

Sussex County Council Public/Media Packet

**MEETING:
March 23, 2021**

****DISCLAIMER****

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**Sussex County Council
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(302) 855-7743**

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

MARCH 23, 2021

10:00 A.M.

PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA

Call to Order

Approval of Agenda

Approval of Minutes – March 16, 2021

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Library Advisory Board Appointment
2. Pension Fund Committee Appointment
3. Administrator's Report

Robbie Murray, Director of EMS

1. Emergency Operations Complex Design & Progress Update
2. Mobile Vaccine Memorandum of Understanding – Sussex County Library / EMS and Beebe Healthcare



Bobby Schoonover, EMS Manager of Logistics

1. EMS Intravenous Infusion Pump RFP

A. Bid Award

John Ashman, Director of Utility Planning & Design

- 1. Request to prepare and post notices for the Banks Property Annexation**
- 2. Request to prepare and post notices for the Proposed Pintail Pointe Area of the Sussex County Unified Sanitary Sewer District**

Hans Medlarz, County Engineer

- 1. Consideration of Pintail Pointe HOA Sewer Service Transition Agreement**
- 2. New Road Estates Pavement Improvements, Project T21-08**
 - A. Approval of Award**
- 3. Long Neck Communities, Project S21-10**
 - A. George, Miles & Buhr, LLC – Standalone Engineering Agreement**
- 4. EMS Headquarters Training Center, Project C19-04**
 - A. Amendment No. 1 – Additional Professional Services**

Grant Request

- 1. Friends of the Georgetown Public Library, Inc. for the Annual 5K Race fundraiser to supplement library program operating costs**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

Executive Session – Pending Litigation and Land Acquisition pursuant to 29 Del.C. §10004(b)

Possible action on Executive Session items

Adjourn

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on March 16, 2021 at 5:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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 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, March 22, 2021.

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 16, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 16, 2021, at 10:00 a.m., in the Carter Partnership Center at Delaware Technical Community College, Georgetown, 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
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 096 21
Approve
Agenda**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to approve the Agenda, as posted.

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 March 9, 2021 were approved by consent.

**Public
Comments**

Public comments were heard and the following spoke: Donna Voigt, Director of the Old Landing Road Coalition, discussing traffic and safety concerns on Old Landing Road and Warrington Road.

**Old
Business/
CU 2201**

The Council discussed Conditional Use No. 2201 filed on behalf of Pine Acres, Inc. (Sun Leisure Point Resort, LLC).

The Planning and Zoning Commission held a Public Hearing on this application on January 21, 2021 at which time action was deferred. On February 11, 2021, the Commission recommended approval with conditions.

The Sussex County Council held a Public Hearing on this application on March 2, 2021 at which time action was deferred.

**M 097 21
Adopt
Ordinance
No. 2766**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2766 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL

M 097 21
Adopt
Ordinance
No. 2766 /
CU 2201
(continued)

RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS” (Conditional Use No. 2201) filed on behalf of Pine Acres, Inc. (Sun Leisure Point Resort, LLC), with the following conditions:

- A. There shall be no more than 58 camping or RV sites within this Conditional Use area. No more than 6 guests shall be permitted per site.**
- B. All entrance and roadway improvements and any other DelDOT requirements shall be completed as required by DelDOT.**
- C. The campground shall be connected to Sussex County’s central sewer system.**
- D. The campground shall be connected to a central water system for domestic use and fire protection.**
- E. Stormwater management and sediment and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- F. This expansion area shall be surrounded by a 50-foot-wide landscaped buffer.**
- G. Each campsite shall be permitted to have one accessory building of no more than 64 square feet with a maximum height of 10 feet. The accessory buildings shall be of uniform design and size.**
- H. Campground restrictions shall be submitted as part of the site plan review. These shall include “Quiet Hours” between 11:00 p.m. and 7:00 a.m. each day.**
- I. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.**
- J. All lighting shall be downward screened so that it does not shine on neighboring communities or roadways.**
- K. The Applicant shall identify all “dwellings” in the vicinity of the property that require a 400-foot buffer pursuant to Section 115-172.H(3) of the Sussex County Code. Except for the dwellings that are the subject of the approved variance in Board of Adjustment Case No. 12428, all campsites and cabins shall be a minimum of 400 feet from any dwelling that exists at the time of Final Site Plan approval.**
- L. All campsites must be 2000 square feet in size and at least 40 feet wide.**
- M. No cabin or campsite shall have direct access to any road outside of the boundaries of the campground. Access to the campground shall be gated and restricted so that the only access shall be from Radie Kay Lane.**
- N. There shall be no sales of campsites or camping units, including park models, RVs, travel trailers or cabins.**
- O. This expanded camping area shall comply with all of the requirements of Section 115-172H, with the exception of the variance approved in Board of Adjustment Case Number 12428.**

**M 097 21
Adopt
Ordinance
No. 2766 /
CU 2201
(continued)**

- P. No entertainment or similar organized activities shall be permitted in this expansion area of the campground.**
- Q. The Final Site Plan shall include the conditions established by this Conditional Use No. 2208 and by Board of Adjustment Case No. 12428.**
- R. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Years.

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

Rules

Mr. Moore read the rules of procedure for public hearings on zoning matters.

**Public
Hearing/
CU 2258**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1314 (ORDINANCE NO. 1354) (AS AMENDED BY CONDITIONAL USE NO. 1691 (ORDINANCE NO. 1865) AND CONDITIONAL USE NO. 1962 (ORDINANCE NO. 2311)) TO PERMIT THE PROCESSING AND HANDLING OF POULTRY LITTER TO INCLUDE NUTRIENT RECOVERY FOR NATURAL GAS AND ELECTRICAL GENERATION, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS” (Conditional Use No. 2258) filed on behalf of Bioenergy Development Group, LLC (Tax I.D. Nos. 132-6.00-88.01 and 95.00, and 132-11.00-41.00 and 41.02) (911 Address: 28338 Enviro Way, Seaford).

The Planning and Zoning Commission held a Public Hearing on this application on February 11, 2021 at which time action was deferred. On March 11, 2021, the Commission recommended approval with the following conditions:

- a. Except as otherwise amended by this grant of Conditional Use, the conditions imposed by Conditional Use No. 1314, as amended by Conditional Use Nos. 1691 and 1962 shall remain in effect.**
- b. The proposed facility shall be subject to DNREC and other state and federal regulatory approvals.**
- c. The proposed facility shall only accept, process, and handle poultry litter and DAF.**
- d. There shall not be any stockpiling of DAF, poultry litter, or wastewater on site.**
- e. This Conditional Use shall be valid concurrent with DNREC’s permits for this use. If the DNREC permits shall be terminated or expire, this Conditional Use shall also terminate and expire.**

**Public
Hearing/
CU 2258
(continued)**

- f. The proposed facility, anaerobic digesters, pretanks, and other equipment and structures related to this use shall be located behind the site of the existing pelletizing facility and the area of disturbance related to this new use shall be no greater than 11.3 acres.**
- g. As proposed by the Applicant, there will be no change to the wooded coverage on the property.**
- h. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- i. Prior to the submission of the Final Site Plan, the Applicant must provide copies of all active permits from DNREC demonstrating that the Applicant has received all necessary approvals and permits from DNREC to operate the proposed facility.**
- j. As proffered by the Applicant, a landscape buffer shall be installed at the front of the site. A landscape buffer plan shall be included as part of the Final Site Plan for the project.**
- k. The failure to abide by these conditions shall result in the termination of the Conditional Use approval.**
- l. The Applicant shall submit a Final Site Plan, which shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the meetings of the Planning and Zoning Commission dated February 11 and March 11, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application and noted the documents received into the record, including 16 letters/emails in support of the application and 255 letters/emails in opposition to the project.

The Council found that Dennis Schrader, Attorney, was present with representatives of two groups: Bioenergy Development Group (Bioenergy) and Duffield Associates. Mr. Schrader, Peter Ettinger of Bioenergy, Christine McKiernan of Bioenergy, and Jeffrey Bross of Duffield presented information on the proposed project and responded to questions raised by the Council. They stated that Bioenergy is a Maryland-based developer of anaerobic digestion facilities, committed to bring leading European technology to North America; that the application is to permit the processing and handling of poultry litter to include nutrient recovery for natural gas and electrical generation; that the Applicant is the owner and occupant of the subject property; that the site is located under the industrial category in the Comprehensive Plan and the Development Strategies Map; that the site consists of 228.88 acres but the proposed development is less than that; that there are at least three Conditional Uses currently in effect on this site; that the site was originally approved in 1999 (Conditional Use No. 1314) as a pellet plant and has been in operation since then for the receipt of poultry waste to be converted to fertilizers; that the proposal is to build upon the prior Conditional Uses; that under the Planning and Zoning Commission's recommendation of approval, it

**Public
Hearing/
CU 2258
(continued)**

was defined what can take place on this site as poultry litter and DAFT; that the site is currently operated by the Applicant as a micro-nutrient plant with related truck entrance and rail spur for the processing and handling of poultry waste and litter; that these historic uses have been approved by regulatory agencies, including DNREC air and waste quality agencies; that since the original approval, there have been two amendments to the Conditional Use; that the site is an active site that has been used for the poultry industry since the original application; that the site is designated as an AR-1 Agricultural Residential District, which allows for a full range of agricultural activities, and is designated in the County's Comprehensive Land Use Plan as an Industrial Area, allowing land to be devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space; that this application is for an extension to the existing Conditional Use to enlarge the use to include nutrient recovery and conversion for natural gas and electrical generation; that the structures currently existing on the site will remain; that proposed site improvements include the repurposing of the former pelletizing plant, anaerobic digesters and pretanks, biogas processing area, relocated stormwater pond, and wastewater treatment system; that the site is part of the Nanticoke Watershed leading into the Chesapeake; that no public streets are proposed; that there will be no sanitary waste on-site; that there is an on-site water supply; that there are no delineated wetlands on-site; that the total disturbed area is 11.22 +/- acres; that no change in the wooded cover is proposed; that there will be 2.78 acres of additional impervious surface (totaling 1.2% of site); that the benefits that anaerobic digestion can bring to the community include increasing the lifespan of a local landfill, reducing percolates, increasing water quality, reducing odor as organics are deposited into sealed tanks, shrinking transport costs and associated environmental impact, reducing greenhouse gases and enabling CO₂ and methane capture and use, reducing pathogens and antibiotic use in the environment as digested organics are effectively pasteurized and dried digestate can be used as an organic soil amendment, and creating both direct and indirect jobs to construct and manage the facility as well as attend to the resulting offtake use and distribution; that anaerobic digestion is completely enclosed and sealed with no odors; that they will create a renewable natural gas which can be converted to hydrogen, as well as energy and compressed natural gas; that the process takes waste and turns it into something beneficial; that they will primarily use DAFT at this facility; that Bioenergy has been doing this for 22+ years, starting in Europe, and currently operate 150 plants; that the goal is to be able to take in 210,000 tons of new material; that renewable natural gas will come out of the facility and it will be pipeline quality; that the potential for a methane explosion is a minimal issue if at all; that the site is managed under safety standards and regulatory requirements; that the proposal is not for a refinery and it is a contained project and environmentally sound; that the Company has no safety issues in their history; that there will be no hazardous substance at this facility, it is organic; that no human waste will be accepted, only poultry waste; that each load of material is tested and any hazardous loads rejected; that the compost facility is currently in operation; that they have buyers for the compost; that the proposal will add digestate to the compost, a high nutrient

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(continued)**

project; that most of the material will go off the shore (65 to 70 percent) to other areas; that they reuse their water and it goes in their own treatment plant and meets the standards of Sussex County; that originally it will be trucked to a Sussex County facility and the long term goal is to connect to a sewer system; that DelDOT did not require a Traffic Impact Study; that the project received a Letter of No Contention and an entrance approval from DelDOT; and that the poultry industry is vital to Sussex County and the area, and the industry is faced with the challenge of handling excess poultry organics. The engineering aspects of the site were presented including existing site conditions, proposed site improvements, repurposing of the main building, repurposing of pelletizing plants, pretreatment of wastewater, and impervious surface. It was noted that this project is subject to multiple state and local agency reviews including DelDOT, State Fire Marshal, DNREC, and the Sussex Conservation District; and that the Conditional Use is consistent with the County's Comprehensive Plan.

Public comments were heard.

The following spoke in support of the application: Carol Dunahoo and Christina Darby on behalf of the Friends of the Nanticoke River; Gina Bloodworth on behalf of the Wicomico Environmental Trust; Jeff Dietz, the new Facility Manager for the Bioenergy Facility; and Chris Bason on behalf of the Center for the Inland Bays. They stated that the proposed Bioenergy anaerobic digestion facility will substantially reduce the environmental impact of poultry production in the entire region; that the anaerobic digestion of DAF waste at this facility will reduce serious impacts by eliminating odors and pathogens and producing an easily transportable fertilizer; that it will also contribute renewable natural gas; that the proposal will remove excess nutrients from the watershed; that the proposal includes an onsite wastewater treatment plant and the collection and use of stormwater for the small amount of water required for the digestion process, so it will neither deplete the aquifer nor pollute groundwater; that the process will be enclosed with negative pressure to minimize odor and other nuisances; that there will be no risk of a gas explosion at the site because the methane produced in the process will be captured and treated by Chesapeake Utilities elsewhere, then transported to local customers; that the proposed operation will significantly improve water and air quality throughout the watershed; that the facility already exists and will be repurposed; that there has been misinformation about how this facility will be operated; and that the proposed process will handle chicken waste responsibly which will be good for the environment.

The following spoke in opposition to the application: Keith Steck (speaking on behalf of himself and on behalf of Delaware Coalition for Open Government); Renee Phillips; Greg Layton and Tyler Lobdell on behalf of Food and Water Watch; Maria Payan; Dustyn Thompson on behalf of the Sierra Club Delaware Chapter; and Shelly Cohen. They stated that there is no PLUS review of this application; that the last review for this site was completed in 2012 and was only completed for one of the four parcels of this

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CU 2258
(continued)**

application; that the State Fire Marshal's report is incomplete as it did not mention anything about the methane gas that will be produced on the site; that methane gas is explosive and combustible; that DNREC also needs to address the methane or compressed natural gas; that there was no discussion from DelDOT regarding truck traffic; that maps indicate that there are three tax ditches on the site and this is not consistent with maps and information provided by the Applicant; that the proposal will benefit industry; that the proposal takes advantage of residents and farmers; that the proposal will result in the entrenchment of industrial poultry in Sussex County; that the project would threaten public safety; that the risks are inappropriate for this agricultural and residential area; that the Applicant is proposing to put this biogas production facility in an area where air and water pollution is already a serious issue; that the project site is an environmentally sensitive area; that the site is not zoned for heavy industry; that the proposed use is not really an agricultural use; that the proposed use is a heavy industrial process; that the proposal will exponentially increase the end-stage solid-waste product; that the proposal would not provide a sustainable solution to Sussex County's pollution challenge; that the waste stream coming into the facility will be about eight times more than the current load; that the difference between the transport of liquid propane versus compressed natural gas needs to be addressed; that this proposal will not offset fracked gas; that the stated risk of explosion is untrue; that the Sourcewater Protection Ordinance is not being looked at; that a legitimate environmental assessment needs to be performed; that the proposal is a dramatic change to the previous Conditional Use approvals; that Conditional Use No. 2258 does not accurately describe Bioenergy's proposed use; that there is confusion in the application and the whole project has been misrepresented; that the proposed use is not an approvable Conditional Use under County Code; that agriculture-related industry does not include the proposed industrial gas production and refining; that the proposed natural gas production does not meet the purposes of AR-1 zoning; and that the application should be readvertised for the correct use. They expressed concern about the waste coming onsite; the damage to roads; air, water and noise pollution; the risk of methane gas and the potential for explosion on this site or in vehicles going down the road; the wellhead protection area delineation which is not shown by the Applicant; increased truck traffic (over 200 trucks per day); why Laurel and Seaford residents have to take in waste from other states; impact on a new residential community north of the site; a new 4-way stop installed along Route 13A and already an accident has occurred; a new source of air pollution and a new safety risk; the possibility of failure of the facility resulting in leaks, spills, explosions, etc.; the proposal is for a gas production facility and a refinery; and the Applicant has no contract for the taking of the product. They raised questions about: how the Conditional Use language was written and presented, stating it is misleading; how much of the gas being produced is staying in Sussex County and Delaware; where is the material is coming from; how many chicken processing plants will be sending their DAF to this facility; how many trucks will be coming and going and what will they be hauling; where is the pipeline and does it currently exist, are gas refinery

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(continued)**

activities a part of this application; how will wastewater and the digestate be managed; how will Sussex County fight a massive fire/explosion; and what bonds/insurance is the Applicant putting up in case of an accident/catastrophe. They stated that Council should have all the information before them before making a decision and that Delaware Code and County Code establishes a list of mandatory considerations that must be considered.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 098 21
Defer
Action on
CU 2258**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to defer action on Conditional Use No. 2258 filed on behalf of Bioenergy Development Group, LLC.

Motion Adopted: 5 Yeas.

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

**M 099 21
Adjourn**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to adjourn at 1:41 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.}

Sussex



County

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

FROM: Kathy Graybeal, County Librarian *KMG*
Robbie Murray, EMS Director *RM*

RE: Mobile Vaccination Pod Partnership

DATE: March 23, 2021

We are asking for your support in an MOU between Sussex County (Library / EMS departments) and Beebe Healthcare to provide mobile COVID-19 vaccinations to residents of Sussex County.

Utilizing the Library Bookmobile, a County Paramedic unit, and resources from Beebe Healthcare - Population Health, COVID vaccinations would be made available to communities where opportunities may be otherwise limited or access more challenged.

We feel this partnership will play an integral role in supporting our communities. Vaccinations play a key role in protecting our residents and this agreement will assist in ensuring that those who desire to be vaccinated will have that opportunity.

In addition to the full MOU, we have enclosed an overview of the proposal that outlines the responsibilities of each organization and department.

Enclosure

- MOU – Sussex County Government & Beebe Healthcare
- MOU – Overview



Motion – Mobile Vaccination POD Partnership - MOU

Be it moved that Sussex County through the Library and EMS departments enter an MOU with Beebe Healthcare to provide mobile vaccination pods through calendar year 2021 to residents of Sussex County.

Sussex County Government & Beebe Healthcare

“A partnership to protect Sussex County residents”

COVID-19 Vaccination Pods

Purpose – To create a partnership between Sussex County Government, represented by the Department of Libraries and EMS Department, and Beebe Healthcare to provide mobile COVID-19 vaccination pods to residents of Sussex County.

Goal – Utilizing the Library Bookmobile, a County Paramedic unit, and resources from Beebe Healthcare - Population Health, COVID vaccinations will be available in communities where opportunities may be otherwise limited, or access more challenged.

Timeline – The goal is to begin vaccinations in April 2021. It is the initial intent not exceed two days per week. Event scheduling is based on vaccine allocation and staff availability. This partnership will continue until either party indicates their desire otherwise. Unless mutually agreed, upon at least 30 days’ notice should be provided to terminate the agreement.

Charge(s) – There will be no charge to either partner for services provided within the scope of this agreement. Any patient receiving the vaccination will experience no “out of pocket” expense. Treatment and transport secondary to an adverse reaction or other emergency will follow normal billing / expense procedures.

Responsibilities

Sussex County Library

- Library Department will provide access to the County Bookmobile and be solely responsible for the transportation and set-up of the Bookmobile at all agreed upon sites.
- Library staff will review proposed locations and must agree that the desired location is adequately accessible and suitable for both their staff and the Bookmobile.
- At minimum, one certified driver will remain on-site throughout the event.
- During the event, the library staff member(s) will assist with pod specific paperwork (ID verification, check-in, paperwork review).
- A small refrigerator will remain available in the Bookmobile to maintain temperature of vaccines.

Sussex County EMS

- SCEMS will provide at least one paramedic, with a complete set of gear, on-site throughout the event.
- SCEMS will ensure communications with the EOC and confirm that the EOC is aware of the location and that the event has started and ended.
- SCEMS paramedic will be the primary care provider should an adverse reaction occur, or an attendee require medical interventions.
- SCEMS paramedic may prepare and / or administer the vaccine; however, the primary responsibility is that of Beebe Healthcare staff.
- SCEMS paramedic will ensure that the inside of Bookmobile is cleaned and ready to return to service at the conclusion of the event.
- SCEMS will ensure, and provide, as necessary PPE to those attending the event.

