

Sussex County Council Public/Media Packet

**MEETING:
August 15, 2023**

****DISCLAIMER****

This product is provided by Sussex County government as a courtesy to the general public. Items contained within are for background purposes only, and are presented 'as is'. Materials included are subject to additions, deletion or other changes prior to the County Council meeting for which the package is prepared.

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

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

AUGUST 15, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – August 1, 2023

Reading of Correspondence

Public Comments

Consent Agenda

1. Use of Existing Sewer Infrastructure Agreement, IUA-1013-1
Suncrest (Marsh Homestead), Angola Neck Area

Presentation – Dan Cruce and Sarah Carter, United Way of Delaware

Todd Lawson, County Administrator

1. Reappointment of Board of Adjustment Member John Williamson
2. Administrator's Report

Robert Bryant, Airport Manager

1. Construct Parallel Taxiway B – Phase 1
 - A. Delta Airport Consultants Task Order 4 - Design



Mark Parker, Assistant County Engineer

1. **Starlight Meadows Road Improvements – Chapter 96 Sussex Community Improvements**
 - A. **Introduction of Resolution**
2. **Davis, Bowen & Friedel, Inc. – 2019 Miscellaneous Engineering Base Contract**
 - A. **Amendment No. 9 - CADD Support Services**

Hans Medlarz, County Engineer

1. **FY2022 General Labor & Equipment Contract, Project 22-01**
 - A. **George & Lynch, Inc., FY 23 Close Out Change Order No. 2**
2. **GHD Amendment for Wolfe Neck RWF Professional Services**
 - A. **Award of Advanced Electrical Design**
 - B. **Expansion of Study Scope to include Option 3c**
3. **Wolfe Runne Sewer Expansion, Project S20-13**
 - A. **George, Miles & Buhr - Amendment No. 2**
4. **Western Sussex Unified Sewer District: Contract 5, Project S19-29**
 - A. **Segment D: Change Order No. 5 and Substantial Completion**

Old Business

Conditional Use No. 2400 filed on behalf of Kent Walston, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS” (property lying on the east side of Kent Avenue [S.C.R. 361], approximately 350 feet north of Jefferson Bridge Road [S.C.R. 361A]) (911 Address: N/A) (Tax Map Parcel: 134-17.07-173.02)

Grant Requests

- 1. American Cancer Society, Inc. for their Relay for Life of Sussex County**
- 2. Western Sussex Chamber of Commerce for the 11th Annual Broad Creek Bike and Brew**
- 3. West Side New Beginnings, Inc. for Project Safety Street Lights**
- 4. Shoes That Fit for their Sussex County back to school program**
- 5. Clear Space Theatre Company for their Art Institute**
- 6. Delaware Botanic Gardens, Inc. for their Annual Fundraising dinner**
- 7. Delaware State College Alumni Association for their Band to the Beach program**

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

“AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,036,840 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”

Conditional Use No. 2364 filed on behalf of Seaford Community Energy Initiative, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS” (property lying on the east side of Conrail Road [S.C.R. 546] approximately 0.71 mile south of Hearn's Pond Road [S.C.R. 544]) (911 Address: N/A) (Tax Map Parcel: 331-3.00-138.00)

Conditional Use No. 2365 filed on behalf of Frankford Community Energy Initiative II, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS” (property lying on the east side of DuPont Boulevard [Rt. 113], approximately 250 feet south of Lazy Lagoon Road [S.C.R. 380]) (911 Address: N/A) (Tax Map Parcel: 533-4.00-23.00)

Change of Zone No. 1989 filed on behalf of Fernando Robles

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 ACRES, MORE OR LESS” (property lying on the northwest side of County Seat Highway [Rt. 9], approximately 0.85 mile southwest of DuPont Boulevard [Rt. 113]) (911 Address: 19724 Justin Drive, Georgetown) (Tax Map Parcel: 135-19.00-23.03 [p/o])

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 8, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036
Conference Code: 570176

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

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

##

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 1, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 1, 2023, at 1:00 p.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 371 23
Approve
Agenda**

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

Motion Adopted: 5 Yeas

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

Minutes

The minutes from July 18, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore reported a letter was received from Milton Community Food Pantry thanking Council for a donation.

**Public
Comments**

Public comments were heard.

Mr. Paul Reiger commented about the Planning and Zoning Commission appointments.

**Adminis-
trator's
Report**

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

1. Sussex County EMS earns Simulation Accreditation

Sussex County Emergency Medical Services has recently earned

**Administrator's
Report
(continued)**

accreditation from the Society for Simulation in Healthcare for its educational training program. They are the first EMS agency in the world to achieve the designation typically reserved for hospitals and medical schools. The certification means Sussex County Emergency Medical Services' high-fidelity training program meets or exceeds various standards established by the third-party Society for Simulation in Healthcare.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for June 2023 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of June.

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Baylis Estates – Phase 1C (Construction Record) effective June 23rd; Welches Pond (FKA – Fieldstone – The Grove at Love Creek) Phase 4A (Construction Record) and Phase 4B (Construction Record) effective July 12th; Heritage Shores – Phase 4F – (Q) (Construction Record) effective July 17th; Inland Bays Community effective July 21st and Osprey Point – Phase 6B (Construction Record) effective July 21st.

4. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, August 8th. The next regularly scheduled Council meeting will be held on Tuesday, August 15th at 10:00 a.m.

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

**Lochwood
Expansion
of SCUSSD**

Hans Medlarz, County Engineer presented an award recommendation for construction contract A and a recommendation to reject construction contract B for Lochwood Community area expansion of the SCUSSD for Council's consideration.

**M 372 23
Approve
Contract A/**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering

Lochwood Expansion of SCUSSD Department that contract S22-07 for the Lochwood Community area expansion, contract A, be awarded to Lindstrom Excavating, Inc. for their total bid of \$5,749,640.00, contingent upon USDA approval.

Motion Adopted: 5 Yeas

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

M 373 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it
Approve moved based upon the recommendation of the Sussex County Engineering
Revised Department, that the revised services agreement with Davis, Bowen &
Service Friedel be approved in the amount not to exceed \$554,000.00 for services
Agreement/ associated with Sussex County project S22-07, Lochwood Area Expansion,
DBF contingent upon approval by the USDA.

Motion Adopted: 5 Yeas

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

M 374 23 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it
Approve to moved based upon the recommendation of the Sussex County Engineering
Reject and Finance Department, that the bid for contract S22-07 for the Lockwood
Contract B/ community area expansion, contract B, be rejected and Council approve the
Lochwood advance sole source equipment procurement associated with contract B,
Expansion and re-bid said equipment installation.
of SCUSSD

Motion Adopted: 5 Yeas

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

SC WRF/ Hans Medlarz, County Engineer presented change order no. 24 for South
Project C19- Coastal WRF treatment process upgrade no. 3 and Rehoboth Beach WTP
17/CO No. capital improvement program, phase 2 for Council's consideration.
24

M 375 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it
Approve CO moved based upon the recommendation of the Sussex County Engineering
No. 24/ Department, that change order no. 24 for contract C19-17, SCRWF
Project treatment process upgrade no. 3 & RBWTP capital improvement program,
C19-17 phase 2 – electrical construction, be approved, for an aggregate increase of
\$66,523.68.

