



Sussex County Council Public/Media Packet

**MEETING:
March 29, 2022**

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**Sussex County Council
2 The Circle | PO Box 589
Georgetown, DE 19947
(302) 855-7743**

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

MARCH 29, 2022

10:30 A.M.

***AMENDED on March 23, 2022 at 1:30 p.m.!**

Call to Order

Approval of Agenda

Approval of Minutes – March 22, 2022

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Vince Robertson, Assistant County Attorney

1. Discussion and Possible Introduction of a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRIP) PROGRAM"



Hans Medlarz, County Engineer

1. South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2
 - A. Electrical Construction, Project C19-17, Change Order No. 16
 - B. General Construction, Project C19-11, Change Order No. 21
2. Herring Creek Sanitary Sewer District East Gravity Sewer and Force Main, Project S20-09
 - A. Recommendation to Award
3. FY 22 General Labor & Equipment Contract, Project 22-01
 - A. George & Lynch - Bid Package A, Change Order No. 1
 - B. JJID, Inc. - Bid Package A, Change Order No. 1**
4. Sussex Pain Relief Center
 - A. Engineer of Record

Old Business

1. “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 AND 532-19.00-1.00”

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible action on Executive Session items

Adjourn

¹ Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to address a matter which arose after the initial posting of the agenda but before the start of the Council meeting.

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on March 22, 2022 at 4:30 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

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

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

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 22, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 22, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 114 22
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as presented.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of the March 8, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore reported that correspondence was received from ReTemp Development Center, Inc. thanking Council for their support.

**Public
Comment**

There were no public comments.

**Adminis-
trator's
Report**

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

1. **Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, Hailey's Glen – Phase 1 (Construction Record) and Seaglass (formerly known as Midtown & Herola Property) received Substantial Completion effective February 23rd and March 15th, respectively.

**Administrator's
Report
(continued)**

2. Delaware Animal Services Performance Report – Fourth Quarter & Annual Report

The Delaware Animal Services Performance Report for the fourth quarter and the annual report for 2021 are attached listing the total of number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total there were 1,287 calls for service in the fourth quarter and 5,191 calls for the year.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for February 2022 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 188 troopers assigned to Sussex County for the month of January.

4. Referendum -Indian River Acres Area

The Sussex County Engineering Department will be conducting a Referendum at Community Lutheran Church, 30897 Omar Road, Frankford, Delaware on Saturday, March 26, 2022 from 9:00 a.m. until 11:00 a.m. The purpose of the referendum is to establish the Indian River Acres Area of the Sussex County Unified Sanitary Sewer District.

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

**First
Quarter
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director, announced the First Quarter recipients of the Shining Star Employee Recognition Program. First Quarter recipients are Caroline Capriccio, Library Assistant at the Milton Library and Ashley Paugh, Clerk III in the Planning and Zoning Department. Mrs. Brewington noted these individuals were selected out of 18 submissions.

**Grant
Requests**

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

**M 115 22
Cape
Henlopen
Senior
Center**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give \$1,000.00 from Mr. Schaeffer's Councilmanic Account to Cape Henlopen Senior Center for their Rehoboth Concert Band Fundraiser.

Motion Adopted: 5 Yeas.

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

M 116 22 A Motion was made by Mrs. Green, seconded by Mr. Hudson, to give
H.O. Brittingham \$1,500.00 from Mrs. Green's Councilmanic Account to Cape Henlopen
Robotics School District for H.O. Brittingham Elementary School's Robotics
Program Program.

Motion Adopted: 5 Yeas.

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

M 117 22 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$500.00
Georgetown from Mr. Rieley's Councilmanic Account to Friends of the Georgetown Public
Public Library, Inc. for the Annual 5K Race fundraiser to supplement library
Library program operating costs.

Motion Adopted: 5 Yeas.

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

M 118 22 A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to give
Mariner \$1,500.00 from Mrs. Green's Councilmanic Account to Mariner Middle
Middle School for Business Professionals of America for conference expenses.
School

Business
Profession-
als of
America

Motion Adopted: 5 Yeas.

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

M 119 22 A Motion was made by Mrs. Green, seconded by Mr. Rieley, to give \$4,000.00
Woodbridge (\$3,000.00 from Mrs. Green's Councilmanic Account and \$1,000.00 from Mr.
Youth Vincent's Councilmanic Account) to Pop Warner Little Scholars, Inc. for the
Football Woodbridge Youth Football Association's equipment, uniform expenses,
Association snacks, and sanitizing needs.

Motion Adopted: 5 Yeas.

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

**CIB
Lighthouse
Reforest-
Ation** Mr. Hans Medlarz, County Engineer asked for Council's consideration for participation in Center of Inland Bay's Community Water Quality Improvement Grant Project on County owned lands off Lighthouse Road adjacent to Bunting Branch in the amount of \$10,635.00. The area to be reforested is 6.5 acres with the Center of Inland Bay taking the lead in the planting as well as long term maintenance.

**M 120 22
CIB
Lighthouse
Reforest-
ation
Approval** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approve the "Lighthouse Road Reforestation, Phase I" proposal between Sussex County and the Delaware Center for Inland Bays to reforest and provide long term maintenance on County owned lands off of Lighthouse Road, providing water quality benefits and future credits for the Clean Water Enhancement Program, in the amount of \$10,635.00.

Motion Adopted: 5 Yeas.

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

**Landfill
Professional
Services/
Weston
Solutions,
Inc.** Mr. Hans Medlarz, County Engineer explained the history of the Landfill Professional Services that have been performed by Weston Solutions, Inc. He then requested Council's consideration for reaffirmation of Weston Solutions, Inc. as the Landfill Professional Services Firm.

**M 121 22
Approve
Landfill
Professional
Services
Firm** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Council approve the reaffirmation of Weston Solutions, Inc., of West Chester, PA as the professional service consultant for all Sussex County Landfills over a five (5) year period starting July 1, 2022, and to authorize the County Engineer to approve annual task orders not to exceed \$100,000.00 in total, based upon Council approval of each fiscal year budget.

Motion Adopted: 5 Yeas.

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

**EMS Public
Safety
Building/CO
No. 11 & 12** Mr. Hans Medlarz, County Engineer presented Change Orders No. 11 & 12 for the EMS Public Safety Building for Council's consideration. Change Order No. 11 includes an adjustment for a ceiling and bulkhead location in the corridor leading to the northside of the existing EOC building and restoring unsuitable soils. Change Order No. 12 consists of work to the EOC kitchen renovations.

M 122 22
Approve CO
11 & 12
EMS Public
Safety
Building

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Orders No. 11 & 12 for contract C19-04, Sussex County EMS Public Safety Building, be approved, for an increase of \$5,427.58 and a credit of -\$15,118.52, respectively.

Motion Adopted: 5 Yeas.

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

EMS Public
Safety
Building/Te-
morary LP
Gas Service

Mr. Hans Medlarz, County Engineer provided an update on the Temporary LP Gas service at the EMS Public Safety Building. Mr. Medlarz explained that the heating and hot water systems were designed based on availability of natural gas. The utility directed us to seek an interim solution using their subsidiary, Sharp Energy, which already supplies propane to the Joint Maintenance Facility under this arrangement. Upon the Department's request, Sharp indicated the tanks could be used if both building were interconnected. Sharp provided three acceptable gas piping contractors; one quotation has been received back to date. The Engineering Department is working with the Finance Department to develop a purchase order.

Proposed
Brookland
Farm
Expansion
of the
SCUSSD

Mr. John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Brookland Farm Annexation of the Johnson's Corner Area into the Sussex County Unified Sanitary Sewer District. The proposed expansion would include Parcel 533-11.00-87.00. The Engineering Department received a request from Land Tech Planning, LLC on behalf of their Gulfstream Development, LLC owners/developers of a project to be known as Brookland Farm. The project is proposed at 92 single family homes and will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates. With Council's approval, a public hearing will be scheduled.

M 123 22
Approval to
Prepare and
Post Notices
Brookland
Farm into
SCUSSD

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved by Sussex County Council, the Sussex County Engineering Department is authorized to prepare and post notices for the Brookland Farm Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 533-11.00-87.00 as presented.

Motion Adopted: 5 Yeas.

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

Proposed
The Knoll
Expansion

Mr. John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Knoll Annexation of the Holt's Landing Area into the Sussex County Unified Sanitary Sewer District. The

**of the
SCUSSD**

Engineering Department received a request from Land Tech Planning, LLC on behalf of Iron Knoll, LLC for the owners/developers of a project to be known as The Knoll. The proposed expansion would include Parcel 134-7.00-163.00. The project is proposed at 33 lots and will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates. With Council's approval, a public hearing will be scheduled.

**M 124 22
Approval to
Prepare and
Post Notices
The Knoll
into
SCUSSD**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for The Knoll Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 134-7.00-163.00 as presented.

Motion Adopted: 5 Yeas.

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

**Schell
Aviation
Ground
Lease
Agreement/
Lots A & B**

Mr. Robert Bryant, Airport Manager presented a Ground Lease Agreement and Specialized Aviation Service Operations Agreement for Lots A & B for Council's consideration. Mr. Bryant explained that the agreement is between Sussex County and Schell Aviation. He then reviewed the terms of the lease that is being presented for approval.

**M 125 22
Approval
Schell
Aviation
Ground
Lease
Agreement/
Lots A & B**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that the Sussex County Council approve an Airport Ground Lease and Specialized Aviation Agreement with Schell Aviation as the lease is presented.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Long Neck
Communit-
ies**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,788,761 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Mr. Hans Medlarz, County Engineer reminded the Council that the dollar amount included in the bond reflects the total amount of the project, however, the debt is roughly only half of that figure. Once the project is closed, the principal forgiveness is taken off of the balance.

There were no public comments.

The Public Hearing and public record were closed.

**M 126 22
Adopt
Ordinance
No. 2840
/Long Neck
Commun-
ities**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2840 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,788,761 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas.

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

**Old
Business/
Proposed
Ordinance
to Amend
Chapter 99
and 115
(Wetland,
Water
Resources
and Buffers)**

Mr. Jamie Whitehouse, Planning and Zoning Director provided an overview of the Proposed Ordinance. On January 11, 2022, a public hearing was held on the Proposed Ordinance. At the conclusion of the meeting, a motion was made, and adopted to suspend the Public Hearing and continue the Public Hearing at the February 22, 2022 meeting. At the conclusion of the Public Hearing held on February 22, 2022, the County Council deferred action on the Proposed Ordinance for further consideration and the public record was closed. Mr. Whitehouse noted that there were over 200 responses received that were circulated.

Mr. Lawson discussed the timeline of the Ordinance.

Mr. Lawson noted that Mr. Medlarz, Mr. Whitehouse, and Mr. Robertson along with himself reviewed the testimonies provided, public hearing information, and the comments that were received to determine what recommendations to bring forward.

Mr. Lawson shared the thirteen sections of the Ordinance; of which the majority was deemed to be acceptable in staff’s view. Most of the discussion focused on Section 10 of the Ordinance. In particular, Paragraph G of Section 10 which has been referred to as the “Options Paragraph”.

It was clarified that this Proposed Ordinance will be applied to new applications for subdivisions if the property is to be developed with more than four lots. Additionally, there must be a resource on the property.

The first recommendation is under Section 10 B - Resource Buffer Averaging. The recommendation is to clarify the language to ensure the buffer averaging can only be used on the same resource types within the development.

The next recommendation is to amend language under Section 10 C - Permitted Activities – Table 2. It is being recommended to amend the

Old Business/ Proposed Ordinance to Amend Chapter 99 and 115 (Wetland, Water Resources and Buffers) (continued)

language so that walking trails are permitted parallel to a Resource. Additionally, language to state in Zone A – not permitted and Zone B – permitted.

Under Section 10 C - Permitted Activities – Table 2, it is being recommended to amend the language so that dry and wet stormwater management ponds are excluded. These would not be permitted in Zone A or Zone B.

Under Section 10 G Resource Buffer Options, there were a few items for consideration. First, limit the scope of the options to exclude Tidal and Tidal Wetlands, leaving only Perennial Non-Tidal Rivers and Streams, Non-tidal Wetlands, and Intermittent Streams. Second, limit the scope of the options to exclude Buffer Zone A, leaving only Buffer Zone B.

Additionally, under Section 10 G - Resource Buffer Options, it is being recommended to clarify the language so that the references to forest mean “existing natural forest”. Also, clarify the language so that an area preserved with a conservation easement may not be farmed.

Mr. Lawson then presented additional considerations for the Proposed Ordinance:

1. Require signs and monuments to designate the resource buffer areas
2. Edit the existing wetlands notice required by 99-6H
3. Determine an effective date
4. Fix minor typos and edits
5. Update engineering agreements to include letters of credit for the resource buffer areas
6. Include new language for recorded restrictive covenants

Mr. Lawson discussed the recommended penalties that would be implemented if a buffer resource area or open space area is illegally disturbed. The structure of the proposed penalties is categorized by the size of the disturbed area. If the disturbed area is less than 100 square feet, the following penalties are proposed:

1. Monetary fine of \$500.00 per square foot of disturbance
2. Buffer rehabilitation and replanting
3. Building permits held until rehabilitation is complete

If the disturbed area is more than 100 square feet, the following penalties are being proposed:

1. \$1,000.00 per square foot of disturbance
2. Buffer rehabilitation and replanting
3. Developer/owner to purchase exiting natural forest in the same HUC 12 with a conservation easement to the benefit of the County or an entity of the County’s approval. Size of purchase shall be 10 times the

Old Business/ Proposed Ordinance to Amend Chapter 99 and 115 (Wetland, Water Resources and Buffers) (continued)

size of the area of disturbance.

4. Building permits held until rehabilitation completed and easement acquired

It was noted that these fines would be paid by whoever is developing the site.

It was suggested having a minimum size for trees or plantings that are replaced.

Mr. Lawson discussed recommended penalties when the property is in the HOA ownership stage and the buffer resource area or open space area is illegally disturbed. A monetary fine imposed upon the HOA as owner of the disturbed buffer area and requirement for rehabilitation of the buffer. The fine levels would include monetary fine of \$500.00 per square foot of disturbance, buffer rehabilitation and replanting and building permits held until rehabilitation is complete.

A discussion was held about recourse if a disturbance were to occur by a mistake.

Mr. Lawson pointed out that any of the recommendations are at the discretion of the Council to change if desired.

Mr. Robertson explained that there are currently penalties in place in the Zoning Codes which this Proposed Ordinance would be a part of, consisting of \$100.00 per day. The Constables deal with and enforce that at this time.

It was through that the monetary fine when there is a mistake is too much on the construction side. It was suggested to have a timeframe established for rehabilitation rather than a monetary fine. Mr. Medlarz suggested a monetary fine of \$1,000.00 per day; he added that once a certain level is reached, it would trigger a clear cut. It was also noted that the monetary fines can be drafted as a tiered approach for first, second or third offense.

It was also suggested to have a limitation on the homeowner and HOA if a mistake were to occur with some type of cap that would say up to a certain amount.

Introduction of Proposed Ordinances

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND MR MEDIUM RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.54 ACRES, MORE OR LESS”

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE

Introduction of Proposed Ordinances (continued)

HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (24 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.54 ACRES, MORE OR LESS”

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-94.00”

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments

There were no Council Member comments.

M 127 22 Go Into Executive Session

At 11:42 a.m., A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation, personnel, and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session

At 11:49 a.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential/pending litigation, personnel, and land acquisition. The Executive Session concluded at 1:25 p.m.

M 128 22 Reconvene

At 1:37 p.m., a Motion was made by Mr. Hudson seconded by Mr. Schaeffer to come out of Executive Session and into Public Hearings.

Motion Adopted: 5 Yeas.

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

E/S Action

A Motion was made by Mr. Hudson, Mr. Schaeffer to Authorize the County

M 129 22
County
Adminis-
trator
Authoriz-
ation/Parcel
2022-B

Administrator to negotiate, enter into a contract and proceed to final closing on a parcel identified as Parcel 2022-B.

Motion Adopted: 5 Yeas.

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

Rules Mr. Moore read rules and procedures for public hearings.

Public
Hearing/
CU2288

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 FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.00 ACRES, MORE OR LESS”. (property lying on the north side of Frankford School Road [S.C.R. 92]) approximately 0.55 mile west of Pyle Center Road (S.C.R. 20) (911 Address: N/A) (Tax Parcel: 533-5.00-47.00)

The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2022 at which time action was deferred. On March 10, 2022, the Commission recommended approval subject to the five reasons stated and subject to the seven recommended conditions.

(See the minutes of the Planning and Zoning commission dated February 10 and March 10, 2022.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jeff Machiran with EDF Renewables spoke on behalf of the Application, Broom Solar Partners. Mr. Dave Shapley, from Delaware Electric Cooperative and Mr. Chad Kayser, Environmental Consultant with TRC were also present.

Mr. Shapley, Vice President for Delaware Electric Cooperative stated that the Coop is a non-profit organization; that Delaware Electric purchased power from Old Dominion Electric Cooperative (ODEC); that ODEC is a non-profit, wholesale generation transmission cooperative which operates for the benefits of its members who are the owners. ODEC serves 11 member distribution cooperatives in Virginia, Delaware, and Maryland; that Delaware Electric Cooperative service 108,000 meters within Kent and Sussex County, Delaware; that the Broom Solar Project will provide 100% of its output directly to homes and businesses within the County and surrounding areas; that the project was specifically designed to offset DEC’s customer load in the area; that this will reduce the need for costly transmission system upgrades; that the proposed Broom Solar site is proposed to connect to existing distribution infrastructure to avoid the need

**Public
Hearing/
CU2288
(continued)**

for a new substation; that the Broom Solar Project will save DEC members about \$51,000 per year in power costs; that combined with the solar project in Greenwood, DEC members will save about \$136,000 per year; that solar creates clean, renewable electricity without the use of water, creating emissions or producing waste products; that its low visual profile and quiet operations makes for a great neighbor; that solar projects place no demand on County infrastructure or services such as roads, water, sewer, emergency services or schools; that construction consists of minimal grading and disturbance; land would return to its previous agricultural use at the end of the project; this project would create jobs during the construction and direct economic benefits by using a local contractors, material purchases, equipment rental and spending on other local goods and services.

The Council found that Mr. Jeff Machiran with EDF Renewables spoke on behalf of the Application; that the project generates electricity directly to homes and businesses via local electrical distribution lines compared to larger centralized powerplants; that centralized powerplants push power onto high voltage transmission lines which carry electricity hundreds to thousands of miles away; that a key benefit of distributed generation projects like Broom Solar is they generate electricity in the communities where the power is consumed; that this reduces the need for long transmission lines and other costly infrastructure; that providing clean, renewable power close to the end user, they improve the resiliency of the local distribution grid and deliver the power at an all-end lower cost to the user; that another benefit to distributed generation projects is the smaller footprint of the projects; that this means a smaller impact; that Broom Solar will occupy thousands of acres; that Broom Solar Partners, LLC, which is a wholly-owned entity of EDF Renewables Distributed Scale Power, is the Applicant of the project on behalf of the property owner, Wilgus Family Revocable Trust; that the proposed location is on one parcel of land, which runs along Frankford School Road in Frankford, Delaware; that the project area is currently an agricultural field with no existing structures; that the anticipated project will be less than 35-acres; that the capacity to the proposed project is three megawatts of alternating current; that this is considered a relatively small project; that the project is sized to meet the local distribution system; that this type of project is referred to as distributed generation because it is connecting to the distribution grid as opposed to the electrical transmission system; that the point of interconnection will be at Delaware Electric's existing electric line, running along Frankford School Rd.; that this will end at the Omar substation; that the equipment will consist of racking systems, which are mounted on support posts, panels which are installed on top of the racking systems, an inverter/transformer skid, interconnection equipment, which are typical utility poles and a small weather station; that there is a stream which runs to the south eastern portion of the project; that EDF is committed to community engagement and has reached out directly to neighbors with mailings and a community outreach meeting was held over a two day period in January; it is anticipated to take up to five months to build a project of

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(continued)**

this size; that the first month would consist of site preparation, installing the access road and fencing; that about two months would be required for the installation of the posts and racking; that approximately two more months are required for the installation of the modules, wiring and conduit, that next they would install the remaining electrical equipment, including inverters and transformers; that a month would be required for the final system testing and commissioning; that by the beginning of 2023 the project could begin commercial operation; that EDF Renewables has over 35 years of experience in the United States developing wind, solar and storage projects; that they have developed over 16,000 megawatts of renewable energy projects; that they current operate over 11,000 megawatts; that EDF is one of the largest owners and operators of renewable energy in the country and EDF is well equipped to handle this type of project due to their experience and expertise.

Mrs. Green questioned the life expectancy of the equipment. Mr. Machrian replied 25-35 years.

Mr. Hudson asked if all materials could be removed from the site at the end of the project. Mr. Machrian replied yes; all materials are recycled or reused.

Mr. Rieley questioned if the company were to go out of business or a change of energy system in the country occurs, what guarantee is there that financially the company could restore the site back to its original condition. Mr. Machrian pointed out that is part of the agreement with the property owner, and they are contractually obligated to do so.

Mr. Moore asked if concrete was used around the bases. Mr. Machrian replied that they are driven piles.

There were no public comments.

The Public Hearing and public record were closed.

**M 130 22
Adopt
Ordinance
No. 2841
/CU2288**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2841 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.00 ACRES, MORE OR LESS”. (Conditional Use No. 2288) filed on behalf of Broom Solar Partners, LLC based on the following reasons and condition given by the Planning and Zoning Commission:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County**

**M 130 22
Adopt
Ordinance
No. 2841
/CU2288
(continued)**

- residents.
2. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
 3. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
 4. The proposed solar generation facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
 5. No significant noise, dust or odor will be generated by the facility.
 6. This recommendation is subject to the following conditions:
 - A. No storage facilities shall be constructed on the site.
 - B. Lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - C. One unlighted sign, not to exceed 32 square feet in size, shall be permitted.
 - D. The site shall be secured by fencing with a gate with a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - E. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
 - F. All of the grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.
 - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU2284**

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 FOR THE EXPANSION OF CU 889 (ORDINANCE NO. 536) FOR PUBLIC UTILITIES OR PUBLIC SERVICES USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 29.98 ACRES, MORE OR LESS." (property being a landlocked parcel accessed off Emma Jane Lane, approximately 0.33 mile south of E. Newton Road [S.C.R. 584]) (911

**Public
Hearing/
CU2284
(continued)**

**Address: 17019, 17025, 17035 & 17041 Black Cherry Drive, Bridgeville)
(Tax Parcel: 131-10.00-99.00)**

The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2022, at which time action was deferred. On March 10, 2022, the Commission recommended approval subject to the eight reasons stated and subject to the four recommended conditions.

(See the minutes of the Planning and Zoning Commission dated February 10 and March 10, 2022.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found Mr. Mark Parker, Engineer Manager for Eastern Shore Natural Gas Company, spoke on behalf of the Application; that Eastern Shore Gas has safely and reliably served the natural gas transportation needs of the region since 1959; they currently owns and operates 516 miles of Natural Gas transmission mains; that they serve all of Delaware; that they support Chesapeake Utilities as the local distribution company in Sussex County, along with industrial users and energy producers; that they have three compressor station sites; that two station sites are located in Delaware, one located in Bridgeville; that the subject compressor station has operated at the subject location since 1988; that the compressor ensures adequate natural gas is transported throughout the region; the facility is required by Federal law are subject to annual leak surveys; that there is a 24/7 gas control operation out of Dover; that the location of the subject compressor station is approximately eight acres; that the area was previously granted a Conditional Use (C/U 889) in 1988 upon the stations original construction; that in 2015, it was expanded to allow for growth of the facility; that there is infrastructure in the area, including railroad and industrial facilities in the area; that they have been good neighbors, living harmoniously under the granted Conditional Use since 1988; that the existing compressor station facility is comprised of stone cover, two compressor unit buildings, several small axillary structures, a control room, a stormwater facility, above grade piping and ancillary equipment; that there is a solar farm located on the northwest corner; that the compressor stations units are contained within two separate buildings; that the property will be fully fenced and have a secured yard including a “knox box” as conditioned by the Planning and Zoning Commission; that there will be above grade piping and ancillary equipment and a stormwater management facility; that the project will serve as a receive point where natural gas is injected in the existing pipeline system; the facility will meter, regulate and heat the injected gas before entering the existing Eastern Shore Natural Gas pipeline system; that the pipeline system runs along the Southern edge of the property; that there will be no gas processing that will take place at this facility; that here is presence of above grade piping, consisting of majority five feet high; that truck off load and above grade piping is approximately 800 feet from the nearest residence; approximately 675 feet from the

**Public
Hearing/
CU2284
(continued)**

southern property line; over 1,000 feet away from the playground for Phyllis Wheatley Elementary School; 1,300 feet away from the school structure; that ancillary piping (the non-off load area) is 1,000 from the nearest residence, 520 feet from the southern property line, 850 feet away from the noted playground and over 1,150 feet away from the school; that there would be three offload points; that all truck traffic would enter and exit via Emma Jane Lane and utilize SR 404; that they hold approvals from Delaware Department of Transportation (DelDOT), Sussex Conservation District, United States Fish & Wildlife Service, Delaware State Historic Preservation (SHPO), the Species Conservation and Research Program (SCRIP) of the Delaware Department of Natural Resources (DNREC); that there next step is will Federal Energy Regulatory Commission (FERC); that they agree with the conditions set forth by the Planning and Zoning Commission; the proposed development will not have a negative impact on the physically, economic or social environment of the area; Eastern Shore has selected this location to develop the project as it minimizes the potential for negative environmental or community impact; that minimal above ground facilities are proposed which are smaller scale compared to the compressor station, agribusiness and new construction.

Mrs. Green asked for more clarification regarding the location of the school and truck traffic. It was clarified that the trucks would not be going around the school; they would utilize Route. 404 and Emma Jane Lane. Furthermore, there is existing pipeline and compressor station in the area. Mr. Parker emphasized that the facility is monitored twenty-four hours a day, seven days a week.

Mr. Rieley spoke about concerns regarding a leak that could occur and the proximately to the Elementary School.

Public comments were heard.

The Council found that Mr. Greg Layton on behalf of Delaware Food and Water Watch spoke about moving away from fossil fuel infrastructure and factory farms. In addition, he expressed concerns of the expanded hazardous pipeline being so close to Sussex County children and educators at the nearby elementary school. Mr. Layton also spoke about environmental justice and safety for the nearby residents. He encouraged the Sussex County Council members to say no to this proposal. The Public Hearing and public record were closed.

**M 131 22
Adopt
Ordinance
No. 2842/
CU2284**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2842 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 889 (ORDINANCE NO. 536) FOR PUBLIC UTILITIES OR PUBLIC SERVICES USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 29.98 ACRES, MORE OR LESS."