Sussex County Government & Beebe Healthcare

"A partnership to protect Sussex County residents"

COVID-19 Vaccination Pods

Beebe Healthcare

- Beebe will be responsible for the acquisition, security and transport of all vaccines and associated supplies.
- Beebe will be responsible for the identification of locations at least one week prior to the proposed vaccine date.
- Beebe will be responsible for the selection and scheduling of attendees.
- Beebe will be responsible for all required data entry including the VAM1 `S.
- Beebe Healthcare Staff will be the primary staff member to prepare and administer vaccine.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
SUSSEX COUNTY
AND
SUSSEX COUNTY EMERGENCY MEDICAL SERVICES (SCEMS)
AND
SUSSEX COUNTY LIBRARIES
AND
BEEBE HEALTHCARE
TO PARTICIPATE IN THE MOBILE VACCINATION PROGRAM**

A. Introduction and Purpose:

1. This Agreement is entered into between Sussex County, a political subdivision of the State of Delaware, and Sussex County Emergency Medical Services (alternatively “Sussex County” or “SCEMS”) and Sussex County Libraries (alternatively “Sussex County” or “Bookmobile”) and Beebe Healthcare (alternatively Beebe).
2. The purpose of this Agreement is to create a partnership between Sussex County, represented by the Library and EMS Departments, and Beebe Healthcare to provide mobile COVID-19 vaccination pods, utilizing the Library Bookmobile, to residents of Sussex County.
3. The goal of utilizing the Library Bookmobile, a County Paramedic unit, and resources from Beebe Healthcare - Population Health, COVID vaccinations will be available in communities where opportunities may be otherwise limited, or access more challenged.
4. The Agreement shall commence April 1, 2021 and continue in effect until December 31, 2021 unless modified by mutual agreement of the parties or may be terminated as referenced in Section B. 2. of this Agreement.

B. Administrative Requirements.

1. **Sussex County Library, SCEMS and Beebe Healthcare** agree to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Agreement and to assure the quality of services provided under this Agreement. **Sussex County Library, SCEMS and Beebe Healthcare** shall immediately notify each partner in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status is based on the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, **Sussex County Library, SCEMS and Beebe Healthcare** understand that such action may be grounds for termination of the Agreement.
2. This Agreement may be terminated in whole or part upon thirty (30) calendar days’ written notice, with or without cause, by, Sussex County, **Sussex County Library, SCEMS or**

Beebe Healthcare, to the other parties.

3. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Agreement, the remainder of the Agreement will remain unaffected.
4. This Agreement shall not be altered, changed, modified, or amended except by written consent of all parties to the Agreement.
5. **Sussex County Library, SCEMS and Beebe Healthcare** agree that no information obtained pursuant to this Agreement may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the **Sussex County Library, SCEMS and Beebe Healthcare's** obligations under this Agreement.
6. A party's waiver of any default or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent default or breach of any provision of this Agreement, nor shall it be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the parties, including an authorized representative of the Department, and attached to the original Agreement.
7. The relationship between Beebe Healthcare and SCEMS and Sussex County Library, is that of independent contractors.
8. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, with venue lying in Sussex County. In the event of a dispute between the parties, each party shall be entitled to pursue any action at law or in equity in a court of competent jurisdiction in the State of Delaware.
9. This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and assigns.
10. All pronouns and any variations thereof used in this Agreement shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require.
11. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute 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.

C. Sussex County Library, SCEMS and Beebe Healthcare and the Division mutually agree that:

1. No person shall, on the basis of race, color, creed, sex, national origin, age or disability, be subjected to any discrimination prohibited by the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, as amended, American with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title IX of the Educational Amendments of 1972, and other applicable laws, regulations and Executive Orders.
2. No compensation is expected pursuant to this Agreement. However, this Agreement does not

preclude other contractual agreements concerning the program within this Agreement.

3. It is agreed that any patient receiving vaccination will experience no “out of pocket” expense. Treatment and transport secondary to an adverse reaction or other emergency will follow normal billing / expense procedures.
4. Nothing in this Agreement shall be deemed a waiver of the doctrine of sovereign immunity on the part of the State of Delaware.
5. Nothing contained herein is intended to waive, alter, or otherwise amend Sussex County’s immunity under the Delaware Code or otherwise, including but not limited to the County and Municipal Tort Claims Act. Additionally, nothing contained herein is intended to violate any constitutional principles of the State of Delaware or United States. To the extent that any obligations contained in this Agreement are determined by court or other judicial action to waive, alter, or otherwise amend such immunity or to be constitutionally prohibited or otherwise not in accordance with the laws in effect at the time of any such claim, liability, cost or expense, the offending language shall be stricken from this Agreement by such authority and considered invalid and unenforceable to the extent necessary to allow the application of such immunity to any claims, losses, damages, or suits asserted against either party or to the extent necessary to correct such violation of the law. The parties agree that any claims, liabilities, damages, costs and expenses shall be subject to the provisions of the County and Municipal Tort Claims Act, including the limitations on damages.

D. Sussex County Library, SCEMS and Beebe Healthcare agrees to:

1. Have on file the proof of state registration, current licensure, certification, and/or appropriate credentials of any participants requiring those licenses, certifications, or credentials.
2. **Sussex County Library, SCEMS and Beebe Healthcare** shall separately contract for and be solely responsible for any wages and/or stipends, if any, paid to **Sussex County Library, SCEMS and Beebe Healthcare** staff participating under the terms of this Agreement.
3. **Sussex County Library, SCEMS and Beebe Healthcare** shall be solely responsible for ensuring that participating staff are covered by appropriate health and liability insurance, Workers Compensation, and any other appropriate insurance. More specifically, during the term of this MOU and any extension thereof, **Sussex County Library, SCEMS and Beebe Healthcare** shall each secure and maintain, at their own expense, the following types and amounts of insurance coverages as set forth herein; each policy of insurance required shall be written by insurers with a Best's Financial Strength Rating of "A-" or better, and a Financial Size Category of "Class VII" or better in the latest evaluation of the A.M. Best Company, unless otherwise approved by the other party and allowed to do business in the State of Delaware: Commercial General Liability Insurance, written on an ISO “occurrence form” or an equivalent form including coverage for bodily injury and property damage claims assumed in a contract with limits of \$1,000,000 combined single limit each occurrence, \$2,000,000 combined single limit general aggregate, \$1,000,000 combined single limit products/completed operations aggregate and \$1,000,000 personal and advertising injury any one person or organization; Workers’ Compensation Insurance in compliance with the statutory requirements of the State of Delaware and

Employers' Liability Insurance with limits of \$500,000 each Accident and Disease per Employee/Policy Limit; Business Auto Liability Insurance covering all owned, hired and non-owned vehicles for which each party may be responsible with limits of \$1,000,000 combined single limit per accident; Excess/Umbrella liability insurance with follow form coverage of underlying insurance including Commercial General Liability (including products and completed operations), Business Auto Liability, and Employers' Liability, in an amount of not less than \$9,000,000 per each occurrence and aggregates; Professional liability insurance including errors and omissions, property damage, and personal injury coverage, affording protection of not less than \$1,000,000 combined single limit and \$3,000,000 in the aggregate; Insurance coverage for third party liability arising out of breach of privacy, inclusive of confidential and proprietary business information, HIPAA violations, and other breaches of Personally Identifiable Information and/or Protected Health Information, that may arise from the performance of duties under this MOU with minimum limits of \$1,000,000.00 per claim and \$1,000,000.00 aggregate; Privacy Breach Notification and Credit Monitoring with minimum limits of \$500,000.00 each claim. Prior to the commencement of services hereunder, **Sussex County** will submit to the **Beebe Healthcare**, and **Beebe Healthcare** will submit to **Sussex County**, a certificate of insurance evidencing their respective insurance. Each Party shall notify the other at least thirty (30) days in advance prior to cancellation of coverage.

E. Sussex County Library Department shall:

1. Sussex County Library will provide access to the Bookmobile and be solely responsible for the transportation and set-up of the Bookmobile at all agreed upon sites.
2. Library staff will review proposed locations and must agree that the desired location is adequately accessible and suitable for both their staff and the Bookmobile.
3. At minimum, one certified driver will remain on-site throughout the event.
4. During the event, the library staff member(s) will assist with pod specific paperwork (ID verification, check-in, paperwork review).
5. A small refrigerator will remain available in the Bookmobile to maintain temperature of vaccines.

F. Sussex County, Emergency Medical Services shall:

1. SCEMS will provide at least one paramedic, with a complete set of gear, on-site throughout the event.
2. SCEMS will ensure communications with the EOC and confirm that the EOC is aware of the location and that the event has started and ended.
3. SCEMS paramedic will be the primary care provider should an adverse reaction occur, or an attendee require medical interventions.

4. SCEMS paramedic may prepare and / or administer the vaccine; however, the primary responsibility is that of Beebe staff.
5. SCEMS paramedic will ensure that the inside of Bookmobile is cleaned and ready to return to service at the conclusion of the event.
6. SCEMS will ensure, and provide, as necessary personal protective equipment (PPE) to those attending the event.

G. Beebe Healthcare shall

1. Beebe will be responsible for the acquisition, security and transport of all vaccines and associated supplies.
2. Beebe will be responsible for the identification of locations at least one week prior to the proposed vaccine date.
3. Beebe will be responsible for the selection and scheduling of attendees.
4. Beebe will be responsible for all required data entry including the VMAS.
5. Beebe Healthcare staff will be the primary staff member to prepare and administer vaccine.

Certification:

BEEBE HEALTHCARE, a corporation of the State of Delaware

David Tam, MD, MBA, FACHE
Interim President and CEO

Date

SUSSEX COUNTY, a political subdivision of the State of Delaware

By: _____
Michael H. Vincent, President
Sussex County Council

Attest: _____
Robin Griffith, Clerk of the
Sussex County Council

Date

SUSSEX COUNTY LIBRARIES, a department of Sussex
County

Kathy Graybeal
Director

Date

SUSSEX COUNTY EMERGENCY MEDICAL SERVICES, a department of Sussex
County

Robert W. Murray Jr.
Director

Date



Caring People, Quality Service


SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

22215 Dupont Blvd. • P.O. Box 589 • Georgetown, DE 19947 • 302-854-5050 • FAX 302-855-7780

Robert W. Murray
Director



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 C. Green
The Honorable Mark G. Schaeffer

FROM: Robert L. Schoonover, Manager of EMS Logistics 

RE: EMS Intravenous Pump RFP – Bid Award

DATE: March 23, 2021

Invitations to bid on 45 Intravenous (IV) Pumps for use by the Sussex County EMS Paramedics was advertised on February 5, 2021 in two (2) newspapers, viewable on the Sussex County website, and emailed directly to vendors. On February 25, 2021 sealed bids for the RFP were opened. Two (2) bids were received, one from Sovereign Medical Inc. of Hillsborough North Carolina for \$107,869.69 and second from and a second from Master Medical Equipment, LLC of Jackson, Tennessee for \$126,882.50.

Deploying IV pumps will broaden SCEMS Paramedics ability to provide life-saving medications. IV pumps will allow timely, accurate, therapeutic, and safe delivery of medications. IV pumps will allow us to adopt the use of additional medications saving lives and decreasing disabilities. It is our intent to assign one IV pumps to each set of primary field response gear.

After review by the Sussex County EMS department it recommended to award the bid to the lowest responsible bidder or Sovereign Medical, Inc.

We thank you for your continued support of the Emergency Medical Services Paramedic services.

Todd F. Lawson
Administrator



Motion – 3/23/2021

Be it moved the Sussex County Council accepts from, the lowest bidder, Sovereign Medical Inc. of Hillsborough, North Carolina, the purchase of 45 Intravenous Pumps, cases and stretcher mounts and 16 hours of train the trainer education in the amount of \$107,869.69

SUSSEX COUNTY GOVERNMENT



Request for Proposal

For

Emergency Medical Services

Intravenous Infusion Pump

Date Issued February 5, 2021

Proposal Submission Deadline:

February 25, 2021 – 1:00 p.m. EST

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INVITATION TO BID

Sussex County Government will receive sealed competitive proposals ("Bid") for the purchase of intravenous infusion pump for use by our Emergency Medical Services Department. Sealed bids must be received by Sussex County Government, c/o Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, until 1:00 p.m., local time, on February 25, 2021. To be considered, price proposals must be submitted in writing and respond to the items outlined in the request for proposal (RFP).

Interested parties must submit two (2) written proposals to the Sussex County Government, Attention: Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, by 1:00 p.m., February 25, 2021 at which time the proposals will be publicly opened, read aloud with recording only the name of the respondent(s).

All other information shall be confidential.

Bids are being sought from vendors to supply the following types:

- Up to 45 portable Intravenous Infusion Pump devices with cases & stretcher mounts
- Up to 200 consumable pump circuits
- Up to eight hours support for Delaware State Protocols drug library development
- Up to 4 hours onsite for train the trainer professional services

The request for proposals may be obtained by visiting Sussex County's website <http://www.sussexcountype.gov/legal-notices/bids>. Questions shall be directed to Robert Schoonover B.S., NRP 302-855-5506 or rschoonover@sussexcountype.gov. If necessary, an addendum will be issued to address questions received.

A formal pre-bid will not be held.

In its sole discretion, Sussex County Government reserves the right to extend the time and place for opening bids from that described in the advertisement by providing not less than two (2) calendar days' notice, by posting an addendum on the Sussex County website.

INSTRUCTIONS TO BIDDERS

Submission of Proposals

Sussex County Government will receive sealed competitive proposals ("Bid") for the purchase of intravenous infusion pumps. Sealed bids must be received by Sussex County Government, c/o Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, until 1:00 p.m., local time, on February 25, 2021. Immediately following, the proposals will be publicly opened, read aloud with recording only the name of the respondent(s). All other information shall be confidential.

Each Bid shall be completed on the forms provided and submitted in a sealed envelope addressed to the Sussex County Government at the above address. Each sealed envelope containing a Bid shall be plainly marked on the outside with "Bid for Sussex County EMS Intravenous Infusion Pumps Purchases," and bear the name and address of the respondent. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Oral, telegraphic, electronic, or telephonic bids are invalid and will not receive consideration. Bids submitted by mail shall be enclosed in an outer envelope, similarly endorsed, and addressed to the Sussex County. Bidders may bid on any or all specifications, and should indicate "NO BID" on his or her Bid Form for any specification on which they chose not to bid. All Bidders shall state delivery time and cutoff build date for current model year as part of their bid proposal. Bidder must indicate the EMS Intravenous Infusion Pumps model that will be provided for each specification for which they are submitting a bid.

Each Bidder shall submit an original completed, signed copy of the Bid Form. Each Bidder shall enter amounts for all Lump Sum Prices, Contingent Unit Prices, Alternate Prices, and the Total Base Bid, where designated on the Bid Form. Failure to comply may be cause for rejection. No allowances, segregated Bids or assignments will be considered. State all amounts in numerical figures. Any alterations or erasures must be initialed by the Bidder. All entries must be ink or typewritten. A Bidder shall make no additional stipulations on the Bid Form nor qualify his Bid by attachments or any other matter. Stipulations or qualifications will be subject to rejection.

If the Bidder is an individual, each copy of the Bid Form shall be signed by the individual himself, under his business name. If the Bidder is a partnership, each copy of the Bid Form shall be signed by an authorized partner, under the name of the partnership. If the Bidder is a corporation, each copy of the Bid Form shall be signed by an authorized executive officer of the corporation under its registered name and the corporate seal shall be affixed. If the Bidder is a limited liability company, each copy of the Bid Form shall be signed by the authorized Managing Member(s).

Other Bid Forms

Each Bid must be accompanied by the completed, signed, and witnessed Certification of Bidder. In addition, any other Bid Forms included in the packet shall be fully completed in accordance with the instructions on the forms.

Information Regarding Bids

The Contract Documents contain the provisions required for the Purchase. Information obtained from an officer, agent, or employee of Sussex County, or any other person shall not affect the risks or obligations assumed by the Bidder or relieve the Bidder from fulfilling any of the conditions of the contract.

No oral interpretations will be made to any Bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to Sussex County Government. Any inquiry received five (5) days or more prior to the Bid Opening date will be given consideration. Every interpretation to a Bidder will be made in the form of an addendum to the contract documents. In addition, all addenda will be issued to each recorded holder of the Contract Documents, but it shall be the Bidder's responsibility to make inquiry as to the addenda issued. All such addenda shall become a part of the Contract and all Bidders shall be bound by such addenda. Bidders shall acknowledge receipt of all addenda on the Bid Form. Failure to do so will result in Bid rejection.

Late Proposals or Late Withdrawals

A Bid received after the closing date and time for receipt of proposals is late and shall not be considered.

No Bidder shall be permitted to make a modification to its original Bid for a minimum of sixty (60) days.

A modification of a Bid resulting from an amendment issued after the closing date and time for receipt of proposals or a modification of a proposal resulting from discussions during negotiations shall be considered if received by the closing date and time set forth in the amendment or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered.

Sussex County Government expressly reserves the right to reject any or all Bids received and/or waive informalities, minor defects and/or reject a particular Bid or all Bids. Any Bid may be withdrawn prior to the above scheduled time for Bid Opening. Bids submitted after the time specified for the Bid opening will not be considered and will be returned unopened. Bids may not be withdrawn within sixty (60) days after the Bid Opening, unless a request to withdraw is granted in accordance with Title 29, Chapter 69 of the Delaware Code. Should there be a reason for not awarding the Contract to the lowest responsive Bidder within sixty (60) days, the time may be extended by mutual agreement between Sussex County Government and the Bidder.

A Notice of Award will be issued to the lowest responsive Bidder. The successful Bidder is required to execute the Agreement and provide a Certificate of Insurance within twenty (20) calendar days from the date of delivery of Notice of Award. The appropriate Agreement and forms will accompany the Notice of Award. If the Bidder fails to execute the Agreement as specified

within 20 calendar days, the next low Bidder in order of bid price shall then be considered the lowest responsive Bidder and the Contract will be awarded to him/her. Should this Bidder default, the next low Bidder shall be considered and so on.

Bidders who are rejected under this section shall be notified in writing about the rejection. The reasons for the rejection shall be stated in the determination.

Each Bidder shall be evaluated for responsibility prior to award which may include factors such as the Bidder's financial, physical, personnel, or other resources including subcontracts; Bidder's record of performance or integrity; whether Bidder is qualified legally to contract with the County; and whether the Bidder has supplied all necessary information concerning its responsiveness. If Sussex County Government determines that a Bidder is nonresponsive or non-responsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the affected Bidder.

Non-Discrimination

The Bidder in performing the work furnished by this Contract or furnishing the equipment or services provided herein shall not discriminate against any person seeking employment with or employed by him/her because of race, creed, color, or national origin.

BID FORM

To: Sussex County Government
For: Sussex County Portable Intravenous Infusion Pump Purchases

Bidder Acknowledgements

The undersigned Bidder has carefully examined the Instructions to Bidders and the Specifications, the Agreement, and all other portions of this Request for Proposal for the performance of the above-named project, and shall deliver the equipment in accordance with the requirements of the Contract Documents.

The Bidder certifies by the submission of this Bid that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the product or services shipped or ordered as a result of this Bid. The successful Bidder shall, at his own expense, defend any and all actions or suits charging such infringements, and will save Sussex County, and its appointed and elected officials, officers, partners, directors, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

The undersigned Bidder acknowledges receipt of all Addenda issued during the bidding process.

Confidentiality

If Bidder considers any portion of its Bid to be confidential, Bidder shall be required to isolate and identify in writing any confidential portions thereof. Bidder shall include, with this designation, a statement that explains and supports the Bidder's claim that the items identified as confidential contain trade secrets or other proprietary data. In submitting its Bid, Bidder acknowledges that its Bid, whether successful or not, shall be subject to disclosure and available for public inspection and copying in accordance with the Delaware Freedom of Information Act, 29 Del. C., Chapter 100, except to the extent withholding such information is permitted under the Act or otherwise permitted by law.

Basis of Bid

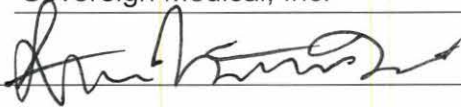
This Bid includes all other applicable taxes and fees.

The undersigned Bidder further understands that all equipment covered by this Bid shall be new and of the best quality and the highest-grade workmanship.

Dated:

(If an Individual, Partnership, Limited Liability Company, or Non-Incorporated Organization)

Name of Business: Sovereign Medical, Inc.

Signature of Bidder: 

By: Steven Visniskie

Business Address: 620 H Valley Forge Road, Hillsborough, NC 27278

BID FORM - continued

Names and Address of Members Steven Visniskie
620 H Valley Forge Road, Hillsborough, NC 27278

(If a corporation)

Name of Business: Sovereign Medical, Inc.

Signature of Bidder: 

By: Steven Visniskie

Business Address: 620 H Valley Forge Road, Hillsborough, NC 27278

Incorporated under the laws of the State of: North Carolina

President's Name Wayne Grooters
(Address) 620 H Valley Forge Road, Hillsborough, NC 27278

Secretary's Name Lori Lewter
(Address) 620 H Valley Forge Road, Hillsborough, NC 27278

Treasurer's Name _____
(Address) _____

Affix Corporate Seal

BID SCHEDULE

Intravenous Infusion Pump Brand

Name: Eitan Medical

Intravenous Infusion Pump Model:

Sapphire Multi-Therapy Infusion PumpDelivery Time: 5-10 Business Days

Cutoff

Date

for

Ordering:

March 31, 2021***Base Bid:***

Item	Description	Total Price
1	Furnish 45 IV Pumps with case & stretcher mounts	\$ 105,750.00
2	Furnish 200 IV Pumps set/cartridge	\$ 1929.50 For BP450 Sets
3	4 hours on site trainer the trainer education	\$ 0.00
4	8 hours drug library for DE protocol development	\$ 0.00
5	Delivery/shipping charge	\$ 190.19
	Total Bid	\$ 107,869.69

CERTIFICATION OF BIDDER

The undersigned Bidder, Sovereign Medical, Inc. on the 9th day of February, 2021, for Sussex County Intravenous Infusion Pump Purchases acknowledges:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization or corporation;
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid;
3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
4. Bidder has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract. For the purposes of this Paragraph:
 - a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Sussex County Government, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Sussex County Government of the benefits of free and open competition;
 - c. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Sussex County Government, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - d. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

CORPORATE SEAL

Signature of Bidder:



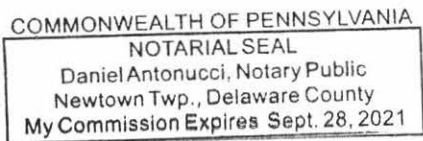
BY: Steven Visniskie

Attest: Lori Lewter Secretary

Sworn and subscribed before me this 9th day of February, 2021.

