



# **Sussex County Council Public/Media Packet**

**MEETING:  
July 17, 2012**

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



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL

#### A G E N D A

JULY 17, 2012

10:00 A.M.

#### Call to Order

#### Approval of Agenda

#### Approval of Minutes

#### Reading of Correspondence

#### Todd Lawson, County Administrator

1. Administrator's Report

#### Hal Godwin, Deputy County Administrator

1. Wastewater Agreements
  - A. Waters Run, Phase 1A
  - B. Warrington Creek, Phase 4 (a/k/a Sawgrass)
  - C. Forest Landing, Phase 2B
  - D. Bay Forest Club, Phase 2.2B
  - E. Bay Forest Club, Phase 2.2C

#### Gina Jennings, Accounting Director

1. Federal Payment in Lieu of Taxes
2. Tyler Technology - Contract

#### Robert Stuart, Director of EMS

1. Paramedic Station 104/100 – Lease Renewal

**Jim Hickin, Director of Airport & Industrial Park Operations**

1. Georgetown Air Services – Lease Renewal

**John Ashman, Director of Utility Planning**

1. Request to Prepare and Post Notices for the Expansion of the Miller Creek Sanitary Sewer District, Dozer LLC Expansion

**Grant Requests**

1. Town of Blades for National Community Night Out.
2. Apple-Scrapple Festival for expenses.
3. Changing Fates Equine Rescue of Delaware for purchase of land.
4. Lewes Public Library for the Annual Lewes Creative Artists' Conference.
5. Groome, Faith and Israel United Methodist Church for community event.
6. Eastern Shore AFRAM Festival Committee for expenses.
7. Dewey Beach Police Department for a SafePace 100 Radar Speed Sign.
8. Millsboro Art League for building improvements.

**Introduction of Proposed Zoning Ordinances**

**Any Additional Business Brought Before Council**

**Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)**

**Possible Action on Executive Session Items**

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Sussex County Council meetings can be monitored on the internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).

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**In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on July 10, 2012 at 4:20 p.m., at the time it was prepared by the County Administrator and at least seven (7) days in advance of the meeting. This Agenda 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 listed may be considered out of sequence.**

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 26, 2012**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 26, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Susan M. Webb</b>	<b>Finance Director</b>
<b>Everett Moore</b>	<b>County Attorney</b>

**Psalm 23 and Pledge of Allegiance were led by Mr. Vincent.**

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 337 12  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting “Job Applicants’ Qualifications, Personnel and Land Acquisition” under “Executive Session”; and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Minutes**

**The minutes of June 19, 2012 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**JUNIOR ACHIEVEMENT OF DELAWARE, INC.,  
WILMINGTON, DELAWARE  
RE: Letter in appreciation of a Grant**

**EL CENTRO CULTURAL, INC., GEORGETOWN, DELAWARE  
RE: Letter in appreciation of a Grant**

**BEEBE MEDICAL FOUNDATION, LEWES, DELAWARE  
RE: Letter in appreciation of a Grant**

**OPEN ARMS FOOD MINISTRY, ELLENDALE, DELAWARE  
RE: Letter in appreciation of a Grant**

**Corre-  
spondence  
(continued)**

**SUSSEX CYCLISTS, INC., REHOBOTH BEACH, DELAWARE  
RE: Letter in appreciation of a Grant**

**NEW HOPE RECREATION & DEVELOPMENT CENTER,  
ELLENDALE, DELAWARE  
RE: Letter in appreciation of a Grant**

**State of  
Delaware –  
Request for  
Proposal/  
Process  
Serving  
Contract**

**Mr. Lawson presented the details of the State of Delaware – Request for Proposal regarding the Process Serving Contract which is set to expire on January 31, 2013. The Office of Management and Budget (OMB) has informed Mr. Lawson that the contract has two remaining options to consider.**

- 1. The County could extend the contract under the current terms for one (1) additional year.**
- 2. The County could not extend the contract and allow the contract to be rebid and the County could choose to rebid under new terms.**

**The Sussex County Accounting Department provided a contract analysis showing the cost of \$59,000 for one deputy and close to \$118,000 for two deputies, with the annual revenue estimated to be around \$50,000.**

**Based on the contract analysis, Mr. Lawson recommended not renewing the current contract and letting the State have it rebid. The Sheriff's Department agrees the terms were confirmed under previous Sheriff Swanson and new terms should be rebid.**

**Council discussed if the revenue that we generate, whether it be a profit or loss, is worth putting the deputies in danger. The consensus from the Council was that no amount of money is worth putting the deputies in danger and not to renew the contract. The State of Delaware would then have to put the contract out for rebid and at that time the Council would have to make a decision on whether to bid or not to bid.**

**M 338 12  
Motion  
Not To  
Extend  
Process  
Serving  
Contract**

**A Motion was made by Mr. Cole, second by Mr. Phillips, to advise the State of Delaware that the County will not be extending the contract of the Sheriff's Department for serving Protection From Abuse documents.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Adminis-  
trator's  
Report**

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

- 1. Sussex County Mobile Library**

**Administrator's  
Report  
(continued)**

Earlier this morning, the Sussex County Mobile Library, better known as the Bookmobile was unveiled on The Circle. With a new look and a new name, the unit is ready to serve the community during the busy summer reading months. This is the first major overhaul since entering service in 2000. Improvements include the new exterior wrap, a new exhaust system, replaced generator, and new carpeting funded by a grant from the Delaware Division of Libraries. The Sussex County Mobile Library has 2,200 circulation items on board including books, periodicals, DVD's, and audio programs. You can find the Mobile Library's scheduled stops on Sussex County's website.

**2. DelDOT 2013-2018 Capital Transportation Program**

Sussex County invites the public to offer suggestions for the upcoming 2013-2018 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation in early September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go on the County's website to submit their suggestions. Submissions will be accepted now through July 27. Administration will review all suggestions and then compile a draft report for the County Council's consideration in late August before submitting it to DelDOT in September.

Mr. Cole asked the Council to please evaluate the locations of the public transportation bus stops as he feels that some of the locations are not feasible.

**3. Delaware Solid Waste Authority Reports**

There were 33,148 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of March, April, and May 2012. Reports for each month were attached.

**4. Projects Receiving Substantial Completion**

Warrington Creek – Phase 3 (a/k/a Sawgrass) reached Substantial Completion effective June 20, 2012, and Forest Landing – Part of Phase 2D and Seagrass Plantation – Revision 2 – Phase 3 each reached Substantial Completion effective June 21, 2012. Attached were the Fact Sheets provided by the Engineering Department.

**5. Summer Holidays**

The Sussex County Council will not meet on July 3, 2012, preceding the July 4<sup>th</sup> holiday. A summer holiday for the County Council will also occur on July 10. The next regular scheduled meeting of the Sussex County Council will take place on July 17, 2012.

County offices will be closed July 4, 2012, for the Independence Day holiday.

[Attachments to the Administrator's Report are not attachments to the

minutes.]

**Wastewater Agreement** Hal Godwin, Deputy County Administrator, presented a Wastewater Agreement for the Council's consideration.

**M 339 12** A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the  
**Execute** recommendation of the Sussex County Engineering Department, for Sussex  
**Wastewater** County Project No. 81-04, Agreement No. 712-2, that the Sussex County  
**Agreement/** Council execute a Construction Administration and Construction  
**Watermark** Inspection Agreement between Sussex County Council, and The Reserves at North Bethany, LLC for wastewater facilities to be constructed in The Reserves at North Bethany, formerly Watermark, A/K/A Blue Water – Phase 2, located in the North Bethany Expansion of the Bethany Beach Sanitary Sewer District.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Legislative Update** Hal Godwin, Deputy County Administrator, presented the following legislative update:

**Senate Bill No. 167 – AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE LEGALITY OF ANY ORDINANCE, CODE, REGULATION OR MAP RELATING TO ZONING**

Mr. Godwin stated that this bill has been stagnant for several weeks now, being held up by its primary sponsor since early May. This Bill has dealt with how long there would be a time limit on lawsuits related to Subdivision approvals.

Mr. Godwin believes this Bill has stalled for this General Assembly session.

**House Bill No. 336 - AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS**

Mr. Godwin stated that he believes this Bill has stalled for this General Assembly session and it will be two more years before this Bill takes effect so Sussex County can reintroduce an amended Bill in January 2013 and take a little different approach on getting this Bill passed.

**House Bill No. 274 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS.**

Mr. Godwin stated that this Bill would allow the County Dog Licensing Department more flexibility. The Bill has stalled in Committee but will hold



**Legislative  
Update  
(continued)**

**discussion in August about some new features in the dog licensing process. This Bill would allow dog licenses to expire throughout the entire calendar year rather than just in the first quarter of the year.**

**House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES**

**This Bill passed the House and is in the Senate but not yet on the Agenda. Mr. Godwin stated that he is confident that this Bill will be passed and become law by the end of this General Assembly Session.**

**House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO CAPITATION TAX**

**Mr. Godwin stated that he is confident that this Bill will pass and become law by the end of this General Assembly Session.**

**House Bill No. 283 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT**

**This Bill has passed the House and has stalled in the Senate. Mr. Godwin stated that he does not believe that this Bill will pass this General Assembly session. The County has been working internally, as well with the Legislature to possibly reintroduce some legislation similar to this in January 2013 that may have a more comprehensive effect on all of our personnel rules.**

**Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS**

**This Bill was from the last General Assembly session and had stalled in the Senate. Senator Blevins, Majority Leader, has established a Committee to address all of the dog laws (dog licensing, enforcement of dog rules and laws); her ambition is for the State to take back dog licensing from the counties.**

**Mr. Godwin stated that he is very optimistic that over the summer this Committee will find some path forward to either send dog control back to the State or find ways for the counties to be able to service these responsibilities more reasonably.**

**House Bill No. 325 - AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16, 23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS AND SHERIFF DEPUTIES**

**This Bill has been through the General Assembly and signed into law by the Governor, clarifying all the authorities and responsibilities of the County Sheriff.**

Legislative  
Update  
(continued)

**Senate Bill No. 149 - AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENDANGERED SPECIES**

**This Bill has not moved very well since June 23, 2011.**

**House Bill No. 227 – AN ACT TO AMEND TITLE 9, TITLE 22 AND TITLE 31 RELATING TO HOUSING**

**This Bill has passed both the House and the Senate. Mr. Godwin believes it will be signed into law.**

**The Bill, when it was written, did not have much effect on the counties and their authority, it simply set up a priority listing on how Grant Funding will be dispersed and will be graded as per universal design. The County Community Development and Building Code offices have stated that they could work with the new regulations.**

**Senate Bill No. 195 – AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION AND IMPROVEMENT PROTECTION**

**Mr. Godwin stated that he does not believe that this Bill will get finished in this General Assembly session.**

**This Bill requires local governments to disburse disclosure materials about subdivisions that were going to have additional bonus densities or were going to have densities above the normal zoning.**

**House Bill No. 322 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE ASSESSMENT OF PROPERTY**

**This Bill is on the Senate floor on this date.**

**Mr. Godwin stated that this Bill will allow Sussex County to assemble its Assessment Appeals Board as needed rather than requiring them to meet for 15 days every March and not hear any appeals. This could save the county somewhere in the range of \$5,000 a year in operation costs.**

**Senate Bill No. 211 – AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRUELTY TO ANIMALS**

**Mr. Godwin stated that this Bill has already passed the Senate and he believes it will pass the House before the end of this General Assembly session.**

**This Bill was amended on June 20, 2012 to allow farms of ten (10) acres or larger to be exempt from this Tethering law. This law is being added into Title 11, making dog tethering an animal cruelty charge which is criminal, not under the counties' authority in Title 9. The Delaware SPCA will do the**

**Legislative  
Update  
(continued)**

enforcement and if they are unable, a local law enforcement agency will then address all accusations about dog tethering beyond the 18 hour limit.

**Senate Bill No. 231 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT**

**This Bill passed the Senate on June 21, 2012.**

**Mr. Godwin stated he believes this Bill will pass the House during this General Assembly session. The Council's comments about the cost and the definition of when a Freedom of Information Act (FOIA) request is considered legal was brought to the attention of the Sponsor and the President Pro Tempore of the Senate. Senator Deluca and Senator Peterson stated that under this law, a request would only be considered if a FOIA request form is submitted, not by a phone call.**

**Governor's  
Advisory  
Council on  
Planning/  
Compr-  
hensive  
Plan  
Report**

**Vince Robertson, Assistant County Attorney, presented a summary of the Report to the Governor's Advisory Council on Planning. State law previously mandated that the County provide a Comprehensive Land Use Plan Update every five years. The State law was recently amended to provide that Comprehensive Land Use Plans only need to be updated every ten years. As part of the new amendment, the State law also added a requirement that there needs to be an annual report on the status of the prior plan. The first of these reports is due July 1, 2012.**

**County staff and legal staff have put together a report looking back to 2008 when the plan was adopted. There were twenty-three possible ordinances specifically identified for consideration. The report goes through the twenty-three ordinances and how the County has considered them. All of the ordinances have been considered by the Planning and Zoning Commission and County Council separately in addition to a joint workshop that was held in 2010 to discuss the remaining ordinance amendments that needed to be considered at that time. The majority of the ordinances have been adopted in one form or another, many of them in a Single Topic Ordinance amendment to the subdivision or zoning codes or the topics that were listed in these twenty-three items were incorporated.**

**Mr. Robertson discussed the ten elements of the Quality of Life Act in the County's Comprehensive Plan which are required by State law and how they have been addressed.**

**Sussex County has followed and implemented the goals set forth in its 2008 Comprehensive Land Use Plan.**

**The Council discussed the Report to the Governor's Advisory Council provided by Mr. Robertson.**

**M 340 12**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the**

**M 340 12**      **report regarding the status of the 2008 Comprehensive Land Use Plan**  
**Submit**      **prepared by Sussex County staff, be forwarded to the Governor’s Advisory**  
**Land Use**      **Council on Planning.**

**Report**  
**(continued)**

**Motion Adopted:      5 Yeas.**  
**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                                 **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                                 **Mr. Vincent, Yea**

**Public**  
**Hearing/**  
**Relating to**  
**EDU’s**

**A Public Hearing was held on a Proposed Ordinance entitled, “AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY RELATING TO HOW EQUIVALENT DWELLING UNITS (EDU’S) SHALL BE DETERMINED FOR CERTAIN COMMERCIAL/BUSINESS USERS”**

**Gary Tongue, Director of Planning & Permits, stated that a few weeks ago it was brought to the County’s attention that with new technology the County has been clearly over charging Equivalent Dwelling Units (EDU’s) for commercial laundromats and carwashes.**

**This ordinance would allow the County Engineer some latitude to adjust the assessment based on manufacture specifications that would be submitted to the County by individual businesses.**

**Mr. Tonge stated that the Engineering Department doesn’t feel that it is necessary to go back and revise the entire code that deals with commercial laundromats/car washes because at this time there is still a lot of old technology out in the field. This proposal would be for new businesses or existing businesses that can provide documentation that they have updated to more efficient equipment.**

**Mr. Cole asked for clarification that this ordinance is specifically for commercial laundromats and car washes. In response to questions, Mr. Tonge confirmed that this ordinance only pertains to these two types of businesses.**

**Everett Moore, County Attorney, stated that this ordinance is just adding (J) which is very specific as to commercial laundromats/car washes and is amending the underlying language in this ordinance.**

**Mr. Cole asked if the County should have an ordinance that would give the County Engineer the flexibility to address other businesses that could provide to the County proof that they are not going to have the usage that has been assessed by the County.**

**In response to questions, Mr. Izzo suggested that an internal audit of our ordinance be performed to find instances where flexibility does not exist. Once this audit is complete the Engineering will present the findings of this report to Council for further discussion.**

**There were no public comments and the Public Hearing was closed.**

**M 341 12**  
**Adopt**  
**Ordinance**  
**No. 2265/**  
**EDU**  
**Determin-**  
**ation for**  
**Commercial**  
**/Business**  
**Users**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2265 entitled “AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY RELATING TO HOW EQUIVALENT DWELLING UNITS (EDU’S) SHALL BE DETERMINED FOR CERTAIN COMMERCIAL/BUSINESS USERS”.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Angola Neck**  
**Sanitary**  
**Sewer Dist-**  
**riect/ Final**  
**Balancing**  
**Change**  
**Order No. 1**

**Mike Izzo, County Engineer, reported on Contract No. 5, Angola Neck Sanitary Sewer District; specifically, all the work performed within the Angola By the Bay Subdivision. This work was performed by George & Lynch, Inc. and was the largest Angola Neck Contract. Mr. Izzo presented the final Balancing Change Order for the Council’s approval. He noted that this is a Credit Change Order in the amount of (\$161,958.84) and also adds 74 days to the contract.**

**M 342 12**  
**Grant Final**  
**Balancing**  
**Change**  
**Order No. 1**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Contract No. 09-25, Angola Neck Sanitary Sewer District, with George & Lynch Inc. of Dover, Delaware be approved which decreases the contract amount by (\$161,958.84), for a new total of \$7,176,805.16 and extends the contract time by 74 days, contingent upon the receipt of the approval from the funding agencies.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Inland**  
**Bays**  
**Regional**  
**Wastewater**  
**Facility-**  
**Phase 2A/**  
**Consultant**  
**Contract**

**Juel Gibbons, County Project Manager, presented Contract Amendment No. 1 for Contract No. 12-11 for the Inland Bays Regional Wastewater Facility – Phase 2A (IBRWF). This Contract Amendment, with Whitman, Requardt and Associates, LLP of Baltimore, MD, is for the provision of Contract Administration and Resident Project Representation services. These services will be performed by Davis, Bowen and Friedel, Inc. This amendment increases the contract amount by \$53,599.00, for a new contract total of \$560,275.00.**

**Mrs. Deaver asked for an explanation for the increase.**

**In response to the question, Ms. Gibbons stated that the increase was for additional work completed in regards to Contract Administration and**

**Contract (continued)**      **Resident Project Representation services above the \$2 million grant awarded to the County in April by the USDA.**

