Description of Work: Construct Parallel Taxiway B, Phase II (Construction)

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).
 Yes No N/A

2. Sponsor procurement actions ensure or will ensure full and open competition that does not unduly limit competition (2 CFR § 200.319).
 Yes No N/A

3. Sponsor has excluded or will exclude any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).
 Yes No N/A

4. The advertisement describes or will describe specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).
 Yes No N/A
5. Sponsor has publicized or will publicize a RFQ that:
a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and
b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).
 Yes No N/A
6. Sponsor has based or will base selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).
 Yes No N/A
7. Sponsor has verified or will verify that agreements exceeding \$25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR § 180.300).
 Yes No N/A
8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:
a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and
b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).
 Yes No N/A
9. Sponsor has negotiated or will negotiate a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).
 Yes No N/A
10. The Sponsor's contract identifies or will identify costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).
 Yes No N/A
11. Sponsor has prepared or will prepare a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR § 200.318(l)).
 Yes No N/A
12. Sponsor has incorporated or will incorporate mandatory contract provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)
 Yes No N/A

13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established or will establish:

- a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));
- b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and
- c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place (2 CFR §200.318(j)).

Yes No N/A

14. Sponsor is not using or will not use the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

Yes No N/A

Attach documentation clarifying any above item marked with "no" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

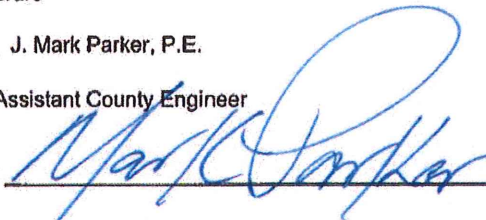
Executed on this 10 day of May, 2024.

Name of Sponsor: Sussex County, Delaware

Name of Sponsor's Authorized Official: J. Mark Parker, P.E.

Title of Sponsor's Authorized Official: Assistant County Engineer

Signature of Sponsor's Authorized Official: _____



I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

BID TABULATION

Construct Taxiway B - Bid Package 1

Delaware Coastal Airport
Georgetown, Delaware

A/P Project No. 3-10-0007-040-2023 (Design)
A/P Project No. 3-10-0007-Pending (Construction)
Delta Project No. 22033

Bid Opening Date: May 1, 2024

Item No.	Spec. No.	Description	Unit	Bid Quantity	Engineer's Estimate		Allan Myers MD, Inc.		George & Lynch, Inc.		Atlantic Contracting & Material Co., Inc.	
					Unit Price	Estimate Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
56	D-705	HEAVY DUTY UNDERDRAIN OR EDGE DRAIN CLEANOUT	EA	23	\$1,500.00	\$34,500.00	\$1,400.00	\$32,200.00	\$3,025.00	\$69,575.00	\$2,370.00	\$54,510.00
57	D-751	DRAINAGE INLETS	EA	5	\$6,000.00	\$30,000.00	\$3,500.00	\$17,500.00	\$5,000.00	\$25,000.00	\$12,100.00	\$60,500.00
58	D-751	DRAINAGE INLETS, AIRCRAFT RATED	EA	2	\$10,000.00	\$20,000.00	\$6,200.00	\$12,400.00	\$10,000.00	\$20,000.00	\$15,800.00	\$31,600.00
59	D-751	RISER STRUCTURE	EA	1	\$8,000.00	\$8,000.00	\$30,000.00	\$30,000.00	\$13,000.00	\$13,000.00	\$19,100.00	\$19,100.00
60	D-752	6" UNDERDRAIN ENDWALL	EA	1	\$800.00	\$800.00	\$800.00	\$800.00	\$1,125.00	\$1,125.00	\$1,600.00	\$1,600.00
61	D-752	FES, 18" RCP	EA	1	\$800.00	\$800.00	\$1,100.00	\$1,100.00	\$1,450.00	\$1,450.00	\$3,400.00	\$3,400.00
62	D-752	FES, 18" HDPE	EA	1	\$700.00	\$700.00	\$1,100.00	\$1,100.00	\$1,355.00	\$1,355.00	\$3,400.00	\$3,400.00
63	D-752	FES, 24" HDPE	EA	1	\$850.00	\$850.00	\$1,500.00	\$1,500.00	\$1,505.00	\$1,505.00	\$3,500.00	\$3,500.00
64	T-901	SEEDING	AC	13	\$5,500.00	\$71,500.00	\$2,500.00	\$32,500.00	\$5,482.00	\$71,066.00	\$4,300.00	\$55,900.00
65	T-908	MULCHING	AC	13	\$1,000.00	\$13,000.00	\$1,800.00	\$23,400.00	\$3,371.00	\$43,823.00	\$4,300.00	\$55,900.00
66	L-107	L-807 1/8 SIZE 2 WIND CONE AND FOUNDATION, IN PLACE	EA	1	\$20,000.00	\$20,000.00	\$40,000.00	\$40,000.00	\$25,000.00	\$25,000.00	\$31,100.00	\$31,100.00
67	L-107	SEGMENTED CIRCLE MARKER SYSTEM, IN PLACE	LS	1	\$15,000.00	\$15,000.00	\$40,000.00	\$40,000.00	\$25,000.00	\$25,000.00	\$28,300.00	\$28,300.00
68	L-108	NO. 6 AWG, 8KV, L-824 TYPE C CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	LF	8,200	\$2.50	\$20,500.00	\$3.50	\$28,700.00	\$3.45	\$28,290.00	\$5.00	\$41,000.00
69	L-108	NO. 6 AWG, 600V, L-824 RHW CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	LF	2,300	\$5.00	\$11,500.00	\$4.40	\$10,120.00	\$4.28	\$9,844.00	\$6.00	\$13,800.00
70	L-108	NO. 6 AWG SOLID BARE COPPER COUNTERPOISE WIRE, INSTALLED ABOVE THE DUCT BANK OR CONDUIT, INCLUDING CONNECTIONS/TERMINATIONS	LF	5,400	\$3.00	\$16,200.00	\$2.80	\$14,040.00	\$2.51	\$13,554.00	\$4.00	\$21,600.00
71	L-110	CONCRETE ENCASED ELECTRICAL DUCT BANK, 2 WAY - 2" PVC CONDUIT	LF	250	\$60.00	\$15,000.00	\$85.00	\$21,250.00	\$91.00	\$22,750.00	\$121.00	\$30,250.00
72	L-110	NON-ENCASED ELECTRICAL CONDUIT, 1 WAY - 2" PVC CONDUIT	LF	4,300	\$7.00	\$30,100.00	\$14.00	\$60,200.00	\$13.91	\$59,813.00	\$19.00	\$81,700.00
73	L-110	NON-ENCASED ELECTRICAL CONDUIT, 2 WAY - 2" PVC CONDUIT	LF	850	\$10.00	\$8,500.00	\$22.00	\$18,700.00	\$21.40	\$18,190.00	\$29.00	\$24,650.00
74	L-115	ELECTRICAL JUNCTION STRUCTURE, 2-UNIT L-867 PULLCAN PLAZA	EA	8	\$5,000.00	\$40,000.00	\$9,000.00	\$72,000.00	\$8,560.00	\$68,480.00	\$11,300.00	\$90,400.00
75	L-123	L-858(1) AIRFIELD GUIDANCE SIGN (3-4 CHAR.) ON NEW FOUNDATION	EA	8	\$10,000.00	\$80,000.00	\$12,000.00	\$96,000.00	\$11,770.00	\$94,160.00	\$15,600.00	\$124,800.00
76	L-125	AIRFIELD GUIDANCE SIGN PANEL REPLACEMENT	EA	2	\$2,000.00	\$4,000.00	\$5,000.00	\$10,000.00	\$4,280.00	\$8,560.00	\$5,700.00	\$11,400.00
77	L-125	L-861(TL) BASE MOUNTED MITL (LED)	EA	32	\$2,000.00	\$64,000.00	\$2,600.00	\$83,200.00	\$2,568.00	\$82,176.00	\$3,400.00	\$108,800.00
78	L-125	GROUND RODS	EA	400	\$400.00	\$160,000.00	\$135.00	\$54,000.00	\$134.00	\$53,600.00	\$177.00	\$70,800.00
79	R-707	RIPRAP (CLASS)(TYPE)	SY	1,150	\$85.00	\$97,750.00	\$50.00	\$57,500.00	\$95.00	\$109,250.00	\$105.00	\$120,750.00
80	R-908	SOIL STABILIZATION MAT (CHANNEL)	SY	1,500	\$4.00	\$6,000.00	\$2.50	\$3,750.00	\$3.31	\$4,965.00	\$5.00	\$7,500.00
81	R-908	SOIL STABILIZATION MAT (SLOPE)	SY	2,950	\$3.80	\$11,210.00	\$2.50	\$7,375.00	\$4.44	\$13,098.00	\$5.00	\$14,750.00
82	R-908	TURF REINFORCEMENT MATTING	SY	400	\$7.50	\$3,000.00	\$5.00	\$2,000.00	\$4.50	\$1,800.00	\$5.00	\$2,000.00
83	SP-41	WIND TEE REMOVAL, REFURBISHMENT, AND RELOCATION	LS	1	\$50,000.00	\$50,000.00	\$200,000.00	\$200,000.00	\$26,750.00	\$26,750.00	\$36,000.00	\$36,000.00
84	SP-42	TEMPORARY SECURITY FENCE	LS	1	\$5,000.00	\$5,000.00	\$100,000.00	\$100,000.00	\$37,000.00	\$37,000.00	\$17,200.00	\$17,200.00
Total:						\$3,041,260.00		\$3,375,555.00		\$3,825,462.00		\$4,077,074.00 *
DBE Participation:						Goal = 12.46%		12.50%		12.54%		5.40% *

* Denotes Extension Error

THIS IS TO CERTIFY THAT THE BIDS TABULATED HEREIN WERE OPENED AT 11:00 AM LOCAL TIME ON MAY 1, 2024 AT THE COUNTY COUNCIL CHAMBERS, SUSSEX COUNTY ADMINISTRATIVE BUILDING, 1ST FLOOR, 2 THE CIRCLE, GEORGETOWN, DELAWARE 19847, AND THAT ALL OF SAID BIDS WERE ACCOMPANIED BY ACCEPTABLE BID BONDS OR CERTIFIED CHECKS.

SIGNATURE OF ENGINEER:  DATE: 5/3/2024

**TASK ORDER NO. FIVE (5)
PROFESSIONAL SERVICES AGREEMENT**



PROJECT: Construct Parallel Taxiway B - Phase 1 (CA)

AIRPORT: Delaware Coastal Airport

DELTA PROJECT NO.: 22033

DATE OF ISSUANCE: April 30, 2024

ATTACHMENTS: 1) Scope of Services
2) Rate Schedule

METHOD OF PAYMENT: Construction Administration - Unit Price + Fixed Fee

TASK ORDER AMOUNT: \$480,000

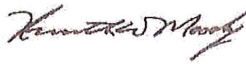
CONTRACT TIME: 200 Calendar Days Estimated Construction Contract Time

PROJECT DESCRIPTION: • Construction Administration Services

The original Agreement for Professional Services between Sussex County, Delaware (OWNER) and Delta Airport Consultants, Inc. (CONSULTANT) for Professional Services at Delaware Coastal Airport dated April 23, 2020, shall govern all TASK ORDERS executed under this Agreement unless modified in writing and agreed to by CONSULTANT and OWNER.

At the OWNER's request, and with an associated reduction in the CONSULTANT's fixed fee, the OWNER has agreed to assume a portion of the CONSULTANT's liability and business risk associated with subcontracted services provided under this Agreement. The OWNER agrees to indemnify and hold harmless the CONSULTANT against all costs arising out of or in connection with the failure of any Subconsultant to provide its services in accordance with the terms of its subcontracts. The OWNER shall be entitled to any payments received by CONSULTANT from its Subconsultants for settlement of any claims related to the Project. The OWNER assumes no liability for direct payment to the Subconsultants and CONSULTANT agrees to indemnify and hold the OWNER harmless from any and all claims by any Subconsultant which arises out of any failure of CONSULTANT to make payments to the Subconsultant provided that the OWNER has already paid CONSULTANT all amounts owed under this Agreement.

ACCEPTED:


Digitally signed by Kenneth
W Moody
Date: 2024.05.08 14:47:02
-04'00'

Kenneth W. Moody, PE
Vice President
Delta Airport Consultants, Inc.
3544 North Progress Avenue, Suite 200
Harrisburg, PA 17110

APPROVED:

by: 

Sussex County, Delaware
2 The Circle, P.O. Box 589
Georgetown, DE 19947

Construct Parallel Taxiway B - Phase 1 (CA)
Delaware Coastal Airport
Delta Project No. 22033

April 30, 2024

PHASE	DETAILED TASKS
CONSTRUCTION ADMINISTRATION (CA)	Owner Coordination Release for Construction Drawings & Specs Coordinate Subconsultants Project Correspondence Preconstruction Meeting Shop Drawing Review Construction Administration Materials Testing Review Site Visits Punchlist Inspection Final Inspection Record Drawings Airport Layout Plan Update Reimbursement Requests

ITEMS NOT INCLUDED IN SCOPE:

Field Representative Services
Bidding

**ATTACHMENT 2
RATE SCHEDULE**



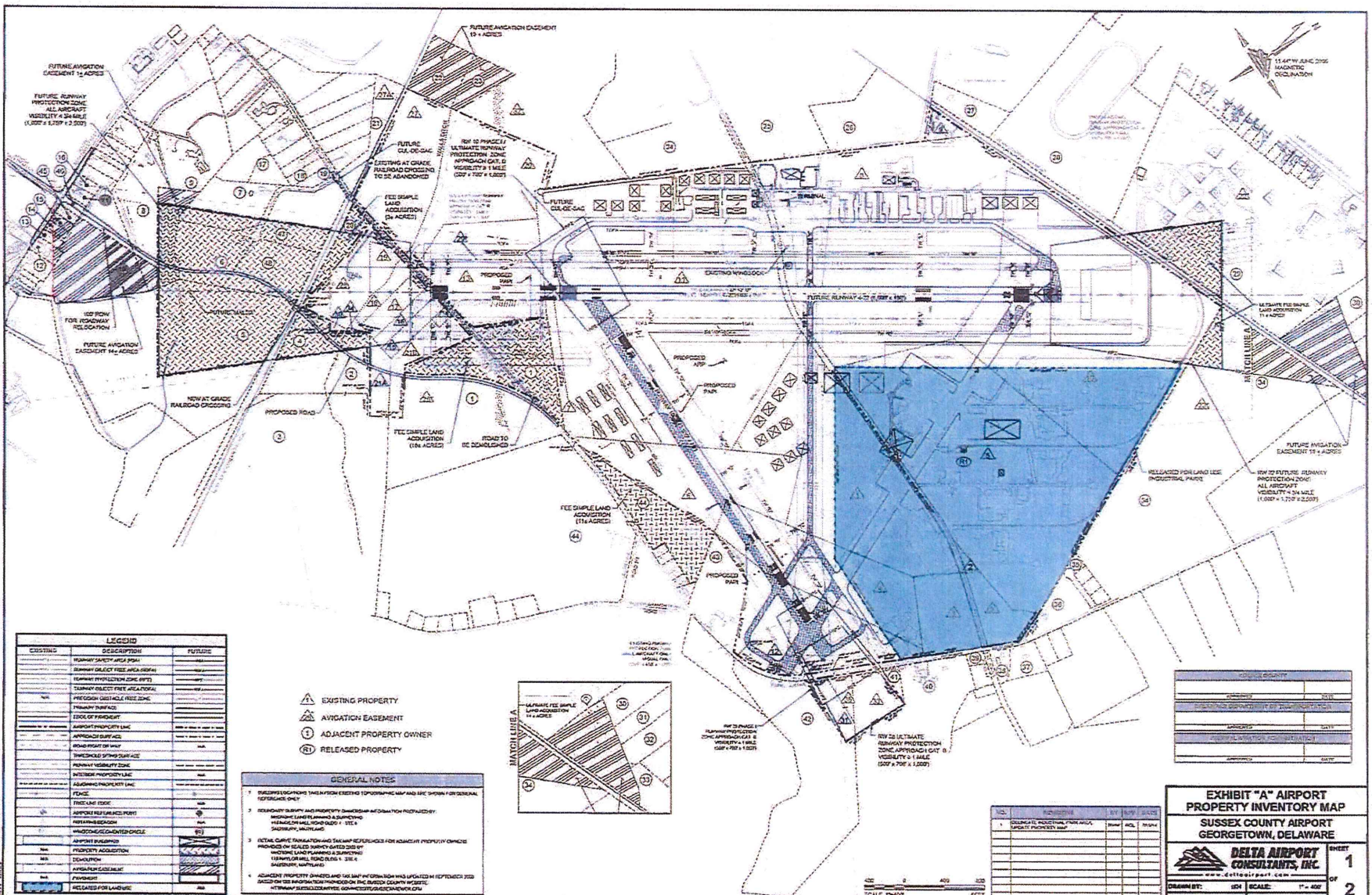
**DELTA AIRPORT
CONSULTANTS, INC.**

Delta Airport Consultants, Inc.
Date: January 4, 2024

Item	2024
Work Hours Billing Rates (with overhead)	
Principal	\$280.00
Project Manager/Registered Professional	\$257.00
Design Professional (Engineer/Planner)	\$170.00
Project Production/Administration	\$133.00
Field Representative (RPR)	\$135.00
Direct Nonsalary Expenses	
Automobile (per mile)	Federal Gov. guidelines
Aircraft (per mile)	Federal Gov. guidelines
Per Diem - Field Assignments	Federal Gov. guidelines
Meals & Lodging per calendar day (long term)	
Airline, Rental Car, Charter, etc.	Direct
Printing	Direct
Bid Advertisement	Direct
Meals & Lodging (short term)	Direct
Miscellaneous	Direct

Notes:

1. Billing rates for future years will be increased by 5% annually.
2. Billing rates based on 2024 salaries.
3. Work hour rates include labor overhead, general & administrative overhead per FAA AC 150/5100-14E, paragraph 4-10.