**M 131 22
Adopt
Ordinance
No. 2842/
CU2284
(continued)**

(Conditional Use No. 2284) filed on behalf of Eastern Shore Natural Gas Company based on the following reasons and conditions given by the Planning and Zoning Commission:

- 1. This is the expansion of an existing natural gas facility within property that is owned by the Applicant. The original conditional use was approved by Sussex County Council on September 27, 1988, as Ordinance No. 536, and the property has been used as a natural gas facility ever since.**
- 2. There are other conditional uses in the vicinity. These include Conditional Use #1955, which allowed the State of Delaware and DelDOT to operate a maintenance yard. This limited expansion of an existing conditional use in this location is appropriate.**
- 3. This limited expansion will permit a point of connection into the Applicant's existing gas line infrastructure. It will allow renewable natural gas, compressed natural gas, or liquified gas to be introduced into the existing pipeline system.**
- 4. The proposed use will have minimal above-ground facilities. These new facilities will be smaller in comparison to the existing facilities on the site.**
- 5. No wetlands, waterbodies or other sensitive resources are located on the site, and it will not require any water or sewer connections.**
- 6. The limited expansion will not have a detrimental impact upon the physical, economic or social environment of the area.**
- 7. This Conditional Use to allow the limited expansion of the existing natural gas facility on this site promotes the convenience, order, prosperity and welfare of residents and businesses of Sussex County by providing improvements to natural gas infrastructure within an existing natural gas facility.**
- 8. Fire protection will be provided by the Bridgeville Volunteer Fire Department, which is located approximately one-half mile from this site.**
- 9. This recommendation is subject to the following conditions:**
 - A. The area of this use shall be fenced with a locked access gate. A "knoxbox" or similar means of access shall be established on the site for use by emergency responders.**
 - B. The site shall be marked with signage identifying the owner of the facility and emergency contact information.**
 - C. The use shall comply with all Federal and State requirements governing the use.**
 - D. The Final Site Plan shall be subject to review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay

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

**Public
Hearing/
CU2305**

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 FOR A ZOOLOGICAL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.24 ACRES, MORE OR LESS”. (property lying on the northeast side of Peppers Corner Road [S.C.R. 365], approximately 0.61 mile southeast of Roxanna Road [Route 17]). (911 Address: 34215 Peppers Corner Road, Frankford) (Tax Parcel: 134-15.00-124.00)

The Planning and Zoning Commission held a Public Hearing on this Application on February 10, 2022 at which time action was deferred. On March 10, 2022, the Commission recommended approval for the seven reasons and fourteen recommended conditions as outlined within the motion.

(See the minutes of the Planning and Zoning Commission dated February 10 and March 10, 2022.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found Mr. Tom Ford with Land Design, Inc, spoke on behalf of the Application; that also present was Mr. Joshua Mueller; that the owner, Mr. Mueller grew up on the property; that the land was originally owned by his parents; that the property is 7.25 acres; that the property has setbacks of 40 feet from the front, 15 feet from the side and 20 feet from the rear; that the property is also encumbered with tax ditch ROW buffer of 50 feet; that guest attendance is by reservation only; that the maximum number of guests is 25 people at one time; that in Phase 1 they have proposed 20 parking spaces; that there is an additional six spaces for employee parking; that the 20 parking spaces allow for transition of one group not quite leaving and another group arriving; that they feel they have proposed adequate parking for facility; that the site has existing features; that the existing features are the residential home of the owner, a garage, and multiple accessory structures which act as the wildlife habitats, appropriately sized paddocks for adequate movement, exercise and recreation of the wildlife; that there are State regulations which require a 8 foot perimeter fence for this type of operation.

Mr. Ford asked for consideration for Item #6 of the Planning and Zoning Commission conditions be amended to add when it becomes available adjacent to the property. Mr. Moore clarified that was just in the findings themselves; it was not a condition.

The Council found Mr. Joshua Mueller spoke on behalf of his Application; that he is the owner of Barnhill Preserve of Delaware; that he is an eagle scout, who was born and raised in Sussex County, Delaware; that his family has owned the subject property since 1996, where he grew up; that he has

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CU2305
(continued)

always had a strong passion to work with animals; that this drove him to get his degree in wildlife ecology at LSU; that while attending college he had the opportunity to work at Barnhill Preserve, at its original location in Ethel, Louisiana, with Mr. John Ligon; that Mr. Ligon is his business partner for the Delaware location; that he felt the preserve would be a great addition to Sussex County; that growing up in the area, there were no options to attend zoos, other than the Salisbury Zoo and Brandywine Zoo, which are a far distance to travel; that there was little opportunity to learn about the wildlife around the world; that the main mission at Barnhill Preserve is to educate youth and adults about the conservation and multiple animals on the planet; that in 2020 Barnhill Preserve helped fundraise over \$75,000 for the Australian wildlife during the bush fires; that he, and his staff members, spent a month in Australia helping rescue, providing care and providing food to the animals; that Barnhill Preserve has raised over \$15,000 for the Costa Rican wildlife just this year; that the Barnhill Preserve mobile unit visits schools all over the Northeast; that they generally educate about 300,000 children every year; that they have three crews; that each crew goes to a different state; that he currently has employee crews in Ohio and Pennsylvania; that these education programs are free for the schools; that they strive to provide everyone access to learning about the animals; that the current facility has provided the chance to educate the local community, as well as inspire people to take action in helping the animals; that some of the animals he cares for are listed as threatened or endangered in the wild; that they can offer breeding programs to help increase the population, which help prolong the species; that they worked hard to receive the highest level of licensing provided by the United States Department of Agriculture; that Barnhill Preserve is considered a Class C Exhibitor; that this license allows them to be at the same level as every zoo in the nation; that they are randomly inspected annually; that the past year they were awarded a three year inspection; that this reflects the trust they have in Barnhill to not require an inspection for three years from their last inspection in October 2021; that he worked with the State of Delaware to receive an exhibitor license; that this permits him to be able to exhibit in the State of Delaware; that he also has exhibitor licenses in Florida, Kentucky, New Jersey, Maryland and Georgia; that they do exhibit in other states, which do not require a license; that they started the zoological process for accreditation with the Zoological Association of America (ZAA); that within the Code for Delaware, Association of Zoos and Aquariums (AZA) is the requirement; that they have work with the State of Delaware and the Department of Agriculture to include ZAA as an exception, as it meets more of their specific needs and beliefs with the animals; that the animals still have a very high level of care required; that in this high level of care, they discussed the required eight foot fence; that they require the eight foot fence; that the United States Department of Agriculture (USDA) recommends it to ensure the safety of the community and animals; that their first priority is the well being of the animals; that they do have a zoological vet who visits the site monthly; that the vet performs a full inspection of every animal to ensure every animal is healthy; that they also work very closely with Dr. Michael Metzler, who provides

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(continued)

any treatments required when their zoological vet is out of the state; that their zoological vet is available by phone 24/7 to provide assistance or instruction to Dr. Metzler; that Dr. Metzler does not have expertise in the zoological field, but does have the background and supplies to provide care to the animals; that they have a zoological nutritionist; that diets are tailored to the particular species, as well as, to the specific animal's weight, preferred foods and activity level; that they have continued to update and improve the animal enclosures to provide optimal chances of enrichment; that all of his staff have degrees in biology or have comparable experience; that 11 professionals on the team have received extensive training to ensure they are equipped to work with the animals at Barnhill Preserve; that with a combined 16 years of experience, between Mr. John Ligon and himself, they have developed protocols to make it easier and safer to care for their animals; that he has worked with Delaware regarding the Nutrient Waste Management Plan; that due to not exceeding 8,000-lbs in animals, they are not required to have a plan in place; that they chose to match the Georgetown SPCA protocols, they bag animals waste, dispose of the waste with a locally approved waste management service; that they have proposed a manure barn in the case they should exceed the 8,000-lb. requirement in the future; that they desire to already have a plan in place; that he lives on the property; that he is available 24/7 for emergencies or should his staff need assistance; that he was recently elected on the Board of Directors to Prestigious U.S. Based Nonprofit, who rescues and rehabilitate wildlife in Costa Rica; that it is his desire to continue to share his love for animals with the community; that visitors from the area, as well as visitors from out of state have benefitted from Barnhill Preserve in the short amount of time it has been open to the public; that there have been multiple reviews of a positive experience at Barnhill Preserve; that Mr. Brian Jones is a neighbor located across the street from Barnhill Preserve; that at first Mr. Jones had reserves about the project; that after some discussion, he was able to put Mr. Jones' concerns at ease; that Mr. Jones did write a letter in support, which Mr. Mueller submitted into the record; that he has no intention to build a massive zoo; that he desires to create a more personal experience; that the tours are led by a personal guide; that with their unique encounters, they provide a stronger connection for guests and assist them with daily animal enrichment; that they are developing a program to allow schools to visit the facility for field trips; that they are designing a Junior Keeper program, allowing kids to shadow the animal caretakers; that they will continue to offer their educational presentations all over the east coast and northeast; that the animals are no more vocal than any other traditional agricultural animal; that they have been very considerate with their hours of operations; that they are open from April until Christmas, with limited hours in the colder seasons; that the first Kangaroo yoga session begins at 7:00 a.m.; that tours of the facility begin at 10:00 a.m. and the last tour ending at 7:00 p.m.; that they did host later events in the summer, but never exceed 9:00 p.m. in hopes to avoid creating any light pollution or nuisance to the neighbors; that they are currently in the process of working with the Ultra Solar Group, in hopes to have the facility run off of 100% green energy and he hopes the Council can see his passion

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CU2305
(continued)**

and how much of an asset the facility is to the community.

There were no public comments.

The Public Hearing and public record were closed.

**M 132 22
Adopt
Ordinance
No. 2843/
CU2305**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2843 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ZOOLOGICAL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.24 ACRES, MORE OR LESS”. (Conditional Use No. 2305) field on behalf of Barnhill Preserve of Delaware, LLC with the following reasons and conditions given by the Planning and Zoning Commission:

- 1. The property is zoned AR-1 Agricultural Residential, which anticipates the keeping of live animals in certain situations. This use is similar to the types of uses that are expected within the AR-1 Zoning District. The Sussex County Zoning Code allows the keeping of various types of animals for personal use and larger farming operations on properties greater than five acres.**
- 2. The property is in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan does not prohibit this type of small business use in this Area.**
- 3. The Applicant has stated that the use as a Zoological Park is intended to be educational and it will be visited by school-aged children from all over Sussex County.**
- 4. The use, with the conditions and limitations placed upon it, will not have an adverse impact upon neighboring properties, roadways, or the community in general.**
- 5. The use is regulated by the United States Department of Agriculture with regular inspections, and it is licensed by the State of Delaware.**
- 6. The use will be connected to Sussex County sewer when available.**
- 7. The use, as a small Zoological Park, will be a benefit to residents and visitors of Sussex County by providing a nearby location for residents, visitors, and schoolchildren to learn about the animals kept in the park without having to otherwise travel to Wilmington, Salisbury, or other out-of-state locations for such an educational experience.**
- 8. This recommendation is subject to the following conditions:**
 - A. The use shall be limited to a Zoological Park.**
 - B. There shall not be any parking located within the setbacks. All parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself.**
 - C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
 - D. The Zoological Park shall only be open to the public between the**

**M 132 22
Adopt
Ordinance
No. 2843/
CU2305
(continued)**

- hours of 6:30 a.m. until 9:00 p.m.
- E. The Applicant has stated that the Zoological Park must have 8-foot-tall fencing. This will require a variance from the Sussex County Board of Adjustment.**
 - F. All lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - G. The location of the Tax Ditch and Tax Ditch Right of Way shall be shown on the Final Site Plan. No fencing or structures shall be located within the Tax Ditch Right of Way.**
 - H. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - I. The use shall comply with all DelDOT entrance and roadway improvement requirements.**
 - J. Any expansion of the Zoological Park into the area designated on the Preliminary Site Plan as “Area Reserved for Future Expansion” north of the Beaver Dam Canal Tax Ditch require another public hearing.**
 - K. All locations for the temporary storage of animal waste shall be fully enclosed and centrally located on the site. These locations and the method of enclosure shall be clearly shown on the Final Site Plan.**
 - L. Any outdoor entertainment and music or the use of outdoor speakers shall end at 9:00 p.m. each night. All outdoor entertainment and music or outdoor speakers shall be oriented away from the residential properties adjacent to the site.**
 - M. The failure to abide by any of these conditions of approval may result in the revocation of this Conditional Use.**
 - N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 133 22
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn 2:50 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
2 **CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28**
3 **AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII**
4 **SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45,**
5 **115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED**
6 **RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT**
7 **(SCRIP) PROGRAM.**

8
9 WHEREAS, Sussex County Council has adopted the 2018
10 Comprehensive Development Plan (the “Plan”); and

11
12 WHEREAS, The Housing Element of the Plan contains the following
13 “Housing Vision”: To ensure the provision of decent, safe, affordable and
14 safe housing opportunities to improve communities and quality of life for
15 the residents of Sussex County; and

16
17 WHEREAS, The Housing Element of the Plan recognizes that an influx
18 of new residents in Sussex County has fueled prosperity in the County’s
19 real estate market, hospitality industry, and related economic sectors, yet
20 most housing, particularly on the eastern side of the County, is new and
21 often unaffordable to low-income families, seasonal employees, entry-
22 level workers, or recent college graduates; and

23
24 WHEREAS, The Housing Element of the Plan recognizes that “the
25 shortage of affordable housing remains a very real problem for low to
26 moderate-income households in Sussex County, including many with
27 full-time, year-round jobs; and

28
29 WHEREAS, Goal 8.2 of the Housing Element within the Plan states that
30 Sussex County should “Ensure that a diversity of housing opportunities
31 are available to meet the needs of residents of different ages, income
32 levels, abilities, national origins and household configurations”; and

34 WHEREAS, Objective 8.2.1 and Strategy 8.2.1.1 of the Housing Element
35 within the Plan states that Sussex County will “Affirmatively further
36 affordable and fair housing opportunities in the County to accommodate
37 the needs of all residents” and in so doing “improve the County’s SCRP
38 and MPHU Programs to provide incentives to properly reflect the housing
39 market and incentivize developers to participate in the provision of
40 affordable housing”; and

41
42 WHEREAS, Strategy 8.2.1.3 of the Housing Element within the Plan
43 states that Sussex County should “explore ways for private developers to
44 provide multi-family and affordable housing opportunities; and

45
46 WHEREAS, Objective 8.2.3 and Strategies 8.2.3.1, 8.2.3.2 and 8.2.3.6 of
47 the Housing Element within the Plan state that Sussex County should
48 “facilitate and promote land use policies that enable an increase in the
49 supply of affordable housing in areas with adequate infrastructure” by
50 “increasing affordable housing options, including the supply of rental
51 units, near employment opportunities”; by reviewing “County code to
52 determine if there are regulatory barriers to development of affordable
53 housing”; and by “revisiting [the] zoning code to determine in districts
54 where multifamily housing is currently a conditional use, if it should be
55 made a permitted use if water and sewer are already present and available
56 on the site”; and

57
58 WHEREAS, Strategy 8.3.1.1. of the Housing Element within the Plan
59 states that Sussex County should “evaluate current County code on an on-
60 going basis to determine if any regulatory barriers exist that impede the
61 development of multi-family and affordable housing”; and

62
63 WHEREAS, this Ordinance is in furtherance of these Goals, Objectives
64 and Strategies as set forth in the of the Housing Element within the Plan;
65 and

66

67 WHEREAS, Sussex County Council commissioned a study of Housing
68 Opportunities and Market Evaluation to evaluate and recommend
69 strategies and policies designed to promote housing choice and economic
70 vitality for Sussex County’s residents and workforce; and

71
72 WHEREAS, in November of 2019, LSA, the housing consultant retained
73 by Sussex County Council, issued its Final Report on “Housing
74 Opportunities and Market Evaluation” following an eight-month
75 initiative that included input from residents, homebuilders, developers,
76 housing advocates, County staff, County Council and Planning
77 Commissioners (“the LSA Report”); and

78
79 WHEREAS, one of the primary Strategy Recommendations included in
80 the LSA Report was a recommendation to “Modify the Zoning Code to
81 promote housing affordability in the Growth Areas identified in the
82 Comprehensive Plan, including the allowance for a maximum density of
83 12 units per acre “by-right” where affordable housing units are provided;
84 and

85
86 WHEREAS, this Ordinance carries out the Goals, Objectives and
87 Strategies of the Sussex County Comprehensive Plan and the LSA
88 Report; and

89
90 WHEREAS, Sussex County Council, with the assistance of the Office of
91 Community Development and Housing, has determined that the current
92 Sussex County Rental Unit program contained in Chapter 72 of the Code
93 of Sussex County requires an update based upon lessons learned in the
94 implementation and application of that Chapter to the single rental project
95 in Sussex County that has utilized the Program; and

96
97 WHEREAS, Sussex County Council, with the assistance of the Office of
98 Community Development and Housing, has determined that the current
99 Sussex County Rental Unit program contained in Chapter 72 of the Code

100 of Sussex County should be revised to attract more affordable housing
101 developments within Sussex County; and

102

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

106

107 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
108 **ORDAINS:**

109

110 **Section 1. The Code of Sussex County, Chapter 72, Article II, §72-16**
111 **through 72-28 is hereby amended by deleting the language in**
112 **brackets and inserting the italicized and underlined language as**
113 **follows:**

114

115 **§ 72-16 Intent.**

116

117 This chapter seeks to better protect the health, safety and welfare of
118 Sussex County's residents and workforce by stimulating the provision of
119 affordable rental housing for residents with low and moderate incomes
120 and is hereafter known as the "Sussex County Rental Program" or
121 "SCRCP" or "program."

122

123 **§ 72-17 Governmental findings.**

124

125 The Sussex County Council hereby finds that a shortage exists within the
126 County for housing for residents with low and moderate incomes.
127 Specifically, the Council finds that:

128

129 A. It is well known that Sussex County rents have inflated far beyond
130 the ability of an average wage earner to pay. It is also known that
131 federal rental assistance programs, such as the state-administered
132 Public Housing and Section 8 Housing Choice Voucher

133 Programs, are unable to completely satisfy the need for affordable
134 rental housing.

135
136 B. Council finds that new development is not adequately addressing
137 the rental housing needs of the County's low- and moderate-
138 income residents and workforce. Without influencing this trend,
139 local employers will have a difficult time maintaining an ample
140 workforce.

141
142 C. Without an adequate supply of affordable rental housing in close
143 proximity to employment and Town Centers, the County's
144 workforce must commute a great distance for work. Not only do
145 long commutes have a negative effect on the environment and
146 transportation, but commuting also comes with high fuel
147 expenses.

148
149 D. Given the proper incentives, the private sector possesses the
150 necessary resources and expertise to provide the type of
151 affordable rental housing needed in Sussex County.

152
153 **§ 72-18 Declaration of public policy.**

154
155 The Sussex County Council hereby declares it to be the public policy of
156 the County to:

157
158 A. Encourage the creation of a full range of housing choices,
159 conveniently located in suitable living environments, for all
160 incomes, ages and family sizes.

161
162 B. Encourage the production of affordable rental units to meet the
163 existing and anticipated future employment needs in the County.

164
165 C. Assure that affordable rental units are dispersed throughout the
166 County consistent with the Comprehensive Plan.

167

168 D. Encourage developments in Growth Areas as defined within the
169 County's most current comprehensive plan and Areas of
170 Opportunity as defined by the Delaware State Housing Authority
171 to include [a minimum percentage of] affordable rental units on
172 public water and sewer systems.

173
174 E. Provide incentives for developers to construct affordable rental
175 units through tools such as the density incentive and expedited
176 review (defined below).

177
178 **§ 72-19 Definitions.**

179
180 The following words and phrases have the following meanings:

181
182 **APPLICANT**

183 Any person, firm, partnership, association, joint venture,
184 corporation, or other entity or combination of entities owning or
185 controlling via contract qualifying land (defined below) and any
186 transferee or successor in interest of all or part of the qualifying land
187 pursuing the development of affordable rental housing under the
188 SCRPs that:

189 A. Submits to the County for approval or extension of approval a
190 plan of housing development for any type of site plan review,
191 subdivision plan or development approval (hereinafter, a "site
192 plan") that provides for the development of affordable rental
193 units on qualifying land in one or more subdivisions, parts of
194 subdivisions, resubdivisions, multi-family townhouse
195 developments or phases of development under the terms and
196 conditions as set forth in this article.

197 B. With respect to land in zones not subject to subdivision approval
198 or site plan review, applies for building permits for the
199 construction of affordable rental units on qualifying land under
200 the terms and conditions as set forth in this article.

201 AREA MEDIAN INCOME

202 The midpoint family income for Sussex County, calculated each year
203 by the U.S. Department of Housing and Urban Development (HUD),
204 adjusted for household size.

205

206 AT ONE LOCATION

207 All land of the [a]Applicant if:

208 A. The property lines are contiguous; or

209 B. The property lines are separated only by a public or private right-of-
210 way at any point; or

211 C. The property lines are separated only by other land of the
212 [a]Applicant and not subject to this section at the time of the
213 submission of an application or development plan by the
214 [a]Applicant.

215

216 [CERTIFICATE OF ELIGIBILITY

217 A certificate valid for a period of time, which is issued to eligible
218 tenants by the landlord (defined below) and supplied to the
219 Department (defined below) as further set forth within this article.
220 This certificate must be issued before a tenant will be permitted to
221 sign a lease agreement.]

222

223 [CONTROL PERIOD

224 The time a SCRP unit is subject to rental controls and occupancy
225 requirements. The control period is 30 years and begins on the date
226 of lease (defined below).]

227

228 DATE OF LEASE

229 The date of the initial lease agreement signing of an approved
230 [e]Eligible [t]Tenant for a SCRP [u]Unit.

231

232 DENSITY INCENTIVE

233 [Any increase in density pursuant to § 72-21 that allows a residential
234 development to achieve a density greater than would have been
235 possible under the applicable provisions of current and future zoning
236 ordinances and the County subdivision regulations then in effect.]
237 The density permitted by §72-21 and as a permitted use for SCRP
238 projects in Chapter 115.

239
240 DEPARTMENT

241 The Sussex County Department of Community Development and
242 Housing or its successors.

243
244 DEPARTMENT-DESIGNATED ENTITY (DDE)

245 Any agency, authority or political subdivision of the State of
246 Delaware or any other public housing development agency or
247 nonprofit housing corporation, land trust or similar entity designated
248 by the Department and approved by the County Administrator.

249
250 DIRECTOR

251 The head of the Department of Community Development and
252 Housing or head of a DDE, as applicable.

253
254 DWELLING

255 Any building, structure, or portion thereof which is occupied as, or
256 designed or intended for occupancy as, a residence; and any vacant
257 land which is offered for sale or lease for the construction or location
258 thereon of any such building, structure, or portion thereof.
259 "Dwelling" shall not include hotels, motels, motor lodges, boarding
260 and lodging houses, tourist houses, or similar structures.

261
262 ELIGIBLE INCOME

263 The levels of income designated by the County Administrator which
264 prohibit or severely limit the financial ability of persons to rent a
265 dwelling unit in Sussex County. Eligible [i]Income is low- to
266 moderate-income, defined as 30% to 80% of the area median
267 income for Sussex County adjusted for household size as defined by

268 the U.S. Department of Housing and Urban Development (HUD).
269 Income includes gross salary, wages, dividends, interest and all
270 other sources recognized by HUD from the [e]Eligible [t]Tenant and
271 all other adults (age 18 and older) who will occupy the SCRP
272 [u]Unit. Income will be verified by a copy of the filed income tax
273 returns from the previous year and any other personal and financial
274 information requested by the [l]Landlord in order to accurately
275 verify the potential tenant's qualifications and income, which may
276 include, but is not limited to, a credit history report and a criminal
277 background report on the proposed adult tenants, so long as these
278 are requirements for all leases in the housing development.

279

280 ELIGIBLE TENANT

281 Person(s):

282 A. Whose household *income is within the Eligible Income [is of low or*
283 *moderate income;]*.

284 [B. Who has been found eligible to participate in the Sussex County
285 Rental Program; and

286 C. Who holds a valid certificate of eligibility from the landlord.]

287

288 EXPEDITED REVIEW

289 A project entering the SCRP will receive priority in the County's
290 planning and zoning process, with the Director of Planning and
291 Zoning and the County Administrator to determine the
292 [a]Applicant's placement in the list of pending applications. The
293 expedited review is provided to the [a]Applicant to assist the
294 [a]Applicant in managing, to the extent possible, the risk of changes
295 to cost, interest rates, schedule and other factors that the [a]Applicant
296 is taking on by virtue of participation in the SCRP. If an [a]Applicant
297 at any time during processing elects to withdraw from the SCRP,
298 any approvals granted for the development through the date of
299 withdrawal will be vacated and the [a]Applicant will have to

300 resubmit the project through the normal County process. A project
301 receiving expedited review does not exempt the project from the
302 County's planning and zoning process, nor guarantee approval
303 through that process.

304
305 FORECLOSURE EVENT

306 A foreclosure, deed-in-lieu of foreclosure or other court-ordered
307 sale of the rental unit or of the subdivision or development in which
308 the unit is located, subject to rental restrictions continuing in force
309 after foreclosure sale of disposition.

310
311 LANDLORD

312 The owner of the property that contains SCRPs [u]Units or an entity
313 designated by the owner to manage and lease dwelling units.

314
315 QUALIFYING LAND

316 All land that:

- 317 A. Is owned by or under contract to the [a]Applicant; and
- 318 B. *[Is located within a Growth Area as defined within the County's most*
319 *current comprehensive plan or within an Area of Opportunity as*
320 *defined by the Delaware State Housing Authority; and] Allows the*
321 *SCRPs Units as a Permitted Use pursuant to Chapter 115.*
- 322 *[C. Requires the submission and approval of a site plan or, where a site*
323 *plan is not required, one or more building permits; and*
- 324 *D. Is served by a public water and sewer system; and*
- 325 *E. Is at one location as defined above.]*

326
327 SUSSEX COUNTY RENTAL PROGRAM UNIT (SCRPs UNIT)

328 A dwelling which is:

- 329 A. Offered for lease to [e]Eligible [t]Tenants through or pursuant to the
330 provisions of this article and any regulations promulgated

331 thereunder by the Department and approved by the County
332 Administrator; or

333 B. Leased under another government program designated by the County
334 Administrator designed to assist in the construction or occupancy of
335 affordable rental housing.

336

337 **§ 72-20 Minimum standards of eligibility for tenants.**

338

339 A. Eligible [t]Tenants must:

340

341 (1) Have proof of citizenship.

342

343 (2) Be of [e]Eligible [i]Income, as defined in § 72-19 above,
344 and be able to pay the first month's rent and any required
345 security deposit.

346

347 (3) Be employed [and live] in Sussex County for at least one
348 year preceding application to the SCRP. Sussex County
349 employers may seek waivers to this restriction from the
350 Director and County Administrator. Waivers are evaluated
351 on a case-by-case basis and are not guaranteed.

352

353 (4) Provide proof that adult tenants have not been convicted of
354 a felony and have a satisfactory credit and criminal history,
355 so long as these are requirements of all leases within the
356 proposed housing development.

357

358 (5) Occupy the SCRP [u]Unit as the tenant's principal residence
359 during the lease period. Each [e]Eligible [t]Tenant must
360 certify before taking occupancy that the tenant will occupy
361 the SCRP [u]Unit as the tenant's principal residence. Any
362 tenant who violates occupancy requirements will be subject
363 to eviction procedures.

