

Sussex County Council Public/Media Packet

**MEETING:
February 2, 2021**

****DISCLAIMER****

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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

A G E N D A

FEBRUARY 2, 2021

10:00 A.M.

PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA

Call to Order

Approval of Agenda

Approval of Minutes – January 26, 2021

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Gina Jennings, Finance Director

1. Consideration and approval of Commercial Property Assessed Clean Energy Program

Hans Medlarz, County Engineer

1. Delivery of Seed and Chemical, Project No. M19-31
 - A. Change Order No. 1
2. Professional Environmental Services Project 19-05
Inland Bays and the Sussex Portion of the Chesapeake Bay Watersheds
 - A. Amendment No. 1, 3rd Revision



10:15 A.M. Public Hearing

Community Development Block Grant (CDBG) Program

10:30 A.M. Public Hearing

“AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA”

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

Adjourn

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 26, 2021 at 4:30 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.

Further meeting access instructions are listed below.

-MEETING INSTRUCTIONS-

The Sussex County Council is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292.

The public is encouraged to view the meeting on-line. Any person attending in-person will be required to go through a wellness and security screening, including a no-touch temperature check. The public will be required to wear a facial mask.

Chambers seating capacity is limited and seating assignments will be enforced.

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

The County is required to provide 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>.

If any member of the public would like to submit comments electronically, please feel free to send them to rgriffith@sussexcountyde.gov. All comments shall be submitted by 4:30 P.M. on Monday, February 1, 2021.

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 26, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 26, 2021, 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 027 21
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend the Agenda by deleting "Introduction of Proposed Ordinances" and to approve the Agenda, as amended.

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 January 12, 2021 were approved by consent.

**Corre-
spondence**

Correspondence was received from the Harry K. Foundation in appreciation of grant funding to be used for feeding children and their families. Correspondence was also received from the League of Women Voters of Sussex County, the Delaware Prosperity Partnership, and SEDAC in support of the Commercial Property Assessed Clean Energy Program (C-PACE).

**Public
Comments**

There were no public comments.

**Interview
Board of
Adjustment
Nominee**

Mr. Lawson noted that on January 12, 2021, Mr. Rieley announced his nomination of John Travis Hastings to the Board of Adjustment (District 5). The Council conducted a public interview for Board of Adjustment nominee John Travis Hastings (by teleconference).

**M 028 21
Approve
Board of
Adjustment
Appointment/
Hastings**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the appointment of John Travis Hastings to the Sussex County Board of Adjustment, effective immediately, and until such time as the term expires in June 2022.

Motion Adopted: 5 Yeas.

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

**Commercial
PACE
Program
Presentation**

Tony DePrima, Executive Director of Delaware Sustainable Energy Utility and Elyssa Rothe, Senior Director, Policy Programs, Green Works Lending, gave a presentation on the Commercial Property Assessed Clean Energy (PACE) Program. The Commercial PACE Program is an economic development strategy with environmental benefits for commercial buildings. The Program facilitates financing for eligible clean energy improvements to qualifying commercial, industrial, and agricultural properties by using a voluntary benefit assessment to provide security for repayment of the financing. Mr. DePrima reviewed PACE basics: financing dollars come from private sources; County assessment placed to pay debt service similar to property assessments; County collects service fees; PACE assessment survives sales, including foreclosures; future PACE assessments can be passed on in the future by whomever buys the building. Mr. DePrima explained the benefit to local governments: economic development, job creation, reduced CO2 emissions, no tax money used, fees support assessor costs, and taxes are collected first. The Delaware Sustainable Energy Utility (SEU) would serve as Program Administrator; the County's tax office will do the loan servicing with a fee for service, the County would provide collected funds to the SEU and the SEU would distribute to lenders; and the SEU will cover start-up costs, including assisting County Administration. Ms. Rothe noted that Greenworks Lending is the leading provider of commercial PACE (C-PACE) financing nationally and she reported that C-PACE is a partnership between a public entity (local government) and a private entity (capital provider) to fund clean energy projects on commercial properties in a specific jurisdiction. Ms. Rothe also reported on how the program is growing across the Country noting that Greenworks has financed 350+ C-PACE projects in 20 states.

No action was taken by Council.

**Adminis-
trator's
Report**

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

1. Caroling on The Circle/Pack the Pod

Sussex County is pleased to announce that the Caroling on The Circle campaign that wrapped up at the end of December raised more than 15,000 food items for local pantries, a successful end tally given the challenges of the pandemic in 2020. While COVID-19 squelched this

**Administrator's
Report
(continued)**

past year's singing event on The Circle, the County moved forward with the food drive portion of the annual campaign. Thanks to businesses, County employees, civic groups, schools, and individual citizens reaching deep in their pockets and in the back of their cupboards, the campaign collected more than \$10,000 in cash, and more than 5,300 food items to help stock shelves at more than a dozen local food pantries. Every dollar earned was turned into food items that will help feed needy families here in Sussex County well into 2021. We thank our generous donors for their support, and we look forward to resuming Caroling on The Circle next holiday season.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, The Estuary - Phase 1D-3A (Construction Record) received Substantial Completion effective January 8th, Bishop's Landing (formerly Dove Landing) – Phase 3A and Wellesley – Phase 2A (Construction Record) both received Substantial Completion effective January 15th.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for December 2020 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 189 troopers assigned to Sussex County for the month of December.

4. Charles Clayville

It is with sadness that we note the passing of County pensioner Charles Clayville on Friday, January 15th. Mr. Clayville began his career with Sussex County in February 1978 where he worked in Facilities Management until April 2003. We would like to extend our condolences to the Clayville family.

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

Appointment

Mr. Lawson presented for consideration an appointment to the Board of Assessment Review for District 3.

**M 029 21
Approve
Board of
Assessment
Review**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that the Sussex County Council appoints Mr. Matt Mariner to the Sussex County Board of Assessment Review, effective immediately, for a term of five (5) years or until February 2026.

Appointment

Motion Adopted: 4 Yeas, 1 Absent.

**M 029 21
(continued)**

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

**Airport
Advisory
Committee
Member
Appoint-
ments**

Bob Bryant, Airport Manager, presented for Council's approval the Delaware Coastal Airport Advisory Committee members for the Year 2021: Garrett Dernoga, Larry Kelley, Jeff Reed, Rick Garner, Gus Croll, Mark Ryan, Scott Thomas, and Ray Hopkins Mr. Bryant noted that the Committee members also include one County Council member, the County Administrator, the County Engineer, and the Director of Economic Development.

**M 030 21
Approve
Reappoint-
ments/
Airport
Advisory
Committee**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the Sussex County Council approves the 2021 Committee member reappointments to the Delaware Coastal Airport Advisory Committee, 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**

**James
Farm/
Master
Plan/
Phase 2**

Patrick Brown, Project Engineer, presented an update on work at the James Farm Ecological Preserve. He noted that the Center for the Inland Bays has partnered with the County for many years and that the County has been working with the CIB on the Master Plan, most recently the Phase 2 portion of the Plan. On June 30, 2020, the Council authorized the agreement for Project C20-38, James Farm Master Plan Implementation, Phase 2, with a not-to-exceed fee of \$71,435.00 for updates to the Master Plan and for design of an ADA compliant restroom. In 2020, at DNREC's suggestion, the County submitted a second ORPT grant application not exceeding \$100,000.00 to further implement Phase 2 of the Plan. With Sussex County and DNREC allocations, Phase 2 Master Plan projects can be further implemented, including construction of the restroom with related site and utility work, along with design, permitting and construction of future maintenance and education facilities and other related improvements. After review of the contract and proposal, the Engineering Department recommends procurement of a prefabricated building through the available State sourcing in an approximate amount of \$77,000.00; minor site and utility improvements are necessary to receive the prefabricated restroom. In addition, the Engineering Department recommends approval of an equipment contribution and a set-aside of sewer connection charges.

**M 031 21
Approve
Purchase
Order/
James Farm**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that a Stand-Alone Purchase Order for CXT Concrete Buildings, Inc., as a part of Contract C20-38, James Farm Master Plan Implementation, Phase 2, be approved in an amount not to exceed \$77,000.00 for manufacturing and

M 031 21
Approve
Purchase
Order/
James Farm
Master
Plan
(continued)

delivery of a restroom facility in accordance with the State of Delaware contract for prefabricated buildings.

Motion Adopted: 5 Yeas.

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

M 032 21
Approve
Sussex
County
Project
Contri-
bution/
James
Farm
Master
Plan

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that furnishing and utilizing surplus sewer equipment as a part of Contract 20-38, James Farm Master Plan Implementation, Phase 2, and the set-aside of related sewer construction charges be approved as a “betterment” to County property.

Motion Adopted: 5 Yeas.

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

General
Labor
and
Equipment
Project
19-01/
Change
Orders

Hans Medlarz, County Engineer, presented Change Orders to the General Labor & Equipment Contract, Project 19-01:

- **Change Order No. 2, FY 2021, in the amount of \$960,000.00 for Plantation Road LP Sewer Extension Project. This Change Order covers the following: continuation of the Inland Bays, northern effluent distribution loop (\$290,000); Inland Bays Cannon Road entrance rehabilitation and drainage regrading (\$150,000), continuation of Rehoboth Beach wastewater plant site work (\$85,000), continuation of Hebron Road sewer repair (\$45,000), implementation of close-out for The Cove at Sandy Landing (\$130,000), and emergency work including Maplewood Dental Clinic, Oak Crest FM repair, Dagsboro and Ellendale deep lateral repairs, Pump Station No. 50 meter replacement and Pinewater Drive storm drain repair.**
- **Change Order No. 3, FY 2021, in the amount of \$25,000.00 for the James Farm Ecological Preserve. This Change Order covers the following: connection of prefabricated restroom facility to site utilities and to set the facility on a stabilized base (to be counted as part of the County’s match under the ORPT grant), and the physical connection of the prefabricated restroom facility to the sewer system, including the labor component (will not be counted as part of the County’s match under the ORPT grant).**

M 033 21
Approve
Change
Orders/
General
Labor
and
Equipment
Project
19-01

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 2 and 3 (FY 21) for Contract 19-01, FY 19, General Labor & Equipment Contract, be approved, increasing the Contract amount by \$960,000.00 and \$25,000.00, respectively, for a new Contract total of \$8,230,000.00.

Motion Adopted: 5 Yeas.

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

M 034 21
Go Into
Executive
Session

At 11:56 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition and pending 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 12:02 p.m., an Executive Session of the Sussex County Council was held in Council Chambers for the purpose of discussing matters relating to land acquisition and pending litigation. The Executive Session concluded at 12:44 p.m.