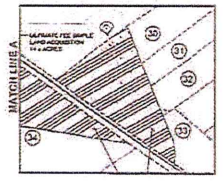


EXISTING	DESCRIPTION	FUTURE
[Symbol]	RUNWAY OBJECT FREE ZONE (RFA)	[Symbol]
[Symbol]	RUNWAY PROTECTION ZONE (RPZ)	[Symbol]
[Symbol]	RUNWAY OBJECT FREE ZONE (RFA)	[Symbol]
[Symbol]	PRECISION GRADIENT FIXING ZONE	[Symbol]
[Symbol]	PRIMARY SURFACE	[Symbol]
[Symbol]	EDGE OF PAVEMENT	[Symbol]
[Symbol]	AIRPORT PROPERTY LINE	[Symbol]
[Symbol]	APPROACH SURFACE	[Symbol]
[Symbol]	AREAS OUTSIDE OF WAY	[Symbol]
[Symbol]	THICKENED STRIPS SURFACE	[Symbol]
[Symbol]	PERMANENT VISIBILITY ZONE	[Symbol]
[Symbol]	WETLAND PROTECTION LINE	[Symbol]
[Symbol]	ADJACENT PROPERTY LINE	[Symbol]
[Symbol]	FENCE	[Symbol]
[Symbol]	FENCE LINE EDGE	[Symbol]
[Symbol]	APPROXIMATE PROPERTY	[Symbol]
[Symbol]	PERMANENT EASEMENT	[Symbol]
[Symbol]	WINDCATCHER/VENTILATED CHIMNEY	[Symbol]
[Symbol]	AIRPORT BUILDING	[Symbol]
[Symbol]	PROPERTY ACQUISITION	[Symbol]
[Symbol]	DEVELOPMENT	[Symbol]
[Symbol]	AVIATION CLASSIFICATION	[Symbol]
[Symbol]	PAVEMENT	[Symbol]
[Symbol]	NEEDED FOR LANDING	[Symbol]

- [Symbol] EXISTING PROPERTY
- [Symbol] AVIATION EASEMENT
- [Symbol] ADJACENT PROPERTY OWNER
- [Symbol] RELEASED PROPERTY

GENERAL NOTES

1. RELEASED PROPERTY IS SHOWN EXISTING TO CORRELATE MAP AND SITE SHOWN FOR GENERAL REFERENCE ONLY.
2. RELEASED PROPERTY AND PROPERTY OWNERSHIP ACQUISITION INFORMATION: RELEASED LAND IS PLANNED & SURVEYED IN ACCORDANCE WITH DELAWARE TITLE ACT & SURVEYING, MAPS AND LAND.
3. FUTURE GRADE ELEVATION AND SLOPE REFERENCES FOR ADJACENT PROPERTY OWNERS PROVIDED ON RELEASED PROPERTY OWNERS' SURVEYING AND PLANNING DOCUMENTS (SURVEYING, MAPS AND LAND, SURVEYING, MAPS AND LAND).
4. ADJACENT PROPERTY OWNERS' SURVEYING AND PLANNING INFORMATION WAS UPDATED IN SEPTEMBER 2023 BASED ON DELAWARE DEPARTMENT OF TRANSPORTATION'S DELAWARE COUNTY VISIBILITY ZONE SURVEYING AND PLANNING DOCUMENTS.



NO.	DESCRIPTION	DATE	BY	CHK.	REV.
1	ISSUED FOR PERMITTING PURPOSES, SUBJECT TO PROPERTY MAP				

COLLECTORSHIP	
OWNER	DATE
PREPARED BY	DATE
CHECKED BY	DATE
DATE	

**EXHIBIT "A" AIRPORT
PROPERTY INVENTORY MAP
SUSSEX COUNTY AIRPORT
GEORGETOWN, DELAWARE**

**DELTA AIRPORT
CONSULTANTS, INC.**
11411 W. BENTLEY BLVD. SUITE 100
DUBLIN, OHIO 43017

DRAWN BY: [Name] SCALE: 1" = 400'
CHECKED BY: [Name] DATE: MAY 2023

SHEET **1**
OF **2**

DRAWING PROVIDED BY: DELTA AIRPORT
 DRAWING DATE: MAY 2023



ASSURANCES AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and

assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act — 29 U.S.C. § 201, et seq.
- d. Hatch Act — 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 — Section 106 — 54 U.S.C. § 306108.¹
- g. Archeological and Historic Preservation Act of 1974 — 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act — 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended — 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended — 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 — Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 — 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 — 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended — 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 — Section 403 — 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act — 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act — 18 U.S.C. § 874.¹

- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. ^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall

apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere

with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The

accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 1. Operating the airport's aeronautical facilities whenever required;
 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or

facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 - 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable

classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for

which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the

public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.

b. Applicability

1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**[Selection Criteria: Sponsor Name]**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development

project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by

the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of [Selection Criteria: Project Application Date].

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

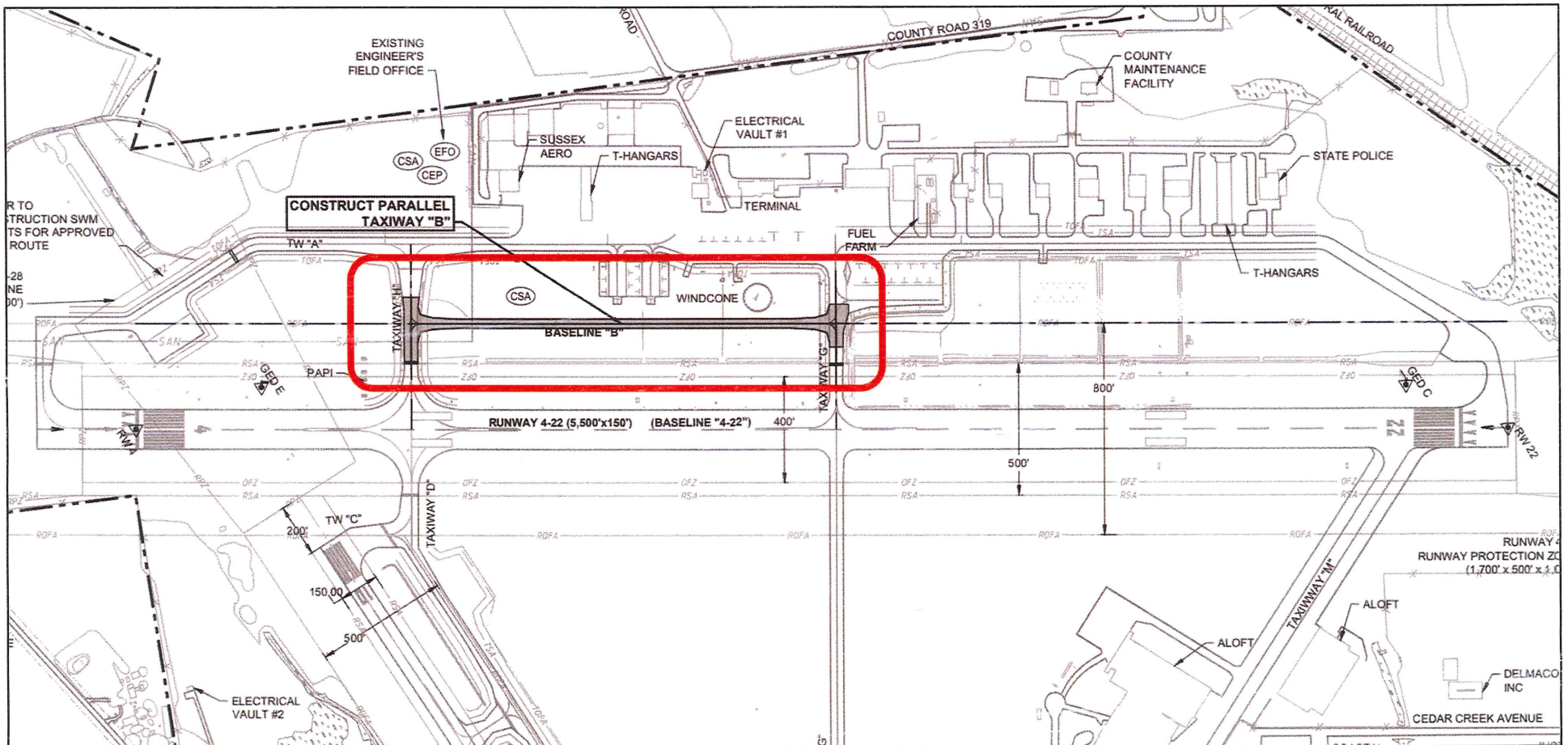
The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



REFERENCE: CONSTRUCT PARALLEL TAXIWAY B – PHASE 2 (CONSTRUCTION)

That section of pavement between Taxiway H and Taxiway G

FINAL BUDGET REQUESTS

2024

BUDGET PROJECTION 20241 Master Budget

ORG	OBJECT PROJ	ACCOUNT DESCRIPTION	CURRENT ADJ BUDGET	PROJECTED ACTUAL	FINAL	PERCENT CHANGE
3100060	57200	Improvements	6,838,000.00	7,008,402.07	6,838,000.00	.00
	31.000.00.60.0.57200					
		Rwy 4-22 parallel Taxiway B (phase 1 of 7)	1.00	3,250,000.00	3,250,000.00	
		90% 10%				
		Pavement Improvements	1.00	100,000.00	100,000.00	
		Business Park Improvements	1.00	80,000.00	80,000.00	
		T-Hangar (9-Unit) Construction Bldg #2	1.00	268,000.00	268,000.00	
		Construct one set of new T-Hangars for housing GA Aircraft This is half of the total expected cost of the project.				
		Land Acq. & Improvements	1.00	100,000.00	100,000.00	
		Interconnection Sewer	.00	.00	.00	
		Project completed				
		General Aviation Apron	.00	.00	.00	
		Project completed				
		Well & Pump	1.00	40,000.00	40,000.00	
		Refurbish 2nd water well and replace well pump Per Parker Burdell				
		Storm water Improvements - Eil walls	1.00	2,000,000.00	2,000,000.00	
		Baltimore Ave improvements	.00	.00	.00	
		Completed				
		Extend Runway 4 Env Assessment Phase 1 Subject to FAA Approval	1.00	700,000.00	700,000.00	
		Extend Runway 4 Preliminary Design Phase 2 Subject to FAA Approval	1.00	300,000.00	300,000.00	
		BUDGET CEILING:			6,838,000.00	
		TOTALS:	6,838,000.00	7,008,402.07	6,838,000.00	.00

** END OF REPORT - Generated by Patricia Bodenweiser **

COUNCIL BUDGET REQUESTS

2025

BUDGET PROJECTION 20251 Master Budget FYE 25

ORG	OBJECT PROJ	ACCOUNT DESCRIPTION	CURRENT ADJ BUDGET	PROJECTED ACTUAL	COUNCIL	PERCENT CHANGE
3100060	57200	Improvements	6,838,000.00	1,914,948.60	5,587,000.00	-18.29
	31.000.00.60.0.57200					
		Rwy 4-22 Extend Runway 90% 5/5	1.00	1,500,000.00	1,500,000.00	
		Pavement Improvements	1.00	100,000.00	100,000.00	
		Utility Improvements	1.00	407,000.00	407,000.00	
		Hangar Taxiway 90/5/5	1.00	300,000.00	300,000.00	
		Land Acq. & Improvements	1.00	600,000.00	600,000.00	
		Storm water Improvements - Peterkins	1.00	250,000.00	250,000.00	
		Parallel TW - B 90/5/5	1.00	2,330,000.00	2,330,000.00	
		Roof Repairs/Replacement at Terminal Building	1.00	50,000.00	50,000.00	
		Preliminary Engineering Inspection needed to determine roof condition due to numerous leaks at the FBO, Restaurant & Bar area, etc. Per Bob Bryant				
		Sussex Aero Maintenance (SAM) Roof Repair/Replacement	1.00	50,000.00	50,000.00	
		Conversations with tenant at SAM, roof is leaking and needs repairing/replacing. Preliminary Engineering Inspection needed to determine roof condition. Per Bob Bryant				
		BUDGET CEILING:			6,838,000.00	
		TOTALS:	6,838,000.00	1,914,948.60	5,587,000.00	-18.29



** END OF REPORT - Generated by Patricia Bodenweiser **



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: June 21, 2024

RE: County Council Report for Ordinance 24-02 relating to Accessory Dwelling Units

On March 19, 2024, the County Council introduced an Ordinance to amend the Code of Sussex County regarding Accessory Dwelling Units.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on May 8, 2024. At the meeting of May 22, 2024, the Planning & Zoning Commission recommended approval of the Ordinance for the 6 reasons stated and subject to the 4 recommended changes as outlined within the motion.

The County Council held a Public Hearing on the Ordinance at its meeting on June 11, 2024. At the conclusion of the Public Hearing, the Council closed the public record and deferred action on the Ordinance for further consideration. Below is a link to the minutes of the June 11, 2024, County Council meeting.

[Link to the Minutes of the June 11, 2024 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of May 8 2024, and May 22, 2024.

[Minutes of the May 8, 2024, Planning & Zoning Commission Meeting](#)

ORD 24-02

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53,



115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS.

Commissioner Wheatley informed the chambers that the Ordinances would be treated differently than an application as they are going to appropriate time for anyone who wishes to speak; that you don't have to say for or against; that we're looking for presentations of about 10 minutes so we're going to run the timer for 10 minutes; that if you have a comprehensive proposal, statement or PowerPoint with a lot of historical information skip through that fairly quickly, because we're not really interested in what's in the rearview mirror as much as we're interested in what's in front of us; that it is on the record if it's part of your written statement or part of your PowerPoint

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the ordinance as it was introduced to County Council and one letter of support.

Mr. Whitehouse spoke in regards to the Ordinance that a summary of the accessory dwelling units, the types of accessory dwelling units and an illustration of the different types are included in the presentation; that they can be detached, the most common type that we see here in Sussex County, but they can be attached above a garage, they could be attached in an interior within a basement, or they could be in an attic in a variety of types of twinning units; that they're not necessarily detached, and when we summarized this to County Council, we explained that we already have accessory dwelling units in the code since 1998, but they're referred to as garage studio apartments, and there are certain limitations and rules that led to the creation of this ordinance; that currently they have to be detached, they have to be an accessory to a dwelling, they must be 800 square feet in area, which has led to some variance requests; that some applications have to have at least one parking space and they don't necessarily have to be a garage or a studio they just have to be detached; that in 2019 Council created a notification process that allowed applicants to apply to the county for Garage studio apartment and for staff to review them and to notify neighbors; that if an objection is received, they proceed to the Board of Adjustment as a special use exception, but in cases where there's no objection within 10 days or letters of support, applicants pay a \$50 fee and then staff can approve them administratively, and it avoids the need to go to a public hearing before the Board of Adjustments; that over 70 that have been received since 2019, but over 85% are approved without a hearing and the fee is just \$50.00 to process; that Kent County has adopted an ordinance in September 2023 with a good definition of what an ADU is; that for the record that it's a self-contained dwelling unit that is secondary to the principal dwelling unit on the property and includes independent living facilities such as a separate entrance, bathroom and kitchen; that the dwelling unit may be attached to the principal dwelling, which is accessory apartments or detached on the same lot and they have a set of rules about how many you can have on a parcel, for example, they say that only one is permitted per property and it may be attached to the dwelling, that manufactured homes are not permitted as an ADU; that they have to be in terms of size, a maximum of 50% of the floor area of the principal dwelling, they have to be constructed on a slab or crawl space and Kent County has a total lot coverage maximum requirement of 50%, that they have to comply with all applicable codes and regulations such as building code; that is adopted and in effect in Kent County, which led us to think about our presentation to County Council and the terms of how this ordinance had been drafted, is similar in style; that the ordinance before you changes the references from garage studio apartments in code to refer to accessory dwelling units and the purpose of that is to promote consistency with statewide and national practice; that we propose an increase to 1000 square feet of living space, similar to Kent County, we're proposing, the ADU be no larger than 50% of the floor area of the single family dwelling on the lots, and that there shall be no more than 50% of the lot coverage; that the ADU has at least one parking space, in addition to any parking spaces that may also exist on the lot and proposing an

administrative approval process that essentially means that you can apply, pay the fee and they're reviewed administratively by staff checking for setbacks and to make sure that heights and parking spaces are provided; that the Board of Adjustment is not filled with special use exceptions; that by removing the detached requirement it will allow basement ADU's or attached ADU's, which a lot of people want ADU's but don't necessarily want them to be detached.