**M 343 12**      **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, that the**  
**Contract/**      **Sussex County Council authorizes its President to execute Contract**  
**Inland Bays**      **Amendment No. 1 with Whitman, Requart and Associates, LLP of**  
**RWF**      **Baltimore, MD including sub-consultant services by GHD and Davis,**  
      **Bowen and Friedel, Inc. to provide Contract Administration and Resident**  
      **Project Presentation services for the Inland Bays Regional Wastewater**  
      **Facility Expansion – Phase 2A, Contract No. 12-11, at a cost not to exceed**  
      **\$53,599.00.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
      **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
      **Mr. Vincent, Yea**

**Inland**      **Juel Gibbons, County Project Manager, presented Change Order No. 1 & 2**  
**Bays**      **for Contract No. 12-11 at the Inland Bays Regional Wastewater Facility –**  
**RWF- Phase**      **Phase 2A (IBRWF). These change orders are related to the provision of**  
**2A/Change**      **additional equipment and labor for the connection of the Spray Rigs to the**  
**Order No.**      **electrical service. Change Order No. 1 is in the amount of \$1,660.31 and**  
**1 & 2**      **Change Order No. 2 is in the amount of \$3,819.32. The total for Change**  
      **Order No. 1 & 2 is \$5,479.63, bringing the total contract price to**  
      **\$688,753.63.**

**M 344 12**      **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon**  
**Approve**      **the recommendation of the Sussex County Engineering Department, and its**  
**Change**      **consultant Davis, Bowen and Friedel, Inc., that Change Order No. 1 & 2 for**  
**Order/**      **Sussex County Project #12-11, Inland Bays Regional Wastewater Facility**  
**Inland Bays**      **Expansion – Phase 2A, be approved, which increases the contract amount**  
**RWF**      **by \$5,479.63 for a new total of \$688,753.63.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
      **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
      **Mr. Vincent, Yea**

**Bid Results/**      **Julie Cooper, County Project Engineer, presented bid results for Sussex**  
**Rudder**      **County Project No. 11-12, Rudder Lane Pole Building, which will house**  
**Lane Pole**      **county vehicles. Ms. Cooper stated that she received five bids for this**  
**Building**      **project.**

**Ms. Cooper stated that the Engineering Department made a great effort to**  
**publicize this bid request by faxing the advertisement to many contractors,**  
**advertising in two newspapers and posting it on the County's website.**

**M 345 12**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the**  
**Award Bid/**      **recommendation of the Sussex County Engineering Department, Sussex**  
**Rudder**          **County Project 11-12, Rudder Lane Pole Building, be awarded to John L.**  
**Lane Pole**      **Briggs & Co., Georgetown, DE, at the base bid amount of \$234,609.59.**  
**Building**  
**(continued)**      **Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Grant**  
**Requests**      **Mrs. Webb presented grant requests for the Council's consideration.**

**M 346 12**      **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give**  
**Community**      **\$1,000.00 from Mrs. Deaver's Community Grant Account to the Lewes**  
**Grant**          **Education Coalition for K-12 teacher workshop expenses.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**M 347 12**      **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give**  
**Community**      **\$250.00 from Mr. Wilson's Community Grant Account to CHEER for**  
**Grant**          **sponsorship of the Classic International Car Show.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**M 348 12**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give**  
**Community**      **\$5,000.00 (\$2,500.00 each from Mr. Cole's and Mrs. Deaver's Community**  
**Grant**          **Grant Accounts) to the Village Improvement Association for Clubhouse**  
**expansion costs.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**M 349 12**      **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give**  
**Community**      **\$1,000.00 from Mrs. Deaver's Community Grant Account to Autism**  
**Grant**          **Delaware for sponsorship of the Blue Jean Ball fundraiser.**

**Motion Adopted:      5 Yeas.**

- M 349 12**  
**(continued)**
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea
- M 350 12**  
**Community Grant**
- A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$2,000.00 from Mrs. Deaver's Community Grant Account to the Milton Community Foundation for the Milton Farmers Market.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea
- M 351 12**  
**Community Grant**
- A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$200.00 from Mr. Cole's Community Grant Account to First State Community Action Agency for a mobile home relocation project.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea
- M 352 12**  
**Community Grant**
- A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000.00 (\$500.00 each from Mr. Cole's & Mrs. Deaver's Community Grant Accounts) to the Rehoboth Beach Film Society for sponsorship of the 2012 Film Festival.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea
- M 353 12**  
**Community Grant**
- A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$3,500 (\$2,500.00 from Mr. Cole's and \$1,000.00 from Mrs. Deaver's Community Grant Accounts) to the Coalition of West Rehoboth for street lighting and clean-up program.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea
- M 354 12**  
**Community Grant**
- A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 from Mr. Phillips' Community Grant Account to the Polly Branch Extended McCabe Court Civic Association for their Summer Camp



**M 354 12**  
**(continued)**      **Enrichment Program.**

**Motion Adopted:**      **5 Yeas.**

**Vote by Roll Call:**    **Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                                 **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                                 **Mr. Vincent, Yea**

**Introduction of Proposed Ordinances**    **Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PHYSICAL TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET, MORE OR LESS (Tax Map I.D. 1-32-12.00-20.00) (Conditional Use No. 1940) filed on behalf of Phil DePenna.**

**Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ELECTRIC GENERATION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 40 ACRES, MORE OR LESS (Tax Map I.D. 1-35-22.00-23.00 (Part of) (Conditional Use No. 1941) filed on behalf of Delaware Electric Cooperative.**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Additional Business**            **Under Additional Business, Carole Sommers of Lewes, was present to represent the League of Women Voters and stated that after listening to the discussion this morning about the Comprehensive Land Use Plan, it reminds her of the League’s position that the County is in need of a Certified County Planner.**

**M 355 12**  
**Go Into**  
**Executive**  
**Session**            **At 11:25 a.m., a Motion was made by Mr. Wilson, seconded Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation.**

**Motion Adopted:**      **5 Yeas.**

**Vote by Roll Call:**    **Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                                 **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                                 **Mr. Vincent, Yea**

**Executive Session**            **At 11:34 a.m., an Executive Session was held in the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 1:31 p.m.**

**M 356 12**            **At 1:35 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson,**

<b>M 356 12 Reconvene Regular Session (continued)</b>	<b>to come out of Executive Session and to reconvene the Regular Session. Motion Adopted: 5 Yeas.  Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b>
<b>Statement/ Prayer</b>	<b>Mr. Moore announced that prior to the prayer before the Call to Order on this date, it is his understanding that the statement he read was not transmitted outside the Chamber and that he would like to put it in the record at this point. Mr. Moore read the following:</b>  <b>1. The Council, as a legislative body, is allowed to recite a prayer.</b>  <b>2. Council is subject to an injunction because the prayer recited was exclusively the Lord's Prayer.</b>  <b>3. Council is exploring options as to what is an appropriate and permissible prayer.</b>  <b>4. This issue is very important and one that invokes strong passion.</b>  <b>5. Request that all refrain from reciting out loud the Lord's Prayer as we work through this process.</b>  <b>6. The Council is not permitted to stand or otherwise participate in any attempt to circumvent this order. Mere silence on the part of Council while the Lord's Prayer is being recited by others may cause individual members and the Council as a whole to be held in contempt.</b>  <b>7. Your cooperation with Council as it works through this difficult process will be appreciated.</b>
<b>M 357 12 Adopt Resolution of the Council/ Prayer Statement</b>	<b>Mr. Moore suggested it would be appropriate for the Council to make a Motion and adopt the above statement as a Resolution of the Council. A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to make the statement read by Everett Moore, County Attorney, a Resolution of the Council.  Motion Adopted: 5 Yeas.</b>

- M 357 12  
(continued)**      **Vote by Roll Call:**      **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**
- Executive  
Session  
Action**      **Mr. Moore announced that, during Executive Session, the Council discussed  
issues relating to pending/potential litigation.**
- M 358 12  
Adopt  
Psalm 23**      **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adopt the  
practice of saying Psalm 23 before the County Council meeting begins.**
- Motion Adopted:**      **5 Yeas.**
- Vote by Roll Call:**      **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**
- M 359 12  
Recess**      **At 1:39 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips,  
to take a 10 minute recess prior to the public hearings.**
- Motion Adopted:**      **5 Yeas.**
- Vote by Roll Call:**      **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**
- Reconvene**      **At 1:57 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips,  
to reconvene.**
- Motion Adopted:**      **5 Yeas.**
- Vote by Roll Call:**      **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**
- Public  
Hearing/  
C/U 1931**      **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 CUSTOM  
WOODWORKING SHOP TO BE LOCATED ON A CERTAIN PARCEL  
OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX  
COUNTY, CONTAINING 3.802 ACRES, MORE OR LESS” (Conditional  
Use No. 1931) filed on behalf of Crist and Brian Zook.**
- Lawrence Lank, Director of Planning and Zoning, reported that the  
Planning and Zoning Commission held a Public Hearing on this application  
on May 31, 2012 at which time the Commission recommended that the  
application be approved with the following conditions:**
1.    **The use shall be limited to a woodworking shop.**
  2.    **Any dumpster on the property shall be screened from view of**

**Public  
Hearing/  
C/U 1931  
(continued)**

- neighboring properties or roadways.
3. The hours of operation shall be between 8:00 a.m. and 6:00 p.m. Monday through Saturday.
  4. One lighted sign, not to exceed 32 square feet in size shall be permitted.
  5. The Final Site Plan listing or depicting these conditions shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012)

**Mr. Lank read a summary of the Commission's Public Hearing.**

**Mr. Lank stated that he has received correspondence from two agencies with comments since the Public Hearing before the Commission.**

**The first from, Sussex Conservation District, received on June 11, 2012 stating that there are three soil types on this property and the applicant would be required to follow recommended erosion and sediment control practices during construction; maintain vegetation after completion of construction; that there are no storm flood hazards areas affected; no tax ditches affected and that it will not be necessary for on-site or off-site drainage improvements.**

**The second from, Department of Transportation, dated June 21, 2012, is a letter of No Objection to recordation of the site plan; it is not a letter authorizing Commencement of Entrance Construction. The letter of No Objection is valid for a period of five (5) years.**

**The Council found that Crist and Brian Zook were present and Brian Zook stated that his father, Crist Zook, started the business 38 years ago; they lost their rental structure in 2009 due to fire; in December 2011 they were notified that they would have to vacate their current rental location; they do custom woodworking/cabinetmaking and would like to operate this business from his home property.**

**Mr. Cole asked Mr. Lank if this would qualify as a home business.**

**In response to Mr. Cole's question, Mr. Lank stated that if they have any employees, they would need to have a Conditional Use permit.**

**There were no public comments and the Public Hearing was closed.**

**M 360 12  
Adopt  
Ordinance  
No. 2266**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2266 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CUSTOM WOODWORKING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND**

**M 360 12  
Adopt  
Ordinance  
No. 2266 /  
(C/U  
No. 1931)  
(continued)**

**BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 3.802 ACRES, MORE OR LESS” (Conditional Use No. 1931) filed on behalf of Crist and Brian Zook.**

- 1. The use shall be limited to a woodworking shop.**
- 2. Any dumpster on the property shall be screened from view of neighboring properties or roadways.**
- 3. The hours of operation shall be between 8:00 a.m. and 6:00 p.m. Monday through Saturday.**
- 4. One lighted sign, not to exceed 32 square feet in size shall be permitted.**
- 5. The Final Site Plan listing or depicting these conditions shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
C/Z  
No. 1717**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH, HUNDRED, SUSSEX COUNTY, CONTAINING 24,763 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1717) filed on behalf of William N. Hein.**

**The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the application be approved.**

**Lawrence Lank, Director of Planning and Zoning, stated that he received letters of support from Ralph A. Deloy, an adjacent land owner, Eric Sugrue, a nearby landowner, DELF, LLC and First Venture, LLC, both owned and operated by Chris and Dayna Quillen, being across from the site.**

**(See the minutes of the Planning and Zoning Commission dated May 31, 2012)**

**Mr. Lank, read a summary of the Commission’s Public Hearing.**

**Mr. Lank stated that he received a memorandum from the Sussex Conservation District dated June 11, 2012. There is one soil type at this location. The Applicant would be required to follow recommended erosion and sediment control practices during construction; maintain vegetation**

**Public  
Hearing/  
C/Z  
No. 1717  
(continued)**

after completion of construction; there are no storm flood hazard areas affected; no tax ditches affected; it is not likely that any off-site drainage improvements will be required; it is possible that some on-site drainage improvements will be required.

The Council found that David Hutt, Attorney with Wilson, Halbrook & Bayard, P.A., was present along with the Applicant, William N. Hein. Mr. Hutt stated that Mr. Hein is the Contract Purchaser of the property. The owner of the property is Tony Crivella. If the rezoning application is approved then Mr. Hein would be purchasing this property. Approximately two years ago, Mr. Hein came before the Council with a Conditional Use application for his current business location on Rt. 24 just west of Plantation Road. Mr. Hein runs a screening and embroidery business that is known as LogoMotive out of this location. Since the approval of his Conditional Use application, his business is expanding and the size limits of the site where he is located, the residential type structure on the site, as well as the conditions of the Conditional Use that was granted don't allow for Mr. Hein to expand as his business is growing. Mr. Hein is seeking a location that is in the general area of his current business that has a building or would allow him to build a building that would be more appropriate for his business. The lot is just over ½ acre located on the western side of Airport Road just a little south of the intersection of Airport Road and Old Landing Road. The surrounding properties are commercial in nature. The property is in the 2008 Comprehensive Plan; the site is in an Environmentally Sensitive Development District (growth area); and the site is in an Investment Level 1 Area where the State supports growth.

Mr. Hein stated that the business was established around 1980 he purchased the business in 2008 and relocated it to its current location. This is a screen printing and embroidery business with most of its business coming from local businesses such as landscapers, restaurants and others that have general uniform wear, as well as multiple local events that take place in the area.

Mr. Hutt asked Mr. Hein if his business was a retail site with a lot of customer's coming directly to his business's site.

Mr. Hein responded that most of the orders are placed through email, phone, or he personally visits the potential customers off- site. He has very few patrons that come to his business to have a few items monogrammed. The majority of his business is logo wear for large establishments or events that buy in large quantities.

Mr. Hutt asked Mr. Hein if there was a reason that he is requesting a Change of Zone instead of a Conditional Use which he has at his current business location on Rt. 24.

Mr. Hein stated that when he spoke with the bank in regards to getting a loan to build a new building, they stated that they would not lend any funds

**Public  
Hearing/  
C/Z  
No. 1717  
(continued)**

on a Conditional Use and that it has to be a commercial zoned property to meet the requirements. If the Council grants this request, Mr. Hein stated that he plans on using the current business location as a rental property, as a residential home.

Mr. Cole asked if he would let the Conditional Use on the current business location expire.

Mr. Hein stated that he would let the current Conditional Use expire on his current business location.

There were no public comments.

The Public Hearing and public record were closed.

**M 361 12  
Adopt  
Ordinance  
No. 2267/  
(C/U  
No. 1717)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2267 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH, HUNDRED, SUSSEX COUNTY, CONTAINING 24,763 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1717) filed on behalf of William N. Hein.

**Motion Adopted:     5 Yeas.**

**Vote by Roll Call:     Mrs. Deaver, Yea; Mr. Cole, Yea;  
                                 Mr. Phillips, Yea; Mr. Wilson, Yea;  
                                 Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Ordinance/  
Regarding  
Typical  
Road  
Sections for  
Subdivision**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO DELETE ATTACHMENT 1, CHAPTER 99 OF THE CODE OF SUSSEX COUNTY REGARDING “TYPICAL ROAD SECTIONS FOR SUBDIVISIONS”.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the proposed Ordinance Amendment which eliminates the typical cross section of a street which is no longer current in Chapter 99 since road design requirements have been established by the County Engineering Department.

**There were no public comments and the Public Hearing was closed.**

**M 362 12  
Adopt  
Ordinance  
No. 2268**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2268 entitled “AN ORDINANCE TO DELETE ATTACHMENT 1, CHAPTER 99 OF THE CODE OF SUSSEX COUNTY REGARDING “TYPICAL ROAD SECTIONS FOR SUBDIVISIONS”.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Ordinance  
to add a  
Definition of  
“Property  
Owner”**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-5 AND SECTION 99-13A OF THE CODE OF SUSSEX COUNTY TO ADD A DEFINITION OF “PROPERTY OWNER”.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.**

**(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)**

**Mr. Lank read a summary of the Commission’s Public Hearing and summarized the Proposed Ordinance. This Ordinance Amendment which clarifies the definition of a “property owner” and the means of calculating consents for purposes of a re-subdivision or alteration of an existing subdivision.**

**There were no public comments and the Public Hearing was closed.**

**M 363 12  
Adopt  
Ordinance  
No. 2269**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2269 entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-5 AND SECTION 99-13A OF THE CODE OF SUSSEX COUNTY TO ADD A DEFINITION OF “PROPERTY OWNER”.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Ordinance  
to Clarify**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-9 OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE TIMING OF A PUBLIC HEARING”.**



**the Timing of a Public Hearing (continued)**      **Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.**

**(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)**

**Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment revises the Subdivision Code to address the current practice of the Commission to conduct public hearings on subdivisions at least twice a month, or as needed based on the number of pending applications.**

**There were no public comments and the Public Hearing was closed.**

**M 364 12**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt**  
**Adopt**      **Ordinance No. 2270 entitled “AN ORDINANCE TO AMEND CHAPTER 99,**  
**Ordinance**      **SECTION 99-9 OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE**  
**No. 2270**      **TIMING OF A PUBLIC HEARING”.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Yea;**  
                                 **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                                 **Mr. Vincent, Yea**

**Public**      **A Public Hearing was held on the Proposed Ordinance entitled “AN**  
**Hearing/**      **ORDINANCE TO AMEND CHAPTER 99, SECTION 99-16(1) OF THE**  
**Proposed**      **CODE OF SUSSEX COUNTY TO DELETE A TYPOGRAPHICAL**  
**Ordinance**      **ERROR”.**  
**to Delete a**

**Typograph-**      **Lawrence Lank, Director of Planning and Zoning, reported that the**  
**ical error**      **Planning and Zoning Commission held a Public Hearing on the Proposed**  
                         **Ordinance on May 31, 2012 at which time the Commission recommended**  
                         **that the Ordinance Amendment be approved.**

**(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)**

**Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment deletes an error in the Subdivision Code containing a requirement that is stated and required in its entirety in a more appropriate section of the Code.**

**There were no public comments and the Public Hearing was closed.**

**M 365 12**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt**  
                         **Ordinance No. 2271 entitled “AN ORDINANCE TO AMEND CHAPTER 99,**

**M 365 12  
Adopt  
Ordinance  
No. 2271  
(continued)**

**SECTION 99-16(1) OF THE CODE OF SUSSEX COUNTY TO DELETE A  
TYPOGRAPHICAL ERROR”**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 366 12  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn  
at 2:38 p.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Respectively submitted,**

**Kelly A. Collins  
Administrative Secretary**

**Sussex County  
Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947

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

March 27, 2012

**FACT SHEET**

**SUSSEX COUNTY PROJECT 81-04  
WATERS RUN - PHASE 1A  
AGREEMENT NO. 634**

**DEVELOPER:**

Mr. Michael Daniels  
Water's Run Development Group, LLC  
12333 River's Edge Drive  
Potomac, MD 20854

**LOCATION:**

West side of Road #381, Old Mill Bridge Road,  
2860 feet North of Rt. 54 and existing Magnolia  
Shores subdivision located on the east side of of  
Rd. #381.