M 035 21
Reconvene
Regular
Session

At 12:46 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

E/S Action **There was no action on Executive Session matters.**

M 036 21
Adjourn

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to adjourn at 12:46 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,

**Robin A. Griffith
Clerk of the Council**

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

DRAFT

RESOLUTION NO. R --- 21

AUTHORIZING DESEU TO CONDUCT THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM (D-PACE), WITHIN SUSSEX COUNTY

WHEREAS, the Sussex County Council is committed to encouraging responsible economic development, promoting sustainable energy and protecting our environment; and

WHEREAS, Delaware Code, Title 29, Chapter 80, Subchapter II, relating to Delaware Voluntary Clean Energy Financing Program Based on Property Assessment or Other Local Assessment (the “D-PACE Program”) establishes a statewide voluntary commercial property assessed clean energy program to provide access to financing for clean energy systems and energy efficient technologies with free and willing commercial property owners of both existing properties and new construction within the State and directs SUSTAINABLE ENERGY UTILITY, INC., a non-profit corporation created by Delaware statute, d/b/a Energize Delaware (“DESEU”), to establish and administer the D-PACE Program; and

WHEREAS, Pursuant the Statute, DESEU may only establish and administer the D-PACE Program in the County if the County authorizes it to do so by resolution; and

WHEREAS, The County wishes to authorize DESEU to administer projects through the D-PACE Program in the County; and

WHEREAS, The County and DESEU have agreed on the terms of the D-PACE Participation Agreement substantially in the form attached hereto (the “Participation Agreement”); and

NOW THEREFORE BE IT RESOLVED that the Sussex County Council authorizes the County Council President to sign the Participation Agreement effective date of this Resolution, which shall be February 2, 2021.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R ---21 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2nd DAY OF FEBRUARY 2021.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

County D-PACE Participation Agreement

THIS COUNTY D-PACE PARTICIPATION AGREEMENT (the “**Agreement**”) is made and entered into as of the ____ day of _____, 2021, by and between **SUSSEX COUNTY**, a body corporate and politic of the State of Delaware (the “**County**”), and **SUSTAINABLE ENERGY UTILITY, INC.**, a non-profit corporation created by Delaware statute, d/b/a Energize Delaware (“**DESEU**”), which is responsible for the program administration of the Delaware Voluntary Clean Energy Financing Program Based on Property Assessments or other Local Assessments (the “Commercial Property Assessed Clean Energy Program” or “D-PACE Program”) established under Delaware Code Title 29, Chapter 80, Subchapter II (known as the Delaware Energy Act) (the “**Statute**”) (County and DESEU each a “Party” and collectively the “Parties”).

RECITALS

WHEREAS, the Statute establishes commercial property assessed clean energy financing in the State of Delaware; and

WHEREAS, D-PACE is a program to facilitate financing for eligible clean energy improvements to qualifying commercial, industrial, agricultural, and multifamily housing (containing five or more dwelling units), non-profit and agricultural properties by using a voluntary benefit assessment to provide security for repayment of the financing; and DESEU may delegate its powers under this chapter to a third party to assist in administration of the D-PACE Program; and

WHEREAS, the Statute directs DESEU to establish and administer the D-PACE Program but stipulates that the D-PACE Program may only operate if the County has adopted a resolution authorizing DESEU to conduct projects in their jurisdiction; and

WHEREAS, the Statute requires the County to enter into a written agreement, approved by its legislative body, with the D-PACE Program pursuant to which the County has agreed to levy benefit assessments for qualifying energy improvements for benefitted commercial property owners within the County; and

WHEREAS, the County has adopted a resolution in a form previously approved by DESEU, authorizing DESEU to conduct the D-PACE Program within the County and authorizing the County to enter into this Agreement with DESEU for the purpose of assessing and collecting the benefit assessment.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth

herein and in order to effectuate the purposes of the Statute, it is hereby agreed as follows:

Section 1. Definitions

(a) **“Benefit Assessment”** means a voluntary property assessment or other government service fee assessment under the Statute, which is the mechanism through which a commercial property owner repays the financing for qualifying energy improvements.

(b) **“Commercial Property”** means any real property other than a residential dwelling containing less than five dwelling units.

(c) **“Qualifying Energy Improvements”** means any construction, renovation or retrofitting of energy efficient technology, clean energy systems, or qualifying waste heat recovery technologies that are permanently fixed to qualifying commercial real property.

(d) **“Qualifying Commercial Real Property”** means any commercial property located in Sussex County, State of Delaware, regardless of ownership, that meets the qualifications established for the D-PACE Program.

(e) **“Program Guide”** means the document promulgated by DESEU containing the terms and conditions to implement the D-PACE Program pursuant to the Statute, as the same may be amended or supplemented from time to time.

(f) **“Tax Sale”** means an action brought by the applicable Capital Provider (defined below) using the method of sale pursuant to 9 Del. C. § 8771 et seq. (“Sale of Land for Delinquent Taxes in Kent and Sussex Counties”). “Tax Sale” shall not be deemed to include a monition sale pursuant to 9 Del. C. § 8721 et seq.

Section 2. Obligations of DESEU.

(a) Program Requirements.

Pursuant to the Statute, DESEU:

- (1) shall develop a Program Guide that governs DESEU’s administration of the D-PACE Program; which provides recommended best practices to D-PACE stakeholders;
- (2) may serve as a facilitator for the purpose of securing state or private third-party financing for Qualifying Energy Improvements pursuant to the Statute; and

(3) shall receive and review applications submitted by property owners within the County for financing of Qualifying Energy Improvements, and approve or disapprove such applications in accordance with the Statute and Program Guide.

(b) Project Requirements.

If a property owner requests financing through the D-PACE Program for improvements under the Statute, DESEU shall review the project application against the requirements in the Statute and Program Guide. DESEU shall provide to the County a project summary for the County's administrative review and pre-approval, and DESEU shall not approve a project application for any property owner unless the County has provided its administrative approval; provided that such approval shall be conclusively deemed granted if the County does not respond to DESEU within thirty (30) days after receipt of such project summary.

(c) Assessment and Financing Agreement for Project.

The party providing the financing (the "**Capital Provider**") may enter into an Assessment and Financing Agreement with the owner of the Qualifying Commercial Real Property (the "**Assessment & Financing Agreement**"). The Assessment & Financing Agreement shall clearly state the amount of the voluntary Benefit Assessment to be levied against the Qualifying Commercial Real Property. The Capital Provider shall disclose to the property owner the costs and risks associated with participating in the D-PACE Program, including risks related to the failure of the property owner to pay the voluntary Benefit Assessment provided for in the Assessment & Financing Agreement. The Capital Provider shall disclose to the property owner the effective interest rate on the voluntary Benefit Assessment, including other fees and charges imposed by DESEU to administer the D-PACE Program as well as any fees charged by the Capital Provider or the County. The property owner must be informed that each Qualifying Energy Improvement, regardless of its useful life, may be bundled with other such improvements on the Qualifying Commercial Real Property for purposes of assessment and paid for over the assessment term.

(d) Establish Voluntary Benefit Assessments and Assessment Units.

Promptly upon receipt of each executed Assessment and Financing Agreement from each Capital Provider, DESEU shall determine from the Capital Provider and property owner the amount of the voluntary Benefit Assessment for such financing and instruct the County to levy such voluntary Benefit Assessment on the applicable Qualifying Commercial Real Property on the property owner's next tax bill. DESEU shall approve the specifics of the applicable voluntary

Benefit Assessment including, without limitation, the amount of the voluntary Benefit Assessment, term, interest rate and repayment dates in accordance with the Statute and Program Guide. In no event shall the amount of any voluntary Benefit Assessment exceed the value of: (a) the voluntary Benefit Assessment benefit provided to the Qualifying Commercial Real Property, or (b) the Qualifying Commercial Real Property. Costs incurred for any property not approved to participate shall not be included in a certified assessment roll.

(e) Assignment of Liens to DESEU.

Pursuant to 29 Del. C. § 8061(d)(7)a., by this Agreement the County hereby assigns to DESEU all liens for Benefit Assessments now existing and hereafter arising from time to time with respect to all Qualifying Commercial Real Property levied by operation of 29 Del. C. § 8061(d)(6); including without limitation all its rights or remedies, including any powers of enforcement or collection to which the County, by virtue of its status as a local governing body of the State of Delaware, is entitled or empowered to exercise under applicable laws of the State of Delaware with respect to Benefit Assessments.

(f) Filing Notice of Assessment with Office of the Recorder of Deeds.

Upon the execution of an Assessment & Financing Agreement, the County will execute and deliver to DESEU, and DESEU will cause the Capital Provider to file and record in the Office of the Recorder of Deeds in and for the County, a Notice of County D-PACE Benefit Assessment Lien (which contains a confirmatory assignment of the lien to DESEU) substantially in the form of Exhibit A attached hereto as a part hereof; and DESEU will assign such lien to the Capital Provider for no additional consideration pursuant to an assignment that may be recorded at Capital Provider's option substantially in the form of Exhibit B attached hereto as a part hereof. The County hereby agrees not to object to or challenge the recordation of such notice and assignments.

(g) Extension of Benefit Assessment Liens.

Notwithstanding the foregoing, until the Benefit Assessment has been repaid in full, prior to the date 10 years after the levy of the Benefit Assessment, and again prior to each 5 year anniversary of the date of the Benefit Assessment levy thereafter, upon written request of the Capital Provider or DESEU the County's tax collecting authority shall assign to DESEU the right to file a certificate in the Sussex County Prothonotary's tax lien record extending the Benefit Assessment lien pursuant to 9 Del. C. § 8706.

(h) Deadline for Submission of List of Benefit Assessments

DESEU shall provide the County a list of Benefit Assessments, including the property owner's name, address, parcel number, and the amount to be billed, by June 15th preceding the tax billing year. In addition, the list shall provide a contact person to address any questions for the owner or third party not related to billing. The list shall be provided in electronic (.xlsx) format. The County will bill Benefit Assessments for the following tax billing year based on such list provided by DESEU. Failure to provide such list by the June 15th deadline may result in exclusion of the Benefit Assessments from the next year's tax bill or additional charges for including the Benefits Assessments in the next year's tax bill.

Section 3. Obligations of the County.

(a) Promotion of Program; Assistance for D-PACE Financing.

The County may, if it chooses to do so, use good faith efforts to assist DESEU in marketing efforts and outreach to the local business community to encourage participation in the D-PACE Program, such as including D-PACE Program information on the County's website.

(b) Billing and Collection of Benefit Assessments.

The County shall levy the Benefit Assessments, add the Benefit Assessments to the tax bill, and assign its lien rights to the Benefit Assessments only to DESEU. The County shall bill the Benefit Assessments in the same manner and at the same time as it bills its annual real property taxes. For each tax year, the County shall only be required to bill Benefit Assessments for which the County has received instructions from DESEU (as program administrator) to levy the Benefit Assessments prior to June 15th immediately preceding such tax year. The Benefit Assessments shall be a separate clearly-defined line item and shall be due on the same date as the County's annual real property taxes.

Benefit Assessment amounts shall be collected in the same manner and at the same time as the annual property taxes of the County on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies, and lien priorities. All payments received by the County shall be applied first to pay all property tax, school tax and sewer fees plus all penalties and interest thereon (if any) before any amount is applied to the Benefit Assessment.

The County shall remit to DESEU all amounts collected with respect to the Benefit Assessments

by the thirtieth (30th) of the month following the month in which the Benefit Assessment was collected, less any County collection fees. DESEU shall be responsible for remitting the Benefit Assessment collections to the appropriate Capital Providers. The County will provide periodic collection reports to DESEU as agreed to by the Parties.

DESEU will reimburse the County for any reasonable, one-time expenses that are incurred by the County to participate in the D-PACE Program. An example of such expenses may include the modification to the County's property tax billing and collections software to enable processing of D-PACE assessment billing and collections.

(c) Fees for Billing and Collection of Benefit Assessments.