364

365 B. Where necessary or advisable to achieve the objectives of this
366 chapter or to comply with state or federal housing laws, the
367 Department may propose changes to these standards for approval
368 by the County, including changes to eligibility requirements for
369 tenants as recommended by the Department.

370
371 **§ 72-21 Density and expedited review incentives.**

372
373 A. Density incentive. [Subject to meeting the requirements outlined
374 in § 72-22, a proposed development on qualifying land at one
375 location may receive a density bonus of 20%. The project entering
376 the SCRCP with the execution of a SCRCP [a]Agreement will be
377 allowed to utilize the density permitted by the zoning district in
378 which the property is located, provided that the total density,
379 including any SCRCP density bonus, shall not exceed 12 units per
380 acre.] See Permitted Uses in Chapter 115.

381
382 B. Expedited review. A project entering the SCRCP through execution
383 of an SCRCP [a]Agreement will receive expedited review, as
384 defined in § 72-19 above, through the County's Planning and
385 Zoning process.

386
387 C. Incentives will only be granted to projects submitted for new
388 development that meet all requirements of this program.

389
390 [D. To the extent necessary, Council shall amend the provisions of
391 the County's Zoning Ordinances as needed to achieve the density
392 incentives and the specific design elements (e.g., minimum lot
393 sizes, setbacks, building heights, parking requirements, etc.) of
394 approved SCRCP projects.]

395
396 **§ 72-22 Minimum standards of eligibility for SCRCP developments.**

397
398 [A. Applicants must contribute 12.5% of all units to SCRCP inventory.
399 In applying and calculating the number of affordable units within

400 a proposed development, any decimal fraction less than or equal
401 to 0.50 may be disregarded, and any decimal fraction greater than
402 0.50 shall be constructed as one unit. In the case where the total
403 number of units being constructed is four or less, the minimum
404 number of SCRП units must be one unit.

405
406 B.] A. All parcels in the proposed project must be on qualifying land,
407 as defined in § 72-19.

408
409 [C]B. All units contributed as SCRП [u]Units will remain at the
410 affordable rental rates specified herein [for the remainder of the
411 control period]. SCRП [u]Units shall never be leased as market-
412 rate units [during the control period], regardless of vacancy,
413 except in accordance with § 72-23N(1).

414
415 D. SCRП [u]Units must be fully integrated into the communities of
416 which they are a part and shall not be substantially different in
417 external appearance from market-rate units. SCRП [u]Units shall
418 be equipped with the same basic appliances as the market rate
419 units, such as an oven, refrigerator, dishwasher, and washer and
420 dryer.

421 422 § 72-23 SCRП Agreements.

423
424 To participate in the SCRП and secure any incentives provided for
425 herein, an [a]Applicant must execute an SCRП [a]Agreement
426 prepared by the Department and the County Attorney. Each
427 agreement must include, at a minimum, the following information
428 and/or evidence the following agreements and any others deemed
429 necessary by the Department and the County Attorney to properly
430 implement the chapter:

431
432 A. The specific number of SCRП [u]Units to be constructed in the
433 project. If a final site plan has not been approved when the SCRП
434 [a]Agreement is executed, an amendment to the SCRП

435 [a]Agreement will be made to incorporate the approved final site
436 plan.

437
438 B. [The schedule pursuant to which the SCRP units will be
439 constructed, marketed, and delivered and explaining the
440 relationship between the delivery of market-rate units and the
441 delivery of SCRP units (i.e., a stated number of SCRP units to be
442 created for each market-rate unit created).] A description of how
443 the SCRP Units will be marketed and delivered. The SCRP Units
444 must be constructed and delivered in equal proportion to non-
445 SCRP Units within the development.

446
447 (1) Applicants [should] *shall* affirmatively market the SCRP
448 [U]Units to diverse populations, and meet with the
449 surrounding residents early in the development approval
450 process.

451
452 C. Any economic risk created by changes, whether within or outside
453 of the [a]Applicant's control, in development and construction
454 costs, interest rates, processing and construction schedules,
455 permitting and any other factor impacting the [a]Applicant's costs
456 and development obligations are borne solely by the [a]Applicant.

457
458 D. Building permits, performance bonds and letters of credit.

459
460 [(1)] No building permits shall be issued in any subdivision or
461 housing development where SCRP [u]Units are included until
462 the [a]Applicant executes a valid SCRP [a]Agreement which
463 applies to the entire subdivision.

464
465 [(2)]If an applicant does not build the SCRP units in accordance
466 with the construction schedule along with or before other
467 dwelling units the County Administrator may withhold
468 building permits or call in performance bond or letter of credit
469 from the applicant until the SCRP units contained in the

470 construction schedule are built and contributed to SCRP rental
471 inventory to the satisfaction of the Department.]
472

473 E. Be signed by the [a]Applicant and all other parties having an
474 interest in the property whose signatures are required for the
475 effective and binding execution of contracts conveying real
476 property. SCRP [a]Agreements must be executed in a manner that
477 will enable them to be recorded in the land records of the County.
478 [If the applicant is a corporation or limited liability company, the
479 principal officers of the entity must sign the agreements
480 individually and on behalf of the corporation pursuant to a duly
481 adopted resolution.]
482

483 F. Partnerships, associations, corporations and other entities may not
484 evade the requirements of the SCRP [a]Agreement through
485 voluntary dissolution, bankruptcy, or the sale or transfer of
486 qualifying land.
487

488 G. The SCRP [a]Agreement may only be assigned with the prior
489 written approval of the Department and only if the proposed
490 assignee demonstrates the financial ability to fulfill all of the
491 [a]Applicant's obligations under the SCRP [a]Agreement.
492

493 H. Landlords are responsible for marketing, leasing, and determining
494 tenant eligibility for the SCRP [u]Units. [A lease agreement shall
495 not be signed unless validated by a certificate of eligibility.] A
496 landlord shall not be permitted to refuse to rent a unit to an
497 [e]Eligible [t]Tenant [without providing the Department with just
498 cause, to the Department's satisfaction, for the refusal]. The
499 reasons for a refusal to rent to an Eligible Tenant shall be
500 documented and included in the Annual Audit and Certification
501 required by §72-28
502

503 I. If the [a]Applicant is not also the builder, the relationship between
504 the [a]Applicant and the builder shall be fully disclosed to the

505 Department's satisfaction, as soon as the relationship is
506 established.

507

508 J. SCRP [u]Units must be fully integrated into the communities of
509 which they are a part (not separated geographically from the
510 market rate units and not grouped together) and shall not be
511 substantially different in external appearance from non-SCRP
512 [u]Units. When the SCRP [u]Units are a part of a phased
513 development, a proportionate number or percentage of said
514 [u]Units will be placed within each phase and/or constructed
515 within each housing type appearing in the development. The
516 planning and design of individual SCRP [u]Units must be
517 consistent with the planning and design of *non-SCRP Units (i.e.*
518 *market-rate units)* within a single project.

519

520 (1) The ratio of SCRP [u]Units by type must reflect the ratio by
521 type of market rate units, to the extent feasible. For instance,
522 if a development has 200 two-bedroom dwelling units and
523 100 one-bedroom dwelling units, the ratio of two-bedroom to
524 one-bedroom SCRP [u]Units should also be 2:1.

525

526 K. *[The applicant will execute and record covenants confirming*
527 *that]The SCRP Agreement shall be recorded in the Office of the*
528 *Recorder of Deeds confirming that:*

529

530 (1) The covenants *contained within it* will bind the [a]Applicant,
531 any assignee, mortgagee, or buyer and all other parties that
532 receive title to the property. In the event the mortgagee
533 acquires the property through a foreclosure or acceptance of
534 deed-in-lieu of foreclosure, the SCRP [a]Agreement
535 covenants will continue in effect. The covenants must be
536 senior to all instruments securing financing.

537

538 (2) In any deed or instrument conveying title by the [a]Applicant,
539 the property shall remain subject to all of the terms and

540 conditions contained in the SCRP [a]Agreements by the
541 [a]Applicant required under the chapter [during the control
542 period]. The source of the SCRP [a]Agreements and any deed
543 restrictions related thereto must be included in the public land
544 records so that they are readily identifiable in a routine title
545 search.

546
547 L. Where the [a]Applicant is a DDE, agreements will be negotiated
548 between the Department and the DDE so as to be consistent with
549 the mission, strategies, business plans and operating procedures
550 of the DDE and may, with Council approval, deviate from the
551 requirements of this chapter.

552
553 M. The SCRP [a]Agreement requires that the [l]Landlord ensure that
554 the SCRP [u]Units are occupied only by tenants whose [monthly]
555 *annual* income levels do not exceed the eligible income limit, and
556 shall prohibit tenants from subletting or subleasing the [u]Units.
557 [The agreement shall also require the landlord to submit a copy of
558 the initial and all renewal leases to the Director within 30 days of
559 signing the lease.]

560
561 (1) In addition, the [l]Landlord must supply the information listed
562 below in a format acceptable to the Director on an annual
563 basis:

564
565 (a) The number of SCRP [u]Units, by bedroom count, that are
566 leased to [e]Eligible [t]Tenants and those that are vacant,
567 and the monthly rent charged for each SCRP [u]Unit;

568
569 (b) For each SCRP [u]Unit, the tenant's name, household size,
570 and total household income as of the date of the lease, and
571 the effective date of the lease;

572

573 (c) A statement that, to the best of the [l]Landlord's
574 information and knowledge, tenants who are leasing the
575 SCRP [u]Units meet the eligibility criteria[; and
576

577 (d) A copy of each new or revised certificate of eligibility
578 obtained since the last annual report].
579

580 (2) The Department shall audit the report and may require such
581 additional information *monthly* needed to evaluate and accept
582 the annual report.
583

584 N. The tenant must vacate the SCRP [u]Unit if the tenant's household
585 income exceeds 80% of the area median income by 20% *at the*
586 *time of lease renewal*. The [a]Applicant must take the necessary
587 action to have the tenant vacate the SCRP [u]Unit within six
588 months of receiving information that the tenant's household
589 income exceeds the [e]Eligible [i]Income limit.
590

591 (1) Notwithstanding the provisions of § 72-23N above, if the
592 [a]Applicant immediately designates an additional
593 comparable unit as an affordable dwelling unit to be leased
594 under the controlled rental price and requirements of the
595 SCRP program, the tenant of such SCRP [u]Unit referenced
596 in § 72-23N above may continue to lease such [u]Unit at the
597 market value rent.
598

599 *O. The Landlord shall comply with the Annual Audit and*
600 *Certification Requirements of Section 72-28*
601

602 § 72-24 SCRP [u]Units.

603

604 A. Rent.

605

606 (1) Rent shall be established and updated annually by the
607 Department based upon 25% of household income for 50% of

608 the area median income adjusted for household size and unit size
609 and shall not include trash services, parking, water and sewer
610 utilities and any other charges to be paid by the tenant.

611
612 (2) The [e]Eligible [t]Tenant must provide to the [l]Landlord income
613 tax returns (and proof of payment of any taxes owed) from the
614 previous year for all members of the household who were
615 required to file such returns. If an [e]Eligible [t]Tenant was not
616 required to file tax returns or if the [l]Landlord believes that
617 information from the previous tax returns is insufficient to
618 determine income, the [l]Landlord is authorized to request such
619 information as it deems necessary to confirm the income levels
620 of the proposed tenants.

621
622 B. Unit and household size. Households must be placed in units
623 according to the following distribution:

624

Unit Size (number of bedrooms)	Household Size
Efficiency	1
1	1 to 2
1 plus Den	2 to 4
2	2 to 4
2 plus Den	2 to 4
3	4 to 6
4	5 to 8

625 **§ 72-25 Leasing of SCRP [u]Units.**

626
627 A. Leases to [e]Eligible [t]Tenants.

628

- 629 (1) Every SCRP [u]Unit constructed under this program must
630 be offered to all [e]Eligible [t]Tenants for lease as the
631 [e]Eligible [t]Tenant's principal residence. Notification to
632 the public of SCRP [u]Unit availability will be made by the
633 [l]Landlord and is recommended to be made by advertising
634 on DelawareHousingSearch.org *and similar sites*. The
635 Department may, but is not obligated to, provide notice of
636 SCRP [u]Unit availability through the Department's
637 website.
- 638
- 639 (2) The [l]Landlord will determine SCRP tenant eligibility
640 under § 72-20[, and lease agreements shall not be signed
641 until the tenant has received a certificate of eligibility from
642 the landlord].
- 643
- 644 (3) Annually, the Department will provide updated income
645 guidelines and rental rates to the [l]Landlord for use in
646 leasing the SCRP [u]Units.
- 647
- 648 (4) Lease agreements shall contain the same terms and
649 conditions as the lease agreements with market-rate renters
650 with the exception of the rental rates and other terms and
651 conditions as required under this article.
- 652
- 653 (5) All lease agreements of SCRP [u]Units shall cover a period
654 of one year.
- 655
- 656 (6) An [e]Eligible [t]Tenant already occupying a SCRP [u]Unit
657 [has]shall have a first-option to renew the lease agreement
658 each year, as long as the tenant maintains good standing
659 with the [l]Landlord and continues to qualify as an
660 [e]Eligible [t]Tenant. [The Department shall be notified by
661 the landlord of the intent to evict and the reasons therefor at
662 the same time the landlord first provides notice to the
663 tenant.]

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B. Tenants of SCRP [u]Units shall provide an executed affidavit on an annual basis certifying their continuing occupancy of the unit as their principal residence. Tenants shall provide such affidavit to the [l]Landlord by the date that may be specified in their lease or that may otherwise be specified by the [l]Landlord.

C. In the event the tenant of an SCRP [u]Unit fails to provide his or her [l]Landlord with an executed affidavit as provided for in the preceding paragraph within 30 days of written request for such affidavit, then the lease shall automatically terminate, become null and void and the occupant shall vacate the [u]Unit within 30 days of written notice from the [l]Landlord.

§ 72-26 Foreclosure or default.

A. The [l]Landlord must provide the Department with a copy of any mortgage default notification immediately upon receipt and a written explanation of how the default will be remedied.

B. If a foreclosure event occurs [during the control period], the covenants endure through the transfer of property [until the end of the control period].

[C. If the foreclosure event occurs after the thirty-year control period, then all binding restrictions of this chapter will dissolve.]

§ 72-27 Implementation.

Improvements to concepts, processes and rules and regulations of the SCRP program will be incorporated into future amendments of this article. Council views this article as a living document that will be modified as needed to respond to economic, housing, development, land use and other trends in the County and to best practices in affordable rental programs.

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§72-28 Annual Audit and Certification.

The Landlord shall contract with an independent Delaware Certified Public Accountant that has no other relationship with the Landlord/Developer/Owner/Manager to audit the Landlord's Compliance with this Chapter 72, the conditions of approval for the project, the terms of the SCRP Agreement, the rental of the SCRP Units and the status of the Eligible Tenants (and their Eligible Income) within the project. In this engagement, the Delaware Certified Public Accountant will perform this obligation in accordance with attestation standards established by the American Institute of Certified Public Accountants. This annual audit and report shall certify that the project remains in compliance with (i) all of the Chapter 72 requirements and the terms of the SCRP Agreement; (ii) the status of each of the SCRP Units (whether leased or vacant); (iii) certification that each of the Eligible Tenants renting an SCRP Unit within the project are an Eligible Tenant as of the date of the annual audit and report; (iv) the status and duration of any vacancy of any SCRP Unit; (v) the marketing efforts to re-let any vacant SCRP Unit to an Eligible Tenant; (vi) the status of any list of Eligible Tenants waiting for an SCRP Unit to come available; and (vii) such other information as the Delaware Certified Public Accountant and/or the Community Development and Housing Office may deem appropriate and necessary. This annual audit and report shall be submitted to both the Office of Planning & Zoning and the Community Development & Housing Office no later than March 1 of each year.

§ 72-2[8]9 Government regulations; enforcement.

A. The Department will maintain a list of all SCRP [u]Units constructed and leased under this program, and the Council hereby authorizes the County Administrator to promulgate and

733 adopt regulations and approve the various agreements/documents
734 necessary to administer this program.

735
736 B. The Director may, with Council approval, waive or modify the
737 provisions of the program if the Director finds the program in
738 conflict with state or federal housing laws.

739
740 C. This program applies to all agents, successors, and assigns of an
741 [a]Applicant. A building permit shall not be issued and a
742 preliminary plan of subdivision, development plan, or site plan
743 shall not be approved for a development that will contain
744 affordable rental units to be submitted to this program unless it
745 meets the requirements of this program. The County
746 Administrator may deny, suspend, or revoke any building or
747 occupancy permit upon finding a violation of this program. Any
748 prior approval of a preliminary or final plan of subdivision,
749 development plan or site plan may be suspended or revoked upon
750 the failure to meet any requirement of this chapter. An occupancy
751 permit shall not be issued for any building to any [a]Applicant, or
752 a successor, or assign of any [a]Applicant, for any construction
753 that does not comply with this program. The County
754 Administrator may also withhold or call in performance bond
755 funds, letters of credit, and certificates of compliance or
756 occupancy from the [a]Applicant for any violation of this
757 program.

758
759 D. In the event that the Landlord rents any of the SCRP Units at non-
760 SCRIP Unit rates (i.e. market rental rates) so that the
761 proportionate share of SCRP Units versus non-SCRIP Units as
762 originally approved is not maintained, the Landlord of the project
763 shall be required to pay to Sussex County the monthly market rent
764 collected from any such SCRP Unit that is rented at a non-SCRIP
765 Unit Rate. Any such funds collected by Sussex County shall be
766 used for housing purposes and administered by the Sussex County
767 Office of Community Development and Housing.

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D)E. The Director is authorized to pursue any available remedy, legal or equitable in nature, to enforce the requirements of this program or to prevent or abate a violation of this program.

[E)F. The Director may take legal action to stop or cancel any lease of an SCRIP [u]Unit if any party does not comply with all requirements of this program. The Director may recover any funds improperly obtained from the rental of a SCRIP [u]Unit in violation of this chapter.

[F)G. In the event of litigation to enforce the terms and conditions of this chapter or any agreement or obligation under the SCRIP program, the Department shall be entitled to an award of legal costs and fees to be collected from the party who is determined to be in violation of such agreements and obligations.

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-20 “Permitted Uses”, is hereby amended by inserting the italicized and underlined language as a new subpart A.(17) thereof as follows:

§115-20 Permitted Uses.

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

...

(17) A Sussex County Rental Program, or SCRIP, townhouse or multi-family development governed by, and subject to, Chapter 72, where at least 30% of all dwelling units are SCRIP Units pursuant to Chapter 72. The SCRIP development must satisfy the following criteria:

801 (a) The site must be located within a Town Center, a Developing
802 Area, or the Coastal Area as described within the Land Use
803 Element and as shown on the Future Land Use Plan of the
804 adopted Sussex County Comprehensive Plan.

805
806 (b) The site shall be located within 2,640 feet of an existing or
807 proposed DART Route operated by the Delaware Transit
808 Corporation. In the case of a proposed DART Route, Final Site
809 Plan approval shall not be granted until the Route is in existence
810 and operated by DART.

811
812 (c) The site must be served by a central sewer system and a central
813 water system.

814
815 (d) The total maximum number of dwelling units (including both
816 SCRP Units and non-SCRP Units) that may be permitted shall be
817 determined by dividing the gross area by 3,630 square feet.
818 "Gross area" shall exclude any area designated as a tidal
819 tributary stream or tidal wetlands by § 115-193.

820 (e) There shall be a one-hundred foot wide setback around the
821 entire site, which shall incorporate the "Forested and/or
822 Landscaped Buffer Strip" identified in Section 99-4. This setback
823 shall include walking and biking trails.

824 (f) The height of any townhouse or multi-family buildings shall
825 not exceed 52 feet or four stories, whichever is greater.

826 (g) There shall be sidewalks on all streets, roadways and parking
827 areas, with interconnectivity to adjacent walkway systems.

828 (h) There must be interconnectivity with any adjacent property
829 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

830 (i) There shall be open space that exceeds fifty percent of the
831 gross area of the entire site. The Primary view from each

832 dwelling unit shall be directed to open space and recreational
833 amenities.

834
835 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**
836 **25 “Height, Area and Bulk Requirements”, is hereby amended by**
837 **inserting the italicized and underlined language as a new subpart G**
838 **thereof as follows:**

839
840 **§115-25 Height, Area and Bulk Requirements.**

841
842 . . .

843
844 G. Sussex County Rental Unit development permitted by §115-20A.(17).
845 The minimum lot size, lot area per dwelling unit, open space, height and
846 setback requirements for a Sussex County Rental Unit development
847 permitted by §115-20A.(17) shall be governed by the dimensional
848 requirements set forth in that Section.

849
850 **Section 4. The Code of Sussex County, Chapter 115, Article V, §115-**
851 **29 “Permitted Uses”, is hereby amended by inserting the italicized**
852 **and underlined language as a new subpart K. thereof as follows:**

853
854 **§115-29 Permitted Uses.**

855
856 A building or land shall be used only for the following purposes:

857
858 . . .

859
860 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
861 family development governed by, and subject to, Chapter 72,
862 where at least 30% of all dwelling units are SCRP Units pursuant
863 to Chapter 72. The SCRP development must satisfy the following
864 criteria:

865 (1)The site must be located within a Town Center, a Developing
866 Area, or the Coastal Area as described within the Land Use
867 Element and as shown on the Future Land Use Plan of the
868 adopted Sussex County Comprehensive Plan.

869
870 (2)The site shall be located within 2,640 feet of an existing or
871 proposed DART Route operated by the Delaware Transit
872 Corporation. In the case of a proposed DART Route, Final Site
873 Plan approval shall not be granted until the Route is in existence
874 and operated by DART.

875
876 (3)The site must be served by a central sewer system and a central
877 water system.

878
879 (4)The total maximum number of dwelling units (including both
880 SCRP Units and non-SCRP Units) that may be permitted shall be
881 determined by dividing the gross area by 3,630 square feet.
882 "Gross area" shall exclude any area designated as a tidal
883 tributary stream or tidal wetlands by § 115-193.

884 (5)There shall be a one-hundred foot wide setback around the
885 entire site, which shall incorporate the "Forested and/or
886 Landscaped Buffer Strip" identified in Section 99-4. This setback
887 shall include walking and biking trails.

888 (6)The height of any townhouse or multi-family buildings shall
889 not exceed 52 feet or four stories, whichever is greater.

890 (7)There shall be sidewalks on all streets, roadways and parking
891 areas, with interconnectivity to adjacent walkway systems.

892 (8)There must be interconnectivity with any adjacent property
893 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

894 (9)There shall be open space that exceeds fifty percent of the
895 gross area of the entire site. The Primary view from each

896 dwelling unit shall be directed to open space and recreational
897 amenities.

898
899 **Section 5. The Code of Sussex County, Chapter 115, Article V, §115-**
900 **34 “Height, Area and Bulk Requirements”, is hereby amended by**
901 **inserting the italicized and underlined language as a new subpart D.**
902 **thereof as follows:**

903
904 **§115-34 Height, Area and Bulk Requirements.**

905
906 . . .

907
908 D. Sussex County Rental Unit development permitted by §115-29K. The
909 minimum lot size, lot area per dwelling unit, open space, height and
910 setback requirements for a Sussex County Rental Unit development
911 permitted by §115-29K shall be governed by the dimensional
912 requirements set forth in that Section.

913
914
915 **Section 6. The Code of Sussex County, Chapter 115, Article VI, §115-**
916 **37 “Permitted Uses”, is hereby amended by inserting the italicized**
917 **and underlined language as a new subpart C. as follows:**

918
919 **§115-37 Permitted Uses.**

920
921 Permitted uses are as follows:

922 . . .
923

924 C. A Sussex County Rental Program, or SCRP, townhouse or multi-
925 family development governed by, and subject to, Chapter 72, where at
926 least 30% of all dwelling units are SCRP Units pursuant to Chapter
927 72. The SCRP development must satisfy the following criteria:

928 (1)The site must be located within a Town Center, a Developing
929 Area, or the Coastal Area as described within the Land Use
930 Element and as shown on the Future Land Use Plan of the
931 adopted Sussex County Comprehensive Plan.

932
933 (2)The site shall be located within 2,640 feet of an existing or
934 proposed DART Route operated by the Delaware Transit
935 Corporation. In the case of a proposed DART Route, Final Site
936 Plan approval shall not be granted until the Route is in existence
937 and operated by DART.

938
939 (3)The site must be served by a central sewer system and a central
940 water system.

941
942 (4)The total maximum number of dwelling units (including both
943 SCRP Units and non-SCRP Units) that may be permitted shall be
944 determined by dividing the gross area by 3,630 square feet.
945 "Gross area" shall exclude any area designated as a tidal
946 tributary stream or tidal wetlands by § 115-193.

947 (5)There shall be a one-hundred foot wide setback around the
948 entire site, which shall incorporate the “Forested and/or
949 Landscaped Buffer Strip” identified in Section 99-4. This setback
950 shall include walking and biking trails.

951 (6)The height of any townhouse or multi-family buildings shall
952 not exceed 52 feet or four stories, whichever is greater.

953 (7)There shall be sidewalks on all streets, roadways and parking
954 areas, with interconnectivity to adjacent walkway systems.

955 (8)There must be interconnectivity with any adjacent property
956 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

957 (9)There shall be open space that exceeds fifty percent of the
958 gross area of the entire site. The Primary view from each

959 dwelling unit shall be directed to open space and recreational
960 amenities.

961
962 **Section 7. The Code of Sussex County, Chapter 115, Article VI, §115-**
963 **42 “Height, Area and Bulk Requirements”, is hereby amended by**
964 **inserting the italicized and underlined language as a new subpart D.**
965 **thereof as follows:**

966 **§115-42 Height, Area and Bulk Requirements.**

967
968 . . .

969
970 D. Sussex County Rental Unit development permitted by §115-37C. The
971 minimum lot size, lot area per dwelling unit, open space, height and
972 setback requirements for a Sussex County Rental Unit development
973 permitted by §115-37C shall be governed by the dimensional
974 requirements set forth in that Section.

975
976 **Section 8. The Code of Sussex County, Chapter 115, Article VII,**
977 **§115-45 “Permitted Uses”, is hereby amended by inserting the**
978 **italicized and underlined language as a new subpart F. thereof as**
979 **follows:**

980
981 **§115-45 Permitted Uses.**

982
983 Permitted uses are as follows:

984
985 . . .

986
987 F. A Sussex County Rental Program, or SCRP, townhouse or multi-
988 family development governed by, and subject to, Chapter 72, where at
989 least 30% of all dwelling units are SCRP Units pursuant to Chapter
990 72. The SCRP development must satisfy the following criteria:

991 (1) The site must be located within a Town Center, a Developing
992 Area, or the Coastal Area as described within the Land Use Element
993 and as shown on the Future Land Use Plan of the adopted Sussex
994 County Comprehensive Plan.

995
996 (2) The site shall be located within 2,640 feet of an existing or
997 proposed DART Route operated by the Delaware Transit
998 Corporation. In the case of a proposed DART Route, Final Site Plan
999 approval shall not be granted until the Route is in existence and
1000 operated by DART.