**SANITARY SEWER DISTRICT:**

Fenwick Island Sanitary Sewer District

**TYPE AND SIZE DEVELOPMENT:**

56 Lot Single-Family Sub-Division  
( 8 lots in this phase ) and installation  
of Ordin.38 sanitary system for existing Magnolia  
Shores subdivision located on the east side of  
Road #381, Old Mill Bridge Road.

**SYSTEM CONNECTION CHARGES:**

\$40,120.00

**SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
02/17/12

Department Of Natural Resources Plan Approval  
02/21/12

**SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 10  
Construction Admin And Construction Inspection Cost – \$5,647.88  
Proposed Construction Cost – \$37,652.50

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03/27/2012

**Sussex County  
Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947

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

June 19, 2012

**FACT SHEET**

**SUSSEX COUNTY PROJECT 81-04  
WARRINGTON CREEK - PHASE 4 (A/K/A SAWGRASS)  
AGREEMENT NO. 378 - 3**

**DEVELOPER:**

Mr. Michael Accardi  
Sawgrass South, L.L.C.  
1300 Piccard Drive  
Suite 103  
Rockville, MD 20850

**LOCATION:**

South East Side of Old Landing Road

**SANITARY SEWER DISTRICT:**

West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

**TYPE AND SIZE DEVELOPMENT:**

Town House Sections, Building #s: C1, C7,  
C8, C14, C74, C80 including Catlina Circle sta.  
30+00 to 39+00 and Carmel Terrace Sta. 10+00  
to 12+54; and wetland crossing Laguna Dr. Sta.  
28+00 to 29+50.

**SYSTEM CONNECTION CHARGES:**

\$91,800.00

**SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
02/04/05

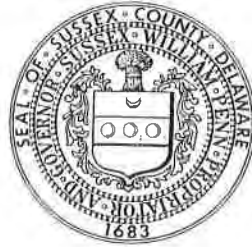
Department Of Natural Resources Plan Approval  
03/14/05

**SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 40  
Construction Admin And Construction Inspection Cost – \$16,006.25  
Proposed Construction Cost – \$106,708.35

**Sussex County**  
**Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947

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

June 27, 2012

**FACT SHEET**

**SUSSEX COUNTY PROJECT 81-04**  
**FOREST LANDING - PHASE 2B**  
**AGREEMENT NO. 343 - 4**

**DEVELOPER:**

Mr. Dave Dombert  
Forest Landing Communities, LLC  
Natelli Communities, LLC  
506 Main Street, Suite 300  
Gaithersburg, MD 20878

**LOCATION:**

Intersection Of County Road 368 And County  
Road  
84

**SANITARY SEWER DISTRICT:**

Miller Creek Sanitary Sewer District

**TYPE AND SIZE DEVELOPMENT:**

21 Single Family Lots And Town Houses

**SYSTEM CONNECTION CHARGES:**

\$107,751.00

**SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
08/04/04

Department Of Natural Resources Plan Approval  
10/29/04

**SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 30  
Construction Admin And Construction Inspection Cost – \$12,351.60  
Proposed Construction Cost – \$82,344.00

//west-fs1/Engineering/99110/agr\_num343/agr\_num343-4/UCD\_Construction\_Fact\_Sheet\_1.rtf  
06/27/2012

**Sussex County  
Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947

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

July 09, 2012

**FACT SHEET**

**SUSSEX COUNTY PROJECT 81-04  
BAY FOREST CLUB - PHASE 2.2B  
AGREEMENT NO. 918 - 4**

**DEVELOPER:**

Mr. Thomas Natelli  
Bay Forest, LLC  
506 Main Street, 3rd Floor  
Gaithersburg,, MD 20878

**LOCATION:**

East side of Whites Neck Road and North of Old  
Mill Road.

**SANITARY SEWER DISTRICT:**

Millville Expansion of the Bethany Beach Sanitary Sewer District

**TYPE AND SIZE DEVELOPMENT:**

abandon sewer lateral for lot 299

**SYSTEM CONNECTION CHARGES:**

\$0.00

**SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
03/08/12

Department Of Natural Resources Plan Approval  
03/20/12

**SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 1

Construction Admin And Construction Inspection Cost – \$75.00

Proposed Construction Cost – \$500.00

**Sussex County**  
**Engineering Department**

MICHAEL A. IZZO, P.E.  
County Engineer



2 THE CIRCLE  
P.O. BOX 589  
GEORGETOWN, DELAWARE 19947

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

July 09, 2012

**FACT SHEET**

**SUSSEX COUNTY PROJECT 81-04**  
**BAY FOREST CLUB - PHASE 2.2C**  
**AGREEMENT NO. 918 - 5**

**DEVELOPER:**

Mr. Thomas Natelli  
Bay Forest, LLC  
506 Main Street, 3<sup>rd</sup> Floor  
Gaithersburg,, MD 20878

**LOCATION:**

East side of Whites Neck Road and North of Old  
Mill Road.

**SANITARY SEWER DISTRICT:**

Millville Expansion of the Bethany Beach Sanitary Sewer District

**TYPE AND SIZE DEVELOPMENT:**

Phase 2.2C consists of -109 lots, numbered 1-35,  
258-293 & 309-359  
Phase 2.2C is a Sub-Phase of Phase 2.2.

Redisential Planned Comminuty (RPC), Phase  
2.2 is based on a Revised Master Plan approved  
3/17/10 by P & Z with 157 units total. (35  
detached units, 51 attached units and 71 single  
family lots.) 106 of the 157 units are served by  
existing sewer.

**SYSTEM CONNECTION CHARGES:**

\$671,876.00

**SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
03/08/12

Department Of Natural Resources Plan Approval  
03/20/12

**SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 90

Construction Admin And Construction Inspection Cost – \$46,952.70

Proposed Construction Cost – \$313,018.00



GINA JENNINGS  
DIRECTOR OF ACCOUNTING  
(302) 855-7853 T  
(302) 855-7722 F  
gjennings@sussexcountype.gov



**Sussex County**  
DELAWARE  
sussexcountype.gov

## MEMORANDUM

TO: The Honorable Michael H. Vincent, President  
The Honorable Samuel R. Wilson, Jr., Vice President  
The Honorable Joan R. Deaver  
The Honorable George B. Cole  
The Honorable Vance C. Phillips

FROM: Gina Jennings, Director of Accounting

DATE: July 12, 2012

RE: Federal Payments in Lieu of Taxes

A check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2011. This is the same amount as last year.

The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. This check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose.

The County does not collect property taxes from the Federal Government for the Prime Hook National Wildlife Refuge. In return, the Federal Government gives the County this payment in lieu of taxes. In the past, these funds have been allocated in the same percentage as the other County tax collections. The attached spreadsheet shows the recommended allocation of these funds based on assessed value of the Prime Hook Refuge. I will be presenting this allocation for Council's authorization on July 17, 2012.

Please feel free to call me if you have any questions.

Sussex County Council-Federal Payment in Lieu of Taxes Allocations as of 6/30/12

TAXING AUTHORITY	TAX RATE	% OF TOTAL	GRANT AMOUNT	
<b>MILFORD SCHOOL DISTRICT</b>				
Sussex County	0.3983%	9.1582%	\$833.58	\$9,102.13
Library	0.0467%	1.0738%	\$97.74	
Sussex Tech	0.2737%	6.2933%	\$572.82	
Milford School	3.6304%	83.4747%	\$7,597.99	
	4.3491%	100.0000%	\$9,102.13	
<b>CAPE HENLOPEN DISTRICT</b>				
Sussex County	0.3983%	12.1222%	\$3,611.92	\$29,795.87
Library	0.0467%	1.4213%	\$423.49	
Sussex Tech	0.2737%	8.3300%	\$2,482.01	
Cape School District	2.5670%	78.1264%	\$23,278.45	
	3.2857%	100.0000%	\$29,795.87	\$38,898.00
<b>SUMMARY</b>				
Sussex County			\$4,445.50	
Library			\$521.23	
Vocational School			\$3,054.83	
Milford School			\$7,597.99	
Cape School District			\$23,278.45	
			\$38,898.00	

NOTE:

Per Assessment Director Eddie Parker, 23.4% of the Primehook National Wildlife Refuge land assessed value in Sussex County is within the Milford School District and 76.6% is within the Cape Henlopen School District. Appropriate shares have been determined based on these percentages

A deposit from US Dept of Interior for \$38,898 was deposited to the General Fund in June.



MEMORANDUM

TO: The Honorable Michael H. Vincent, President,  
The Honorable Samuel R. Wilson, Jr., Vice President,  
The Honorable George B. Cole,  
The Honorable Joan R. Deaver,  
The Honorable Vance C. Phillips

FROM: Gina A. Jennings, Director of Accounting

DATE: July 17, 2012

RE: Tyler Technology Contract Amendment

During the July 19, 2011 Council meeting, County Council awarded a contract to Tyler Technology to purchase an Enterprise Resource Planning (ERP) software package, Munis. At that meeting, I mentioned that we did not want to commit to purchasing the Utility Billing module until we were comfortable that we were making the best decision for the Utility Billing department and the County as a whole. In the last year, we did the following to make sure we were certain that Munis was our best choice even though they were the best fit vendor through the RFP process:

1. We analyzed if the current system could still be used while the other departments used Munis;
2. We did a Gap-Fit Analysis with Munis to understand what modifications had to be done to the system to support our current procedures;
3. We also analyzed what modification could be done to the Tax module, which we already purchased, that could make it usable for billing out utility customers.

For efficiency reasons and the goal to go to a central billing and central payment center, number one is not recommended. Also, modifying the tax module would have ended up costing us more after modifications were made to the tax software.

The cost of the Utility Billing module and related services such as consulting, training and modifications comes to \$240,350. This is \$20,100 less than the original bid a year ago that did not include the modifications that are in the new price. With this amendment, we are still under the \$1.8 million for the entire project that I have brought to Council in the past.

For a quick summary, we have gone live in Financials two weeks ago. The Planning and Zoning and Permits module is still on target to go live in October. Human Resources and Payroll will go live in January with Tax Billing going live in July 2013. Utility Billing will be the final phase going live in 2014. To give you a more detailed update of the project, I have attached the last memo that I sent Mr. Lawson that outlined our progress on the project.

If you have any questions, please feel free to contact Patty Faucett or myself. We will be at the Council meeting on July 17<sup>th</sup>, with a recommendation to amend the Tyler contract to purchase the Utility Billing Module.

## AMENDMENT

This amendment ("Amendment") is made this \_\_\_\_\_ day of \_\_\_\_\_ 2012 by and between Tyler Technologies, Inc. with offices at 1 Cole Haan Drive, Yarmouth, Maine 04096 ("Tyler") and the Sussex County Council, with offices at Administrative Building, PO Box 589, 2 The Circle, Georgetown, DE 19947 ("Client").

WHEREAS, Tyler and the Client are parties to an agreement dated July 19, 2011 ("Agreement"); and

WHEREAS, Tyler and Client desire to amend the Agreement;

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and the Client agree as follows:

1. The products, services and support listed in the attached sales quotation are hereby added to the Agreement.
2. Payment for the items added to the Agreement pursuant to this Amendment shall be as follows:
  - a. Software fees \$52,800 will be invoiced when Tyler makes the software available for download by the Client, an amount equal to 75% of the license fee for UB CIS.
  - b. Tyler will invoice the Client \$17,600 upon Go-live of UB CIS, an amount equal to 25% of the license fee for UB CIS. For purposes of this section, Go-live of UB CIS will be deemed to have occurred when the following criteria have been met and each party shall endeavor in good faith to achieve the same without delay: Successful load of final conversion into the Munis solution using client's historical data; Generate Utility Billing bills from the Live environment; Reconcile two consecutive billings on Munis generated bills; Successfully post one daily payment batch to the Munis general ledger; Successful import of a mass payment file (EFT) if applicable.
  - c. Tyler shall invoice a 50% deposit for modifications upon delivery of specifications and 50% upon delivery of modification. Tyler will perform a modification upon receipt of written notice to proceed from Client. Client will have thirty (30) days from delivery of a modification to test such modification. In the event Client does not report an issue with such modification to Tyler within such thirty (30) day period, the modification will be deemed in compliance with the specifications.
  - d. Tyler Consulting Services fees will be invoiced:
    - i. 50% upon project kick off for UB CIS and
    - ii. 50% upon completion of service for UB CIS.
  - e. Unless otherwise indicated, services fees, plus expenses, will be invoiced as provided/incurred.
  - f. Year one Maintenance fees of \$15,840 are waived for the one (1)-year term commencing when Tyler makes the UB CIS software available for download by the Client. Subsequent years' maintenance fees for UB CIS will be determined and paid in accord with the Agreement.
3. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
4. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

Tyler Technologies, Inc.  
ERP and School Division

Sussex County Council

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



MEMORANDUM

TO: Todd Lawson, County Administrator  
FROM: Gina Jennings, Director of Accounting  
DATE: May 25, 2012  
SUBJECT: ERP Update

As we get close to our go-live date of the first phase of our ERP implementation, I wanted to give you another status report on the ERP project.

**Phase 1: Financials – Go-live July 1, 2012**

Internally, there will be many changes on July 1<sup>st</sup>. With this phase, I hope County residents do not see too many changes. The main focus on the 1<sup>st</sup> phase of this project is creating internal efficiencies. Here are some processes that will be improved:

- Purchase order processing and approvals will be electronic.
- All checks will be laser checks. There will be no more manually writing of checks.
- Vendors can be paid by electronic funds transfer.
- Board and commission members will be paid electronically.
- In the fall, vendors can access their vendor file to see when their payments were processed or when their outstanding invoices are getting ready to be paid.

**Phase 2: Planning & Zoning, Permits, Code Enforcement – Go-live October 2012**

This is the phase where external users will see many changes. The assessment, data processing, utility permits, and planning & zoning offices are working very hard building the foundation of the system. They are currently building the 300+ tables that will contain the data to run the system. In October, the following will begin to roll out:

- All information about a property will be stored electronically and will be able to be viewed by all departments. This information can be viewable by external users. Housing all property information in one place allows us to move to a one stop shop.
- Inspections can be assigned and scheduled online.
- Status of inspections will be tracked.
- Permits can be applied for online.
- Status of zoning applications can be available online.

### **Phase 3: Human Resources & Payroll – Go-live January 2013**

Currently our payroll system and human resource systems are not integrated which has created duplicate entry of data. This phase, as same as the others, will be creating more efficiency and a cost savings. HR and payroll are currently creating the tables and establishing the rules in which the system will work. Training will be this fall. Some of the processes that will be changed are:

- Timesheets will be done electronically.
- Direct deposits will be available online. We will not be printing direct deposit slips.
- Employee changes such as a W-4 and direct deposits can be done online and downloaded directly into the system avoiding any keying errors.
- Evaluations will be tracked and done electronically.
- Open enrollment for benefits will be done through the computer.
- Employee reimbursements will be processed through payroll and will be direct deposited with paychecks.

### **Phase 4: Tax and possibly Utility Billing – Go-live July 2013**

The Tax implementation is in the beginning stages. We are looking at our current business process and viewing what can be changed to make the best use of the system. There has already been process recommendations that I hope to implement as we begin to go-live with these phases:

- The creation of one billing department. Due to the fluctuation of billing cycles, especially the once-a-year tax bill, it makes sense to have one department handle both the utility billing and tax billing. This will keep staff busy all year long and avoid downtime inefficiencies.
- By creating a billing department, there is a recommendation to separate cash collection function which would be located on the first floor to accept all county payments. This avoids having customers walk around the building to pay their county bills. This also creates better security with our cash collections. This again supports the one-stop-shop initiative.
- A decision has been made this week to pursue to purchase of the Utility Billing module. We have spent the last 9 months analyzing how best to bill our utility billing customers. We looked at keeping the current system, the purchase of Tyler's Utility Billing package, and even modifying the Tax module to meet our utility billing needs. I will be bringing this recommendation to council in June. Since the initiative is to create one billing department, Utility Billing and Tax Billing should go live at the same time.

This is a large project that is taking a lot of staff's time, and I appreciate your support as we move through these phases making the County more effective and efficient. Please call me if you have any questions.

## LEASE AGREEMENT

THIS LEASE is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012, between **COLONIAL EAST, L.P.**, a Maryland limited partnership with an address of 30769 Lewes Georgetown Highway, Lewes, DE 19958 ("Landlord"), and **SUSSEX COUNTY**, a political subdivision of the State of Delaware with an address of P.O. Box 589, 2 The Circle, Georgetown, DE 19947 ("Tenant").

IN CONSIDERATION OF THE MUTUAL PROMISES EXCHANGED HEREIN, LANDLORD AND TENANT COVENANT, PROMISE AND AGREE AS FOLLOW:

1. PREMISES.

Landlord is the owner of a parcel of real estate improved as a commercial and office complex known as STORAGE SOLUTIONS LLC (the "Property") and located at 18389 Olde Coach Drive, Rehoboth Beach, Delaware. Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, that portion of the Property known as Unit 3, containing approximately 2,670 square feet, more or less (the "Premises"), as more particularly described on the site plan attached hereto as Exhibit A, initialed by the parties and made a part hereof.