Motion Adopted: 5 Yeas

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

**Grant
Requests**

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

**M 376 23
Millsboro
Little
League**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Rieley's Councilmanic Grant Account) to Millsboro Little League for Senior Boys Eastern Regional Tournament.

Motion Adopted: 5 Yeas

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

**M 377 23
Nanticoke
River Arts
Council**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$1,000 (\$1,000 from Mr. Vincent's Councilmanic Grant Account) to Nanticoke River Arts Council for general operation support.

Motion Adopted: 5 Yeas

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

Mr. Hudson requested to defer action on the Lower Sussex Little League, Inc. for the Lower Sussex Junior Softball regionals in Connecticut grant application.

**M 378 23
Children's
Beach
House, Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$5,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$1,000 from Mr. Hudson's Councilmanic Grant Account, \$500 from Mr. Vincent's Councilmanic Grant and \$2,500 from Countywide Youth Grant Account) to Children's Beach House, Inc. for their Youth Development program.

Motion Adopted: 5 Yeas

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

**M 379 23
Ron G.
Williams
Foundation,
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500 (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Ron G. Williams Foundation, Inc. for the Delaware Law Enforcement Thank You Ride.

Motion Adopted: 5 Yeas

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

Introduction of Proposed Ordinances Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 ACRES, MORE OR LESS” filed on behalf of Lewes Saddle Ridge Solar 1, LLC.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR GREENHOUSES AND EMPLOYEE HOUSING BUILDINGS TO BE LOCATED ON A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 166.19 ACRES, MORE OR LESS” filed on behalf of Tijmen van den Bosch.

The Proposed Ordinances will be advertised for a Public Hearing.

Council Member Comments Mrs. Green followed up on Mr. Rieger’s previous comments. She commented that one thing mentioned by Mr. Rieger was that for the vote, there was a vacancy and a need to move the vote forward for Mr. Butler because there was a vacancy which she stated was not the case. She added that by law, Keller Hopkins would have been required to stay on there until the vote happened. In addition, Board of Adjustment, John Williamson in District 4 term is up. She added that it seems like there was a rush for one and the other is being delayed.

M 380 23 Go into Executive Session At 1:21 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 5 Yeas

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

Executive Session At 1:25 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 1:29 p.m.

M 381 23 Reconvene At 1:33 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas

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

E/S Action There was no action relating to Executive Session matters.

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

**Public Hearing/
CU2396** A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PERSONAL TRAINING & MARTIAL ARTS SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS” (property lying on the northeast side of Wilgus Cemetery Road [S.C.R. 381A], approximately 0.42 mile west of Bayard Road [S.C.R. 384]) (911 Address: 34615 Wilgus Cemetery Road, Frankford) (Tax Map Parcel: 533-6.00-115.08) filed on behalf of Noel Bowman

The Planning & Zoning Commission held a Public Hearing on the Proposed Ordinance on June 22, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the Proposed Ordinance for the 8 reasons and the 5 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the Proposed Ordinance.

The Council found that Mr. Noel Bowman spoke on behalf of his Application. Mr. Bowman stated that he has retrofitted out a pole building behind the house with wrestling mats and bags; that there is also an apartment side that he made into a gym area for personal training; that he and his wife are both certified personal trainers; that his wife is also a licensed physical therapy assistant; that the big building is used for martial arts training for children; that once every quarter they do a free women’s self defense class for the community; that adult martial arts classes are offered as well; that he has a few law enforcement students; that a boxing class is offered for people with Parkinson’s disease by his wife; that his wife also offers a balance class; that it is desired to run a mixed martial arts school and personal training facility to suit the needs for the community; that he is trained in several styles.

There were no public comments.

The Public Hearing and public record were closed.

M 382 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt
Adopt Ordinance No. 2944 entitled “AN ORDINANCE TO GRANT A

**Ordinance
No. 2944/
CU2396**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PERSONAL TRAINING & MARTIAL ARTS SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The use is for a personal training and martial arts school located on the property where the applicant resides.**
- 2. The use is small in nature and is very nearly a home occupation which would be a permitted use on this property.**
- 3. The Applicant has stated that he provides personal training and self-defense training to the public. In addition, the Applicant provides training to state and local police officers as well as local seasonal police officers.**
- 4. There is no excess noise generated by this use.**
- 5. The use will not adversely affect neighboring properties or roadways.**
- 6. The Applicant has stated that there will not be a firing range located on the premises and firearms will not be discharged on the premises.**
- 7. The use provides a needed service for residents of Sussex County, as well as local police departments. As a result, the use has a public or semi-public character.**
- 8. No parties appeared in opposition to the application.**
- 9. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to a personal training and martial arts school on the property.**
 - b. As stated by the Applicant, no firearms shall be discharged on the site as part of the school.**
 - c. All personal training and martial arts training shall conclude no later than 9:00 p.m. each evening.**
 - d. One lighted sign, no larger than 32 square feet in size on each side shall be permitted.**
 - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2400**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX

Public
Hearing/
CU2400
(continued)

COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS” (property lying on the east side of Kent Avenue [S.C.R. 361], approximately 350 feet north of Jefferson Bridge Road [S.C.R. 361A]) (911 Address: N/A) (Tax Map Parcel: 134-17.07-173.02) filed on behalf of Kent Walston, LLC

The Planning & Zoning Commission held a Public Hearing on the application on June 22, 2023. At the meeting of July 13, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 16 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Chris Pfeifer, P.E., with George, Miles & Buhr, LLC (GMB) spoke on behalf of the Applicant, Mr. Paul McCabe; that Mr. McCabe was also present along with Ms. Katja Kalinski, a Land Planner with George, Miles & Buhr, LLC. Mr. Pfeifer stated the site consists of a 1.37 acre parcel, located on Kent Avenue, adjacent to Bethany Beach; that the project seeks a Conditional Use for five townhome units; that the site is currently zoned MR (Medium Density Residential) and is located within the Coastal Area; that the Application went through the PLUS process; that they received the PLUS comments which are included in the packet; that the site is located within State Investment Level I, which are areas developed in an urban or suburban fashion, where infrastructure is existing and readily available, and future redevelopment and infill projects are expected and encouraged by State policy; that the project would be considered an infill project; that the site is surrounded by existing residential units; that the area to the north is within the Town of Bethany Beach, and zoned R2; that R2 zoning permits for one, two, three and four standard dwelling unit buildings; that directly adjacent to the north is the Bethany Proper community, which includes townhomes; that the 126 unit townhome community is located on a 14.28 acre parcel, which results in a density of approximately 8.5 units per acre; the area to the south is located within Sussex County, being mostly zoned MR (Medium-Density Residential); however, there is one parcel directly adjacent that is zoned HR (High Density Residential); that the Application seeks five townhome units with garages, to be located on the 1.37 acre parcel; that this would result in a density of 3.67 units per acre; that the project would have a shared driveway off Kent Avenue; that stormwater management will be designed to meet the requirements of Sussex Conservation District; that they did hold a pre-application meeting with Sussex Conservation District on July 21st, 2021; that there is public water readily available from Bethany Beach; that public sewer is provided by Sussex County; that an entrance is proposed off Kent Avenue, which is a DelDOT major collector road; that the entrance design would be coordinated with all DelDOT rules, regulations, review and approval; that a Traffic Impact Study (TIS) was not required because it is anticipated that less than 500 vehicle trips would be generated per day; that an environmental assessment report was prepared and submitted; that an Environmental Assessment was completed by Environmental Resources, Inc.; that a Public Facilities Evaluation Report was prepared by GMB, LLC; that there were no threatened or endangered species found on the site; the