Mr. Robertson stated that this was a County Council initiative came out of Kent County, but also about different types of housing and affordable housing; that this is another type of affordable housing that's available and would be appropriate; that the floor area size and the lot coverage size that was so that we didn't effectively get duplexes, we wanted to make sure this remained accessory to the primary dwelling; that we wanted to include one parking space, we felt that was important, you know, particularly in some of our developments, because off street parking is at a premium and we wanted to make sure that there was a parking on site available for this; that we also had a minimum lot size because in smaller lot subdivision like a cluster subdivision where there's 7500 square foot lots for example, the building footprint is not really that big to put on another ADU or to add an ADU into a basement of an existing house with you know additional traffic; that this is within Sussex County Zoning Code and doesn't have any bearing on a homeowners association's decision through their restrictive covenants to regulate how they want homes to be located or whether they want ADU use within their development; that there would still be that private sort of contractual oversight over it and there's a bill floating around the General Assembly on this that's a little different in that it doesn't have any parking requirements and it also says that you can't prohibit them only through restrictive covenants; that ours is different from theirs, but we hope it will significantly increase the housing stock through ADU's in Sussex County.

Mr. Mears questioned if the 50% lot coverage applied to just the ADU or the ADU and the residence combined.

Mr. Whitehouse responded that the 50% would be 50% of the total lot, with an easy calculation of 50% of the square footage of the total lot.

Ms. Wingate questioned if there would be a minimum for the size of the building that could be constructed.

Mr. Whitehouse responded that within building code you still have to meet their code which includes the minimum size of the units, how many rooms, and how many bedrooms, but over time building code can change; that the ordinance does not specify a minimum size of the building, but there are the lot area requirements that would need to be followed with the design.

Ms. Wingate asked if the option would be available for a manufactured home, like a tiny home, be a consideration as to have a place to rent; that there should be an option for people to be able to put the tiny home as a detached dwelling.

Mr. Whitehouse explained that there are other provisions in our code today for manufactured homes as an emergency hardship purpose and to have them on a parcel; that this Ordinance would primarily be for stick built custom designed dwellings; that if it's an internal ADU, it would not be a manufactured home; that there is no language in the Ordinance that specifically prevents that, but it was designed for stick built dwellings.

Mr. Robertson stated that they wanted to make sure that the tiny homes were covered by that 1000-foot maximum on the dwelling size; that this isn't designed for RVs to become accessory dwellings on the one hand, but there's no reason why a tiny home couldn't be modified to become an ADU; that it would still have to align with building code and zoning prior to being an acceptable dwelling.

Mr. Butler asked about the required sewage needed to place an ADU on the property, specifically Line 29, Section 8, in which older sewers would not qualify for this, but then if there is a sewer that is designed for a 5000 sq. ft., five-bedroom house and they only build a 2000 sq. ft. house with two bedrooms, if they can bring documentation saying that this sewer is designed for this amount of rooms, would they be able to use that?

Mr. Whitehouse stated that they're still going to have to either comply with county engineering and get a permit from them or DENREC on the septic; that as part of our review process, whether it's at the time of applying for your ADU or applying for the building permit, it's all going to be checked, we're not going to allow extra building permits if there's no provision for sewer or there's no provision for septic; that as long as they have proper documentation showing the sewage system is capable of handling the new dwelling that would be all that is needed.

Mr. David Hutt, with Morris James, LLP spoke on behalf of the application in regards to his belief that this ordinance is something that is needed; that in the draft Ordinance that was submitted lines 105 to 106 are proposed to be deleted; that with the information from Mr. Whitehouse and Mr. Robertson, I would change that to say so that the IT would not be deleted, the 1st 3 words would be deleted and in that last sentence would read a lot with an accessory dwelling unit shall not have a lot coverage that is greater than 50%; that as presently written the accessory dwelling unit cannot have a lot coverage that is greater than 50% and it can only be half as big as the floor area of the main dwelling; that what I've written in the draft is not correct, but what is said would help clarify that in, in the future code provision, if it's adopted by Council; that lines 116 through 119 the purpose of it is so that if you have a detached accessory dwelling unit, it has to be behind the main dwelling and it cannot impact the setbacks; that you can't have it significantly outside the setbacks of the main dwelling; that it needs to stay visually in line with the main dwelling as it was written in the draft; that separated into two concepts, one is the attached is going to be part of the single family dwelling and that has to comply with the setback requirements in the zoning code and then identified separately that a detached accessory dwelling unit has to be behind the primary single family dwelling and its setbacks have to be the largest setback achievable between the minimum setback required in the zoning code for the primary single family dwelling and then 1/2 of the single family dwellings actual side and rear setbacks.

Mr. Robertson stated that a dwelling with a side boundary of 10 feet set back established by code in the house is built 20 feet off the property line so the house is set back 20 feet, even though it's a 10-foot setback; that the idea would be that you could build the accessory structure to 15 feet so that it's not sticking out completely behind the house so that visually, if you are looking at the front of the house the bulk of what is seen is the house in the front and not the Accessory Dwelling; that if you have a large parcel, that might make for some odd math; that when we were drafting, I think we were considering more subdivision lots than you know, large parcels; that it may be something to consider removing if appropriate.

Mr. Hutt stated that he would have no objection to its removal; that just trying to clarify the language that is there, with Mr. Robertson, pointing out the large scale lots and the visualization if you had to be a minimum of 1/2 of that setback that could be awkward to look at; that the proposal of the deletion of the minimum lot size of 1/2 acre from the requirements that are found in this draft and the purpose of the ordinance is the need for affordable housing options in Sussex County and diversification of housing options being available; that the number of lots that exist, particularly in eastern Sussex County, are going to be 1/2 acre in size or greater is very few; that in the past, in the past 10 years I've presented 1 Standard Subdivision to this county, which meets the size you would need in order for this ordinance to have an impact and take effect; that the eastern side of Sussex County is where affordable housing is and probably is most desperately needed; that a huge section of that will never apply as cluster subdivisions have the restrictive covenants; that every person who lives in a subdivision or community that has restrictive covenants is subject to Sussex County Zoning Code and the private contractual restrictive covenants that exist for that community; that sometimes the two agree, but it's always the most restrictive of the two that applies. So if you live in Community X and Community X does not allow for an accessory dwelling unit then you couldn't do it irrespective of whether you had a half-acre, a three quarter acre or a full acre or a 7,500 square foot lot; that the concern is that if you lived in one of those communities, you could file for a special use exception request with Planning & Zoning office and you could go through the administrative process or the public hearing process you could achieve that and still have to comply with restrictive covenants; that with this ordinance, that's not an option, there are no special use exceptions available; that it's simply a permitted use and the goal of this was so that a person wouldn't have to do either the administrative process or the public hearing process; that it may have an inverse effect of eliminating a large portion of the county from being able to be apply or use the ordinance; that it's a policy argument that will not be as helpful as it's intended as the greatest number of people that are out there are in these communities; that that's why I considered striking it from the draft; that the 1/2 acre doesn't make sense within the section where these requirements are; that if you have a septic system, the lots are 20,000 square feet, which could be in a standard subdivision, but the county doesn't see them often; that maybe there's still a special use exception request route available as a permitted use for certain size lots and a special use exception for smaller lots; that this is also available on MR and GR Zoning districts with the minimum lot size being 10,000sq feet; that it's a concern because there's a whole area of Sussex County that gets bypassed or overlooked with this ordinance.

Chairman Wheatley stated that the half-acre might want to say 20,000 sq. ft. instead because technically 20,000 sq. feet is less than half an acre and maybe even say 10 sq. feet; that on a 7500sq foot lot, it would be difficult to put a detached dwelling; that the option would most likely be to take the garage and use it as an accessory dwelling unit; that would probably be your only option on a 7500sq foot lot; that anything smaller than 20,000sq feet has to go through a process.

Mr. Matt Lloyd, of 32228 Old Hickory Rd., Laurel DE, spoke in favor of the Ordinance in regards to the belief that the ADU's will help solve the affordable housing crisis that exists here in Sussex County; that in 2019, an independent Council study determined we were 10,000 households short and now five years later it has likely doubled, if not tripled in size of the supply demand problem; that these ADU's are a great way to increase the housing supply while minimizing consumption of natural resources, as well as expanding the rights of the citizens who live here; that by allowing homeowners to occupy this additional unit, be it for family members, caretakers, or to increase their household

income by renting it out, all this can be done at a fraction of the cost of what it would be to build onto a new property; that I have personal experience building these and using them at properties that I own out of state, they work, they're great options for affordable housing, and they can tap into existing infrastructure on the property, making them ideal cost effective housing options; that there are a few changes he would suggest with new verbiage; that Lines 29 through 33 stipulate that an independent sewer is required for newly constructed dwellings, however, in accordance with DENREC, because septic capacity is determined by a count, if the proposed ADU, along with the primary dwelling bedroom count, does not exceed the current septic capacity, then the owner should automatically have the right to utilize the existing septic system, provided that you are able to prove the size of the septic and up to standards with DENREC; that if the overall bedrooms exceed the current capacity, it should say that a new system may be required or the homeowner has the option to upgrade the existing septic; that this is critical because of limited parcel size, soil suitability and the cost of installing a separate system should be the right of the homeowner based on their existing septic capacity, not necessarily determined by the county engineer; that regarding the type of ADU Lines 66 through 71 states that the ADU's may be attached or detached from the primary dwelling, but across the country, there's a third type recognized, referred to as an interior ADU's; that these would be finished basements with separate entrances, egress considerations and conformity with International Building Code; that attached ADU's may include finished basements, but to be consistent with standard practices and verbiage, we should include attached, detached and interior types of ADU's to avoid confusion or misinterpretation of the ordinance; that Lines 89 through 92 discuss the fee and the standard practices and paying for the county services; that we change the fee to not exceed \$50 to provide consistency and a fixed cost figure for homeowners to count on for years to come; that Lines 94 through 97 require a signed sealed survey by a licensed surveyor, but in the case of an existing dwelling, a survey would already be on file; that we know where the existing structure is so for simplicity and cost sake, eliminate this requirement and ask for an accurate drawing on graph paper with scale and dimensions showing the location and footprint of the dwelling; that the ADU Ordinance is to help encourage the building of housing and the supply thereof, but each requirement that adds to the cost of the project just increases the barrier of entry and limits people from starting on a project like this; that Lines 103 through 106 discusses the maximum footprint, with a significant portion of ADU's converted from existing structures such as garages and pole barns, to limit the size of the conversion will unnecessarily restrict what would otherwise be already a 50% solution, and would eliminate a significant number of ADU's from becoming available by owners who've already invested into their secondary dwelling; that in those cases consider forgoing the size comment; that Lines 116 through 119 stipulate that an ADU be placed behind the primary dwelling, but a considerable amount of dwellings that will be converted currently sit adjacent to the primary dwelling; that it should say that ADU's can be built behind or adjacent to the existing dwelling; that in cases where the only space available is in front of the house it should be allowed, but with an engineer's approval in the best interest of the county.

Mr. Robertson wanted to clarify some things for the record, being that in Section 110-9, with regards to the county sewer systems and if the septic system is sufficient to serve an ADU; that the old code was worded theoretically in which you would have needed a separate sewer connection for the ADU and we wanted to make sure that it could all be part of a single sewer connection; that in context of the ordinance with fees a decision was made by County Council a while back that they wanted to pull all the fees and mentions of fees out of all the different chapters of the code and put them in a single chapter in the code; that this would allow for all fees to be handled really at the time of budgeting

versus having to amend the zoning code; that if the fees change it's still handled each year on a public hearing basis, when the budget gets approved so that was not to change the fee amount just to there was sort of a cleanup on how fees were handled; that one of the things the Commission and staff are going to look at is if you can convert a garage, you still need the off street parking, so that there's still two spaces plus one for the ADU; that maybe have an environment discussion that if we have the 1000 square foot minimum that lot coverage doesn't matter; that we want to make sure that in a subdivision if there are 100 acres and 200 houses, it doesn't balloon into a 400-unit subdivision doubling its density; that that throws off all your DelDOT calculations, all your traffic counts, all your sewer capacity and everything else.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to Ord. 24-02 (Regarding Accessory Dwelling Units). Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the May 22, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since May 8, 2024.

Mr. Robertson read Ms. Wingate's prepared motion at the request of Ms. Wingate.

Ms. Wingate moved that the Commission recommend adoption of Ordinance No. 24-02 regarding Accessory Dwelling Units based on the "Whereas" clauses contained within the Ordinance as well as the record made during the public hearing. This recommendation is also subject to several proposed revisions to the Ordinance.

1. There is a need for this Code change, and there is the need for additional housing options in Sussex County. This Ordinance will enable more housing options to become available throughout Sussex County.
2. The current Code provisions are outdated and unduly burdensome. For example, the Code currently refers to "Garage/Studio Apartments" which is term with unnecessary restrictions. "Accessory Dwelling Unit" is a broader and more widely accepted term.
3. This Ordinance eliminates the discretionary review of a potential "Garage/Studio Apartment" that currently exists and makes an Accessory Dwelling Unit a permitted use in all residential zoning districts if the minimum requirements are met.
4. This Ordinance creates greater clarity and certainty with regard to the ability to establish Accessory Dwelling Units in appropriately sized locations.
5. The minimum standards in this Ordinance are appropriate for the following reasons:
 - A. No Accessory Dwelling Unit can exceed 1,000 square feet in size, and it cannot be larger than 50% of the floor area of the primary dwelling on a property. This is necessary to maintain appropriate densities in the residential zoning districts and not overburden existing internal and external roadways, utilities and other factors. Without this reasonable limitation, an Accessory Dwelling Unit could potentially become a full-sized second dwelling or duplex on a property (and therefore potentially

- double the density of the property or development), which is not the intention of this housing initiative and Ordinance.
- B. There must be at least one off-street parking space set aside for each Accessory Dwelling Unit. Many subdivisions are at capacity given their roadway and on- and off-street parking designs for the existing homes. They cannot absorb the parking of additional vehicles associated with an Accessory Dwelling Unit. Therefore, requiring one additional off-street parking space for an Accessory Dwelling Unit is appropriate and reasonable.
 - C. A property must be at least 20,000 square feet in size to accommodate an Accessory Dwelling Unit. This ensures that there is sufficient land area available for the primary dwelling, parking and compliance with setbacks. In addition, this minimum size avoids the special provisions of Ordinance No. 2557 regarding setbacks in small lots.
6. This Ordinance does not impact existing or proposed private restrictive covenants that may regulate the existence, use and/or location of an Accessory Dwelling Unit within a private development.
 7. This recommendation is subject to the following recommended changes to the Ordinance:
 - A. At line 70, after “servant quarters”, insert “*recreational vehicles (as that term is defined in Title 21, Section 101(60) of the Delaware Code)*”. This will ensure that the Accessory Dwelling Units are not merely vehicles or campers and are constructed to be used as dwelling units.
 - B. At lines 105 to 106, delete the sentence, “An accessory dwelling shall not have a lot coverage that is greater than 50%.” This is an unnecessary requirement given the other dimensional requirements of an ADU.
 - C. Delete the proposed new language inserted at Lines 116 through 119 and replace that proposed new language with the following instead: *An accessory dwelling unit shall not encroach into the front, side or rear yard setbacks required by this Chapter. On a lot less than three acres in size, a detached accessory dwelling unit shall be located behind the single-family dwelling on the same lot.*
 - D. Revise the minimum lot size requirement contained in lines 122 by deleting the reference to “one-half acre in size” and replace it with “*20,000 square feet*”.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously. Motion carried 4-0. By roll call vote: Ms. Wingate – yay, Mr. Mears – yay, Mr. Collins – yay – and Chairman Wheatley – yay.

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115,**
3 **ARTICLES I, IV, V, VI, VII, VIII, IX, AND XXVII SECTIONS 115-4, 115-20,**
4 **115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, AND 115-210**
5 **REGARDING ACCESSORY DWELLING UNITS.**

6
7 WHEREAS, it is acknowledged that there is a need for affordable housing options
8 in Sussex County, and a diversification of housing options; and

9
10 WHEREAS, Accessory Dwelling Units, currently identified as Garage/Studio
11 Apartments in the Code of Sussex County, can provide an alternative and affordable
12 housing option in Sussex County; and

13
14 WHEREAS, it is the desire of Sussex County to revise the name of these housing
15 units from “Garage/Studio Apartment” to “Accessory Dwelling Units”, which is a
16 more appropriate description of the types of units covered by this definition; and

17
18 WHEREAS, these amendments promote the health, safety and welfare of Sussex
19 County and its residents; and

20
21 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDNAINS:**

22
23 **Section 1. The Code of Sussex County, Chapter 110, Article III, § 110-109 is**
24 **hereby amended inserting the italicized and underlined language**
25 **alphabetically within the definitions as follows:**

26
27 § 110-9. Separate building sewers required.

28
29 A. A separate and independent building sewer shall be provided for every newly
30 constructed dwelling, building or property used for human occupancy,
31 employment, recreation or other purpose. The Engineer may allow more than
32 one existing structure to be connected to a single building sewer in the best
33 interest of the County.

34 B. A building sewer serving newly constructed buildings shall not service more
35 than one of the following:

- 36 (1) Residential dwelling, either detached or one side of a double house or house
37 in a row of houses, provided that *an accessory dwelling unit*, a garage, a

38 guesthouse and similar features incidental to the family life shall be
39 considered as a portion of the dwelling.