2. LEASE TERM.

The term of this lease shall be for a period of five (5) years commencing at midnight on the 1st day of June, 2012 (the "Commencement Date"), and ending at 11:59 p.m. on the 31st day of May, 2017 (the "Lease Term").

3. RENT.

A. Base Rent. During the Lease Term, Tenant covenants and agrees to pay to Landlord as base annual rent ("Base Rent") the following amounts:

<u>YEAR</u>	<u>MONTHLY</u>	<u>ANNUALLY</u>
1	\$2,735	\$32,280
2	\$2,845	\$34,140
3	\$2,955	\$35,460
4	\$3,075	\$36,900
5	\$3,200	\$38,400

Installments of Base Rent shall be paid in advance, on the first day of each month. If the Commencement Date shall be other than the first day of the month, all rents shall be apportioned for the first month and thereafter shall be due on the first day of each month. Tenant shall deliver to Landlord a sum equal to the first full calendar month's Base Rent due hereunder concurrently with the execution of this Lease, and Landlord shall apply this sum to the first month's Base Rent, (and the proportionate share of any month if applicable) due hereunder, and Tenant does for itself, its

successors and permitted assigns, covenant and promise to pay said rent without further notice. Anything herein to the contrary notwithstanding, the parties hereto agree that the Base Rent for the Premises was not based on the exact square footage of the Premises and that Tenant agrees to pay the Base Rent and Additional Rent as hereinafter defined regardless of the actual square feet of the Premises. Tenant agrees that any statements made to Tenant and its representatives by Landlord and its representatives relating to rent per square foot for the Premises were made solely for comparison purposes.

B. Additional Rent. Whenever under the terms of this Lease any sum of money is required to be paid by Tenant in addition to the Base Rent, whether or not such sum is herein designated as "Additional Rent", or provision is made for the collection of this sum as Additional Rent, said sum shall nevertheless be deemed to be rent and shall be referred to hereinafter as "Additional Rent" and shall be collectible as rent and shall be due and payable together with the next succeeding installment of Base Rent. Landlord shall have the same remedies for failure to pay Additional Rent as for non-payment of Base Rent. Landlord, at its election, shall have the right but not the obligation to pay or do any act which requires the expenditure of any sums of money by reason of the failure, refusal, or neglect of Tenant to perform any of the provisions of this Lease, and in the event Landlord, at its election, shall pay such sums or do such acts requiring the expenditure of monies, Tenant agrees to pay Landlord upon demand, all such sums, which sums shall be deemed Additional Rent and be payable as such.

C. Payment. Base Rent and Additional Rent shall be payable without deduction, set-off, counterclaim or prior demand to Landlord at 18389 Olde Coach Drive, Unit 1, Rehoboth Beach, DE 19971, or to any other person or at any other place named by Landlord in a written notice to Tenant.

D. Late Charges; Interest. If any Base Rent or Additional Rent is not paid within fifteen (15) days of when due, Tenant shall pay a late charge equal to five percent (5%) of the arrearage. In addition, any arrearage more than thirty (30) days past due shall bear interest calculated at the rate of eight percent (8%) per annum for each day such payment is in arrears in consideration of Landlord's additional expenses caused by such failure to pay. Any such late charges and/or interest shall be paid simultaneously with the arrearage payment, without demand.

E. Partial Payment. No payment by Tenant of less than the full amount of Base Rent or Additional Rent due shall be deemed to be other than on account of the oldest rent due. No endorsement or statement on a check or a letter accompanying a payment of Base Rent or Additional Rent shall be deemed an accord and satisfaction. Landlord may accept any check or payment without prejudice to Landlord's right to recover the balance due or to pursue its other remedies.

4. EXISTING CONDITION OF PREMISES. Tenant acknowledges that Tenant has thoroughly examined the Premises and has found: (a) all furniture, fixtures, and equipment, if any, to be in good working order; and (b) the Premises to be in an orderly condition. Accordingly, Tenant accepts the Premises in their existing condition "AS IS." Any work needed to keep the Premises suitable for use by Tenant shall be performed by Tenant at its sole expense in accordance with the section of this Lease entitled "Leasehold Improvements."



5. USE AND OCCUPANCY. Tenant shall use the Premises solely as and for an Emergency Medical Services Response, Staffing and Supervision Facility and for no other purposes without the prior written consent of the Landlord.

6. TAXES.

A. The term "Real Estate Taxes" for any year is hereby defined to mean the total amount of all taxes and assessments of any kind whatsoever now or hereafter assessed, including but not limited to all property taxes and sewer and water charges levied or imposed upon the Property for such year together with any tax in the nature of a real estate tax (i.e., an ad valorem tax on rent or any tax on income if imposed in lieu of or in addition to real estate taxes and assessments), any taxes and assessments which may hereafter be substituted for Real Estate Taxes and any cost, including legal fees, of challenging any increases in Real Estate Taxes.

B. Real Estate Taxes shall be paid by the Landlord.

C. Tenant shall be responsible for any and all personal property taxes assessed with respect to Tenant's personal property located in the Premises.

7. TENANT'S SHARE OF OPERATING EXPENSES. (INTENTIONALLY OMITTED)

8. METERED UTILITIES. Electric, cable, and telephone charges will be billed directly to the Tenant by the provider, and Tenant shall be responsible for such charges. Water usage by Tenant will be measured by separate meter(s) installed on the Premises. Tenant understands that Landlord will be billed directly by Tidewater Utilities, or its successors, for all water supplied to the building of which the Premises are a part, and Landlord shall bill Tenant quarterly, at the rate charged by Tidewater Utilities, without markup by Landlord, for all water supplied to the Premises. Tenant shall pay for all such water usage charges within thirty (30) days of receipt of Landlord's bill. Tenant understands that the Landlord will be billed directly for sewer for all Tenants in the building and Landlord shall bill Tenant quarterly. The total sewer bill shall be apportioned among all the Tenants (and Landlord if any space remains unrented) in the building in accordance with a formula based on a specific rate per EDU where applicable multiplied by Tenant's proportionate share of the total square footage of the entire premises. Tenant shall pay for its proportionate share of the sewer charges within thirty (30) days of receipt of Landlord's bill.

9. COMPLIANCE WITH LAWS. Tenant shall observe and comply with all applicable laws, orders, rules, regulations and recommendations of and by any governmental department, agency, or officer, as well as any board of fire underwriters, or other fire insurance rating organization which has jurisdiction or authority over the Premises or its use and occupancy.

10. SIGNS. Landlord shall have the right to place signs, including "for rent" and "for sale" signs, anywhere on the exterior of the Premises. Tenant shall be permitted to place an identification sign on the exterior of the Premises in the form attached hereto as Exhibit B which is incorporated herein by reference. The sign on Exhibit B has been reviewed and approved by Landlord prior to the execution of this Lease. Tenant shall not place any other sign or other advertising matter on the exterior of the Premises, or in any window or the glass portion of any exterior door of the Premises, without the prior written consent of Landlord which consent may be withheld at its sole discretion.

Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter or other thing as may be permitted hereunder in good condition and repair at all times. A copy of Tenant's approved signage is attached hereto as Exhibit B.

11. LEASEHOLD IMPROVEMENTS. Tenant shall not make any alterations, additions or improvements to the Leased Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld, delayed, or denied. In no event shall any structural change or any change or modification be made to the structure, heating, electrical or plumbing services be undertaken by Tenant or any employee or agent of Tenant without the prior written consent of Landlord. Any approved alterations, additions or improvements shall be done in accordance with the applicable laws and ordinances of any public authority having jurisdiction over the buildings of which the Leased Premises are a part and in accordance with the building and zoning rules and regulations of any such authority.

In making any approved alterations, additions or improvements, Tenant shall promptly pay all contractors, materialmen and laborers so as to remove the possibility of a lien attaching to the buildings of which the Leased Premises are a part, or attaching to any portion of the Property, and should any such lien be made or filed, Tenant shall post a bond in favor of Landlord against or discharge the same within ten (10) days after written request by Landlord.

Landlord, at the expiration or earlier termination of the term of the Lease, may elect to require Tenant to remove all or any part of the Leasehold Improvements made by Tenant subsequent to the Commencement Date. Removal of any such Leasehold Improvements shall be at Tenant's cost and expense, and Tenant shall, at its cost and expense, repair any damage to the Premises caused by such removal consistent with the restoration standard described above.

12. MAINTENANCE AND REPAIR; OPERATIONS.

A. Except as otherwise provided herein, all necessary maintenance and repairs to the interior of the Premises shall be made by tenant, at its sole cost and expense. For this purpose, "maintenance and repair of the Premises" shall include, but not be limited to windows, doors, plate glass, pipes, plumbing, sprinkler systems, electrical and wiring and fixtures and equipment for heating, ventilating and air conditioning. All necessary repairs shall be in quality and class at least equal to the original work.

Landlord, at its expense, will make, or cause to be made structural repairs to the roof and to exterior walls provided Tenant shall give Landlord notice of the necessity for such repairs. Landlord shall commence such structural repairs within fifteen (15) days of Tenant's notice thereof, except in circumstances where the structural repairs create an emergency situation which renders the premises untenable in which case, Landlord shall commence the repairs within five (5) days of Tenant's notice thereof. If the Premises or the building in which they are contained shall be so badly damaged as to cause the Premises to be untenable, Base Rent shall be abated until and unless such damage shall be repaired. If the Premises are rendered partially untenable, the Base Rent shall be abated in the proportion that the area of the Premises rendered untenable bears to the total area of the Premises.

All repairs to the Premises or any installations, equipment or facilities therein, other than the construction and those repairs required to be made by Landlord pursuant to this Lease, if made by Landlord, shall be at the expense of the Tenant which amount shall be Additional Rent. Tenant shall be responsible for installing (and thereafter maintaining) within the Premises, at Tenant's expense, all heating, ventilation, air conditioning and emergency generation systems necessary in connection with Tenant's use of the Premises.

Without limiting the generality of the foregoing, Tenant shall keep the interior of the Premises, together with all electrical, plumbing, heating, ventilating, air conditioning, emergency generation and other mechanical installations therein in good order and repair and shall make all replacements from time to time required thereto at its expense; and shall surrender the Premises at the expiration of the Term or at such other time as it may vacate the Premises in as good condition as when received, excepting depreciation caused by ordinary wear and tear.

B. Tenant, at its sole expense, shall (i) keep the inside and outside of all glass in the doors and windows clean; (ii) keep all exterior store surfaces clean; (iii) replace promptly any cracked or broken glass with glass of like kind and quality, unless such damage is caused by the negligent or willful act or omission of Landlord; (iv) maintain the Premises in a clean, orderly and sanitary condition; (v) keep any garbage, trash, rubbish or other refuse in rat-proof containers within the interior of the Premises until removed; (vi) have such garbage, trash, rubbish and refuse removed from the Premises on a daily basis and deposited into a dumpster provided for said purpose by Landlord; (vii) keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises; (viii) comply with all laws, ordinances, rules and regulations of governmental authorities and all reasonable recommendations of Landlord's fire insurance rating organization now or hereafter in effect; (ix) keep the sidewalk adjoining the Premises free of obstructions, clean and free of rubbish, snow and ice; and (x) not obstruct ingress and egress to and from the building containing the Premises and conduct any loading and unloading so as not to disrupt the use of other portions of the building by other Tenants.

C. Tenant shall not: (i) place or maintain any trash, refuse or other articles in any vestibule or entry of the Premises, on the footwalks adjacent thereto or elsewhere on the exterior of the Premises so as to obstruct any driveway, corridor, footwalk, parking area, or any other area; (ii) use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, phonographs, public address systems, sound amplifiers, reception of radio or television broadcasts which is in any manner audible or visible outside of the Premises; (iii) permit accumulations of or burn garbage, trash, rubbish or other refuse within or without the Premises; (iv) cause or permit objectionable odors to emanate or to be dispelled from the Premises; (v) permit the parking of vehicles so as to unreasonably interfere with the use of any driveway, corridor, footwalk, parking area, or other area; (vi) use or permit the use of any portion of the Premises for any unlawful purpose or for any activity of a type which is not generally considered in accordance with good and generally accepted standards of operation; (vii) place a load upon any floor which exceeds the floor load which the floor was designed to carry; and (viii) overload the electrical wiring serving the Premises or within the Premises.

D. Landlord shall remove all snow from the paved on-site parking/driving areas adjacent to and serving the premises within no more than six (6) hours of the conclusion of each snowfall; however, in the event of significant accumulation snowfall that results in emergency conditions being

declared by a governmental authority of competent jurisdiction and/or snow removal contractors being unavailable during such six (6) hour period, Landlord shall have an additional reasonable period of time to effect such snow removal. This shall include, but shall not be limited to, the area of ingress and egress set forth in paragraph 12E. hereof. In the event Landlord fails to remove the snow in a timely manner, Tenant shall be permitted to contract for the removal of the snow without further notice to Landlord and at Landlord's expense. Landlord shall reimburse Tenant for the cost thereof within thirty (30) days of Landlord's receipt of the invoice from Tenant.

E. The Landlord shall maintain a marked thoroughfare for ingress and egress of Paramedic vehicles to and from the Premises to Colonial Lane to help ensure continuous, easy access to and from Route 1 at all times. Said thoroughfare shall be marked, "No Parking. Tow Away Zone." Landlord shall also provide six (6) marked parking spaces immediately adjacent to the Premises designated for Tenant's exclusive use.

F. Landlord, at its expense, shall be responsible for the monitoring service for and periodic testing of the fire alarm system in the Premises to ensure that it is in good operating condition. However, any repairs or enhancements to system components related to the Tenant's leases premises shall be the Tenant's responsibility.

### 13. RULES AND REGULATIONS. (INTENTIONALLY OMITTED)

14. MECHANIC'S AND MATERIALMEN'S LIENS. Landlord shall not be liable for any labor or materials furnished to Tenant on credit. Tenant shall not do or permit to be done any act or thing which might cause a mechanic's lien for labor or materials or bother to attach to or affect any interest of Tenant in the Premises. If any mechanic's lien, whether final, interlocutory or otherwise, is filed against the Premises for work claimed to have been done for Tenant or for materials claimed to have been furnished to Tenant, such mechanic's lien shall be discharged by Tenant, at its sole cost and expense, as provided in Section 11 hereof. If Tenant shall fail to discharge any such mechanic's lien, Landlord may, at its option, discharge the same and treat the cost thereof, together with any other costs or expenses incurred by Landlord, including attorney's fees, as Additional Rent, due and payable upon receipt by Tenant of a written statement of costs from Landlord. It is hereby expressly agreed that such discharge of any mechanic's lien by Landlord shall not be deemed to waive or release Tenant from its default under the Lease for failing to discharge the same.

### 15. INDEMNIFICATION.

A. To the fullest extent permitted by law, Tenant shall indemnify, defend and hold Landlord harmless from and against third party claims for bodily injury and property damage arising out of Tenant's occupancy, maintenance, or use of the Premises or operations incidental thereto, unless such claims arise from the negligence or willful act of Landlord. This shall include attorneys' fees, court cost and other expenses incurred as a result of third party claims for bodily injury and property damage.

B. To the fullest extent permitted by law, Landlord shall indemnify, defend and hold Tenant harmless from and against third party claims for bodily injury and property damage arising out of Landlord's ownership, maintenance or use of the Premises or operations incidental thereto, unless such claims arise from the negligence or willful act of the Tenant. This shall include attorneys' fees,

court cost and other expenses incurred as a result of third party claims for bodily injury and property damage.

16. INSURANCE AND AMOUNT.

A. Throughout the term of this Lease, the Tenant shall secure and maintain, at its own expense, the following insurance coverages on the Premises, with an insurance company allowed to do business in Delaware (the "Tenant Required Insurance"):

(1) All risk or special form property insurance that insures against direct physical loss of or damage to Tenant's property situated at the Premises, on a replacement cost valuation basis, with limits not less than 100% of the insurable replacement cost of Tenant's property.

(2) All risk or special form business income and extra expense insurance in amounts satisfactory to protect Tenant's interests for loss of income or extra expense that result from direct physical loss of or damage to Tenant's property situated at the Premises.

(3) Commercial general liability insurance that insures against bodily injury, property damage, personal and advertising injury claims arising from the Premises or operations incidental thereto, with minimum limits of: \$1,000,000 combined single limit - each occurrence; \$1,000,000 personal and advertising injury limit; \$2,000,000 combined single limit - general aggregate; and \$1,000,000 combined single limit - products/completed operations aggregate. Landlord and Landlord's mortgagee (if any) shall be an additional insured on this insurance.

B. Throughout the term of this Lease, the Landlord shall secure and maintain, at its own expense, the following insurance coverages on the Property (Landlord Required Insurance):

(1) All risk or special form property insurance, including plate glass insurance, that insures against direct physical loss of or damage to the Property and Landlord's personal property situated at the Property, on a replacement cost valuation basis, with limits not less than 100% of the insurable replacement cost of the Property and Landlord's personal property situated at the Property.

(2) All risk or special form business income (including rental income) and extra expense insurance in amounts satisfactory to protect Landlord's interests for loss of income or extra expense that result from direct physical loss of or damage to the Property and/or Landlord's personal property situated on the Property.

(3) Commercial general liability insurance that insures against bodily injury, property damage, personal and advertising injury claims arising from the ownership or maintenance of the Property or operations incidental thereto, with minimum limits of: \$1,000,000 combined single limit - each occurrence; \$1,000,000 personal and advertising injury limit; \$2,000,000 combined single limit - general aggregate; and \$1,000,000 combined single limit - products/completed operations aggregate.

C. Proof of Insurance. Tenant's and Landlord's Required Insurance shall be affected by valid and enforceable policies written on an occurrence basis by insurers approved by Landlord and allowed to do business in Delaware. Certificates of Insurance for the Tenant's Required Insurance shall be delivered to Landlord before the Commencement Date. Prior to the expiration date of each

policy, a new Certificate of Insurance evidencing renewal of the expiring policy shall be delivered to Landlord.

D. Cancellation. To the extent obtainable from Tenant's insurers, each policy of Tenant's Required Insurance shall contain an agreement by the insurer that the policy shall not be canceled without at least 30 days prior written notice to Landlord.