The County shall receive a one-time servicing fee, as defined in the fee schedule attached hereto as Exhibit C, for each Qualifying Commercial Real Property that the County maintains responsibility for Benefit Assessment billing and collections.

(d) Collection of Delinquent Payments.

In the event that any property owner fails to make a Benefit Assessment payment when due in any property tax billing cycle, the County shall provide written notice to DESEU of such delinquency in a reasonably timely manner. After providing such notice to DESEU, the County has no obligation to collect delinquent Benefit Assessment payments (except to the extent delinquent benefit assessments are payable from a County tax sale in accordance with Section 3(e) below). The County shall not interfere with or challenge a Tax Sale in the name of the Capital Provider as assignee of the Benefit Assessment lien pursuant to 29 Del. C. § 8061(d)(7)c. Upon request of the Capital Provider, DESEU shall record in the Office of the Recorder of Deeds in and for the County an assignment to the Capital Provider of all of the rights of enforcement and collection in connection with the Benefit Assessment lien that were previously assigned by the County to DESEU pursuant to Sections 2(e) and 2(f) of this Agreement. The Capital Provider shall have the right to bring such Tax Sale proceeding for delinquent Benefit Assessment payments in lieu of the county's tax collecting authority. The Capital Provider shall collect in any Tax Sale in addition to such delinquent Benefit Assessment payments, delinquent real property taxes, school taxes, sewer charges or other amounts past due to the County in amounts certified as due by the County. All money from a Tax Sale shall be paid to the County for such taxes and other charges prior to payment of proceeds for delinquent Benefit Assessments. The Capital Provider's Tax Sale shall not extinguish or otherwise affect any outstanding real property taxes, school taxes, sewer charges or other amounts due to the County or in any way diminish the

County's right to bring a tax monition sale with respect to delinquent real property taxes, school taxes, sewer charges or other amounts due to the County.

(e) Notice of Real Estate Tax Sale.

The County will provide written notice to DESEU of any institution of a tax monition sale pursuant to 9 Del. C. § 8721 et seq. or other proceeding against any Qualifying Commercial Real Property for delinquent real property taxes and/or sewer service charges only. The County hereby acknowledges and agrees that if it takes a property to a tax monition sale or other method brought for delinquent real property taxes, school taxes, sewer charges and/or amounts due to the County (a "County Tax Sale") and such property also has a delinquent Benefit Assessment, then the County agrees to include in its opening bid at sale the amount of the then-delinquent Benefit Assessment (but not the portion of any Benefit Assessment that is not delinquent). The County and DESEU agree that the proceeds of the winning bid in any such County Tax Sale of a property that also has a delinquent Benefit Assessment shall first be applied to pay the then-delinquent real property taxes, school taxes, sewer charges and other amounts due to the County plus all penalties and interest thereon (if any) before any such proceeds are applied to the Benefit Assessment. The County shall remit to the applicable Capital Provider only such remaining portion of County Tax Sale proceeds. The Benefit Assessment shall have priority over all other liens when petitioning the Superior Court for payment of any surplus proceeds from a County Tax Sale.

Section 4. Term and Termination.

The term of this Agreement shall commence upon the date first written above. This Agreement shall be in full force and effect until all of the voluntary Benefit Assessments have been paid in full or deemed no longer outstanding. Notwithstanding the foregoing, the County shall not be obligated to grant the County's administrative approval with respect to any project application pursuant to Section 2(b) of this Agreement after the County, following adoption of a County resolution to do so, provides written notice to DESEU that the County will not accept new projects, except with respect to any project application duly submitted to DESEU prior to DESEU's receipt of such notice.

Section 5. Default.

Each Party shall give the other Party written notice of any breach of any covenant or term of this Agreement and shall allow the defaulting Party thirty (30) calendar days from the date of its receipt of such notice within which to cure any such default or, if it cannot be cured within the thirty (30) days, to commence and thereafter diligently pursue to completion, using good faith efforts to effect such cure

and to thereafter notify the other Party of the actual cure of any such default. The Parties shall have all other rights and remedies provided by law, including, but not limited to, specific performance.

Section 6. Miscellaneous Provisions.

(a) Amendment and Termination.

After a Capital Provider provides funds to finance the costs of any D-PACE project, this Agreement may not be amended or terminated by the Parties with respect to such project without the prior notification of the holders of the assignable lien. Any amendment to any provision of this Agreement must be in writing and mutually agreed to by DESEU and the County.

(b) Severability.

If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

(c) Counterparts; Electronic Signatures.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

(d) Notices.

All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by first class mail, postage prepaid, or overnight delivery service, to the Parties, as follows:

If to the County:

Gina A. Jennings, Finance Director
Sussex County Administration Building
2 The Circle
P.O. Box 589
Georgetown, DE 19947

With a Copy to:

Sussex County Attorney
J. Everett Moore, Jr., Esquire
Moore & Rutt, P.A.
122 W. Market Street
Georgetown, DE 19947

If to DESEU:

D-PACE Program Administrator
c/o Delaware Sustainable Energy Utility, Inc.
500 West Lookerman Street, Suite 400
Dover, DE 19904
Attention: Anthony (Tony) DePrima, Ph.D.
Executive Director

With a Copy to:

Brent C. Shaffer, Esquire
Young Conaway Stargatt & Taylor, LLP
Rodney Square
1000 N. King Street
Wilmington, DE 19801

(e) Applicable Law and Venue.

This Agreement and its provisions shall be governed by and construed in accordance with the laws of the State of Delaware. In any action, in equity or law, with respect to the enforcement or interpretation of this Agreement, venue shall be in the courts of the State of Delaware located in the County.

(f) Entire Agreement.

This instrument constitutes the entire agreement between the Parties and supersedes all previous discussions, understandings and agreements between the Parties relating to the subject matter of this Agreement. In the event of any conflict between the Program Guide and this Agreement, the terms of this Agreement shall control.

(g) Headings.

The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

(h) Changes in Law or Regulation.

This Agreement is subject to such modifications as may be required by change in federal or Delaware state law, or their implementing regulations. Any such required modification shall automatically be incorporated into and made a part of this Agreement on the effective date of such change, as if fully set forth herein. Headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

(i) Third-Party Beneficiaries.

It is specifically agreed among the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain any claim under this Agreement. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed by law.

(j) No Waiver of Rights.

A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

(k) No Waiver of Governmental Immunity.

Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the County or to DESEU, their officials, employees, contractors, or agents, or any other person acting on behalf of the County or DESEU.

(l) Independent Entities.

The Parties shall perform all services under this Agreement as independent entities and not as an agent or employee of the other Party. It is mutually agreed and understood that nothing contained in this Agreement is intended, or shall be construed as, in any way establishing the relationship of co-partners or joint ventures between the Parties hereto, or as construing either Party, including its agents and employees, as an agent of the other Party. Each Party shall remain an independent and separate entity. Neither Party shall be supervised by any employee or official of the other Party. Neither Party shall represent that it is an employee or agent of the other Party in any capacity.

IN WITNESS WHEREOF, the County and DESEU have each caused this Agreement to be executed and delivered as of the date indicated above:

SUSSEX COUNTY

By: _____ (SEAL)
Michael H. Vincent, President of Sussex County
Council

Attest:

Robin Griffith, Clerk to the Council

APPROVED AS TO FORM:

J. Everett Moore, Jr., Sussex County Attorney

SUSTAINABLE ENERGY UTILITY, INC.

By: _____ (SEAL)
Anthony DePrima, Executive Director

EXHIBIT A

Tax Parcel No: _____

Prepared by and return to:

NOTICE OF COUNTY D-PACE BENEFIT ASSESSMENT LIEN

NOTICE IS HEREBY GIVEN by the County of Sussex, a body corporate and politic of the State of Delaware (the "County") that it has levied a Delaware Voluntary Property Assessed Clean Energy Program benefit assessment lien by operation of 29 Del. C. § 8061(d)(6) on that certain property located in Sussex County known as _____ and further identified as Sussex County tax parcel _____ and described more particularly in **Schedule I** attached hereto as a part hereof (the "Property"). The Property is qualifying commercial real property under the Delaware Voluntary Clean Energy Financing Program Based on Property Assessments (D-PACE) or Other Local Assessments established pursuant to 29 Del. C. § 8061 (the "Act"), situated in the County and owned on the date hereof in whole or in part by _____ [and _____] ("Property Owner"). Said levy and lien (the "Benefit Assessment Lien") shall secure the repayment of a loan to finance one or more qualifying energy improvements under the Act, disbursed pursuant to that certain Financing Agreement between Property Owner and _____ (the "Lender") dated as of _____, as it may be amended pursuant to the terms thereof (the "Financing Agreement"). This levy and lien are made in accordance with the Financing Agreement and are subject to the terms and conditions of the Financing Agreement and the Act. Upon the transfer or conveyance of the Property, each subsequent owner of the Property, by accepting title to the Property, assumes and agrees to perform all of the obligations and covenants set forth herein and in the Financing Agreement and each other document referenced therein, including, without limitation, making the installment payments described below, from and after the date such owner acquires title to the Property. The amount and repayment of said Benefit Assessment Lien are as set forth in the attached **Schedule II**, which shall control in the case of any conflict between such exhibit and the Financing Agreement. In the event that any such installment shall remain unpaid after the same shall become due and payable, interest and other charges shall be charged upon the unpaid installment(s) at the lesser of (a) such rate provided for in the Financing Agreement or (b) the maximum per annum rate permitted under Delaware law. At such time as the payments of the special assessment have been satisfied and paid in full, Lender shall file termination of this Notice in the Office of the Recorder of Deeds in and for Sussex County.

This Notice evidences a lien for the energy assessment levied upon the Property for the special benefits conferred upon said Property by the installation of one or more qualifying energy improvements. Pursuant to the Act, this Benefit Assessment Lien shall have the same priority status as a lien for taxes of the County on real property. This Notice and the Benefit Assessment

Lien set forth herein shall run with the land and shall be binding upon Property Owner and Property Owner's heirs, executors, administrators, successors and assigns.

THE BENEFIT ASSESSMENT LIEN HEREIN SHALL NOT HAVE PRIORITY OVER ANY LIEN FOR COUNTY PROPERTY OR SCHOOL TAXES AND OTHER GOVERNMENTAL SERVICE ASSESSMENTS. By recording this Notice, Lender hereby certifies that (a) it has received written consent for a superior lien from all existing properly-recorded lien holders prior to entering into the Financing Agreement and (b) it has received evidence from Property Owner that: (i) Property Owner is current on payments on all loans secured by a mortgage or deed of trust lien on the Property, (ii) Property Owner is not insolvent or subject to bankruptcy proceedings, and (iii) Property Owner's title to the Property is not in dispute.