40 (2) Industrial, commercial or manufacturing establishment.

41 (3) Commercial buildings separated by a partition wall or walls and
42 comprising of stores, offices or any combination thereof.

43 (4) Detached building comprising apartments, stores, offices or any
44 combination thereof.

45 (5) Establishment consisting of individual dwelling units under the
46 management of a single commercial or cooperative entity.

47

48

49 **Section 2. The Code of Sussex County, Chapter 115, Article I, § 115-4 is hereby**
50 **amended by deleting the language in brackets and strikethrough and by**
51 **inserting the italicized and underlined language alphabetically within the**
52 **definitions as follows:**

53

54 **§ 115-4. Definitions and Word Usage.**

55 . . .

56

57 B. General definitions. For the purpose of this chapter, certain terms and words are
58 hereby defined as follows:

59

60 [~~GARAGE/STUDIO APARTMENT~~] ACCESSORY DWELLING UNIT

61 [~~A building or use designed and use as a single apartment unit containing not more~~
62 ~~than 800 square feet of total floor area and accessory to the single family dwelling~~

63 ~~Garage/studio apartments do not include duplexes, tourist homes, servant quarters,~~
64 ~~or guest homes. Prior to use, a garage/studio apartment shall obtain a special use~~

65 ~~exception under the provisions of Article XXVII, Board of Adjustment, and all~~
66 ~~necessary state and local permits.] A self-contained dwelling unit that is secondary~~

67 to the principal dwelling unit on a property and includes independent living
68 facilities, such as a separate entrance, bathroom and kitchen. The dwelling unit

69 may be attached to, or detached from, the primary dwelling on the property.
70 Accessory dwelling units do not include duplexes, tourist homes, servant quarters,

71 or guest homes.

72

73

74 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-20**
75 **“Permitted Uses” is hereby amended by deleting the language in brackets and**
76 **strikethrough inserting the italicized and underlined language:**

77
78 **§ 115-20 Permitted Uses.**

79
80 A. A building or land shall be used only for the following purposes:

81
82 . . .

83
84 (15) [~~Garage/studio apartment with at least one parking space~~] One accessory
85 dwelling unit for the exclusive use of the tenant included on the premises that is
86 administratively approved by the Director or his or her designee, and subject to the
87 following:

88
89 (a) There shall be a fee [~~of \$50~~] in an amount determined by County
90 Council to request the [~~administrative~~] approval [~~which shall be credited towards a~~
91 ~~Board of Adjustment application fee should consideration by the Board become~~
92 ~~necessary~~] of the accessory dwelling unit.

93
94 (b) The applicant shall submit a survey signed and sealed by a surveyor
95 licensed in the State of Delaware to the Director showing the location of the
96 [~~garage/studio apartment~~] accessory dwelling unit and the floor area of both the
97 accessory dwelling unit and the single family dwelling.

98
99 (c) [~~The Director shall give written notice to adjacent property owners of~~
100 ~~the requested garage/studio apartment and accept written statements within 10~~
101 ~~working days from the date of mailing. If any objection is received, the Director~~
102 ~~shall refer the application to the Board of Adjustment for a Special Use Exception.]~~
103 No accessory dwelling unit shall have a floor area that is greater than 1,000 square
104 feet. An accessory dwelling unit shall not be larger than 50% of the floor area of
105 the single family dwelling located on the same lot. An accessory dwelling shall not
106 have a lot coverage that is greater than 50%.

107
108 (d) [~~The Director shall consider factors including whether the~~
109 ~~garage/studio apartment will have a substantially adverse effect on neighboring~~
110 ~~properties.] There shall be at least 1 parking space set aside for an accessory
111 dwelling unit.~~

112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148

(e) [~~Within 30 working days after the request is submitted, the Director or his or her designee may approve the garage/studio apartment or advise the applicant that an application must be submitted to the Board of Adjustment for a Special Use Exception.~~] *An accessory dwelling unit shall comply with the same setbacks as the primary single family dwelling located on the same lot. An accessory dwelling shall be placed behind the primary single family dwelling on the same lot and maintain one-half of the single family dwelling's actual side and rear setbacks.*

(f) *No accessory dwelling unit shall be constructed or placed on a lot that is smaller than one-half acre in size.*

Section 4. The Code of Sussex County, Chapter 115, Article IV, §115-23 “Special Use Exceptions” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language:

§ 115-23 Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

(5) [~~Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises~~] *Reserved.*

Section 5. The Code of Sussex County, Chapter 115, Article V, §115-29 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough inserting the italicized and underlined language:

§ 115-29 Permitted Uses.

149 A building or land shall be used only for the following purposes:

150

151 . . .

152

153 (~~K) [Garage/studio apartment with at least one parking space for the exclusive use~~
154 ~~of the tenant included on the premises that is administratively approved by the~~
155 ~~Director or his or her designee, and]~~ One Accessory dwelling unit subject to the
156 requirements set forth in Article IV, Section 115-20A.(15).

157

158 **Section 6. The Code of Sussex County, Chapter 115, Article V, §115-32**
159 **“Special Use Exceptions” is hereby amended by deleting the language in**
160 **brackets and strikethrough:**

161

162 § 115-32 Special use exceptions.

163 Special use exceptions may be permitted by the Board of Adjustment in accordance
164 with the provisions of Article XXVII of this chapter and may include:

165 . . .

166

167 C. Other special use exceptions as follows:

168

169 . . .

170

171 [~~Garage/studio apartments, when not approved administratively by the Director or~~
172 ~~his or her designee, provided that at least one parking space for the exclusive use of~~
173 ~~the tenant is included on the premises.]~~

174

175 **Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-40**
176 **“Special Use Exceptions” is hereby amended by deleting the language in**
177 **brackets and strikethrough:**

178

179 § 115-40 Special use exceptions.

180 Special use exceptions may be permitted by the Board of Adjustment in accordance
181 with the provisions of Article XXVII of this chapter and may include:

182 . . .

183

184 C. Other special use exceptions as follows:

185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~

Section 8. The Code of Sussex County, Chapter 115, Article VII, §115-48 “Special Use Exceptions” is hereby amended by deleting the language in brackets and strikethrough:

§ 115-48 Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

...

C. Other special use exceptions as follows:

...

~~[Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.]~~

Section 9. The Code of Sussex County, Chapter 115, Article VIII, §115-53 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language:

§ 115-53 Permitted Uses.

A. A building or land shall be used only for the following purposes:

...

(H) ~~[Garage/studio apartment with at least one parking space for the exclusive use of the tenant included on the premises that is administratively approved by the~~

222 ~~Director or his or her designee, and]~~ *One accessory dwelling unit* subject to the
223 requirements set forth in Article IV, Section 115-20A.(15).

224

225 . . .

226

227 **Section 10. The Code of Sussex County, Chapter 115, Article VIII, §115-56**
228 **“Special Use Exceptions” is hereby amended by deleting the language in**
229 **brackets and strikethrough:**

230

231 § 115-56 Special use exceptions.

232 Special use exceptions may be permitted by the Board of Adjustment in accordance
233 with the provisions of Article XXVII of this chapter and may include:

234 . . .

235

236 C. Other special use exceptions as follows:

237

238 . . .

239

240 [~~Garage/studio apartments, when not approved administratively by the Director or~~
241 ~~his or her designee, provided that at least one parking space for the exclusive use of~~
242 ~~the tenant is included on the premises.]~~

243

244 **Section 11. The Code of Sussex County, Chapter 115, Article IX, §115-64**
245 **“Special Use Exceptions” is hereby amended by deleting the language in**
246 **brackets and strikethrough:**

247

248 § 115-64 Special use exceptions.

249 Special use exceptions may be permitted by the Board of Adjustment in accordance
250 with the provisions of Article XXVII of this chapter and may include:

251 . . .

252

253 C. Other special use exceptions as follows:

254

255 . . .

256

257 [~~Garage/studio apartments, when not approved administratively by the Director or~~

258 ~~his or her designee, provided that at least one parking space for the exclusive use of~~
259 ~~the tenant is included on the premises.]~~

260

261 **Section 12. The Code of Sussex County, Chapter 115, Article XXVII, §115-210**
262 **“Special Exceptions” is hereby amended by deleting the language in brackets**
263 **and strikethrough:**

264

265 § 115-210 Special exceptions.

266 In order to provide for adjustments in the relative location of uses and buildings, to
267 promote the usefulness of these regulations and to supply the necessary elasticity to
268 their efficient operation, special use exceptions, limited as to locations described in
269 this Article, and special yard and height, exceptions are permitted by the terms of
270 these regulations. The following buildings and uses are permitted as special
271 exceptions if the Board finds that, in its opinion, as a matter of fact, such exceptions
272 will not substantially affect adversely the uses of adjacent and neighboring property:

273

274 . . .

275

276 (3) Other special use exceptions as follows, which are specified in each district:

277

278 . . .

279

280 [~~(p) Garage/studio apartments, when not approved administratively by the~~
281 ~~Director or his or her designee, provided that at least one parking space for the~~
282 ~~exclusive use of the tenant is included on the premises.]~~

283

284 **Section 13. Effective Date.**

285

286 This Ordinance shall take effect immediately upon adoption by Sussex County
287 Council.



Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: June 21, 2024

RE: County Council Report for Ordinance 24-03 relating to Residential Development Perimeter Buffers

On March 19, 2024, the County Council introduced an Ordinance to amend the Code of Sussex County regarding the perimeter buffers of residential development.

The Planning & Zoning Commission held a Public Hearing on the Ordinance on May 8, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons stated and subject to the recommended revisions to the Ordinance as outlined within the motion (copied below).

The County Council held a Public Hearing on the Ordinance at its meeting on June 11, 2024. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the Ordinance for further consideration. Below is a link to the minutes of the June 11, 2024 County Council meeting.

[Link to the Minutes of the June 11, 2024, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of May 8, 2024, and June 5, 2024.

[Minutes of the May 8, 2024, Planning & Zoning Commission Meeting](#)

ORD 24-03

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21a, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII



SECTIONS 115-20, 115-25, 115-29, 15-37. 115-45 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT.

Mr. Robertson provided a short presentation for the proposed Ordinance for perimeter buffers around residential development; that this Ordinance goes back to the Comprehensive Plan that we have in place and the joint workshop with the County Council and Planning & Zoning; that Council ranked issues of priority and this based on ranking was the #1 issue that they wanted to tackle first; that; County Council hears about buffers from developers, from people living within developments, from people living next to developments that are being constructed, people driving down the road and across all walks of life; that the insufficiency of the buffers currently in our code is one topic of discussion that arise; that things such as how big are they, what's required in them, tree removal in the buffers or unnecessary tree removal; that if a there is a forested piece of property or a piece of property that has forests along the edge of it, why are we taking full growth forest out and then planting brand new trees that are this tall, or we had trees that were fairly significant in there, why would we remove them; that the timing of the buffer installation, when it happens in conjunction with the development site work, and how it's being coordinated and when it's being completed in conjunction with the development site work and building construction; that we have inconsistent requirements with our code; that the original perimeter buffer standards go back 20 years and state in Chapter 99 that a 20 foot buffer is required with planning requirements and the two year bonding requirements; that then we have separate buffer requirements in Chapter 115 for cluster subdivisions that is 30 feet with a different set of planning requirements; that the goals of this is to clean up all the inconsistencies and make one set of standards; that the original ordinance that was introduced by County Council, established or replaced definitions within the code; that an established definition of clearing or cleared so that if there's existing trees within a subdivision on the perimeter, there would be an assessment of that to have a baseline; that as part of an approval, there's a landscape plan, that defines what we want in that landscape; that if you have existing woods, there's a perimeter buffer protection area of an additional 20 feet to preserve that 30 foot of existing woodlands; that the established definition of woodlands are trees and shrubs that are local and native species; that the Department of Agriculture, Forestry Service, states that there's no list of local and native species; that because of no list for local and native species being found they chose 70% deciduous, 30% Evergreen, 15 trees per 100 feet of buffer, all trees and shrubs must be 6 feet in height at the time of planting and obtain a minimum height of 10 feet; that they have to grow beyond 10 feet and the buffer can include both existing woodlands and planted trees; that to be native a defined list can change over time and there's various guidance documents that we can refer to maintain the list, but ours is not as extensive as others; that if a resource buffer is involved, because of wetlands or an environmental issue along the perimeter, the resource buffer is always going to take precedent; that we're not going to require somebody to go plant trees in a wetlands area or a buffer area that's governed by the perimeter buffer; that there are two categories in the ordinance, one is where there's existing woodlands and one is where there's no woodlands; that in the existing and the idea is to preserve those woods and then when there's none, the idea is that, you have to plant the new ones to comply; that where there's existing woodlands there has to be a forest assessment with the woodlands shown on the site plans, they need to remain natural state with limited activity; that the perimeter buffer will be protected by that buffer protection area; that the buffer and protection area will be fenced off with silt fencing and marked during construction; that selective clearing, removal of invasive species and dead trees in the woodlands is permitted; that

walking trails and between lots are permitted access points to maintain the buffers; that any removal of damage of trees within the woodlands is subject to mitigation requirements; that the woodlands ground is going to be cleared, graded or grubbed, not to disturb the roots in those areas; that in the ordinance you see the perimeter buffer where trees are, then the perimeter buffer protection area, which is the 20 feet and the silt fencing; that the signage is at 100 foot intervals so you can see one from every lot; that the Council wanted to be sure that there was prevention of cases avoiding tree preservation by requiring a period of time (5 years) prior to the application that the woodlands are cleared; that if that was cleared, then it has to be replanted with 15 trees every fifty linear feet to double up the tree density; that if you have existing woodlands that provide a natural screen through large growth and underbrush and you clear that out, 15 trees every 100 feet is going to take a long time to regenerate that screening, that's why there's the recommendation to double that to try to get it back to close to what it was at 15 trees every fifty linear feet; that in addition to the 30 foot buffer, there is new woodlands at least two times the size of the cleared area of tree density of 50 trees per acre; that you have to reforest someplace else, equivalent to what you cleared, offsite or not, and if it is offsite it must be protected by a Conservation Easement.

Mr. Butler asked about the 50-foot trees to an acre ratio and how that will affect the growth of not only the trees but also the undergrowth and the natural floor.

Mr. Robertson stated that the decision about having a 30 foot buffer with the 20 after speaking to the foresters there's an issue of windshear, sunburn and in addition to the damage that occurs during site work, and you keep 20 feet of trees and they're used to being part of a larger forest, and they've grown that way it is harder for them to survive; that another concern is the timing of buffers, especially within subdivisions, where they cannot be planted prior to site work as its not feasible with the way land development works; that the perimeter buffer per phase must be planted prior to the first residential building permit for the respective phase; that you're going to get your site work in or started, have access to the buffer areas before you pull residential building permits; that all of the houses going up are subject to the buffer and the adjacent properties are screened by the buffer that's in before the building is; that you can't move on to the next phase until you've got the prior phase completely planted, where the woodlands exist, the buffer and protection area shall be protected and marked, the developers are responsible for removal of all stakes and guide wires when done; that there has to be a performance bond or other guarantee to cover the perimeter buffer in an amount of 125% or \$50,000, whichever is greater of the cost of the installation and the value of the replacement; that plans guarantee the perimeter buffer, existing or planned, will be for a period of two years; that the perimeter buffer be planted and inspected before moving to the next phase; that this extends the assurance that the trees are alive and you plant the perimeter buffer before the first building permit in that phase; that the developers are responsible for the survival and maintenance of the buffer as recorded in restrictive covenants and a tree mitigation will be required; that when there's damage to existing trees or shrubs or they're removed without authorization, they have to be replaced; that the penalties apply to a violation by any person, landowner, HOA or developer of a fine of \$10,000 per quarter acre Pro rate of disturbance to the perimeter buffer indoor protection area that may be imposed; that is in the resource buffer now, so for consistency, if you damage the resource buffer, we looked at how that was handled and followed suit; that extending the time period from planning to walk away from a year to within the two years; that outside the two years, the HOA's could be inheriting a problem and may not find out that there was an issue against the developer until it's too late; that there has to be some

flexibility on intent and education on the signage that people don't realize that something is on a site plan and it's a non-disturbance area and not their backyard; that the buffers, planted or trees will be governed by code and require it to be governed by the homeowners associations restrictive covenant; that outside the perimeter buffer protection area where there is a no cut warning the intention is that the perimeter buffer protection area also be protected; that in that primitive buffer protection area there is likelihood that native species will naturally grow there;

Mr. Mears questioned if the trees could be removed from the 20-foot buffer that protects the 30-foot perimeter buffer or if it would technically be a 50-foot buffer and if a developer could cut trees and remove them from the 20-foot buffer area.

Mr. Whitehouse responded that the no-cut warning signage is outside the perimeter buffer protection area so there would be no tree removal unless there is an invasive species attack; that the language within the Ordinance states that invasive growth can be removed; that any removal in the buffer protection area be cut to the stump and left, or cut and grinded; that if you pull out the stump with its lateral root system, it's going to rip out the roots all around it and defeat the purpose of the perimeter buffer.