My commission expires 09.28.21.

[Signature]
Notary Public



AGREEMENT

THIS AGREEMENT, made this 8th day of February, 2021, by and between
Sussex County, a political subdivision of the State of Delaware, hereinafter called
"Owner", and Sovereign Medical, Inc., doing business as
(an Individual) or (a Partnership) or (a Corporation), hereinafter called "Vendor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The VENDOR shall commence and supply the Sussex County EMS Intravenous Infusion Pumps Purchase(s)
2. All capitalized terms herein and throughout the Contract Documents shall have the same meaning as defined in the General Conditions.
3. The Vendor shall furnish all of the Equipment in accordance with the requirements of the Contract Documents ("Work").

4. The Vendor shall supply all of the materials and equipment necessary as described in the Contract Documents and shall supply same in accordance with the prices quoted in Vendor's bid schedule.
5. The term "Contract Documents" means and includes the following, which are herein incorporated into this Agreement by reference:
 - A. Invitation to Bid;
 - B. Instructions to Bidders;
 - C. Bid Form;
 - D. Any other forms included in the packet furnished to Bidders;
 - E. General Conditions;
 - G. Technical Specifications;
 - I. Addenda if any;
 - J. Change Orders, if any.
7. The Owner shall pay the Vendor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.
8. To the fullest extent permitted by law, the Vendor shall indemnify, hold harmless and defend Owner and its elected and appointed officials, officers, directors, employees, agents, and consultants from and against all claims, damages, losses, injuries and expenses including court costs and attorneys' fees arising out of or resulting from the performance of the Work, provided such claims, damages, losses, injuries or expenses are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, but only to the extent directly by any act or omission of the Vendor, or any Subcontractor performing Work. Vendor or any Subcontractor shall be liable, regardless of whether or not such claims, damages, losses, injuries and expenses are caused in part by a party indemnified hereunder.
9. Vendor certifies that there has been no violation of copyrights or patent rights in manufacturing, or selling the product or services shipped or ordered as a result of this Agreement. To the fullest extent permitted by law, the Vendor shall, at his own expense, defend any and all actions or suits charging such infringements, and will save Owner, and its appointed and elected officials, officers, partners, directors, employees, and agents harmless ~~St~~ from any and all liability, loss, or expense occasioned by any such violation.

10. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
11. If the Work shall be abandoned, or if the Contract Documents or any part thereof shall be sublet without the previous written consent of Owner, or if the Contract Documents shall be assigned by Vendor otherwise than as herein specified, or if at any time Owner shall be of the opinion and shall certify in writing to the Vendor that the Work, or any part thereof, is delayed beyond the stated completion time or that the Vendor has violated any provision of the Contract Documents or that the Vendor fails to provide all supplies, material, machinery, implements, appliances and tools or fails to perform the Work as set forth in the Contract Documents, in whole or in part, Owner, in addition to available remedies, may notify the Vendor to discontinue all Work or any part thereof; and thereupon Vendor shall discontinue such Work or such part thereof as Owner may designate and Owner may thereupon, by a contract or otherwise, as it may determine, complete the Work, or such part thereof, and charge the entire expense of so completing the Work or part thereof, to the Vendor.
12. All costs and charges that may be incurred under this section or any damages that should be borne by Vendor shall be withheld or deducted from any moneys then due, or to become due to Vendor under these Contract Documents, or any part thereof; and in such accounting the Owner shall not be held to obtain the lowest cost for the Work or completing the Work or any part thereof, but all sums actually paid therefore shall be charged to Vendor. In case the costs and charges incurred are more than the sum which would have been payable under the Contract Documents if the same had been completed by Vendor, Vendor shall pay the amount of excess to Owner for the completion of the Work within thirty (30) days of receipt of an invoice.
13. Should any portion of this Agreement be held void, the remainder shall continue in full force and effect. The undersigned acknowledge that they have carefully read this Agreement, have had the opportunity to have been advised of its meaning by an attorney of their choosing, and sign the same of their own free will. In entering into this Agreement, the undersigned warrant that they have done so voluntarily and of their own accord without reliance on any inducement, promise or representation by any other party, except those which are expressly set forth in this Agreement.

14. The Contract Documents constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein. This Agreement may only be modified by an instrument in writing executed by Owner and their duly authorized representatives.
15. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
16. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without respect to its conflict of laws provisions.
17. Time is of the essence for purposes of this Agreement.
18. Vendor shall not assign, sell or otherwise transfer its rights in this Agreement without the prior signed approval of Owner.
19. Vendor is not considered an employee or agent of Owner for any purpose whatsoever. Vendor agrees that in all matters relating to this Agreement it shall be acting as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Agreement. Vendor shall have no right, power or authority to create any obligation, expressed or implied, on behalf of Owner and shall have no authority to represent Owner as an agent of Owner, unless otherwise specifically authorized by Owner in a writing not contained in these Contract Documents.
20. A party's omission or failure to exercise any rights or obligations under this Agreement shall not be construed as a waiver of such rights or obligations, unless the party has executed a written waiver of such right or obligation under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original, on the date first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

WITNESS



(SEAL)

ATTEST:

Clerk of Sussex County

VENDOR

Sovereign Medical, Inc.

Signature



Title

Clinical Account Manager

Date February 8th, 2021

OWNER

Council President, Sussex County Council

Date

GENERAL CONDITIONS

DEFINITION OF TERMS:

Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

ADDENDA: Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the Bidding Documents.

AGREEMENT: The written contract between Owner and Vendor covering Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof.

BID or BID PROPOSAL: The offer by Bidder submitted on the prescribed forms setting forth the prices and Work to be performed.

BIDDING DOCUMENTS: The Invitation to Bid, General Conditions, the Bid Form, and proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

CHANGE ORDER: A written order to Vendor signed by Owner authorizing an addition, deletion or revision of Work, or adjustment of Contract Price or Contract Time issued on or after the Effective Date of the Agreement.

CONTRACT DOCUMENTS: The written agreement covering Work to be performed. The awarded Contract Documents shall include, but is not limited to: the Agreement, General Conditions, Technical Specifications, Addenda, and Change Orders.

CONTRACT PRICE: The moneys payable by Owner to Vendor for completion of Work in accordance with the Contract Documents as stated in the Agreement.

COUNTY: Sussex County, a political subdivision of the State of Delaware.

DEFECTIVE: An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.

INVITATION TO BID: The public announcement, as required by law, that Sussex County is soliciting Bids for Work to be performed or materials or equipment to be furnished.

MATERIALS/EQUIPMENT: This term describes the materials, equipment, unit, and/or supplies which are required to be supplied to Owner under the Contract Documents.

OWNER: Sussex County, a political subdivision of the State of Delaware.

SUPPLEMENTAL GENERAL CONDITIONS: Modify the General Conditions and are specific clauses setting forth conditions or requirements peculiar to this Contract.

VENDOR: The person, firm or corporation with whom Owner has entered into the Agreement.

WORK: The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Vendor's performance of all duties and obligations as required by the Contract Documents.

1.00 ARTICLE 1 – GENERAL REQUIREMENTS & PRELIMINARY MATTERS

1.01 LAWS TO BE OBSERVED: Vendor shall strictly comply with all Federal, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of Work.

1.02 PERMITS AND LICENSES: All necessary permits and licenses required by local, State, or Federal laws shall be provided by Vendor at his/her own expense, unless Owner expressly agrees in writing to provide said permit or license. The Bidder's attention is called to Title 30, Chapter 27 of the Delaware Code, which should be reviewed by Vendor in order to determine whether such laws are applicable to its Bid.

1.03 NOTICE TO PROCEED: The date of Notice to Proceed shall specify the date upon which the Work shall commence. No Work shall be done prior to the date on which the Contract Time commences to run.

1.04 CONTRACT PAYMENT: Payment for equipment supplied in accordance with the Contract Documents shall be made at the lump sum and/or unit prices contained in the Bid. In addition to meeting any other conditions of Final Acceptance set forth herein, Final Acceptance shall not be issued until the Equipment is received by County personnel, the Equipment functions correctly. Owner shall make the final payment in a lump sum within thirty days after Owner's issuance of Final Acceptance for the EMS Intravenous Infusion Pumps that have been delivered and approved.

1.05 CONTRACT PERIOD: The Contract shall be valid from the date of award through June 30, 2021

2.00 ARTICLE 2 – DELIVERY AND FINAL ACCEPTANCE OF EMS INTRAVENOUS INFUSION PUMPS

2.01 The intent of these Contract Documents is to provide for delivery and furnishing of EMS Intravenous Infusion Pumps described. It is further intended that Vendor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete Work in accordance with the Contract Documents. All Work shall be performed in a good and workmanlike manner, and all EMS Intravenous Infusion Pumps shall be new and in accordance with the Contract Documents.

2.02 All EMS Intravenous Infusion Pumps will be inspected by an authorized representative of Owner, and if found defective, or if it in any way fails to meet the requirements of the Contract Documents, said EMS Intravenous Infusion Pumps will be rejected. If said EMS Intravenous Infusion Pumps are rejected, Vendor shall be responsible for repairing or replacing said EMS Intravenous Infusion Pumps. Once EMS Intravenous Infusion Pumps are found to be satisfactory to Owner and any other conditions of Final Acceptance set forth herein are met, Owner shall issue a Final Acceptance and make the final payment in accordance with the provisions herein.

3.00 ARTICLE 3 - INSURANCE REQUIREMENTS

3.01 GENERAL INSURANCE REQUIREMENTS:

- A. Vendor shall not commence Work until Vendor has obtained, at Vendor's own expense, all of the insurance as required hereunder and such insurance has been approved by Owner; nor shall Vendor allow any subcontractor to commence Work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by the Vendor. Approval of insurance required of Vendor will be granted only after submission to Owner of original certificates of insurance and required endorsements that are satisfactory to Owner, evidencing the required insurance.
- B. All insurers underwriting Vendor's insurance must be licensed in the State of Delaware, have a minimum policyholders rating of "A-" or better, and have a financial size of "Class VII" or higher, unless otherwise approved by Owner.
- C. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation or non-renewal until thirty (30) days prior written notice

has been given to Owner (not less than ten (10) days' notice is required for nonpayment of premium). Therefore, a copy of the endorsements to the required policies that confirm the insurer is obligated to send notice to Owner as required herein, must accompany all certificates of insurance.

- D. If any subcontractors are utilized, Vendor shall require all subcontractors to maintain commercial general liability insurance, business auto liability insurance and workers compensation and employer's liability insurance to the same extent required of Vendor. The Vendor shall furnish subcontractor's certificates of insurance and required endorsements to Owner immediately upon request.
- E. Failure of Owner to obtain such certificates or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Vendor's insurance requirements.
- F. By requiring such insurance and insurance limits herein, Owner does not represent that coverage and limits will necessarily be adequate to protect Vendor, and such coverage and limits shall not be deemed as a limitation on Vendor's liability under the indemnities granted to Owner.
- G. If the Owner is damaged by the failure or neglect of Vendor to purchase and maintain insurance as required herein, then the Vendor shall bear all reasonable costs properly attributable thereto.
- H. Loss of or damage to any equipment to be provided under the Contract Documents shall be at the sole risk of the Vendor until Substantial Completion.

3.02 Vendor's Insurance

Vendor shall purchase and maintain the following insurance coverages throughout the term of the Contract Documents for not less than the limits specified below or required by law, whichever is greater:

- A. **Commercial general liability** insurance that insures against claims for bodily injury, property damage, personal and advertising injury arising out of or in connection with Vendor's Work, including coverage for claims arising out of liability assumed under the Contract Documents. The minimum limits of liability for this insurance are \$1,000,000 combined single limit for each occurrence; \$1,000,000 combined single limit general aggregate; and \$1,000,000 combined single limit for products/completed operations aggregate. Any general aggregate limit shall apply on a per project basis.

This insurance shall not afford coverage on a "claims made" basis without the prior written approval of Owner.

- B. **Business auto liability insurance** with a minimum combined single limit of \$1,000,000 per accident and including coverage for bodily injury and property damage claims arising out of the ownership, maintenance or use of any auto and include coverage for Vendor from bodily injury and property damage claims arising out of liability assumed under the Contract Documents.
- C. **Workers compensation insurance** with statutory benefits as required by any state or Federal law, including standard "other states" coverage and employers liability insurance with minimum limits of \$100,000 each accident for bodily injury by accident, \$100,000 each employee for bodily injury by disease and \$500,000 policy limit for bodily injury by disease.
- D. **Personal property in transit, transportation or motor truck cargo insurance** with limits not less than 100% of the replacement cost of the personal property including equipment to be transported by Vendor (or any subcontractor) under the Contract Documents. Such insurance shall be written on all risks basis and be in effect until Final Acceptance.

4.00 ARTICLE 4 - VENDOR'S RESPONSIBILITIES

4.01 SERVICES, MATERIALS AND EQUIPMENT:

- A. Unless otherwise specified in the Contract Documents, Vendor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, startup and completion of the Work.
- B. All Materials/Equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner.
- C. All Materials/Equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned and conditioned in accordance with instructions provided by manufacturer and/or supplier, except as otherwise may be provided in the Contract Documents.

4.02 PRODUCTS BY NAME/OR “APPROVED EQUAL:” Products by name are intended to be descriptive of quality, workmanship, finish, function, and approximate characteristics desired and are not necessarily intended to be restrictive. Substitution of products for those named may be considered, but must be approved by Owner and with the condition that said product is equal or superior in quality, workmanship, finish, function, and approximate characteristics to that specified by the Contract Documents. Owner will be the sole judge of the equivalences. Please see Technical Specifications for requirements.

4.03 REJECTED MATERIAL: Vendor shall, at his/her own expense, replace or satisfactorily adjust or repair all Materials/Equipment rejected for failure to comply with the Contract Documents.

5.00 ARTICLE 5 - DELIVERY

The delivery of the Intravenous Infusion Pumps shall be to the following location:

Sussex County EMS # 8 Mulberry Street Georgetown, DE 19947

Vendor shall coordinate the delivery to allow an authorized representative of Owner to inspect the EMS Intravenous Infusion Pumps. If said representative finds the supplied EMS Intravenous Infusion Pumps to be defective, damaged or if said EMS Intravenous Infusion Pumps fails in any way to meet the specifications set forth herein, the items in question may be rejected at the sole discretion of Owner.

6.00 ARTICLE 6 - CONTRACT TIME

6.01 The EMS Intravenous Infusion Pumps shall be delivered to the site defined in Article 5.00, by the Vendor within the delivery time listed on the bid **form not to exceed June 30, 2021**. The Delivery Time may be extended, in the sole and absolute discretion of Owner, with good cause shown.

GENERAL

1.02 SHIPPING, DELIVERY, STORAGE & HANDLING

- A. All EMS Intravenous Infusion Pumps shall be properly protected such that no damage will occur from the time of shipment until the time of delivery.
- B. County shall be responsible for inspecting all devices upon arrival. County shall notify the Vendor within 24 hours of any damage.

1.03 WARRANTY

2 year manufactures 100% replacement warranty shall be included

ATTACHMENT A: TECHNICAL SPECIFICATIONS

Specification	Specifics
IEC 60601-1-1	Must meet- Requirements for medical electrical equipment and medical electrical systems intended for use in emergency medical service environment.
SAE J3043 - J2917	Must meet frontal, rear & side impact standard
Dimensions	Small as possible not to exceed 6" T X 4" W X 2" D
Weight	may not exceed 4 pounds in weight
Pumping mechanism	Single channel volumetric, with integral pressure sensor
Infusion delivery modes	Continuous (with and without a secondary line), PCA, Intermittent, Multi-step
KVO Rate capable	Up to 20 mL/h in increments of 0.1 mL/h
Accuracy of device	+ or - 2.5% (subject to external conditions such as tubing, pressure,
Defibrillation proof	must be with max 1 second recovery time
Flow rate parameters	0.1 - 99.9 mL/h in increments of 0.1 mL/h
	100 - 999 mL/h in increments of 1mL/h
	0.1 - 9999 mL in increments of 0.1 mL
Infusion device type	Volumetric, peristaltic
External power supply	110V 50-60 Hz, 0.6A
Battery	Rechargeable Li-Ion battery 7.4V,
	1960 mA/h
	24 hrs @ 125 mL/h (with a fully charged battery, and backlight off)
	Recharge time: up to 6 hrs (when pump is not in operation)
Adaptor	AC adaptor 110 VDC/2.0A
Fuse rating	T1.6A, 250V
Downstream occlusion	up to 17.4 PSI (1.2 bar or 900 mmHg)
Operating temperature	40 degrees to 100 degrees Fahrenheit

Newspaper/Web Ad

**Sussex County Government – Intravenous Infusion Pump
INVITATION TO BID**

Sussex County Government will receive sealed competitive proposals (“Bid”) for the purchase of intravenous infusion pump for use by our Emergency Medical Services Department. Sealed bids must be received by Sussex County Government, c/o Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, until 1:00 p.m., local time, on February 25, 2021. To be considered, price proposals must be submitted in writing and respond to the items outlined in the request for proposal (RFP).

Interested parties must submit two (2) written proposals to the Sussex County Government, Attention: Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, by 1:00 p.m., February 25, 2021 at which time the proposals will be publicly opened, read aloud with recording only the name of the respondent(s).

All other information shall be confidential.

Bids are being sought from vendors to supply the following types:

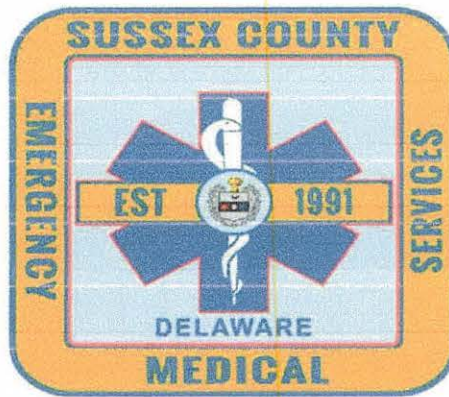
- Up to 45 portable Intravenous Infusion Pump devices with cases & stretcher mounts
- Up to 200 consumable pump circuits
- Up to 8 hours support for Delaware State Protocols drug library development
- Up to 4 hours onsite for train the trainer professional services

The request for proposals may be obtained by visiting Sussex County’s website <http://www.sussexcountyde.gov/legal-notices/bids>. Questions shall be directed to Robert Schoonover BS, NRP 302-855-5506 or rschoonover@sussexcountyde.gov. If necessary, an addendum will be issued to address questions received.

A formal pre-bid will not be held.

In its sole discretion, Sussex County Government reserves the right to extend the time and place for opening bids from that described in the advertisement by providing not less than two (2) calendar days’ notice, by posting an addendum on the Sussex County website.

SUSSEX COUNTY GOVERNMENT



Request for Proposal

For

Emergency Medical Services

Intravenous Infusion Pump

Date Issued February 5, 2021

Proposal Submission Deadline:

February 25, 2021 – 1:00 p.m. EST

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INSTRUCTIONS TO BIDDERS

Submission of Proposals

Sussex County Government will receive sealed competitive proposals ("Bid") for the purchase of intravenous infusion pumps. Sealed bids must be received by Sussex County Government, c/o Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, until 1:00 p.m., local time, on February 25, 2021. Immediately following, the proposals will be publicly opened, read aloud with recording only the name of the respondent(s). All other information shall be confidential.

Each Bid shall be completed on the forms provided and submitted in a sealed envelope addressed to the Sussex County Government at the above address. Each sealed envelope containing a Bid shall be plainly marked on the outside with "Bid for Sussex County EMS Intravenous Infusion Pumps Purchases," and bear the name and address of the respondent. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Oral, telegraphic, electronic, or telephonic bids are invalid and will not receive consideration. Bids submitted by mail shall be enclosed in an outer envelope, similarly endorsed, and addressed to the Sussex County. Bidders may bid on any or all specifications, and should indicate "NO BID" on his or her Bid Form for any specification on which they chose not to bid. All Bidders shall state delivery time and cutoff build date for current model year as part of their bid proposal. Bidder must indicate the EMS Intravenous Infusion Pumps model that will be provided for each specification for which they are submitting a bid.