Pursuant to 29 Del. C. § 8061(d)(7)a., by that certain Sussex County D-PACE Participation Agreement dated September 10, 2019 between the County and Sustainable Energy Utility, Inc., a non-profit corporation created by Delaware statute, d/b/a Energize Delaware ("DESEU") the County has assigned to DESEU all liens for Benefit Assessments now existing and hereafter arising from time to time with respect to all qualifying commercial real property levied by operation of the Act; and by these presents the County in consideration of One Dollar (\$1.00) and other valuable consideration paid to the County by DESEU, the receipt of which is hereby acknowledged, hereby quit-claims, grants, bargains, sells, conveys, assigns, transfers and sets over unto DESEU, without warranty covenants and without recourse, all of its right, title and interest in and to the Benefit Assessment Lien and the debts secured thereby together with such interest, fees, and expenses of collection as may be provided by law; together with all its rights or remedies, including any powers of enforcement or collection to which the County, by virtue of its status as a local governing body of the State of Delaware, is entitled or empowered to exercise under applicable laws of the State of Delaware with respect to the Benefit Assessment, including without limitation the right of the County to bring an action to collect delinquent benefit assessments pursuant to 9 Del. C. § 8741 et seq. ("Collection of Delinquent Taxes").

IN WITNESS WHEREOF, Sussex County, a body corporate and politic of the State of Delaware, has caused this instrument to be executed.

SUSSEX COUNTY

DATE: _____

By: _____ (SEAL)

(name, title)

State of Delaware)
)
County of Sussex) ss:

Before me, a notary public, in and for said county and state, personally appeared _____, the _____ of Sussex County, Delaware, who acknowledged to me that he/she did execute the foregoing instrument on behalf of Sussex County.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 20____.

Notary Public
Print Name: _____
My Commission Expires: _____

PROPOSED

SCHEDULE I

DESCRIPTION OF PROPERTY

PROPOSED

SCHEDULE II

SPECIAL ASSESSMENT PAYMENT SCHEDULE

PROPOSED

Exhibit B

Tax Parcel No: _____

Prepared by and return to:

ASSIGNMENT OF ENERGY ASSESSMENT LIEN

KNOW ALL PERSONS BY THESE PRESENTS, that the SUSTAINABLE ENERGY UTILITY, INC., a non-profit corporation created by Delaware statute, d/b/a Energize Delaware (“Energize Delaware”), as duly authorized pursuant to 29 Del. C. § 8061 (d)(7)b., for One Dollar (\$1.00) and other valuable consideration paid to Energize Delaware on behalf of [LENDER NAME] ("Assignee"), the receipt of which is hereby acknowledged, hereby quit-claims, grants, bargains, sells, conveys, assigns, transfers and sets over unto Assignee, without warranty covenants and without recourse, Energize Delaware's right, title and interest in and to that certain benefit assessment lien levied by Sussex County, a body corporate and politic of the State of Delaware (the “County”) pursuant to 29 Del. C. § 8061(d)(6) on behalf of Assignee, on property owned on the date hereof in whole or in part by [PROPERTY OWNER] and as described on **Schedule I**, and also commonly referred to as [ADDRESS], attached hereto and made a part hereof (the “Lien”), to have and to hold the same unto the said Assignee, its successor and assigns forever. This Assignment includes without limitation all of the rights or remedies, including any powers of enforcement or collection, to which the County, by virtue of its status as a local governing body of the State of Delaware, is entitled or empowered to exercise under applicable laws of the State of Delaware; so that Assignee shall have the same powers and rights as the County and Energize Delaware has to enforce and collect upon the Lien.

This Assignment is made, given and executed pursuant to the authority granted to Energize Delaware in 29 Del. C. § 8061, which enacts the Delaware Voluntary Clean Energy Financing Program Based on Property Assessments (D-PACE) or Other Local Assessments (the "D-PACE Act" or “Act”), and as further enacted by County Resolution No. _____ (the "Ordinance"/the “Resolution”) (collectively, the "PACE Authorization"), and is solely limited to the purposes set forth in the PACE Authorization.

This Assignment by Energize Delaware is absolute and irrevocable and Energize Delaware shall retain no interest, reversionary or otherwise, in the lien.

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed and delivered on this ___ of _____, 20__.

SUSTAINABLE ENERGY UTILITY, INC., a non-profit corporation established pursuant to Delaware statute

Witness

By: _____ (Seal)
Anthony J. DePrima, Executive Director

STATE OF DELAWARE

:
:
: ss

COUNTY OF KENT

On this ___ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Anthony J. DePrima, who acknowledged himself to be the Executive Director of the Sustainable Energy Utility, Inc., a non-profit corporation established pursuant to Delaware statute; and that he, as such Executive Director, being authorized to do so, acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of Sustainable Energy Utility, Inc., by himself as such officer.

Given under my Hand and Seal of Office the day year aforesaid.

Notary Public
Print Name: _____
My Commission Expires: _____

SCHEDULE I

DESCRIPTION OF PROPERTY

PROPOSED

Exhibit C

Fee Schedule for County Billing and Collection of Benefit Assessments

The County shall receive a one-time servicing fee, as defined in the following fee schedule, for each Qualifying Commercial Real Property that the County maintains responsibility for Benefit Assessment billing and collections.

Benefit Assessment Finance Term (years)	One-Time County Servicing Fee (\$)*
1 to 10	\$700
11 to 15	\$1,000
16 to 20	\$1,250
21 to 25	\$1,500

*DESEU, or its designee, shall remit to the County the one-time County servicing fee by the thirtieth (30th) of the month following the month in which the County servicing fee was collected from the Qualifying Commercial Real Property owner.

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 853-5881



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: *Delivery of Seed and Chemical, Project No. M19-31*
A. Approve Change Order No. 1

DATE: February 2, 2021

The County continues to successfully perform agricultural activities at the Wolfe Neck Regional Wastewater Facility's irrigated lands with in-house staff. This approach has significantly reduced the loss of irrigation days due to scheduling conflicts with agricultural activities.

Costs for the purchase and delivery of seed and chemicals associated with farming rises to the procurement threshold for material purchases. Therefore, a two (2) year contract was first publicly advertised for bids in 2017. On September 19, 2017, Council awarded the contract to the low bidder, Growmark FS, LLC, in the first year FY18 amount of \$81,766.46.00.

On June 4, 2019, Council approved re-establishing a base contract for FY20 & 21 with Growmark FS, LLC for bid items 1,2 & 4-6 in the aggregate amount of \$77,150.50 per year.

The Environmental Services Division now has an opportunity to perform farming operations at the Inland Bays Facility as well. Therefore, we approached Growmark to determine if they would honor the original unit price bid for a quantity of bulk product necessary to accommodate farming activities at both facilities.

With a positive verbal response in hand, the Engineering Department was able to determine the required change order amount and are now requesting approval of Change Order No. 1 in the amount of \$111,828.80 for a new contract total of \$188,979.30 per year, for the remaining contract term through the end of FY21.





GROWMARK FS, LLC

339 Milford-Harrington Highway • Milford, DE 19963 • 302.422.3001

SUSSEX COUNTY DIVISION OF ENVIRONMENTAL SERVICES

1/19/2021

INLAND BAYS

CORN

225 ACRES @30,000- 85 UNITS @220.00 \$18,700.00

225 ACRES 1ST PASS 2QTS LEXAR EZ=29.50 ACRE \$6637.50
APPLICATION

225 ACRES 2ND PASS 1.5 QTS LEXAR EZ = 33.50 ACRE \$7537.50
1QT DURANGO
14 OZ MAX SUPREME
APPLICATION

225 ACRES /130# N w/APPLICATION =94.20 ACRE \$21,195.00

\$240.31 PER ACRE TOTAL \$54,070.00

SOYBEANS-ENLIST

385 ACRES @160,000 -440 UNITS@50.00 \$22,000.00

385 ACRES /1ST PASS /BURNDOWN =46.45 ACRE \$17,883.25
1QT ENLIST ONE
4 OZ ENVIVE
40 OZ DURANGO
14 OZ MAX SUPREME
APPLICATION

2ND PASS 1QT ENLIST ONE =46.43 PER ACRE \$17,875.55
40 OZ DURANGO
14 OZ MAX SUPREME
1 QT LIBERTY

\$150.02 PER ACRE TOTAL \$57758.80

CORN/SOYBEAN TOTAL \$111,828.80

GROWMARK FS, LLC • GROWING YOUR EXPECTATIONS



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **DELIVERY OF SEED AND CHEMICAL**
2. Sussex County Project No. M19-31
3. Change Order No. 1
4. Date Change Order Initiated - 2/2/21
5.
 - a. Original Contract Sum \$77,150.50
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$77,150.50
 - d. Requested Change \$111,828.80
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$188,979.30
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

6. Factors Affecting Time of Completion

7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Additional funds to perform farming operations at the Inland Bays Facility.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

E. APPROVALS

1. Growmark FS, LLC

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer


Signature Date

1/28/21

3. Sussex County Council President

Signature Date

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: *Professional Environmental Services Project 19-05
Inland Bays and the Sussex Portion of the Chesapeake Bay Watershed
Approval of 2nd Revision to Base Contract*

DATE: February 2, 2021

Since the County's five (5) year capital projects plan, as approved in the FY 20 Capital Budget, contained projects requiring specialized environmental engineering services the Engineering Department advertised a Request for Proposals in May of 2018. On September 11, 2018 County Council approved the selection of RK&K to provide environmental services under a base contract, in the amount of \$250,000 for (i) implementation of the County's Water Quality Enhancement Program and (ii) design of a constructed "Submerged Gravel Wetland", one of the alternate effluent outlets at the Inland Bays Regional Wastewater Facility.

On February 26, 2019, Council approved three (3) additional task orders under Amendment Nos. 1-3 with an initial budget of \$100,000. Amendment No.1 covered specialized assistance to the Sussex County's Working Group on buffers. Amendment No. 2 aimed to develop a stormwater management plan for the southern drainage basin (Eli Walls Tax Ditch) of the Coastal Airport to cover future County expansion projects in that basin, including the associated Water Quality Offsets/Banking Credit development. Amendment No. 3 was associated with a Bridgeville Branch water quality improvement project located within Delaware's portion of the Chesapeake Bay watershed. The project funding, previously allocated through the Western Sussex Sewer District Area expansion project, was transferred to the Sussex Conservation District after the District received additional funding through the EPA's Chesapeake Bay Program using the County's funds as match.



On October 8, 2019 Council approved revised budgets for Amendments Nos 1-3 in the overall not to exceed amount of \$237,700. For Amendment No. 1 it continued the specialized assistance to the Sussex County's Working Group on buffers. Under Amendment No. 2 the increase provided for FAA compliant contract documents for the Eli Walls Tax Ditch remediation project. This project will now be assumed by the County's Engineering Department through the final design, permitting and implementation stages. The goal remains unchanged providing for future expansion projects in that drainage basin under the pending Water Quality Offsets/Banking Program. For Amendment No. 3 it covered final construction documents for the Bridgeville Branch Project, as well as detailed documentation of the water quality credits under the County's proposed program. The project is now designed but the scope had to be scaled back due to concerns of the neighbors. However, even this reduced scope will require one easement which the Conservation District is currently pursuing.

On June 23, 2020 Council approved a second revision to budgets for Amendment Nos. 1 and 2 as well as the Base Contract in the not-to-exceed amount of \$75,000. For the Base Contract, it addressed additional efforts associated with updated TMDL/nutrient banking credit calculations. For Amendment No. 1, the second revision covered assistance with a Working Group presentation before County Council and assistance in development of a possible ordinance. With the buffer ordinance no longer being pursued, the Engineering Department is requesting a transfer of the remaining funds into the Base Contract addressing the attached comments received by DNREC under the Water Quality Offsets/Banking Program.