A short recess was taken between 5:10 PM and 5:15 PM

Mr. Rich Borrasso, with SARG, spoke on behalf of Sussex Preservation Coalition, a group who focuses on advocating for more livable communities for residents of Sussex County; that SPC formed a team to inform and engage the public in the development, design, review process and the pathway to more livable communities; that team members have professional experience, municipal planning, landscape architecture, county and state careers and natural resources, including forestry; that the county reviewed the potential updates of the county code in reference to development design and outdated and inconsistent land use codes open to interpretation with deficient county enforcement; that Commission and Council were asked independently to review a summary of ideas table to identify their priorities; that the public was not informed of the process, possibly too many approaching it on a one off basis; that each category is interdependent upon one another; that the category of site work determines where the building site is, what remains, is a minimum percentage of both passive and active open space, tree preservation is contained in the open space, including perimeter buffers; that perimeter buffers is a subset of tree preservation and subdivision standards, including superior design, defined the regulations and potential disincentives and incentives; that adopting the concept of requiring a conservation plan that accompanies the site plan and addresses the categories in more holistic fashion; that every bordering jurisdiction references a conservation plan that accompanies a site plan that deals with open space, tree preservation and natural resources.

Mr. Steve Sinclair, an SPC design development community committee member, spoke on behalf of himself in regards to Ordinance; that Line 29 need new verbiage that the existing perimeter buffer standards and existing code talks about just planted trees, but now you can preserve existing woodland with a myriad of values and benefits beyond screening; that this is an opportunity to articulate in the ordinance about flood mitigation, soil erosion, improving air and water quality, wildlife habitat and recreational areas; that it's time to require a conservation plan in the resource buffer ordinance so when the developer is doing his development design and his site plan, it comes with a conservation

plan, requiring a force assessment; that counting trees is not enough, there's more values than just trees themselves; that there's habitat, soil erosion, other things in woodlands that need to be recognized, evaluated and strategies put in place to maintain those overtime; that Line 157 needs to expand the forest assessment to not just look at the trees, but all the natural resources within that area; that when thinking about a parcel and where should open space be, knowing what is there is the only way to do that; that Line 218, the state forester for Delaware Forest Service, spoke at the Sussex Preservation Coalition with what would be an adequate buffer width of 100 feet; that in my experience a minimum buffer width in order for the trees to maintain over time for wind throw and sun skulls to provide some of these natural resource benefits beyond just screening need to be at least the width of the average height of the trees; that we recognize that's going to have an impact on the development so the width of the trees we're recommending is 50 feet as a minimum requirement to maintain some of those values, wild life habitats, soil erosion and flood mitigation; that expanding from 30 to 50 feet is the right idea; that Line 239 expand the perimeter buffer protection area to be applied to resource buffers also; that I request that you keep the record open so that I can submit a list of recommended tree species put out by the Delaware Forest Service; that we're recommending a mix of tree species, 60% deciduous and 40% Evergreen, an Evergreen tree retain their branches lower, are more dense allowing more screening and the canopy size of a conifer tree is less than a deciduous tree when you're requiring 15 trees for 100 feet, you're going to have canopy overlap; that Line 373 relating to mitigation, a developer removes woodland in return have to expand the size of the perimeter buffer; that we suggest in the additional acres there needs to be a higher density of number of trees per acre equal to the existing basal area that's present of the trees.

Ms. Jill Hicks spoke on behalf of Sussex Preservation Coalition, in regards to the Ordinance; that Lines 362-363 add that at no time shall the ground within the woodlands area of the perimeter buffer and the perimeter buffer protection area be clear, graded, regraded or grubbed; that clearing woodlands destroys natural habitats that are necessary for everyone's health, safety and welfare; that clearing large wooded lots which are habitats to native insects. amphibians, fish and animals will destroy the balance of nature that sustains us; that the extension of the perimeter buffers and protection area there is a better chance of providing the wildlife corridors needed for everyone and everything to thrive; that buffers along our roadways would provide positive impacts and vinyl stockade fences and berms do not provide screening, nor do they add value to the county's quality of life or create livable communities; that a stockade fence will never block light but trees will; that I am advocating we not allow forests to be cut down and then replaced with stockade fences, but rather install within the property line or on the line, but not to the exclusion of the required forested perimeter buffer and the perimeter buffer protection area; that the draft ordinance states that the perimeter buffer is to go around the entire property to which the county should adhere to, including along adjacent roadways; that Line 475 stating that clearing of trees in an area should not be permitted in a phase until the developer has received permits for that particular phase; that a current resident should not have to live with a clear cut area and construction debris, and the lack of a buffer year after year before the clearing of that entire forest.

Ms. Katie Gillis, the executive officer of the Home Builders Association of Delaware, spoke on behalf of 375 members that are builders, remodelers and developers statewide; that we support efforts to protect existing trees, buffers are important and so is the preservation of existing buffers; that the request that was made previously for a working group to look at this issue and others from a holistic

perspective, involving stakeholders with disparate and diverse backgrounds, viewpoints and perspectives; that this was supported by our association and by the American Council of Engineering Companies, Associated Builders and Contractors of Delaware Committee of 100, Delaware State Chamber of Commerce, Kent Sussex Leadership Alliance, Property Business Alliance, Sea Deck and the Rehoboth Beach and Dewey Beach Chamber of Commerce; that a solution developed by a working group would be more likely to garner widespread support and receive less opposition and would better reflect the competing interests of the stakeholders in this process; that there are no carve outs for tree removal in existing buffers when required by state or county regulations or when required for utilities; that there are scenarios where county and state regulations and typography would necessitate grading and buffer areas and associated removal of trees; that developers should not be penalized for removing trees and buffers when the law requires them to do so or for the purpose of utilities or future connectivity as written; that if a developer is required to remove trees in a buffer to comply with stormwater regulations or to deliver utilities to a site, they would need to comply with the mitigation requirements of the bill as well as fines.

Chairman Wheatley stated that we get asked to have working groups participate, that's why we have the public hearings, it's the opportunity to do it and there is one more hearing at County Council as well and the record will be held open for anybody to participate by sending written comments; that to have working groups on ordinances every time we do an ordinance that's of consequence, but we've had workshops on this, multiple discussions at County Council, public comment where we've drafted the ordinance and we have this hearing with the record being opened along with County Council; that the request is heard, but suggest that anybody that has an interest in it participate in the public hearing process and not anticipate that they'll be a workshop.

Ms. Susan Hagen spoke on behalf of herself in regards to the Ordinance that you add a no later than date to perimeter buffers, regardless of the phasing and the second is to modify the proposal to start the clock on perimeter buffers, not when the first building permit is issued, but instead the earliest of when the road construction begins or the first building permit is issued; that the timeline for the buffer affects resale values of neighboring properties; that developers go out of business and with the proposed regulation, they would not have to replace that buffer if they never completed the work; that the timing of the buffers needs to say something to the effect of the perimeter buffer landscape plan must include a no later than date for the entire perimeter buffer, regardless of phasing; that this date should not be longer than 24 months from the issuance of the first building permit in any phase or something to your liking, but there has to be a no later that and no portion of a perimeter buffer should be able to be designated on the development plan to be in a different phase than the homes in the phase adjacent to it.

Mr. David Hutt, Esq., from Morris James, LLP, spoke on behalf of the Ordinance that there should be a forest assessment report that's required as part of the perimeter buffer; that Lines, 228 through 235 in the definition of a perimeter buffer landscape plan it says that there's a plan prepared by a developer, but I suggest it be a plan submitted by a developer; that because the definition says it has to be prepared by, enlists the qualifications of the person who actually needs to be, the preparer and certifier of the results of that plan; that the definition of woodlands, distinguish the local versus native verbiage; that Lines 348 through 352 relates to the insertion of the definition of forest assessment report consistent with the balance of that section that talks about invasive species; that the tree may

not be local or native, and it may also not be invasive; that Lines 376 through 378 relates to when a property has been cleared within five years or a portion of a property has been cleared within five years of the development project and I added there was to clarify that it could be a separate off property site; that I suggest that in addition to a developer having to create a new woodlands, an alternative is they could purchase an existing woodlands in that same geological code that's there at two times, the replacement acreage and place that conservation easement on it so that it doesn't require that a person plant a new forest, but the county still gets the benefit of a preservation area, an existing force of forest that already exists; that Lines 507 to 512 I am proposing to delete the reference to the date that maintenance responsibilities are transferred to a homeowners association and fix it on 9931, which is a time period that the county is familiar with and has access to when something achieved substantial completion; that there's a defined process for that versus the homeowners association; that the transfer to a homeowners association is going to be the responsibility of them on day one; that you report a restrictive covenant that says the homeowners association is responsible for those things; that at the beginning, the homeowners association is, dominated by the developer, which is meaningful because it's always the homeowners association responsibility to maintain any amenity, whether it's a pool, clubhouse, a perimeter buffer or stormwater; that when that responsibility is transferred and the homeowners association is formed the land is subjected to those restrictive covenants.

Chairman Wheatley responded to the public comments in regards to the idea that urgent matters take over important matters in terms of how Planning & Zoning field emails and phone calls and we're going to be taking some steps to try to correct that; that this also speaks to the importance of the advocacy groups and how they have an impact on County Council; that the record will be held open for 10 days to receive any written comments.

Upon there being no further questions Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Ordinance.

In relation to Ord. 24-03 (Regarding Perimeter Buffers Around Residential Developments). Motion by Mr. Butler to defer action for further consideration and leave the record open for 10 days for receipt of additional comments and/or documents, seconded by Mr. Collins and carried unanimously. Motion carried 5-0.

Minutes of the June 5, 2024, Planning & Zoning Commission Meeting

The Commission discussed this Ordinance which has been deferred since May 22, 2024, when the Public Record was closed. The initial Public Hearing was held on May 8, 2024, with the Public Record being left open for 10 days following the meeting for receipt of additional written comments.

Mr. Mears moved that the Commission recommend approval of Ordinance Number 24-03 regarding Perimeter Buffers Around Residential Developments with some suggested revisions based upon the record made during the public hearing, including the written comments that were received while the record remained open and for the following reasons:

1. The County Subdivision and Zoning Codes currently provide for perimeter buffers around residential developments. However, the requirements are not entirely consistent. This

Ordinance consolidates the perimeter buffer requirements into one uniform set of standards all within Chapter 99 of the County Code.

2. As Sussex County has developed, it has become evident that more clarity is required within the perimeter buffer standards. This ordinance addresses that need.
3. This Ordinance provides definite timeframes for the installation, completion and maintenance of perimeter buffers. This is a significant improvement over the current Code's requirements.
4. The County has seen existing woodland and vegetation along the perimeter of a proposed subdivision clear cut and ultimately replaced with new plantings. The loss of the existing vegetation eliminated the natural screening that it provided. This Ordinance promotes the retention of existing woodlands within a buffer area.
5. It has been shown that existing woodlands within a 30 foot buffer, even when preserved, can be seriously damaged if site work and grading occurs right to the edge of the buffer area and harms the root structures of the trees located there. This Ordinance provides an additional twenty-foot wide Perimeter Buffer Protection Area that will promote and protect any existing woodlands within a Perimeter Buffer.
6. This Ordinance provides clear remedies and penalties if and when an enforcement action becomes necessary following the damage or destruction of a buffer or the failure to maintain it.
7. This Ordinance is in accordance with the current Sussex County Comprehensive Plan and the Goals, Objectives and Strategies contained within it.
8. Several people and organizations provided testimony and written comments about this proposed Ordinance. A majority of those comments were favorable, but with suggested improvements to the proposed language.
9. This recommendation is subject to the following suggested revisions to the Ordinance:
 - A. **Line 158:** Add “forest inventory” before “tree survey” so that it now states “a forest inventory/tree survey”.
 - B. **Line 159:** Add “either groups of trees or” before “individual trees”. Groupings of trees may be determined to have a high habitat value in addition to individual trees.
 - C. **Line 160:** Add a new definition of “Forest Assessment Report”: “A report detailing the findings of a Forest Assessment prepared and certified by a licensed landscape architect, certified arborist, certified nursery professional, or licensed forester or a forester designated by the Society of American Foresters as a “certified forester”.”
 - D. **Line 223:** Add a new sentence that better defines the purpose of the Perimeter Buffer within its definition: “The Perimeter Buffer shall function to filter views from and into a subdivision in such a manner that improves the screening than if no landscaping was provided.”
 - E. **Line 229:** Change the word “prepared” to “submitted” so that the definition of Perimeter Buffer Landscape Plan now states, “A plan submitted by a developer depicting compliance with the Perimeter Buffer and Perimeter Buffer Protection Area...”.
 - F. **Line 311:** Regarding the anticipated height of trees planted within the Perimeter Buffer, change the reference to “obtain a minimum height of ten feet” to “shall be a species that typically achieves a height of at least ten feet...”.

- G. **Lines 332 and 335:** Change the reference from “Forest Assessment” to “Forest Assessment Report”.
- H. **Lines 332 through 335:** Delete the phrase “prepared and certified by a licensed landscape architect, certified arborist, certified nursery professional, or licensed forester or forester designated by the Society of American Foresters as a “certified forester”. This phrase becomes unnecessary since it will now be included within the new definition of “Forest Assessment Report”.
- I. **Line 362 through 363:** Insert “and Perimeter Buffer Protection Area” after “Perimeter Buffer” in the existing sentence and add a new sentence at the end of the section: “Permitted stump removal shall only occur by stump grinding that does not disturb the surrounding area or vegetation.”
- J. **Line 386:** Replace the reference to the “Planning and Zoning Commission” as the entity reviewing the replacement plantings after a timber harvest to “the Director”.
- K. **Line 422:** Replace the reference to “Woodlands” with “Perimeter Buffer and Perimeter Buffer Protection Area”.
- L. **Line 451:** Delete the phrase “for any trees, shrubs or existing woodlands” and add language confirming the duration of the developer’s guaranty so that the note required to guaranty the full cost of replacement now states, “(f) a note confirming that a developer guarantees the full cost of replacement of the Perimeter Buffer for two years after the determination of substantial completion in accordance with Section 99-31.”
- M. **Lines 510-512:** Revise the language about bonding timeframes so that it now states, “The bonds for the Perimeter Buffer shall thereafter remain in place until two years after the determination of substantial completion in accordance with Section 99-31.”
- N. **Line 541:** Insert “Perimeter Buffer” after the word “Woodlands”.
- O. **Line 547:** Delete the phrase “in the form of newly created Woodlands”. The specific requirements of the remedy following damage or removal of trees is defined in the subsections that follow, so this phrase is not necessary.
- P. County Council should also consider a revision to require that a development must install the perimeter buffer at or within a certain time after a notice to proceed when the new development is next to an existing, approved, or under-construction development or homes. This way, if the development is next to existing homes (for instance) there is more certainty about the timing of the installation of the buffer.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of Ordinance Number 24-03 regarding Perimeter Buffers Around Residential Developments for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley - yea

1 **AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND**
2 **VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND**
3 **BY ADDING A NEW SECTION 99-21A , AND CHAPTER 115, ARTICLES**
4 **IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37,**
5 **115-45, 115-53 AND 115-218 REGARDING PERIMETER BUFFERS**
6 **AROUND RESIDENTIAL DEVELOPMENT.**

7
8 WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the
9 Delaware Code, the Sussex County Government has the power and authority to
10 regulate the use of land and to adopt a Comprehensive Land Use Plan; and

11 WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the
12 Sussex County Government has undertaken to regulate the use of land; and

13 WHEREAS, the existing Section 99-5 of the Code of Sussex County currently
14 establishes certain perimeter buffer requirements within the definition of “Forested
15 and or Landscaped Buffer Strip” and

16 WHEREAS, the perimeter buffer requirements contained in Chapter 99 are in need
17 of improvement regarding their interpretation, application and protection of existing
18 trees and forests within the buffer areas; and

19 WHEREAS, the 2019 Sussex County Comprehensive Plan contemplates the review
20 and improvement of the protection of perimeter buffers and forested areas in Sussex
21 County; and

22 WHEREAS, Goal 5.1 of the Conservation Element of the 2019 Sussex County
23 Comprehensive Plan states that Sussex County should “Encourage development
24 practices and regulations that support natural resource protection”, and this
25 Ordinance carries out that Goal; and

26 WHEREAS, it has been determined that this Ordinance promotes and protects the
27 health, safety, convenience, orderly growth and welfare of the inhabitants of Sussex
28 County.

29
30 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

31
32 **Section 1. The Code of Sussex County, Chapter 99, Article I, §99-5**
33 **“Definitions,” is hereby amended by deleting the language in brackets and**
34 **strikethrough and inserting the italicized and underlined language**
35 **alphabetically:**

36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71

§99-5 Definitions.

CLEARING or CLEARED

Any type of clearing or cutting of woodland areas that is regulated under the Sediment and Stormwater Management rules of the Delaware Department of Natural Resources and Environmental Control.

...