**Public
Hearing/
CU2400
(continued)**

Environmental Resources, Inc. (ERI) also preformed site investigations in early 2022, and no State regulated or title wetlands are located on the property; that there are no anticipated impacts to federally regulated wetlands; that the open space would be under the proposed condominium regime; that there is public sewer and water available at the entrance of the site; that the condominium would maintain the ownership of all the interior utilities as well as the shared driveway; that some of the economic benefits of the site is the proposed use would be an infill development for a parcel that is currently vacant; that per the Sussex County Comprehensive Plan, the site is located within State Investment Level 1, falling within the Coastal Area, which is a designated growth area, and the proposed project is consistent with the Comprehensive Plan.

Public comments were heard.

Mr. Bill Lindlaw, President of Bethany Proper Townhomes Association came forward to speak in opposition of the application. Mr. Lindlaw stated that the buildings are built exactly on the property line; that they were built 40 years ago; that they are right on the property line as it was determined when this project first started; that there is no buffer on the property line; that Wilgus developed the property; that there is a bad water problem for the four units behind this site; that the runoff runs directly into the houses crawlspaces; that the buffer that was approved is 20 feet; that most of the buffer along the edge is shrubs; that the trees further are planned to be removed; that it is believed that the water issue will become worse; that he does not like the fact that the buffer is only 20 feet away; that he would like to see the buffer moved back; that it was thought that the buffer was going to be 30 feet; that the drawings show the houses right on the property line; that they would like to see more of a buffer and they believe that it can be moved more towards the front of the property.

Mr. Thomas Fise spoke in opposition of the application; that he owns property near the proposed development; that he is speaking in opposition on behalf of his family, himself and 28 residents of Argyle and Ocean Pines Lane community; that he submitted a written statement and photos; that there are three concerns; that he worked with the Commission in the past in regards to CU2279; that the CU in that case was not granted; that the proposed property has similar road frontage on Kent Avenue; that the frontage requirements are in Section 115-34; that during previous hearings for the prior CU, five long-term residents of Argyle Lane and Ocean Pine Lane presented testimony addressing traffic on Jefferson Bridge Road; that the traffic often stretches all the way to Ocean Highway; that within the past two weeks, he has witnessed traffic backed up to Garfield; that south to north traffic has been backed up extending over one mile; that there are continuous drainage issues; that he has submitted some photos from a recent storm showing the issue; that he requests denial of the proposed application.

The Public Hearing and public record were closed.

**M 383 23
Defer
Action/
CU2400**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2403**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1492 (ORDINANCE NO. 1653), RELATING TO CONTRACTING WORK, OFFICE WORK, AND GENERAL BUSINESS TO BE CONDUCTED ON THE SITE, AND ALSO RELATING TO OCCUPANCY OF THE UNITS AS A PRINCIPAL PLACE OF BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.80 ACRES, MORE OR LESS” (property lying on the south side of Lighthouse Road [Rt. 54], approximately 0.41-miles northwest of Dickerson Road [S.C.R. 389]) (911 Address: 38288 London Avenue Unit 51, Selbyville) (Tax Map Parcel: 533-18.00-61.01 [p/o]) filed on behalf of Beach Buggies, LLC

The Planning & Zoning Commission held a Public Hearing on the application on June 22, 2023. At the meeting of July 13, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and subject to the 2 recommended revised conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Joseph Tribull spoke on behalf of his Application. Mr. Tribull stated he represented his family business, Beach Buggies, LLC; that their business buys, sells, and services golf carts; that they are located in the Williamsville Industrial Park; that they sell golf carts and help fix golf carts for residents in the area; that the area is a commercial-type setting, with commercial properties around it; that there are multiple businesses located at the industrial park; that the business does reside within Williamsville Industrial Park at 3288 London Avenue, Selbyville, Units 50 through 53; that Unit 51 is the main unit and entrance; that they are all connected inside; that it is 4,000 square feet; that other businesses in the area include Sweet Disposition Bakery and a thrift shop.

There were no public comments.

The Public Hearing and public hearing were closed.

**M 384 23
Adopt
Ordinance
No. 2945
/CU2403**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2945 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1492 (ORDINANCE NO. 1653), RELATING TO CONTRACTING WORK, OFFICE WORK, AND GENERAL BUSINESS TO BE CONDUCTED ON THE SITE, AND ALSO RELATING TO OCCUPANCY OF THE UNITS AS A PRINCIPAL PLACE OF BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.80 ACRES, MORE OR LESS” for the reasons and amended conditions given by the Planning and Zoning Commission as follows:

- 1. Ordinance No. 1653 for Conditional Use No. 1492 was approved by Sussex County Council on January 6, 2004, to allow warehousing on the subject property along Route 54.**
- 2. At the time the original Conditional Use was approved, Condition No. 1 stated that “The Project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats or RVs, within the project.” In addition, Condition No. 2 stated that “There shall be no contracting work, office work or general business conducted on the site, and none of the units shall be occupied as the principal place of business by tenants, or owners of the units.”**
- 3. This area of Sussex County has evolved since the original Conditional Use was approved in 2004. Since then, the Bayside project has been approved and is nearly built out, along with other large residential projects in the area. In addition, there are other commercially zoned properties adjacent to this site and in the immediate area. The limitations on the use contained in Conditions 1 and 4 of the Ordinance no longer apply with respect to this site.**
- 4. The Conditional Use has developed on this site with several warehouse buildings. It is appropriate to eliminate Conditions 1 and 4 of the Ordinance to allow retail and commercial sales to occur throughout the entire area of the Conditional Use.**
- 5. No parties appeared in opposition to this application, and several people testified in favor of it. The owner of the entire Conditional Use site also appeared and testified in support of the request.**
- 6. Revising the Conditions of Approval to permit retail sales is appropriate given the way in which this project has developed and the way in which the surrounding area has developed since 2004. For all of these reasons, these two conditions should be revised so that they now state:**

Condition No. 1: “This project shall be used for warehousing,

**M 384 23
Adopt
Ordinance
No. 2945
/CU2403
(continued)**

**wholesale, and retail sales purposes only. Outdoor storage shall be limited to the retail or wholesale uses occurring within the project. There shall not be any other outside storage within the project.”
Condition No. 4: “There shall be no contracting or construction work conducted on the site.”**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CZ1988**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRE, MORE OR LESS” (property lying on the west side of Delaware Drive [S.C.R. 16C], approximately 566 feet south of Hickman Road [Rt. 16]) (911 Address: N/A) (Tax Map Parcel: 530-9.00-57.03) filed on behalf of Jeffrey and Linda Babinski

The Planning & Zoning Commission held a Public Hearing on the application on June 22, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Jeffery Babinski spoke on behalf of his Application. Mr. Babinski stated he resides on a property adjacent to the site; that the property is located along a short, dead-end road, just outside the Town of Greenwood; that he and his wife purchased the property, to allow their daughter to live adjacent to them, and their daughter wants to place a single-wide manufactured home to live in.