17. WAIVER OF SUBROGATION. To the fullest extent permitted by law, Landlord and Tenant each waives any right of recovery from the other and their respective appointed and elected officials, officers, partners, employees, agents and volunteers for any loss of or damage to the Property or the Premises (or resulting loss of income or extra expense) of the other party, by reason of any peril required to be insured against under this Lease, regardless of the cause of origin, including the negligence of the other party. To the fullest extent permitted by law, Landlord's and Tenant's property insurers shall not hold any right of subrogation against the other party. Landlord and Tenant shall advise their respective insurer(s) of the foregoing and such waiver shall be permitted under any property and/or business income insurance policies maintained by Landlord and Tenant.

18. SECURITY DEPOSIT. (INTENTIONALLY OMITTED)

19. ASSIGNMENT BY TENANT OR SUBLEASE.

A. Consent Required. Tenant shall not assign, mortgage or encumber this Lease, sublet the Premises or permit any part of the Premises to be used by others without obtaining the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld or delayed. Landlord may, however, condition its consent to assignment or subletting upon the receipt of financial information and other information respecting the proposed assignee or sub-lessee in form and content reasonably satisfactory to Landlord demonstrating, in Landlord's reasonable judgment, that such proposed assignee or sub-lessee shall be capable of complying with all of the terms and conditions of this Lease. If Tenant is a corporation, partnership, limited liability company or other entity, the transfer of more than ten percent (10%) of any legal or beneficial interest in Tenant (whether by sale, gift, merger, consolidation, operation of law or otherwise, whether at one or more different times, whether to one or more persons or entities, and whether voluntarily or otherwise) shall be deemed an assignment within the meaning of this subparagraph.

B. No Waiver or Release. The consent by Landlord to any subletting shall not be construed as a waiver or release of Tenant from the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of rent from any such subtenant or occupant constitute a waiver or release of Tenant from any covenant or obligation contained in this Lease, nor shall any such subletting be construed to relieve Tenant from obtaining the consent in writing of Landlord to any further subletting. Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each such subtenant to pay said rent directly to Landlord, at Landlord's option, in the event of any default by Tenant under the terms of this Lease.

C. Landlord's Expenses. Tenant shall pay to Landlord as Additional Rent an amount equal to any expenses incurred by Landlord in connection with Landlord's handling and analysis of any proposed assignment or subletting, including professional fees, whether or not Landlord consents to such assignment or subletting.

## 20. DESTRUCTION BY FIRE OR OTHER CASUALTY .

A. Premises. If the Premises are substantially damaged by fire, the elements, accident or other casualty ("Casualty Loss") the following rules shall apply:

(1) Abatement of Rent. If the Premises or the building in which they are contained shall be so badly damaged as to cause the Premises to be untenable, Base Rent shall be abated until and unless such damage shall be repaired. If the Premises are rendered partially untenable, the Base Rent shall be abated in the proportion that the area of the Premises rendered untenable bears to the total area of the Premises.

(2) Restoration. Unless Landlord shall elect to terminate this Lease pursuant to paragraph 20A.(3) hereof, Landlord, at its sole expense, shall have the damage to the Premises repaired. Due allowance shall be made for reasonable delay resulting from adjustment of loss under any insurance policy, "labor troubles" or any causes beyond Landlord's control.

(3) Termination. Within 90 days after the Casualty Loss occurs and upon at least ten (10) days notice to Tenant, Landlord may elect, in Landlord's sole discretion, to terminate this Lease. In that event, this Lease shall terminate, and all rents or other obligations of Tenant shall be paid to the date the Tenant vacates and surrenders the Premises to the Landlord, which shall occur during the notice period provided by Landlord.

If, after the Casualty Loss occurs, without negligence on the part of the Tenant, its officials, officers, employees and invitees, Tenant, in its sole discretion, determines that the Premises are no longer fit for an Emergency Medical Services Response, Staffing and Supervision Facility, or such other lawful use as determined by Tenant and as contracted herein, Tenant may, within 90 days after said Casualty Loss and upon at least ten (10) days prior written notice to Landlord, elect to terminate this Lease. In that event, this Lease shall terminate and all rents and other obligations of Tenant shall be paid to the date on which Tenant vacates and surrenders the Premises to the Landlord.

B. Leasehold Improvements. If any of the Leasehold Improvements are damaged by a Casualty Loss, and unless Landlord or Tenant shall elect to terminate this Lease pursuant to subparagraph A hereof, Tenant, at its sole expense, shall have the Leasehold Improvements made by Tenant repaired. In the event the Casualty Loss is the result of negligence solely on the part of the Landlord, Landlord shall, at its sole expense, have the Leasehold Improvements made by Tenant repaired such that the Leasehold Improvements are in the same form and condition prior to the Casualty Loss. In the event the Casualty Loss is the result of contributory or comparative negligence on Landlord's part, nothing herein contained shall be construed as a waiver of any and all other legal remedies available to Tenant, including, but not limited to, the ability to file an action for damages against Landlord for proportionate share of the repair or replacement cost of the Leasehold Improvements.

## 21. CONDEMNATION.

A. Entire Award To Landlord. If any part of the Premises is condemned or taken ("Taking") by a public authority ("Taking Authority"), or if Landlord conveys or leases any part of the Premises to a Taking Authority in settlement of a threat of a Taking, Tenant shall not be entitled to any portion of

the award paid by the Taking Authority for the value of the Premises, including any value attributable to the unexpired portion of the Lease Term or any renewal term.

B. Conveyable by Landlord. Landlord shall have the power and authority to convey title to all or part of the Premises to the Taking Authority without Tenant's joinder. A conveyance by Landlord shall be deemed free and clear of any interest of Tenant. The Taking Authority shall be entitled to rely upon the provisions of this subparagraph in accepting a deed from Landlord alone.

C. Lease Terminates. Landlord may elect, at its option, to terminate this Lease upon (1) a total Taking or (2) a partial Taking if (a) the remainder of the Premises, in Landlord's opinion, are not usable by Tenant for any of the permitted uses without the Premises being repaired or rebuilt, or (b) any of the Mortgagees will not permit Landlord to use the award for that purpose. In either of these events, the Base Rent and Additional Rent shall be paid to the date of the taking. Tenant may elect, at its option, to terminate this Lease upon (1) a total Taking or (2) a partial Taking if the remainder of the Premises, in Tenant's sole opinion, are not adequate for Tenant's use of the Premises as an Emergency Medical Services Response, Staffing and Supervision Facility. In this event, the Base Rent and Additional Rent shall be paid to the date of the taking.

D. No Termination. In the event of a partial Taking in which Landlord or Tenant does not elect to terminate this Lease, to the extent that the award is made available by the Mortgagees, Landlord shall make the repairs and alterations necessary to restore the remainder of the Premises to useful condition. From the date of the partial Taking, rent shall be abated in proportion to the area of the Premises taken.

E. Tenant's Moving Expense. Landlord shall have the sole right to negotiate with the Taking Authority and to conduct or settle all litigation connected with the Taking. Tenant may, however, file a claim for reimbursement from the Taking Authority for moving expenses and for removal of trade fixtures or other personal property owned by Tenant if its claim is permitted by law and will not diminish the award payable to Landlord.

22. DEFAULT BY TENANT. Each of the following shall be an event of default by Tenant and a breach of this Lease:

A. Base Rent. The failure of Tenant to pay any installment of Base Rent within fifteen (15) days after the date it is due and, within five (5) days of the Landlord mailing written notice thereof to Tenant.

B. Additional Rent. The failure of Tenant to pay any item of Additional Rent within fifteen (15) days after the date it is due and within five (5) days of the Landlord mailing written notice thereof to Tenant.

C. Other Covenants. The failure of Tenant, with regard to any other term, covenant, agreement or condition of this Lease:

(1) To cure, within five (5) days after notice from Landlord, a default capable of being cured within five (5) days, or



(2) To commence, within five (5) days after notice from Landlord, to cure a default not capable of being cured within five (5) days, or

(3) To complete, within a reasonable time after notice from Landlord, the cure of a default not capable of being cured within five (5) days.

D. Voluntary Bankruptcy. The filing by Tenant or any guarantor of this Lease in any court (pursuant to any statute of the United States or of any state) of (1) a petition in bankruptcy or insolvency, (2) a petition for reorganization, or (3) a petition for the appointment of a receiver or trustee of any portion of the property owned by Tenant or the guarantor, or the admission in writing by tenant of its inability to pay its debts as they become due.

E. Assignment. The making by Tenant or any guarantor of this Lease of an assignment for the benefit of creditors.

F. Involuntary Bankruptcy. The filing against Tenant or any guarantor of this Lease in any court (pursuant to any statute of the United States or of any state) of (1) a petition in bankruptcy or insolvency, (2) a petition for reorganization, or (3) a petition for appointment of a receiver or trustee for any portion of the property owned by Tenant or the guarantor, if the petition is not dismissed within 30 days after it is filed.

G. Vacancy. The Premises becoming vacant or deserted. Such vacancy or desertion shall be deemed to have occurred if Tenant fails to conduct business on the Premises for any fifteen (15) consecutive days.

H. Judgment. The entry of a judgment or a tax lien against Tenant or any guarantor of this Lease which is not paid in full or for which Tenant does not post an appeal bond within 15 days after its entry.

I. Good Standing. The failure of Tenant, if a corporation, limited partnership or limited liability company to maintain its existence or to remain qualified to do business in the state where the Premises are located.

J. Execute Documents. The failure of Tenant to execute on a timely basis any agreement, certificate or instrument Tenant is required by this Lease to execute, unless Landlord has been appointed Tenant's attorney-in-fact to execute the agreement, certificate or instrument on behalf of Tenant.

K. Breach by Guarantor. A breach of any provision of the guaranty signed by any guarantor of this Lease.

## 23. LANDLORD'S REMEDIES. Upon the occurrence of any event of default by Tenant:

A. Cure. Landlord may enter the Premises without terminating this Lease, and do any and all acts Landlord deems necessary, proper or convenient to cure the default, including, but not limited to, making repairs at the expense of and for the account of Tenant. Neither the granting of this right nor

its exercise by Landlord shall impose any duty upon Landlord to perform any of Tenant's obligations under this Lease.

B. Lease on Tenant's Behalf. Landlord may relet the Premises for the account of Tenant, without being deemed to have waived or consented to the default, and without relieving Tenant of any of its obligations under this Lease (including its obligation to pay Base Rent and Additional Rent). Any rent received from the reletting shall be credited toward any amount due from Tenant. Landlord shall have the right to bring one or more suits to collect the amounts owed by Tenant. Any suit for damages filed by Landlord shall not prejudice the right of Landlord to bring a suit for subsequent damages.

C. Terminate. Landlord may terminate this Lease and, after filing an action for possession and obtaining a court order therefor take possession of the Premises and remove Tenant and all other persons and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant, and without relinquishing any of its other rights against Tenant. Furthermore, if Tenant fails to claim the stored property and pay storage charges due Landlord with thirty (30) days of written notice from Landlord, then Landlord may dispose of such property without further notice or obligation to Tenant.

D. Sale. Upon obtaining a judgment from a court of competent jurisdiction against Tenant for damages due to Landlord under this Lease, Landlord may sell at public or private sale all or any part of the goods, chattels, fixtures and other personal property belonging to Tenant which are or may be put into the Premises during the term, and apply the proceeds of such sale, first, to the payment of all costs and expenses of conducting the sale or caring for or storing said property; second, toward the payment of any indebtedness, including (without limitation) indebtedness for rent, which may be or may become due from Tenant to Landlord; the third, to pay the Tenant, on demand in writing, any surplus remaining after all indebtedness of Tenant to Landlord has been fully paid.

E. Cumulative No Waiver. The rights and remedies of Landlord enumerated in this Lease are to be cumulative, and are not to exclude any right or remedy Landlord may have under the common law or under any statute, ordinance or rule of court. The failure of Landlord to insist, in any instance, upon strict performance of any covenant, term or condition of this Lease, or to exercise any right or option contained in this Lease, is not to be construed as a waiver or a relinquishment for the future of that covenant, term, condition, right or option, or of any other covenant, term, condition, right or option. The receipt by Landlord of rent with knowledge of a breach of any provision hereof is not to be deemed a waiver of that breach, and no waiver by Landlord of any provision hereof is to be deemed to have occurred unless expressed in writing and signed by Landlord. The failure of Landlord to complain of any act or omission on the part of Tenant, no matter how long the same may continue, shall not be deemed to be a waiver by Landlord of any of its rights hereunder. No waiver by Landlord at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by Tenant shall require Landlord's consent or approval, Landlord's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion. No payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be deemed to be anything but payment on account, and the acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon or

upon a letter accompanying said check that said lesser amount is payment in full shall not be deemed an accord and satisfaction, and Landlord may accept said check without prejudice to recover the balance due or pursue any other remedy. Any and all rights and remedies which Landlord may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other and no one of them, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other; and any two or more of all of such rights and remedies may be exercised at the same time.

F. Divisibility. This Lease is to be construed to be a divisible contract. Successive actions may be maintained as successive periodic sums mature. The failure to include in any suit or action any sum then matured will not bar the maintenance of any subsequent suit or action for the recovery of that sum. In defense of any suit brought on this Lease, Tenant shall not plead, rely on or urge as a bar to that suit, the defenses of res-judicata, former recovery, extinguishment, merger, election of remedies or other similar defenses.

G. Attorney's Fees. In the event either party defaults in any obligation, monetary or otherwise, to be performed under this Lease and a suit is filed in a court of competent jurisdiction, the prevailing party shall be obligated to pay to the non-prevailing party as damages, in addition to any other rights and damages the prevailing party may be entitled to under the provisions of this Lease to reasonable attorneys' fees and expenses incurred by the prevailing party to enforce its rights.

#### 24. SURRENDER OF PREMISES.

A. Only By Written Agreement During Term. During the Lease Term: (1) no agreement to accept a surrender is to be valid unless in writing and signed by Landlord, and (2) no delivery of the keys to any employee or agent of Landlord is to operate as a surrender of the Premises.

B. Upon Expiration or Termination. Upon the expiration or sooner termination of the Lease Term due to a default hereunder: (1) the Premises shall be surrendered in as good condition as they were in at the beginning of the Lease Term, reasonable wear and tear and permitted Alterations excepted, (2) Tenant shall remove from the Premises all of the personal property belonging to Tenant or others and all Alterations required to be removed by Landlord's consent, (3) should Tenant fail to remove any of the Alterations required to be removed, Landlord shall have the right to remove the same at Tenant's expense and (4) Landlord shall be entitled to the benefit of all laws relating to the speedy recovery of possession of lands and tenements held over by tenants. Tenant shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes, and vaults, if any, in the Premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease.

25. TENANT HOLDING OVER. If Tenant holds possession of the Premises after the termination of this Lease without Landlord's written consent, Tenant shall become a tenant from month to month at one and one-half (1 ½) times the Base Rent and Additional Rent at regular rates payable during the last year of the Lease Term and upon all other terms herein specified and shall continue to be such tenant from month to month until such tenancy shall be terminated by either party giving the other a written notice of at least thirty (30) days of its intention to terminate such tenancy. Nothing contained in this Lease shall be construed as a consent by Landlord to the occupancy or possession of the Premises by Tenant after termination of this Lease. Upon termination of this Lease,

Landlord shall be entitled to the benefit of all public general or public local laws relating to the speedy recovery of the possession of lands and tenements held over by tenants that may now or hereafter be in force.

26. LANDLORD'S RIGHT TO ENTRY. Landlord and its authorized representatives shall have the right to enter the Premises during regular business hours and upon at least forty-eight (48) hours notice to Tenant and at any time in case of emergency, to:

A. Inspect. Determine whether the Premises are in good condition and whether Tenant is complying with its obligations under this Lease;

B. Notices. Service or post notices;

C. Show. Show the Premises to prospective purchasers or tenants;

D. Preserve and Repair. Do any other act or thing it deems necessary to preserve, repair and restore the Premises.

27. TENANT'S REMEDIES. In the event Landlord defaults on any of its obligations under this Lease, Tenant shall provide Landlord with written notice of Landlord's default and Landlord shall have a period of fifteen (15) days from the date of the notice to cure the default. The notice shall be delivered in accordance with paragraph 33 of this Lease. In the event the Landlord's default is not capable of being cured within the fifteen (15) day cure period stated herein, the Landlord shall be permitted a reasonable time period within which to cure the default if the Landlord has commenced measures to cure said default in a timely manner which must be within the fifteen (15) day cure period. Landlord fails or refuses to cure the default within the fifteen (15) day cure period, Tenant shall, at its sole discretion, have the right to terminate this Lease and shall have no further obligation hereunder. In the event Landlord does not cure the default and Tenant does not terminate the Lease, Tenant's failure to terminate shall not act as a waiver of any potential future default on Landlord's behalf. Nothing herein contained shall be construed as a waiver of any other legal remedies available to Tenant, including, but not limited to, the ability to file an action for damages against Landlord for any breach under this Lease.

28. ESTOPPEL CERTIFICATES. Within Five days after each request from Landlord and without charge to Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement in writing, directed to whomever Landlord shall designate, certifying, if true, that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modifications), and the dates to which any rent and other charges have been paid in advance. This certificate shall also indicate whether, to the best of Tenant's knowledge, Landlord is in breach or default of any covenant, agreement or condition contained in this Lease and, if so, specifying each breach or default. A statement delivered hereunder may be relied upon by the party to whom it is directed.

29. SUBORDINATION AND NON-DISTURBANCE.

A. Subordination. Tenant's rights under this Lease are, and will remain, subordinate to the operation and effect of any mortgage or deed of trust now or hereafter placed upon any part of the

Premises, or any renewal, modification, consolidation, replacement or extension of any mortgage or deed of trust, unless the Mortgagee elects otherwise. This clause shall be self-operative and no further instrument of subordination shall be required. Within five days after each request from Landlord, Tenant shall execute a certificate confirming this subordination.

B. Non-Disturbance. At the request of Tenant and at Tenant's sole expense, Landlord shall apply to each Mortgagee for an agreement not to disturb this tenancy if the mortgage is foreclosed so long as Tenant is not in default of any of its obligations under this Lease.

30. ASSIGNMENT BY LANDLORD. If Landlord assigns this Lease or the rents due under it to a creditor as security for a debt, Tenant shall do any of the following things requested in writing by Landlord or the assignee: (a) consent to the assignment, (b) pay all sums becoming due after the assignment to the assignee, (c) give all notices after the assignment to both Landlord and the assignee, (d) have all policies of Tenant's Required Insurance hereunder that otherwise list Landlord as a named insured endorsed to protect the assignee's interest as it may appear and (e) deliver a Certificate of Insurance, as required under Section 16C to the assignee.