Each Bidder shall submit an original completed, signed copy of the Bid Form. Each Bidder shall enter amounts for all Lump Sum Prices, Contingent Unit Prices, Alternate Prices, and the Total Base Bid, where designated on the Bid Form. Failure to comply may be cause for rejection. No allowances, segregated Bids or assignments will be considered. State all amounts in numerical figures. Any alterations or erasures must be initialed by the Bidder. All entries must be ink or typewritten. A Bidder shall make no additional stipulations on the Bid Form nor qualify his Bid by attachments or any other matter. Stipulations or qualifications will be subject to rejection.

If the Bidder is an individual, each copy of the Bid Form shall be signed by the individual himself, under his business name. If the Bidder is a partnership, each copy of the Bid Form shall be signed by an authorized partner, under the name of the partnership. If the Bidder is a corporation, each copy of the Bid Form shall be signed by an authorized executive officer of the corporation under its registered name and the corporate seal shall be affixed. If the Bidder is a limited liability company, each copy of the Bid Form shall be signed by the authorized Managing Member(s).

Other Bid Forms

Each Bid must be accompanied by the completed, signed, and witnessed Certification of Bidder. In addition, any other Bid Forms included in the packet shall be fully completed in accordance with the instructions on the forms.

Information Regarding Bids

The Contract Documents contain the provisions required for the Purchase. Information obtained from an officer, agent, or employee of Sussex County, or any other person shall not affect the risks or obligations assumed by the Bidder or relieve the Bidder from fulfilling any of the conditions of the contract.

No oral interpretations will be made to any Bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to Sussex County Government. Any inquiry received five (5) days or more prior to the Bid Opening date will be given consideration. Every interpretation to a Bidder will be made in the form of an addendum to the contract documents. In addition, all addenda will be issued to each recorded holder of the Contract Documents, but it shall be the Bidder's responsibility to make inquiry as to the addenda issued. All such addenda shall become a part of the Contract and all Bidders shall be bound by such addenda. Bidders shall acknowledge receipt of all addenda on the Bid Form. Failure to do so will result in Bid rejection.

Late Proposals or Late Withdrawals

A Bid received after the closing date and time for receipt of proposals is late and shall not be considered.

No Bidder shall be permitted to make a modification to its original Bid for a minimum of sixty (60) days.

A modification of a Bid resulting from an amendment issued after the closing date and time for receipt of proposals or a modification of a proposal resulting from discussions during negotiations shall be considered if received by the closing date and time set forth in the amendment or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered.

Sussex County Government expressly reserves the right to reject any or all Bids received and/or waive informalities, minor defects and/or reject a particular Bid or all Bids. Any Bid may be withdrawn prior to the above scheduled time for Bid Opening. Bids submitted after the time specified for the Bid opening will not be considered and will be returned unopened. Bids may not be withdrawn within sixty (60) days after the Bid Opening, unless a request to withdraw is granted in accordance with Title 29, Chapter 69 of the Delaware Code. Should there be a reason for not awarding the Contract to the lowest responsive Bidder within sixty (60) days, the time may be extended by mutual agreement between Sussex County Government and the Bidder.

A Notice of Award will be issued to the lowest responsive Bidder. The successful Bidder is required to execute the Agreement and provide a Certificate of Insurance within twenty (20) calendar days from the date of delivery of Notice of Award. The appropriate Agreement and forms will accompany the Notice of Award. If the Bidder fails to execute the Agreement as specified

within 20 calendar days, the next low Bidder in order of bid price shall then be considered the lowest responsive Bidder and the Contract will be awarded to him/her. Should this Bidder default, the next low Bidder shall be considered and so on.

Bidders who are rejected under this section shall be notified in writing about the rejection. The reasons for the rejection shall be stated in the determination.

Each Bidder shall be evaluated for responsibility prior to award which may include factors such as the Bidder's financial, physical, personnel, or other resources including subcontracts; Bidder's record of performance or integrity; whether Bidder is qualified legally to contract with the County; and whether the Bidder has supplied all necessary information concerning its responsiveness. If Sussex County Government determines that a Bidder is nonresponsive or non-responsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the affected Bidder.

Non-Discrimination

The Bidder in performing the work furnished by this Contract or furnishing the equipment or services provided herein shall not discriminate against any person seeking employment with or employed by him/her because of race, creed, color, or national origin.

BID FORM

To: Sussex County Government

For: Sussex County Portable Intravenous Infusion Pump Purchases

Bidder Acknowledgements

The undersigned Bidder has carefully examined the Instructions to Bidders and the Specifications, the Agreement, and all other portions of this Request for Proposal for the performance of the above-named project, and shall deliver the equipment in accordance with the requirements of the Contract Documents.

The Bidder certifies by the submission of this Bid that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the product or services shipped or ordered as a result of this Bid. The successful Bidder shall, at his own expense, defend any and all actions or suits charging such infringements, and will save Sussex County, and its appointed and elected officials, officers, partners, directors, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

The undersigned Bidder acknowledges receipt of all Addenda issued during the bidding process.

Confidentiality

If Bidder considers any portion of its Bid to be confidential, Bidder shall be required to isolate and identify in writing any confidential portions thereof. Bidder shall include, with this designation, a statement that explains and supports the Bidder's claim that the items identified as confidential contain trade secrets or other proprietary data. In submitting its Bid, Bidder acknowledges that its Bid, whether successful or not, shall be subject to disclosure and available for public inspection and copying in accordance with the Delaware Freedom of Information Act, 29 Del. C., Chapter 100, except to the extent withholding such information is permitted under the Act or otherwise permitted by law.

Basis of Bid

This Bid includes all other applicable taxes and fees.

The undersigned Bidder further understands that all equipment covered by this Bid shall be new and of the best quality and the highest-grade workmanship.

Dated:

(If an Individual, Partnership, Limited Liability Company, or Non-Incorporated Organization)

Name of Business:

Master Medical Equipment, LLC

Signature of Bidder:

Arril Foster

By: Master Medical Equipment, LLC

Business Address: 2345 Dr FE Wright Dr.; Jackson, TN 38305
BID FORM - continued

Names and _____
Address of _____
Members _____

(If a corporation)

Name of Business: Master Medical Equipment, LLC - P

Signature of Bidder: Carrie Kastner

By: Carrie Kastner

Business Address: 2345 Dr. FE Wright Dr.
Jackson, TN 38305

Incorporated under the laws of the State of: Tennessee

President's Name Mark Taylor, owner / President
(Address) _____

Secretary's Name _____
(Address) _____

Treasurer's Name _____
(Address) _____

Affix Corporate Seal

BID SCHEDULE

Intravenous Infusion Pump Brand

Name: Eitan Group N. America

Intravenous Infusion Pump Model:

QCORE SapphireDelivery Time: 30 days

Cutoff Date

for

Ordering:

May 15, 2021**Base Bid:**

Item	Description	Total Price
1	Furnish 45 IV Pumps with case & stretcher mounts	\$ 123,412 ⁵⁰
2	Furnish 200 IV Pumps set/cartridge	\$ 1,620 ⁰⁰
3	4 hours on site trainer the trainer education	\$ 1,600 ⁰⁰
4	8 hours drug library for DE protocol development	\$ incl. in line 1
5	Delivery/shipping charge	\$ 250 ⁰⁰
	Total Bid	\$ 126,882 ⁵⁰

CERTIFICATION OF BIDDER

The undersigned Bidder, Master Medical Equipment/Carrie Kastner on the 17 day of February, 2021, for Sussex County Intravenous Infusion Pump Purchases acknowledges:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization or corporation;
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid;
3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
4. Bidder has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract. For the purposes of this Paragraph:
 - a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Sussex County Government, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Sussex County Government of the benefits of free and open competition;
 - c. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Sussex County Government, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - d. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

CORPORATE SEAL

Signature of Bidder:

Carrie Kastner

BY: Master Medical Equipment, LLC

Attest: Carrie Kestner

~~Secretary~~

Sworn and subscribed before me this 17th day of February, 20 21.

My commission expires 3/18/22.

Carrie Stallings Williams

Notary Public



AGREEMENT

THIS AGREEMENT, made this 17 day of February, 2021, by and between
Sussex County, a political subdivision of the State of Delaware, hereinafter called
"Owner", and MASTER Medical Equipment LLC business as
(an Individual) or (a Partnership) or (a Corporation), hereinafter called "Vendor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The VENDOR shall commence and supply the Sussex County EMS Intravenous Infusion Pumps Purchase(s)
2. All capitalized terms herein and throughout the Contract Documents shall have the same meaning as defined in the General Conditions.
3. The Vendor shall furnish all of the Equipment in accordance with the requirements of the Contract Documents ("Work").

4. The Vendor shall supply all of the materials and equipment necessary as described in the Contract Documents and shall supply same in accordance with the prices quoted in Vendor's bid schedule.
5. The term "Contract Documents" means and includes the following, which are herein incorporated into this Agreement by reference:
 - A. Invitation to Bid;
 - B. Instructions to Bidders;
 - C. Bid Form;
 - D. Any other forms included in the packet furnished to Bidders;
 - E. General Conditions;
 - G. Technical Specifications;
 - I. Addenda if any;
 - J. Change Orders, if any.
7. The Owner shall pay the Vendor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.
8. To the fullest extent permitted by law, the Vendor shall indemnify, hold harmless and defend Owner and its elected and appointed officials, officers, directors, employees, agents, and consultants from and against all claims, damages, losses, injuries and expenses including court costs and attorneys' fees arising out of or resulting from the performance of the Work, provided such claims, damages, losses, injuries or expenses are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent directly by any act or omission of the Vendor, or any Subcontractor performing Work. Vendor or any Subcontractor shall be liable, regardless of whether or not such claims, damages, losses, injuries and expenses are caused in part by a party indemnified hereunder.
9. Vendor certifies that there has been no violation of copyrights or patent rights in manufacturing, or selling the product or services shipped or ordered as a result of this Agreement. To the fullest extent permitted by law, the Vendor shall, at his own expense, defend any and all actions or suits charging such infringements, and will save Owner, and its appointed and elected officials, officers, partners, directors, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

10. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
11. If the Work shall be abandoned, or if the Contract Documents or any part thereof shall be sublet without the previous written consent of Owner, or if the Contract Documents shall be assigned by Vendor otherwise than as herein specified, or if at any time Owner shall be of the opinion and shall certify in writing to the Vendor that the Work, or any part thereof, is delayed beyond the stated completion time or that the Vendor has violated any provision of the Contract Documents or that the Vendor fails to provide all supplies, material, machinery, implements, appliances and tools or fails to perform the Work as set forth in the Contract Documents, in whole or in part, Owner, in addition to available remedies, may notify the Vendor to discontinue all Work or any part thereof; and thereupon Vendor shall discontinue such Work or such part thereof as Owner may designate and Owner may thereupon, by a contract or otherwise, as it may determine, complete the Work, or such part thereof, and charge the entire expense of so completing the Work or part thereof, to the Vendor.
12. All costs and charges that may be incurred under this section or any damages that should be borne by Vendor shall be withheld or deducted from any moneys then due, or to become due to Vendor under these Contract Documents, or any part thereof; and in such accounting the Owner shall not be held to obtain the lowest cost for the Work or completing the Work or any part thereof, but all sums actually paid therefore shall be charged to Vendor. In case the costs and charges incurred are more than the sum which would have been payable under the Contract Documents if the same had been completed by Vendor, Vendor shall pay the amount of excess to Owner for the completion of the Work within thirty (30) days of receipt of an invoice.
13. Should any portion of this Agreement be held void, the remainder shall continue in full force and effect. The undersigned acknowledge that they have carefully read this Agreement, have had the opportunity to have been advised of its meaning by an attorney of their choosing, and sign the same of their own free will. In entering into this Agreement, the undersigned warrant that they have done so voluntarily and of their own accord without reliance on any inducement, promise or representation by any other party, except those which are expressly set forth in this Agreement.

14. The Contract Documents constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein. This Agreement may only be modified by an instrument in writing executed by Owner and their duly authorized representatives.
15. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
16. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without respect to its conflict of laws provisions.
17. Time is of the essence for purposes of this Agreement.
18. Vendor shall not assign, sell or otherwise transfer its rights in this Agreement without the prior signed approval of Owner.
19. Vendor is not considered an employee or agent of Owner for any purpose whatsoever. Vendor agrees that in all matters relating to this Agreement it shall be acting as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Agreement. Vendor shall have no right, power or authority to create any obligation, expressed or implied, on behalf of Owner and shall have no authority to represent Owner as an agent of Owner, unless otherwise specifically authorized by Owner in a writing not contained in these Contract Documents.
20. A party's omission or failure to exercise any rights or obligations under this Agreement shall not be construed as a waiver of such rights or obligations, unless the party has executed a written waiver of such right or obligation under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original, on the date first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

WITNESS

Brent H. Brown

(SEAL)

ATTEST:

Clerk of Sussex County

Council

VENDOR

Carmie Kastner
Signature
Sales Mgr

Title

February 17, 2021

Date

OWNER

President, Sussex County Council

Date

GENERAL CONDITIONS

DEFINITION OF TERMS:

Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

ADDENDA: Written or graphic instruments issued prior to the opening of Bids, which clarify, correct, or change the Bidding Documents.

AGREEMENT: The written contract between Owner and Vendor covering Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof.

BID or BID PROPOSAL: The offer by Bidder submitted on the prescribed forms setting forth the prices and Work to be performed.

BIDDING DOCUMENTS: The Invitation to Bid, General Conditions, the Bid Form, and proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

CHANGE ORDER: A written order to Vendor signed by Owner authorizing an addition, deletion or revision of Work, or adjustment of Contract Price or Contract Time issued on or after the Effective Date of the Agreement.

CONTRACT DOCUMENTS: The written agreement covering Work to be performed. The awarded Contract Documents shall include, but is not limited to: the Agreement, General Conditions, Technical Specifications, Addenda, and Change Orders.

CONTRACT PRICE: The moneys payable by Owner to Vendor for completion of Work in accordance with the Contract Documents as stated in the Agreement.

COUNTY: Sussex County, a political subdivision of the State of Delaware.

DEFECTIVE: An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.

INVITATION TO BID: The public announcement, as required by law, that Sussex County is soliciting Bids for Work to be performed or materials or equipment to be furnished.

MATERIALS/EQUIPMENT: This term describes the materials, equipment, unit, and/or supplies which are required to be supplied to Owner under the Contract Documents.

OWNER: Sussex County, a political subdivision of the State of Delaware.

SUPPLEMENTAL GENERAL CONDITIONS: Modify the General Conditions and are specific clauses setting forth conditions or requirements peculiar to this Contract.

VENDOR: The person, firm or corporation with whom Owner has entered into the Agreement.

WORK: The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Vendor's performance of all duties and obligations as required by the Contract Documents.

1.00 ARTICLE 1 – GENERAL REQUIREMENTS & PRELIMINARY MATTERS

1.01 LAWS TO BE OBSERVED: Vendor shall strictly comply with all Federal, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of Work.

***1.02 PERMITS AND LICENSES:** All necessary permits and licenses required by local, State, or Federal laws shall be provided by Vendor at his/her own expense, unless Owner expressly agrees in writing to provide said permit or license. The Bidder's attention is called to Title 30, Chapter 27 of the Delaware Code, which should be reviewed by Vendor in order to determine whether such laws are applicable to its Bid.

1.03 NOTICE TO PROCEED: The date of Notice to Proceed shall specify the date upon which the Work shall commence. No Work shall be done prior to the date on which the Contract Time commences to run.

1.04 CONTRACT PAYMENT: Payment for equipment supplied in accordance with the Contract Documents shall be made at the lump sum and/or unit prices contained in the Bid. In addition to meeting any other conditions of Final Acceptance set forth herein, Final Acceptance shall not be issued until the Equipment is received by County personnel, the Equipment functions correctly. Owner shall make the final payment in a lump sum within thirty days after Owner's issuance of Final Acceptance for the EMS Intravenous Infusion Pumps that have been delivered and approved.

1.05 CONTRACT PERIOD: The Contract shall be valid from the date of award through June 30, 2021

2.00 ARTICLE 2 – DELIVERY AND FINAL ACCEPTANCE OF EMS INTRAVENOUS INFUSION PUMPS

2.01 The intent of these Contract Documents is to provide for delivery and furnishing of EMS Intravenous Infusion Pumps described. It is further intended that Vendor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete Work in accordance with the Contract Documents. All Work shall be performed in a good and workmanlike manner, and all EMS Intravenous Infusion Pumps shall be new and in accordance with the Contract Documents.

2.02 All EMS Intravenous Infusion Pumps will be inspected by an authorized representative of Owner, and if found defective, or if it in any way fails to meet the requirements of the Contract Documents, said EMS Intravenous Infusion Pumps will be rejected. If said EMS Intravenous Infusion Pumps are rejected, Vendor shall be responsible for repairing or replacing said EMS Intravenous Infusion Pumps. Once EMS Intravenous Infusion Pumps are found to be satisfactory to Owner and any other conditions of Final Acceptance set forth herein are met, Owner shall issue a Final Acceptance and make the final payment in accordance with the provisions herein.

3.00 ARTICLE 3 - INSURANCE REQUIREMENTS

3.01 GENERAL INSURANCE REQUIREMENTS:

- A. Vendor shall not commence Work until Vendor has obtained, at Vendor's own expense, all of the insurance as required hereunder and such insurance has been approved by Owner; nor shall Vendor allow any subcontractor to commence Work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by the Vendor. Approval of insurance required of Vendor will be granted only after submission to Owner of original certificates of insurance and required endorsements that are satisfactory to Owner, evidencing the required insurance.
- B. All insurers underwriting Vendor's insurance must be licensed in the State of Delaware, have a minimum policyholders rating of "A-" or better, and have a financial size of "Class VII" or higher, unless otherwise approved by Owner.
- C. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation or non-renewal until thirty (30) days prior written notice

has been given to Owner (not less than ten (10) days' notice is required for nonpayment of premium). Therefore, a copy of the endorsements to the required policies that confirm the insurer is obligated to send notice to Owner as required herein, must accompany all certificates of insurance.

- D. If any subcontractors are utilized, Vendor shall require all subcontractors to maintain commercial general liability insurance, business auto liability insurance and workers compensation and employer's liability insurance to the same extent required of Vendor. The Vendor shall furnish subcontractor's certificates of insurance and required endorsements to Owner immediately upon request.
- E. Failure of Owner to obtain such certificates or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Vendor's insurance requirements.
- F. By requiring such insurance and insurance limits herein, Owner does not represent that coverage and limits will necessarily be adequate to protect Vendor, and such coverage and limits shall not be deemed as a limitation on Vendor's liability under the indemnities granted to Owner.
- G. If the Owner is damaged by the failure or neglect of Vendor to purchase and maintain insurance as required herein, then the Vendor shall bear all reasonable costs properly attributable thereto.
- H. Loss of or damage to any equipment to be provided under the Contract Documents shall be at the sole risk of the Vendor until Substantial Completion.

3.02 Vendor's Insurance

Vendor shall purchase and maintain the following insurance coverages throughout the term of the Contract Documents for not less than the limits specified below or required by law, whichever is greater:

- A. **Commercial general liability** insurance that insures against claims for bodily injury, property damage, personal and advertising injury arising out of or in connection with Vendor's Work, including coverage for claims arising out of liability assumed under the Contract Documents. The minimum limits of liability for this insurance are \$1,000,000 combined single limit for each occurrence; \$1,000,000 combined single limit general aggregate; and \$1,000,000 combined single limit for products/completed operations aggregate. Any general aggregate limit shall apply on a per project basis.

This insurance shall not afford coverage on a "claims made" basis without the prior written approval of Owner.

- B. **Business auto liability insurance** with a minimum combined single limit of \$1,000,000 per accident and including coverage for bodily injury and property damage claims arising out of the ownership, maintenance or use of any auto and include coverage for Vendor from bodily injury and property damage claims arising out of liability assumed under the Contract Documents.
- C. **Workers compensation insurance** with statutory benefits as required by any state or Federal law, including standard "other states" coverage and employers liability insurance with minimum limits of \$100,000 each accident for bodily injury by accident, \$100,000 each employee for bodily injury by disease and \$500,000 policy limit for bodily injury by disease.
- D. **Personal property in transit, transportation or motor truck cargo insurance** with limits not less than 100% of the replacement cost of the personal property including equipment to be transported by Vendor (or any subcontractor) under the Contract Documents. Such insurance shall be written on all risks basis and be in effect until Final Acceptance.

4.00 ARTICLE 4 - VENDOR'S RESPONSIBILITIES

4.01 SERVICES, MATERIALS AND EQUIPMENT:

- A. Unless otherwise specified in the Contract Documents, Vendor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, startup and completion of the Work.
- B. All Materials/Equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner.
- C. All Materials/Equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned and conditioned in accordance with instructions provided by manufacturer and/or supplier, except as otherwise may be provided in the Contract Documents.

4.02 PRODUCTS BY NAME/OR “APPROVED EQUAL:” Products by name are intended to be descriptive of quality, workmanship, finish, function, and approximate characteristics desired and are not necessarily intended to be restrictive. Substitution of products for those named may be considered, but must be approved by Owner and with the condition that said product is equal or superior in quality, workmanship, finish, function, and approximate characteristics to that specified by the Contract Documents. Owner will be the sole judge of the equivalences. Please see Technical Specifications for requirements.