There were no public comments.

The Public Hearing and public record were closed.

**M 385 23
Adopt
Ordinance
No. 2946/
CZ1988**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2946 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRE, MORE OR LESS” for the reasons given by the

**M 385 23
Adopt
Ordinance
No. 2946/
CZ1988
(continued)**

Planning and Zoning Commission as follows:

- 1. Given the small size of the property, the Change in Zone to GR will not allow for any expansive or intensive uses on the property.**
- 2. The site is very close to the municipal boundaries of the Town of Greenwood.**
- 3. The Applicant seeks to rezone this property to place a single-wide manufactured home on the property.**
- 4. The Change of Zone to GR will not adversely affect neighboring properties or area roadways. The Applicant has stated that the roadway currently does not have a lot of traffic, and any development of this property will not generate significant additional traffic.**
- 5. Several neighbors appeared and testified in favor of this rezoning.**
- 6. No parties appeared in opposition to the Application.**

Motion Adopted: 5 Yeas

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

**M 386 23
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 2:16 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Memorandum

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

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

RE: *Existing Wastewater Infrastructure Use Agreement
Suncrest (Marsh Homestead) IUA-1013-1
File: OM 9.01*

DATE: August 15, 2023

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of “oversizing” credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **WV3, LLC** for the **Suncrest** project in the **Angola Neck Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Suncrest** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **WV3, LLC** will contribute **\$38,371.00** for the financial catch-up contribution of the existing infrastructure to serve **36.00** Equivalent Dwelling Units. Payment of the contribution will be required prior to substantial completion of on-site collection system. System Connection Charges in place at the time of building permit request will still apply.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Suncrest (Marsh Homestead) – IUA 1013-1

THIS AGREEMENT (“Agreement”), made this _____ day of _____ 2023, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

WV3, LLC., a Delaware Limited Liability Corporation and developers of a project known as **Suncrest (Marsh Homestead)**, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcels 234-12.00-22.31 to be known as **Suncrest** (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to **36.00** additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of **\$38,371.00** for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution is required prior to receiving beneficial acceptance of the projects on-site collection system.**

- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases, or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance

of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented, or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire, and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties, or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.

Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **20288 Asphalt Alley, Georgetown, Delaware 19947.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR WV3, LLC

By: _____ (Seal)
Fletcher Kenton - Authorized Signatory

_____ (DATE)

WITNESS: _____

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & BUSINESS 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) 855-7773



Sussex County

DELAWARE
sussexcountyde.gov
HANS M. MEDLARZ, P.E.
COUNTY ENGINEER
ROBERT L. BRYANT, A.A.E.
AIRPORT MANAGER

MEMORANDUM

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

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

DATE: August 15, 2023

REFERENCE: DELTA AIRPORT CONSULTANTS' TASK ORDER FOUR (4) CONSTRUCT PARALLEL TAXIWAY B – PHASE 1 (DESIGN PHASE)

The Engineering Department, on behalf of the Delaware Coastal Airport, is seeking approval by the Sussex County Council for an “authority to sign” Delta Airport Consultants, Inc., Task Order Four (4) for work associated with Construction of a New Parallel Taxiway Bravo (B) – Phase 1 (Design through Bidding Phase). County Administration has received and has executed a Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grant in the amount of \$427,500 which will pay 90% of the total project cost of \$475,000. Sussex County is responsible to pay the remaining \$47,500 of the total project cost of \$475,000.

As a reminder, the Overall Development Objective “Construct Parallel Taxiway B” project is a multi-year, multi-phased, Capitals project. The FAA has instructed Sussex County to submit separate AIP applications for each of the six (6 multi-years) anticipated Capitals (multi-phases). This Phase – 1 will cover costs associated with the Design through Bidding of the middle, one-half, of the overall project. Then in Federal Fiscal Year (FFY) 2024, Sussex County will submit a second AIP application and in FFY 2025 will submit a third AIP application with will pay the cost associated with construction of that middle, one-half, of the Parallel Taxiway B project. Beginning in FFY 2026, 2027 and 2028, Sussex County will repeat the identical process to complete the construction of the entire Parallel Taxiway B project.

The “Construct Parallel Taxiway B - Phase 1 (Design Phase)” project is an approved Sussex County Capital Improvement Project and was included in the Council approved Delaware Coastal Airport Fiscal Year (FY) 2023 Capital Improvement Budget. “Construct Parallel Taxiway



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

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

FFY-2023	Phase 1 (Design through Bidding Phase)	\$475,000
FFY 2024	Phase 2 (Construction)	\$3,000,000 (est.)
FFY 2025	Phase 3 (Construction)	\$3,100,000 (est.)

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

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

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

The County selected Delta Airport Consultants in 2020 to provide engineering services for all airport projects over a five-year period which included the Construct Parallel Taxiway B project.

The Airport Manager, in coordination with the Engineering Department recommends approval of the Delta Airport Consultants’ Task Order Four (4) Construct Parallel Taxiway B – Phase 1 (Design Phase), in the amount of \$475,000.

Cc: Todd F. Lawson, County Administrator
Hans Medlarz, P.E., County Engineer
J. Mark Parker, P.E., Assistant County Engineer

Attachments:

- Delta Airport Consultants Task Order Four (4)
- Construct Parallel Taxiway B Exhibit 1 (Phase -1) Design
- Construct Parallel Taxiway B Exhibit 2 (Phase -2 and Phase -3) Construction
- Sussex County FY 2023 Airport Capital Improvement Budget
- Sussex County FY 2024 Airport Capital Improvement Budget
- Federal Aviation Administration Airport Improvement Program Grant Offer (SIGNED)
- Federal Aviation Administration Airport Improvement Program Grant Assurances



Email Only

May 2, 2023

Mr. Robert L. Bryant, A.A.E.
Airport Manager
Delaware Coastal Airport
21553 Rudder Lane
Georgetown, Delaware 19947

Subject: Task Order No. Four (4)
Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Sussex County, Delaware
AIP Project No. Pending

Dear Mr. Bryant:

Please find enclosed Delta's proposed Task Order No. Four (4) to our Agreement for Professional Services between Sussex County, Delaware and Delta Airport Consultants, Inc. The Task Order provides Design and Bidding services for the Construct Parallel Taxiway B - Phase I project.