31. ATTORNMENT. In the event the Premises are sold, whether at a foreclosure sale, by virtue of a judicial proceeding or otherwise, this Lease shall continue in full force and effect and Tenant shall acknowledge the purchaser as Landlord hereunder.

32. BROKERAGE. Tenant warrants and represents that in negotiating this Lease it has had no dealings with any real estate firm, salesman or broker. Tenant shall indemnify and save Landlord harmless from any claim for commissions or other brokerage fees made by any real estate firm, salesman or broker asserting that it dealt with Tenant regarding this Lease.

33. NOTICES.

A. How Sent. Any notice, demand, consent, approval, election, request or other communication other than a bill ("Notice") required or permitted under this Lease shall be in writing, and either delivered personally or sent by certified mail, postage prepaid, return receipt requested.

B. Where. If sent by mail, a Notice shall be addressed (a) to Landlord's Managing and/or General Partner at 30769 Lewes Georgetown Highway, Lewes, DE 19958, or (b) to Tenant directed to the Sussex County Council President (with a copy to the Sussex County Administrator) at P.O. Box 589, 2 The Circle, Georgetown, DE 19947.

C. When Effective. A Notice delivered personally shall be effective only if acknowledged in writing by the party to whom given. A Notice given to the Landlord will be effective only if delivered or sent to its Managing and/or General Partner; a Notice given to the Tenant will be effective only if delivered or sent to the Sussex County Council President with a copy to the Sussex County Administrator. If notice is sent by registered or certified mail, receipt shall be on the actual date of receipt of the same as evidenced by the return receipt if signed by the party to be served or agent of the corporation or other business entity. If the same is returned by the U.S. Postal Service bearing notations such as "Refused" or "Unclaimed," service shall be deemed to have been made on the first business day following mailing of the same.

D. Change in Addressees or Addresses. Either party may designate, by Notice to the other, substitute addressees or addresses for Notices and copies, and thereafter, Notices are to be directed to those substitute addressees or addresses.

34. BILLS. Any bill to Tenant required or permitted by the Lease shall be delivered personally or by first class mail, postage prepaid, to the address at which Notices are to be sent to Tenant. Any bill sent by first class mail shall be deemed delivered three business days after it is mailed if properly addressed to Tenant.

35. RECORDING. Tenant, upon Landlord's request, shall execute a memorandum of this Lease in form suitable for recording. Without Landlord's prior written consent, Tenant shall not record this Lease or the memorandum. If Landlord approves the recording by Tenant of this Lease or the memorandum, the cost of recording shall be paid by Tenant. If Landlord or any mortgagee requires this Lease or the memorandum to be recorded, the cost of recording shall be paid by Landlord.

36. HAZARDOUS SUBSTANCES .

A. The term "Hazardous Substances", as used in this Lease shall mean pollutants, contaminants, toxic or hazardous wastes, or any other materials, the removal of which is required or the use or storage of which is restricted, prohibited, regulated or penalized by any "Environmental Law", which term shall mean any Federal, state, or local law or ordinance relating to hazardous materials, pollution or protection of the environment. Landlord represents and warrants that, to the best its knowledge, information and belief, no Hazardous Substances were present on or under the Premises at the time Tenant originally took possession thereof. Tenant hereby agrees that (1) no activity will be conducted on the Premises that will produce any Hazardous Substances in violation of the law; (2) the Premises will not be used in any manner for the storage of any Hazardous Substances, except for those substances set forth on the Material Safety Data Sheet described on Exhibit C attached hereto and initialed by the parties hereto (hereinafter the "Permitted Substances") which may be amended and initialed by the parties from time to time, a copy of which shall be maintained on the Premises and shall be provided to Landlord at any time upon request; (3) no portion of the Premises will be used as a landfill or a dump; (4) Tenant will not install any underground tanks of any types; (5) Tenant will not allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute, a public or private nuisance; and (6) Tenant will not permit any Hazardous Substances other than the Permitted Substances to be brought into the Premises. If any such Hazardous Substance is so brought, it shall be immediately removed by Tenant, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws, by Tenant at Tenant's sole expense. If, at any time during or after the term of this Lease, the Premises are found to be contaminated as a result of the unlawful storage, unlawful release, and/or unlawful disposal by Tenant of any Hazardous Substances, or if Tenant shall, by act or omission, breach any of its obligations under this Article of the Lease, Tenant agrees to indemnify and hold harmless Landlord from any and all claims, demands, actions, liabilities, causes, damages, losses and obligation of any nature (including, without limitation, reasonable attorneys' fees and litigation costs) arising from or as a result thereof. The foregoing indemnification shall survive the expiration or earlier termination of this Lease.

B. Tenant will not keep or suffer to be kept, anything in, upon or about the Premises in violation of any of the terms and conditions of this Lease. Further, Tenant shall not keep on the Premises any

inflammable, combustible, or other dangerous materials except as permitted under this Lease and properly stored in accordance with all applicable laws, rules, and regulations.

37. MISCELLANEOUS.

A. Time of the Essence. Time is of the essence as to each provision of this Lease.

B. Obligations Independent. Each duty or obligation imposed by this Lease is independent. A breach by one party of any duty or obligation shall not excuse the performance of any duty or obligation required of the other party.

C. Obligations Deemed Covenants. Any words of obligation or duty used in this Lease are to have the same force and effect as they would have had, had they been stated in the form of covenants.

D. Gender. As used in this Lease, and where the context requires: (1) the masculine shall be deemed to include the feminine and neuter, and vice-versa; and (2) the singular shall be deemed to include the plural, and vice-versa.

E. Governing Law. This Lease is to be governed by, and construed in all respects in accordance with, the laws of the state in which the Premises are located.

**F. NO JURY TRIAL. NEITHER PARTY SHALL ELECT A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE.**

G. Interpretation. No provision of this Lease is to be interpreted for Tenant or against Landlord because Landlord's counsel prepared this Lease.

H. Submission of Lease. The submission of this Lease for examination or consideration by Tenant, and any discussions between Landlord and Tenant shall not constitute a reservation of, or an option to lease, the Premises. This Lease is to be effective only upon its execution by Landlord and Tenant and written approval by any Mortgagee, if required.

I. Severability. If any term or provision of this Lease or the application thereof to any person or circumstance is invalid or unenforceable, neither the remainder of this Lease nor any other application of the term or provision shall be affected.

J. Titles. All titles contained in this Lease are intended for convenience of reference only and are not to be deemed or taken as a summary of the provisions to which they pertain or as a construction thereof.

K. Successors and Assigns. This Lease and the covenants and conditions contained in it are to (a) inure to the benefit of, and be binding upon Landlord, its successors and assigns, and (b) be binding upon, and inure to the benefit of, Tenant, its successors and those assigns of Tenant consented to in writing by Landlord.

L. Joint and Several Liability of Tenants. If two or more individuals, corporations, partnerships or other business associations sign this Lease as Tenant, the liability of each of them to pay rent and perform all other obligation of Tenant are be joint and several.

M. Exhibits and Attachments. Any exhibits, schedules, plans or other attachments to this Lease shall be deemed a part hereof and incorporated by reference herein.

N. Relationship of Parties. Anything in the foregoing to the contrary notwithstanding, it is agreed that Landlord shall in no event be deemed to be a partner of, or engaged in a joint venture with, or be an associate of Tenant for any purpose whatsoever; nor shall Landlord be liable for any debts incurred by Tenant in the conduct of its business or otherwise. Nothing contained in this Lease shall be deemed or construed to confer upon Landlord any interest in the business of Tenant. The relationship of the parties during the term of this Lease shall at all time be only that of Landlord and Tenant.

O. Corporate Resolution. If Tenant is or will be a corporation, limited partnership, or limited liability company ("Entity") the persons executing this Lease on behalf of Tenant hereby covenant, represent and warrant that Tenant is a duly organized and/or a duly qualified (if a foreign Entity) Entity and is authorized to do business in the state where the Premises are located; and that the person or persons executing this Lease on behalf of Tenant is an officer or member or are officers or members of such Tenant, and that he, she or they were duly authorized to sign and execute this Lease. Upon request of Landlord to Tenant, Tenant shall deliver to Landlord documentation satisfactory to Landlord evidencing Tenant's compliance with the provisions of the preceding sentence.

P. Survival of Obligations on Termination or Expiration of Lease. In the event Tenant, prior to the expiration or earlier termination of this Lease, become liable to Landlord for any Base Rent, Additional Rent, damages, costs or expenses of any kind or nature under this Lease said liability shall continue after the expiration or termination of this Lease, with Landlord reserving all its rights to proceed against Tenant to regain possession of the Premises and collect any and all amounts due or to become due from Tenant under the Lease.

Q. Addendum. Any additional provisions to this Lease shall be contained in an addendum attached hereto and signed by both Landlord and Tenant. To the extent that any provision of the addendum is inconsistent or in conflict with any provision of this Lease, the provision in the addendum is to control.

R. Integration. This Lease, any guaranty and any addendum attached hereto, represent the parties' final understanding as to all matters included herein, and supersede all prior written or oral agreements of the parties on matters covered herein. This instrument contains the entire and only agreement between the parties, and no statements or representations or prior written matter not contained in this instrument shall have any force or effect. This Lease shall not be modified in any way except by a writing signed by both parties.

S. Delaware Landlord-Tenant Code. This Agreement is a Delaware contract and is to be interpreted under the laws of the State of Delaware. The parties hereto acknowledge that this Lease is for a commercial rental unit as that term is defined in 25 Del. C. §§5141(4) and 5101(b).



T. Performance of Act. Wherever in this Lease provision is made for the doing of any act by any party it is understood and agreed that said act shall be done by such party at its own cost and expense unless a contrary intent is expressed.

U. Use of Property by Landlord. Landlord reserves the right at any time or times during the term of this Lease to use the roof, foundation or exterior walls other than parts of the store front for signs or in connection with additional construction, provided same does not unreasonably interfere with Tenant's use and enjoyment of the Premises.

38. RENEWAL OPTION.

A. Provided (i) this Lease term is then in full force and effect, and (ii) Tenant is not in default respecting any provision or condition of this Lease either on the date Tenant elects to renew or on the date the renewal term commences, then Tenant shall have the right to renew this Lease for an additional term of Five (5) years immediately following the expiration of the original term on the same terms, conditions, and provisions as are set forth in this Lease except that the Annual Base Rent payable with respect to the Premises shall be increased at the rate of four (4%) percent per year over the Base Rent of each consecutive previous year.

B. Tenant shall be deemed to have waived the right to exercise the renewal option unless not less than sixty (60) days prior to the expiration of the initial term of this Lease Tenant shall have notified Landlord in writing of Tenant's election to renew.

39. Funding Contingency.

It is expressly agreed and understood that the Tenant relies upon the General Assembly of the State of Delaware for the funding of the paramedic operations of Sussex County, Delaware. Should the General Assembly of Delaware at any time fail to appropriate sufficient funds for the purpose of maintaining this Lease, the Tenant shall have the option to terminate this Lease by written notice to Landlord. Any such notice must be given at least thirty (30) days in advance of the proposed termination date. Tenant shall exercise its best efforts to procure said funding during the term of this Lease.

**IN WITNESS WHEREOF,** Landlord and Tenant have respectively signed and sealed this Lease as of the day and year first above written.

**LANDLORD:**

**COLONIAL EAST, L.P.**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (SEAL)  
Stevan D. Class, Managing Partner

**TENANT:**

**SUSSEX COUNTY, DELAWARE**

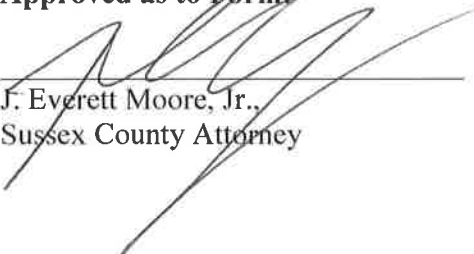
By: \_\_\_\_\_ (SEAL)

Michael H. Vincent, President  
Sussex County Council

Attest: \_\_\_\_\_

Robin A. Griffith, Clerk of  
Sussex County Council

**Approved as to Form:**

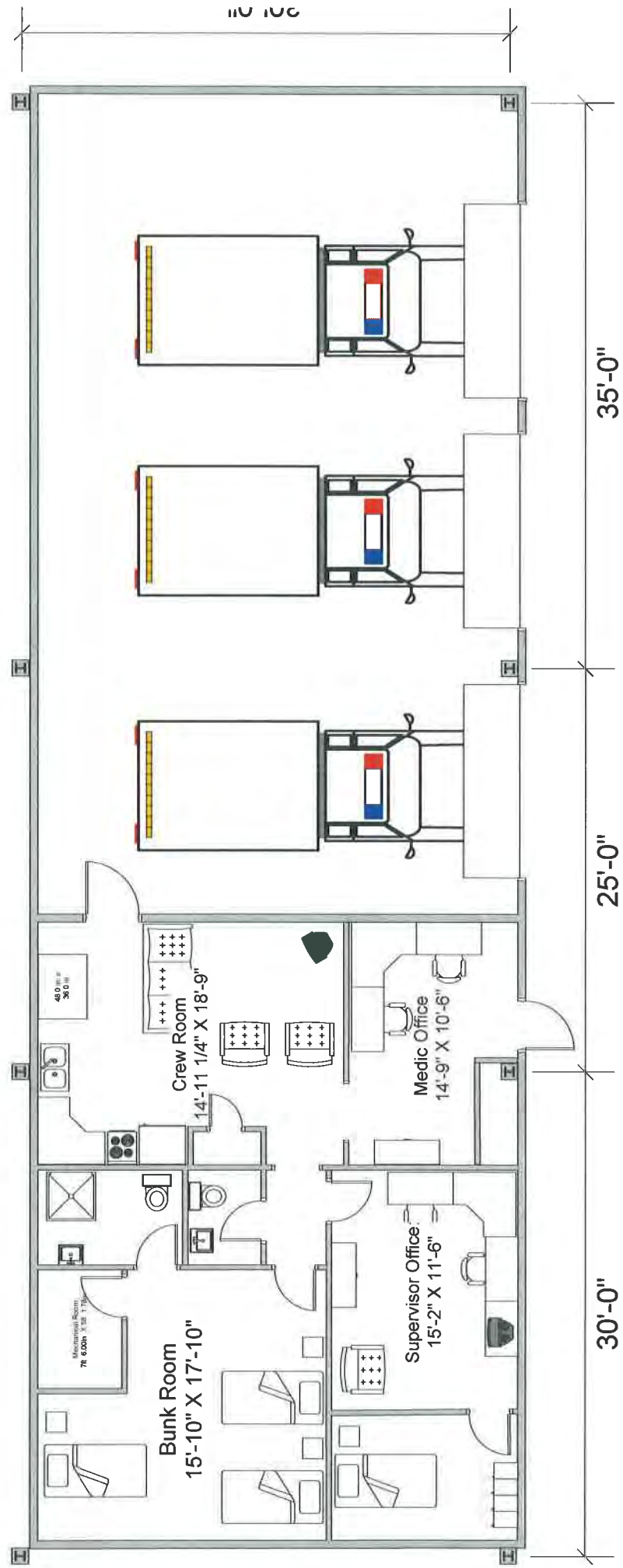
  
\_\_\_\_\_  
J. Everett Moore, Jr.,  
Sussex County Attorney

7/3/12  
\_\_\_\_\_  
Date

COPY

# EXHIBIT A

(Updated 6-1-2012)



## EXHIBIT B

### SIGNAGE

**Description:**

3' by 4'

042 sign-grade aluminum base

3M Scotchlite material

Flush mounted to exterior wall



## EXHIBIT C

### Hazardous Materials List

#### Station 100/104 Material Safety Data Sheet

Quantity on hand	Product	Quantity ea.
2	"Spartan" CDC-10 Disinfectant Cleaner	1 qt.
2	"Spartan" ASAP All Purpose Cleaner	1 qt.
1	"Wink" Rust & Stain Remover	10 oz.
4	"Finecare" Antibacterial Hand Soap	7.5 oz.
2	Vinyl Floor Wax	1 qt.
2	"Mr. Clean" All purpose Cleaner	28 oz.
2	"Dawn" Dishwashing Detergent	38 oz.
1	"Windex" Glass Cleaner	1 gal.
1	"Westley's" Bleach-Wite Tire Cleaner	1 gal.
1	"Armorall" Car Care Protectant	1 gal.
1	Wet & Black Tire Shine	32 oz.
1	WD-40 Spray Lubricant	11 oz.
6	Motor Oil	1 qt.
3	Road Flares	12 per truck
1	Diesel Fuel	40 gal per truck
2	Gasoline	Per Vehicle Specification
1	Transmission Fluid Rescue Body Vehicle	Per Vehicle Specification
2	Transmission Fluid Suburban or Staff Vehicle	Per Vehicle Specification
1	Lubricating Compounds Rescue Body Truck	Per Vehicle Specification
2	Lubricating Compounds Suburban or Staff Vehicle	Per Vehicle Specification
4	Ice Melt	50 lb.
1	Mirror Glaze Cleaner Wax	1 pt.
1	Mirror Glaze Fine Cut Cleaner	1 pt.
2	"Rain-X" Windshield Washer Fluid	1 gal.
2	"Zerex" Antifreeze/Coolant	1 gal.
1	"Cavicide" Disinfectant Cleaner	1 gal.
2	"Cavicide" Disinfectant Cleaner	24 oz.
2	"Spartan" Toilet Bowl Cleaner	32 oz.
2	"CLR" Calcium, Lime & Rust Remover	28 oz.
4	"Comet Cleanser"	21 oz.
2	Bleach	1 gal.
1	"Simple Green" All Purpose Cleaner	1 gal.
1	Ammonia	1 gal.
2	"Febreze" Fabric Freshner	1 qt.
2	"Spartan" Air Lift Smoke and Odor Eliminator	1 lb.
2	"Spartan" Wood Polish	1 lb.
2	"Spartan" Flying Insect Spray	1 lb.
2	"Spartan" CR-2 Crawling Insect Spray	1 lb.
1	"TERRO" Liquid Ant Killer	2 oz.
1	"Hot Shot" Ant Bait	12 oz.
1	Car Wash Soap	5 gal.
3	"Vionex" Antiseptic hand Soap	18 oz.
6	"Vionex" Antiseptic hand Soap	4 oz.
6	Medical Oxygen	283 cu/ft cylinder
16	Medical Oxygen	22.5 cu/ft cylinder
9	Medical Oxygen	6 cu/ft cylinder
16	Motorola Rechargeable Radio Batteries	N/A
18	Physio Control Rechargeable Life-Pac Batteries	N/A
16	Motorola Miniator Rechargeable Batteries AAA	N/A
12	Alkaline Batteries AAA	N/A
24	Alkaline Batteries AA	N/A
12	Alkaline Batteries C	N/A
6	Alkaline Batteries D	N/A
4	Alkaline Batteries 9V	N/A
4	Duracell Medical Batteries 3V	N/A
N/A	Assorted Office Supplies. Print Cartridges, markers, ect.	N/A
4	Approved Medication Inventory	1 per unit

Revised 6/1/2012 RLS

**MEMORANDUM**

**TO:** **Sussex County Council**

**THROUGH:** Todd Lawson  
County Administrator

**FROM:** Jim Hickin, A.A.E.  
Airport & Industrial Park

**RE:** **GEORGETOWN AIR SERVICES**

**DATE:** July 11, 2012

I'm on the Council Agenda for July 17<sup>th</sup> to ask your approval of an office lease with Georgetown Air Services.