~~[FORESTED AND/OR LANDSCAPED BUFFER STRIP~~

~~A strip of land, not less than 20 feet in width, exclusive of any residential lots, stormwater management areas or facilities, open space (except that the land area within the buffer strip may be included in the overall calculation of open space), recreational amenities, wastewater treatment and/or disposal facilities, water treatment facilities, streets, buildings or other surface improvements and located along the entire outer perimeter of any portion of a major subdivision of lands into four or more lots adjacent to land of other ownership. A landscape plan for the buffer shall be designed and certified to by a licensed landscape architect, licensed forester or forester designated by the Society of American Foresters as a "certified forester." The landscape plan shall be reviewed and commented on by the State Forester and shall be subject to the final review and approval of the Commission. The following conditions shall apply to the forested buffer:~~

~~A. All trees that are to be planted shall include a mix of 70% deciduous shade trees and 30% evergreen trees, a majority of which shall be suitable trees of common local species, which may include existing as well as planted trees. Every one hundred-foot length of buffer shall include a minimum total of 15 trees.~~

~~B. All deciduous trees that are planted to establish the buffer plantings shall have a minimum caliper of 1.5 inches and a minimum height of six feet above ground when planted in order to insure that the trees will be capable of obtaining a minimum height of 10 feet above ground within five years of being planted.~~

~~C. All evergreen trees that are planted to establish the buffer plantings shall have a minimum height of five feet above ground when planted in order to insure that they~~

72 are reasonably capable of attaining a minimum height of 10 feet above ground within
73 five years of being planted.

74
75 ~~D. The landscape plan may include suitable existing deciduous and evergreen trees~~
76 ~~of common local species, provided they will achieve the overall goal of the plan as~~
77 ~~described in Subsection E hereof and provided that said existing trees survive the~~
78 ~~site work construction activity and any changes in the water table and exposure~~
79 ~~which may result from the construction activity occurring prior to the date the buffer~~
80 ~~plantings are required to be installed as provided in Subsection F hereof.~~

81
82
83 ~~E. The goal of the landscape plan for the forested buffer area shall be to include trees~~
84 ~~of the type indicated herein that will be planted in a staggered natural manner, as~~
85 ~~opposed to being planted in row fashion, which will filter views from and into the~~
86 ~~subdivision in such a manner that the areas on the agricultural side of the buffer area~~
87 ~~appear more green and less visible and the structures or uses on the subdivision side~~
88 ~~appear less obvious and less dense than if no landscaping had been required. The~~
89 ~~procedures and details for planting new trees shall be specified by the landscape~~
90 ~~architect on the plan submitted to and approved by the Commission and shall include~~
91 ~~the requirement that the buffer area shall have a final grade that contains a minimum~~
92 ~~of four inches of topsoil and a suitable grass mix planted as sacrificial cover between~~
93 ~~the buffer trees for soil stabilization until the newly planted trees become larger. The~~
94 ~~plan may substitute woodchips for planted grass between the buffer trees in respect~~
95 ~~to both newly planted and existing trees, as determined by the landscape architect.~~

96
97 ~~F. The forested and/or landscape buffer shall be installed within 18 months from the~~
98 ~~date site work is authorized to commence, as documented by a notice to proceed~~
99 ~~letter from the Commission. For subdivisions that are approved to be constructed in~~
100 ~~phases, the buffer for each phase must be completed before County approvals or~~
101 ~~permits will be granted to construct the next phase.~~

102
103 ~~G. The land developer shall be held responsible for the health and survival of the~~
104 ~~trees, including regular necessary watering for a minimum of two years or until such~~
105 ~~later date as the maintenance responsibilities are transferred to a homeowners'~~
106 ~~association; provided, however, that the developer shall replace any trees that die~~
107 ~~during the minimum two year developer maintenance prior to transferring~~
108 ~~maintenance responsibilities to a homeowners' association.~~

109
110 ~~H. The perpetual maintenance of the buffer plantings by a homeowners' association~~
111 ~~shall be assured through the restrictive covenants and/or homeowners' association~~

112 documents. The perpetual maintenance plan shall include the requirement that any
113 trees that die must be replanted with trees of the same type and species and in
114 accordance with the original landscape plan approved by the County. The perpetual
115 maintenance plan shall also include a requirement that the forested buffer area be
116 planted and maintained according to best management practices in the forestry
117 industry. The responsibility for the perpetual maintenance of the buffer strip and its
118 plantings shall be assured through restrictive covenants which are obligatory upon
119 the purchasers through assessments by the homeowners' association. The applicant
120 and/or land developer must provide the Commission with satisfactory proof that the
121 covenants include a perpetual maintenance plan which shall be binding upon the
122 applicant and/or developer during the minimum two year period described in
123 Subsection G above and thereafter by the homeowners' association. The
124 Commission and its attorney shall review and approve the perpetual maintenance
125 plan prior to the restrictive covenants being recorded and prior to granting final site
126 plan approval.

127
128 I. The twenty foot forested and/or landscape buffer strip is not required to be
129 installed in those portions of the subdivision perimeter which represent the width of
130 a right-of-way connector road or street that DelDOT or the Commission required the
131 applicant to install pursuant to § 99-17D and the width of a stormwater outfall shown
132 on the final site plan to drain surface or stormwater outside the perimeter of the
133 subdivision.

134
135 J. The landscape plan shall avoid placing planted trees or allowing existing trees to
136 remain in the areas adjacent to entrances into and exits from the development in such
137 a manner as to restrict the view of motorists entering or exiting from the development
138 or restricting site lines for motorists in such a manner as to create a potential safety
139 hazard.

140
141 K. Notwithstanding any other provisions of this chapter, the Planning and Zoning
142 Commission shall be authorized, as part of the site plan review process, to grant final
143 approval of a plan for the roadway frontage of a major subdivision which may
144 include landscape and design features, such as fences, walls, berms, landscape
145 plantings of shrubs, ornamental grasses and/or trees, multimodal paths required by
146 DelDOT, open areas, or a combination of such features which is designed and
147 certified to by a licensed landscape architect, licensed forester or forester designated
148 by the Society of American Foresters as a "certified forester" and reviewed and
149 commented upon by the State Forester, for the purpose of making the subdivision
150 more attractive, more in keeping with the surrounding area and less visible from the
151 roadway, provided said plan will not cause the landscape features contained in the

152 ~~plan to be placed in an area adjacent to the entrance in such a manner as to restrict~~
153 ~~the view of motorists entering or exiting from the subdivision or restricting the sight~~
154 ~~lines of motorists in such a manner as to create a potential safety or traffic hazard.]~~
155

156 . . .

157 FOREST ASSESSMENT

158 A method or process, to include a tree survey, for determining the area or areas
159 within a parcel that contain high habitat value and individual trees to be preserved.

160

161 . . .

162

163 OPEN SPACE

164

165 Those land areas within all major residential subdivisions, residential planned
166 communities or developments which have a purpose to provide active and/or passive
167 recreational opportunities, maintain land in a predominantly undeveloped or natural
168 state, including lands used for agricultural purposes, promote conservation, protect
169 wildlife or serve as a buffer between residential and nonresidential areas and/or
170 commercial and noncommercial areas.

171

172 A. The following uses are permitted and the land area devoted to said uses
173 will be included in the calculation of open space:

174

175 (1) Recreational facilities, including swimming pools, game courts,
176 play areas, walking paths, bike paths and multimodal paths that are not
177 located on state road rights-of-way, provided that impervious cover
178 does not exceed 15% of calculated open space area.

179

180 (2) Ponds which have a demonstrated recreational value.

181

182 (3) ~~[Buffers]~~ Perimeter buffers, perimeter buffer protection areas,
183 resource buffers and forested areas.

184

185 (4) Areas protected by perpetual conservation easements.

186

187 (5) Areas providing scenic vistas, areas providing wildlife corridors.

- 188
- 189 (6) Sidewalks not located within street rights-of-way.
- 190 (7) Areas designated as "safe zones" under the Source Water Protection
- 191 Ordinance contained in Chapter 89.
- 192
- 193 (8) Spray irrigation areas, not including areas occupied by rapid
- 194 infiltration basins.
- 195
- 196 (9) Tidal and nontidal wetlands.
- 197
- 198 (10) Stormwater management facility areas.
- 199

200 B. The following uses are not permitted and the land area devoted to said uses
201 will not be included in the calculation of open space:

- 202
- 203 (1) Land area included within designated lot lines.
- 204
- 205 (2) Building footprints.
- 206
- 207 (3) Predominantly impervious surfaces, such as street rights-of-way,
- 208 sidewalks within street rights-of-way, parking and/or loading areas.
- 209
- 210 (4) Utility facilities, including but not limited to, any building, plant,
- 211 equipment for treatment or pumping, lagoons and rapid infiltration
- 212 basins, for sewer, water, gas, and/or electric utilities.
- 213

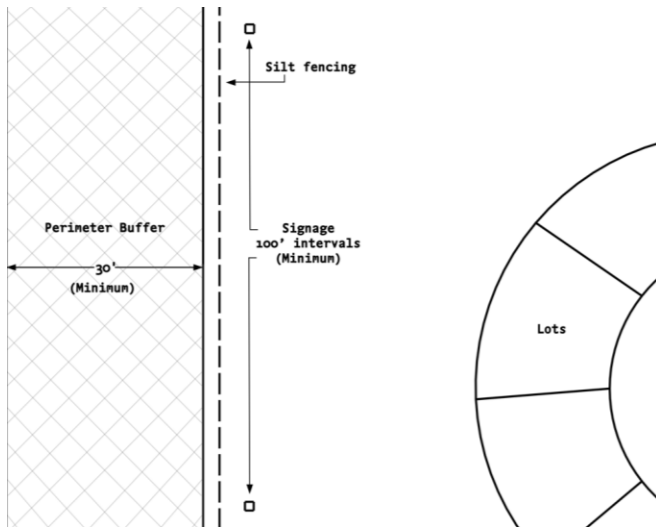
214 C. Any reference in this chapter to "open space" shall be subject to and
215 governed by this definition.

216

217

218 **PERIMETER BUFFER**

219 *A managed area of planted or existing trees and shrubs and associated landscaping,*
220 *not less than 30 feet in width measured from the property boundary located along*
221 *the entire outer perimeter of any portion of a major subdivision. No lots or*
222 *stormwater management facilities (excepting outfalls) shall exist within the*
223 *Perimeter Buffer. See illustration below.*



224
225

226 . . .

227

228 PERIMETER BUFFER LANDSCAPE PLAN

229 A plan prepared by a developer depicting compliance with the Perimeter Buffer and
 230 Perimeter Buffer Protection Area, including, but not limited to, planting schedules,
 231 types of vegetation (existing and to be planted); fencing, signage and other marking.
 232 The Perimeter Buffer Landscape Plan shall be prepared and certified by a licensed
 233 landscape architect, certified arborist, certified nursery professional, or licensed
 234 forester or forester designated by the Society of American Foresters as a “certified
 235 forester.”

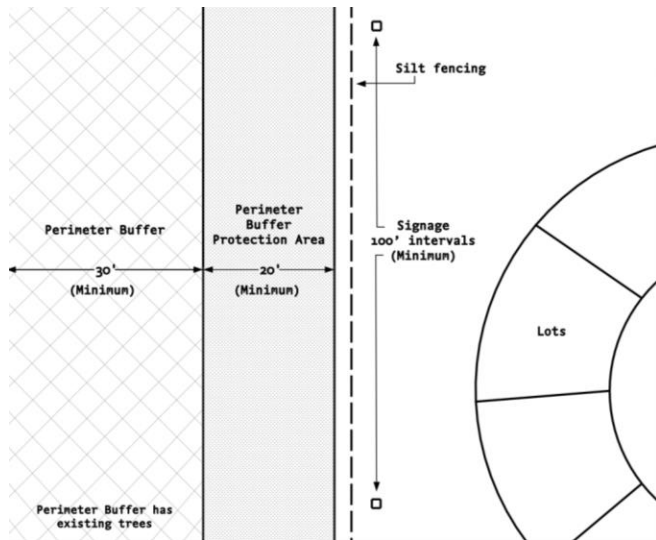
236

237 . . .

238

239 PERIMETER BUFFER PROTECTION AREA

240 An area adjacent to a Perimeter Buffer that contains Woodlands that is not less than
 241 20 feet in width measured from the edge of the Perimeter Buffer to be retained and
 242 protected to ensure that existing Woodlands in a Perimeter Buffer are not disturbed.
 243 No lots or stormwater management facilities (excepting outfalls) shall be permitted
 244 in the Perimeter Buffer Protection Area. See illustration below.



245

246 . . .

247

248 WOODLANDS

249 An area of contiguous wooded vegetation of at least 10,000 square feet in an area
 250 where trees exist at a density of at least one tree with diameter at breast height of
 251 six inches or greater per 400 square feet of land and where the tree branches form
 252 a contiguous canopy. Active tree nurseries and orchards shall not be considered
 253 Woodlands.

254

255 . . .

256 **Section 2. The Code of Sussex County, Chapter 99, Article I, §99-6 “General**
 257 **Requirements and Restrictions” is hereby amended by deleting the language**
 258 **in brackets and strikethrough and inserting the italicized and underlined**
 259 **language as follows:**

260

261 **§99-6 General Requirements and Restrictions.**

262

263 . . .

264

265

266 J. [~~A forested and/or landscape buffer~~] Perimeter buffers and perimeter buffer
 267 protection areas, as [defined in § 99-5, Subsections A through J] required by §99-
 268 21A, must be depicted on the preliminary and final plot plans for each major

269 subdivision of lands and must be established in accordance with all the requirements
270 of ~~[the definition of "forested and/or landscaped buffer strip,"~~
271 ~~Subsections A through J in § 99-5]~~ §99-21A.

272
273 **Section 3. The Code of Sussex County, Chapter 99, Article III, §99-16**
274 **“Suitability of land; preservation of natural features” is hereby amended by**
275 **deleting the language in brackets and strikethrough and inserting the italicized**
276 **and underlined language as follows:**

277
278 **§ 99-16 Suitability of land; preservation of natural features.**

279
280 D. It is the intent of the County to stress the preservation of all agricultural lands
281 which are feasible and worthwhile of such preservation in order to conserve such
282 natural amenities. Where residential subdivisions are established adjacent to lands
283 used for agricultural purposes, the subdivider shall ensure that there shall be no
284 negative effect on the agricultural uses. ~~[The twenty foot wide forested and/or~~
285 ~~landscaped buffer strip required by § 99-5]~~ A perimeter buffer and a perimeter buffer
286 protection area (if applicable) shall be provided along the outer perimeter of any
287 boundary of a residential major subdivision ~~[or development of four or more lots~~
288 ~~that is adjacent to agricultural farmland. "Agricultural purposes" shall be defined as~~
289 ~~those uses identified in Chapter 115, Zoning, Article IV, § 115-20,~~
290 ~~Subsection B(1), (2), (3), (4) and (5)].~~

291
292 **Section 4. The Code of Sussex County, Chapter 99, Article III, is hereby**
293 **amended by inserting a new §99-21.A “Perimeter Buffers,” by inserting the**
294 **italicized and underlined language alphabetically:**

295
296 **§99-21.A Perimeter Buffers.**

297 **A. Perimeter Buffer General Standards**

298 1. There shall be a Perimeter Buffer established along the boundary of every
299 major subdivision or residential planned community. A Perimeter Buffer shall not
300 be required along internal boundaries within a subdivision or residential planned
301 community, such as internal phasing lines.

302 2. The Perimeter Buffer shall be planted with a variety of trees and shrubs so as
303 to create a visual landscaped screening. All trees and shrubs shall be local and

304 native species. All planting activities shall adhere to ANSI A300, Planting
305 Standards.

306

307 3. The Perimeter Buffer shall include a mix of 70% deciduous shade trees and
308 30% evergreen trees. The Perimeter Buffer shall include at least fifteen trees within
309 every one-hundred linear feet of the Buffer. All deciduous and evergreen trees that
310 are planted shall have a minimum height of six feet above ground when planted,
311 obtain a minimum height of ten feet, and arranged in a staggered natural manner to
312 effectively achieve a visual landscaped screening which will filter views from and
313 into the subdivision. The Perimeter Buffer may include existing Woodlands and
314 planted trees to achieve these planting standards.

315

316 4. In the event that a Resource Buffer (Section 115-193) is required in the
317 location of a Perimeter Buffer or Perimeter Buffer Protection Area, the Resource
318 Buffer standards shall take precedence over, and shall not be in addition to, the
319 Perimeter Buffer and/or Perimeter Buffer Protection Area requirements for that
320 same location.

321

322 5. The Perimeter Buffer shall be marked with permanent, in-ground signage
323 located at 100-foot intervals along the edge of the Perimeter Buffer to confirm the
324 existence and non-disturbance of the Perimeter Buffer. This signage shall be at least
325 five inches by seven inches in size and shall identify the existence of the Buffer, the
326 fact that it is a non-disturbance Area and a reference to penalties and/or remediation
327 required if unauthorized disturbance occurs.

328 B. Perimeter Buffer Standards – Woodlands Requirements

329 Where a Perimeter Buffer contains existing Woodlands at the time of application,
330 the following requirements shall apply:

331 1. Any major subdivision or residential planned community where Woodlands
332 exist at the time of application shall require a Forest Assessment prepared and
333 certified by a licensed landscape architect, certified arborist, certified nursery
334 professional, or licensed forester or forester designated by the Society of American
335 Foresters as a “certified forester.” The Forest Assessment must be submitted as
336 part of the application.

337 2. The Woodlands retained within the Perimeter Buffer shall be depicted
338 generally on the Preliminary Site Plan and with detail on the Perimeter Buffer
339 Landscape Plan.

340 3. Unless otherwise provided for herein, the Woodlands within the Perimeter
341 Buffer shall remain in its natural state.

342 4. The Area of the Perimeter Buffer containing Woodlands shall be bordered by
343 a Perimeter Buffer Protection Area.