The total fee for this phase is outlined below:

Phase	Amount
Design Through Bidding Phase	\$445,000.00

If the Task Order is acceptable to the Owner, one (1) unsigned copy should be forwarded to the FAA for review and approval. Upon approval by the FAA, please return one (1) executed copy of the Task Order for our files.

If you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,



David W. Jones, P.E., C.M.
Project Manager

DWJ:bkh
Enclosures: 1. Task Order No. Four (4)
Reference: Delta Project No. 22033

**TASK ORDER NO. FOUR (4)
PROFESSIONAL SERVICES AGREEMENT**



**DELTA AIRPORT
CONSULTANTS, INC.**

PROJECT: Construct Parallel Taxiway B - Phase I

AIRPORT: Delaware Coastal Airport

DELTA PROJECT NO.: 22033

DATE OF ISSUANCE: May 2, 2023

ATTACHMENTS: 1) Scope of Services (4 Pages)
2) Estimated Plan Sheets (2 Pages)
3) Rate Schedule

METHOD OF PAYMENT: Design through Bidding - Unit Price + Fixed Fee

TASK ORDER AMOUNT: \$ 445,000 Not-to-Exceed

PROJECT DESCRIPTION:

- Construct Parallel Taxiway B
- Design and Contract Documents for Phases II and III - Construction
- Bidding Services for Phase II - Construction
- DBE Plan Update

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

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

ACCEPTED: Digitally signed by
Douglas E Sander
Date: 2023.05.02 14:30:05
by: _____
-04'00'

Douglas E. Sander, P.E.
Vice President
Delta Airport Consultants, Inc.
3544 North Progress Avenue
Suite 200
Harrisburg, PA 17110

APPROVED:

by: _____

Michael Vincent
Council President
Sussex County, Delaware
2 The Circle
P.O. Box 589
Georgetown, DE 19947

Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

PHASE	DETAILED TASKS
SCHEMATIC DESIGN (SD)	Scope of Services and Contract Scoping Coordination / Meeting (1) Grant Applications and Funding Assistance CATEX Environmental Preparation DBE Plan Assistance Pre-Design Meeting (1) Phasing Alternatives Pavement Analysis & Alternatives Concept Geometrics Concept Grading Concept Drainage & SWM (By Owner) Concept Estimates Owner Coordination FAA Coordination and Documentation Coordinate Subconsultants Design Team Site Visits (1)

Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

PHASE	DETAILED TASKS
DESIGN DEVELOPMENT (DD)	Final Pavement Design Final Geometrics Prelim Grading Prelim Plan and Profile Prelim Drainage & SWM (By Owner) Prelim Erosion & Sediment Control (By Owner) Prelim Electrical & Lighting Control Prelim Phasing Plan Prelim Estimates Owner Coordination FAA Coordination and Documentation Coordinate Subconsultants Preliminary Design Report Agency / Owner Coordination Meetings (1) Outline Specifications

Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

PHASE	DETAILED TASKS
CONSTRUCTION DOCUMENTS (CD)	Final Grading
	Final Drainage & SWM (By Owner)
	Final Erosion & Sediment Control (By Owner)
	Final Electrical & Lighting Control
	Final Phasing Plan
	CSPP Document and FAA 7460 Forms
	Final Estimates
	Owner Coordination
	FAA Coordination and Documentation
	Coordinate Subconsultants
	Final Design Report
	Drainage & SWM Calculations Report (By Owner)
	Agency / Owner Coordination Meetings (1)
	Final Specifications
	Quality Control and Design Review
	Review Comment Responses
	Bid Package Splits
Print, Seal, & Coordinate Signature Sets	
Reimbursement Requests (10)	

Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

PHASE	DETAILED TASKS
BIDDING (BD)	Bid Preparation, Advertisement, Distribution Pre-Bid Meeting (1) Bidder Questions, Answers, & Addenda Bid Opening (1) Bid Tabulation Coordinate Award

ITEMS NOT INCLUDED IN SCOPE: Construction Phase Services
Stormwater/ESC Design and Review Coordination (By Owner)
Environmental Mitigation
ALP Update
Bidding Advertisement Fees
Permit Review Fees
Bidding for Bid Package 2 (to be included in future proposal)
Design or Bidding for Bid Packages 3 or 4 (future proposal)



Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

		Base Scope	Design Development	Construction Documents
DISCIPLINE	SHEET DESCRIPTION	# OF SHEETS	SHEETS INCLUDED	
GENERAL	Cover Sheet	2	•	•
	Summary of Quantities	2		•
	Bid Alternates Overview & Description	2		•
	General Layout	1	•	•
	General Notes	1	•	•
PHASING	Phasing Overview	1	•	•
	Phasing and Work Area Layout	2	•	•
	Phasing Notes	2	•	•
	Phasing Details	1	•	•
CIVIL	Existing Conditions Layout	6	•	•
	Demolition, Milling, Repair Layout	6	•	•
	Geometric Layout	6	•	•
	Grading & Paving	6	•	•
	** Drainage & Stormwater Layout	6	•	•
	** Erosion & Sediment Control Layout	6	•	•
	** Erosion & Sediment Control Notes	1	•	•
	** Erosion & Sediment Control Details	1	•	•
	** Drainage Details	1	•	•
	** Drainage Profiles	1	•	•
	Typical Sections	1	•	•
	Pavement Details	1	•	•
	Pavement Tie-In & Transition Details	1	•	•
	Marking Layout	2	•	•
	Marking Details	1		•
	Miscellaneous Details	1		•
Centerline Profiles	6	•	•	
Cross Sections	8		•	

**ATTACHMENT 2
ESTIMATED PLAN SHEETS**



**DELTA AIRPORT
CONSULTANTS, INC.**

Construct Parallel Taxiway B - Phase I
Delaware Coastal Airport
Delta Project No. 22033

May 2, 2023

		Base Scope	Design Development	Construction Documents
DISCIPLINE	SHEET DESCRIPTION	# OF SHEETS	SHEETS INCLUDED	
ELECTRICAL	Electrical Layout	6	•	•
	Electrical Details	1	•	•
	Sign Schedule	1	•	•
	Trench Details	1	•	•
	Manhole & Pullcan Details	1	•	•
	Electrical Vault Equipment Layout	1	•	•
	Electrical Vault Schedules	1	•	•
	Electrical Vault Details	1	•	•
GRAND TOTAL		88		
** <i>Denotes plans by Owner</i>				