1001
1002 (3) The site must be served by a central sewer system and a central
1003 water system.

1004
1005 (4) The total maximum number of dwelling units (including both
1006 SCRP Units and non-SCRP Units) that may be permitted shall be
1007 determined by dividing the gross area by 3,630 square feet. "Gross
1008 area" shall exclude any area designated as a tidal tributary stream or
1009 tidal wetlands by § 115-193.

1010 (5) There shall be a one-hundred foot wide setback around the
1011 entire site, which shall incorporate the "Forested and/or Landscaped
1012 Buffer Strip" identified in Section 99-4. This setback shall include
1013 walking and biking trails.

1014 (6) The height of any townhouse or multi-family buildings shall
1015 not exceed 52 feet or four stories, whichever is greater.

1016 (7) There shall be sidewalks on all streets, roadways and parking
1017 areas, with interconnectivity to adjacent walkway systems.

1018 (8) There must be interconnectivity with any adjacent property
1019 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

1020 (9) There shall be open space that exceeds fifty percent of the
1021 gross area of the entire site. The Primary view from each dwelling
1022 unit shall be directed to open space and recreational amenities.

1023
1024 **Section 9. The Code of Sussex County, Chapter 115, Article VII,**
1025 **§115-50 “Height, Area and Bulk Requirements”, is hereby amended**
1026 **by inserting the italicized and underlined language as a new subpart**
1027 **G. thereof as follows:**

1028
1029 **§115-50 Height, Area and Bulk Requirements.**

1030
1031 . . .

1032
1033 G. Sussex County Rental Unit development permitted by §115-45F. The
1034 minimum lot size, lot area per dwelling unit, open space, height and
1035 setback requirements for a Sussex County Rental Unit development
1036 permitted by §115-45F. shall be governed by the dimensional
1037 requirements set forth in that Section.

1038
1039 **Section 10. The Code of Sussex County, Chapter 115, Article VIII,**
1040 **§115-53 “Permitted Uses”, is hereby amended by inserting the**
1041 **italicized and underlined language as a new subpart K. thereof as**
1042 **follows:**

1043
1044 **§115-53 Permitted Uses.**

1045
1046 A building or land shall be used only for the following purposes:

1047
1048 . . .

1049
1050 K. A Sussex County Rental Program, or SCRP, townhouse or multi-
1051 family development governed by, and subject to, Chapter 72, where at

1052 least 30% of all dwelling units are SCRP Units pursuant to Chapter
1053 72. The SCRP development must satisfy the following criteria:

1054 (1) The site must be located within a Town Center, a Developing
1055 Area, or the Coastal Area as described within the Land Use Element
1056 and as shown on the Future Land Use Plan of the adopted Sussex
1057 County Comprehensive Plan.

1058
1059 (2) The site shall be located within 2,640 feet of an existing or
1060 proposed DART Route operated by the Delaware Transit
1061 Corporation. In the case of a proposed DART Route, Final Site Plan
1062 approval shall not be granted until the Route is in existence and
1063 operated by DART.

1064
1065 (3) The site must be served by a central sewer system and a central
1066 water system.

1067
1068 (4) The total maximum number of dwelling units (including both
1069 SCRP Units and non-SCRP Units) that may be permitted shall be
1070 determined by dividing the gross area by 3,630 square feet. "Gross
1071 area" shall exclude any area designated as a tidal tributary stream or
1072 tidal wetlands by § 115-193.

1073 (5) There shall be a one-hundred foot wide setback around the
1074 entire site, which shall incorporate the "Forested and/or Landscaped
1075 Buffer Strip" identified in Section 99-4. This setback shall include
1076 walking and biking trails.

1077 (6) The height of any townhouse or multi-family buildings shall
1078 not exceed 52 feet or four stories, whichever is greater.

1079 (7) There shall be sidewalks on all streets, roadways and parking
1080 areas, with interconnectivity to adjacent walkway systems.

1081 (8) There must be interconnectivity with any adjacent property
1082 that is zoned C-1, CR-1, C-2, C-3, C-4, C-5, B-1, B-2 or B-3.

1083 (9) There shall be open space that exceeds fifty percent of the
1084 gross area of the entire site. The Primary view from each dwelling
1085 unit shall be directed to open space and recreational amenities.

1086

1087 **Section 11. The Code of Sussex County, Chapter 115, Article VIII,**
1088 **§115-58 “Height, Area and Bulk Requirements”, is hereby amended**
1089 **by inserting the italicized and underlined language as a new subpart**
1090 **E. thereof as follows:**

1091

1092 **§115-58 Height, Area and Bulk Requirements.**

1093

1094 . . .

1095

1096 E. Sussex County Rental Unit development permitted by §115-53K. The
1097 minimum lot size, lot area per dwelling unit, open space, height and
1098 setback requirements for a Sussex County Rental Unit development
1099 permitted by §115-53K shall be governed by the dimensional requirement
1100 set forth in that Section.

1101

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2***
A. General Construction, Project C19-11 Change Order No. 21
B. Electrical Construction, Project C19-17, Change Order No. 16

DATE: March 29, 2022

In summary, the South Coastal WRF Treatment Process Upgrade No.3 encompasses the following components and statuses:

- a. Effluent Forcemain Relocation/Replacement; Completed in fall of 2019.
- b. Influent Forcemain Consolidation; Completed in May of 2020.
- c. Drainage Network Rerouting;
This scope was not included in the base bid. After cost comparison between the General Labor & Equipment Contract versus a change order under Ronca's general construction contract; Council awarded the stand alone Change Order Request 554-001 to Ronca & Sons, Inc. in the amount of \$104,592.96 on March 10, 2020. The construction was completed in July 2020.
- d. General Construction Project C19-11; awarded on December 17, 2019 to M.F. Ronca & Sons, Inc.

On March 10, 2020 Council authorized Change Order No.1 in the net amount of \$97,294.31 for deletion of the record drawing requirement and the modification of the RBWTF influent forcemains.



On May 12, 2020 Council authorized credit Change Order No. 2 in the amount of (\$12,705.00) eliminating an explosion proof motor requirement.

On July 28, 2020 Council approved credit Change Order No. 3 in the combined amount (\$9,764.30) for use of surplus materials projects.

Change Order No.4 in the amount of \$871,000.00 for the repairs of partial failures at the two City of Rehoboth's wastewater treatment plant oxidation ditch systems was also approved on July 28, 2020. M.F. Ronca & Sons, Inc. completed the scope in May of 2021 and the County increased the flow contribution to the City's plant.

On December 15, 2020 County Council approved Change Order No. 6 for steel framing repairs in the first oxidation ditch on a time & material basis up to \$10,500.00. This is in addition to the concrete repairs which are being conducted per the awarded contingent unit price schedules.

The County initiated RFP-019 addressing modifications to the interior headworks piping the second one and RFP-023 covering the addition of a cross connection between the existing 14-inch process drain header for Aeration Tank Nos. 1-4 and the new header for the Aeration Tank Nos. 5-8. On September 22, 2020 Council approved Change Order No.5 in the combined amount of \$32,991.66.

GHD issued RFP-031 for the installation of plug valves on each of the 12-inch recycle influent pipes to be connected to the existing Aeration Tank Nos. 1-4 and to the new Aeration Tank Nos. 7-8. On December 15, 2020, Change Order No. 7 was approved for said shut off valves in the amount of \$31,974.51.

The new South Coastal aeration basin had to be connected to the existing large diameter sludge return piping requiring a forward flow stoppage. Minimizing the joint risk M. F. Ronca proposed a line stop approach under Change Order No. 8. Since it also gained construction efficiency, they offered to only charge for the subcontractor work.

In the spring of 2021, the Rehoboth Beach WTP oxidation ditch rehabilitation was receiving expansive attention including:

- Contingent Unit Price Concrete Repairs, Bid Items F-19 & F-20
- Steel Repairs authorized under Change Order No. 6
- Steel Coatings authorized as part of Change Order No. 4

In addition, all of the leaking expansion joints have been repaired under a time & material approach. On March 9, 2021, County Council approved Change Order Nos. 8 and 9 in the respective amounts of \$34,765.50 and \$45,600.00.

Only one of the two headworks influent pipes has a shut off valve and we requested another 20" valve in the second vertical influent pipe. In addition,

two of the existing headworks slide gates were compromised in need of replacement and we requested the replacement. On May 25, 2021, Council approved Change Order No. 10 in the aggregate amount of \$34,160.64.

The County initiated RFP-039 addressing modifications to two slide gates avoiding conflict with the new air piping. In addition, it was discovered during the rehabilitation work in the grit tanks, that the existing influent chutes to the stacked tray grit removal systems were significantly compromised. On June 22, 2021, Council approved Change Order No. 11 in the aggregate amount of \$59,557.16.

The design team initiated RFP-038 for exhaust duct modifications associated with the new turbo blowers. The headworks cross channel is lower, and the existing channels have steps incorporated, which differs from the as built information available. RFP-041 proposes to construct the Screen Channel No. 3 at the same elevation incorporating modifications to the proposed Screen SCN-103. On July 13, 2021, Council approved Change Order No. 12 to M.F. Ronca & Sons in the amount of \$14,700.07.

The contract as bid includes concrete repairs to the City's headworks and influent splitter box. With the structures in question by-passed and accessible, the full extent of the damage was evident requiring an alternative approach to the proposed refurbishment as detailed in RFP-037.

The newly revealed site conditions required the full demolition of the upper level of the headworks as well as the channel between it and the splitter box. All the associated gates and plating had to be replaced in a massive effort. Michael F. Ronca & Sons, Inc. proposed to perform the modifications for \$1,043,243.92. GHD, the City Engineer and the County Engineer supported the approach, and the change order was within budget of the City's financing arrangements previously approved by the City and County elected officials. On August 10, 2021, Council approved Change Order No. 13 to M.F. Ronca & Sons in the amount of \$1,043,243.92.

The City requested M.F. Ronca & Sons' assistance in the wetwell cleaning of the State Rd. pump station to allow a full evaluation in preparation of the upgrade design. In addition, the City requested to modify the air intake for B-10 Building ventilation from a roof mount to an existing window opening. On November 30, 2022, County Council approved Change Order No. 14 in the aggregate amount of \$7,380.37.

Upon exposure of the normally submerged piping at the oxidation ditches, GHD formulated an initial repair scope for the influent, return sludge & air piping including replacement of valves and fittings. It was subsequently reduced and Michael F. Ronca & Sons, Inc. proposed to perform the modified repair scope for \$324,996.81. GHD, the City Engineer and the County Engineer supported the modified approach. However, this amount is not within

budget of the City's financing arrangements previously approved. The City will pay for this change order directly out of City funds. County Council approved Change Order No. 15 on January 11, 2022, subject to direct payment by the City. Since then, it was determined that the pipe support configuration for the replacement of oxidation ditch influent piping at the City's WTP required additional supports and RFP-056 issued. Michael F. Ronca & Sons, Inc. proposed to perform the expanded repair scope for \$ \$8,992.49. County Council approved Change Order No. 17 to M.F. Ronca & Sons in the amount of \$8,992.49 on January 25, 2022.

GHD's design scope included a separate task for the hydraulic transient analysis of the South Coastal effluent force under various pumping scenarios. After County approval of the findings, GHD issued RFP-052 for replacing air valves on the effluent force main and installing additional air valves at new locations. This work scope was not known at time of base bid and hence not included. On January 11, 2022 County Council issued Change Order No. 16 to M.F. Ronca & Sons in the amount of \$88,132.23.

The South Coastal RWF's return sludge pumping station has three (3) pumps, two of which have been upgraded. The third unit recently experienced a failure, and the Environmental Services requested replacement of the pump and piping to be integrated in the project as per RFP-053. Michael F. Ronca & Sons, Inc. proposed to perform the replacement scope for \$ 31,101.61, which Council approved on January 25, 2022 via Change Order 18.

Under RFP-053 the South Coastal RWF requested replacement of two (2) compromised pumps and rail systems in the existing filtrate return pump station in the filter building. Under RFP-057 the City staff requested new fiberglass baffles and a guide bracket assembly to replace the original wooden baffle assembly located in the flow splitter box. M.F. Ronca & Sons proposed to complete the work for \$90,081.84 and \$8,132.66 respectively which Council approved on February 8, 2022 via Change Order 19.

The City requested M.F. Ronca & Sons' assistance in the installation of a lintel above the screen chute complete with control joints limiting vertical cracking. Ronca proposed to complete this work for \$7,426.59. The City is in agreement and the amount is within the limits of the alternative financing arrangements.

Starting in 2021, Environmental Services started experiencing more frequent malfunctions and alarm call outs with the influent screens at the Inland Bays RWF. In addition, a reduction in screen bar opening from ¼-inch to 3/16-inch opening will help the facilities sludge accumulation. The units were commissioned in the fall of 2010 and normally have a 15-year service life. Therefore, the initial in-house approach was a one at a time removal, shipment to manufacturer for a complete rebuilt. Given the current short staffing, the Engineering Department requested the assistance of Michael F. Ronca & Sons, Inc. Their investigation revealed that a full replacement could be accomplished

for \$ 253,417.58, which was only 10% more expensive than a full rebuilt. On March 8, 2022, County Council approved Change Order No. 20 in the aggregate amount of \$260,844.17 for the replacement in kind of two screens at Inland Bays and the masonry work at the City's plant.

The South Coastal facility requires alkalinity adjustments. In the past caustic soda was used however with the upgrade project the approach was switched to magnesium hydroxide. The as bid design included an innovative low energy consumption type Enviromix gas mixing system for two new magnesium hydroxide storage tanks. The mixing system came with a performance guarantee which was not met at start up. Therefore, the design approach was switched to a traditional impeller type mixing system. Michael F. Ronca & Sons, priced out the modification including the full contract credits relating to the original Enviromix system. Therefore, the Department recommends issuance of Change Order No. 21 in the aggregate amount of \$45,989.72 for the replacement of the chemical mixing equipment.

- e. **Electrical Construction Project C19-17**; awarded on December 17, 2019 to BW Electric, Inc.

On February 4, 2020 Council awarded Change Order No.1 in the credit amount of (\$759,374.80) mostly for changes to the conduit materials. A second credit change order was approved on March 10, 2020 in the amount of (\$6,800.00) for ductbank modifications.

On April 7, 2020 Council approved Change Order No.3 in the not to exceed amount of \$235,637.33 for DP&L requested changes to the utility power service entrance location at the RBWTP.

On May 12, 2020, Council authorized Change Order No.4 in the amount of \$11,350.00 for reconstruction of the original electrical equipment in South Coastal's sludge handling building electrical room accommodating a longer motor control center.

On July 28, 2020 Council approved Change Order No.5 in the combined amount of \$37,830.00 for the removal of an existing electrical handhole and duct bank and the modification of the duct bank between the DP&L utility switching pedestal and the transformer.

On September 22, 2020 Council approved Change Order No.6 in the amount of \$16,550.00 for the change of the sewer service for the Return Sludge Building No. 2 from a gravity drain to a pumped approach.

On September 22, 2020 Council approved Change Order No. 7 in the not to exceed amount of \$307,300.00 for the City's oxidation ditch complete electrical equipment replacement. This change order had an allowance for sensor replacements which proved too low and required an increase of

\$6,582.80. Council approved the modification to Change Order No. 7 on November 10, 2020.

On November 10, 2020 Council approved Change Order No. 8 in the aggregate amount of \$2,249.00 covering RFP-027, RFP-028, RFP-029 & RFP-030. GHD has concluded that RFP-029 can be rescinded in its entirety. Therefore, the scope of work in the Sludge Building reverts to the Drawings, as modified by Change Order No. 4 associated with RFP-016.

On December 15, 2020, Council approved the modification reducing Change Order No. 8 by \$9,040.00 for a modified net total credit of (\$6,791.00).

On February 9, 2021 Council approved Change Order No. 9 in the aggregate amount of \$30,554.00 covering RFPs-032 & 033. The first RFP provided upsized control panels, conduit and conductors associated with the two (2) Jet Mixing Pump VFDs while the second dealt with a modified temporary electrical feeder arrangement and a redirection of the medium voltage loop.

Under RFP- 035 the Environmental Services team requested waterproofed convenience receptacles at the return sludge building's pump room. While under RPP-040 they requested additional site lighting in the area of the generator and blower buildings. BW Electric, Inc. proposed and on August 10, 2021, Council approved Change Order No. 10 in the aggregate amount of \$7,320.00.

The City initiated RFPs-042 & 44. The first one replaces the deteriorated pull box at building B-10 with a stainless steel one and provides temporary power during installation. The second one addresses modifications to the garage feeder after an unknown electrical structure was discovered. On October 12, 2021 Council approved Change Order No. 11 in the aggregate amount of \$47,328.70.

The Environmental Services team initiated RFP-045 for modification to the aeration basin lighting. It modifies some light locations and reduces the light pole height for the remaining interior poles out of operational safety concerns. On October 12, 2021 Council approved Change Order No. 12 in the amount of \$4,779.38.

The City initiated RFPs -043 & 049. The first one relates to the electrical control requirements for a City-furnished booster pump for installation in Building T-1. The second one addresses rewiring of the two (2) level sensors and dissolved oxygen probes at the oxidation ditches. On January 11, 2022 County Council issued Change Order No. 13 in the aggregate amount of \$20,018.56.

The Environmental Services team initiated RFP-048 for modification to four valves eliminating the actuators and on January 11, 2022 County Council issued the associated Change Order No. 14 in the credit amount of (\$6,485.87).

The City's lighting in the headworks building and the panelboard in the chemical building are compromised by corrosion and City staff requested replacement as per RFP-050. The County Environmental Services and IT staff reanalyzed the facility's fiber optic cabling needs and requested inner duct modifications under RFP-059. BW Electric proposed to make the changes for \$12,018.72 and \$16,100.70 respectively and on February 8, 2022 Council issued Change Order No. 15 in the aggregate amount of \$28,119.42.

In February of 2022 D&PL requested modifications to the primary metering approach. RFP-062 requested deletion of pad-mounted metering cabinet and equipment, demolition of already constructed associated equipment pad and new duct bank from service entrance switch to DP&L pole with two concrete encased 5" conduits. The City's building B-3 housing a number of large variable frequency drives is not climate controlled and the existing equipment is overheating. Under RFP-058 the City requested modification of three enclosures to provide dedicated cabinet ventilation. BW Electric proposed to complete the tasks for \$29,952.92 and \$22,050.21 respectively. Therefore, the Department recommends issuance of Change Order No. 16 in the aggregate amount of \$52,003.13 for the DP&L metering modifications and the City's dedicated VFD cabinet ventilation.

- f. Mobile Belt Filter Press; awarded on January 7, 2020 Council to Kershner Environmental Technologies. The unit was deployed at the Inland Bays RWF reducing legacy lagoon solids accumulation and is currently stationed at the LBPW Plant.
- g. DP&L expenses; on February 4, 2020 Council approved the electric utility service relocation contract.
- h. The Rehoboth Beach WTP was built on a municipal landfill and Council approved a stand-alone competitive purchase order to Melvin L. Joseph Construction Company, Inc. for material hauling & screening on July 14, 2020.

The updated expenses associated with the South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program; Phase 2 are summarized in the attached spreadsheet.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **SCRWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – General Construction**
2. Sussex County Project No. C19-11
3. Change Order No. 21
4. Date Change Order Initiated - 3/29/22
5.
 - a. Original Contract Sum \$39,526,400.00
 - b. Net Change by Previous Change Orders \$3,183,739.21
 - c. Contract Sum Prior to Change Order \$42,710,139.21
 - d. Requested Change \$ 45,989.72
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$42,756,128.93
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Replacement of original design mixer equipment.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

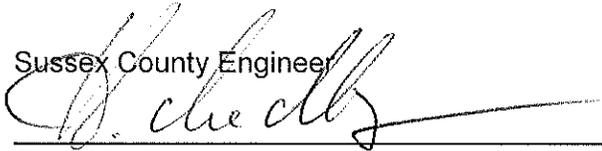
E. APPROVALS

- 1. M.F. Ronca & Sons, Inc., Contractor

Signature Date

Representative's Name in Block Letters

- 2. Sussex County Engineer



Signature Date

- 3. Sussex County Council President

Signature Date

Michael F.
RONCA
& Sons, Inc.

TELEPHONE 610/759-5100
FACSIMILE 610/746-0974



CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

March 16, 2022

Mr. Steven Clark, P.E.
GHD
16701 Melford Boulevard, Suite 330
Bowie, MD 20715

Re: Sussex County
SCRWF-RBWWTP CIP Phase 2 Upgrades
Proposed Change Order Request No. 554-031
SCRWF Mag. Hydrox. Mixing System

Dear Mr. Clark:

Please consider this writing to be Michael F. Ronca & Sons, Inc.'s formal change order request for performance of the above referenced work, in the amount of Forty Five Thousand Nine Hundred Eighty Nine Dollars and 72 Cents.....(\$45,989.72).

Enclosed for your review is a corresponding breakdown of costs.

Should this change order request be acceptable as provided, please prepare the appropriate change order documentation and forward the same to our office for further processing. Until then, should you have any questions, or require additional information, please do not hesitate to contact me.

Regards,

Scott Wachinski

Project Manger

cc: HO file 554
Hans M. Medlarz, P.E. – Sussex Co.
David A. Ronca – M.F. Ronca

Sussex County - SCRWF-RBWTP CIP Phase 2 Upgrades

PCOR 554-031 SCRWF Mag. Hydrox. Mixing System

3/16/2022

CHANGE ORDER SUMMARY

Item 1 Enviromix Provided Contract Credits Relating to Gas Mixing System as Agreed to by GHD.

Labor	\$0.00
Materials	(\$43,200.00)
Equipment	\$0.00
Subcontract	\$0.00
Subtotal	(\$43,200.00)
Contractor Overhead & Profit @ 0% (Direct Credit)	\$0.00
Contr. Overhead & Profit on Subcontr. @ 5%	\$0.00
Item Total	(\$43,200.00)

Item 2 Cut Openings in Ex. Steel Roof Deck, Install Access Hatches and Install Addl. Walking Pads per GHD RFP-063 to Include Addl. Structural Steel Supports Under Decking.

Labor	\$1,935.00
Materials	\$1,750.00
Equipment	\$538.60
Subcontract	\$14,047.02
Subtotal	\$18,270.62
Contractor Overhead & Profit @ 15%	\$633.54
Contr. Overhead & Profit on Subcontr. @ 5%	\$702.35
Item Total	\$19,606.51

Item 3 Furnish and Install of 2 EA New Mechanical Mixing Systems in Previously Installed FRP Mag. Hydrox. Storage Tanks per GHD RFP-063 to Incl. 1" Thick 316 SS Mixer Support Plates, Modify Ex. Tank Fill/Vent Piping, Etc.

Labor	\$6,739.96
Materials	\$52,813.70
Equipment	\$953.48
Subcontract	\$0.00
Subtotal	\$60,507.14
Contractor Overhead & Profit @ 15%	\$9,076.07
Contr. Overhead & Profit on Subcontr. @ 5%	\$0.00
Item Total	\$69,583.21

Change Order Total **\$45,989.72**

Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades

PCOR 554-031 SCRWF Mag. Hydrox. Mixing System

3/16/2022

<u>Item</u>	<u>Description</u>						
Item 1	Enviromix Provided Contract Credits Relating to Gas Mixing System as Agreed to by GHD.						
	Labor:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
				\$0.00	\$0.00	Labor Total:	\$0.00
	Materials:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
	Credit for Value of Mag. Hydrox. Gas Mixing Equip.	-1.00	LS	\$21,200.00	(\$21,200.00)		
	Credit for SOV Ronca Install of System	-1.00	LS	\$12,000.00	(\$12,000.00)		
	Credit for Wasted Chemical	-1.00	LS	\$7,000.00	(\$7,000.00)		
	Credit for Electrical Install Costs	-1.00	LS	\$3,000.00	(\$3,000.00)	Material Total:	(\$43,200.00)
	Equipment:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
				\$0.00	\$0.00	Equipment Total:	\$0.00
	Subcontract:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
				\$0.00	\$0.00	Subcontract Total:	\$0.00
						Item Total:	(\$43,200.00)
Item 2	Cut Openings in Ex. Steel Roof Deck, Install Access Hatches and Install Addl. Walking Pads per GHD RFP-063 to Include Addl. Structural Steel Supports Under Decking.						
	Labor:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
	Welder/Fabricator	10.00	HR	\$122.18	\$1,221.80		
	Laborer	10.00	HR	\$71.32	\$713.20	Labor Total:	\$1,935.00
	Materials:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
	Misc. Decking Support Steel	1.00	LS	\$1,750.00	\$1,750.00	Material Total:	\$1,750.00
	Equipment:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
	Weld Truck w/Consumables	10.00	HR	\$38.20	\$382.00		
	STS	10.00	HR	\$15.66	\$156.60	Equipment Total:	\$538.60
	Subcontract:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>		
	Roofing Subcontractor	1.00	LS	\$14,047.02	\$14,047.02	Subcontract Total:	\$14,047.02
						Item Total:	\$18,270.62

Item 3 Furnish and Install of 2 EA New Mechanical Mixing Systems in Previously Installed FRP Mag. Hydrox. Storage Tanks per GHD RFP-063 to Incl. 1" Thick 316 SS Mixer Support Plates, Modify Ex. Tank Fill/Vent Piping, Etc.

Labor:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
Mechanic/Fitter	40.00	HR	\$122.18	\$4,887.20	
Operating Engineer	4.00	HR	\$106.59	\$426.36	
Laborer	20.00	HR	\$71.32	\$1,426.40	
					Labor Total: \$6,739.96
Materials:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
2 EA Chemineer Top Entry Mixers w/ Freight & S/U Service	1.00	LS	\$44,152.00	\$44,152.00	
1" Thk. 316 SS Mixer Support Plates	1.00	LS	\$7,351.70	\$7,351.70	
Misc. Installation Hardware	1.00	LS	\$850.00	\$850.00	
Misc. PVC Piping/Fittings	1.00	LS	\$460.00	\$460.00	
					Material Total: \$52,813.70
Equipment:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
75 T RT Crane	4.00	HR	\$160.07	\$640.28	
STS	20.00	HR	\$15.66	\$313.20	
					Equipment Total: \$953.48
Subcontract:	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
				\$0.00	
					Subcontract Total: \$0.00
					Item Total: \$60,507.14

Notes:
 N1 PCOR assumes electrical work for new mixing system by others. Any electrical work relating to new mixing system installation is specifically excluded.

From: [John Gallagher](#)
To: [Scott Wachinski](#)
Cc: [Dominic Ruggiero](#)
Subject: RE: RFP-063 Magnesium Hydroxide Mixing System
Date: Thursday, March 10, 2022 10:53:33 AM
Attachments: [image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Scott,

The prices are as follows:

- Model 21HTL-2 Agitator: \$20,576.00/each x 2
- Freight to Frankford, DE: \$650.00 total
- Field Service: \$1750.00/day plus living and travel expenses (Chemineer is located in Dayton, OH)
- Adder for an In-Tank Coupling: \$4140.00/each x 2

Any questions or comments please let me know.