344 5. There shall be protective tree fencing, staking, or continuous ribbon installed
345 along the entire edge of the Perimeter Buffer Protection Area adjacent to the interior
346 of the development to protect the integrity of existing trees within the Perimeter
347 Buffer.

348 6. Selective clearing of the Woodlands retained for the use of the Perimeter
349 Buffer may be permitted but at no time shall trees of six-inch diameter at breast
350 height be damaged, removed, or otherwise adversely affected. Dead, dying or
351 unstable live trees that present an imminent danger to persons or property may be
352 removed. Removal of any invasive species from the Woodlands is permitted.

353 7. Walking trails within the Woodlands for the purpose of providing access to
354 the Perimeter Buffer may be permitted and shall be depicted on the Perimeter Buffer
355 Landscape Plan.

356 8. Access points to the Woodlands for the purpose of Perimeter Buffer
357 maintenance may be permitted and shall be depicted on the Perimeter Buffer
358 Landscape Plan.

359 9. Any removal or damage of trees within the Woodlands, the Perimeter Buffer
360 or the Perimeter Buffer Protection Area shall be subject to the mitigation
361 requirements as well as the violations and penalties located in this Chapter.

362 10. At no time shall the ground within Woodlands area of a Perimeter Buffer be
363 cleared, graded, regraded, or grubbed.

364 11. If Woodlands on the land where the Perimeter Buffer is to be located have
365 been cleared for a timber harvest within five years prior to the date of application,
366 the following additional planting requirements shall apply:

367 (a) The cleared area along the Perimeter Buffer shall be measured and known as
368 the "Cleared Area".

369
370 (b) The Perimeter Buffer shall be planted back with at least fifteen trees every
371 fifty linear feet of the Buffer.

372
373 (c) In addition to the Perimeter Buffer, a new Woodlands shall be planted that is
374 2.0 times the size of the Cleared Area and a rate of at least 50 trees per acre.

375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413

(d) The new Woodlands may border the area of the Perimeter Buffer or be in a separate area, but at no times shall the Perimeter Buffer be less than 30' in width measured from the property boundary.

(e) The planted Perimeter Buffer and new Woodlands shall meet the tree and shrub requirements of this Chapter.

(f) If the applicant chooses to provide replacement plantings on any property other than the one on which the timber harvest occurred or protect an off-site Woodlands area, the mitigation plan must be reviewed and approved by the Planning and Zoning Commission, and:

(1) The replacement plantings or off-site Woodlands area must be located within the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the proposed development.

(2) The replacement plantings or Woodlands area located off-site must be protected under a perpetual conservation easement for the benefit of a conservation organization approved by Sussex County.

(3) At no time shall the area of the replacement plantings be less than 2.0 times the area of Woodlands to be the Perimeter Buffer that was cleared and a rate of at least 50 trees per acre and shall meet the tree and shrub requirements of this Chapter.

C. Perimeter Buffer Standards – Non-Woodlands Requirements

Where a Perimeter Buffer does not contain existing Woodlands at the time of application, the following requirements shall apply:

1. Any major subdivision or residential planned community where Woodlands do not exist within the Perimeter Buffer shall comply with the planting requirements of the Perimeter Buffer Standards and Perimeter Buffer Landscape Plan.

2. There shall be protective fencing, staking, or continuous ribbon installed along the entire edge of the Perimeter Buffer adjacent to the interior of the development to protect the integrity of the Perimeter Buffer.

3. There shall be a final grade that contains a minimum of four inches of topsoil

414 and a suitable grass mix planted as sacrificial cover between the buffer trees for soil
415 stabilization until the newly planted trees become larger. Woodchips may substitute
416 for planted grass between the buffer trees around both newly planted and existing
417 trees.

418
419 4. Walking trails within Perimeter Buffer may be permitted and shall be depicted
420 on the Perimeter Buffer Landscape Plan.

421
422 5. Access points to the Woodlands for the purpose of Perimeter Buffer
423 maintenance shall be depicted on the Perimeter Buffer Landscape Plan.

424
425 6. The Perimeter Buffer shall have a two-year guarantee secured by bonding
426 from the date that substantial completion is issued for the phase where the Perimeter
427 Buffer is located.

428

429 D. Perimeter Buffer Landscape Plan

430 1. The Perimeter Buffer shall be depicted generally on the Preliminary Site Plan
431 and in detail on a Perimeter Buffer Landscape Plan that is included within a Final
432 Site Plan.

433

434 2. The Perimeter Buffer Landscape Plan shall provide sufficient information and
435 detail to clearly demonstrate that all applicable requirements and standards for
436 Perimeter Buffers and Perimeter Buffer Protection Areas are satisfied. The
437 Perimeter Buffer Landscape Plan shall contain, at a minimum, the following:

438 (a) Approximate location and description of the protective tree fencing, staking,
439 or continuous ribbon.

440 (b) The location, spacing, height, and species of existing and new trees and
441 shrubs proposed to meet tree planting requirements.

442 (c) The design and location of the required Perimeter Buffer signage.

443 (d) Measures to be taken to avoid sedimentation intrusions and erosion in the
444 Perimeter Buffer.

445 (e) A summary table of the number of new trees to be planted and minimum
446 number of existing trees to be retained (if any) to meet the tree specification and
447 density requirements with calculations confirming that these requirements have
448 been achieved. The summary table may include example groupings of trees to be
449 planted instead of each new tree labeled on the Perimeter Buffer Landscape Plan.

450 (f) A note confirming that the developer guarantees the full cost of replacement
451 for any trees, shrubs or existing Woodlands.

452 (g)A planting schedule for the Perimeter Buffer. The planting schedule shall
453 demonstrate the installation of the Perimeter Buffer prior to the issuance of the first
454 residential building permits in the phase where it is located. The Perimeter Buffer
455 shall be planted and inspected prior to the issuance of the first residential building
456 permit within the phase where the Buffer is located. Each phase of the development
457 must include the Perimeter Buffer and Perimeter Buffer Protection Area (as
458 applicable) that is adjacent to that Phase.

459 (h)Notwithstanding any other provisions of this chapter, the Planning and
460 Zoning Commission shall be authorized, as part of the site plan review process, to
461 grant final approval of a Plan for the roadway frontage of a major subdivision which
462 may include landscape and design features, such as fences, walls, berms, landscape
463 plantings of shrubs, ornamental grasses and/or trees, multimodal paths required by
464 DelDOT, or a combination of such features which is designed and certified to by a
465 licensed Landscape architect, licensed Forester or Forester designated by the
466 Society of American Foresters as a "Certified Forester", for the purpose of making
467 the subdivision more attractive, more in keeping with the surrounding area and less
468 visible from the roadway, provided said plan will not cause the landscape features
469 contained in the plan to be placed in an area adjacent to the entrance in such a
470 manner as to restrict the view of motorists entering or exiting from the subdivision
471 or restricting the sight lines of motorists in such a manner as to create a potential
472 safety or traffic hazard.

473 E. Timing; Bonds and Guarantees.

474
475 1. The Perimeter Buffer Landscape Plan shall include the planting schedule for
476 the entire Perimeter Buffer. The planting schedule shall demonstrate the installation
477 of the Perimeter Buffer prior to the issuance of any residential building permits
478 within the phase. The Perimeter Buffer shall be planted and inspected prior to the
479 issuance of the first residential building permit within the phase where the Perimeter
480 Buffer is located. Each phase of the development must include the Perimeter Buffer
481 and Perimeter Buffer Protection Area (as applicable) that is adjacent to that phase.
482 The Perimeter Buffer for each phase must be planted and inspected before County
483 approvals or permits will be granted to construct the next phase.

484
485 2. Where Woodlands exist in the Perimeter Buffer, the Perimeter Buffer and
486 Perimeter Buffer Protection Area shall be protected and marked as provided herein
487 for the entire development (subject to inspection and approval by Sussex County)

488 prior to the issuance of any notice to proceed for site work. For subdivisions that
489 are to be constructed in phases, the Protection and marking of existing Woodlands
490 shall be maintained and inspected prior to the issuance of any notice to proceed for
491 site work or construction within a subsequent phase.

492 3. The developer shall be responsible for the removal from the site of all stakes,
493 guy wires, protective tree fencing, staking, or continuous ribbon upon the conclusion
494 of the two-year guaranty period.

495 4. The developer shall post a performance bond or other guaranty for the
496 Perimeter Buffer in an amount sufficient to install the Perimeter Buffer and the
497 Perimeter Buffer Protection Area (as applicable) in a form acceptable to the County
498 Attorney. The amount of such bond shall be 125% of the cost of the installation the
499 Perimeter Buffer (including all plantings) and the Perimeter Buffer Protection Area
500 (as applicable) or \$50,000, whichever is greater. The Perimeter Buffer shown on the
501 Perimeter Buffer Landscape Plan may be bonded as a separate phase or phases of
502 the subdivision, provided that all Perimeter Buffers containing Woodlands must be
503 bonded before a Notice to Proceed is issued for any phase of the development.

504
505 5. Bonds posted to ensure the completion and non-disturbance of the Perimeter
506 Buffers shall be posted with the Director of Planning and Zoning.

507 6. The trees and shrubs located within the Perimeter Buffer shall be in good
508 health prior to the issuance of substantial completion in accordance with Section
509 99-31 of the Code. The Bonds for the Perimeter Buffer shall thereafter remain in
510 place until the latter of two years after the determination of substantial completion
511 in accordance with Section 99-31 or two years after such date as the maintenance
512 responsibilities are transferred to a homeowners' association.

513
514 7. A party may not alter the Perimeter Buffer Area of the development (or any
515 phase thereof) unless an amended Perimeter Buffer Landscaping Plan is approved
516 by Sussex County and a new bond or other guaranty is provided for the alteration.

517
518 F. Perimeter Buffer Maintenance

519
520 1. The developer shall be responsible for the health and survival of the Perimeter
521 Buffer, including regular necessary watering until the determination of substantial
522 completion in accordance with Section 99-31. This shall include the obligation to
523 replace any trees and shrubs within the Perimeter Buffer that do not survive during
524 this time period.

525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560

2. The Perimeter Buffer shall be maintained in perpetuity. The perpetual maintenance of the Perimeter Buffer by a homeowners' association shall be confirmed in the recorded declaration or restrictive covenants for the development with the requirement that any trees or shrubs that do not survive must be replanted with trees or shrubs of the same type and species in accordance with the original Landscape Plan approved by Sussex County. The Perimeter Buffer shall be maintained (and any replacement trees or shrubs planted) according to best management practices in the Forestry industry (ANSI A300). The applicant and/or developer must provide the Commission with satisfactory proof that the declaration or restrictive covenants include a perpetual maintenance plan which shall be binding upon the applicant and/or developer and thereafter by the homeowners' association. The Commission and its attorney shall review and approve the perpetual maintenance plan prior to the restrictive covenants being recorded and prior to granting final site plan approval.

G. Perimeter Buffer Tree Mitigation

1. In the event that trees, shrubs, Woodlands, or the Perimeter Buffer Protection Area are removed or damaged without authorization, tree mitigation shall be required. In addition, violations and penalties may be assessed.

2. If trees within a Perimeter Buffer (whether Woodlands or planted) have been damaged or removed (unless such damage or removal is the result of Act of God or natural causes and are therefore subject to the Perimeter Buffer Maintenance Requirements), tree mitigation must occur in the form of newly created Woodlands as follows:

(a) A mitigation plan shall be prepared by a licensed Landscape architect, certified arborist, certified nursery professional, or licensed Forester or Forester designated by the Society of American Foresters as a "Certified Forester."

(b) New Woodlands shall be created for the area of Woodlands in the Perimeter Buffer that was illegally accessed or damaged with at least three replacement trees planted for every tree removed or damaged.

(c) The replacement plantings shall meet the tree and shrub requirements of this Section.

561 (d) The developer, property owner and/or party who violates this section shall be
562 responsible for the health and survival of the replacement in accordance with
563 this Section.

564
565 (e) All tree mitigation plantings must be on the same lot, parcel, or tract on which
566 the illegal activity occurred, except as noted herein.

567 H. Violations and Penalties

568
569 The developer, owner of the land and any person or corporation who shall violate
570 any provisions of this Section shall be subject to the following penalties in addition
571 to other requirements set forth in this Section. Separate violations or a series of
572 violations may be combined to determine the total area where the violation
573 occurred:

- 574
575 1. A fine of \$10,000 per quarter acre, pro rata, of disturbance within the
576 Perimeter Buffer and Perimeter Buffer Protection Area, as applicable, shall
577 be imposed; and
578
579 2. A tree mitigation plan in accordance with the requirements of this Section
580 shall be approved by the Planning and Zoning Commission.

581
582 Where the developer is the party who has violated the provisions of this Section, no
583 building or zoning permits shall be issued nor shall any inspections occur within the
584 phase where the violation occurred (including, but not limited to building code and
585 utility inspections) until the tree mitigation plan is complete and approved by the
586 Commission.

587
588 **Section 5. The Code of Sussex County, Chapter 99, Article IV, §99-23**
589 **“Information To Be Shown” is hereby amended by deleting the language in**
590 **brackets and strikethrough and inserting the italicized and underlined**
591 **language as follows:**

592
593 **§99-23 Information To Be Shown.**

594 The preliminary plat shall be drawn in a clear and legible manner and shall show the
595 following information:

596 . . .

597 P. The designation of parcels to be set aside for [~~forested buffer strips~~] perimeter
598 buffers and perimeter buffer protection areas, where required and proposed access
599 points to the perimeter buffers and perimeter buffer protection areas for
600 maintenance purposes.

601 . . .

602

603 **Section 6. The Code of Sussex County, Chapter 99, Article V, §99-26**
604 **“Information To Be Shown” is hereby amended by deleting the language in**
605 **brackets and strikethrough and inserting the italicized and underlined**
606 **language as follows:**

607

608 **§99-26 Information To Be Shown.**

609 A. The final plat shall be legibly and accurately drawn and shall show the following
610 information:

611

612 . . .

613

614 (16) The locations, bearings and dimensions and area of any land set aside
615 for [~~forested buffer strips~~] perimeter buffers and perimeter buffer protection areas,
616 if required and proposed access points to the perimeter buffers and perimeter buffer
617 protection areas for maintenance purposes.

618

619

620

621 **Section 7. The Code of Sussex County, Chapter 99, Article V, §99-27**
622 **“Supporting Statements” is hereby amended by deleting the language in**
623 **brackets and strikethrough and inserting the italicized and underlined**
624 **language as follows:**

625

626 **§99-27 Supporting Statements.**

627

628 The following supporting statements are required:

629

630 A. A summary of deed restrictions applicable within the subdivision, including
631 agreements for the operation and maintenance by the property owners or agency in
632 the subdivision of street and road improvements, surface drainage facilities, erosion

633 and sedimentation control facilities, water supply facilities, sanitary sewer facilities,
634 [~~forested buffer strips~~] perimeter buffers and perimeter buffer protection areas,
635 resource buffers, all areas approved as open space as defined in § 99-5 and other
636 improvements deemed necessary by the Commission.

637
638 B. Evidence that all conditions related to the preliminary plat approval have been
639 satisfied.

640

641 **Section 8. The Code of Sussex County, Chapter 99, Article VI, §99-30 “Plans”**
642 **is hereby amended by deleting the language in brackets and strikethrough and**
643 **inserting the italicized and underlined language as follows:**

644

645 **§ 99-30 Plans.**

646

647 Plans, profiles and specifications for the required improvements shall be prepared
648 by the subdivider and submitted for approval by the appropriate public authorities
649 prior to construction. No construction shall commence prior to the issuance of a
650 notice to proceed by the County Engineer or his or her designee for the required
651 improvements. All plans, profiles and specifications approved by the County
652 Engineer or his or her designee with the issuance of a notice to proceed shall remain
653 valid or, if substantial construction is not actively and continuously underway, they
654 shall expire upon the expiration of the final site plan. Prior to the issuance of a notice
655 to proceed, the County Engineer may require the owner and/or his designee to
656 execute an agreement addressing the required improvements. The plans and profiles
657 submitted for all new construction shall include the following:

658

659 . . .

660

661 E. Plans and specifications for any [~~forested buffer strips~~] perimeter buffers and
662 perimeter buffer protection areas, if required.

663

664

665

666 **Section 9. The Code of Sussex County, Chapter 99, Article VI, §99-31**
667 **“Inspections; Closeout Procedures, Fees” is hereby amended by inserting the**
668 **italicized and underlined language as follows:**

669

670 **§ 99-31 Inspections; Closeout Procedures, Fees.**

671

672 . . .

673

674 E. Project closeout procedures.

675

676 . . .

677

678 (10) If perimeter buffers and perimeter buffer protection areas are required, the
679 Director shall confirm that the requirements of §99-21A have been satisfied.

680

681 . . .

682 **Section 10. The Code of Sussex County, Chapter 99, Article VI, §99-32 “Bonds**
683 **and Guaranties” is hereby amended by deleting the language in brackets and**
684 **strikethrough and inserting the italicized and underlined language as follows:**

685

686 **§99-32 Bonds and Guaranties.**

687 . . .

688

689 C. [~~Bonds posted to insure the completion of requirements for open space and~~
690 ~~forested buffers~~] Bonds posted for perimeter buffers and perimeter buffer protection
691 areas as required by §99-21A.E. and other improvements deemed necessary by the
692 Commission shall be posted with the Director of Planning and Zoning. All other
693 bonds and guaranties shall be posted with the County Engineer.