The initial design for the Submerged Gravel Wetlands facility was submitted to the Delaware Department of Natural Resources and Environmental Control (DNREC) Division of Water on June 1, 2020, with attached review comments subsequently received on October 30, 2020. The initial design protocol was based on EPA guidance on "Constructed Wetland" facilities, however DNREC's view was that the "Submerged Gravel Wetland" facility falls under Large On-site Wastewater Treatment and Disposal Systems and thus reviewed the submission for compliance in accordance with Del Code Title §7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*. As a result of comments received from DNREC additional data acquisition, soil testing, hydrogeologic evaluations and surface water assessments are necessary to update the project design documents and advance the project to the permit stage.

The Engineering Department and the Administration are now requesting Council's approval of the 2nd Base Contract Amendment in the not to exceed amount of \$116,067.00.

This is **EXHIBIT K**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated August 20, 2018.

2ND REVISION TO BASE OWNER-ENGINEER AGREEMENT

The Effective Date of this Amendment is: February 2, 2021

Background Data

Effective Date of Owner-Engineer Agreement: August 20, 2018

Owner: Sussex County

Engineer: RK&K

Project: IBRWF Environmental Engineering Services, Sussex County Project 19-05

Nature of Amendment:

Additional Services to be performed by Engineer

Modifications of payment to Engineer

Description of Modifications:

Refer to attached Description and fee summary

Project Order Summary:

Original Project Order amount:	\$250,000.00
Net change for prior amendments:	\$ 7,000.00
This amendment amount:	\$136,067.00
Adjusted Project Order amount:	\$393,067.00

Change in time for services (days or date, as applicable):N/A

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

Sussex County Council

By: _____

Print name: _____

name: _____

Title: President, Sussex County Council

Date Signed: _____

ENGINEER:

Rummel, Klepper & Kahl, LLP

By: N A

Print name: _____

name: Nathan C. Atkinson, PE

Title: Partner

Date Signed: 1/29/21

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Robin Griffith
Clerk of the County

January 18, 2021

Hans Medlarz, P.E.
Sussex County Engineer
Engineering Administration
Sussex County Engineering Department
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

**Reference: Professional Environmental Services
for Inland Bays Wastewater Treatment Plant**

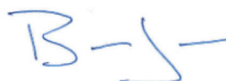
Dear Mr. Medlarz:

Rummel, Klepper, and Kahl, LLP (RK&K) appreciates the opportunity to continue our work with Sussex County under the Professional Environmental Services for Inland Bays Wastewater Treatment Plant, Sussex County project. Based on our discussions with you, RK&K's new services will include work under the following tasks:

- Data Evaluation, Site Visit and Regulatory Coordination;
- Site Characterization;
- Construction Plans; and
- Project Management and Meetings.

Based on the attached Scope of Services and Fee Schedule, we propose to provide these services under a lump sum not to exceed contract in the contract amount of \$116,066.66. Monthly invoices will be prepared based on percent complete and will include a project summary. If you have any questions, please contact Bruce Jones at (302) 468-4881.

Sincerely,
Rummel, Klepper & Kahl, LLP



Bruce W. Jones, PE
Senior Manager

SCOPE OF WORK FOR PROFESSIONAL ENVIRONMENTAL SERVICES FOR THE INLAND BAYS WASTEWATER TREATMENT PLANT

Background

On behalf of Sussex County, RK&K submitted a Construction Permit for a Submerged Gravel Wetland (for the Inland Bays Regional Wastewater Facility) on June 1, 2020 to the Groundwater Discharges Section (GDS) of the Delaware Department of Natural Resources and Environmental Control (DNREC) Division of Water. Upon review, the DNREC GDS provided a response requiring additional information (RAI), dated October 30, 2020. In Phase I, the project includes a new constructed wetland (Rapid Infiltration Basin) with the construction of four (4) discharge cells on a former spray field on the northeastern section of the subject property (site). Since changes to the source water for the facility changed from 100% stormwater runoff to include wastewater effluent, the facility falls under the large on-site wastewater treatment and disposal systems (LOWTDS) regulations.

Scope of Work

The following list of activities comprises the Scope of Work (SOW) to be performed by RK&K for this project task, to include:

Task I – Data Evaluation, Site Visit and Regulatory Coordination

- RK&K will review pertinent client provided documents, such as previously prepared information, including:
 - Soil Investigation Report (SIR)
 - Hydrogeologic Suitability Report (HSR)
 - Surface Water Assessment Report (SWAR)
 - groundwater quality and level data.
- Review additional documents located within the public record, such as well construction logs, local geological and hydrogeological reports.
- Conduct a site evaluation in coordination with the subconsultant soil scientist, engineer and plant operations.
- Prepare a technical memorandum summarizing the existing relevant data and identify data gaps. Prepare a conceptual work plan to address significant data gaps.
- Meet with Sussex County and DNREC.

Both the SIR and HSR will be reviewed for consistency with the applicable rules. The review will be conducted to evaluate the data and determine if existing facilities and data sets are applicable to the permitting of the new facilities. The technical memorandum will outline what data and assumptions are necessary to complete the HSR and SWAR work in Task II, and provide cost and schedule estimates if additional data is necessary to complete the assignment beyond the scope provided below.

Task II - Site Characterization

The work elements in Task II detail the DNREC required site suitability evaluations to evaluate the potential of developing a permittable, large on-site wastewater treatment and disposal system at the Inland Bays WWTP. The subtasks consist of 1) soil characterizations, 2) hydrogeologic investigations, and 3) surface water assessment capacity in accordance with sections 6.2, 6.3 and 6.4, 7101 D.A.C.

Task IIA - Soil Investigation Report (SIR)

RK&K will prepare the SIR based on existing site data evaluated in Task 1 and the results of a new (pending) SIR. The SOW for this task will include the following items.

- Initial Project Team, Client and DNREC Review.
- Prepare project summary and maps as required (6.2.2.2.1 – 6.2.2.2.3, 7101 D.A.C).
 - Soil Reconnaissance Mapping and Topographic Map.
- Soil Borings.
 - Soil borings will be conducted on a 75' x 75' grid to a depth of 6 inches by a combination of hand auger borings and backhoe pits.
 - Notes: Backhoe fees included but may be provided by Sussex County, if available.
- Double Ring Infiltrometer Tests.
 - Tests under constant head will be performed in the layer interpreted to be the most hydraulically restrictive within 6-inches of the surface.
 - Three soil map units are anticipated requiring three (3) replicates per soil type.
 - Notes: Backhoe fees included but may be provided by Sussex County if available.
 - High groundwater or otherwise too wet conditions may preclude testing by double ring infiltrometer. Alternative methods must meet with DNREC approval and may require revision of proposed costs or testing by others.
- Soil Chemical Testing and Sampling.
 - Composite samples will be collected to 12 inches in depth and from 12 to 24 inches in depth for three (3) anticipated soil map units.
 - Composite samples will consist of a minimum of three (3) combined (discrete) soil samples. Samples will be analyzed by commercial laboratory, testing for parameters enumerated in subsection 6.8.3, 7101 D.A.C.
 - If analytical results indicate that the additional groundwater modeling is not required, then RK&K will not proceed with the identified work in Task IIC.

Task IIB - Hydrogeologic Suitability Report (HSR)

RK&K will prepare the HSR based on existing site data evaluated in Task IIA and the results of a new (pending) SIR. The SOW for this task will include the following items.

- Prepare project summary and maps as required (6.2.3.2, 7101 D.A.C).
- Prepare maps showing the well survey and 1,000-foot area of review (AOR) for impact (6.2.3.3, 7101 D.A.C.).
- Prepare a hydrostratigraphic profile of the project site using existing data (6.2.3.4, 7101 D.A.C).
 - Demonstrate groundwater flow and levels using existing site data.
 - Plot the existing monitor well data to construct time-series wet-season(s) water levels.
 - Plot hydrographs to evaluate groundwater levels related to precipitation and spray application loading, and;
 - Prepare groundwater level contour maps.
- Prepare graphical presentations of existing water quality data to demonstrate the current water quality environment of the site (6.2.3.5, 7101 D.A.C.).
 - DNREC wet season monitoring requirements will be addressed using existing site data.
- Prepare a Groundwater Mounding Analysis (6.2.3.6, 7101 D.A.C.).
 - Numerical model using a GUI based MODFLOW processor, such as, Groundwater Vistas or equivalent.
 - Groundwater flow and mounding will be prepared using industry standard modeling protocol which includes:
 - Detailed model documentation of conceptual framework, design, calibration and prediction.

- Performance of two-variable sensitivity analysis based on hydraulic conductivity and loading rates.
- The calibration target as identified in Task 1.

The Groundwater Mounding Analysis requirements associated with LOWTDS will present a technical justification based on known, site-specific hydrogeological and engineered conditions to the greatest extent possible. It is important to note that groundwater conditions have been altered by the application of effluent on the site and that “Ambient Conditions” are current and “impacted”. Therefore, pre-development standards do not comport with current site utilization. Since no additional site investigations will be conducted, it is likely that DNREC may require the installation of new borings and monitor wells for water quality and hydraulic testing within the footprint of the project. For example, the current 7101 D.A.C. regulations require a project of this size to install and characterize a minimum of three (3), 40-foot deep borings per acre and one (1), 100-foot deep boring (6.2.3.4.2, 7101 D.A.C). Additional requirements, such as, Ambient Water Quality testing (6.2.3.5) and hydraulic testing may be requested by DNREC.

Task IIC - Surface Water Assessment Report (SWAR)

A SWAR will be prepared in accordance with current regulations the SOW for this task will include the following items.

- Identification of the watershed(s) in which the system is to be located.
- Ambient groundwater quality determination to include:
 - Total phosphorus concentrations.
 - Total nitrogen concentrations.
 - Oxidation-reduction potential or dissolved oxygen measurement.
- Background soil testing for total phosphorus will be evaluated to determine transport modeling requirements.
- Prepare a site-specific fate and transport model of nitrogen and phosphorus to evaluate potential impacts to surface waters of the State, if necessary.
 - Estimate the contaminant concentration at the nearest property boundary and offsite surface water.
 - Estimate the contaminant concentration at the nearest residential property.
 - Estimate the distance to meeting surface water discharge standards.

Based on the results of the ambient groundwater testing (Task IIA), the demonstration of phosphorus fate and transport analysis may be required. If this evaluation is deemed appropriate for the site, RK&K will advise the client and coordinate with the client to prepare a work plan that includes meeting with DNREC, preparing a specific work plan addressing the concerns of DNREC.

Task III – Finalize Construction Drawings

RK&K will revise the previously prepared plans to include revisions based on the results of the SIR, HSR and SWAR analyses above and comments provided by DNREC. The following plans are anticipated to be revised:

- (a) Title Sheet
- (b) Key
- (c) Survey Controls
- (d) Details and Typical
- (e) Plan
- (f) Grading Plan
- (g) Sediment and Stormwater Management Plan
- (h) Sediment and Stormwater Management Details.

Task IV – Project Management and Meetings

In order to present the details of the site development plan and gain early acceptance from regulators, RK&K will participate in up to three (3) project meetings with regulatory agencies having jurisdiction (Sussex County, DNREC). It is anticipated that the meetings will cover the critical issues affecting the potential for onsite and offsite impacts, the preliminary work plan, requested work plan modifications, agency permitting requirements, and the conceptual modeling plan.