Regards

John Gallagher
Maggs & Gallagher, LLC
(856) 662-5323
(609) 304-7315 cell
www.maggsandgallagher.com

On 03/10/2022 7:25 AM Scott Wachinski <swachinski@mfronca.com> wrote:

John,

Just following up on this, when can we expect to see your revised pricing per our discussions earlier this week?

Scott Wachinski

Project Manager



179 Mikron Road

Bethlehem, PA 18020

Phone: 610-759-5100

Fax: 610-746-0974

Mobile: 610-972-1355

From: Scott Wachinski

Sent: Monday, March 7, 2022 7:38 AM

To: jgal.mg@comcast.net

Cc: Dominic Ruggiero <DRuggiero@mfronca.com>

Subject: FW: RFP-063 Magnesium Hydroxide Mixing System

John,

Good morning, we received the attached RFP from GHD for our SCRWF Project in Sussex DE which is inclusive of your mixer proposal. Also attached are the various project specification sections referenced in the RFP (11351, 11375, 01300, 01640 & 15170), in case you had not seen these prior to preparation of you proposal.

Just looking to confirm the following relative to your proposal:

- Pricing still good based on information outlined in RFP and applicable specification sections.
- Pricing includes freight to jobsite as follows:

South Coastal Regional WTF Upgrade No. 3

C/O Michael F. Ronca & Sons, Inc.

33711 S. Coastal Ln.

Frankford, DE 19945

- Pricing includes startup services

Following your review, could you please give me a call on my cell phone 610-972-1355 to further discuss.

Thanks,

Scott Wachinski

Project Manager



179 Mikron Road

Bethlehem, PA 18020

Phone: 610-759-5100

Fax: 610-746-0974

Mobile: 610-972-1355

From: Steven Clark <Steven.Clark@ghd.com>
Sent: Friday, March 4, 2022 4:25 PM
To: Scott Wachinski <SWachinski@mfronca.com>
Cc: Hans Medlarz <hans.medlarz@sussexcountyde.gov>; Ed Smigielski <Ed.Smigielski@ghd.com>; Helen P. Naylor <helen.naylor@sussexcountyde.gov>; Ilisel Espinal <Ilisel.Espinal@ghd.com>; 'rmoore@sussexcountyde.gov' <rmoore@sussexcountyde.gov>; Rodney Marvel (InTouch) <rmarvel@sussexcountyde.gov>; Vincent Casella <Vincent.Casella@ghd.com>
Subject: RFP-063 Magnesium Hydroxide Mixing System

Scott,

Please find attached RFP for the magnesium hydroxide mixing system. Please get in touch if you or the equipment manufacturer have any questions. Quote from Chemineer also attached for reference.

Our contact was:

John Gallagher
Maggs & Gallagher, LLC
(856) 662-5323
(609) 304-7315 cell

Regards

Steven Clark | A GHD Associate

P.E., BCEE

GHD

Proudly employee-owned | ghd.com

16701 Melford Boulevard Suite 330 Bowie MD 20715 USA

D +1 240 206 6865 **M** +1 443 875 5061 **E** steven.clark@ghd.com

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Fluid Motion Solutions





Thursday, February 17, 2022

GHD
16701 Melford Blvd
Suite 330
Bowie, MD 20715
United States

Quotation No: SQB007248-1
Available to: Saturday, March 19, 2022

Dear Sir or Madam,

We are pleased to submit our quotation for the equipment / services detailed below:

Line	Item	Quantity	Unit Price	Sub Total
1	CHEMINEER™ Top Entry Mixer Model: 21HTL-2 Mixer Drive = Nominal Speed: 56 RPM; Motor: 2HP 1200RPM 184TC TEFC PREM EFF 3PH 230/460V 60HZ; Gearbox Input Coupling: TB Wood's Sure-Flex; External Paint Finish: Standard Paint; Color: Blue RAL5005 Mounting = Arrangement: Structural Nozzle w/Flange Shaft Seal = Lip Seal: Nitrile V-Ring Lip Seal with FKM (Viton) O-Ring Mounting Flange = Flange Size: DN200 [8"]; Flange Class: CL-150; Flange Material: 316 Stainless Steel Shaft = Shaft Diameter: 2"; Shaft Extension: 101.26 in; Shaft Material: 316 Stainless Steel Impellers = Impeller #1: 45.00 in SC-3; Impeller Material: 316 Stainless Steel Mixer Options = Gearbox Oil Dipstick Testing = Final Assembly Inspection Documentation = General Arrangement Drawing; Instruction Manual	2.00 EA	20,576.50 USD	41,153.00 USD

Prices exclude any applicable sales taxes.

Ship To	GHD 16701 Melford Blvd Suite 330 Bowie, MD 20715 United States
Normally Ships In	4 Weeks after receipt of your final instructions

For compliance reasons, we are required to have the following confirmed information contained within your purchase order:

- ULTIMATE DESTINATION: (Country)
- ULTIMATE END USER: (Name and Location Address)
- ULTIMATE END USE: (Describe End Use Application)

Purchase orders should be made out to 'National Oilwell Varco, L.P., 5870 Poe Avenue, Dayton, Ohio 45414'.

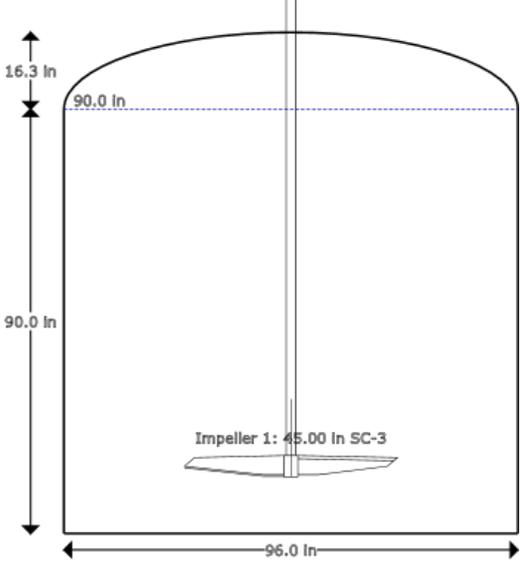
Thank you for the opportunity to participate in this project, I shall be pleased to discuss the proposal with you in more detail and to answer any questions you may have.

Respectfully yours,

John Gallagher
jgal.mg@comcast.net

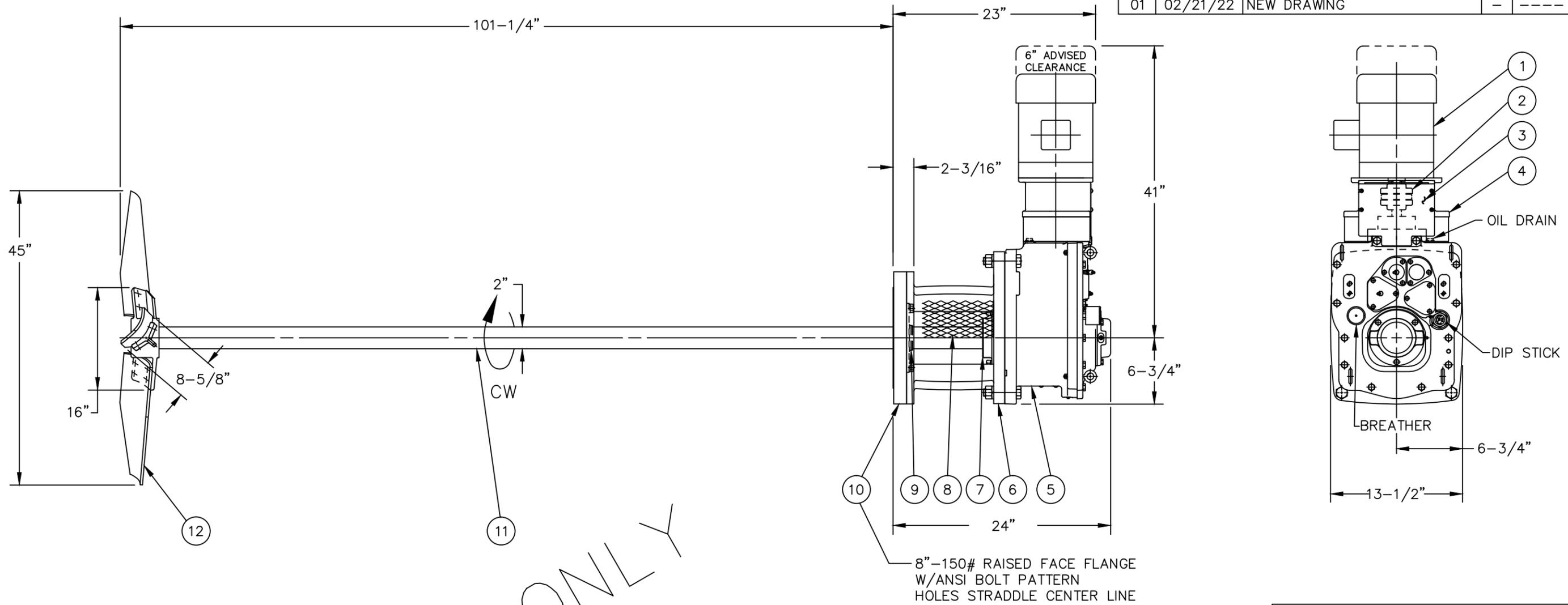
Supporting Information / Enclosures (4)

- Agitator Datasheet, 21HTL-2
- GA Drawing, 21HTL-2
- COVID-19 Notice
- Terms and Conditions

		CHEMINEER™ AGITATOR DATASHEET				
		Mixer Ref.:				
		Configured By:	John Gallagher			
		Configuration:	44f0981b-bc2c-4e51-b20e-29bf33cd291a			
Model No.:	21HTL-2	Shipping Weight:	767 lb			
Industry:		Max. Working Gauge Pressure:	0 psi @ 100.0 °F			
Type of Application:		Hazardous Area:	No			
TANK DETAILS						
Tank Configuration:	Cylindrical					
Tank Diameter:	96.0 in					
Straight Side Height:	90.0 in					
Top Shape:	ASME; Depth: 16.3 in					
Bottom Shape:	Flat					
Number of Baffles:	None					
Baffles Width:						
Baffles Wall Clearance:						
Baffles Height:						
AGITATOR MOUNTING ARRANGEMENT						
Agitator Orientation:	Vertical, on-center					
Agitator Mounting Surface:	Structural Nozzle w/Flange					
Mounting Surface Height:	7 in above tank top					
AGITATOR MOUNTING DESIGN LOADS						
Static Weight:	617 lbf					
Bending Moment:	378 lbf.ft					
Torque:	460 lbf.ft					
DRIVE CONFIGURATION						
Type and Options:	Gear Drive; Nominal Speed: 56 RPM; Rotation Direction: Clockwise; Paint: Standard Paint; Color: Blue RAL5005					
Motor:	2HP, 1200RPM, 184TC, TEFC, PREM EFF, 3PH, 230/460V, 60HZ; Suitable for VFD use @ max. 20:1 (VT) 4:1 (CT);					
Gearbox Input Coupling:	TB Wood's Sure-Flex					
Gearbox:	Chemineer 20HT; Size: #21; Lubricant: Oil (R&O); Gearbox Oil Dipstick; Service Rating: Class III					
Shaft Seal:	L - Lip Seal; Nitrile V-Ring Lip Seal with FKM (Viton) O-Ring					
Flange:	Flange Size: DN200 [8"] CL-150; Flange Material: 316 Stainless Steel					
WETTED PARTS CONFIGURATION						
Shaft Diameter:	2.00 in	Shaft Material:	316 Stainless Steel			
Finish:	Chemineer Standard	Impeller Material:	316 Stainless Steel			
Station:	Extension from Mounting:	Diameter:	Pumping Direction:	Configuration:		
Impeller, SC-3	101.26 in	45.00 in	Down	Keyed Fixing to Shaft; Extended Keyway; Blades Bolted to Hub		
PROCESS DATA						
Process Stage:	Liquid Level:	Operating Volume:	Main Liquid:	Mix-In:	Mixture Viscosity:	Specific Gravity:
Process Stage 1	90.0 in	2,820.0 gal	Main Liquid	None	350.0 cP	1.10

MIXER PERFORMANCE							
Process Stage:	ChemScale:	Pumping:	Blend Time:	Uniformity:	Flow Regime:	Suspension Regime:	
Process Stage 1	5.1	11,057.14 gal/min	146 s	99 %	Transitional		
DESIGN COMPLIANCE							
Standard for US Markets							
INSPECTION							
Final Assembly Inspection				Yes			
DOCUMENT PACKAGE							
General Arrangement Drawing				Final / For Information			
Instruction Manual				Final / For Information			

NO.	DATE	REVISION	BY	ECR#
01	02/21/22	NEW DRAWING	-	----



PROPOSED ONLY

NO.	DESCRIPTION	QUAN	MAT'L / TYPE
12	IMPELLER, (3) PITCHED BOLTED BLADES TYPE SC-3, KEYED TO THE SHAFT. ADJUSTABLE 12" UP AND 0" DOWN. KEYWAY IS DRILLED FOR PINNED KEY WITH ADJUSTMENT IN 3" INCREMENTS.	1	316SS
11	EXTENSION SHAFT	1	316SS
10	MOUNTING FLANGE	1	316SS
9	LIP SEAL ASS'Y, REF DWG SQB07248A1-A02	1	CHEMINEER
8	HANDHOLE COVERS	4	COVERED CS
7	LOW SPEED COUPLING	1	STEEL
6	PEDESTAL	1	CAST IRON
5	GEAR DRIVE, 21HT, N21020-741L	1	CHEMINEER
4	MOTOR ADAPTER	1	CAST IRON
3	COUPLING GUARD	1	304SS
2	FLEXIBLE COUPLING, MODEL: SUREFLEX SIZE: 6S	1	WOODS
1	MOTOR	1	-----

ALLOW A MINIMUM OF 7" ABOVE THE GEAR REDUCER TO UTILIZE THE DIP STICK.

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CHEMINEER WILL SUPPLY, AT ITS DISCRETION, 316SS WETTED PARTS WHEN CARBON STEEL OR 304SS IS SPECIFIED.

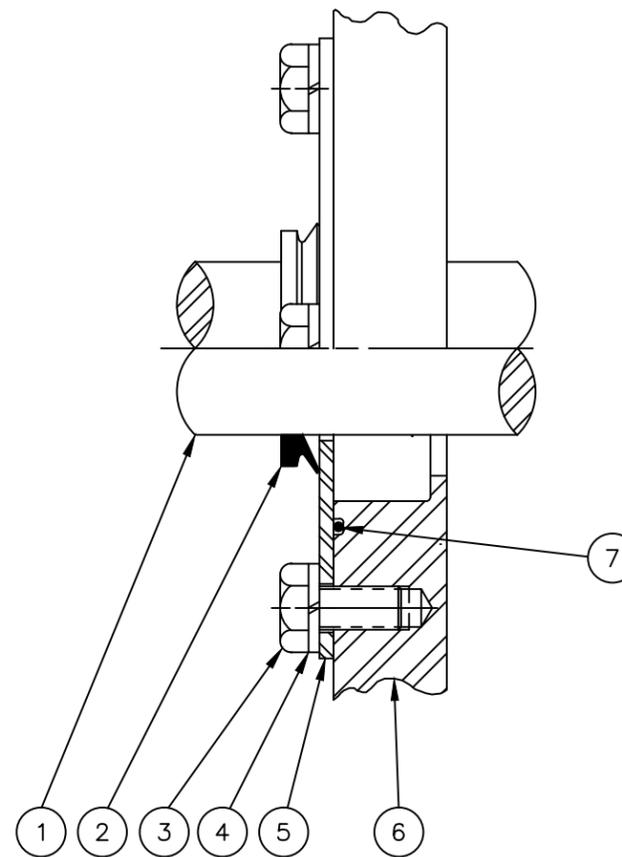
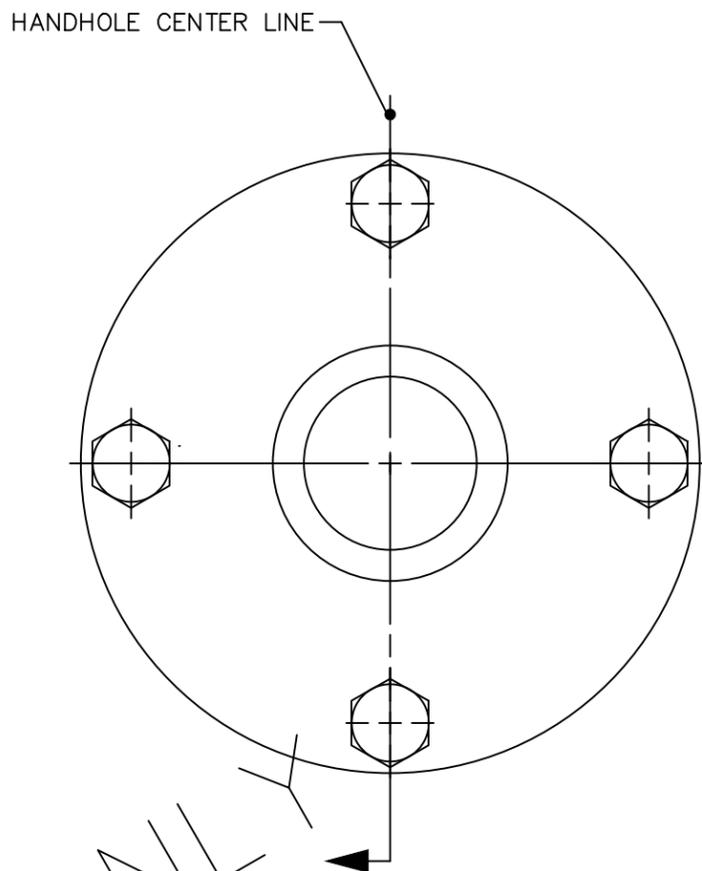
FOR AGITATOR DETAILS SEE INSTALLATION, OPERATION, AND MAINTENANCE MANUAL 703 AND 712

AGITATOR SUPPORT STRUCTURE SHOULD BE DESIGNED TO WITHSTAND THE FOLLOWING LOADS.	
STATIC WEIGHT:	617 LBS
BENDING MOMENT:	378 FT-LBS
TORQUE REACTION:	460 FT-LBS
SHIPPING WEIGHT:	767 LBS
CERTIFIED BY _____	DATE _____

MOTOR DATA	
H.P.	2.00 RPM 1200
PHASE	3 HZ. 60 VOLTS 230/460
ENCLOSURE	TEFC FRAME 184TC
	HI EFF. CHEM DUTY 1.15 S.F.
CHEMINEER QUOTE # SQB007248/A1	
CUSTOMER EQ.# -----	
QUANTITY -----	
NOMINAL UNIT RPM	56
SERVICE RATING	CLASS III

NOV Chemineer™	
MODEL 21HTL-2	
FOR: GHD	
DRAWING NUMBER	AGS5.6
SQB07248A1-A01	02/21/22
REV.	01
	B

NO.	DATE	REVISION	BY	ECR#
01	02/21/22	NEW DRAWING	-	----



PROPOSAL ONLY

SEAL OPERATING PARAMETERS:
 1) VESSEL TEMPERATURE: 100° F
 2) VESSEL PRESSURE: 0 PSIG

NO.	DESCRIPTION	QUAN	MAT'L / TYPE
7	O-RING	1	VITON
6	MOUNTING FLANGE, 8"-150#	1	316SS
5	SEAL PLATE	1	316SS
4	SPRING LOCKWASHER	4	STEEL
3	HEX HEAD CAP SCREW	4	STEEL
2	V-RING	1	BUNA-N
1	SHAFT, 2" DIAMETER	1	316SS

CHEMINEER WILL SUPPLY, AT ITS DISCRETION, 316SS WETTED PARTS WHEN CARBON STEEL OR 304SS IS SPECIFIED.

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CHEMINEER QUOTE # SQB007248/A1
 CUSTOMER EQ.# -----
 QTY. ---
 REF. ASS'Y. DWG.# SQB07248A1-A01

 CERTIFIED BY _____ DATE _____

NOV / Chemineer™	
V-RING SEAL ASSEMBLY	
FOR: GHD	
DRAWING NUMBER	AGS5.6
SQB07248A1-A02	02/21/22
REV.	01
	B

QUALITY EXTERIORS, INC.

60 HOPKINS CEMETERY ROAD
HARRINGTON, DELAWARE 19952

Telephone 302-398-9283
Fax 302-398-9290

Change Order Request and Execution Form

Date: March 15, 2022

Project Name: SCRWF No.3

Contract: Roofing

Change Order Number: QE - 4

The following is a summary of the request submitted for the above referenced project. All supporting documents have been attached and described herewith. This summary shall contain a breakdown of labor, materials, etc., for Extra Work, RFP's, etc.

Summary Description: Extra Work -Roof Hatches over Mag.Hydrox.Mixer

Cut openings in roof deck. Supply and install (2) custom roof hatches- 36x54x18, aluminum body, aluminum single leaf door, stainless hardware. Complete all flashings to be weather tight. Install walk pads around perimeters of the 2 hatches and tie into the adjacent walk path.

Note: location layout and structural framing by others.

Total Cost Changes: \$ 14,047.02

Quality Exteriors, Inc.

Signed by:

Title:

Date:

Michael F. Ronca and Sons

Signed by:

Title:

Date:

Please sign for approval of Change Order # 4 _____

From: [Jeff Fenstermacher](#)
To: [Scott Wachinski](#)
Subject: RE: SCRWF - Companion Flanges
Date: Monday, March 14, 2022 4:22:57 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

The price for two flanges per your description is a lump sum of \$6,751.70 (is for a quantity of 2, no tax included). Delivery is \$600. I'm not sure what your lead time is, or if this has been approved, but Pat Birli is coming up this weekend 3/20/22, with Darrens company vehicle. If you get me the PO ASAP and we get these fabricated by Friday, I can have Pat take them back down with him. Either way, worst case is that it will be another \$600 if we deliver them. If it works out that he takes them some other weekend he is up here, then I will just deduct the \$600 from your invoice.



Jeff Fenstermacher

Project Manager

Phone: 717-985-1680

Mobile: 717-576-6714 or 610-637-8882

Email: jeff@osagepiping.com

85 Industrial Rd
Highspire PA 17034

www.osagepiping.com

From: Scott Wachinski <SWachinski@mfronca.com>
Sent: Monday, March 14, 2022 1:42 PM
To: Jeff Fenstermacher <Jeff@osagepiping.com>
Subject: RE: SCRWF - Companion Flanges

Jeff,

How are you making out with your pricing on these?

Scott Wachinski

Project Manager



179 Mikron Road
Bethlehem, PA 18020
Phone: 610-759-5100
Fax: 610-746-0974
Mobile: 610-972-1355

From: Jeff Fenstermacher <Jeff@osagepiping.com>
Sent: Monday, March 7, 2022 3:00 PM

To: Scott Wachinski <SWachinski@mfronca.com>

Subject: RE: SCRWF - Companion Flanges

Will do.



Jeff Fenstermacher

Project Manager

Phone: 717-985-1680

Mobile: 717-576-6714 or 610-637-8882

Email: jeff@osagepiping.com

85 Industrial Rd
Highspire PA 17034

www.osagepiping.com

From: Scott Wachinski <SWachinski@mfronca.com>

Sent: Monday, March 7, 2022 2:59 PM

To: Jeff Fenstermacher <Jeff@osagepiping.com>

Subject: RE: SCRWF - Companion Flanges

Wednesday or Thursday this week?

Scott Wachinski

Project Manager



179 Mikron Road

Bethlehem, PA 18020

Phone: 610-759-5100

Fax: 610-746-0974

Mobile: 610-972-1355

From: Jeff Fenstermacher <Jeff@osagepiping.com>

Sent: Monday, March 7, 2022 2:52 PM

To: Scott Wachinski <SWachinski@mfronca.com>

Subject: RE: SCRWF - Companion Flanges

When would you like this quote by?



Jeff Fenstermacher

Project Manager

Phone: 717-985-1680

Mobile: 717-576-6714 or 610-637-8882

Email: jeff@osagepiping.com

85 Industrial Rd
Highspire PA 17034

From: Scott Wachinski <SWachinski@mfronca.com>

Sent: Monday, March 7, 2022 1:45 PM

To: Jeff Fenstermacher <Jeff@osagepiping.com>

Subject: SCRWF - Companion Flanges

Jeff,

See attached RFP. Can you please provide pricing for the 2 EA 1" Thick 316 SS, 32" Dia Companion Flanges. Outside Bolt Pattern will be 24" 150#, Inside Bolt Pattern will have 4 EA Bolt Holes (Size and Orientation TBD). Please include freight to SCRWF.

Reach me with any questions.

Thanks,

Scott Wachinski

Project Manager



179 Mikron Road

Bethlehem, PA 18020

Phone: 610-759-5100

Fax: 610-746-0974

Mobile: 610-972-1355



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-11: General Construction	GHD Project No.	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
RFP No.	063		
RFP Subject	Magnesium Hydroxide Mixing System – General Construction		
Issued By	V. Casella, S. Clark	Issue Date	Mar. 4, 2022

Description of proposed changes:

Submit a proposal for the General Construction portion of the magnesium hydroxide mixing system as follows. Mixing equipment is to be provided for both existing magnesium hydroxide storage tanks.