694

695 . . .

696

697 **Section 11. The Code of Sussex County, Chapter 115, Article IV, §115-20**
698 **“Permitted Uses” is hereby amended by deleting the language in brackets and**
699 **strikethrough and inserting the italicized and underlined language as follows:**

700

701 **§115-20 Permitted Uses.**

702

703 A. A building or land shall be used only for the following purposes:

704 . . .

705

706 (17) A Sussex County Rental Program, or SCRP, townhouse or multifamily
707 development governed by, and subject to, Chapter 72, where at least 25% of
708 all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP
709 development must satisfy the following criteria:

710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746

...

...

...

(e) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] the perimeter buffers and perimeter buffer protection areas (if Perimeter Buffer Protection Areas are required) set forth in §99-21A. This setback may include walking and biking trails.

Section 12. The Code of Sussex County, Chapter 115, Article IV, §115-25 “Height Area and Bulk Requirements” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:

§115-25 Height Area and Bulk Requirements.

...

- E. Design requirements for cluster development.
 - (1) All development shall be in accordance with the latest amendment to the community design standards.
 - (2) Housing types in the low-density area, as shown on the Sussex County Comprehensive Plan, are limited to single-family detached dwellings and manufactured homes where permitted by ordinance.
 - (3) [~~A forested buffer area with a minimum width of 30 feet shall be provided for lots abutting an agricultural area~~]. The perimeter buffer and perimeter buffer protection area as required by §99-21A.
 - ~~[(4) Dwellings located within 50 feet of an existing residential development shall provide adequate transition in density or shall provide a thirty-foot buffer meeting the standards below and maintained by a designated entity.~~

747 ~~(a) — A planting strip at least 30 feet wide near the property line which~~
748 ~~shall include two canopy trees, four understory trees and 10 shrubs per~~
749 ~~100 linear feet of buffer; or~~

750
751 ~~(b) — A landscaped rolling berm at least four feet in height; or~~

752
753 ~~(c) — A solid fence or wall a minimum of six feet in height designed~~
754 ~~with durable materials, texture and colors compatible with adjacent~~
755 ~~residential development.]~~

756
757 ~~(5)~~(4) No lots shall have direct access to any state-maintained roads.

758
759 ~~(6)~~(5) All lots shall be configured to be contained completely outside
760 of all wetlands.

761
762 ~~(7)~~(6) Any development using the option in Subsection B(2) shall have
763 central water and wastewater systems operated and maintained by companies
764 authorized by the State of Delaware to perform such services. Wastewater
765 collection and treatment systems must be designed in accordance with the
766 requirements of Sussex County ordinances and conform to the requirements
767 for a central sewer system as defined in § 115-194A of the Sussex County
768 Zoning Ordinance.

769
770

771
772 **Section 13. The Code of Sussex County, Chapter 115, Article V, §115-29**
773 **“Permitted Uses” is hereby amended by deleting the language in brackets and**
774 **strikethrough and inserting the italicized and underlined language as follows:**

775
776 **§115-29 Permitted Uses.**

777
778 A. A building or land shall be used only for the following purposes:

779 . . .

780
781 M. A Sussex County Rental Program, or SCRP, townhouse or multifamily
782 development governed by, and subject to, Chapter 72, where at least 25% of all
783 dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must
784 satisfy the following criteria:

785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] the perimeter buffers and perimeter buffer protection areas set forth in §99-21A. This setback may include walking and biking trails.

...

Section 14. The Code of Sussex County, Chapter 115, Article VI, §115-37 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:

§115-37 Permitted Uses.

Permitted uses area as follows:

...

C. A Sussex County Rental Program, or SCRP, townhouse or multifamily development governed by, and subject to, Chapter 72, where at least 25% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] the perimeter buffers and perimeter buffer protection areas set forth in §99-21A. This setback may include walking and biking trails.

....

Section 15. The Code of Sussex County, Chapter 115, Article VII, §115-45 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:

§115-45 Permitted Uses.

823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858

Permitted uses area as follows:

...

F. A Sussex County Rental Program, or SCRP, townhouse or multifamily development governed by, and subject to, Chapter 72, where at least 25% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified in § 99-5~~] the perimeter buffers and perimeter buffer protection areas set forth in §99-21A. This setback may include walking and biking trails.

...

Section 16. The Code of Sussex County, Chapter 115, Article VIII, §115-53 “Permitted Uses” is hereby amended by deleting the language in brackets and strikethrough and inserting the italicized and underlined language as follows:

§115-53 Permitted Uses.

A building or land shall only be used for the following purposes:

...

K. A Sussex County Rental Program, or SCRP, townhouse or multifamily development governed by, and subject to, Chapter 72, where at least 25% of all dwelling units are SCRP Units pursuant to Chapter 72. The SCRP development must satisfy the following criteria:

...

(5) There shall be a one-hundred-foot-wide setback around the entire site, which shall incorporate [~~the forested and/or landscaped buffer strip identified~~

859 ~~in § 99-5]~~ *the perimeter buffers and perimeter buffer protection areas set forth*
860 *in §99-21A.* This setback may include walking and biking trails.

861
862 . . .

863
864 **Section 17. The Code of Sussex County, Chapter 115, Article XXVIII, §115-**
865 **218 “Procedure for RPC District, C-4 Planned Commercial District and**
866 **Conditional Use Site Plan Approval” is hereby amended by deleting the**
867 **language in brackets and strikethrough and inserting the italicized and**
868 **underlined language as follows:**

869
870
871 **§ 115-218 Procedure for RPC District, C-4 Planned Commercial District**
872 **and conditional use site plan approval.**

873
874 Where the provisions of this chapter require the submittal of site plans for RPC
875 Districts, C-4 Planned Commercial Districts and conditional uses, the following
876 schedule of procedure shall apply:

877
878
879 E. When approving a conditional use for attached or detached single-family or
880 multifamily dwellings or a change of zone for a residential planned community of
881 attached or detached single-family or multifamily dwellings, in any zoning district
882 in which they are permitted with Council approval, Council shall have the right to
883 impose a condition requiring the applicant to install [~~a forested and/or landscaped~~
884 ~~buffer as defined in §§ 99-5 and 99-6D]~~ *the perimeter buffers and perimeter buffer*
885 *protection areas set forth in §99-21A* of the Subdivision Ordinance.

886
887
888 **Section 18. Effective Date.**

889
890 This Ordinance shall take effect upon six (6) months from the date of adoption by
891 Sussex County Council. Provided however, that it shall not apply to any completed
892 applications on file with the Sussex County Office of Planning & Zoning

yes 6/11
vincent.

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, June 3, 2024 7:20 AM
To: Casey Hall
Subject: Form submission from: Council Grant Form

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	Town of Delmar
Project Name	State Street Park Shade
Federal Tax ID	5260002077
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Serve the citizens of Delmar DE
Address	100 S Pennsylvania Ave
City	Delmar
State	MD
Zip Code	21875
Contact Person	Jeffrey T Fleetwood

Contact Title	Town Manager
Contact Phone Number	4108962777
Contact Email Address	jfleetwood@townofdelmar.us
Total Funding Request	\$10,000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	33
Program Category (choose all that apply)	Other
Program Category Other	Parks

Primary Beneficiary Category	Youth
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	5000
Scope	Currently our young children playground area does not have any shade. Looking to install a sun shade sail to provide shade for children playing at the State Street Park and our West Tot Lot locations.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	10,000.00
Description	materials and installation of shade sails Gordy Park
Amount	31,999.00
Description	materials and installation of shade sails West Tot Lot
Amount	17,800.00
TOTAL EXPENDITURES	49,799.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-39,799.00
Name of Organization	Town of Delmar

Applicant/Authorized Official Jeff Fleetwood

Date 06/02/2024

Affidavit Acknowledgement Yes



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

Yes. 6/18.
Green.

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Bridgeville Police Department
PROJECT NAME: Back to School Bash
FEDERAL TAX ID: 51-6000028 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: It is the duty of the Bridgeville Police Department to protect and assist the citizens of Bridgeville. The Police Department fulfills these duties by providing foot and vehicle patrols that help to eliminate crime and drugs. Mandatory law and equipment training program requirements keep officers up to date. These mandates help to ensure that the Town of Bridgeville has knowledgeable and dependable officers patrolling the streets.

ADDRESS: 105 N. Main Street
Bridgeville DE 19933
(CITY) (STATE) (ZIP)

CONTACT PERSON: H. Burke Parker
TITLE: Chief of Police
PHONE: 302-337-8302 EMAIL: harvey.parker@cj.state.de.us

TOTAL FUNDING REQUEST: \$1,000.00

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

If YES, how much was received in the last 12 months?

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 25%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

Fair Housing
Infrastructure¹

Health and Human Services
 Other Community Awareness

Cultural
 Educational

BENEFICIARY CATEGORY

Disability & Special Needs
Elderly Persons
Minority

Victims of Domestic Violence
 Low to Moderate Income²
 Other All Bridgeville Residents

Homeless
 Youth

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:
+/- 2,000 people

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

Due to recent events in the country over the last few years, law enforcement is often viewed in a negative light. We strive to change the perspective of our community members, especially the youth of the community, and to overcome stereotypes. Our Community Policing Program works to create positive relationships and educate the community of necessary safety needs. The Bridgeville Police Department will be hosting a Back to School Bash on August 8th. Our goal is to provide free backpacks and school supplies to the youth in our community while allowing them to interact with officers in a more relaxed environment.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

Not applicable.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	0.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Operating Costs (backpacks, school supplies, giveaways, etc.)	\$ 5,000.00
TOTAL EXPENDITURES	\$ 5,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 5,000.00


SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Bridgeville Police Department agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

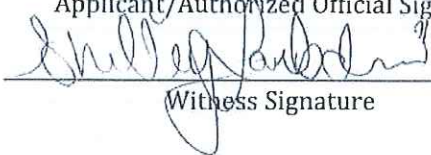
- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official Signature

6/17/24

Date



Witness Signature

6/17/24

Date

Completed application can be submitted by:

Email: casey.hall@sussexcountyde.gov

Mail: Sussex County Government
Attention: Casey Hall
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

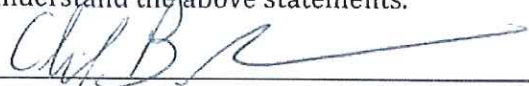
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

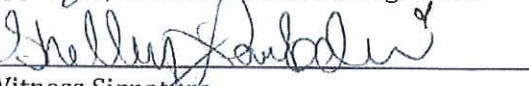
Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.



Applicant/Authorized Official Signature



Witness Signature

Chief of Police

Title

6/17/24

Date

yes. 6/18.
Green.

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Sunday, June 9, 2024 8:18 PM
To: Casey Hall
Subject: Form submission from: Council Grant Form

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization TOWN OF GREENWOOD

Project Name DOWNTOWN REVITALIZATION PLAN/TOWN SQUARE

Federal Tax ID 51-0107189

Non-Profit No

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission THE TOWN WOULD LIKE TO PURCHASE A PIECE OF PROPERTY AVAILABLE IN THE MIDDLE OF TOWN AT 11 W MARKET ST WHICH IS CURRENTLY A VACANT LOT AND TURN IT INTO A TOWN SQUARE WITH PAVERS, BENCHES, A FOUNTAIN AND A PLACE TO HOLD IMPORTANT EVENTS SUCH AS A TREE LIGHTING, VETERAN PROGRAM ETC.. THE BENCHES WOULD ALSO ALLOW THE RESIDENTS AND MANY VISITORS THAT WALK ON MARKET ST TO AMITY COFFEE, THE ANTIQUE STORES AND RESTAURANTS TO SIT AND CHAT AND ENJOY THE TOWN. I HAVE MET WITH COUNCILWOMAN CINDY GREEN WHO SUPPORTS THIS PROJECT

Address	100 W MARKET ST
City	GREENWOOD
State	DE
Zip Code	19950
Contact Person	JANET TODD
Contact Title	TOWN MANAGER
Contact Phone Number	3023494534
Contact Email Address	jtodd@townofgreenwood.us
Total Funding Request	10000.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding	10

**does the Council
grant represent?**

**Program Category
(choose all that
apply)**

Other

**Program Category
Other**

downtown revitalization

**Primary Beneficiary
Category**

Other

**Beneficiary Category
Other**

residents and tourists of all nature as well as businesses

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program**

500

Scope

There is no central location in Greenwood for either residents or tourists to gather and enjoy the town. The location of the proposed lot to purchase is centrally located directly across from the coffee shop, beside the antique store and a restaurant and would benefit everyone as that is a heavily traveled area by foot. Also this would allow the town to have a town square to have community events such as a tree lighting at Christmas, a Veterans program or any other type of event so that the community could gather and it would also bring more business down town.

**Please enter the
current support your
organization receives
for this project (not
entire organization)**

0.00

revenue if not
applicable to request)

TOTAL EXPENDITURES 0.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** (0.00)

Name of Organization Town of Greenwood

**Applicant/Authorized
Official** Janet Todd, Town Manager

Date 06/09/2024

Affidavit Yes

Acknowledgement



**TOWN OF GREENWOOD
100 W. MARKET ST.
GREENWOOD, DE. 19950
PH# 302-349-4534**

June 10, 2024

Please see the below estimated cost of expenditures for the Greenwood Downtown Revitalization Project. If you could please attach this to the grant application

ITEM DESCRIPTION	ESTIMATED COST
COST OF PROPERTY	\$60,000.00
SITE WORK	\$10,000.00
INFRASTRUCTURE	\$5,000.00
PAVERS/FOUNTAIN	\$50,000.00
BENCHES/DÉCOR	\$10,000.00
TOTAL ESTIMATED COST OF PROJECT	\$135,000.00

Thank you
Janet Todd
Town Manager

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
 <notifications@d3forms.com>
Sent: Tuesday, June 11, 2024 1:42 PM
To: Casey Hall
Subject: Form submission from: Council Grant Form

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization Make-A-Wish Foundation of Philadelphia, Delaware & ✓
 Susquehanna Valley

Project Name Wishes Transforming Lives in Sussex County

Federal Tax ID 22-2755963 ✓

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) Yes

Organization's Mission Make-A-Wish creates life-changing wishes for children with critical illnesses.

Address 100 W. 10th Street, 106

City Wilmington

State DE

Zip Code 19801

Contact Person Karen L. Traten

Contact Title Sr. Director of Development

Contact Phone Number 2159873147

Contact Email Address ktraten@philadesv.wish.org

Total Funding Request 10,000

Has your organization received other grant funds from Sussex County Government in the last year? Yes

If YES, how much was received in the last 12 months?

8874.00

Are you seeking other sources of funding other than Sussex County Council? Yes

If YES, approximately what percentage of the project's funding does the Council grant represent? 10

Program Category (choose all that apply) Health and Human Services

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

10

Scope

Make-A-Wish® Delaware, a 501(c)3 non-profit organization, serves children (ages 2.5 to 18) living with critical illnesses. Every day, children in Delaware are diagnosed with critical illnesses. Many of the children referred to Make-A-Wish have a cancer diagnosis, while others suffer from heart, kidney and liver disease, or other life-threatening conditions. Through our strong referral partnerships, Make-A-Wish teams up with medical professionals at area pediatric facilities treating these conditions. This collaboration allows our wish-granting program to strengthen and enhance community-based health service.

Make-A-Wish Delaware is part of a global brand serving children in every community of the United States through 58 chapters. In 2023, Morning Consult selected Make-A-Wish as the #1 most trusted non-profit operating locally across 50 states. Funds donated in Delaware serve Delaware residents. Our program is 100% contribution driven.

Children who are fighting critical illnesses experience extreme mental and emotional challenges every day. Hospital stays, harsh treatments and scary surgeries are not only exhausting – they are traumatic. In fact, 90 percent of wish alumni and parents said their family experienced traumatic stress as a result of the child’s critical illness. Such mental distress can impair a child’s long-term healing, as feelings of hopelessness, depression and loneliness threaten their ability to endure the physical demands of their illness.

Make-A-Wish is the solution offering children with critical illnesses much-needed relief from their trauma. Our staff

and volunteers work alongside medical care teams to support children and their families in taking back control of their lives. As we spend time with the child, conversation shifts from fear to anticipation and joy. That's the moment a wish is born. When you help grant a wish, you immediately launch a child and their family onto a journey filled with exciting possibilities – and a chance to replace feelings of trauma with hope for tomorrow.

Our vision is that every eligible child has the chance to receive a wish experience. Our objective is to be a part of the treatment plan early in the diagnosis so that the wish experience can have the most impact. We recognize that no parent, child or family member is ever prepared to face the complex medical, financial, and personal decisions that go along with a diagnosis of a critical illness.

* Currently, 13 children living in Sussex County are waiting in our pipeline for a wish experience and this number grows each day. Your grant can make a great impact by supporting the increasing number of referrals, enabling families in Sussex County, Delaware to get quicker access to our program. Thank you for your past support. We hope to welcome your partnership in 2024.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 100,000.00

Description Direct Wish Expense

Amount 52,500.00

Description Personnel

Amount 15,000.00

Description Supplies, travel, other

Amount 2,500.00

TOTAL EXPENDITURES 70,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** 30,000.00

Name of Organization Make-A-Wish

**Applicant/Authorized
Official** Karen Traten

Date 06/11/2024

**Affidavit
Acknowledgement** Yes