4.03 REJECTED MATERIAL: Vendor shall, at his/her own expense, replace or satisfactorily adjust or repair all Materials/Equipment rejected for failure to comply with the Contract Documents.

5.00 ARTICLE 5 - DELIVERY

The delivery of the Intravenous Infusion Pumps shall be to the following location:

Sussex County EMS # 8 Mulberry Street Georgetown, DE 19947

Vendor shall coordinate the delivery to allow an authorized representative of Owner to inspect the EMS Intravenous Infusion Pumps. If said representative finds the supplied EMS Intravenous Infusion Pumps to be defective, damaged or if said EMS Intravenous Infusion Pumps fails in any way to meet the specifications set forth herein, the items in question may be rejected at the sole discretion of Owner.

6.00 ARTICLE 6 - CONTRACT TIME

6.01 The EMS Intravenous Infusion Pumps shall be delivered to the site defined in Article 5.00, by the Vendor within the delivery time listed on the bid **form not to exceed June 30, 2021**. The Delivery Time may be extended, in the sole and absolute discretion of Owner, with good cause shown.

GENERAL

1.02 SHIPPING, DELIVERY, STORAGE & HANDLING

- A. All EMS Intravenous Infusion Pumps shall be properly protected such that no damage will occur from the time of shipment until the time of delivery.
- B. County shall be responsible for inspecting all devices upon arrival. County shall notify the Vendor within 24 hours of any damage.

1.03 WARRANTY

2 year manufactures 100% replacement warranty shall be included

ATTACHMENT A: TECHNICAL SPECIFICATIONS

Specification	Specifics
IEC 60601-1-1	Must meet- Requirements for medical electrical equipment and medical electrical systems intended for use in emergency medical service environment.
SAE J3043 - J2917	Must meet frontal, rear & side impact standard
Dimensions	Small as possible not to exceed 6" T X 4" W X 2" D
Weight	may not exceed 4 pounds in weight
Pumping mechanism	Single channel volumetric, with integral pressure sensor
Infusion delivery modes	Continuous (with and without a secondary line), PCA, Intermittent, Multi-step
KVO Rate capable	Up to 20 mL/h in increments of 0.1 mL/h
Accuracy of device	+ or - 2.5% (subject to external conditions such as tubing, pressure,
Defibrillation proof	must be with max 1 second recovery time
Flow rate parameters	0.1 - 99.9 mL/h in increments of 0.1 mL/h
	100 - 999 mL/h in increments of 1 mL/h
	0.1 - 9999 mL in increments of 0.1 mL
Infusion device type	Volumetric, peristaltic
External power supply	110V 50-60 Hz, 0.6A
Battery	Rechargeable Li-Ion battery 7.4V,
	1960 mA/h
	24 hrs @ 125 mL/h (with a fully charged battery, and backlight off)
	Recharge time: up to 6 hrs (when pump is not in operation)
Adaptor	AC adaptor 110 VDC/2.0A
Fuse rating	T1.6A, 250V
Downstream occlusion	up to 17.4 PSI (1.2 bar or 900 mmHg)
Operating temperature	40 degrees to 100 degrees Fahrenheit

Newspaper/Web Ad

**Sussex County Government – Intravenous Infusion Pump
INVITATION TO BID**

Sussex County Government will receive sealed competitive proposals (“Bid”) for the purchase of intravenous infusion pump for use by our Emergency Medical Services Department. Sealed bids must be received by Sussex County Government, c/o Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, until 1:00 p.m., local time, on February 25, 2021. To be considered, price proposals must be submitted in writing and respond to the items outlined in the request for proposal (RFP).

Interested parties must submit two (2) written proposals to the Sussex County Government, Attention: Gina A. Jennings, Finance Director, Sussex County Administrative Office Building, 2 The Circle, P.O. Box 589, Georgetown, DE 19947, by 1:00 p.m., February 25, 2021 at which time the proposals will be publicly opened, read aloud with recording only the name of the respondent(s).

All other information shall be confidential.

Bids are being sought from vendors to supply the following types:

- Up to 45 portable Intravenous Infusion Pump devices with cases & stretcher mounts
- Up to 200 consumable pump circuits
- Up to 8 hours support for Delaware State Protocols drug library development
- Up to 4 hours onsite for train the trainer professional services

The request for proposals may be obtained by visiting Sussex County’s website <http://www.sussexcountyde.gov/legal-notices/bids>. Questions shall be directed to Robert Schoonover BS, NRP 302-855-5506 or rschoonover@sussexcountyde.gov. If necessary, an addendum will be issued to address questions received.

A formal pre-bid will not be held.

In its sole discretion, Sussex County Government reserves the right to extend the time and place for opening bids from that described in the advertisement by providing not less than two (2) calendar days’ notice, by posting an addendum on the Sussex County website.



Master Medical Equipment
PO Box 11476
Jackson, TN 38308
US
866-468-9558

QUOTATION

Order Number	
1001476	
Order Date	Page
2/17/2021 12:46:23	1 of 2

Quote Expires On: 3/19/2021

Bill To:

Sussex County Government Gina Jennings
2 the Circle
Box 589 Finance Director
Georgetown, DE 19947

302-855-5506

Ship To:

Sussex County EMS #8
Mulberry Street
Georgetown, DE 19947

Customer ID: 23981

Requested By: Robert Schoonober

PO Number	Ship Route	Account Manager	Sales Representative
		CARRIE.KASTNER	Carrie Government

Quantities		Item ID	Pricing UOM	Unit Price	Extended Price
Ordered	UOM	Item Description			

Delivery Instructions: Liftgate Freigh

45	EA	EIT17000-028-0072 Sapphire Multi-Therapy Infusion Pump Kit comes with cradle, charger, 2 year warranty	EA	1,995.00	89,775.00
45	EA	EIT15020-010-0002 Sapphire Travel Case	EA	80.50	3,622.50
200	EA	EIT12003-000-0012 Microbore Infusion Set With Female Luer Lock, FX Administration Cassette, Slide Clamp, Needleless Y-Site and Spin Male Luer Lock (Half Set)	EA	8.10	1,620.00
1	EA	MISC PARTS Miscellaneous Parts 4 HOURS ON-SITE TRAIN THE TRAINER EDUCATION	EA	1,600.00	1,600.00
45	EA	FERFA910A670-G Single Unit Sapphire Mount, Ground with 1 Telescoping IV Pole	EA	667.00	30,015.00
1	EA	MISC PARTS Miscellaneous Parts Up to 8 hours support for Delaware State Protocols drug library development- included with pump purchase	EA	0.00	0.00



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PO Box 11476
Jackson, TN 38308
US
866-468-9558

QUOTATION

Order Number	
1001476	
Order Date	Page
2/17/2021 12:46:23	2 of 2

Quote Expires On: 3/19/2021

Quantities		Item ID	Pricing	Unit Price	Extended
Ordered	UOM	Item Description	UOM		Price

Delivery Instructions:Liftgate Freigh

Total Lines: 6

SUB-TOTAL: 126,632.50

TAX: 0.00

Total Freight In: 0.00

Total Freight Out: 250.00

TOTAL FREIGHT: 250.00

AMOUNT DUE: 126,882.50

U.S. Dollars

Camie
Hester
2.17.21



Sapphire Multi-Therapy Infusion Pump

FOR EMS

The **Solution** for
pre-hospital infusion

When every second counts,
Sapphire Multi-Therapy IV infusion pump delivers
even under the most demanding conditions

We have designed Sapphire to be **small, lightweight & sturdy** the perfect partner for any pre-hospital clinician, no matter the environment

Sapphire Infusion Device: Emergency Responder Ready Features

- + Intuitive user interface
 - + Highly customizable, with versatile programming options
 - + Fast setup and programming
 - + Extensive drug library capability with simple search feature
 - + Half Set available
- + Approved for air and ground transport*
 - + Multiple mounting and carrying solutions**
 - + Durable design with a small footprint
 - + Long battery life
 - + Reliable and cost effective

* IEC 60601-1-12 - Requirements for medical electrical equipment and medical electrical systems intended for use in the emergency medical service environment.

** SAE J3043 - J2917 Frontal Impact | J3044 Rear Impact | J2956 Side Impact



Dimensions	143 x 96 x 49 mm (5.63 x 3.78 x 1.93 in.) (H x W x D)
Weight	418 g (14.7 oz.) (excluding battery)
Indications	Intravascular, subcutaneous, intra-arterial and epidural
Indicated Use	The pump is intended to be used by licensed health care professionals in a clinical environment, home users in an ambulatory environment and in pre-hospital medical air and ground transportation
EMS Standard	IEC 60601-1-12 - Requirements for medical electrical equipment and medical electrical systems intended for use in the emergency medical services environment.
Drug Library	Holds up to 40 different clinical care areas and 1,000 drugs per area
Infusion Device	Volumetric, peristaltic
Delivery Modes	Continuous, PCA, Intermittent, Multi-Step, TPN, Epidural
Accuracy	%2.5± under nominal conditions (per IEC 60601-2-24 standard)
Flow Rate	0.1 - 999 mL/h 0.1 - 99.9 mL/h in increments of 0.1 mL/h 100 - 999 mL/h in increments of 1 mL/h
Volume (VTBI)	0.1- 9999 mL in increments of 0.1 mL
Power Supply	100 - 240V 50-60 Hz, 0.6A
Battery Type	Rechargeable Li-Ion battery 7.4V, 1960 mA/h
Battery Life	24 hrs @ 125 mL/h Recharge time: up to 6 hrs
Downstream Occlusion	Up to 17.4 PSI (1.2 bar or 900 mmHg)
Temperature	Operating Temperature: +5° (41°F) to 40°C (104°F) Storage/Transiet Temperature: -40°C (-40°F) to +70°C (+158°F)



Make a difference when Every Second Matters

We know that in an emergency, every second counts. Sapphire's simple single hand cassette insertion, quick set-up and intuitive workflows can improve response time so you can focus on saving lives



Overcome harsh Conditions

We understand life in a prehospital environment is filled with surprises and challenges. Sapphire is a durable and sturdy performer. Built to withstand drops and bumps, as well as splashing fluids, with a touch screen that can be operated even when wet, giving you the confidence needed to initiate an infusion anytime, anywhere



Respond with Precision

We understand the unique needs of adult, pediatrics, and other populations. Sapphire can safely manage infusions for each of your patient sets with a wide flow rate range, industry-leading flow rate accuracy, and exceptional flow continuity. Preset programs, can be configured to accommodate a variety of protocols and streamline pump programming



Control your Investment

We know the costs of infusion pump maintenance and we offer a variety of Extended Service Programs to meet the needs of your organization. We can provide the tools and training to complete maintenance activities independently, minimizing downtime and reducing operational costs





Contact Info

Israel

Q Core Medical Ltd.
29 Yad Haruzim St., P.O. Box 8639
Netanya 4250529, Israel
Tel: +972.73.2388888
Fax: +972.73.2388800
Email: support@Qcore.com
www.qcore.com

U.S. & Canada

65 Enterprise 3rd Floor Aliso Viejo,
CA 92656
Tel : 877-541-9944 | 949.303.7845
Fax : 949-288-5482
Email : customerservice@eitangroup.com
www.eitangroup.com

Manufactured by Q Core Medical

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
sussexcountye.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Banks Property Expansion of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area)
- Includes parcel 233-11.00-243.00 located along Dupont Blvd. Route 113.
- The Engineering Department has received a request from Beacon Engineering Inc. on behalf of their client Banks Properties, LLC the owners/developers of the proposed Banks Property with a proposed use as a shopping center.
- The Banks Property shopping center is anticipating 33 EDUs, but no tenants have yet been secured.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area at this time with a Public Hearing date proposed for May 11, 2021.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

 Parcel 233-11.00-243.00 Existing SSD

 Parcel 233-11.00-243.00 Existing SSD



0 70 140 280 Feet

2/22/2021



—BEACH-AIR—
LANDING RD

—PHOENIX-AV—

-UNION-GT-

TOWN

47
18.40 Ac.

45
1.40 Ac.

244

9.35 Ac.

243
7.71 Ac.
PB 261-31

242
1.08 Ac.
PB 261-31

241
4.35 Ac.
PB 261-31

26
21.11 Ac.
PB 261-31

B

240

1.96
Ac.

A

QUARTER
MILE
DR

283.25

275

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
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Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Pintail Pointe Area of the Sussex County Unified Sanitary Sewer District

PERMISSION TO POST FACT SHEET

- Early March the Engineering Department received a list of petitioners requesting that Sussex County government establish a sanitary sewer district not limited to but including all lands known as Pintail Pointe in Milton Delaware for the preservation of public health.
- The County has been receiving interest lately from various residents and has had an inquiry from council members.
- The distance to existing County infrastructure prompted us to direct them to a nearby private wastewater utility.
- A Private wastewater utility had been contacted and provided an estimated cost of the project. Impact to the residents is substantial due to the limited funding options available to the private wastewater utility.
- DNREC in conversation stated that a Notice of Violation to the Pintail Pointe Owners Associate Inc. was being considered.
- A sufficient number of valid Petitions have been received, (59), some being multiple petitions from legal voters in the same household. There are 39 residential lots in the community.
- The Engineering Department would like to request for permission to prepare and post notices for a Public Hearing to establish a boundary. The Engineering Department will present a proposed boundary and explain the County Rate structure.
- The Public Hearing on the Boundary is currently scheduled for April 27th, 2021 at the regularly scheduled County Council Meeting. There will be a presentation, possible audience input. Based on the urgency of this project Council will be asked to consider adopting the Resolution for the boundary at that time.



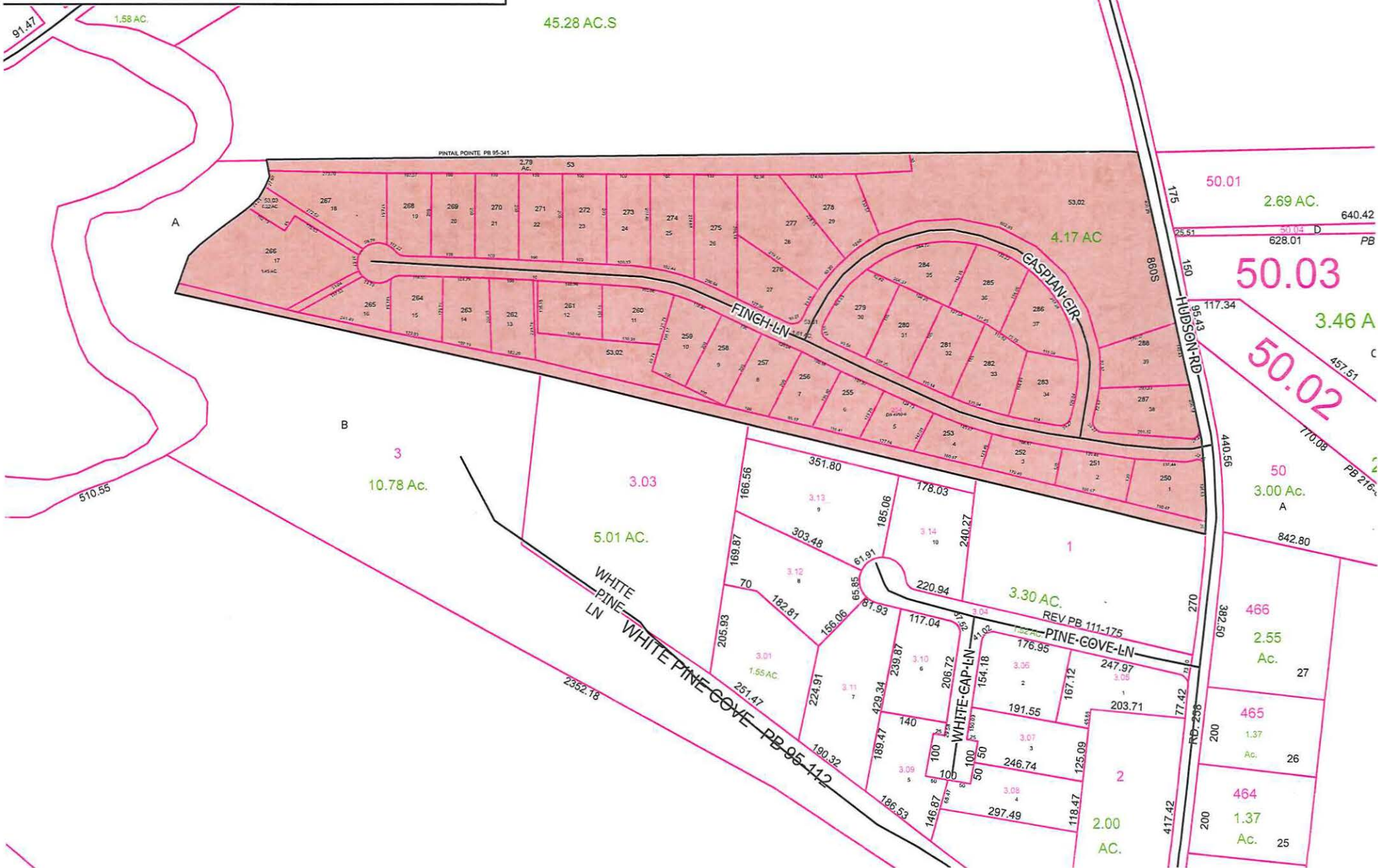
Permission to Prepare and Post Notices Pintail Pointe

Pintail Pointe Subdivision



0 100 200 400
Feet

3/10/2021



ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountysde.gov



Sussex County

DELAWARE
sussexcountysde.gov

Memorandum

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

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

RE: ***Pintail Pointe, Consideration of Owners Assoc. Interim Sewer Operations & Transition Agreement***

DATE: March 23, 2021

Pintail Pointe is a 39-lot subdivision off Hudson Road south of Milton. The community is served by an on-site wastewater system regulated under Title 7 of the Del. Code Chapter 60, Regulations Governing the Design, Installation, & Operation of On-site Wastewater Treatment and Disposal Systems. The system is operating under State permit No.208427-OP issued to the Pintail Pointe Owners Association (PPOA).

Late last year the licensed system operator working for the PPOA indirectly through their management company left with little notice. The PPOA, despite numerous attempts, was not able to secure a new licensed operator resulting in a significant performance reduction and ongoing permit exceedances.

PPOA Board representatives reached out to DNREC and the Sussex County Engineering Department to develop a way forward. Establishing a Sussex County Sewer District Area was the preferred course of action. Since then, PPOA representatives have presented the County Engineering Department with over fifty (50) eligible petitions to establish such a sanitary sewer district area pursuant to Title 9 Del. Code, § 6702 with the ultimate goal of connecting to the central sewer system.

In the interest of an orderly transition and for the protection of the environment, the PPOA Board requested on March 10, 2021 the drafting of a transition agreement between the County and PPOA. Subsequently the County Administrator and the County Engineer prepared the attached agreement for Council's consideration. To be fully executed the PPOA Board must



follow the Pintail Pointe bylaws and call for a board meeting at which they would vote on the agreement. The agreement entails the following terms & details:

a. Timing

- i. Sussex County Council approves the agreement and authorizes staff to develop an interim disposal approach.
- ii. The HOA Board convenes the official board meeting and votes to authorize the Board President to sign the agreement.
- iii. Sussex Engineering Department applies to DNREC for a permit modification.
- iv. DNREC approves the permit modification triggering the “effective” date of the agreement.
- v. Sussex County staff and contractors begin remediation work, including pump & haul activities.

b. Details

- i. The County will not engage in any activity prior to the permit approval. Up to and until that time, PPOA is responsible for the system.
- ii. Expenses incurred by the County maintaining and temporarily fixing the system will be billed to PPOA.

The subsequent creation of the Pintail Pointe Sussex County Sanitary Sewer District Area creation will unfold as follows:

- i. County Council accepts the petitions and sets a date for the official public hearing.
- ii. Following the official public hearing, County Council sets a date for the required referendum.
- iii. Following a positive referendum outcome County Council establishes the Sewer District Area.
- iv. Sussex County Engineering Department submits the project for the connection to the Sussex County regional sewer system to the State Revolving Fund for funding.
- v. Once project receives funding, the system is connected and the PPOA permit retired.

It is important to note that all costs incurred before the Sewer District Area is officially established will be invoiced to the PPOA; all costs incurred after the district is formed will be rolled up into the project resulting in an assessment over the life of the loan.

In summary, the Engineering Department requests acceptance of the Interim Sewer Operations & Transition Agreement and authorization to design system modifications for submittal to DNREC.

Hans M. Medlarz
County Engineer
Sussex County
PO Box 589
Georgetown, DE 19947

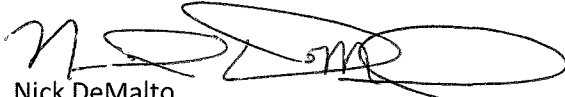
March 10, 2021

Dear Mr Medlarz:

I'm writing to inform you that the Pintail Pointe Home Owners Association voted unanimously to request a transition agreement between Sussex County and the Board regarding our sanitary sewer system until such time as a sewer district can be established by Sussex County Council to provide the Pintail Point residents central sewer services.