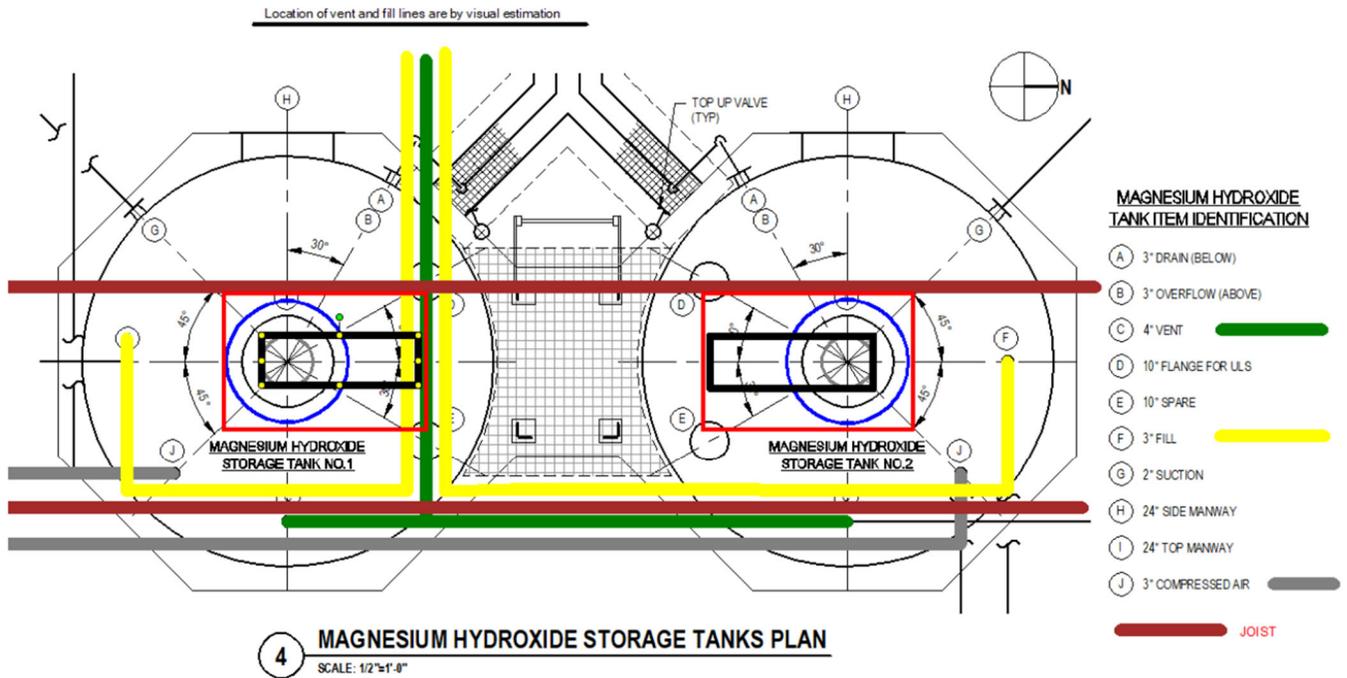
1. Provide two complete mixing assemblies each inclusive of motor, gear reducer, shaft, impeller blades, pedestal, and v-ring seal assembly:
 - a. Manufacturer shall verify that the mixing assemblies are suitable for magnesium hydroxide and the chemical characteristics identified in Section 11351, and that the mixing equipment will provide complete mixing for the full depth of the magnesium hydroxide storage tanks regardless of liquid level (manufacturer to confirm any minimum depth above the impeller blades required for complete mixing).
 - b. Mixing equipment shall be subject to and required to pass the test specified in Section 11375.3.02.C.4. Contractor shall be responsible for testing and sample analysis.
 - c. Manufacturer shall submit in accordance with Section 01300 and 01640:
 - i. Written verification that the mixing equipment is suitable for magnesium hydroxide and the chemical characteristics identified in Section 11351, and will provide complete mixing for the full depth of the magnesium hydroxide storage tanks regardless of liquid level (manufacturer to confirm any minimum depth above the impeller blades required for complete mixing)
 - ii. Shop Drawing
 - iii. Installation Certificate
 - iv. Certification of Equipment Compliance
 - v. Field Testing Results
 - vi. O&M Manual
 - d. Mounting flange, shaft, and blades shall be Type 316 stainless steel.
 - e. Motor shall be in accordance with Section 15170 and the following:
 - i. Motor Horsepower: 2 HP
 - ii. Motor Type: Horizontal, no special applications (not VFD driven)



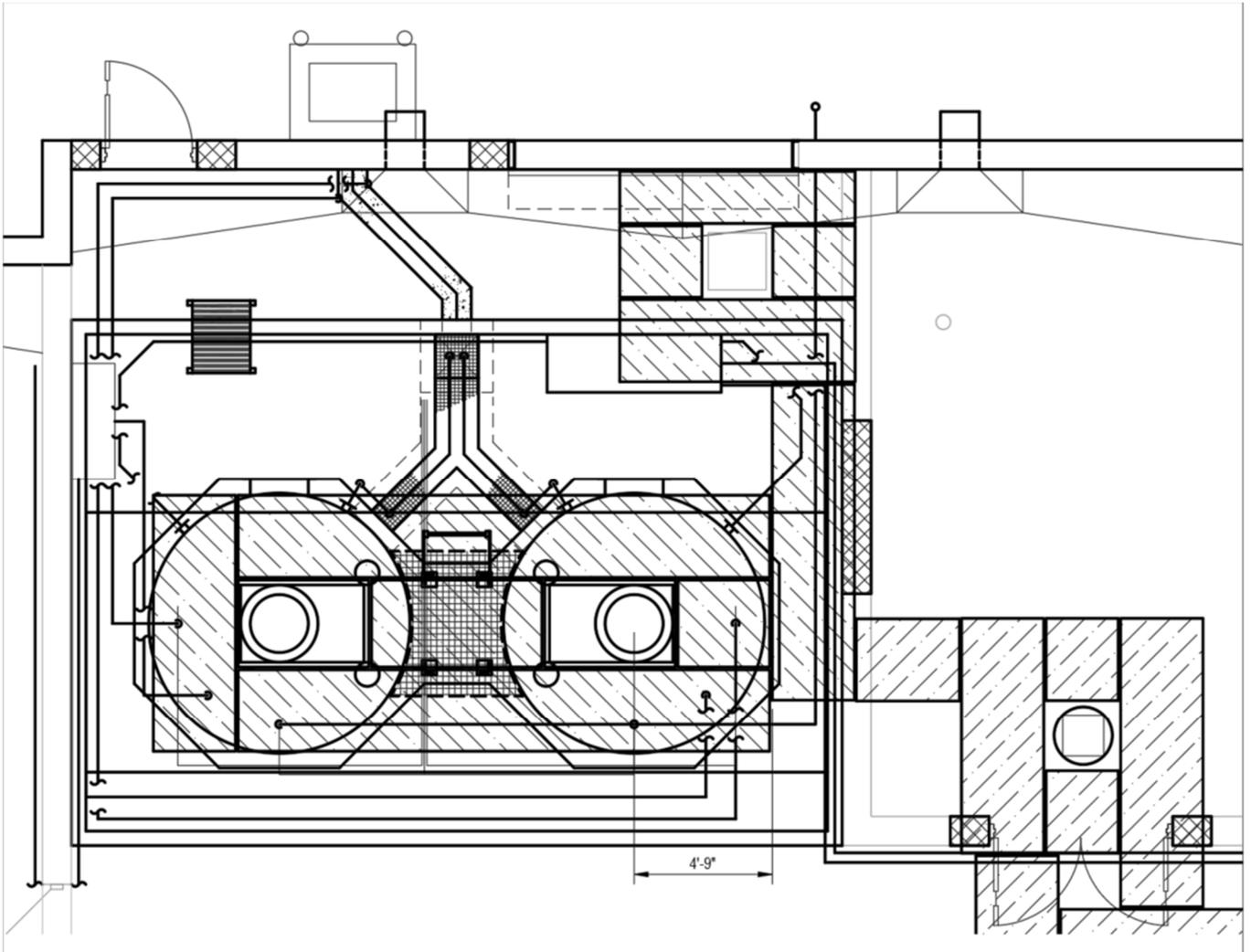
- iii. Motor Speed (Nominal): 1,200 rpm
 - iv. Duty: Continuous
 - v. Insulation: Class F
 - vi. Insulation, Temperature Rise: Class B
 - vii. Voltage, Phase, Hertz: 460 V, 3 Phase, 60 Hz
 - viii. Service Factor 1.15
 - ix. Motor Enclosure: TEFC
 - x. Protection: MWTS
 - xi. Allowable Starts per Hour (Minimum): 10, evenly spaced
- f. Provide manufacturers standard shop coatings.
2. Provide 1" thick Type 316 stainless steel support plates as shown in the attached figure. Support plates shall be 32" diameter with bolt holes to match the flanges and drilling arrangement for the 24" openings on top of the existing magnesium hydroxide storage tanks. Provide 4" center openings in the support plates and stud bolts for the pedestal bases included in the chemical mixer assemblies. Contractor shall coordinate stud bolt diameter, length, and locations with mixing equipment manufacturer. The existing gaskets shall be retained and installed between the FRP tank flanges and the support plates.
 3. Cut openings in the existing steel roof deck as indicated in the attached figure. Field verify locations to suit joists and 24" tank openings. Reinforce deck at each opening in accordance with Detail 17.F on Drawing SC-S0010.
 4. Provide custom 36" x 54" (clear opening) Type D double leaf access hatches with all Aluminum construction and SS hardware in accordance with Section 05500. Access hatches shall be installed on curbs. Curbs shall be in accordance with Detail 5 on Drawing SC-A0202, modified as required to suit access hatch connections.
 5. Provide Walk Pads around the new access hatches as indicated in the attached figure and in accordance with Section 07531.
 6. Contractor shall modify tank fill and vent piping as required to clear space below new access hatches.

Enclosed:

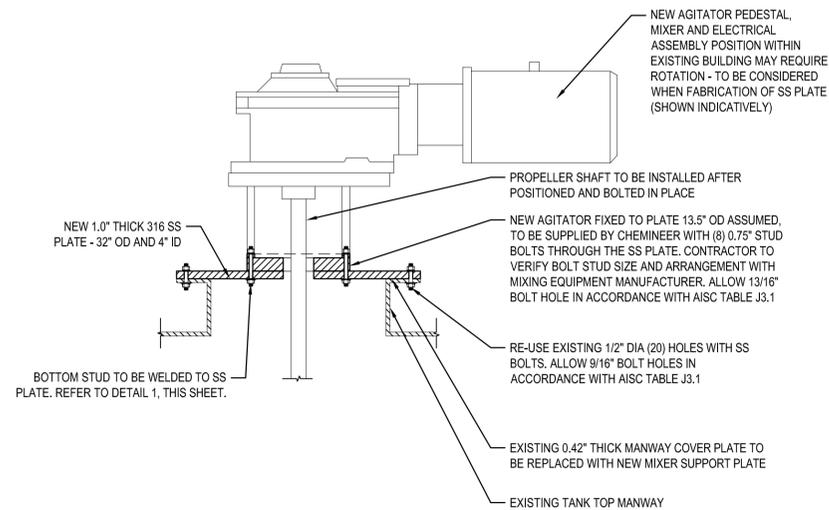
- Mixing Equipment Layout
- Walk Pad and Access Hatch Layout
- Support Plate Details



Mixing Equipment Layout

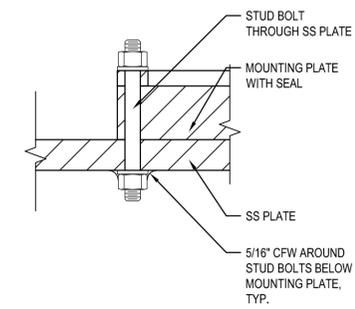


Walk Pad and Access Hatch Layout (Roof Plan superimposed on Chemical Room Plan)



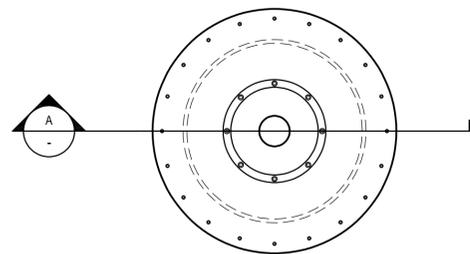
TYPICAL SECTION A-A THROUGH MANWAY

SCALE:NTS



DETAIL 1

SCALE:NTS



PLAN OF MANWAY

SCALE:NTS



SUSSEX COUNTY, DELAWARE
SCRWF NO. 3 AND RBWWTP CIP PHASE 2
UPGRADES

MgOH TANK SUPPORT DIAGRAM

Project No. 11121182
Report No. RFP-063
Date 03/04/2022



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **SCRWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – Electrical Construction**
2. Sussex County Project No. C19-17
3. Change Order No. 16
4. Date Change Order Initiated - 3/29/22
5.
 - a. Original Contract Sum \$22,178,674.00
 - b. Net Change by Previous Change Orders (\$272,535.80)
 - c. Contract Sum Prior to Change Order \$21,906,138.20
 - d. Requested Change \$ 52,003.13
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$21,958,141.33
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Modifications to the primary metering approach and provide cabinet ventilation.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

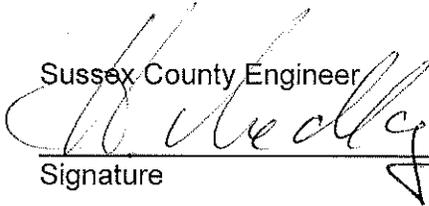
E. APPROVALS

- 1. B.W. Electric, Inc., Contractor

Signature Date

Representative's Name in Block Letters

- 2. Sussex County Engineer



Signature Date

- 3. Sussex County Council President

Signature Date



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-17: Electrical Construction	GHD Project No.	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
RFP No.	058		
RFP Subject	RBWWTP VFD Cabinet Enclosure Fans		
Issued By	D. Murray	Issue Date	Feb. 11, 2022

Description of proposed changes:

Contractor is requested to submit a proposal for installation of ventilation fans by the CSI in the following existing VFD CPs:

1. (4) Draft Tube Mixer VFD CPs located in Building B-3 Blower Room
 - Provide fused control power transformer connected to two legs of the incoming power circuit.
 - Install ventilation fan in the top of each enclosure.
 - Provide a relay to run the ventilation fan when the VFD runs.



2. (3) Oxidation Ditch Blower VFD CPs located in Building B-3 Blower Room
- Provide fused control power transformer connected to two legs of the incoming power circuit.
 - Install ventilation fan in the front of the bottom compartment of each enclosure.
 - Provide a relay to run the ventilation fan when the VFD runs.



3. (3) RAS Pump VFD CPs located in Building PS-1
- Provide fused control power transformer connected to two legs of the incoming power circuit.
 - Install ventilation fan in the door of each enclosure.
 - Provide a relay to run the ventilation fan when the VFD runs.





15342 S. DuPont Hwy
Harrington DE 19952

Office: 302.566.6248
Fax: 302.566.6251

Bryon Warren
President
302-270-5719

Email(s):
office@bwelectricinc.com
estimates@bwelectricinc.com

March 24, 2022

Subject: SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2 RFP No. 58

Dear Mr. Medlarz,

Our price to perform the electrical work associated with the above project is based on RFP No. 62. Our price does not include the use of Prevailing Wages. Our price is **\$22,050.21** and includes the following:

Description of proposed changes:

Contactors are requested to submit a proposal for installation of ventilation fans by the CSI in the following existing VFD CPs:

1. (4) Draft Tube Mixer VFD CPs located in Building B-3 Blower Room. Provide fused control power transformer connected to two legs of the incoming power circuit. Install ventilation fan in the top of each enclosure. Provide a relay to run the ventilation fan when the VFD runs.
2. (3) Oxidation Ditch Blower VFD CPs located in Building B-3 Blower Room. Provide fused control power transformer connected to two legs of the incoming power circuit. Install ventilation fan in the front of the bottom compartment of each enclosure. Provide a relay to run the ventilation fan when the VFD runs.
3. (3) RAS Pump VFD CPs located in Building PS-. Provide fused control power transformer connected to two legs of the incoming power circuit. Install ventilation fan in the door of each enclosure. Provide a relay to run the ventilation fan when the VFD runs.

If this RFP is accepted, we are requesting 10 days be added to the contract.

Exclusions

1. No permit fees.
2. No cutting.
3. No patching or painting.
4. No liquidated damages.

This price is good for thirty (30) days only.

Sincerely,

Jason R. Walters
B. W. Electric, Inc.
Superintendent
JRW/

#SCRWF Upgrade No.3 and RBWWTP CIP Upgrade Phase 2 : RFP No. 058
Totals (Summary) - Bid Summary: Default

Material	
Non-Quoted	\$250.00
Quotes	15,575.45
Sales Tax (0.00%)	0.00
Total Material	\$15,825.45
Labor	
Direct (40.00 hours @ \$70.00)	\$2,800.00
Non-Productive Labor	0.00
Total Labor (40.00 hours)	\$2,800.00
Direct Job Expenses	\$0.00
Tools and Miscellaneous Materials	0.00
Subcontracts	0.00
Job Subtotal (Prime Cost)	\$18,625.45
Overhead (10.00%)	1,862.55
Profit (5.00%)	1,024.40
Job Total	\$21,512.40
Bond	
Bond	537.81
Job Total with Bond	\$22,050.21
Actual Bid Price	\$22,050.21
Material to Direct Labor ratio: 0.85	
Prime Cost per square foot	\$0.00
Job Total per square foot	\$0.00
Actual Bid Price per square ft	\$0.00
Labor cost per square foot	\$0.00
Labor hours per square foot	0.00
Gross Profit %	15.53
Gross Profit \$	\$3,424.76
Net Profit %	7.08



Micro-Tech Designs, Inc.

4312 Black Rock Rd., Suite 1
Hampstead, MD 21074-2641
Phone (410) 239-2885
Fax (410) 239-3736

QUOTE

We're In Control

March 16, 2022

Mr. Jason Walters
BW Electric, Inc.
15342 S. DuPont Highway
Harrington, DE 19952
(302) 566-6248
fax:

Re.: SCRWF Upgrade No.3 & RBWWTP Beach

Dear Mr. Walters,

We are pleased to quote on the following scope of work for the above project:

The below work to be performed at the Rehoboth Site: Fans, Louvers, Relay, Control Power Transformer, Fusing in the below VFD panels.

Work will be performed doing normal business hours on site and will require an outage on each unit as it is being worked on.

- (4) Draft Tube Mixers
- (3) Oxidation Ditch Blowers
- (3) RAS Pumps

Lot Price \$15,575.45 + tax if applicable

The above quotation is valid for 30 days

If there are any questions concerning the above, please contact me. I look forward to working with you and your staff on this and future projects.

Sincerely,
Micro-Tech Designs, Inc.

Wes Martin Jr.



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-17: Electrical Construction	GHD Project No.	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
RFP No.	062		
RFP Subject	SCRWF Utility Metering Changes		
Issued By	D. Murray	Issue Date	Feb. 15, 2022

Description of proposed changes:

Contractor is requested to submit a proposal for the following Contract changes to allow for DP&L to install pole-mounted metering in lieu of the pad-mounted metering cabinet shown on the Drawings:

1. Delete the pad-mounted metering cabinet and metering equipment.
2. Demolish the metering cabinet concrete equipment pad that has already been constructed.
3. Provide a duct bank from Service Entrance Switch PSS-SE-A to utility pole P3 shown on DP&L drawing with WO # 15994324 dated 2/1/2022. A copy of this drawing is attached to this RFP. (Note the number indicated on the drawing for pole P1 appears to be incorrect. DP&L has indicated they will provide a revised drawing.) Duct bank shall include two concrete encased 5" PVC conduits. Confirm any additional requirements with DP&L such as stub up heights for conduits and temporary sealing of conduit openings.
4. Install 3-#4/0, 1-#2G MV conductors in one of the 5" conduits and a pull cord in the spare conduit. Provide 50' of additional conductor length at the pole (phase and ground conductors), neatly coiled and laid at the conduit stub up. Confirm length of the additional coiled conductors, and any other requirements with DP&L. Provide protection of cable with heavy plastic sheeting and visible markers.
5. Provide specified testing of cables prior to connection of cables by DP&L.



**15342 S. DuPont Hwy
Harrington DE 19952**

**Office: 302.566.6248
Fax: 302.566.6251**

**Bryon Warren
President
302-270-5719**

**Email(s):
office@bwelectricinc.com
estimates@bwelectricinc.com**

March 14, 2022

Subject: SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2 RFP No. 62

Dear Mr. Medlarz,

Our price to perform the electrical work associated with the above project is based on RFP No. 62. Our price does not include the use of Prevailing Wages. Our price is **\$29,952.92** and includes the following:

Description of proposed changes:

Contractor is requested to submit a proposal for the following Contract changes to allow for DP&L to install pole-mounted metering in lieu of the pad-mounted metering cabinet shown on the Drawings:

1. Delete the pad-mounted metering cabinet and metering equipment.
2. Demolish the metering cabinet concrete equipment pad that has already been constructed.
3. Provide a duct bank from Service Entrance Switch PSS-SE-A to utility pole P3 shown on DP&L drawing with WO # 15994324 dated 2/1/2022. A copy of this drawing is attached to this RFP. (Note the number indicated on the drawing for pole P1 appears to be incorrect. DP&L has indicated they will provide a revised drawing.) Duct bank shall include two concrete encased 5" PVC conduits. Confirm any additional requirements with DP&L such as stub up heights for conduits and temporary sealing of conduit openings.

4. Install 3-#4/0, 1-#2G MV conductors in one of the 5" conduits and a pull cord in the spare conduit. Provide 50' of additional conductor length at the pole (phase and ground conductors), neatly coiled and laid at the conduit stub up. Confirm length of the additional coiled conductors, and any other requirements with DP&L. Provide protection of cable with heavy plastic sheeting and visible markers.

5. Provide specified testing of cables prior to connection of cables by DP&L.

If this RFP is accepted, we are requesting 10 days be added to the contract.

Exclusions

1. No permit fees.
2. No cutting.
3. No patching or painting.
4. No liquidated damages.

This price is good for thirty (30) days only.

Sincerely,

Jason R. Walters
B. W. Electric, Inc.
Superintendent
JRW/



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-17: Electrical Construction	GHD Project No.	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
RFP No.	062		
RFP Subject	SCRWF Utility Metering Changes		
Issued By	D. Murray	Issue Date	Feb. 15, 2022

Description of proposed changes:

Contractor is requested to submit a proposal for the following Contract changes to allow for DP&L to install pole-mounted metering in lieu of the pad-mounted metering cabinet shown on the Drawings:

1. Delete the pad-mounted metering cabinet and metering equipment.
2. Demolish the metering cabinet concrete equipment pad that has already been constructed.
3. Provide a duct bank from Service Entrance Switch PSS-SE-A to utility pole P3 shown on DP&L drawing with WO # 15994324 dated 2/1/2022. A copy of this drawing is attached to this RFP. (Note the number indicated on the drawing for pole P1 appears to be incorrect. DP&L has indicated they will provide a revised drawing.) Duct bank shall include two concrete encased 5" PVC conduits. Confirm any additional requirements with DP&L such as stub up heights for conduits and temporary sealing of conduit openings.
4. Install 3-#4/0, 1-#2G MV conductors in one of the 5" conduits and a pull cord in the spare conduit. Provide 50' of additional conductor length at the pole (phase and ground conductors), neatly coiled and laid at the conduit stub up. Confirm length of the additional coiled conductors, and any other requirements with DP&L. Provide protection of cable with heavy plastic sheeting and visible markers.
5. Provide specified testing of cables prior to connection of cables by DP&L.

61446/98870
INS 50-1
A
INS A-3

61441/98870
INS 45-2

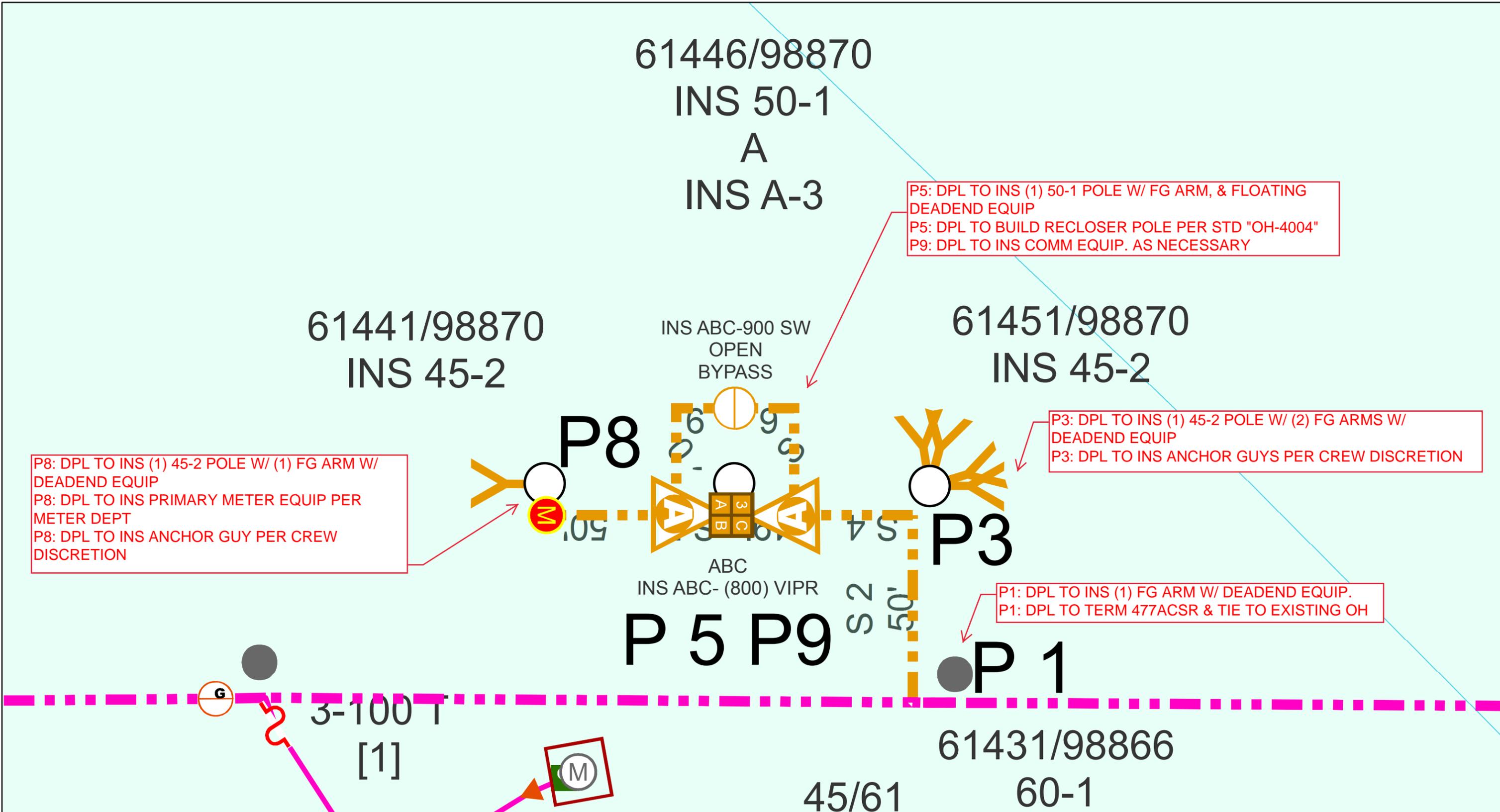
61451/98870
INS 45-2

P8: DPL TO INS (1) 45-2 POLE W/ (1) FG ARM W/ DEADEND EQUIP
P8: DPL TO INS PRIMARY METER EQUIP PER METER DEPT
P8: DPL TO INS ANCHOR GUY PER CREW DISCRETION

P5: DPL TO INS (1) 50-1 POLE W/ FG ARM, & FLOATING DEADEND EQUIP
P5: DPL TO BUILD RECLOSER POLE PER STD "OH-4004"
P9: DPL TO INS COMM EQUIP. AS NECESSARY

P3: DPL TO INS (1) 45-2 POLE W/ (2) FG ARMS W/ DEADEND EQUIP
P3: DPL TO INS ANCHOR GUYS PER CREW DISCRETION

P1: DPL TO INS (1) FG ARM W/ DEADEND EQUIP.
P1: DPL TO TERM 477ACSR & TIE TO EXISTING OH



INS ABC-900 SW
OPEN
BYPASS
ABC
INS ABC- (800) VIPR

61431/98866
45/61
60-1

CustPh#:	Customer: SOUTH COASTAL WASTE WATER FACILITY	Proj. ID:	 An Exelon Company
DesgrPh#:	Address: S. COASTAL LN	Reference WO:	
DsgnrName: BRIAN GICKING / DYLAN S.	City: FRANKFORD	State: DE	Scale: 1" = 24.8'
CktName:	Description: PRIMARY METERING INSTALLATION W/ RECLO. & POLE INS		
Ckt#: DE0502	Protective Device Type: SWITCH	Class of Service: 12.47kV	ROW:
Protective Device ID: 61819/98863	Jurisdiction:	Tree:	WSSC:
Permits:	OH Permits:	UG Permits:	Easement:
			FR Calorie Count: 5CAL
			WO # 15994324
			Date: 2/1/2022



South Coastal RWF & Rehoboth Beach WTF Upgrade

3/8/2022

Vendor/Contract	Description	Contract Value
Michael F. Ronca & Sons, Inc.	SCRWF/RBWWTP General Construction	42,756,128.93
BW Electric Inc.	SCRWF/RBWWTP Electrical Construction	21,958,141.33
BW Electric Inc. CO#3	DP&L Service Entrance Modification Conduit System	235,637.33
BW P.O.	Soil Screening @ Rehoboth Plant	4,504.50
City of Rehoboth	Direct Payment for repairs to piping in oxidation ditches	324,996.81
GHD	Amd 11 - SCRWF Expansion to 10mgd - Planning & Concept	241,938.68
	Amd 12 - SCRWF Expansion Construction Docs	2,240,280.73
	Amd 13 - Value Engineering	95,080.15
	Amd 14 - Rehoboth WTP Capital Improvement Program Upgrade Phase 2/Joint Project with SCRWF Expansion	398,410.63
	Amd 16 - Ocean Outfall Discharge Modeling & Wetlands Delineation for SCRWF and Add'l Design Services for Rehoboth WTP Capital Improvement Program	181,089.72
	Amd 18 - RBWTP CIP Upgrade Phase 2 - Add'l Design	172,153.01
	Amd 19 - SCRWF Upgrade 3 Add'l Design	108,073.71
	Amd 20 - SCRWF Upgrade 3/RBWTP Upgrade Phase 2 Construction Engineering	6,589,558.49
Core & Main	Influent FM Consolidation Materials	339,944.59
Core & Main	Effluent FM Pipeline Materials	227,603.39
Delmarva Power	Improve service entrances for both projects. Payment not distributed.	175,000.00
G&L	FM Consolidation & Influent Consolidation Phase II	973,229.04
G&L Work- Effluent Relocation		316,635.20
G&L Work - RB Treatment Plant	Parking Lot Repavement	
Kershner Environmental Technologies	Belt Press	295,000.00
Melvin Joseph	Material Screening	80,000.00
DSWA	Loading, Hauling & Disposal of Debris	33,000.00
	Hauling of Rehoboth Oxidation Ditch Remnants	39,663.15
Totals		77,786,069.39

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
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Memorandum

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

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

RE: ***Herring Creek Sanitary Sewer District: East Gravity Sewer and Force Main, Project S20-09***
A. Recommendation to Award

DATE: March 29, 2022

On August 2, 2016, County Council created the Herring Creek Area Expansion of the Sussex County Unified Sewer District. On October 2, 2018, County Council approved WRA Associates, Inc.'s professional services Amendment No. 1 under the Herring Creek base contract for the final design followed by an approval on November 19, 2019, for the contract administration and inspection of Project S20-06 exclusively. The Department is still in discussions with the consultants to cover the construction phase services for Project S20-09 under the drinking water component of Phase IV.