Georgetown Air Services leases space in the Airport terminal building to use for their customer service counter and manager's office. This lease is separate from their lease for the Old Terminal Building and hangar, under which they operate their Fixed Base Operator business.

This lease is nearly identical to the current lease, which expires at the end of this month. The basic terms are:

- Premises: 528 sq ft of office space
- Term: 5 years
- Rent: \$460/month (\$10.45/sq ft)
- Use of Premises: As an office
- Utilities: Water, electric, sewer provided by County
- Cannot sublet or assign without County approval

Please call me at 855-7775 if you have any questions.

cc: Mike Izzo, P.E.  
County Engineer

## COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT, dated this \_\_\_\_ day of \_\_\_\_\_, 2012 (the "Lease Agreement"), BY AND BETWEEN:

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, P.O. Box 589, 2 The Circle, Georgetown, Delaware 19947, hereinafter referred to as the "County",

**AND**

**GEORGETOWN AIR SERVICES, LLC**, a Delaware limited liability company, P.O. Box 760, Georgetown, Delaware 19947, hereinafter referred to as "Georgetown".

### WITNESSETH

The County does hereby lease to Georgetown and Georgetown does hereby rent from the County, the following described premises:

The Manager's Office consisting of 190 square feet, and the Fixed Base Operator space consisting of 338 square feet, and all improvements thereto located in the Sussex County Airport Terminal, more particularly shown on a plot prepared by French & Ryan, attached hereto as Exhibit "A" (the "Premises").

The term of this lease shall be five (5) years, commencing on the 1<sup>st</sup> day of August, 2012, and ending on the 31st day of July, 2017.

### UPON THE FOLLOWING CONDITIONS AND COVENANTS:

**SECTION I: RENT.** The annual rent under this lease agreement for the first year will be Five Thousand Five Hundred Twenty Dollars (\$5,520.00), payable in monthly installments of Four Hundred Sixty Dollars (\$460.00).

The annual rent under this Lease Agreement for each subsequent year will be adjusted to reflect any change in the cost of living. The adjustment, if any, will be calculated on the basis of the Consumer Price Index, All Urban Consumers (CPI-U), for All Items, for the Philadelphia Area, published by the U.S. Department of Labor, Bureau of Labor Statistics. If publication of the above index shall be discontinued, then another index generally recognized as authoritative, shall be substituted. The rent for each subsequent year will be adjusted by the percentage increase from the last preceding calendar year, if any, not to exceed three percent (3%) in any one lease year.

Within ten (10) days after the County gives Georgetown notice of the adjusted rent, Georgetown will pay the adjusted rent retroactive to the first month of the lease year, within sixty (60) days of the receipt of notice. The adjusted basic rent will be the monthly rent for the balance of the then current lease year. The difference between the basic rent and the adjusted basic rent is referred to as the "Cost of Living Adjustment." the County will give Georgetown written notice indicating how the adjusted basic rent amount was computed.

SECTION II: PAYMENT PROVISIONS. Rent due hereunder is payable monthly in advance on the first day of each month during the term of this Lease. Payments made after the fifteenth (15) day of the month in which due shall be subject to a late fee of five percent (5%) of the total amount outstanding. All payments should be made to Sussex County Council, Sussex County Accounting Office, P.O. Box 589, Georgetown, Delaware 19947, or such other place or places as may from time to time be designated in writing by the County.

SECTION III: REPAIR AND CARE. Georgetown has examined the Premises and has entered into this Lease Agreement without any representation on the part of the County as to the conditions thereof. Georgetown shall take good care of the Premises at Georgetown's own cost and expense, and shall maintain the Premises in good condition and state of repair and at the end of the term hereof or any extension thereof, shall deliver the rented Premises in good order and condition, wear and tear from a reasonable use thereof, and damage by the elements not resulting from the neglect or fault of Georgetown, excepted. Georgetown shall neither encumber nor obstruct the sidewalks, driveways, yards or entrances, but shall keep and maintain the same in a clean condition, free from debris, trash, and refuse.

SECTION IV: USE OF PREMISES. Georgetown shall have the right to utilize the leased Premises and any improvements to be located thereon as an office. Georgetown shall be permitted to operate at such times as the County, in its sole discretion, shall determine to keep the terminal building open.

Title to all other improvements made during the term hereof, shall inure to the benefit of the County, and upon the expiration of the term of this Lease, Georgetown or its successor shall deliver to the County such improvements as may then be upon the Premises.

Georgetown's use of the Premises shall at all times comply with all laws, ordinances, orders, regulations and requirements of any governmental authority having jurisdiction. It is specifically agreed that this Lease agreement is non-exclusive. The County reserves the right to lease other real property at the Sussex County Airport for identical or similar uses.

SECTION V: UTILITIES. With the exception of sewer, water, and electricity, Georgetown will arrange and pay for all utilities furnished to the Premises for the term of this lease agreement, including, but not limited to, gas, cable television, and telephone service.

SECTION VI: TAXES. County shall pay all ad valorem taxes, including taxes levied by Sussex County, if any, on the improvements erected on the Premises and all equipment installed therein. All other taxes that may be levied by any other political body, local, County, State or Federal, shall be paid by Georgetown.

SECTION VII: RIGHT TO CONTEST. Georgetown shall have the right in good faith to contest by legal proceedings or otherwise the assessment upon the Premises by any governmental authority levying or attempting to levy taxes thereon. The County shall cooperate with Georgetown, but at no expense to the County, in any such protest as Georgetown shall make. In the event Georgetown shall determine to contest such taxes, Georgetown shall, within the time herein set forth for the payment of such taxes, post with the proper governmental authorities such sum of money or take such other action satisfactory to the County, as will



protect the property from nonpayment during such contest. Further, Georgetown shall obtain the participation of the County in any tax appeal, if required.

SECTION VIII: STATUTORY LIEN. The County hereby claims any and all statutory or other liens which it may have upon the equipment, furniture, fixtures, and personal property of any Georgetown or Sub-Tenant placed upon the improvements, and Georgetown agrees that the County has such a lien to the extent provided by statute or otherwise. The County agrees to subordinate its lien right to the lien of any mortgage, deed of trust, or security instrument given by Georgetown for the construction of the improvements and purchase of the equipment, fixtures and personal property placed upon the property. Georgetown shall furnish the County copies of all such security instruments.

#### SECTION IX: INSURANCE.

(a) Property and Business Income Insurance. Georgetown shall secure and maintain, at its own expense, all risk (special form) property insurance which insures against direct physical loss of or damage to Georgetown's real and personal property and improvements and other fixtures and equipment located in or at the Premises, on a replacement cost valuation basis, with limits not less than 100% of the insurable replacement cost of all such property located therein. Georgetown shall also secure all risk (special form) business income and extra expense insurance in amounts satisfactory to protect its interests for loss of income or extra expense that result from direct physical loss of or damage to covered property, fixtures and equipment located in or at the Premises. The County shall be an insured on Georgetown's property and business income insurance as its interests may appear.

(b) Waiver of Subrogation. To the fullest extent permitted by law, Georgetown waives any right of recovery from the County, and its appointed and elected officials, employees, agents, and volunteers, for any loss of or damage to the property (or resulting loss of income or extra expense) of Georgetown, by reason of any peril required to be insured against under this Lease Agreement, regardless of the cause of origin. To the fullest extent permitted by law, Georgetown's property insurer shall not hold any right of subrogation against the County and its appointed and elected officials, employees, agents or volunteers. Georgetown shall advise its insurer(s) of the foregoing and such waiver shall be permitted under any property and/or business income insurance policies maintained by Georgetown. Any deductible amount(s) selected by Georgetown shall be the sole responsibility of Georgetown.

(c) Commercial, General Liability Insurance. Georgetown shall secure and maintain at its own expense, commercial general liability insurance which insures against bodily injury, property damage, personal and advertising injury claims arising from Georgetown's occupancy of the Premises or operations incidental thereto, with minimum limits of:

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

Such insurance shall be endorsed to name the County and its appointed and elected officials, employees, agents, and volunteers as additional insureds.

(d) Workers Compensation & Employers Liability. Georgetown shall secure and maintain, at its own expense, workers compensation insurance and employers liability insurance. The workers compensation insurance must satisfy Georgetown's workers compensation obligation to its employees in Delaware. Employers liability insurance must be secured with minimum limits of \$100,000 for bodily injury by accident, \$100,000 each employee for bodily injury by disease, and a \$500,000 policy limit for bodily injury disease.

(e) Evidence of Insurance/Insurers. Georgetown shall furnish certificates of insurance, acceptable to the County, evidencing all policies required above at execution of this Lease Agreement and prior to each renewal thereafter. Such insurance shall be written with insurers licensed to do business in Delaware, with a Financial Strength Rating of "A-" or better, and a financial size category of "Class VII" or higher in the latest evaluation by A.M. Best Company, unless the County grants specific approval for an exception. Such policies shall be endorsed and such certificates shall provide that no cancellation, non-renewal or material reduction in coverage can take effect unless thirty (30) days prior written notice by registered mail is furnished to the County. Liability policies required herein may not be written on a "claims made" basis without the prior written approval of the County. If Georgetown shall fail, refuse or neglect to secure and maintain any insurance required of Georgetown or to furnish satisfactory evidence of insurance, the County shall have the right to purchase such insurance. All such payments made by the County shall be recoverable by the County from Georgetown, together with interest thereon, as additional rent promptly upon being billed therefor.

SECTION X: SUBLETTING AND ASSIGNING. Georgetown shall not have the right to assign this Lease Agreement or sublet the Premises unless the prior written consent of the County is acquired. Such assignment or subletting shall in no way relieve Georgetown of any responsibility for the payment of rent or for the performance of any of the other covenants or conditions hereof. The prospective assignee or Sub-Tenant shall be subject to inquiries concerning the nature of its business and employment goals. Such assignee or Sub-Tenant shall in writing assume all of the obligations to be performed by Georgetown hereunder.

SECTION XI: NOTICE. All notices required to be given under this Lease Agreement either by the County to Georgetown or by Georgetown to the County shall be in writing. The same shall be deemed given in the case of the County when it shall have deposited such notice by certified mail in the post office addressed to Georgetown at Georgetown's last known address or to such other address as Georgetown shall from time to time furnish the County. Personal service of any such notice shall be deemed as a substitute for the mail notice.

SECTION XII: CONDEMNATION. If at any time during the term hereof the whole of the demised Premises shall be taken for any public or quasi-public use under any statute or by right of eminent domain, then and in such event, when possession shall have been taken of the Premises by the condemning authority, the lease hereby granted and all rights of Georgetown hereunder shall immediately cease and terminate and the rent shall be apportioned and paid to the time of such termination.

If pursuant to the provisions of this article, this Lease Agreement shall have been terminated and if prior to such termination, Georgetown shall have made any improvements upon the Premises, the County shall be entitled to all of the condemnation proceeds which may be granted with respect to the land herein described as such land is distinguished from the improvements; and Georgetown shall be entitled to the proceeds of any condemnation awarded on account of the value of any improvements made by Georgetown.

SECTION XIII: PARTIAL CONDEMNATION. If after commencement of this Lease Agreement only a part of the Premises shall be taken or condemned, the County shall be entitled to any award made with respect to the land herein described as same is distinguished from any improvements made by Georgetown; and Georgetown shall be entitled to any award made for any improvements condemned. In the event such condemnation shall leave only a portion of the Premises which in Georgetown's sole judgment is usable by Georgetown, this Lease Agreement shall remain in full force and effect, but the rents herein reserved to the County shall be adjusted so that Georgetown shall be entitled to a reduction in rent in the proportion that the value of land taken bears to the value of the entire Premises.

If a portion of the Premises is taken or condemned prior to commencement of construction hereunder, the proceeds shall belong solely to the County and the rental hereunder shall not be abated. Provided, however, that Georgetown shall have the right to terminate this Lease Agreement if in its sole judgment the Premises have been rendered unsuitable for its purpose.

#### SECTION XIV: DEFAULT.

(a) Events of Default Defined. The following shall be "events of default" under this Lease Agreement and the terms "event of default" or "default" shall mean, whenever they are used in this Lease Agreement any one or more of the following events:

(1) failure by Georgetown to pay the rent required to be paid at the times specified herein and continuing for a period of thirty (30) days after notice by mail is given to Georgetown that the rental payment referred to in such notice has not been received;

(2) failure by Georgetown to observe and perform any covenant, condition or agreement of this Lease Agreement on its part to be observed or performed, other than as referred to in subsection (1) of this Section, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, given to Georgetown by the County, unless the County shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the County will not unreasonably withhold its consent to an extension of such time if it is possible to correct such failure and corrective action is instituted by Georgetown within the applicable period and diligently pursued until the default is corrected; or

(3) the dissolution or liquidation of Georgetown or the filing by Georgetown of a voluntary petition in bankruptcy, or failure by Georgetown promptly to lift or bond (if legally permissible) any execution, garnishment or attachment of such consequences as will impair its ability to carry on its operation, or the commission by Georgetown of any act of

bankruptcy, or adjudication of Georgetown as bankrupt or assignment by Georgetown for the benefit of its creditors, or the entry by Georgetown into an agreement of composition with its creditors, or the approval by a Court of competent jurisdiction of a petition applicable to Georgetown in any proceedings for its reorganization instituted under the provisions of the Federal Bankruptcy Statutes, as amended, or under any similar act which may hereafter be enacted.

(4) the cessation of the corporate existence of Georgetown resulting from a merger or consolidation of Georgetown into or with another corporation or of a dissolution or liquidation of Georgetown following a transfer of all or substantially all its assets as an entirety.

(5) failure by the County to observe or perform any covenant, condition or agreement of this Lease on its part to be observed or performed, for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied, given to the County by Georgetown, unless Georgetown shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Georgetown will not unreasonably withhold its consent to an extension of such time if it is possible to correct such failure and corrective action is instituted by the County within the applicable period and diligently pursued until the default is corrected.

(b) Remedies of Default. Whenever any event of default referred to in subsections (a)(1) through (4) above shall have happened and be subsisting, the County may take any one or more of the following remedial steps:

(1) Apply any money or property of Georgetown's in County's possession to discharge in whole or in part any obligation or covenant to be observed or performed by Georgetown hereunder.

(2) Perform any obligation or covenant to be performed by Georgetown hereunder and charge Georgetown therefor.

(3) Terminate the Lease.

(4) Enter the Premises and take possession of the same and hold Georgetown liable for the rent thereafter accruing and due until such time as the County can obtain another suitable tenant for the Premises under the same terms hereof.

(5) Enter the Premises and without notice immediately proceed by distress and sale of the goods there found to recover all rent then due and all costs and officers' commissions, including a reasonable constable's commission, which costs and officers' commissions shall become part of the claim for rent. Georgetown waives any limitation as to the goods upon which, or the time within which, distress and sale, may be made, waives any necessity for identifying the goods involved, and authorizes the sale of such goods at any time without any appraisal or condemnation thereof.

(c) No remedy herein conferred upon or reserved to the County or Georgetown shall exclude any other remedy herein or by law provided, but each shall be

cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION XV: NON WAIVER OF SUBSEQUENT BREACH. Georgetown agrees that any waiver by the County of the performance of any one of the conditions of this Lease Agreement shall not be deemed to constitute a waiver of the right of County to proceed against Georgetown upon any subsequent breach of the same or other conditions of this Lease Agreement.

SECTION XVI: SEVERABILITY. If any provisions of this Lease shall be held invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

SECTION XVII: MEMORANDUM OF LEASE AGREEMENT. Upon the request of either of them, the parties shall execute and exchange copies of a Memorandum of Lease Agreement outlining the pertinent terms herein contained, which Memorandum of Lease Agreement may be recorded in lieu of recording this instrument, but the terms of this instrument shall control in all aspects in regard to matters omitted from such short form lease or in respect to conflicts therewith.

SECTION XVIII: COMPLIANCE WITH LAWS. Georgetown shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives of the Federal, State and County Government and Public Authorities and of all their departments, bureaus and subdivisions, applicable to and affecting the said Premises, their use and occupancy, for the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the said Premises, during the term hereof; and shall promptly comply will all orders, regulations and directives of the State Fire Marshall or similar authority and of any insurance companies which have issued or are about to issue policies of insurance covering the said Premises and its contents, for the prevention of fire or other casualty, damage or injury, at Georgetown's own cost and expense.