Deliverables

RK&K shall submit all deliverables in electronic portable document format (PDF) either by email or by electronic file transfer protocol (FTP). The following deliverables will be submitted to the client in fulfillment of the project SOW.

Task I – Data Evaluation and Site Visit

RK&K will submit both draft and final versions of the following deliverable:
Technical Memorandum, which shall include:

- Summary of field assessment.
- Data assessment and analysis.
- Presentation of relevant data to be used for analysis.
- Data gap evaluation and recommendations.

Task IIA – Soil Investigation Report

RK&K will submit both draft and final versions of the following deliverable:
Technical Memorandum, which shall include:

- All required maps and data in accordance with DNRC requirements.
- Draft and Final Soil Investigation Report.
- Approval Page.

Task IIB – Hydrogeologic Suitability Report

RK&K will submit the following deliverable:

- Conceptual modeling plan for the mounding analysis.
- Draft and Final Hydrogeologic Suitability Report.

Task IIC – Surface Water Assessment Report

RK&K will submit the following deliverables:

- Conceptual plan for the fate-and-transport modeling.
- Draft and Final Surface Water Assessment Report.

RK&K shall accept one (1) round of comments from Sussex County on the draft of each deliverable identified. RK&K shall review the County comments and, as appropriate, incorporate revisions in final versions of the deliverables.

Task III – Construction Plans

RK&K will submit the following deliverables:

- Final construction plans.



Schedule

The proposed schedule for the submittal of deliverables is presented in the table below. This schedule may be impacted by weather or other regulatory requirements. If there is an anticipated schedule impact, RK&K will notify you immediately and provide details regarding the level of impact.

Deliverable	Due Date (calendar days from date of acceptance)
Task I - Technical Memorandum	20
Task IIA – Soil Investigation Report	90
Task IIB - Hydrogeologic Suitability Report	90
Task IIC - Surface Water Assessment Report	90
Regulatory Review	120
Task III – Construction Plans	150
Task IV – Project Management and Meetings	As needed

The schedule provided above assumes that additional data collection and field work will not be required. If additional data is needed, then a new schedule will be prepared that provides an estimated time to complete the associated field work and evaluation.

Fee

RK&K proposes to provide the services presented in the SOW described above for a fixed, lump-sum fee of one hundred sixteen thousand sixty-six dollars and sixty-six cents (\$116,066.66). The fee was prepared using the estimated hours to complete each task in accordance with the 2020 fee structure. If fate-and-transport modeling is not required, based on site data, then the above-referenced fee will be reduced by seventeen thousand nine hundred and five dollars and fifty-two cents (\$17,905.52).

Task	Lump Sum Fee
Task I – Data Evaluation and Site Visit	\$10,305.84
Task II - Hydrogeologic Suitability Report	\$67,539.98
Task IIC – Fate and Transport Model*	\$17,905.52
Task III – Construction Plans	\$17,148.76
Task IV – Project Management and Meetings	\$3,166.56
Total Cost	\$116,066.66

* Contingency item

Exclusions

The above SOW does not include new, site specific information gathering activities and related analysis, testing or evaluation beyond those expressly noted. DNREC may require site-specific testing, additional groundwater modeling and/or wetlands assessment after the review of the application, and if so, a proposal for additional services may be prepared for these excluded services. While not comprehensive, the following list of activities are excluded from the proposed SOW:

- The installation of any new borings or wells beyond the work in Task IIA.
- Hydraulic pump testing and analysis of existing wells.

[Note: If the Double Ring Infiltrometer Tests are inconclusive or unable to be performed then a pump test may be required. The estimated cost to perform a 24-hour pump test \$10,000 with three (3) new observation wells and a new test well.]

- Groundwater modeling beyond the expressly noted in the SOW.
- Basin testing.

[Note: DNREC typically requires all RIB systems with a design flow $\geq 100,000$ gpd have a basin test performed to evaluate infiltration rates, the potential for perching and/or groundwater mounding. The estimated cost to perform a basin test is \$10,000 and due to the size of the project two (2) may be required.]

- Any and all collection of water samples analyzed for either primary or secondary standards for any regulatory purpose such as, but not limited to well testing, surface water testing and water quality monitoring shall be conducted by the facility using a state-certified laboratory.
- Any and all costs associated with water quality monitoring or testing or well testing are expressly excluded from RK&K's currently proposed fee.
- Response to request for additional information.
- Regulatory Review Fees
- In-person meetings are not included in this SOW. [Note: Coordination activities are limited to video conferencing, telephone and email. Meetings may be attended in person, upon County's request and at additional cost.]



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

Mr. Hans M. Medlarz, P.E.,
County Engineer
Sussex County Engineering Department
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

Dear Mr. Medlarz: *Hans*

The Delaware Department of Natural Resources and Environmental Control (DNREC) has reviewed Sussex County's proposal to establish a Clean Water Enhancement (Offsets and Banking) Program. Based on the review of the draft Programmatic Umbrella Agreement and four Unit Agreements it is recommended that a pilot Stormwater Management Banking and Offset District be established first. This approach will help to facilitate detailed programmatic development by Sussex County, and review and approval by DNREC.

The formation of a Stormwater Management Bank and Offset District are authorized in 7 DE Admin. Code 5101 Section 13.0 Delaware *Sediment and Stormwater Regulations (2019)* and outlines a framework for such activities. Enclosed are Programmatic Expectations and Components that DNREC would like to see in a pilot Stormwater Management Banking and Offset District Program.

If you have any questions, please feel free to contact Terry Deputy, Director of the Division of Watershed Stewardship at (302) 670-6423.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn M. Garvin".

Shawn M. Garvin
Secretary

Enclosure



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Groundwater Discharges Section

Telephone: (302) 739-9948

October 30, 2020

Hans Medlarz, P.E.
Sussex County Engineer
2 The Circle, P.O. 589
Georgetown, DE 19947

**RE: Request for Additional Information and Comments on the State of Delaware
Construction Permit Application for the Submerged Gravel Wetland at the Inland
Bays Regional Wastewater Treatment Facility**

Dear Mr. Medlarz:

On May 15, 2020, the Groundwater Discharges Section, Division of Water, Delaware Department of Natural Resources & Environmental Control (the Department) received a proposed design followed on June 1, 2020 by a formal construction permit application (submitted on the County's behalf by Rummel, Klepper, and Kahl, LLP) for the construction of a submerged gravel wetland (SGW) at the Inland Bays Regional Wastewater Treatment Facility.

During the Department's technical review of the engineering documents associated with the SCW, several regulatory and technical deficiencies were identified. Therefore, to complete the review of the application, the Department is requiring the submission of additional information in accordance with Section 3.32.5 of 7 Del. Admin. C. §7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems* (the Regulations). The submission of this requested information is essential to deem an application technically complete, in compliance with regulatory requirements, and includes all information necessary to prepare State of Delaware construction and operations permits that are protective of public health and groundwater resources.

Please note this request is based only on the engineering documents submitted on May 15th and June 1st. Other comments and requests for additional information (if needed) regarding soil and groundwater reviews will be issued under separate covers.

The enclosed memorandum outlines regulatory and technical deficiencies identified in the above referenced application and associated documents. Please note that your submission of the requested information may be in the form of additional narrative descriptions, clarifications, calculations, documents, new maps or construction drawings.

Please submit the requested information to the Department within 60 days of the date of this letter (by December 29, 2020).

If you have any questions regarding this request for additional information, please feel free to contact me or Derrick Caruthers, P.E., at (302) 739-9948.

Sincerely,



John J. Rebar Jr.
Environmental Program Manager I
Groundwater Discharges Section

Enclosure: SGW Engineering Review Memorandum

BRAD D. WHALEY
DIRECTOR OF COMMUNITY
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Sussex County
DELAWARE
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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
Todd Lawson, County Administrator

FROM: Brad D. Whaley

RE: **2021 CDBG Application**

DATE: January 27, 2021

During Tuesday's Council meeting, I will be presenting the County's Community Development Block Grant application request for the 2021 CDBG grant year. My department has held Public Hearings at all of the Towns/Cities listed and the projects represent their requests.

For the Rural Communities, we are following the Sussex County Community Development Rural Community Funding Plan. Additionally, I have consulted my Advisory Committee for guidance and approval for selecting these targeted rural areas.

Attached is the proposed application request for your review.



**STATE OF DELAWARE
DELAWARE STATE HOUSING AUTHORITY
DELAWARE CDBG PROGRAM-PROJECT
COST SUMMARY**

CONTRACT PERIOD FROM: JULY 1, 2021 TO JUNE 30, 2022
SUMMARY OF PROGRAM ACTIVITIES

PROGRAM ACTIVITIES	PROGRAMS	CDBG PROGRAM FUNDS	LOCAL MATCH	OTHER FUNDS	TOTAL REQUESTED
Blades	(4) Rehab	\$80,000.00			\$80,000.00
Ellendale	(4) Rehab	\$80,000.00			\$80,000.00
Frankford	(4) Rehab	\$80,000.00			\$80,000.00
Georgetown	(4) Rehab	\$80,000.00			\$80,000.00
Laurel	(6) Rehab	\$105,000.00			\$105,000.00
Milford	(6) Rehab	\$105,000.00			\$105,000.00
Millsboro	(4) Rehab	\$80,000.00			\$80,000.00
Milton	(6) Rehab	\$105,000.00			\$105,000.00
Seaford	(8) Rehab	\$140,000.00			\$140,000.00
Selbyville	(8) Rehab	\$140,000.00			\$140,000.00
Scattered Rehab	(20) Rehab	\$320,000.00			\$320,000.00
Scattered Emergency Rehab	(12) Rehab	\$78,000.00			\$78,000.00
Handicapped Accessibility	(8) Rehab	\$48,000.00			\$48,000.00
Scattered Hookups	(20) Hookups	\$40,000.00			\$40,000.00
Scattered Roofing	(22) Rehab	\$182,000.00			\$182,000.00
Cedar Creek	(2) Rehab	\$38,000.00			\$38,000.00
Concord	(2) Rehab	\$38,000.00			\$38,000.00
Greentop	(2) Rehab	\$38,000.00			\$38,000.00
West Clarksville	(2) Rehab	\$38,000.00			\$38,000.00
Rural Selbyville	(3) Rehab	\$50,000.00			\$50,000.00
West Rehoboth	(2)Rehab	\$38,000.00			\$38,000.00
TOTALS		\$1,903,000.00	\$0.00	\$0.00	\$1,903,000.00

TOTAL PROJECTS: 129 Rehabs 20 Hookups

ADMINISTRATION	CDBG PROGRAM	LOCAL MATCH FUNDS	OTHER FUNDS	TOTAL REQUESTED
Salaries	\$175,000.00	\$100,218.00		\$275,218.00
Other Employment Costs	\$0.00	\$244,699.00	\$0.00	\$239,901.00
TOTAL ADMINISTRATION COSTS	\$175,000.00	\$344,917.00	\$0.00	\$515,119.00
TOTAL PROGRAM COSTS	\$2,078,000.00	\$344,917.00	\$0.00	\$2,418,119.00

CITIZEN PARTICIPATION
CERTIFICATE OF ASSURANCE

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- (1) made available information concerning the amount of funds that may be applied for;
- (2) made known the range of activities that may be undertaken with these funds;
- (3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- (4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies, and others in a timely manner; and
- (5) provided a summary of other important program requirements.