On March 20, 2017, the Finance Department filed an overall funding application for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service. Ultimately USDA funding was obligated over three (3) funding cycles. Due to the size of the project USDA requested a phasing plan. Phase 1 encompasses the pump stations and pressure mains, Phase 2 provides the sewer collection system off Sloan Road, Phase 3 provides the collection system for all minor and major subdivisions off Banks Road and Phase 4 includes the collection system in the Winding Creek Village subdivision.

On October 8, 2019, the Herring Creek Sanitary Sewer District Phase I project was awarded to Chesapeake Turf, LLC in the amount of \$5,256,760.00. On August 11, 2020, JJID, Inc. was awarded the Phase II portion in the amount of \$5,091,000.00. On July 13, 2022, Teal Construction, Inc. was awarded Phase III in the amount of \$4,242,738.00.

On February 14, 2022, invitations to bid for the East Gravity Sewer and Force Main, Project S20-09 were publicly advertised, forwarded directly to contractors and made available on the



County website. Nine (9) plan holders attended the pre-bid and on March 16, 2022, six (6) bids were received. George & Lynch, Inc. of Dover, Delaware submitted the lowest responsive base bid of \$6,095,549.00.

The bid is within the budget and the contractor has performed well for the County on numerous prior projects. Therefore, the Engineering Department recommends awarding the project to George & Lynch, Inc. in the amount of \$6,095,549.00, contingent upon USDA concurrence.



March 17, 2022

Mr. Hans Medlarz
Sussex County Engineering Department
#2 The Circle
P.O. Box 589
Georgetown, DE 19947

Re: Herring Creek Sanitary Sewer District (HCSSD) East Gravity Sewer and Force Main: Sussex County
Contract S20-09

Dear Mr. Medlarz:

We have reviewed the bid documents received by the Sussex County Council on March 16, 2022 for the above referenced project. George and Lynch Inc. of Dover, DE is the apparent low bidder at \$6,095,549.00 for the total project bid. Enclosed is a tabulation of bids, as well as a summary of the bid review performed.

Based on our review of the bid submission, in our professional opinion, George and Lynch inc.'s. bid represents the lowest responsive bid under the terms of the invitation to bid.

Please do not hesitate to contact us if you should have questions.

Very truly yours,

Whitman, Requardt & Associates, LLP

A handwritten signature in blue ink that reads 'Will F. Hinz'.

Will F. Hinz, P.E.
Vice President

Enclosures

cc: Kaycee Widen
Dennis Hasson
File 14256-031

Part	Description	Size	Unit	Quantity	Engineer's Estimate		JJID, Inc. Bear, DE		Teal Construction, Inc. Dover, DE		George & Lynch Dover, DE		Zack Excavating, Inc. Smyrna, DE		Rickard E Pierson Construction Co Inc Pilesgrove, NJ		Pact One, LLC Ringoes, NJ		
					Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price	Item Total	Unit Price
Part A	Herring Creek Sanitary Sewer District (HCSSD): East Gravity Sewer and Force Main, Contract S 20-09																		
A-1	Mobilization		LS	1	\$322,000	\$322,000	\$380,000.00	\$380,000.00	\$150,470.00	\$150,470.00	\$220,516.00	\$220,516.00	\$483,106.00	\$483,106.00	\$425,000.00	\$425,000.00	\$40,000.00	\$40,000.00	
A-2	Furnish and Install Precast Manholes Complete and In Place	4'	VF	585	\$600	\$351,000	\$560.00	\$327,600.00	\$647.00	\$378,495.00	\$623.00	\$364,455.00	\$2,080.00	\$1,216,800.00	\$700.00	\$409,500.00	\$500.00	\$292,500.00	
A-3	Furnish and Install Drop Connection	5'	VF	18	\$1,000	\$18,000	\$1,800.00	\$32,400.00	\$1,435.00	\$25,830.00	\$803.00	\$14,454.00	\$9,090.00	\$163,620.00	\$1,700.00	\$30,600.00	\$700.00	\$12,600.00	
A-4	Furnish and Install Terminal Cleanouts	8"	EA	2	\$1,600	\$3,200	\$2,000.00	\$4,000.00	\$2,740.00	\$5,480.00	\$3,131.00	\$6,262.00	\$2,500.00	\$5,000.00	\$2,100.00	\$4,200.00	\$1,000.00	\$2,000.00	
A-5	Furnish and Install House Lateral Cleanouts	8"	EA	3	\$1,500	\$4,500	\$3,000.00	\$9,000.00	\$1,254.00	\$3,762.00	\$1,756.00	\$5,268.00	\$2,800.00	\$8,400.00	\$2,150.00	\$6,450.00	\$1,000.00	\$3,000.00	
A-6	Furnish and Install PVC Laterals	6" Single	EA	238	\$900	\$214,200	\$1,250.00	\$297,500.00	\$781.00	\$185,878.00	\$1,150.00	\$273,700.00	\$1,500.00	\$357,000.00	\$1,000.00	\$238,000.00	\$400.00	\$95,200.00	
A-7	Furnish and Install Manhole Frames and Covers	-	EA	75	\$600	\$45,000	\$900.00	\$67,500.00	\$673.00	\$50,475.00	\$482.00	\$36,150.00	\$1,050.00	\$78,750.00	\$810.00	\$60,750.00	\$350.00	\$26,250.00	
A-8	Furnish and Install PVC Gravity Sewer	6"	LF	5,700	\$50	\$285,000	\$75.00	\$427,500.00	\$38.50	\$219,450.00	\$59.60	\$339,720.00	\$55.00	\$313,500.00	\$110.00	\$627,000.00	\$50.00	\$285,000.00	
A-9	Furnish and Install PVC WYE Branches	8"	LF	22,000	\$110	\$2,420,000	\$139.00	\$3,058,000.00	\$112.50	\$2,475,000.00	\$81.91	\$1,802,020.00	\$202.00	\$4,444,000.00	\$150.00	\$3,300,000.00	\$158.00	\$3,476,000.00	
A-10	Furnish and Install Type BCBC Hotmix	8"x6"	EA	235	\$330	\$77,550	\$300.00	\$70,500.00	\$307.00	\$72,145.00	\$448.00	\$105,280.00	\$400.00	\$94,000.00	\$160.00	\$37,600.00	\$50.00	\$11,750.00	
A-11	Furnish and Install Combination ARV and Manhole	2"	EA	3	\$11,000	\$33,000	\$13,000.00	\$39,000.00	\$16,995.00	\$50,985.00	\$17,553.00	\$52,659.00	\$13,000.00	\$39,000.00	\$16,000.00	\$48,000.00	\$5,000.00	\$15,000.00	
A-12	Furnish and Install Simplex Grinder Pump (Complete)	-	EA	5	\$16,000	\$80,000	\$14,000.00	\$70,000.00	\$14,520.00	\$72,600.00	\$16,234.00	\$81,170.00	\$17,000.00	\$85,000.00	\$14,000.00	\$70,000.00	\$12,500.00	\$62,500.00	
A-13	Grinder Pump Isolation Valves	1.25"	EA	5	\$500	\$2,500	\$1,000.00	\$5,000.00	\$1,503.00	\$7,515.00	\$1,668.00	\$8,340.00	\$2,200.00	\$11,000.00	\$1,500.00	\$7,500.00	\$1,000.00	\$5,000.00	
A-14	Furnish and Install Type C Hotmix	2"	SY	12,600	\$14	\$176,400	\$18.00	\$226,800.00	\$15.25	\$192,150.00	\$12.64	\$159,264.00	\$14.00	\$176,400.00	\$13.50	\$170,100.00	\$20.00	\$252,000.00	
A-15	Furnish and Install Type BCBC Hotmix	2.5"	SY	9,200	\$15	\$138,000	\$23.00	\$211,600.00	\$18.25	\$167,900.00	\$15.17	\$139,564.00	\$16.00	\$147,200.00	\$16.00	\$147,200.00	\$22.00	\$202,400.00	
A-16	Furnish and Install Type BCBC Hotmix	-	Ton	13,000	\$100	\$1,300,000	\$130.00	\$1,690,000.00	\$138.00	\$1,794,000.00	\$114.61	\$1,489,930.00	\$104.00	\$1,352,000.00	\$125.00	\$1,625,000.00	\$125.00	\$1,625,000.00	
A-17	Furnish and Install Combination ARV in Existing PS Vault (ARV Only)	2"	EA	5	\$1,000	\$5,000	\$5,500.00	\$27,500.00	\$4,552.00	\$22,760.00	\$4,592.00	\$22,960.00	\$5,200.00	\$26,000.00	\$5,550.00	\$27,750.00	\$2,500.00	\$12,500.00	
A-18	Record Drawings	-	LS	1	\$5,000	\$5,000	\$10,400.00	\$10,400.00	\$20,700.00	\$20,700.00	\$18,480.00	\$18,480.00	\$80,000.00	\$80,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$5,000.00	
A-19	Furnish and Install PVC Force Main	1.25"	LF	240	\$35	\$8,400	\$30.00	\$7,200.00	\$26.00	\$6,240.00	\$44.95	\$10,788.00	\$30.00	\$7,200.00	\$75.00	\$18,000.00	\$70.00	\$16,800.00	
A-20	Furnish and Install PVC Force Main	2"	LF	630	\$40	\$25,200	\$30.00	\$18,900.00	\$28.00	\$17,640.00	\$45.00	\$28,350.00	\$32.00	\$20,160.00	\$72.00	\$45,360.00	\$80.00	\$50,400.00	
A-21	Furnish and Install PVC Force Main	4"	LF	6,300	\$60	\$378,000	\$32.00	\$201,600.00	\$34.00	\$214,200.00	\$44.48	\$280,224.00	\$45.00	\$283,500.00	\$90.00	\$567,000.00	\$85.00	\$555,500.00	
A-22	Deep Lateral Connections	6"	EA	60	\$1,000	\$60,000	\$1,100.00	\$66,000.00	\$897.00	\$53,820.00	\$1,022.00	\$61,320.00	\$2,800.00	\$168,000.00	\$1,300.00	\$78,000.00	\$500.00	\$30,000.00	
A-23	PS#429	-	LS	1	\$50,000	\$50,000	\$35,000.00	\$35,000.00	\$59,000.00	\$59,000.00	\$35,739.00	\$35,739.00	\$40,000.00	\$40,000.00	\$67,000.00	\$67,000.00	\$100,500.00	\$100,500.00	
PART A SUBTOTAL						\$6,001,950.00		\$7,283,000.00		\$6,246,495.00		\$5,556,613.00		\$9,599,636.00		\$8,011,010.00		\$7,156,900.00	
Part B	Stipulated Contingent Bid Items																		
B-1	Contingent Unclassified Excavation		CY	100	\$11.00	\$1,100	\$11.00	\$1,100.00	\$11.00	\$1,100.00	\$11.00	\$1,100.00	\$11.00	\$1,100.00	\$11.00	\$1,100.00	\$11.00	\$1,100.00	
B-2	Contingent Aggregate Material, Graded Aggregate Type "B" (Crusher Run)		Ton	500	\$40.00	\$20,000	\$40.00	\$20,000.00	\$40.00	\$20,000.00	\$40.00	\$20,000.00	\$40.00	\$20,000.00	\$40.00	\$20,000.00	\$40.00	\$20,000.00	
B-3	Contingent Porous Fill Material, Coarse Aggregate No. 57 Stone		Ton	1,000	\$45.00	\$45,000	\$45.00	\$45,000.00	\$45.00	\$45,000.00	\$45.00	\$45,000.00	\$45.00	\$45,000.00	\$45.00	\$45,000.00	\$45.00	\$45,000.00	
B-4	Contractor Lateral (Small) Crew Down Time		per hour	40	\$525.00	\$21,000	\$525.00	\$21,000.00	\$525.00	\$21,000.00	\$525.00	\$21,000.00	\$525.00	\$21,000.00	\$525.00	\$21,000.00	\$525.00	\$21,000.00	
B-5	Contractor Main Line Crew Down Time		per hour	30	\$850.00	\$25,500	\$850.00	\$25,500.00	\$850.00	\$25,500.00	\$850.00	\$25,500.00	\$850.00	\$25,500.00	\$850.00	\$25,500.00	\$850.00	\$25,500.00	
B-6	Furnish and Place 5,000 psi Concrete		CY	20	\$150.00	\$3,000	\$150.00	\$3,000.00	\$150.00	\$3,000.00	\$150.00	\$3,000.00	\$150.00	\$3,000.00	\$150.00	\$3,000.00	\$150.00	\$3,000.00	
B-7	Contingent Borrow Material, Borrow Type "C" (Backfill)		CY	2,000	\$16.00	\$32,000	\$16.00	\$32,000.00	\$16.00	\$32,000.00	\$16.00	\$32,000.00	\$16.00	\$32,000.00	\$16.00	\$32,000.00	\$16.00	\$32,000.00	
B-8	Replacement of Existing Storm Drain Pipes 18-inches in diameter and less		LF	60	\$30.00	\$1,800	\$30.00	\$1,800.00	\$30.00	\$1,800.00	\$30.00	\$1,800.00	\$30.00	\$1,800.00	\$30.00	\$1,800.00	\$30.00	\$1,800.00	
B-9	Contingent Hot Mix		Ton	100	\$125.00	\$12,500	\$125.00	\$12,500.00	\$125.00	\$12,500.00	\$125.00	\$12,500.00	\$125.00	\$12,500.00	\$125.00	\$12,500.00	\$125.00	\$12,500.00	
PART B SUBTOTAL						\$161,900.00		\$161,900.00		\$161,900.00		\$161,900.00		\$161,900.00		\$161,900.00		\$161,900.00	
Part C	Unstipulated Contingent Bid Items																		
C-1	Contingent On-site Soil Testing		Hours	500	\$85.00	\$42,500	\$100.00	\$50,000.00	\$60.00	\$30,000.00	\$72.80	\$36,400.00	\$125.00	\$62,500.00	\$70.00	\$35,000.00	\$100.00	\$50,000.00	
C-2	Contingent Soils Laboratory Tests		EA	15	\$350.00	\$5,250	\$300.00	\$4,500.00	\$180.00	\$2,700.00	\$336.00	\$5,040.00	\$200.00	\$3,000.00	\$280.00	\$4,200.00	\$500.00	\$7,500.00	
C-3	Contingent Well Pointing (First 200')		LS	1	\$50,000.00	\$50,000	\$30,000.00	\$30,000.00	\$12,800.00	\$12,800.00	\$15,796.00	\$15,796.00	\$45,000.00	\$45,000.00	\$25,000.00	\$25,000.00	\$100,000.00	\$100,000.00	
C-4	Contingent Well Pointing		LF	6,000	\$30.00	\$180,000	\$48.00	\$288,000.00	\$38.00	\$228,000.00	\$51.55	\$309,300.00	\$48.00	\$288,000.00	\$60.00	\$360,000.00	\$75.00	\$450,000.00	
C-5	Contingent Tree Removal (DBH<6")		EA	4	\$500.00	\$2,000	\$300.00	\$1,200.00	\$1,400.00	\$5,600.00	\$315.00	\$1,260.00	\$1,500.00	\$6,000.00	\$100.00	\$400.00	\$500.00	\$2,000.00	
C-6	Contingent Tree Removal (DBH>=6" and <20")		EA	4	\$1,500.00	\$6,000	\$600.00	\$2,400.00	\$2,000.00	\$8,000.00	\$2,310.00	\$9,240.00	\$2,200.00	\$8,800.00	\$2,100.00	\$8,400.00	\$2,000.00	\$8,000.00	
PART C SUBTOTAL						\$285,750.00		\$376,100.00		\$287,100.00		\$377,036.00		\$413,300.00		\$433,000.00		\$617,500.00	
TOTAL Base BID						\$6,449,600.00		\$7,821,000.00		\$6,695,495.00		\$6,095,549.00		\$10,174,836.00		\$8,605,910.00		\$7,936,300.00	
% of bid for mobilization						5.0%		4.9%		2.2%		3.6%		4.7%		4.9%		0.5%	

Notes: (1) Highlighted items indicate math errors in bid that have been corrected as indicated.

**Herring Creek Sanitary Sewer District (HCSSD) East Gravity Sewer and Force Main
Contract No. S20-09 Bid Review**

Contractor	Addenda Acknowledged	Delaware License Listed	Bid Form Math Errors	List of Sub-Contractors	Affadavit of Employee Drug Testing Program	Certification for Equal Opportunity Employment	Certification of Bidder	USDA Form RD 400-6	Certification of Non-segregated Facilities	USDA form AD-1048	RD 1940-Q	Bid Bond (10%)
Teal Construction Inc	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
George and Lynch	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Notes: Complete Bid review for two lowest bidders was performed.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***FY 2022 GENERAL LABOR & EQUIPMENT CONTRACT***
A. George & Lynch -Bid Package A, Change Order No. 1
B. JJID – Bid Package A, Change Order No.1

DATE: March 29, 2022

Before FY 2017, Sussex County followed a traditional design, bid and build approach. However, the increased major capital project load associated with aging infrastructure required a more efficient delivery system. In response, the Engineering Department developed a competitively selected time and material, best value bid process.

The first General Labor & Equipment Contract for FY 2017 was awarded to George & Lynch, Inc., on June 21, 2016, and was renewed on June 13, 2017, for an additional one-year period based on performance. The Engineering Department re-advertised the contract in the spring of 2018 again using the “best value” approach. On April 24, 2018, Council awarded the FY 2019 General Labor & Equipment Contract to George & Lynch, Inc. This contract award was valid for one year, with an option for Council to extend it, based on contractor performance, for two (2) additional one-year periods at the same unit prices.

On June 11, 2019, Council approved the first one-year contract extension through June 30, 2020, and on May 19, 2020, Council exercised the second one-year extension option under the unit prices previously bid expiring on June 30, 2021.

The bid schedule for the FY 2022 General Labor & Equipment Contract was structured on the actual hours spent on labor and equipment over the immediately preceding 12-months. The contract was publicly advertised using the “best value” approach and on May 13, 2021, three (3) bids were received.



During evaluation of the weighted factors, it was determined that some submission of the schedule and response times appeared to be not justifiable, and verification could pose liability exposure to the County. Hence, on May 25, 2021, County Council rejected all bids for the FY 2022 General Labor & Equipment Contract.

The Engineering Department broke the anticipated task list into two bid packages. Bid Package A contained the standard work items while Bid Package B contained the specialized drilling and boring items. In addition, bidders had to demonstrate emergency response capabilities via mobilization tests to qualify for Bid Package A. The project was readvertised and on July 2, 2021, bids were received from JJID, Inc. and George & Lynch, Inc.

George & Lynch, Inc. submitted a bid with a significantly higher point score for Bid Package B and on July 13, 2021, County Council awarded Bid Package B to George & Lynch, Inc. in the amount of \$1,140,617.00. The point spread is much closer for either an individual award of Bid Package A or a joint award of both packages with JJID, Inc. slightly ahead in the individual award and George & Lynch, Inc. slightly ahead in a possible joint award. Therefore, County Council awarded 50% of the average Bid Package A, in the amount of \$2,250,000, to both companies.

Since then, a significant scope of work has been accomplished mostly under the George & Lynch, Inc. Bid Package A. In addition to a number of emergencies, Pump Station No.4 in Dewey Beach experienced significant equipment failures forcing an accelerated schedule. This is a major rebuilding effort of the oldest pump station in the system and expected to exceed \$2.0 million in total. With only approximately \$350,000 remaining in the authorized award, the Department recommends increasing George & Lynch, Inc.'s award amount by \$1.75 million to complete this important task. Construction has started and will cross over fiscal year lines with re-budgeting for FY23.

JJID, Inc. is mainly active in the agricultural field regrading effort at the Inland Bays RWF. Almost \$0.5 million of suitable material had to be imported in this effort. Now the focus is on spreading and leveling where it appears several additional equipment pieces would better support the effort. Therefore, the Department recommends approval of the following unit prices \$70/hr. Dozer (D-7), \$12/hr. UTV and \$40/hr. Tractor w/ Disc as well as increasing JJID, Inc.'s award amount by \$0.5 million to complete the southern field grading. The stormwater, drainage, constructed wetland efforts at IBRWF and its associated grading have been fully designed and will be bid separately outside of the General Labor & Equipment Contract.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **FY 2022 G&L General Labor & Equipment Contract**
2. Sussex County Project No. 22-01
3. Change Order No. 1 – Bid Package A
4. Date Change Order Initiated - 3/24/22
5.
 - a. Original Contract Sum \$2,250,000.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$2,250,000.00
 - d. Requested Change \$1,750,000.00
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$4,000,000.00
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:

Pump Station 4 emergency rebuild as well as various other emergencies.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

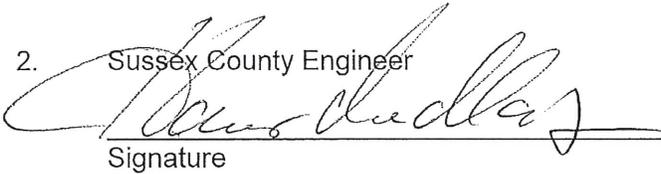
E. APPROVALS

1. George & Lynch, Inc., Contractor

 3/24/2022
Signature Date

Preston Ayars III
Representative's Name in Block Letters

2. Sussex County Engineer

 3/24/22
Signature Date

3. Sussex County Council President

Signature Date



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **FY 2022 JJID General Labor & Equipment Contract**
2. Sussex County Project No. 22-01
3. Change Order No. 1 - Bid Package A
4. Date Change Order Initiated - 3/24/22
5.
 - a. Original Contract Sum \$2,250,000.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$ 2,250,000.00
 - d. Requested Change \$ 500,000.00
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$2,750,000.00
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

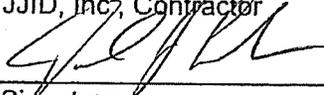
C. **BRIEF DESCRIPTION OF CHANGE ORDER:**
Unit costs per hour for various necessary equipment.

D. **JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes No

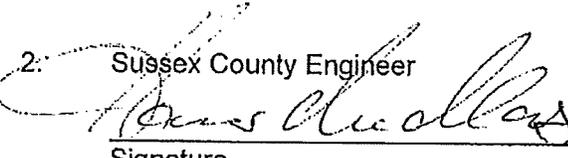
E. **APPROVALS**

1. JJID, Inc, Contractor


Signature 3/24/22
Date

DAVID J LOUDON - President
Representative's Name in Block Letters

2. Sussex County Engineer


Signature 3/24/22
Date

3. Sussex County Council President

Signature Date



ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

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

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

RE: *North Georgetown Area of the SCUSSD, File: NG-2.01*
Sussex Pain Relief Center
A. Affirmation of Engineer of Record

DATE: March 29, 2022

In 2013, Beacon Engineering obtained a DNREC permit for a small on-site wastewater treatment & disposal system with a permitted capacity of 2,170 GPD for the Sussex Pain Relief Center north of Georgetown. The projected use at that time was based on 5 providers, 10 nurses/assistants, 7 clerical, and 140 patients. The current business has grown beyond the initial staffing and desires to expand the practice by constructing a building addition to house an operatory section and a future free-standing building for other medical uses. However, the existing system does not contain sufficient capacity to facilitate the planned expansions.

In December of 2020 Beacon Engineering requested annexation on behalf of their client Sussex Pain Relief Center into the Unified Sanitary Sewer District by connecting to the Georgetown-Ellendale forcemain which runs adjacent to the Center's property. However, the property was not contiguous to the existing sewer district boundary, so annexation was not an option. The Engineering Department suggested Beacon Engineering to poll the owners of the neighboring parcels to explore the overall interest in central sewer. Several other parcels expressed interest, so the Engineering Department began the process for creating a new district area.