Thank you for your assistance.

Sincerely,


Nick DeMalto

President,
Pintail Pointe Home Owners Association

INTERIM SEWER OPERATIONS & TRANSITION AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2021, by and between the PINTAIL POINTE OWNERS ASSOCIATION, Inc., a residential corporation of the State of Delaware, party of the first part, hereinafter referred to as “PPOA”

-AND-

SUSSEX COUNTY, a political subdivision of the State of Delaware, party of the second part, hereinafter referred to as “COUNTY.”

WITNESSETH:

WHEREAS, PPOA representatives have presented the County Engineering Department with over fifty (50) eligible petitions to establish a sanitary sewer district pursuant to Title 9 Del. Code Title 9, § 6702, and;

WHEREAS, on March 23, 2021 County Council set a date for a public hearing on the question of organizing a Pintail Pointe Sewer Area of the Unified Sussex County Sanitary Sewer District, and;

WHEREAS, PPOA desires to engage in an interim sewer operations and transition agreement with the COUNTY, hereinafter referred to as the “Agreement”, and;

WHEREAS, PPOA and COUNTY agree that the Agreement shall start at the time DNREC issues a construction permit for the on-site system modifications and shall expire when COUNTY COUNCIL adopts the Pintail Pointe Sewer District Area at which time the members of PPOA shall transition to individual COUNTY sewer account customers, and;

WHEREAS, COUNTY’s Engineering Department will investigate current conditions and expeditiously submit a permit modification request to DNREC at no cost to PPOA, and;

WHEREAS, PPOA agrees that it would be the most cost-effective alternative for the COUNTY to assist in the operation of the residential community wastewater system until such time the flow is redirected to a regional wastewater treatment facility and PPOA surrenders its State issued GWD permit no. 208427-OP anticipated on or before December 31, 2023, and;

WHEREAS, PPOA has requested, and the COUNTY has agreed, to allow this cooperation to proceed where PPOA would reimburse the COUNTY for the costs incurred during the term of the Agreement.

NOW, THEREFORE, the parties hereto agree that the COUNTY will facilitate pump & haul services and part-time on-call mechanical/electrical staffing assistance as needed. COUNTY reserves the right to utilize private contractors, including commercial haulers, on an as-needed basis.

BE IT FURTHER AGREED that the COUNTY will seek a DNREC permit to construct and a modification of the GWD permit no. 208427-OP to operate in the following manner:

1. Modify existing package treatment plant to function as a baffled septic tank.
2. Either install an emergency drain field in the permitted spare area or repair the existing drain field.
3. Modify the effluent transfer pump station as needed.

BE IT FURTHER AGREED that PPOA reimburses COUNTY for all costs incurred, including staffing, equipment, design and construction services in the performance of the aforementioned scopes and that the COUNTY will submit quarterly invoices due within no more than thirty (30) days of receipt of invoice by PPOA and that any unpaid balance of PPOA's invoices at the end of term of the Agreement shall be deemed liens against all parcels in Pintail Pointe in equal amounts.

BE IT FURTHER AGREED that PPOA shall transfer, at no cost to the COUNTY, the wastewater assets within thirty (30) days after sewer district area creation in the following manner:

1. PPOA's pump station & treatment site, tax parcel 235-16.00-53.03 shall be turned over in fee simple to COUNTY.
2. PPOA shall grant twenty (20) feet wide easements for all sewer gravity and forcemains.
3. PPOA shall grant blanket access rights over and across all subdivision streets.

BE IT FURTHER AGREED that PPOA shall retain ownership of all assets during the term of this Agreement and assumes any and all liability, insurance obligations, as well as DNREC legacy violations under State issued GWD permit no. 208427-OP.

BE IT FURTHER AGREED that PPOA shall release and COUNTY shall assume all fixed assets in as-is condition at the time of system transfer and that COUNTY shall respond to Miss Utility call outs based on system design information but not assume any liability for accuracy.

PPOA FURTHER AGREES to hold harmless, indemnify and defend COUNTY, its appointed and elected officials, officers, directors, employees, agents and consultants and its personal representatives, successors and assigns (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or death of any person, or physical damages to any property, resulting from any act, omission, condition, or other matter related to or occurring or about the leased land, regardless of cause, unless due to the gross negligence or willful misconduct of any of the Indemnified Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper corporate officers and their respective corporate seals to be hereto affixed, the day and year first above written.

PINTAIL POINTE OWNERS ASSOCIATION, Inc.

Attest: _____
Secretary

By: _____
Nicholas M. DeMalto, President

SUSSEX COUNTY

Attest: _____
Clerk, Sussex County Council

By: _____
Michael H. Vincent, President

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
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RECORDS MANAGEMENT	(302) 854-5033
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Sussex County

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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 Green
The Honorable Douglas B. Hudson
The Honorable Mark Schaeffer

FROM: Hans Medlarz, P.E., County Engineer
Patrick Brown, P.E., Project Engineer III

RE: **CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENTS PROGRAM**
NEW ROAD ESTATES PAVEMENT IMPROVEMENTS, PROJECT T21-08
A. APPROVAL TO AWARD

DATE: March 23, 2021

New Road Estates is a small subdivision of 9 residential parcels located along New Lane, a private street and cul-de-sac owned and maintained by the community Homeowners Association (HOA). In July of 2019 the Community requested assistance from the County to repair and resurface their approximate 685 LF existing road through the Sussex Community Improvement Program as provided under Chapter 96 of Sussex County Code.

On March 17, 2020 Council authorized Resolution R 006 20, which accepted the subdivision into the Chapter 96 program and established an Election for the New Road Estates property owners to vote on the estimated project cost. The Election was held on November 18, 2020 with results presented to Council on December 15, 2020. Based on the affirmative Election results and Engineering Department recommendation, Council adopted Resolution R 019 20 authorizing the Department to perform the improvements and for the County Engineer and Finance Director to determine a uniform assessment rate for project billing after substantial completion.

The Engineering Department began advertisement of Sussex County Project T21-08 on February 26, 2021. Bids were received, publicly opened and read aloud at 3:00 PM on Monday, March 15, 2021. Three (3) bids were received as summarized below:

Jerry's Inc.	Milford, DE	\$ 36,349.37
ECM Corporation	Ft Washington, MD	\$ 46,760.00
George & Lynch, Inc.	Dover, DE	\$ 49,926.00



A preliminary estimate of approximately \$61,400.00 was developed in March 2020. This total project estimate was utilized for the Petition and Election stages of the Chapter 96 Program. The total project cost represented approximately \$50,800 of construction cost, \$5,600 of administration, and \$5,000 of contingency.

The Engineering Department has reviewed the bidding documents received and considers them reasonable and fair to complete the Project in accordance with the Election. Additionally, the bid results provide a funding capacity to include replacement of an existing entrance culvert under New Lane. The metal pipe is showing signs of failure with some road damage visible and can be fully replaced to provide a more effective foundation to the proposed paving work. It was initially believed that available funding would not be sufficient for a full pipe replacement and as such the bid documents included only patching above the pipe. The apparent low bidder was requested to review this pipe and provide a proposal for considering full replacement. As requested, Change Order 1 was received to replace the metal culvert at a lump sum cost of \$1,842.50.

The Engineering Department recommends Council authorize an award of Project T21-08, for the New Road Estates Paving Improvements, under the Chapter 96 Sussex Community Improvement Program, to the apparent low bidder Jerry's Inc., of Milford, DE, for the contract amount bid. Additionally, the Department recommends Council approve the proposed Change Order 1, increasing the total contract value to \$38,191.87

Construction will be scheduled for early spring and occur with administration, oversight, and inspection by the Engineering Department. Upon substantial completion an assessment roll will be developed, and a public hearing scheduled for examination and public comment, with results then presented to County Council for authorization to proceed with billing.



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **NEW ROAD ESTATES PAVEMENT IMPROVEMENTS**
2. Sussex County Project No. T21-08
3. Change Order No. 1
4. Date Change Order Initiated - 3/23/21
5.
 - a. Original Contract Sum \$36,349.37
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$36,349.37
 - d. Requested Change \$1,842.50
 - e. Net Change (No. of days)
 - f. New Contract Amount \$38,191.87
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
- X 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Based on apparent funding availability, Contractor was requested to include full replacement of a failing metal culvert pipe prior to performing the paving improvements to ensure foundation. This includes excavation, in-kind pipe replacement and backfill to grade with approved stone material, compacted.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes X No _____

E. APPROVALS

1. Jerry's Inc., Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date

Owner: Sussex County Engineering
2 The Circle
Georgetown, DE 19947
Attn: Patrick Brown

CHANGE ORDER

Change Order #: 1

Project: New Road Estates Pavement Improvements

Date: 3/18/2021

QTY	UNIT	DESCRIPTION	PRICE	AMOUNT
1	LS	Excavate, Replace Swale Pipe, Cover with GABC as per existing and Compact	\$ 1,842.50	\$ 1,842.50

Note: This change order becomes part of and in conformance with the existing contract.

We agree hereby to make the change(s) specified above at this price \$ 1,842.50
Previous contract amount \$ 36,349.37
Revised contract amount \$ 38,191.87

Accepted - The above prices and specifications of this change order are satisfactory and are hereby accepted. All work to be performed under the same conditions as specified in original contract unless otherwise stipulated.

Jerry's Inc.

Date

Signature _____
Print Name, Title

Date of Acceptance

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The Honorable Mark Schaeffer

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

RE: **Long Neck Communities, Project S21-10**
A. George, Miles & Buhr, LLC – Standalone Engineering Agreement

DATE: March 23, 2021

The Long Neck Communities Sewer Expansion is a Project which combines several areas of the sewer district having proposed work in proximity. Sussex County originally brought the Autumn Road and Branch Road areas into the sewer district via a subdivision project known as Seabrooke (fka Deerbrooke). A public hearing was held, and significant support provided for County Council to vote affirmative for the annexation of approximately 58 equivalent dwelling units (EDU). The Tucks Road area, approximately 19 EDUs, was then later added to the district based on property owner requests. A public hearing was again held and significant support received for an affirmative annexation vote. Resolutions R 017 17 and R 027 17 were authorized by Council for these area at their July 25, 2017 and October 3, 2017 meetings, respectively. The County elected to combine the expansion areas into a single project for economy of scale, believing the smaller Tucks Road area on its own would be deemed unaffordable.

Sussex County then received interest for public sewer from the Sherwood Forest North area. The Engineering Department polled the area via two mailings in the Spring of 2018 and based on responses a public hearing was held on April 25, 2019. Hearing results were presented to Council with a recommendation for expanding the sewer district. On June 11, 2019, County Council authorized Resolution R 014 19 to extend the district boundary to include nearly 170 EDUs.

The Engineering Department developed various preliminary engineering reports and applications of project funding. Since the areas noted are close to each other, flanking the north and south sides of SR 24, John J Williams Highway, it was determined best to group the work into a single project of nearly 250 EDUs, providing a streamlined financing request and a cost-effective approach to design and construction. Funding assistance has been approved through the Delaware Clean Water State Revolving Fund, and with financing in place this overarching project, Long Neck Communities Sewer Expansion, may proceed into a design, permitting and bidding phase.



A. GMB – Standalone Engineering Agreement

The Engineering Department's procurement process for 5-year Professional Service Contracts began in January 2019 with issuance of RFP 19-22, Miscellaneous Engineering Services. An explanation of the selection process and a Selection Committee recommendation were presented to Council at the May 14, 2019 session. Council approved a motion selecting three (3) consulting engineering firms to provide professional services: Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); and KCI Technologies, Inc. (KCI). Additionally, the motion authorized the Engineering Department to negotiate Base Professional Service Agreements for a five-year period of July 1, 2019 through June 30, 2024. Project-based contract amendments under the base agreements, or individual project-specific agreements if required by a funding source, were each to be brought to Council for authorization.

The Engineering Department coordinates with each consulting engineering firm to discuss various capital projects, including staffing, schedules and expertise to efficiently utilize the professional services available. In this case, GMB was asked to develop and submit a scope of work with fee estimate for preliminary design, final design, and bidding phase services. In similar fashion to recent professional services agreements for sewer expansion projects a standalone project-based agreement was coordinated.

As requested, GMB provided a Base Owner-Engineer Professional Services Agreement for design and bidding services associated with the Long Neck Communities Sewer Expansion, Project S21-10, with an estimated total cost of \$310,868.00. The Engineering Department has reviewed the agreement, scope, and cost, and recommends authorization of the agreement with GMB at the not-to-exceed value.



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(90) days from the date of delivery to you as evidenced by a copy of your receipt.

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Limitations of Remedies:

EJCDC's entire liability and your exclusive remedy shall be:

1. the replacement of the CD (if any) distributed by EJCDC, containing this document, provided such CD does not meet EJCDC's "Limited Warranty" and is returned to EJCDC's selling agent with a copy of your receipt, or
2. if EJCDC's selling agent is unable to deliver a replacement CD which is free of defects in materials and workmanship, you may terminate this Agreement by returning EJCDC Document and your money will be refunded.

As purchaser, you assume full responsibility for determining the suitability of this document to your purposes, and for the application and use of this document for contract or project purposes. To the fullest extent permitted by law, in no event will EJCDC, its sponsoring organizations, its committee members, attorneys, consultants, authorized vendors, or advisors, or their respective staff members, employees, agents, or contractors, be liable to you or any other party for any damages, including any lost profits, lost savings, contractual liabilities, disappointed commercial expectations, economic loss, or other direct, incidental, or consequential damages arising out of the content, unenforceability, insufficiency, inadequacy, use or inability to use the attached EJCDC document or any other **EJCDC Design and Construction Related Documents**, even if EJCDC has been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so portions of the above limitation or exclusion may not apply to you.

General:

You may not sublicense, assign, or transfer this license except as expressly provided in this License Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void. **If you transfer or purport to transfer such rights, duties, or obligations to another party, your license is automatically terminated.**

This License Agreement shall be governed by the laws of the State of Virginia. If you have any questions concerning this License Agreement, or any requests or inquiries regarding the EJCDC copyright, you may contact EJCDC by writing to:

EJCDC Copyright Administrator
c/o National Society of Professional Engineers
1420 King Street
Alexandria, VA 22314
Phone: (703) 684-2845
Fax: (703) 836-4875
e-mail: aschwartz@nspe.org

You acknowledge that you have read this License Agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the License Agreement and supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this License Agreement.

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National Society of Professional Engineers
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(703) 684-2882
www.nspe.org

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1015 15th Street N.W., Washington, D.C. 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by



Issued and Published Jointly by



This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

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**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between
Sussex County _____ (“Owner”) and
George, Miles & Buhr, LLC _____ (“Engineer”).

Owner’s Project, of which Engineer’s services under this Agreement are a part, is generally identified as follows:
Long Neck Communities Sewer Expansion Project, Project# S21-10

 (“Project”).

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: Professional consultant services to prepare contract documents for bidding the Long Neck Communities Sewer Expansion project, including survey, design, permitting, and other related items necessary to complete the work.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C, as applicable.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement unless otherwise noted therein. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give written notice to Engineer whenever Owner observes or otherwise becomes aware of:
1. any development that affects the scope or time of performance of Engineer’s services;
 2. the presence at the Site of any Constituent of Concern; or

3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – TERM; SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement and Term*

- A. Engineer is authorized to begin rendering services as of the Effective Date.
- B. Engineer shall provide a schedule for services specified herein and by Exhibit A, as an attachment to this Agreement, periodically updating the schedule as directed by Owner. The term of services shall be concurrent with the schedule and its revisions, as approved by the Owner.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services shall be adjusted equitably.
- D. If Engineer fails to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C, and the terms, if any, defined by an Amendment. Invoices must include a breakdown of services included. Engineer shall submit its invoices to Owner on a monthly basis. Invoices shall bear the written approval of the Owner before being paid. The Owner will approve or disapprove said invoices in a timely fashion and will make payments within 30 days of receipt of an invoice that is determined by Owner as accurate and correct.

4.02 *Non-Payment of Undisputed Invoices*

- A. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for undisputed services, expenses, and other related charges. Engineer

otherwise does not have the right to suspend services under this Agreement, except as set forth in Section 6.06.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate. Opinions of Probable Cost and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of any Total Project Costs.
- B. Opinions of Total Project Costs and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.
- B. *Technical Accuracy:* Notwithstanding any other provision, Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* All subcontracts proposed to be entered into by the Engineer pursuant to this Agreement shall be subject to the prior written approval of the Owner.

- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
1. Engineer and Owner shall comply with applicable Laws and Regulations.
 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with engineering professional rules.
 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.
- O. If at any point, Engineer becomes aware of any violation of law or regulations by Constructor or sub constructor, they have an affirmation duty to notify Owner, as their obligation to see that work is done in a safe manner and to protect the public.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, and as defined by Amendment. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services.

6.03 *Use of Documents*

- A. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- B. Upon payment to Engineer for any service or deliverable, all tracings, plans, maps, descriptions, specifications, records and documentation prepared, obtained, or kept under this Agreement by Engineer (including the copyright and the right of reuse), shall be delivered to and become property of the Owner, whether or not the Project is completed. Any such service or deliverable, including any logos or other documents, may be subject to trademark, copyright, or other licensing by Owner.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to email encryption systems or a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer may jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer. Engineer shall not commence services or work until Engineer has obtained, at Engineer's own expense, all of the insurance as required hereunder and such insurance has been approved by the Owner; nor shall Engineer allow any Consultant to commence services on any subcontract until all insurance required of the subcontractor has been so obtained and approved by Engineer. Approval of insurance required of Engineer will be granted only after submission to Owner of original certificates of insurance, in the most current ACORD format, evidencing the required liability insurance, signed by authorized representatives of the insurers or, at Owner's request certified copies of the required liability insurance policies.
- B. Liability insurance as required hereunder shall be in force throughout the term of the Agreement and for three (3) years after the date of final payment by the Owner for Engineer's services under this Agreement. Original certificates of insurance signed by authorized representatives of the insurers or, at Owner's request, certified copies of insurance policies, evidencing that the required liability insurance is in effect, shall be maintained with Owner throughout the term of this Agreement and for three (3) years after final payment by the Owner for Engineer's services under this Agreement.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, and employers' liability insurance, commercial general liability, business auto liability, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Engineer shall require all Consultants to maintain during the term of this Agreement, commercial general liability insurance, business auto liability insurance, workers' compensation and employers' liability insurance, umbrella excess liability insurance and professional liability insurance to the same extent required of Engineer in Exhibit G. ENGINEER shall furnish Consultants certificates of insurance to Owner.

- D. All insurers underwriting Engineer's or Consultant's insurance must be allowed to do business in the state of Delaware and acceptable to Owner. The insurers must have a Financial Strength Rating of A- or better, and a Financial Size Category of VII or higher in the latest evaluation by A.M. Best Company, unless Owner grants specific approval for an exception.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. To the extent commercially available, Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. To the extent commercially available, Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All insurance required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal, or any material change or reduction in coverage until thirty (30) days prior written notice has been given to Owner (not less than ten (10) days' notice is required for non-payment of premium). Therefore, a copy of the endorsements to the required policies that confirm the insurer is obligated to send notice to Owner as required herein, must accompany all certificates of insurance.
- G. No acceptance and/or approval of any insurance by Owner shall be construed as relieving or excusing Engineer from any liability or obligation imposed upon them by the provisions of this Agreement.
- H. If Engineer or any Consultant does not meet the insurance requirements of this Agreement, Engineer shall forward a written request to Owner for a waiver in writing of the insurance requirements(s) not met or approval in writing of alternate insurance coverage or self-insurance arrangements. If Owner denies the request, Engineer or Consultant must comply with the insurance requirements as specified in Exhibit G. Nothing in this provision shall be construed to allow Engineer or Consultant to permit the required insurance coverage to lapse during this Agreement.
- I. Any deductibles or retentions of \$25,000 or greater shall be disclosed by Engineer, and are subject to Owner's written approval. Any deductible or retention amounts elected by Engineer or its Consultant's or imposed by Engineer's or Consultant's insurer(s) shall be the sole responsibility of the Engineer, and are not chargeable as expenses.
- J. If the Owner is damaged by the failure or neglect of the Engineer to purchase and maintain insurance as described and required herein, without so notifying the Owner, then the Engineer shall bear all reasonable costs, damages, and other losses properly attributable thereto.
- K. Insurance provided to Owner and its appointed and elected officials, directors, officers, employees, agents and consultants under Engineer's or Consultant's liability insurance as specified in Exhibit G, including, but not limited to, umbrella and/or excess liability policies,

shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance. Any cross suits or cross liability exclusion shall be deleted from Engineer's liability insurance policies required herein.