The Sussex County Council has held a public hearing on February 2, 2021 with required notice for all citizens, including low and moderate-income persons, to have an opportunity to present their views and proposals.

The Sussex County Council has by resolution and after one public hearing, endorsed this application.

ATTEST:

SUSSEX COUNTY COUNCIL

Todd F. Lawson
County Administrator

RESOLUTION NO. R --- 21

FAIR HOUSING RESOLUTION

WHEREAS, the Sussex County Council recognizes the importance of fair housing for the citizens of Sussex County; and

WHEREAS, the Sussex County Council supports the goals of the State and Federal fair housing laws;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council heartily encourages all parties involved in the renting, selling or financing of housing in Sussex County to insure that no person shall, on the grounds of race, color, religion, national origin, sex, disability, familial status, marital status, sexual orientation, gender identity, creed, age, or source of income be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED that the Sussex County Council, when acting as Administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with applying for the Community Development Block Grant funding.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R --- 21 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF FEBRUARY 2021.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

RESOLUTION NO. R --- 21

AUTHORIZATION TO SUBMIT APPLICATIONS

BE IT KNOWN, The Sussex County Council resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants for the State of Delaware Community Development Block Grant Program; and

WHEREAS, the County Administrator, Todd F. Lawson, is hereby authorized to certify that matching funds in excess of \$175,000.00 will be made available upon the approval by the Delaware State Housing Authority.

BE IT FURTHER RESOLVED by the Sussex County Council that Todd F. Lawson, County Administrator, is hereby authorized to submit the Fiscal Year 2021 Community Development Block Grant applications with all understandings and certifications contained therein to the State of Delaware Housing Authority.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R --- 21 PASSED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF FEBRUARY 2021.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

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: January 28, 2021

RE: County Council Report for Ord. 21-01 Relating to the Coastal Area

On December 8, 2020, an Ordinance was introduced at County Council to amend Chapter 115, Article XXV, Section 115-194.3 of Sussex County Code regarding the Coastal Area.

The Planning and Zoning Commission held a public hearing in relation to the Ordinance on January 7, 2021. At the meeting of January 21, 2021, the Commission recommended that Council adopt the Ordinance for the reasons outlined in the motion.

Below are the draft minutes from the Planning & Zoning Commission meeting of January 7, 2021 and the draft minutes of the meeting of January 21, 2021.

Draft Minutes of the January 7, 2021 Planning & Zoning Commission Meeting

Ord. 21-01 – The Coastal Area

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA

Mr. Whitehouse advised the Commission that this is an Ordinance to amend Chapter 115, Article XXV, Section 115-194.3 of Sussex County Code regarding the Coastal Area. Mr. Whitehouse noted that Staff have received 108 comments regarding this Amendment.

The Commission found that Mr. Robertson presented the proposed amendment; that he reminded Commissioners that this is the second presentation regarding the amendment to the Coastal Area; that the desire is to make what is in the Coastal Area match what is in the rest of Sussex County in terms of what is required for a Cluster Subdivision; that the original ordinance that was introduced and was heard by this Commission did two things it brought the Coastal Area consistent with the rest of the



County but it also added a Yield Plan to the Coastal Area; that there was a lot of opposition to the Yield Plan, so that Ordinance was not acted on; that County Council made a decision to have this Ordinance reintroduced without the Yield Plan; that the new Ordinance retained the goal of making Cluster Subdivisions consistent throughout the County; that a benefit of removing the Yield Plan is that it made the Ordinance Amendment shorter; that the new Ordinance will add three lines to section 194.3 that is a new subparagraph 5 stating that “Residential Developments utilizing the cluster option of subsection 3C above within the existing AR-1 and AR-2 zoning districts shall comply with the design requirements set forth in the requirements in Section 115-25F of the Zoning Code”; that currently all lots in Cluster Subdivisions must be at least 7,500 sf; that in almost 75% of the County, developers have to comply with a list of requirements but that is not so in the Coastal Area; that this Amendment will create one standard throughout Sussex County; that Council members felt it made sense to have these requirements in the Coastal Area which is an environmentally sensitive area; that this Amendment does not create any new Code language or text; that if you are in the Coastal Area you have to meet the requirements that are currently set forth in 115-25F for the AR-1 and AR-2 zoning districts of Sussex County; that one comment regarding this Amendment referenced open space; that open space is a well-defined term in 115-4 and list specific things that can be present in open space and things that cannot; that only 115-25F is incorporated into this Amendment because 115-25A through D do not deal with Cluster Subdivisions and 115-25E deals with some design requirements for Cluster Subdivisions but really the design requirements are in 115-25F; and that by just referencing 115-25F it will make all the design requirements consistent throughout the County.

The Commission found that Mr. Ring Lardner spoke in support of the Amendment on behalf of the Delaware Chapter of the American Council of Engineering Companies; that this organization had opposed the previous Ordinance Amendment but are in favor of the proposed Amendment to the Ordinance; and that a suggestion by their organization would be to have a working group setup to review the superior design standards.

The Commission found that Mr. Jim Eriksen spoke neither in support or opposition of the proposed Amendment; that he wanted to mention some of the issues with the superior design standards; that when designing subdivisions, they would like to be creative, that requirements for open space can create problems with providing amenities; that the superior design encourages grouping of lots and that they prefer to spread open space between the lots and give people usable space next to their lots; and that affordable housing is impacted by superior design.

The Commission found that the following people spoke by teleconference in support of the Ordinance 20-01 – The Coastal Area: Carol Conroy, Judy Rhodes, Beau Daly, Yu Lee, Chris Bason, Gail Van Gilbert and Rich Barasso.

At the conclusion of the Public Hearings, the Commission discussed Application Ord. 21-01 – The Coastal Area. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Hopkins, and carried unanimously. Motion carried 5-0.

Draft Minutes of January 21, 2021 Planning & Zoning Commission Meeting

The Commission discussed this Ordinance Amendment which has been deferred since January 7, 2021.

Mr. Mears moved that the Commission recommend that County Council adopt Ordinance Number 21-01 regarding the Coastal Area.

Without this amendment, AR-1 cluster-style subdivisions in the Coastal Area do not have to comply with the “superior design” criteria contained in Section 115-25F of the Zoning Code. This amendment makes these requirements uniform throughout all of Sussex County.

This Ordinance amendment is supported by several Strategies, Goals and Objectives of the current Sussex County Comprehensive Land Use Plan.

This Ordinance amendment will not affect the net density of a cluster-style development in the Coastal Area. Instead, it will just require developers to design their projects in a way that is superior to a standard ¾ acre lot subdivision, just like developers are currently required to do throughout the rest of Sussex County.

Mr. Mears stated that the Commission has seen that developers are able to design AR-1 cluster subdivisions outside of the Coastal Area and maintain an actual density of approximately two lots per acre that is permitted with clustering. Development will continue to be able to do this in the Coastal Area as a result of this Ordinance, just with better design standards like those that are required in the rest of Sussex County.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend adoption of Ordinance No. 21-01 – The Coastal Area for the reasons and conditions stated in the motion. Motion carried 5 – 0.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA.

WHEREAS, pursuant to the provisions of Title 9, Chapter 68 and 69, Delaware Code, the Sussex County government has the power and the authority to regulate the use of land and to adopt a Comprehensive Plan; and

WHEREAS, pursuant to Chapter 115 of the Code of Sussex County, as amended, the Sussex County government has undertaken to regulate the use of land; and

WHEREAS, the Sussex County Council adopted a Sussex County Comprehensive Plan Update on September 2, 2002, which established an “Environmentally Sensitive Developing Area” with “special environmental design and protection requirements”; and

WHEREAS, Sussex County Council adopted a Sussex County Comprehensive Plan that was certified by the Governor on March 19, 2019, and this Plan expanded what was formerly identified as the “Environmentally Sensitive Developing Area” and renamed that Area as the Coastal Area in the Future Land Use Map contained therein; and

WHEREAS, it is the intent of the Sussex County Council to balance the need to protect land equity with the need to reasonably protect the County’s environment and to protect and enhance the water quality of the County’s “Inland Bays”; and

WHEREAS, Goal 4.6 and Strategy 4.6.2 of the Sussex County Comprehensive Plan states that Sussex County should “Recognize the importance of the Inland Bays” and “Recognize the Inland Bays, their tributaries and other waterbodies as valuable open space areas of ecological importance”; and

WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan states that Sussex County should “Identify and designate future development areas in a manner that protects the County’s natural and cultural resources from the adverse impacts of development as outlined in the Conservation” Element of the Plan; and

33 WHEREAS, Goal 4.3 of the Sussex County Comprehensive Plan includes Objective
34 4.3.2 which states that Sussex County should “Promote new development that
35 incorporates preserved usable open space and mitigates for the protection or
36 replacement of environmental resources in subdivision design” and Strategy 4.3.2.3
37 and 4.3.2.4 which state that Sussex County should “Strengthen County development
38 regulations to ensure that open space dedicated by developers contains contiguous
39 open space” and “Revisit County Code to determine if modifications are needed to
40 open space requirements to promote less fragmentation of open space”; and

41 WHEREAS, it has been determined that in order to promote and protect the health,
42 safety, convenience, orderly growth and welfare of the inhabitants of Sussex County,
43 and to assist in the proper development of land.

44 NOW, THEREFORE, THE COUNTY OF SUSSEX ORDAINS:

45
46 **Section 1.** The Code of Sussex County, Chapter 115, Article xxv §115-194.3
47 “Coastal Area” is hereby amended by deleting the language in brackets and adding
48 the italicized and underlined language:

49
50 **§ 115-194.3. Coastal Area.**

51
52 A. Delineation of the zoning district.

53
54 (1) The Coastal Area shall include all lands designated as the "Coastal Area" in the
55 adopted Sussex County Comprehensive Plan dated March 19, 2019, or as
56 subsequently amended.

57
58 (2) Where the boundary of the Coastal Area is formed by a roadway, the overlay
59 zone shall be deemed to include the contiguous property on the far side of the
60 roadway, provided that depth of the Coastal Area on contiguous property shall not
61 exceed 600 feet.

62
63 B. Application process.

64
65 (1) All rezoning, subdivision, business and industrial site plans and conditional use
66 applications involving one or a combination of the following shall be subject to the
67 process and performance requirements as described hereinafter:

68
69 (a) Any residential planned community application.

70
71 (b) Any development containing 50 or more dwelling units.
72

73 (c) Any development containing 75,000 square feet or more of floor area used
74 for commercial or industrial uses.
75

76 (d) Any use or activity that requires a permit in the Coastal Zone.
77

78 (2) The applicant shall submit an environmental assessment and public facility
79 evaluation report and sketch plan (report) to the Director of Planning and Zoning, a
80 copy of which will be forwarded to the Office of State Planning Coordination and
81 members of the Technical Advisory Committee for review and comment. The sketch
82 plan shall address the following issues for the property to be developed and, where
83 appropriate to the context, for the contiguous property. Information submitted by the
84 applicant shall at a minimum contain the following:
85

86 (a) Proposed drainage design and the effect on stormwater quality and
87 quantity leaving the site, including methods for reducing the amount of
88 phosphorous and nitrogen in the stormwater runoff and the control of any
89 other pollutants such as petroleum hydrocarbons or metals.
90

91 (b) Proposed method of providing potable and, where appropriate, irrigation
92 water and the effect on public or private water systems and groundwater,
93 including an estimate of average and peak demands.
94

95 (c) Proposed means of wastewater treatment and disposal with an analysis of
96 the effect on the quality of groundwater and surface waters, including
97 alternative locations for on-site septic systems.
98

99 (d) Analysis of the increase in traffic and the effect on the surrounding
100 roadway system.
101

102 (e) The presence of any endangered or threatened species listed on federal or
103 state registers and proposed habitat protection areas.
104

105 (f) The preservation and protection from loss of any tidal or nontidal wetlands
106 on the site.
107

108 (g) Provisions for open space as defined in § 115-4.
109

110 (h) A description of provisions for public and private infrastructure.