On April 27, 2021, the Engineering Department appeared before Council to request permission to prepare and post notices for a Public Meeting to establish a boundary for the North Georgetown Area of the USSD. With approval granted the Department held a Public Hearing on June 15, 2021. Comments received during the hearing triggered a revision to the boundary. County Council voted on the revised boundary on July 15, 2021. The Department held a mail-in referendum based on the limited number of parcel owners. Ballots were required by noon on August 10, 2021. All property owners impacted voted 3-0 in favor of the creation of the sewer district area.

The Engineering Department requests to retain Beacon Engineering for the design of the pumpstation, forcemain and infrastructure tie-in for the North Georgetown Area based on their existing knowledge of the on-site system, parcel owners and their status as the engineer of record for the Pain Relief Center.

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: March 24, 2022

RE: County Council Old Business Report for Ordinance to Amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcel No. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 and 532-19.00-1.00

On May 7, 2021, the Planning and Zoning Department received a request on behalf of the property owner(s) to consider a potential revision to the Future Land Use Map element of the Comprehensive Plan in relation to Tax Parcel No. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 and 532-19.00-1.00.

The request was for the Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan to be amended to change the Area designation part of Sussex County Parcel No. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 and 532-19.00-1.00 from the Low Density Area and/or Existing Development Area to the Developing Area. The parcels to be considered are identified in Exhibit A, attached hereto and incorporated herein.

The revisions were submitted to the Office of State Planning for PLUS review in June, 2021. Following the PLUS review and receipt of the PLUS comments (included in Council's Paperless Packet), and Ordinance was introduced by the County Council on October 19, 2021.

The Planning and Zoning Commission held a public hearing on November 18, 2021. At the meeting of December 9, 2021, the Commission recommended adoption of the Ordinance for the 12 reasons outlined within the motion (included below).

The County Council held a Public Hearing at its meeting on December 14, 2021. At the conclusion of the meeting, Council left the record open to receive additional comments. The County Council considered the Ordinance at its meeting of January 11, 2022 and a motion was passed to defer action on the Ordinance until the next County Council meeting, and to leave the Public Record open for the



COUNTY ADMINISTRATIVE OFFICES
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GEORGETOWN, DELAWARE

receipt of additional comments. At the County Council meeting of January 25, 2022 Council closed the public record on the Ordinance Amendment and deferred action for further consideration.

Below is the link to the minutes of the County Council Meeting of December 14, 2021

[Link to the County Council Minutes of December 14, 2021](#)

Below is the link to the minutes of the County Council Meeting of January 11, 2022

[Link to the County Council Minutes of January 11, 2022](#)

Below is the link to the minutes of the County Council Meeting of January 25, 2022

[Link to County Council Minutes of January 25, 2022](#)

Below are the minutes from the Planning & Zoning Commission meeting of November 18, 2021 and the minutes of the Planning & Zoning Commission meeting of December 9, 2021.

[Minutes of the November 18, 2021 Planning & Zoning Commission Meeting](#)

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 532-12.00-1.00, 532-12.00-27.00, 532-18.00-42.00, 532-18.00-44.00 AND 532-19.00-1.00

Mr. Whitehouse advised the Commission that submitted into the record is an exhibit booklet received from the land owner, an exhibit map from the land owner, a copy of an exhibit map from Sussex County, a copy of the Ordinance's PLUS submission, which was submitted to the Office of State Planning and one letter in opposition, which was circulated to the Commission within the paperless packet.

Mr. Whitehouse reminded the Commission the public hearing is not for a Change of Zone application; that the public hearing is for an Ordinance to consider a potential revision to the Future Land Use Map; that the Delaware Code mandates all counties and municipalities have a Comprehensive Plan in place; that counties and municipalities must review and update the plans for State certification every year while also providing annual updates on the progress of implementation; that Sussex County's Comprehensive Plan was adopted by the Sussex County Council on Tuesday, December 4, 2018; that following the adoption, the Comprehensive Plan was certified by the Governor on March 19, 2019; that within the Comprehensive Plan there is a Future Land Use Map; that within the Future Land Use Map there is Future Land Use Categories; that staff often refer to these categories in terms of applicable zoning districts for decision making; that in Table 4.5-2 states some applicable zoning districts translate to certain categories and designations on the Future Land Use Map; that in May 2021 staff received a request to consider a potential revision to the Future Land Use Map for the five parcels; that upon receiving the request staff prepared a submission to the State Planning Office to submit; that any change to the Future Land Use Map must be reviewed by the State Planning Office; that it was submitted to PLUS for review in June 2021; that following that submission staff received comments in July 2021, which have been included within the paperless packets; that following

discussions with the State Planning Office, and discussions with the land owner of the parcels, it was agreed to bring the parcels forward for further consideration as part of the public hearing process; that this is the process which has led to the current public hearing for the Ordinance; that Mr. Whitehouse presented Mr. David Edgell and Ms. Dorothy Morris, from the Delaware State Planning Office and suggested the representatives for the State of Delaware provide comment first, prior to any land owners.

The Commission found that Mr. David Edgell spoke in opposition of the proposed Ordinance; that he is the Director of the Office of State Planning Coordination; that he is opposing the plan amendment and the change to the Future Land Use Map on behalf of State agencies; that the Sussex County Comprehensive Plan was certified in 2019; that the plan was prepared by Sussex County through an inclusive process that involved an extensive public outreach effort; that the plan was thoroughly reviewed by State agencies and the Cabinet Committee of State Planning Issues before being certified by the Governor; that certification of the plan indicates the plan is consistent with the Strategies for State Policies and Spending; that it also indicates the State agencies will work collaboratively with the local government to implement the plan; that the plans are long-range documents which are relied upon by many private and public sector entities as they make long-term plans for investments and infrastructure services; that this is why any amendments to the certified plans are reviewed by State, through the Preliminary Land Use Service process; that in this case, the proposed amendment was determined not to be in compliance with the State Strategies; that it represented a major change from the certified plan, which warranted the State's objections; that he requested to summarize the PLUS letter comments for the record; that the parcels are located within a low density area of the Sussex County Plan; that the parcels are located within Investment Level 4 of the State Strategies and Policies for Spending; that one of the parcels is located within an existing development area; that this represents areas which are existing uses; that they are currently zoned, but are scattered throughout the county; that the proposed Ordinance Application is to bring all of the proposed parcels into a developing area; that developing areas are identified as new or emerging growth areas which demonstrate the characteristics of developmental pressures; that most of the development areas are adjacent to municipalities, within or adjacent to future annexation areas or adjacent to town centers; that the parcels in question do not meet the definition of a developing area; that the properties are not adjacent to the Town of Delmar; that the properties are not within or adjacent to potential annexation areas of the town; that the Town of Delmar plan has recently been updated and certified; that the properties were not included in the Town of Delmar's planned growth area; that there has been no justification mentioned for why development would be needed in that area of the County; that the State sees no reason for the proposed change from Investment Level 4 to an area that would allow more growth and development; that the Sussex County Certification letter was issued by the Governor in April 2019 indicating the plan was certified providing no major changes are enacted; that the proposed Ordinance Application is not something the State was anticipating; that the request is considered a major change; that the process the State follows in rare cases such as this, is his office works through the Cabinet Committee on State Planning Issues; that this advises the Governor on these matters; that if there is an objection, the State must enter into a 45 day negotiation period with the local government; that this negotiation period has been started; that he has been working closely with Mr. Whitehouse and the planning staff; that as part of the process it was mutually agreed upon to extend the time period to allow the public hearings to proceed; that this would allow the Applicant to have their local review process as appropriate; that there are two potential paths

forward; that there is another public hearing scheduled before Sussex County Council; that his office did report on the progress to the Cabinet Committee of State Planning Issues at their meeting of September 30, 2021; that at the meeting they reviewed and discussed the summary of what was just described within the PLUS comments; that the Cabinet Committee unanimously approved a motion to support the State's position as described in the PLUS letter; that his hope is the Commission will choose to stick to the current Comprehensive Plan; that no further action by the Cabinet Committee or the Governor would be necessary if the Commission denies the Ordinance; that should County Council proceed with approval after hearing the Application, the State would request County Council table the action and refer the matter back to the Cabinet Committee of State Planning Issues for a dispute-resolution process; that this process is spelled out within the Delaware Code; that he is hopeful this will not occur in this Application's case; that they have worked very closely with the Sussex County staff and reviewed the Application very carefully; that they are working through the Sussex County process to allow everyone to be heard and he hopes this allows for a good decision which is beneficial for all parties involved.

The Commission found that Mr. David Hutt, Esq. spoke on behalf of the proposed Ordinance; that he is representing Double H Properties 2, LLC and Blackwater Shawfield, LLC; that also present are Mr. Bobby Horsey and Mr. Zac Crouch; that proposed is an Ordinance which was drafted to amend the Future Land Use Map in Chapter 4 of the Comprehensive Plan; that the Ordinance is regarding five parcels, which is approximately 895 acres; that in September 2006 the Planning & Zoning Commission considered the Blackwater Creek project; that it consisted of the same parcels with the exception of one parcel; that parcel 532-12.00-27.00 was not originally part of the Blackwater Creek project; that in 2006 the Blackwater Creek project consisted of four applications in front of the Planning & Zoning Commission; that it eventually became three applications in front of County Council; that the four Applications for Blackwater Creek consisted of C/Z 1595; that this sought to change the zoning designation for 3.2 acres from AR-1 Agricultural Residential to B-1 Neighborhood Business District; that this is now a closed district within the current zoning code; that C/Z 1596 which was an AR/RPC Application for 233 acres; that C/Z 1597 was a GR/RPC Application for 274 acres; that the fourth Application, which only the Planning Commission could consider, was for a 2005-57 cluster subdivision application for 400 units on 200 acres; that the Planning Commission recommended approval of all three of the Change of Zone Applications; that the Commission also recommended approval for 2005-57 subdivision; that a month later County Council conducted public hearings on the three Change of Zone Applications; that in January 2007 Sussex County adopted C/Z 1595, C/Z 1596 and C/Z 1597; that in 2008 the real estate market became depressed; that the project did not move forward at that time; that in 2008 Sussex County updated the Comprehensive Plan and the Future Land Use Plan; that he presented the previous Land Use Plan from 2008; that at that time all of the subject properties were located within a developing area; that at that time there was a small portion of the northeast parcel which was located in the GR General Residential; that there is a portion of property between the two located with the low density; that the Comprehensive Plan was update in 2018, that the update was adopted by the Governor in 2019; that there was an extensive public process for the adoption of the 2018 Comprehensive Plan to occur; that he and Mr. Horsey attended many of the meetings; that the product of all the public hearings was a recommendation for the Future Land Use Plan which the Planning & Zoning Commission sent to County Council; that the recommendation for the 2018 Future Land Use Map had two designations for the proposed parcels; that the designations were a mixed residential and developing area; that Providence Church Rd.

divided the two designations; that both of the designations were listed as growth areas within Sussex County; that the recommendation stayed consistent with the 2008 Comprehensive Plan; that the recommendation was forwarded to Sussex County Council; that when County Council received the recommendation, there were significant changes made to Chapter IV and the Future Land Use Map; that not only did the map change, but new land use categories were added; that certain categories were renamed; that there was a wholesale change from the recommended Planning & Zoning Commission version; that County Council conducted a similar process; that County Council then released their version of the Future Land Use Plan which the public was able to review and provide comment on; that on the County Council recommendation a new category, Existing Developing Area, was added; that Existing Developing Area became the new designation for many of the proposed parcels; that after the version of County Council's recommendation was released, County Council conducted a final public hearing; that based off of the approved Future Land Use Map, two western parcels and a portion of the northeastern parcel are located within the Existing Development Area; that on County Council's recommended version of the Future Land Use Map, the southeast side of the intersection of Providence Church Rd. and Delmar Rd. was no longer listed within a growth area; that on the northside of Delmar Rd. all of the proposed properties are listed within the developing areas; that this is not reflected on the final version of the Future Land Use Map which was certified by the Governor; that most presently development is focused on the eastern side of Sussex County; that what was explained during the 2006 public hearings before both the Planning & Zoning Commission and Sussex County Council for Blackwater Creek was how ideal the location is for a number of reasons; that these thoughts were reflected on the 2008 Comprehensive Plan, the Planning & Zoning Commissions recommended version and the initial version recommended by County Council; that the close proximity to the city of Salisbury, Maryland is one of the primary reasons for how ideal the property is for development; that Salisbury is the largest city on the Eastern Shore; that Salisbury is a city that is growing; that the city of Salisbury is a major employment center; that the two most significant employers in Salisbury are Tidal Health and Perdue; that from the proposed properties, there are ways to enter into Salisbury without the need to go onto the highway of Rt. 13; that since the Blackwater Creek project was approved in 2007, Sussex County has grown and the City of Salisbury has grown; that Tidal Healthcare has expanded its footprint, which now includes Seaford and Millsboro; that within the project book is a map showing numerous other employment opportunities within the area; that there is also a map showing places of higher education and healthcare providers within the area; that there was a request made to amend the Future Land Use Map which lead to the current public hearing; that as the City of Salisbury and Sussex County have grown, so has the need for the proposed development; that the interest to construct something similar to Blackwater Creek is still present and the demand is still strong; that the Applicant looked at the current Future Land Use Map and attempted to choose the best Future Land Use category within the Code to match the area and the area characteristics; that the category which best matched the area, formal approval and formal designations on prior Future Land Use plans was the Developing Area Designation; that the Office of State Planning Coordination has a different view of whether or not the Developing Area is appropriate for the properties; that Mr. Edgell previously stated the properties are within a Level 4 area; that he agrees that is the designation on the State Strategies Map; that the designation comes largely from the designation, set by Sussex County, on their Future Land Use Map; that he has had many conversations with Ms. Dorothy Morris; that he has always been told the single most important factor, when determining the State Strategies Map, is the designation on the underlining local

government's Future Land Use Map; that this is why the plans get certified through the State; that there is a very high emphasis placed on the underline designation on a Future Land Use Plan from the local jurisdiction in which it arises; that due to this, it is not surprising that the three parcels on the right hand side of Providence Church Rd. are shown within Level 4; that this is due to being designated within a Low Density Area on Sussex County's Future Land Use Map; that the Office of State Planning Office coordinates various State agencies; that principally among the agencies is DelDOT; that the PLUS comments within the letter provided in the materials is instructive on the Application; that the PLUS comments related back to the Blackwater Creek project; that there was a TIS Traffic Impact Study performed for the Blackwater Creek project; that noted in the PLUS comments, was due to the designation on the State Strategies Map, the improvements would not be provided by the State; that improvements would be the responsibility of the property owner or developer of the project; that this is consistent with the designations and the past history of the property; that in Chapter 4 of the Comprehensive Plan, each of the various growth areas has the same bulleted points set forth within it; that the first bulleted point within the designation categories is Permitted Uses; that Permitted Uses within a Developing Area is to support a variety of housing types in selected areas and at appropriate intersections and commercial uses should be allowed; that looking back on the Blackwater Creek project, that was essentially what was proposed at the intersection of Providence Church Rd. and Delmar Rd.; that on the zoning map, in the northeast corner of the intersection, there is 3.2 acres which were originally zoned B-1 through the process; that at an appropriate intersection, with the appropriate improvements made by the property owner it is appropriate within a Developing Area as set forth in the County Code; that even though the Blackwater Creek project did not move forward, the B-1 Change of Zone designation carries forward with the property itself; that the second bullet point within each category refers to Density; that in each of the categories it always starts with the County's baseline of two units to the acre; that the Comprehensive Plans the medium and higher densities can be appropriate when meeting guiding factors; that these guiding factors include when central water and sewer are present, when near sufficient commercial uses, when along a major road or near a major intersection; that there are other considerations which flow from there; that the first of those is the availability of water and sewer; that this factor often drives density and helps to determine if a project should be the standard two units per acre or not; that for these properties Tidewater Environmental Services, Inc. has the CPCN for each of the proposed parcels, except for the parcel located in the northeast corner; that Tidewater will soon be known as Artesian; that Artesian would be available to provide public wastewater service to the site; that there is a CPCN listed for all parcels, including the parcel located to the northeast corner; that another consideration is the property is ideally suited for commercial uses; that the third category references infrastructure; that it states within each various growth area that central water and sewer are strongly encouraged; that central water and sewer would be used at the proposed site; that within the bulleted points of a developing area within the Comprehensive Plan there is a sentence that states, Master Planning should be encouraged, especially for large scale developments, on large parcels or groups of parcels, higher density and mixed-use developments to provide flexibility and site design; that it would be far superior to have a Master Plan for 800(+) acres, which would proceed through a Master Planning process rather than a piecemeal process over time; that Sussex County's Comprehensive Plan encourages a Master Plan zoning district in the future; that he understands this is an Ordinance currently being worked on by Mr. Whitehouse and County staff; that Table 4.5-2 shows each of the Future Land Use Map categories, as well as corresponding zoning district which would be appropriate for that; that in

almost each category, new zoning districts are applicable; that this would mean if Sussex County adopted a new zoning classification, such as a Master Plan Zoning classification, it would fit into almost every one of the zoning classifications; that there is only one classification it would not fit into; that classification is the Existing Development Area; that majority of the parcels are located in the Existing Development Area; that the request was made to amend the Future Land Use Map to a developing area; that in the developing area it does have the new zoning classification permissibility; that Master Planning would be appropriate for the five parcels; that all of the presented factors and additional information provided in the project book support the property being within a Developing Area; that these factors are further supported by the history of the properties; that the history includes the approvals in 2007, the 2008 Future Land Use Plan itself and the versions of the 2018 Future Land Use Plan which were recommended by the Planning & Zoning Commission and the initial recommended version by County Council.

The Commission found that Mr. Robert Horsey spoke on behalf of his Application; that he is part owner of the property, along with his brother; that he feels Mr. Edgell portrayed the request to be an abrupt turn of what the public requested on the 2018 Comprehensive Plan; that after ten months of workshops the Planning & Zoning Commission performed, aside from five workshop, he attended almost every workshop; that he feels many members of the public were disheartened when a member of the Commission made a suggestion, which went to the County Council; that when it went to County Council it was amend and some of the suggestions were removed; that on his side there was a lot of public disappointment; that there was a lot of time and effort put into something the public thought the Commission suggest would stand on the 2018 Comprehensive Plan; that Mr. Edgell was incorrect; that the public sediment did have a growth area in the southwestern corner of Sussex County; that when looking at the growth maps, everyone looks at Sussex County with a line across; that this is not true; that Sussex County is adjacent to the largest city south of Wilmington; that the City of Salisbury has nearly grown to the line of Sussex County, approximately being within a mile along the Rt. 13 corridor; that he feels it would be a grave mistake to not place a growth area on the southwestern portion of Sussex County to accommodate the work force of the metropolitan area south of the area; that the maps currently do not show this; that he believes the Level 4 State Strategies Map was put on during the Ruth Ann Minner Administration; that he feels it is just a line on a plan; that his family bought the farm in 2004; that the previous land owner has subdivided every lot they could; that strip lots have been placed on White Deer Rd. and Providence Church Rd. since then; that it is a little hamlet of housing that has been created in southwestern Sussex County; that Delmar has one of the best school districts in Sussex County; that people raising families attract to a nice school district; that he recently celebrated 36 years in business as a family company; that about 33 of those years they have been working with developers; that he did not attend college; that he does not have a degree; that he does know a successful development attracts to where people like to congregate and live; that the hamlet of houses shows that people want to live on the southwestern portion of the Sussex County; that this is due to the school district and the employment to the south of the area; that Providence Church Rd. turns into Jersey Rd. once it hits the Maryland line; that Jersey Rd. is approximately 5.5-miles to Naylor Mill Rd. which runs dead center of north Salisbury commercial district; that from the property one could get to Tidal Health in approximately 10-12 minutes; that this is not a quick process; and the process has changed in his 33 years of business; that he is not asking for a plan approval; that the request is to change the Future Land Use Map; that this request will not happen overnight; that it

is a long process; that he is requesting to get the process started and request the Commission consider the request in a positive way.

Mr. Hopkins stated he recalls the Commission spending a lot of time on the Ten Year Land Plan; that the Commission could have spent ten times more on analyzing where growth should take place; that it is almost impossible for a body, such as the Planning & Zoning Commission, to anticipate exactly where growth should be; that when the recommendation left Planning & Zoning and was submitted to County Council, there were changes made; that he did find it disheartening; that the next Ordinance request is another example of the same situation and he feels the Commission should have an open mind about making changes without waiting ten years to readdress some of these issues.

Ms. Wingate stated she joined the Commission while the Comprehensive Plan was being approved and she appreciated the comments from Mr. Hopkins.

Mr. Mears stated he was not part of the Comprehensive Plan process; that he does agree with Mr. Hopkins's comments; that the Commission cannot estimate and get it right the first time and small adjustments are not a bad thing, they are a positive thing.

The Commission found there was no one present in the room or by teleconference who wished to speak in support of or opposition to the Ordinance.

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

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

Ms. Stevenson stated the caller did have a good point in regard to placing a sign on the property to alert the public of the Ordinance.

Chairman Wheatley questioned the differences in notifications for Ordinances versus Land Use Applications.

Mr. Whitehouse reminded the Commission the current Application was for an Ordinance and not a Change of Zone; that under Title IX, under Comprehensive Plan amendments of the Sussex County Code it does not require public notification by sign and if there were such a requirement to send a postcard notice for every Ordinance amending the Comprehensive Plan, it would be required to mail every landowner within Sussex County a postcard for each Ordinance Application.

In relation to the Ordinance. Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to defer action for further consideration. Motion carried 5-0.

Minutes of the December 9, 2021 Planning & Zoning Commission Meeting

The Commission discussed the Ordinance which had been deferred since November 18, 2021.

Ms. Stevenson moved the Commission recommend approval of the Ordinance to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 532-12.00-1.00, 532-

12.00-27.00, 532-18.00-42.00, 532-18.00-44.00, and 532-19.00-1.00 from a Low-Density Area to the Developing Area based upon the record made during the public hearing and for the following reasons:

1. This area of Sussex County at the intersection of Delmar Road and Providence Church Road currently has two Area designations according to the Future Land Use Map in the Sussex County Comprehensive Plan: the Existing Development Area and the Low-Density Area. This Ordinance seeks to convert the subject properties in this location from the Low Density Area designation to the Developing Area.
2. The subject properties were previously identified as being within the Developing Area according to the Future Land Use Map found in the 2008 Sussex County Comprehensive Plan. Returning these properties to the Developing Area is consistent with that prior Plan and Map.
3. The subject properties are currently zoned GR, AR-1 and B-1. The combination of these zoning classifications and the facts that (a) the properties are adjacent to the Map's "Existing Development Area" and (b) were previously identified as being within the Developing Area prior to 2018 make this Map amendment appropriate.
4. These properties are in close proximity to the Town of Delmar as well as the City of Salisbury and the commercial corridor and employment centers there. It is also near the Route 13 corridor of Seaford, Blades and Laurel and those commercial uses and employment centers. These factors make this an appropriate location for the Developing Area Map designation.
5. There is central water and sewer available to these properties according to the public utilities that will provide these services.
6. This proposed Map amendment satisfies the criteria set forth in Section 4.4.2.1 of the Comprehensive Plan for a Growth Area, since: (a) the properties are in close proximity to the Town of Delmar and even the Maryland state line where significant commerce and employment exists; (b) the properties will be served by water and sewer; (c) the properties are near the Route 13 corridor; (d) the Map change will enable development that is in character with what exists or may occur in the area (including the adjacent "Existing Development Area" and GR and B-1 zoning; (e) the Map change will not adversely impacting any major preserved lands; and (f) the properties in question are not in close proximity to any water bodies.
7. While the Office of State Planning Coordinator has objected to this Map Amendment, the County in its Comprehensive Plan "is signaling that selected new growth areas may be needed to accommodate future development in places the State does not currently view as growth centers according to its 'Delaware Strategies for State Policies and Spending' document". Here, when the properties were previously identified as being in the Developing Area, where they are adjacent to the "Existing Developing Area" and where they are so near the commerce and employment centers of Route 13, Delmar and Salisbury this is an appropriate location for the State to recognize that a return of these properties to the "Developing Area" designation is appropriate.
8. By the terms of the Delaware Strategies for State Policies and Spending document, all land use authority remains vested with Sussex County. This is reiterated within the current Sussex County Comprehensive Plan. While the County certainly takes into account the State's recommendations with regard to a Map amendment, the circumstances that have been presented with this application justify a revision, if not a correction, to the Map.
9. This recommendation is consistent with the Commission's prior recommendation for this Future Land Use Map as part of the process to adopt the current Comprehensive Plan. That prior recommendation identified these properties as being within the Developing Areas.
10. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.

11. Any proposed use under the Developing Area designation will still require public hearings and site plan approvals. This will enable the County, with ample public participation, to determine whether any specific use or type of development is appropriate here.
12. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to recommend approval of the Ordinance, for the reasons and conditions stated in the motion. Motion carried 5 – 0.

To Be Introduced: 03/29/22

Council District 1: Mr. Vincent
Tax I.D. No.: 331-3.00-129.07
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR AND OUTDOOR STORAGE OF HEATING AND COOLING EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS

WHEREAS, on the 28th day of June 2021, a conditional use application, denominated Conditional Use No. 2295 was filed on behalf of Bones & Sons Heating & Air; and

WHEREAS, on the ____ day of _____ 2022, 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. 2295 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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. 2295 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 east side of Conrail Road (S.C.R. 546), approximately 606 feet south of the intersection of Hearn's Pond Rd (S.C.R. 544), and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 4.03 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: 03/29/22

Council District 2: Mrs. Green
Tax I.D. No.: 430-6.00-4.03
911 Address: 12559 Utica Rd, Greenwood

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2021, a conditional use application, denominated Conditional Use No. 2335 was filed on behalf of Joseph Kraft; 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. 2335 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. 2335 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 northeast side of Utica Road (S.C.R. 632), approximately 0.24 mile south of Lighthouse Lane, and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.12 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: 03/29/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 334-6.00-504.02
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF CONDITIONAL USE NO. 1845 (ORDINANCE NO. 2106) TO INCREASE THE NUMBER OF PERMITTED MULTIFAMILY UNITS FROM 168 TO 198 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.08 ACRES, MORE OR LESS.

WHEREAS, on the 17th day of February 2022, a conditional use application, denominated Conditional Use No. 2352 was filed on behalf of CB Lewes, LLC; and

WHEREAS, on the ____ day of _____ 2022, 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. 2352 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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. 2352 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest side of Tidal Way within the Coastal Tide development located on the northeast side of Plantations Road (Rt. 1D), 850-feet north west of Robinsonville Road (S.C.R. 271) and being more particularly described in the attached engineered site plan prepared by Colin Kraucunas, P.E., said parcel containing 18.08 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: 03/29/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 234-6.00-6.02 (part of)
911 Address: 19464 Beaver Dam Road, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.84 ACRES, MORE OR LESS

WHEREAS, on the 11th day of February 2022, a conditional use application, denominated Conditional Use No. 2350 was filed on behalf of Beaver Dam Enterprises, LLC; and

WHEREAS, on the ____ day of _____ 2022, 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. 2350 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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. 2350 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 Indian River Hundred, Sussex County, Delaware, and lying on west side of Beaver Dam Road (Rt. 23), approximately 0.50 mile north of Hopkins Road (S.C.R. 286), and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 1.84 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.