- L. Insurance provided to Owner and its appointed and elected officials, directors, officers, employees, agents and consultants as specified herein shall be primary, and any other insurance, coverage or indemnity available to Owner and its appointed and elected officials, directors, officers, employees, agents and consultants shall be excess of and non-contributory with insurance provided to Owner and its appointed and elected officials, directors, officers, employees, agents and consultants as specified herein.
- M. If any liability insurance purchased by Engineer or by any Consultant has been issued on a "claims- made" basis, Engineer must comply with the following additional conditions. The limits of liability and the extensions to be included remain the same.
 - 1. The retroactive date (if any) of such "claims-made" coverage can be no later than the earlier of the date of this Agreement or the commencement of the Engineer's services under this Agreement.
 - 2. The Engineer or Consultant shall agree to provide certificates of insurance evidencing the above coverages for a period of three (3) years, or the applicable statute of limitations or repose under Delaware law, after final payment by the Owner for the Engineer's or Consultant's services or work under this Agreement. Such certificates shall evidence a retroactive date no later than the earlier of the date of this Agreement or the commencement of the Engineer's services under this Agreement; or
 - 3. The Engineer or Consultant shall purchase an extended (minimum three (3) years), or the applicable statute of limitations or repose under Delaware law, reporting period endorsement for each such "claims-made" policy in force as of the date of final payment by the Owner for the Engineer's services under this Agreement and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance and a copy of the endorsement itself. Such certificate and copy of the endorsement shall evidence a retroactive date no later than the earlier of the date of this Agreement or the commencement of the Engineer's or Consultant's services under this Agreement.
- N. If Engineer fails to provide evidence of required liability insurance as required in Exhibit G, the Owner shall be permitted, without prejudice to any other right or remedy, to obtain equivalent insurance to protect Owner's interests, at the expense of Engineer. Such expense shall be deducted from the Engineer's compensation.
- O. If and when required based on the decision of the Owner, Engineer will purchase the necessary pollution liability insurance with limits as required by Owner.

6.06 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend its services for up to 90 days upon seven days written notice to Engineer.

2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for undisputed invoiced services and expenses, as set forth in Paragraph 4.02.A, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.
- B. *Termination:* The obligation to provide further services under this Agreement may be terminated:
 1. For cause,
 - a. by either party upon 10 days written notice in the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Termination for nonpayment by Owner shall not be permitted, except in accordance with Section 4.02.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to the rules or regulations of an engineer as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 10 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 10 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to the date that Owner determines in its sole discretion.
 2. By Owner: If, for any reason or cause, conditions are encountered by the Owner which require termination of the Agreement and any modifications hereof, such determination to rest solely in the judgment of the Owner, this Agreement and any modifications hereof may be terminated in whole or in part upon thirty (30) days written notice to the Engineer. Upon such termination, the Engineer shall render a final terminal report and shall be due only that payment of fees specified in Exhibit C of this Agreement. The Engineer shall immediately transfer to the Owner in a neat and orderly manner the ownership of all documents relating to the Project as specified in Article 6.03.C of this Agreement. In the case of receipt of a notice of termination of this Agreement and any modifications hereof, the Engineer shall take all reasonable steps to minimize the further incurring of fees under this Agreement.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow

Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments Upon Termination:

1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located without respect to its choice of law provisions.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.

- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's actual knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer may apply to Owner for an equitable adjustment in its compensation or in the time of completion, or both.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, the Engineer shall be responsible for its own acts and those of its subordinates, employees, Consultants and subcontractors performing all work required under this Agreement, it being expressly understood that to the fullest extent permitted by law, the Engineer shall indemnify and hold harmless the Owner, and its appointed and elected officials, employees,

agents, directors, and officers, from and against any and/or all claims, suits, judgments, expense, actions, damages, and cost of every name and description, arising out of and/or resulting from the negligent performance of the Engineer's Scope of Services under this Agreement.

- B. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- C. *Percentage Share of Negligence:* To the fullest extent permitted by 10 Del. C. Section 8132, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 4. *Amendment*—The Document, Exhibit K whenever possible, that supplements the total Agreement in accordance with Paragraph 8.02.
 5. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 6. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 7. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
 8. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
 9. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution,

code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

10. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
11. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
12. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. *Construction Contract Times*—The number of days or the dates by which Contractor shall:
(a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
17. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
18. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
19. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
20. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

21. *Engineer*—The individual or entity named as such in this Agreement.
22. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
25. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under an Amendment are a part.
26. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
27. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
28. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
29. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
30. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
31. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
32. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied

to the Work, and certain administrative requirements and procedural matters applicable to the Work.

33. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
34. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
35. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
36. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
37. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
38. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
39. *Agency* – The Rural Utilities Service or any designated representative of Rural Utilities Service, including USDA, Rural Development.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included*:

- A. Exhibit A, Engineer’s Services.

- B. Exhibit B, Owner's Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work.
- F. Exhibit F, Construction Cost Limit. **Not Used**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability. **Not Used**
- J. Exhibit J, Special Provisions.
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents. An Amendment may also designate a specific representative for that Project, which shall supersede the representative designated on the signature page of this Agreement.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.05 Federal Requirements

- A. Agency Concurrence. Signature of a duly authorized representative of the Agency in the space provided on the signature page of EJCDC form E-500 (2014) hereof does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency's applicable requirements. This Agreement shall not be effective unless the Funding Agency's designated representative concurs. No amendment to this Agreement shall be effective unless the Funding Agency's designated representative concurs.
- B. Audit and Access to Records. Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.
- C. Restrictions on Lobbying. Engineer and each Consultant shall comply with "Byrd anti-lobbying amendment (31 U.S.C. 1352)" if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal contract, grant or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to Owner. Necessary certification and disclosure forms shall be provided by Owner.
- D. Suspension and Debarment. Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – lower tier transactions," to the Owner who will forward it to the USDA, Rural Development processing office.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

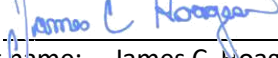
Owner: Sussex County

By: _____
Print name: Michael Vincent
Title: President, Sussex County Council
Date Signed: _____

Address for Owner's receipt of notices:
P.O. Box 589
Georgetown, DE 19947

Designated Representative (Paragraph 8.03.A):
Hans Medlarz, P.E.
Title: County Engineer
Phone Number: 302-855-7718
E-Mail Address: hans.medlarz@sussexcountymd.gov

Engineer: George, Miles & Buhr, LLC

By: 
Print name: James C. Hoageson, P.E.
Title: Sr. Vice President
Date Signed: 3/19/2021

Engineer License or Firm's Certificate No. (if required):

State of: MD #25047

Address for Engineer's receipt of notices:
206 West Main Street
Salisbury, MD 21801

Designated Representative (Paragraph 8.03.A):
James C. Hoageson, P.E.
Title: Sr. Vice President
Phone Number: 410-742-3115
E-Mail Address: jhoageson@gmbnet.com

PREVIOUSLY APPROVED FORM

ATTEST:

Clerk of the Sussex County Council

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase – This phase shall include review and use of the existing Preliminary Engineering Report (PER) and Environmental Information Document (EID), dated April 2020, previously completed by Owner, to further analyze and develop the selective alternative to advance design phase activities, but specifically excludes production of new PER and EID documents.

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
 - a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: Review and use Owner provided PER and EID to analyze and advance design phase activities for public sewer expansion.
 - b. In addition, Engineer must identify, study, and evaluate multiple potential alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree with Agency concurrence that only one feasible solution exists. The number of alternative solutions should be appropriate to the specific project as concurred in by the Agency.
2. Identify potential solution(s) to meet Owner's Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.
4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.
6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.

7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.
 8. Review and utilize the existing and Agency approved report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs. The Report mentioned in paragraph 1.01.A.8 of Exhibit A to the Agreement is the Preliminary Engineering Report as defined in RUS bulletin 1780-2. This document must meet customary professional standards as required by 7 CFR 1780.55. The Report must be concurred in by the Agency.
 9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.
 10. When mutually agreed, and approved by the Agency, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."
 11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.
 12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.
 13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.
 14. Perform or provide the following other Study and Report Phase tasks or deliverables: Prepare and present a recommended scenario map for providing public sewer based on review and confirmation of conditions, along with any applicable alternative options necessary for Owner confirmation of design option.
- B. Engineer's services under the Study and Report Phase will be considered complimentary and concurrent with preliminary design phase and complete in accordance with A1.02.

A1.02 *Preliminary Design Phase*

- A. After acceptance by Owner and concurrence by Agency of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:
1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
 2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner and Agency during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
 3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
 4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
 5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
 6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
 7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement

documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable. Engineer must also incorporate all Agency regulations, forms, and design and construction standards applicable to the project in development of the documents indicated in this Article.

9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:

a. Survey & Base mapping Scope: Topographic survey of the project area to aid in the design of the gravity sewer collection system with a focus of locating and identifying existing utilities, grades, easements, property lines, etc. Base mapping of existing utilities will be established with communications with Miss Utility and supplemented with a private utility locator for key areas. Available design drawings and as-builts of existing utilities will be requested from the utility provider for review and incorporation into the base drawings. Generation of easement plates for Owner's use in obtaining and recording necessary easements.

b. Geotechnical Investigation Scope Includes various soil borings and pavement corings to establish ground water elevation, soil conditions, and road section composition.

10. Furnish three (3) review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner in accordance with the approved schedule attached, and review them with Owner. Within 14 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Owner approves Preliminary Design Phase deliverables and provides review comments to Engineer.

A1.03 Final Design Phase

A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities;

and revise the Drawings and Specifications in response to directives from such authorities, as appropriate. Any and all permit fees shall be the responsibility of the Owner. The following agency review / permits are anticipated:

- a. DelDOT – Utility Construction Permit for installing sewer infrastructure within DelDOT jurisdiction; Maintenance of Traffic is anticipated as “Typical Applications” and will be integral with the Utility Construction Permit. No pedestrian detour plans, or vehicular detour plans are anticipated. Assist Owner with electronically filing the DelDOT Utility Construction permit via the Utility Company Portal.
 - b. Sussex Conservation Application for Standard Plan Approval – Minor Linear Utility Disturbances
 - c. DNREC Application for the Construction of Wastewater Collection and Conveyance Systems; Notice of Intent (eNOI) for Construction Stormwater General Permit.
4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
 5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
 6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
 7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
 8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
 9. Perform or provide the following other Final Design Phase tasks or deliverables:
 - a. The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the drawings and specifications and certify that the final drawings and specifications comply with those standards.
 - b. Wastewater gravity collection system design with production of final plan and profile sheets, construction details, and project specifications.
 - c. Public Outreach and Public Meeting; up to two (2) meetings are anticipated.

- d. Other; Items as deemed necessary by the Owner and the Engineer for the completion of the Final Design and Construction Contract Documents which are not defined within, of which shall be performed upon written authorization by the Owner; the Engineer shall be compensated in accordance with the established Hourly Rates and Expenses.
- 10. Furnish for review by Owner, its legal counsel and Agency, and other advisors, three (3) copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, in accordance with the approved schedule attached, and review them with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
 - 11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit three (3) final copies of such documents to Owner within 14 days after receipt of Owner's comments and instructions.
 - 12. Provide the Owner and Agency with a written certification that the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables comply with all requirements of Agency. Use the Engineer's Certification of Final Plans and Specifications (Attachment J of the RUS Bulletin 1780-26) for this purpose.
 - 13. Services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the show drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver apply to this contract.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables and all final design phase deliverables have been accepted by Owner.

- C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1). If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
 - 1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
 - 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents. Obtain Agency concurrence on any addenda that modify the bidding documents. Obtain prior concurrence where possible.
 - 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
 - 4. Consult with Owner as to the qualifications of prospective contractors.
 - 5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 - 6. The Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors prior to award of contracts for the Work. Engineer shall issue a bid addendum for any and all approved "or equals" and substitutes. Review of substitutes and "or equals" shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
 9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables: Upon award of the construction contract, the Engineer shall furnish to Owner five executed copies of the Contract Documents and one electronic copy of the signed documents, including Drawings and Specifications.
 10. Provide copies of Manufacturers' Certification letters to the bidders on any brand name iron and steel products along with the Plans, Specifications and Bidding Documents. Manufacturers' Certification Letters are to be included in the Bidding Documents and must be kept in the engineer's project file and on site during construction.
 11. Provide copies of Manufacturers' Certification letters to the Contractor on any brand name iron and steel products along with the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certification Letters must be kept in the engineer's project file and on site during construction.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.05 *Construction Phase – All components of Section A1.05 Construction Phase are NOT Included and shall be determined as necessary through Amendment to this Agreement.*

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
 2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
 3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
 4. *Pre-Construction Conference:* Participate in and chair a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* Maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
 - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for

the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

- c. The visits described in Article A1.05.A.9.a shall be at least monthly and the Engineer shall document all visits to the project with copies furnished to the Owner and Agency.
10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Owner shall render any decisions regarding the interpretations of the Construction Contract. Engineer shall provide a recommendation to Owner, if requested. All requests for information shall be handled by Engineer.
13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a recommendation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals to ensure compliance with American Iron and Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Any iron and steel products included in any submittal by the General Contractor, must include a Manufacturers’ Certification letter to verify the products were produced in the United States. Copies of Manufacturers’ Certification letters must be kept in the engineer’s project file and on site during construction. Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor’s submittal schedule that Engineer has accepted.
18. *Substitutes and “Or-equal”:* Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A. Review of substitutes and “or equals” shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Prior to approval of any substitute “or equal” obtain a Manufacturers’ Certification letter to verify the products were produced in the United States. Manufacturers’ Certification letters must be kept in the engineer’s project file and on site during construction to ensure compliance with American Iron and Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017) and subsequent statutes mandating domestic preference, if applicable.
19. *Inspections and Tests:*
- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer’s review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
 - d. Receive and review all Manufacturers’ Certification Letters for materials required to comply with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural

Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction.

20. *Change Proposals and Claims:* Change Proposals and Claims: (a) Review and respond to Owner regarding Change Proposals. Review each Change Order and within ten days after receipt of the Contractor's supporting data, send a recommendation to Owner. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that Engineer will not make a recommendation regarding the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims. Review Change Proposals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.
21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
 - a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief after reasonably diligent investigation, Contractor's Work has progressed to the point indicated, the Work is in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and

performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid unless Engineer has been made aware of such matters.

22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction contract Documents to obtain final payment. The Engineer shall prepare Record Drawings, and furnish such Record Drawings to Owner.
23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: TBD by Amendment.
 - a. Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.
25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b to the best of Engineer's knowledge, information, and belief after reasonably diligent investigation, and based on the extent of the services provided by Engineer under this Agreement).
 - a. Obtain the Contractors' Certification letter and copies of Manufacturers' Certification letters for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Engineer's, Contractors', and Manufacturer' Certification letters to the Owner and a copy of Contractor's Certification letter to the Agency. Provide a list of manufacturers of American Iron and Steel products used in the project and include manufacturer's name and location, and product(s) to the Agency.

26. *Standards for Certain Construction-Phase Decisions:* Engineer will review and provide recommendations to Owner regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase – All components of Section A1.06 Post-Construction Phase are NOT Included and shall be determined as necessary through Amendment to this Agreement.*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
3. Perform or provide the following other Post-Construction Phase tasks or deliverables: TBD by Amendment.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner in advance, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C, if previously authorized in writing.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact

statements not including preparation of the Environmental Report defined under basic services; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2, but only if the Owner's request is made after completion of the Study and Report Phase.
5. Services required as a result of Owner's providing incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;
 - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.

9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).
12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
17. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
18. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
19. Preparation of operation, maintenance, and staffing manuals.
20. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).

21. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
22. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
23. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
24. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
25. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner other than those services required in Agreement.
26. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
27. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner in writing that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services immediately upon receipt of written notice to cease from Owner.
 1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
 2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Except for those services to which Engineer provides pursuant to this Agreement, Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's recommendation, consider making available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Utility and topographic mapping and surveys.

Exhibit B – Owner's Responsibilities

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

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4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement subject to any terms and conditions of Owner.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project, as determined in Owner's sole discretion:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project.
 3. Such auditing services to ascertain how or for what purpose Contractor has used the money paid.
- G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H. Unless otherwise provided in Exhibit A or an Amendment, provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
 - J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
 - K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
 - L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
 - M. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
 - N. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
 - O. Place and pay for advertisement for Bids in appropriate publications.
 - P. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
 - Q. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- B2.02 Owners are ultimately responsible for compliance with Section 746 of Title VII of the consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference and will be responsible for the following:
- A. **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include American Iron and Steel language, accepting American Iron and Steel requirements in those documents and in the letter of conditions.
 - B. **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American Iron and Steel requirements.

- C. **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
- D. Where the owner provides their own engineering and/or construction services, **providing** copies of engineers', contractors', and manufacturers' certification letters (as applicable) to the Agency. All certification letters must be kept in the engineer's project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 of RUS Bulletin 1780-35 must be included in the Agreement for Engineering Services.
- E. Where the owner directly procures American Iron and Steel products, **including** American Iron and Steel clauses in the procurement contracts and **obtaining** manufacturers' certification letters and **providing** copies to consulting engineers and contractors.

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.
 2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
 3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
 4. The total compensation for services under Paragraph C2.01 is estimated to be \$310,868.00. See Appendix 3 for breakdown.
 5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner and Agency. See also C2.03.C.2 below.
 6. The total estimated compensation for Engineer’s services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer’s Consultants' charges.
 7. The amounts billed for Engineer’s services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer’s employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer’s Consultants' charges.

8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of July 1, 2021) to reflect equitable changes in the compensation payable to Engineer. Changes will not be effective unless and until concurred in by the Owner and Agency.

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.0].

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.
- B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. *Estimated Compensation Amounts:*
 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner and Agency written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services

are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.

- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

COMPENSATION PACKET RPR-2: Resident Project Representative – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.04 *Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment*

A. *Owner shall pay Engineer for Resident Project Representative Basic Services as follows:*

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$ TBD based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a TBD day construction schedule.
2. If rate(s) for RPR Services is not indicated in Appendix Two to Exhibit C, "Standard Hourly Rates Schedule," the Standard Hourly Rate for RPR services is \$ TBD per hour.

B. *Compensation for Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.0.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of July 1, 2020) to reflect equitable changes in the compensation payable to Engineer. Changes will not be effective unless and until concurred in by the Owner and Agency.

C. *Other Provisions Concerning Payment Under this Paragraph C2.04:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner and Agency written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at no cost.

**COMPENSATION PACKET AS-1:
Additional Services – Standard Hourly Rates**

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.
- B. *Compensation For Reimbursable Expenses:*
1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
 2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
 3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.0.
 4. The Reimbursable Expenses Schedule will be adjusted annually (as of July 1, 2021) to reflect equitable changes in the compensation payable to Engineer. Changes will not be effective unless and until concurred in by the Owner and Agency.
- C. *Other Provisions Concerning Payment for Additional Services:*
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at no cost.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Reimbursable Expenses Schedule

Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

Internal:

Photocopies:

Black & White	\$ 0.20
Color	\$ 0.50

Prints/Plots:

Black & White/Color	\$ 0.50/s.f.
Mylar	\$ 2.00/s.f.

Travel:

Mileage	\$ 0.56/mile
Subsistence (Meals & Lodging)	At Actual Cost

Overnight/Immediate Delivery

At Actual Cost

Other:

Electronic Media Copies/Transfers/File	\$ 300.00/file
Website Project File Sharing	\$ 1.00/MB/month
Construction Management Software	\$ 200.00/month
Surveying Equipment/Total Station Only	\$ 35.00/day
Surveying Equipment/Total Station + GPS Unit	\$ 150.00/day
Testing	At Actual Cost

Note: All items per each, unless noted.

See Amendment for current expense schedule.

Standard Hourly Rates Schedule

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. *Schedule is as shown on this page:*

Hourly rates for services performed on or after the date of the Agreement are:

CLASSIFICATION	HOURLY RATE
Senior Project Director	\$ 175.00 - \$ 210.00
Project Director	\$ 150.00 - \$ 190.00
Senior Project Manager	\$ 125.00 - \$ 170.00
Project Manager	\$ 105.00 - \$ 145.00
Assistant Project Manager	\$ 105.00 - \$ 135.00
Senior Project Engineer/Architect/Landscape Arch	\$ 105.00 - \$ 135.00
Project Engineer/Architect/Landscape Arch	\$ 95.00 - \$ 130.00
Graduate Engineer/Architect/Landscape Arch	\$ 85.00 - \$ 125.00
Senior Designer	\$ 80.00 - \$ 130.00
Designer	\$ 65.00 - \$ 100.00
CADD Operator	\$ 60.00 - \$ 85.00
Construction Representative	\$ 80.00 - \$ 120.00
Resident Project Representative (RPR)	\$ 55.00 - \$ 110.00
Senior Project Coordinator	\$ 80.00 - \$ 110.00
Project Coordinator	\$ 65.00 - \$ 100.00
Surveyor	\$ 95.00 - \$ 135.00
Survey Crew Chief	\$ 70.00 - \$ 120.00
Survey Technician	\$ 40.00 - \$ 80.00
Administrative/IT Support	\$ 40.00 - \$ 100.00
GIS Specialist	\$ 60.00 - \$ 95.00
Senior Technician	\$ 50.00 - \$ 100.00
Technician	\$ 30.00 - \$ 60.00

This is **Appendix 3 to EXHIBIT C**, consisting of 1 page,
referred to in and part of the **Agreement between
Owner and Engineer for Professional Services** dated _____.