111
112 (i) Economic, recreational or other benefits.

113
114 (j) The presence of any historic or cultural resources that are listed on the
115 National Register of Historic Places.

116
117 (k) [An affirmation that] A description of how the proposed application and
118 proposed mitigation measures are in conformance with the current Sussex
119 County Comprehensive Plan.

120
121 (l) Actions to be taken by the applicant to mitigate the detrimental impacts
122 identified relevant to Subsection B(2)(a) through (k) above and the manner by
123 which they are consistent with the Comprehensive Plan.

124
125 (3) The Director of Planning and Zoning shall prepare (with input from the County
126 Administrator) guidelines describing the application process and the form and
127 content of information to be submitted by the applicant and shall review all
128 applications, plans, assessments and other information submitted and prepare a
129 written report summarizing his findings and the comments of state agencies and
130 other County offices. The Planning and Zoning Commission shall make a
131 determination as to whether adequate information has been presented for the project
132 to proceed. A completed report shall be required prior to any preliminary plan
133 approval for a development subject to this section. Approval of the report does not
134 constitute final approval of the commenting agencies.

135
136 C. Permitted uses and densities.

137
138 (1) Uses permitted in the Coastal Area will be those uses permitted in the underlying
139 zoning category as established by the Sussex County Zoning Ordinance.

140
141 (2) Uses prohibited in the underlying zone are also prohibited in the overlay zone.

142
143 (3) The maximum density shall be the allowable density of the underlying zoning
144 district for developments using a central water and wastewater collection and
145 treatment system. "Central sewer system" means centralized treatment and disposal
146 facilities as defined in § 115-194A. Within [this Overlay District] the Coastal Area,
147 clustering of single-family detached lots to a minimum lot size of 7,500 square feet
148 is permitted in all residential zoning districts using a central water and sewer system.
149 For dwelling units using on-site individual wastewater disposal systems, the

150 allowable density shall be based upon a minimum lot size of 3/4 of an acre. The
151 applicant has the option of clustering the lots to a minimum lot size of 1/2 of an acre
152 where soil conditions are suitable as determined by DNREC, provided, however,
153 that the number of lots or dwelling units permitted shall not exceed the number
154 permitted in the underlying district. For purposes of this subsection, the "allowable
155 density" shall be determined by calculating the lot area and the area of land set aside
156 for common open space or recreational use but shall exclude any area designated as
157 a tidal tributary stream or tidal wetlands by § 115-193.

158
159 (4) For areas within the Conservation Zone, as currently defined in the Sussex
160 County Zoning Ordinance, the minimum lot size and dimension requirements in the
161 Conservation Zone shall apply.

162
163 (5) Residential developments utilizing the cluster option of Subsection C.3 above
164 within the AR-1 and AR-2 Residential Zoning Districts shall comply with the design
165 requirements set forth in §115-25F of the Sussex County Zoning Code.

166
167 D. Exemptions from the Coastal Area. The following are exempted from the
168 requirement of this section:

169
170 (1) Single-family residential lots of record as of the date of this section.

171
172 (2) Existing developments and developments which have filed for approval as of the
173 date of this section.

174
175 E. Design consideration should be given by the applicant toward the establishment
176 of a greenways system which utilizes schools, parks, wildlife habitat areas, river and
177 stream corridors, wetlands, floodplains, historic sites, business parks, urban
178 sidewalks, abandoned rail lines, roads, beach areas and vacant land. Greenways
179 should provide benefits like safe pedestrian, bicycling and equestrian routes for
180 recreationists and commuters; and natural wildlife corridors and biological reserves.]

181
182



Sussex County
Comprehensive
Plan

THE SUSSEX PLAN

2045 Future Land Use Map

Growth Areas

- Municipalities
- Town Center
- Developing Area
- Existing Development Area
- Coastal Area
- Commercial
- Industrial Area

Rural Areas

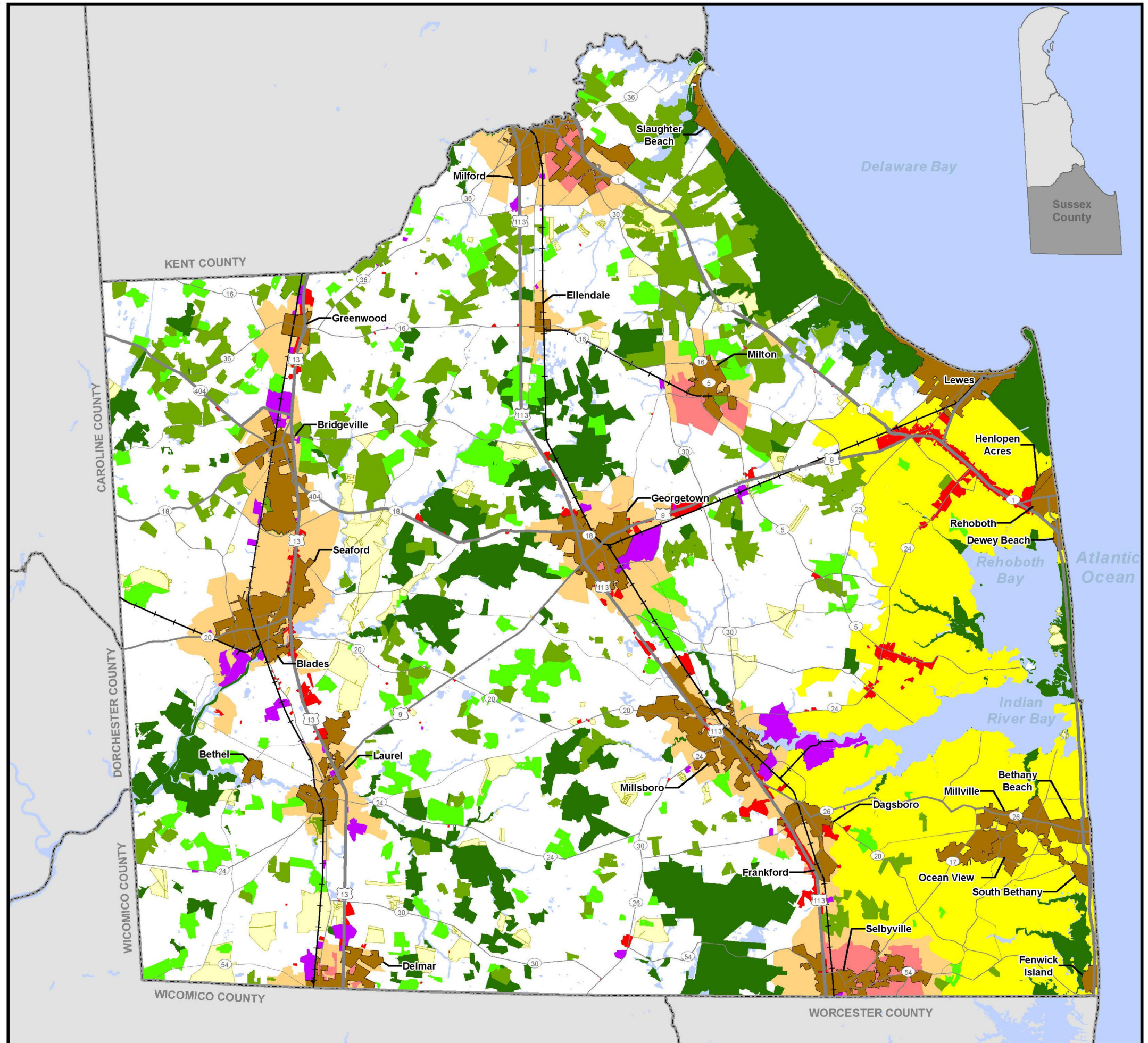
- Low Density
- Protected Land
- Ag. Preservation District
- Ag. Preservation Easement

Sources: DE FirstMap, Sussex County Mapping Dept.
Land Use Data from 2008, State Forest Data from 2013, Forest
Conservation Easements Data from 2016, Municipal Annexation
Areas 2016

*The official depiction of the protected lands can be found on
the Protected Land Map (Figure 5.2-1)



0 2.5 5
Miles



**Council District 2: Green
Tax I.D. No. 230-12.00-10.04
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION BUSINESS, WORK TRAILER, AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.968 ACRES, MORE OR LESS.

WHEREAS, on the 10th day of November 2020, a conditional use application, denominated Conditional Use No. 2250 was filed on behalf of Paola Pacheco Vazquez; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2250 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2250 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the northwest side of Clendaniel Rd. (S.C.R. 625), approximately 0.65 mile west of Dupont Boulevard (Rt. 113), and being more particularly described in the attached deed, prepared by Parsons and Robinson, P.A., said parcel containing 2.968 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

**Council District 3: Schaeffer
Tax I.D. No. 334-12.00-2.00
911 Address: 34139 Cedar Grove Road, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.1 ACRES, MORE OR LESS

WHEREAS, on the 8th day of December 2020, a conditional use application, denominated Conditional Use No. 2252 was filed on behalf of Delaware Electric Co-Op; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2252 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-31, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2252 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest corner of Plantations Road and Cedar Grove Road (S.C.R. 283) and being more particularly described in the attached legal description prepared by Century Engineering, Inc., said parcel containing 9.1 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

Council District: Hudson
Tax I.D. No. 134-11.00-2.02 & 134-11.00-3.00
911 Address: 32859 & 32805 Vines Creek Road, Dagsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS

WHEREAS, on the 30th day of November 2020, a conditional use application, denominated Conditional Use No. 2253 was filed on behalf of Chester V. Townsend IV and Shirley D. Townsend; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2253 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2253 as it applies to the properties hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tracts, pieces or parcels of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Vines Creek Road (Rt. 26), approximately 0.20 mile east of Sandy Landing Road (S.C.R. 342), and being more particularly described in the attached deeds prepared by the Law Office of Susan Pittard Weidman, P.A., said parcels containing 6.0 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

To Be Introduced 02/02/21

**Council District 3: Schaeffer
Tax I.D. No. 330-7.00-12.00
911 Address: 20141 Cedar Beach Road, Milford**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.33 ACRES, MORE OR LESS

WHEREAS, on the 13th day of October 2020, a zoning application, denominated Change of Zone No. 1935 was filed on behalf of H R Phillips Inc.; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1935 be _____; and

WHEREAS, on the ____ day of _____ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation HI-1 Heavy Industrial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the north side of Cedar Beach Road (Rt. 36) approximately 306 feet east of Coastal Highway (Route 1) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 11.33 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.