PROJECT COST SUMMARY - GRANT APPLICATION

CONSTRUCT PARALLEL TAXIWAY B – PHASE I

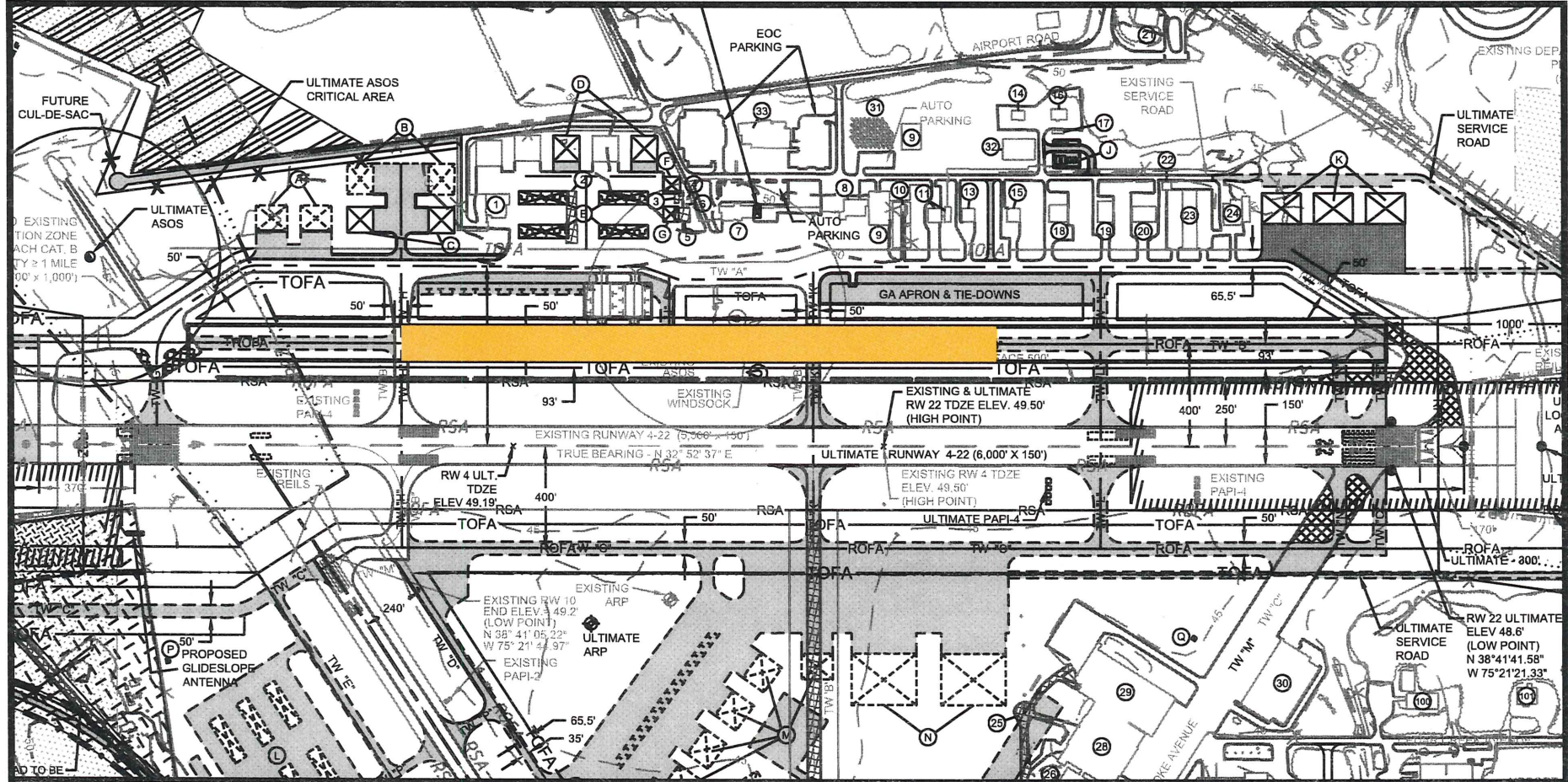
DELAWARE COASTAL AIRPORT
SUSSEX COUNTY, DELAWARE

AIP PROJECT NO. 3-10-0007-PENDING
STATE PROJECT NO. PENDING
DELTA PROJECT NO. 22033

GRANT AMOUNT	
FEDERAL (90%)	\$427,500.00
LOCAL (10%)	\$47,500.00
TOTAL	\$475,000.00

DATE: May 5, 2023

LINE	CLASSIFICATION	BUDGET AMOUNT	COST TO DATE	% COMP
a.	ADMINISTRATION			
	Bid Advertisement	\$2,000.00	\$0.00	0%
	Independent Fee Estimate	\$4,000.00	\$0.00	0%
	Permitting Fees	\$24,000.00	\$0.00	0%
	Subtotal:	\$30,000.00	\$0.00	0%
d.	ENGINEERING FEES			
	Design and Bidding Phase Services - Delta Task Order #4	\$445,000.00	\$0.00	0%
	Subtotal:	\$445,000.00	\$0.00	0%
	PROJECT TOTAL:	\$475,000.00	\$0.00	0%
	FEDERAL (90%):	\$427,500.00	\$0.00	0%
	LOCAL (10%):	\$47,500.00	\$0.00	0%



LEGEND

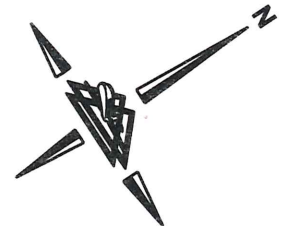


PHASE I - CONSTRUCT PARALLEL TAXIWAY "B" (DESIGN)
(APPROX. 2,300' X 50')

600 0 600 1200



SCALE: 1"=600' FEET



www.deltaairport.com

CONSTRUCT PARALLEL TAXIWAY "B" DELAWARE COASTAL AIRPORT

EXHIBIT

1

DRAWN BY:

CHW

CHECKED BY:

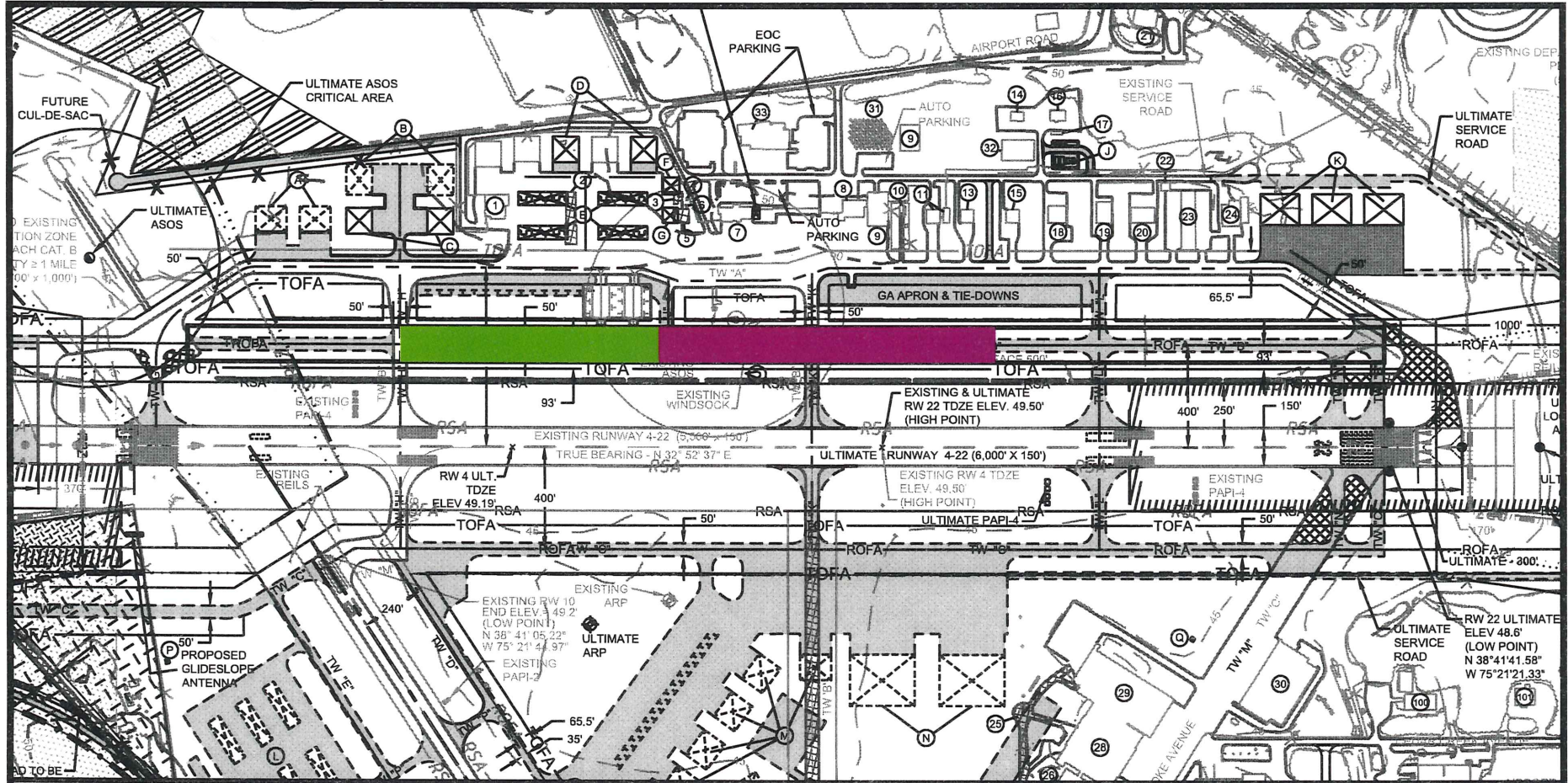
DWJ

SCALE:

1" = 600'

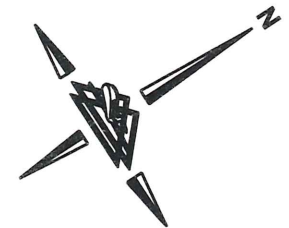
DATE:

JANUARY 2023



LEGEND

- PHASE II - CONSTRUCT PARALLEL TAXIWAY "B"
(CONSTRUCTION) (APPROX. 1,300' x 50')
- PHASE III - CONSTRUCT PARALLEL TAXIWAY "B"
(CONSTRUCTION) (APPROX. 1,000' x 50')



CONSTRUCT PARALLEL TAXIWAY "B" DELAWARE COASTAL AIRPORT

EXHIBIT
2



www.deltaairport.com

DRAWN BY:

CHW

CHECKED BY:

DWJ

SCALE:

1" = 600'

DATE:

JANUARY 2023

**TASK ORDER NO. 4
DESIGN AND BIDDING SERVICES**

for

CONSTRUCT PARALLEL TAXIWAY B – PHASE I

**DELAWARE COASTAL AIRPORT
SUSSEX COUNTY, DELAWARE**

DELTA PROJECT NO. 22033

MAY 2023

Scope of Work

The overall project includes the design and construction of parallel Taxiway B for the full length on the west side of primary Runway 4-22 (approx. 4,500' x 50'). It also includes the associated drainage, SWM, lighting and marking.

The Phase I Design and Bidding Contract will focus on the portion of the new Taxiway B from Taxiway H to the North end of the GA Apron Expansion (approx. 2,300' x 50'), however the remaining 2,200' of taxiway to be constructed in a future project will have to be reviewed during schematic design of this phase to verify grades and profiles can be achieved in the next phase in accordance with FAA standards.

Currently there is a parallel taxiway to Runway 4-22, however the majority of the existing taxiway extends through the terminal area apron and restricts the use of the apron for parking aircraft. A properly separated parallel taxiway was started at the RW 4 end of RW 4-22 when the runway was extended. The purpose of this project is to design and construct another segment of the parallel taxiway at the same alignment to eliminate traffic from taxiing through the apron area as is the case today. This will improve the safety and efficiency of operations at the Airport. Additionally, the parallel taxiway will allow the terminal area to be expanded in the future as shown on the approved ALP.

The project is to include the following:

1. Design and Bidding Phase Services
2. Design Ground Surveys
3. Design Geotechnical Investigations
4. Stormwater/ESC Review Coordination and Permitting
5. DBE Plan Update

Services not included are:

1. Construction Phase Services
2. Environmental Mitigation
3. ALP Update

CONSTRUCT PARALLEL TAXIWAY B – PHASE I

**DELAWARE COASTAL AIRPORT
SUSSEX COUNTY, DELAWARE**

DELTA PROJECT NO. 22033

Project Schedule	
Grant Offer and Execution	July 1, 2023
Notice to Proceed to A/E Firm	July 1, 2023
Final Review Documents	March 31, 2024
Grant Closeout	July 31, 2024

FINAL BUDGET REQUESTS

BUDGET PROJECTION 20235 Master budget with 3% addition

ORG	OBJECT PROJ	ACCOUNT DESCRIPTION	CURRENT ADJ BUDGET	PROJECTED ACTUAL	FINAL	PERCENT CHANGE
3100010	57200	Improvements	12,406,000.00	6,857,500.00	8,650,000.00	-30.28
	31.000.00.10.0.57200	LAND ACQ & IMPROVEMENTS	1.00	6,000,000.00	6,000,000.00	
		Administration parking	1.00	2,000,000.00	2,000,000.00	
		Admn Building Improvements	1.00	650,000.00	650,000.00	
3100015	57200	Improvements	3,000,000.00	3,000,000.00	300,000.00	-90.00
	31.000.00.15.0.57200	Western Sussex Data Center	1.00	300,000.00	300,000.00	
3100020	57200	Improvements	6,700,000.00	6,700,000.00	8,800,000.00	31.34
	31.000.00.20.0.57200	Medic Station design & start construction	1.00	1,500,000.00	1,500,000.00	
		Paramedic Headquarters (50% of projected build)	1.00	7,300,000.00	7,300,000.00	
3100021	57200	Improvements	.00	.00	.00	.00
	31.000.00.21.0.57200					
3100030	57200	Improvements	450,000.00	450,000.00	600,000.00	33.33
	31.000.00.30.0.57200	Land	1.00	250,000.00	250,000.00	
		Clean Water Enhancement	1.00	350,000.00	350,000.00	
3100050	57200	Improvements	.00	.00	215,000.00	.00
	31.000.00.50.0.57200	South Coastal Front Sidewalks (Capital fund)	1.00	50,000.00	50,000.00	
		Capital Fund item entered here as a placeholder for the budget hearing. Facilities manager quoted cost of \$30-50,000 for repair.				
		South Coastal HVAC System repair/replacement	1.00	75,000.00	75,000.00	
		Capital Fund item entered here as a placeholder for the budget hearing. Facilities manager quoted cost of \$75,000 for repair/replacement.				
		Milton Sidewalk Repair (Capital Fund)	1.00	50,000.00	50,000.00	
		Capital Fund item entered here as a placeholder for the budget hearing. Repair of Milton Library's front (concrete) and side (brick) sidewalks. Cost quoted by Facilities Manager Updated 3/24/22 per MP				
		Repair and replace sidewalk at rear of building.	1.00	40,000.00	40,000.00	
		Per Building and Grounds Manager, repair is necessary for the safety of the public.				