SECTION XIX: COUNTY NOT LIABLE FOR DEBTS, ACTS OR OMISSIONS OF GEORGETOWN. Georgetown shall not be the agent or partner of the County; and Georgetown shall have no authority to make any contract or do any act so as to bind the County or as to render the County or the Premises liable therefor. Georgetown will indemnify and hold harmless the County and its appointed and elected officials, employees, agents and volunteers and the Premises harmless from any penalty, damages, neglect, or negligence of Georgetown, property damage, illegal act or otherwise. The improvements to be placed on said Premises shall be constructed at the sole expense of Georgetown, and the County and its appointed and elected officials, employees, agents, and volunteers shall not be liable in any way for any amount of money arising out of said construction. Before starting construction, Georgetown shall have recorded on the public records of Sussex County, Delaware, such legal notice as may be necessary wherein the public is advised that the County and its appointed and elected officials, employees, agents, and volunteers are not in any way liable for any claims or obligations for labor and materials on said job, and that the laborers, material men and subcontractors shall look solely to Georgetown for payment and shall not be entitled to place a lien against said demised property. If any mechanic's or materialmen's lien is filed or any claim made on account of labor

or other material furnished, alleged to have been furnished or to be furnished to Georgetown at the Premises or against the County as the owner thereof, Georgetown shall within ninety (90) days after written notice from the County thereof, either pay or bond the same or procure the discharge thereof in such manner as may be provided by law. Georgetown will indemnify the County and its appointed and elected officials, employees, agents, and volunteers for its costs, legal fees and expenses in defending any action, suit or proceedings which may be brought thereon or for the enforcement of such lien or liens and Georgetown shall pay any damages and any judgment entered thereon and save harmless and indemnify the County and its appointed and elected officials, employees, agents, and volunteers from any claims of damages resulting therefrom. Failure to do so shall entitle the County to resort to remedies as are provided herein in the case of any default of this Lease Agreement, in addition to such as are permitted by law.

**SECTION XX: SUCCESSORS AND ASSIGNS.** All of the terms, covenants, conditions and agreements herein contained shall in every case be binding upon the successors and assigns of the parties hereto.

**SECTION XXI: NON-PERFORMANCE BY COUNTY.** This Lease Agreement and the obligation of Georgetown to pay the rent hereunder and to comply with the covenants and conditions hereof, shall not be affected, curtailed, impaired or excused because of the County's inability to supply any service or material called for herein, by reason of any rule, order, regulation or preemption by any governmental entity, authority, department, agency or subdivision or for any delay which may arise by reason of negotiations for the adjustment of any fire or other casualty loss or because of strikes or other labor trouble or for any cause beyond the control of the County.

**SECTION XXII: DAMAGE AND CASUALTY.** If the Premises are damaged by fire or other casualty by more than fifty percent (50%), Georgetown may terminate this Lease. The rent is to be paid to the date of termination. The County shall be named as co-insured on Georgetown's fire and casualty insurance policy in such amount as will protect its interest therein.

**SECTION XXIII: QUIET ENJOYMENT.** The County covenants and represents that the County is the owner of the Premises herein leased and has the right and authority to enter into, execute and deliver this Lease Agreement; and does further covenant that Georgetown, on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the Premises for the term aforementioned.

**SECTION XXIV: ENTIRE CONTRACT.** This Lease Agreement contains the entire contract between the parties. No representative, agent or employee of the County has been authorized to make any representation or promise with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by the County and Georgetown.

**SECTION XXV: IMPROVEMENTS.** Georgetown shall be responsible for all maintenance and repair to any improvements. At the end of this Lease Agreement, the improvements erected on the Premises and any fixtures which are a part thereof, shall remain a part of the Premises and shall be the property of the County. Any trade fixtures which were

installed on the property by Georgetown and which are removable without substantial damage to the improvements shall remain the property of Georgetown, provided that Georgetown shall promptly repair any damage to the improvements on the Premises caused by their removal and that Georgetown is not in default of any covenant or agreement contained in this Lease Agreement; otherwise such trade fixtures shall not be removed and the County shall have a lien thereon to secure itself on account of its claims. All window treatments must be approved in advance by the County.

SECTION XXVI: COSTS AND EXPENSES OF THE COUNTY. Georgetown shall pay upon demand all of the County's costs, charges, attorney's fees and expenses, incurred in enforcing Georgetown's obligations hereunder or incurred by the County in any litigation in which the County, without the County's fault, becomes involved or concerned by reason of the existence of the Lease or the relationship hereunder of the County and Georgetown.

SECTION XXVII: MISCELLANEOUS. In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

SECTION XXVIII: INDEMNIFICATION. To the extent permitted by law, Georgetown shall indemnify, defend and hold the County and its appointed and elected officials, employees, agents, and volunteers harmless from any and all claims arising from Georgetown's use of the Premises or from the conduct of its business or from any activity, work or things which may be permitted or suffered by Georgetown in or about the Premises, and shall further indemnify, defend and hold County and its appointed and elected officials, employees, agents, and volunteers harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Georgetown's part to be performed under the provisions of this Lease Agreement or arising from any negligence of Georgetown or any of its agents, contractors, employees or invitees and from any and all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Georgetown hereby assumes all risk of damage to property or injury to persons in or about the Premises from any cause, and Georgetown hereby waives all claims in respect thereof against County and its appointed and elected officials, employees, agents, and volunteers, to the extent permitted by law. Georgetown hereby agrees that, except as permitted by law, the County and its appointed and elected officials, employees, agents, and volunteers shall not be liable for injury to Georgetown's business or any loss of income therefrom or for damage to the equipment, wares, merchandise, or other property of Georgetown, Georgetown's employees, invitees, customers, or any other person in or about the Premises; nor shall the County and its appointed and elected officials, employees, agents, and volunteers be liable for injury to the person of Georgetown, Georgetown's employees, agents or contractors and invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, rain or other elements, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliance, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the said damage or injury results from conditions arising upon the Premises.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, or caused these presents to be signed by their proper corporate officers and their proper corporate seals to be affixed, the day and year first above written.

SUSSEX COUNTY

BY: \_\_\_\_\_  
Michael H. Vincent  
President of Sussex County Council

Attest: \_\_\_\_\_  
Clerk of Sussex County Council

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
County Attorney

GEORGETOWN AIR SERVICES, LLC

BY: \_\_\_\_\_  
Manager

Attest: \_\_\_\_\_  
Secretary



STATE OF DELAWARE :  
: SS.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, A.D., 2012, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, Michael H. Vincent, President of the **COUNTY COUNCIL OF SUSSEX COUNTY**, a political subdivision of the State of Delaware, party to the foregoing Lease Agreement, known to me personally to be such, and acknowledged said Lease Agreement to be his act and deed and the act and deed of the Sussex County Council; that the signature of the President thereto is in his own proper handwriting; that the seal affixed is the common and corporate seal of said Sussex County Council, duly affixed by its authority; and that his act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by resolution of the said Sussex County Council.

GIVEN under my hand and seal of office, the day and year aforesaid.

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Notary Public

STATE OF DELAWARE :  
: SS.  
COUNTY OF SUSSEX :

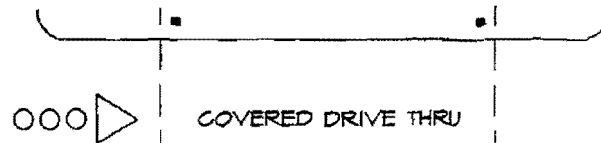
BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, A.D., 2012, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, \_\_\_\_\_, Manager of **GEORGETOWN AIR SERVICES, LLC**, a Delaware limited liability company, party to the foregoing Lease Agreement, known to me personally to be such, and acknowledged said Lease Agreement to be his act and deed and the act and deed of the said limited liability company; that the signature of the Manager thereto is in his own proper handwriting; that the seal affixed is the common and corporate seal of said limited liability company, duly affixed by its authority; and that his act of signing, sealing, acknowledging and delivering said Indenture was first duly authorized by resolution of the Members of said limited liability company.

GIVEN under my hand and seal of office, the day and year aforesaid.

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Notary Public

# EXHIBIT A

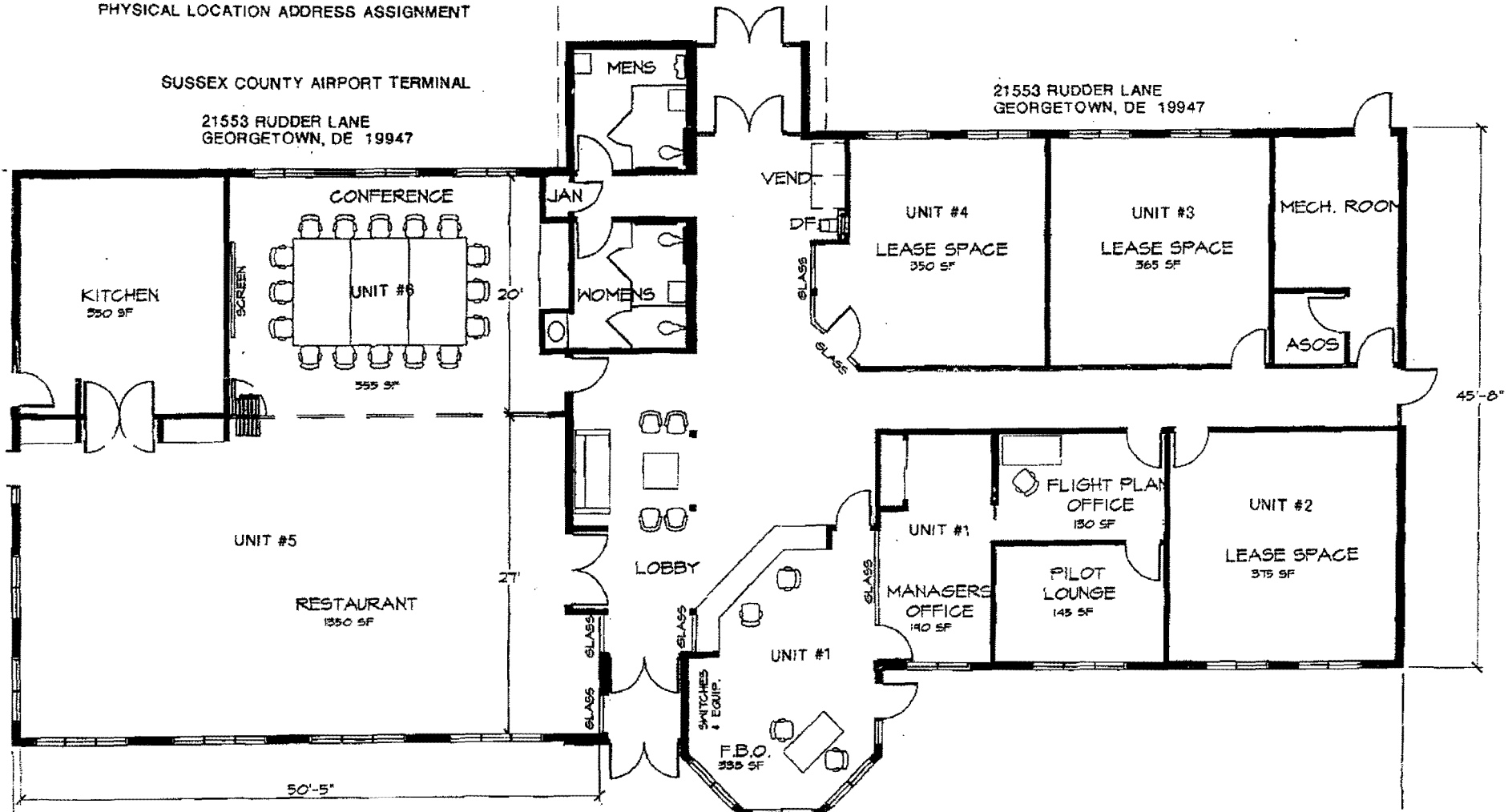


PHYSICAL LOCATION ADDRESS ASSIGNMENT

SUSSEX COUNTY AIRPORT TERMINAL

21553 RUDDER LANE  
GEORGETOWN, DE 19947

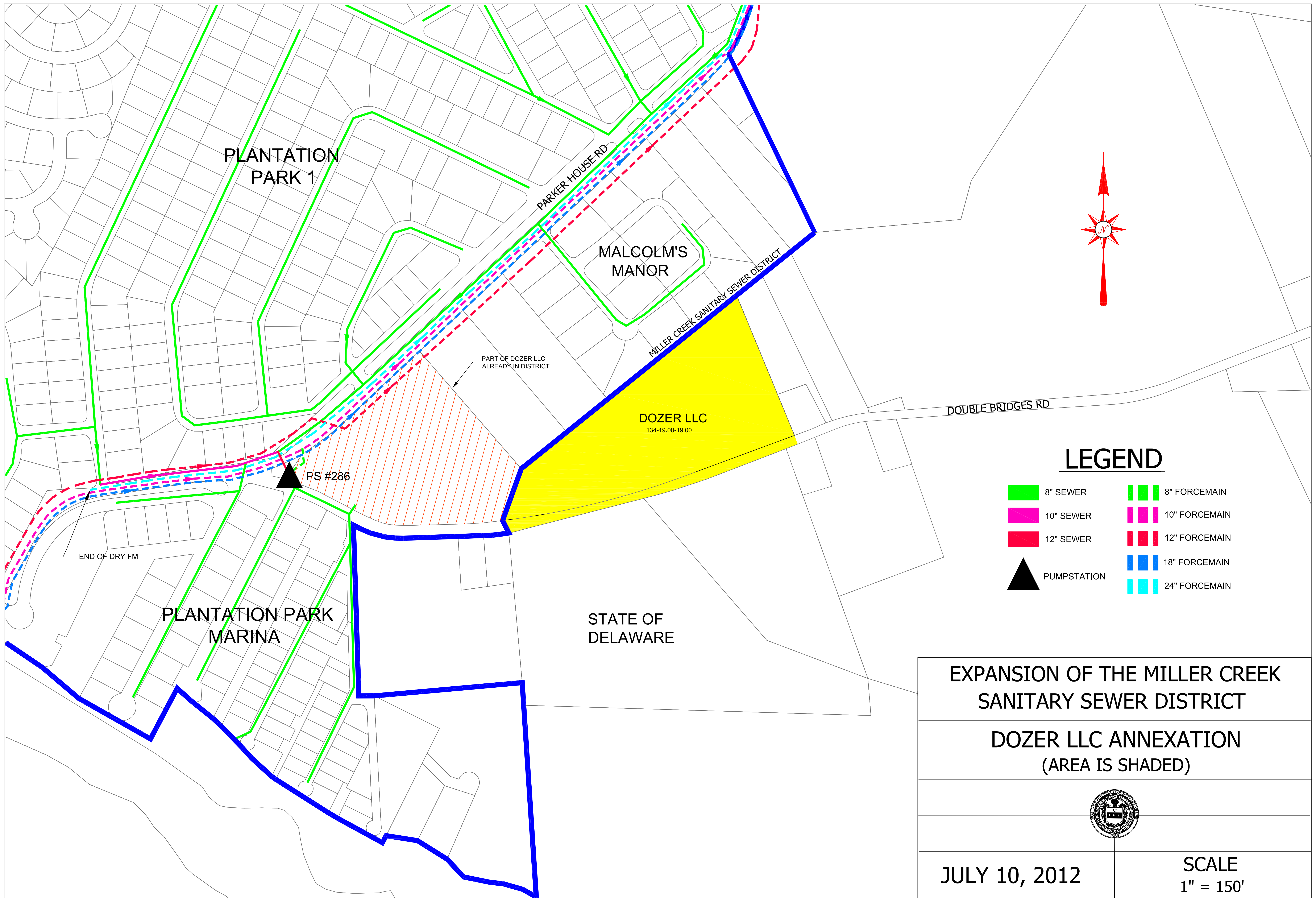
21553 RUDDER LANE  
GEORGETOWN, DE 19947



## **Dozer LLC Expansion**

### Expansion of the Miller Creek Sanitary Sewer District

- I am here today to request permission to prepare and post notices for the Dozer LLC Expansion of the Miller Creek Sanitary Sewer District.
- The area includes the remaining portion of parcel **134-19.00-19.00**.
- This request is based on an earlier agreement between the property owners and Sussex County that in exchange for a pump station site on the corner of the property, Sussex County would annex the remaining portion of the property into the Sanitary Sewer District. (Original letter of agreement Oct. 2005).
- The balance of this parcel can be served with a gravity connection to the pump station now located on that donated piece of property (134-19.00-19.01).
- The entire parcel consists of approximately **15.56** acres of which approximately **7.2** acres are already located within the existing sanitary sewer district.
- The property owners will be subject to system connection charges of **\$5,131.00** per EDU based on **July 1, 2012 – June 30, 2013** rate should they choose to develop the parcel.



## **PROPOSED MOTION**

**BE IT MOVED BY THE SUSSEX COUNTY COUNCIL THAT THE SUSSEX COUNTY ENGINEERING DEPARTMENT IS AUTHORIZED TO PREPARE AND POST NOTICES FOR THE EXTENSION OF THE MILLER CREEK SANITARY SEWER DISTRICT TO INCLUDE THE BALANCE OF PARCEL 134-19.00-19.00 LANDS OF DOZER LLC, AS PRESENTED ON JULY 17, 2012.**

**Rob Davis  
JULY 17, 2012  
FILE: MC-10.02**

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE, MAINTENANCE AND GENERAL OFFICE FOR CONTRACTING/EXCAVATING SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.56 ACRES, MORE OR LESS**

**WHEREAS, on the 5th day of July 2012, a conditional use application, denominated Conditional Use No. 1942 was filed on behalf of Douglas L. Boozer; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1942 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1942 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 Broadkill Hundred, Sussex County, Delaware, and lying south of Huff Road (Road 252) 2,000 feet west of Route 30 and being more particularly described in Deed Book 3354, Page 293, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 10.56 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.**



**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP/GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.565 ACRES, MORE OR LESS (Tax Map I.D. 3-34-9-00-1.03)**

**WHEREAS, on the 9th day of July 2012, a conditional use application, denominated Conditional Use No. 1943 was filed on behalf of Charles L. Williams; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1943 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2012, 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. 1943 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 at the north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 and being more particularly described as follows:**

**BEGINNING at a rebar found on the easterly property corner with lands of Robert Walker, said rebar being 265 feet north of Road 291 (Martin's Farm Road); thence south 81°45'00" west 155.50 feet along said Walker lands to a rebar; thence north 08°15'00" west 438.44 feet along lands of Margaret Foulke to a rebar; thence north 81°45'00" east 155.50 feet along lands of Margaret Foulke to a rebar; thence south 08°15'00" east 438.44 feet along lands of Hilda Delgado to the point and place of beginning, and containing 1.6 acres, more or less, per survey by Compass Point Associates.**

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

DRAFT