Breakdown of Hourly Rate Fee Price

The Hourly Rate Fee price is broken down as shown below:

EXHIBIT A - WORK PROGRAM MANHOUR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES						
PART 1 - GENERAL						
1. Grantee			2. Grant Number			
Sussex County, Delaware						
3. Name of Consultant			4. Date of Proposal			
George, Miles & Buhr, LLC			16-Mar-21			
5. Address of Consultant			6. TYPE OF SERVICE TO BE FURNISHED			
206 West Main St			Engineering Design - Long Neck Communities Wastewater Collectio			
Salisbury, MD 21801-4907						
PART II - COST SUMMARY						
7. DIRECT LABOR			ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
	Project Director	JHW	50	\$ 190.00	\$ 9,500.00	
	Project Manager(s)	JCH	320	\$ 185.00	\$ 59,200.00	
	Project Engineer	CP	450	\$ 118.00	\$ 53,100.00	
	Graduate Engineer	JBM	420	\$ 100.00	\$ 42,000.00	
	Sr Designer	DJ	480	\$ 90.00	\$ 43,200.00	
	Project Coordinator	SLH	110	\$ 90.00	\$ 9,900.00	
	CADD	MMD	550	\$ 80.00	\$ 44,000.00	
	Surveyor	DG	280	\$ 70.00	\$ 19,600.00	
	Technician	DY	140	\$ 40.00	\$ 5,600.00	
DIRECT LABOR TOTAL:			2,800			\$ 286,100.00
8. INDIRECT COSTS			RATE	x BASE =	ESTIMATED COST	
	Overhead and Fringe		-	\$ 286,100.00	\$ -	
INDIRECT COSTS TOTAL:						\$ -
9. OTHER DIRECT COSTS						
a. TRAVEL					ESTIMATED COST	
(1) TRANSPORTATION	mileage		1,240.00	mi @ \$0.56/mi	\$ 694.40	
(2) PER DIEM	meals					
TRAVEL SUBTOTAL:					\$ 694.40	
b. EQUIPMENT, MATERIALS, SUPPLIES					ESTIMATED COST	
	plots/prints		210	\$ 3.00	\$ 630.00	
	copies b/w		2,093	\$ 0.20	\$ 418.60	
	copies color		100	\$ 0.50	\$ 50.00	
	postage		1	\$ 175.00	\$ 175.00	
	survey equipment		12	\$ 150.00	\$ 1,800.00	
EQUIPMENT SUBTOTAL:					\$ 3,073.60	
c. SUBCONTRACTS						
					Electrcial \$ -	
					Geotechnical \$ 15,000.00	
					Private Utility Locator \$ 6,000.00	
SUBCONTRACTS SUBTOTAL:					\$ 21,000.00	
OTHER DIRECT COSTS TOTAL:					\$ 24,768.00	
10. ESTIMATED COST					\$ 310,868.00	
11. FEE Included in Standard Hourly Rate					\$ -	
12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE					\$ 310,868.00	

Exhibit C – Appendix 3: Standard Hourly Rates Schedule.

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Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. Full time Resident Project Representation is required unless requested in writing by the Owner and waived in writing by the Agency.
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but

not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's and Owner's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected,

removed and replaced, or accepted as provided in the Construction Contract Documents.

- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
- g. Maintain all Manufacturers' Certification letters in the project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, as applicable.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. [Deleted].
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a

Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.

- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

- 1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
- 2. Exceed limitations of Engineer's authority as set forth in this Agreement.
- 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
- 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
- 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
- 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
- 7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
- 8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

[Notes to User]

1. Exhibit A, Paragraph A1.05.A.25 of this Agreement indicates that in connection with recommending final payment of the Construction Contractor, the Engineer will also provide a notice to Owner and Contractor of the acceptability of the Work, subject to stated limitations. The form for that purpose, "Notice of Acceptability of Work," is attached on the following pages of this Exhibit E.

2. The Notice of Acceptability of Work should be served in compliance with the requirements for service of notice under the Construction Contract. See Paragraph 18.01, Giving Notice, of EJCDC C-700 (2013), Standard General Conditions of the Construction Contract.]



NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To:

Owner

And To:

Contractor

From:

Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.

Exhibit E – Notice of Acceptability of Work.

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

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Page 2

2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

Insurance

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 Insurance

- A. Engineer shall purchase and maintain such liability and other insurance coverages for not less than the limits as is specified below or required by law, whichever is greater. The insurance shall provide coverage for the services to be performed under this Agreement, whether it is to be performed by the Engineer, or any Consultant or anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

1. By Engineer:

- a. Workers' Compensation insurance with statutory benefits as required by any state or Federal law, including standard "other states" coverage and employers' liability insurance with minimum limits:

\$100,000 each accident for bodily injury by accident;
\$100,000 each employee for bodily injury by disease; and
\$500,000 policy limit for bodily injury by disease.

Engineer shall secure a waiver of subrogation in favor of the Owner.

- b. Commercial general liability insurance which insures against claims for bodily injury, personal and advertising injury and property damage including loss of use arising out of or in connection with services under this Agreement. The minimum limits of liability for this insurance are as follows:

\$1,000,000 combined single limit - each occurrence
\$1,000,000 combined single limit – personal and advertising injury
\$2,000,000 combined single limit - general aggregate
\$2,000,000 combined single limit – products/completed operations aggregate

This insurance shall include coverage for all of the following:

1. Any general aggregate limit shall apply per project basis;
2. Liability arising from premises and operations;
3. Liability arising from the actions of independent Consultants;
4. Liability arising from completed operations with such coverage to be maintained for three (3) years after final payment ;
5. CONTRACTUAL liability including protection for Engineer from bodily injury and property damage claims arising out of liability assumed under

this Agreement;

6. Liability arising from the explosion, collapse and underground (XCU) hazards; and
7. Waiver of subrogation in favor of the Owner.

c. Excess or Umbrella Liability with minimum limits of:--

\$5,000,000 each occurrence;

\$5,000,000 aggregate other than completed operations and auto liability;
and

\$5,000,000 completed operations aggregate.

This insurance shall include all of the following coverages on the applicable schedule of underlying insurance:

1. commercial general liability;
2. business auto liability; and
3. employers' liability.

The Owner and its appointed and elected officials, employees, agents, directors and officers shall be named as additional insureds on the Engineer's commercial general liability and umbrella excess or excess liability insurance policies with respect to liability arising in whole or in part out of the Engineer's services provided under this Agreement. Such coverage shall extend to cover the additional insured(s) for liability arising out of the following:

1. On-going operations;
2. Bodily injury or property damage claims related to the Owner's general supervision of services as provided by the Engineer under this Agreement; and
3. Completed operations.

d. Business Auto Liability Insurance:

\$1,000,000 combined single limit or split liability limits of bodily injury at \$1,000,000 each person, \$1,000,000 each accident and property damage of \$1,000,000 each accident.

This insurance shall include coverage for all of the following:

1. Liability arising out of the ownership, maintenance or use of any auto;
2. CONTRACTUAL liability including protection for Engineer from bodily injury and property damage claims arising out of liability assumed under this Agreement;
3. Waiver of subrogation in favor of the Owner.

e. Professional Liability – required limits of liability:

- | | |
|---------------------|---------------|
| 1) Each Claim Made | [\$2,000,000] |
| 2) Annual Aggregate | [\$2,000,000] |

Engineers' and architects' professional liability insurance which insures against errors and omissions in rendering or failure to render engineers' and architects' professional services, including construction management if applicable, required under this Agreement. Certificates of insurance shall evidence a retroactive date no later the earlier of the date of this Agreement or the commencement of Engineer's services under this Agreement.

f. Other (specify): \$[]

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

H6.08 *Dispute Resolution*

- A. *Mediation:* Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by *mediator*. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction in Sussex County of the State of Delaware, and conducted in conformity with the Rules of the Superior Court of the State of Delaware regarding Alternative Dispute Resolutions.

This is **EXHIBIT J**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Special Provisions

Paragraph(s) [] of the Agreement is/are amended to include the following agreement(s) of the parties:

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- _____ Additional Services to be performed by Engineer
- _____ Modifications to services of Engineer
- _____ Modifications to responsibilities of Owner
- _____ Modifications of payment to Engineer
- _____ Modifications to time(s) for rendering services
- _____ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

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:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: _____
Print
name: _____

Title: _____

Date Signed: _____

PREVIOUSLY APPROVED FORM

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
sussexcountype.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: ***EMS Headquarters Training Center –Project C19-04
A. Amendment No. 1 – Additional Professional Services***

DATE: March 23, 2021

The Emergency Medical Services Department has several capital projects in the five (5) year planning period. A Public Safety Building concept was first introduced in the FY 2019 Budget Ordinance. The building's purpose is to consolidate all EMS training, administration and logistics in one facility replacing the current locations on the west side of Georgetown. The scope and cost were updated in accordance with a space allocation programming effort in the FY 2020 Budget Ordinance and further refined based on a preliminary design in the FY 2021 Budget Ordinance.

The programming and design effort required professional services and, after a publicly advertised request for proposal process, Council awarded on July 17, 2018, the EMS Department's - Architectural Consulting Services base contract to the George, Miles and Buhr, Inc. for a five (5) year term. The Public Safety Building Project C19-04 base agreement covered professional services, including survey for a full-service with a not to exceed amount of \$300,000.00 to be billed in accordance with GMB's audited hourly rates.

The initial design approach was a stand-alone fire suppression system independent of the Emergency Operations Center. However, the State's fire prevention code requires a single-entry point and the Fire Marshall would not allow an exception resulting in a full sprinkler distribution system design for the entire building. Due to the critical nature of the facility it is recommended to create a secondary backup in the form of a cooling tower.

These required specialty design services can be provided by GMB's subconsultant RMF Engineering. In order to avoid unnecessary mark-up expenses all parties agreed on a stand-



alone purchase and on October 20, 2020 Council authorized issuance of RMF Engineering's purchase order in an amount not to exceed \$31,720.00 for specialty design services.

The design package is nearly complete and a number of break out specialty scopes were created to be procured under a number of State contracts. This further increased the complexity and the previously established not to exceed amount, awarded by Council, would be exceeded during the permit resolution and bidding phase. Due the complexity of the project and the interaction with the specialty vendors the we expect a significant number of requests for information and resulting addenda to clarify the issues. Therefore, the Engineering Department recommends acceptance of GMB's amendment No.1 increasing the not to exceed threshold by \$61,500.00. GMB's construction phase services would be considered by Council at the time of bid award.

**AIA**[®]**Document G802™ – 2017*****Amendment to the Professional Services Agreement*****PROJECT: (name and address)**

EMS Addition to Sussex County Public
Safety Building
21911 Rudder Lane
Georgetown, Delaware 19947

AGREEMENT INFORMATION:

Date: 6/26/2018

AMENDMENT INFORMATION:

Amendment Number: 003

Date: March 15, 2021

OWNER: (name and address)

Sussex Co. Engineering Department
PO Box 589
Georgetown, DE 19947

ARCHITECT: (name and address)

George, Miles & Buhr LLC (GMB)
206 West Main Street
Salisbury, Maryland 21801

The Owner and Architect amend the Agreement as follows:

This amendment covers amending GMB's current design contract to include Permitting and Bidding services. Bidding Phase Services shall consist of a pre-bid conference, review of RFI's and substitution requests, issuance of addenda, public bid opening and bid award.

Services noted shall pertain to all design team consultants (architectural, structural, civil and MEP) as applicable. Estimated Reimbursable Expenses are included in the Compensation Adjustment defined below.

This amendment shall be governed by the attached General Conditions and Schedule of Hourly Rates.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment:

This amendment provides for a Sixty-One Thousand Five Hundred Dollars (\$61,500.00) increase in the current contract amount, not to exceed without approval.

Schedule Adjustment:

GMB's contract time will be increased by eighteen (18) weeks based on an estimated permitting period of six (6) weeks and bidding/contract initiation period of three (3) months. Some of this period may occur simultaneously.

SIGNATURES:

GMB

ARCHITECT (Firm name)

Morgan H. Helfrich

SIGNATURE

Morgan H. Helfrich, AIA LEED AP
Vice President

PRINTED NAME AND TITLE

March 15, 2021

DATE

Sussex County, Delaware

OWNER (Firm name)

SIGNATURE

Michael H. Vincent
President

PRINTED NAME AND TITLE

DATE

SCHEDULE OF HOURLY RATES & EXPENSES

HOURLY RATES

Effective January 1, 2021

CLASSIFICATION	HOURLY RATE
Senior Project Director	\$ 175.00 - \$ 210.00
Project Director	\$ 150.00 - \$ 190.00
Senior Project Manager	\$ 125.00 - \$ 170.00
Project Manager	\$ 105.00 - \$ 145.00
Assistant Project Manager	\$ 105.00 - \$ 135.00
Senior Project Engineer/Architect/Landscape Arch	\$ 105.00 - \$ 135.00
Project Engineer/Architect/Landscape Arch	\$ 95.00 - \$ 130.00
Graduate Engineer/Architect/Landscape Arch	\$ 85.00 - \$ 125.00
Senior Designer	\$ 80.00 - \$ 130.00
Designer	\$ 65.00 - \$ 100.00
CADD Operator	\$ 60.00 - \$ 85.00
Construction Representative	\$ 80.00 - \$ 120.00
Resident Project Representative (RPR)	\$ 55.00 - \$ 110.00
Senior Project Coordinator	\$ 80.00 - \$ 110.00
Project Coordinator	\$ 65.00 - \$ 100.00
Surveyor	\$ 95.00 - \$ 135.00
Survey Crew Chief	\$ 70.00 - \$ 120.00
Survey Technician	\$ 40.00 - \$ 80.00
Administrative/IT Support	\$ 40.00 - \$ 100.00
GIS Specialist	\$ 60.00 - \$ 95.00
Senior Technician	\$ 50.00 - \$ 100.00
Technician	\$ 30.00 - \$ 60.00

EXPENSES

All items per each, unless noted.

Internal:

Photocopies:	
Black & White	\$ 0.20
Color	\$ 0.50
Prints/Plots:	
Black & White/Color	\$ 0.50 /s.f.
Mylar	\$ 2.00 /s.f.
Travel:	
Mileage	\$ 0.56/mile*
Subsistence (Meals & Lodging)	At Actual Cost
Overnight/Immediate Delivery	At Actual Cost
Survey Crew Rates	
2 person crew	\$ 130.00/hour
3 person crew	\$ 150.00/hour
Other:	
Electronic Media Copies/Transfers/File	\$ 300.00/file
Website Project File Sharing	\$ 1.00/MB/month
Construction Management Software	\$ 200.00/month
Surveying Equipment/Total Station Only	\$ 35.00 /day
Surveying Equipment/Total Station + GPS Unit	\$ 150.00 /day

* To be adjusted annually on January 1, in accordance with the Internal Revenue Service Directives

OK Sheen



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Friends of the Georgetown Public Library Inc.

PROJECT NAME: Annual 5K Race

FEDERAL TAX ID: 51-0403103 NON-PROFIT: ☒ YES ☐ NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

☐ YES ☒ NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: To promote the functions and services of the library, and to receive and encourage financial support for the library.

ADDRESS: 123 West Pine Street

Georgetown

(CITY)

DE

(STATE)

19947

(ZIP)

CONTACT PERSON: Ivan D. Neal

TITLE: Board Member/5K Committee Chairperson

PHONE: 302.519.1928 EMAIL: ivan.neal@mchsi.com

TOTAL FUNDING REQUEST: \$500.00

Has your organization received other grant funds from Sussex County Government in the last year? ☒ YES ☐ NO

If YES, how much was received in the last 12 months? \$300.00

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? ☐ YES ☒ NO

Are you seeking other sources of funding other than Sussex County Council? ☒ YES ☐ NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 5-10 %

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|--|--------------------------------------|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input checked="" type="checkbox"/> Other <u>Programs and Operations</u> | <input type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|---|-----------------------------------|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input checked="" type="checkbox"/> Other <u>Residents of Sussex County</u> | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

50,000

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

This request is made on behalf of The Friends of the Georgetown Public Library.

Our mission is to raise money in an effort to help finance the Georgetown Public Library's budget. In the past, "The Friends" have allocated funds for the Library's e-book collection, tablets with educational testing (SAT prep, Math, Learning a foreign language, Brain games, etc) and toys for the children's area.

Throughout the year "The Friends" group hosts events to raise funding that goes directly to the Georgetown Library. The events include a 5K Race/1 Mile Walk through Georgetown, and dinner auction, two book sales, etc.

All members of the community, but especially residents of Sussex County benefit from the many services the Georgetown Public Library offers. One of the greatest opportunities to residents is the use of computers and internet access to those residents who do not have internet service (or slow internet service) in their homes.

One hundred percent (100%) of this grant will be used to supplement Library programs operating costs.

- B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	Operating Expenses
TOTAL EXPENDITURES	\$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Friends of the Georgetown Public Library agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**

Applicant/Authorized Official Signature

February 12, 2021

Date

Witness Signature

February 12, 2021

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

Applicant/Authorized Official Signature

Witness Signature

Board Member

Title

February 12, 2021

Date

To Be Introduced 03/23/21

**Council District Mr. Rieley
Tax I.D. No. 532-19.00-52.00
911 Address: 8227 W. Line Road, Delmar**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO GLASS TINTING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.021 ACRES, MORE OR LESS

WHEREAS, on the 12th day of December 2020, a conditional use application, denominated Conditional Use No. 2254 was filed on behalf of Richard L., Jr. & Kelsey R. Dickerson Tilghman; 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. 2254 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 115, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2254 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 Little Creek Hundred, Sussex County, Delaware, and lying on the north side of West Line Road (S.C.R. 512), approximately 0.24 mile east of Old Racetrack Rd. (S.C.R. 502) and being more particularly described in the attached deed prepared by Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 1.021 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 03/23/21

**Council District 5: Rieley
Tax I.D. No. 134-15.00-95.03
911 Address: 32650 Roxana Road, Frankford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS.

WHEREAS, on the 15th day of December 2020, a conditional use application, denominated Conditional Use No. 2255 was filed on behalf of John Sommers, 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. 2255 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 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2255 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 Baltimore Hundred, Sussex County, Delaware, and lying on the northwest side of Roxana Road (Rt. 17), approximately 0.55 mile southwest of Burbage Road (S.C.R. 353), and being more particularly described in the attached deed prepared by D. Stephen Parsons, P.A., said parcel containing 2.9 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 03/23/21

**Council District: Hudson
Tax I.D. No. 134-13.00-72.02
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT FOR MULTI-FAMILY DWELLING UNITS (30 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.96 ACRES, MORE OR LESS

WHEREAS, on the 5th day of January 2021, a conditional use application, denominated Conditional Use No. 2259 was filed on behalf of The Evergreen Companies, LLC c/o Tim Naughton; 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. 2259 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2259 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 Baltimore Hundred, Sussex County, Delaware, and lying on north side of Fred Hudson Road (S.C.R. 360), approximately 0.25 mile east of Cedar Neck Road (S.C.R. 357), and being more particularly described in the attached deed prepared by Downey Brand LLP, said parcel containing 11.96 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 03/23/21

**Council District 2: Green
Tax I.D. No. 430-11.00-70.00
911 Address: 10213 Fawn Road, Greenwood**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR GUNSMITHING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 0.96 ACRE, MORE OR LESS

WHEREAS, on the 7th day of January 2021, a conditional use application, denominated Conditional Use No. 2260 was filed on behalf of Ronald Lee Wisseman II, 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. 2260 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 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2260 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 Nanticoke Hundred, Sussex County, Delaware, and lying on the northwest side of Fawn Road (S.C.R 600) approximately 0.5 mile northeast of Sugar Hill Road (S.C.R 599) and being more particularly described in the attached legal description prepared by Old Republic National Title Insurance Company, said parcel containing 0.96 acre, 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 03/23/21

**Council District 1: Vincent
Tax I.D. No. 531-12.00-129.00
911 Address: 26147 Craigs Mill Rd., Seaford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRACTOR TRAILER PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.17 ACRES, MORE OR LESS

WHEREAS, on the 12th day of February 2021, a conditional use application, denominated Conditional Use No. 2269 was filed on behalf of Dennis Nelson, Jr.; 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. 2269 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. 2269 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 Seaford Hundred, Sussex County, Delaware, and lying on the northeast side of Craigs Mill Rd. (S.C.R. 556) approximately 0.42 mile north of Woodland Rd. (S.C.R. 536) and being more particularly described in the attached legal description prepared by Brian P. Glancy, Esq., said parcel containing 2.17 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 03/23/21

**Council District 5: Rieley
Tax I.D. No. 533-11.00-42.00
911 Address: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS

WHEREAS, on the 12th day of March 2021, a zoning application, denominated Change of Zone No. 1942 was filed on behalf of Bay Developers, LLC (Twin Cedars, LLC); 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. 1942 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 C-1 General Commercial District, CR-1 Commercial Residential District and GR General Residential District and adding in lieu thereof the designation of GR-RPC General Residential District - Residential Planned Community 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 Baltimore Hundred, Sussex County, Delaware, and lying on the south side of Zion Church Road, approximately 0.55 miles northwest of Bayard Road and being more particularly described in the attached legal description prepared by Young Conaway Stargatt & Taylor, LLP., said parcel containing 64.32 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.