FINAL BUDGET REQUESTS

BUDGET PROJECTION 20235 Master budget with 3% addition

ORG	OBJECT PROJ	ACCOUNT DESCRIPTION	CURRENT ADJ BUDGET	PROJECTED ACTUAL	FINAL	PERCENT CHANGE
3100060	57200	Improvements	8,750,000.00	9,858,088.74	9,805,000.00	12.06
		31,000.00, 60.0, 57200				
		Rwy 4-22 parallel Taxiway B 90% 5%	1.00	450,000.00	450,000.00	
		Water Plant Improvements with Artesian Interconnect	1.00	500,000.00	500,000.00	
		Pavement Improvements	1.00	300,000.00	300,000.00	
		Business Park Improvements	1.00	1,890,000.00	1,890,000.00	
		T-Hangar (9-Unit) Construction Construct one set of new T-Hangars for housing GA Aircraft	1.00	775,000.00	775,000.00	
		Land Acq. & Improvements	1.00	250,000.00	250,000.00	
		Interconnection Sewer (Artesian)	1.00	2,000,000.00	2,000,000.00	
		General Aviation Apron 100% FAA	1.00	1,600,000.00	1,600,000.00	
		Well & Pump	1.00	40,000.00	40,000.00	
		Refurbish 2nd water well and replace well pump Per Parker Burdell	1.00	1,500,000.00	1,500,000.00	
		Storm water Improvements - Eil walls	1.00	500,000.00	500,000.00	
		Baltimore Ave improvements Airport	1.00	500,000.00	500,000.00	
		BUDGET CEILING:			31,306,000.00	
		TOTALS:	31,306,000.00	26,865,588.74	28,370,000.00	-9.38

** END OF REPORT - Generated by Kathy L. Roth **

FINAL BUDGET REQUESTS

BUDGET PROJECTION 20241 Master Budget

ORG	OBJECT PROJ	ACCOUNT DESCRIPTION	CURRENT ADJ BUDGET	PROJECTED ACTUAL	FINAL	PERCENT CHANGE
3100060	57200	Improvements	9,805,000.00	7,008,402.07	6,838,000.00	-30.26
		31,000.00.60.0.57200				
		Rwy 4-22 parallel Taxiway B (phase 1 of 7)	1.00	3,250,000.00	3,250,000.00	
		90% 10%				
		Pavement Improvements	1.00	100,000.00	100,000.00	
		Business Park Improvements	1.00	80,000.00	80,000.00	
		T-Hangar (9-Unit) Construction Bldg #2	1.00	268,000.00	268,000.00	
		Construct one set of new T-Hangars for housing GA Aircraft This is half of the total expected cost of the project.				
		Land Acq. & Improvements	1.00	100,000.00	100,000.00	
		Interconnection Sewer	.00	.00	.00	
		Project completed				
		General Aviation Apron	.00	.00	.00	
		Project completed				
		Well & Pump	1.00	40,000.00	40,000.00	
		Refurbish 2nd water well and replace well pump Per Parker Burdell				
		Storm water Improvements - Eil walls	1.00	2,000,000.00	2,000,000.00	
		Baltimore Ave improvements	.00	.00	.00	
		Completed				
		Extend Runway 4 Env Assessment Phase 1 Subject to FAA Approval	1.00	700,000.00	700,000.00	
		Extend Runway 4 Preliminary Design Phase 2 Subject to FAA Approval	1.00	300,000.00	300,000.00	
		BUDGET CEILING:			9,805,000.00	
		TOTALS:	9,805,000.00	7,008,402.07	6,838,000.00	-30.26

** END OF REPORT - Generated by Kathy L. Roth **



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Eastern Region
Delaware, Pennsylvania, New Jersey

FAA, Harrisburg ADO
3905 Hartzdale Dr, Ste 508
Camp Hill, PA 17011
717-730-2830

July 12, 2023

Mr. Robert Bryant
Sussex County Delaware
Delaware Coastal Airport
P.O. Box 589
Georgetown, DE 19947
robert.bryant@sussexcountyde.gov

Dear Mr. Bryant:

We are transmitting to you for execution the Grant Offer for Airport Improvement Program (AIP) Grant 3-10-0007-040-2023 at Delaware Coastal Airport in Georgetown, Delaware. This letter outlines expectations for success. Please read the conditions, special conditions, and assurances carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process.
6. Signatures must be obtained and finalized no later than **August 11, 2023**. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi invoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

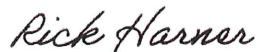
Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Mr. Timothy DeWire, timothy.p.dewire@faa.gov, is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,



Rick Harner
Manager

Enclosure

cc: Timothy DeWire, HARADO



U.S. Department of Transportation
Federal Aviation Administration

FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM

FY 2023 Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	<u>July 12, 2023</u>
Airport/Planning Area	<u>Delaware Coastal Airport</u>
FY2023 AIP Grant Number	<u>3-10-0007-040-2023</u>
Unique Entity Identifier	<u>QNNDLPJD39L4</u>

TO: Sussex County, Delaware
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated May 5, 2023, for a grant of Federal funds for a project at or associated with the Delaware Coastal Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Delaware Coastal Airport (herein called the "Project") consisting of the following:

Construct Taxiway B (Design), Phase I

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance

of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **\$427,500.**

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$ 0 for planning;

\$ 427,500 airport development or noise program implementation; and,

\$ 0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

- c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of

the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before **August 11, 2023**, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

17. **Build America, Buy America.** The Sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:

- a. May not be increased for a planning project;
- b. May be increased by not more than 15 percent for development projects if funds are available;

- c. May be increased by not more than the greater of the following for a land project, if funds are available:
 1. 15 percent; or
 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. Audits for Sponsors.

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. Suspension or Debarment. When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debar a contractor, person, or entity.

21. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any

work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. *Posting of contact information.*
 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph (a) of this Grant Condition; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - a) Associated with performance under this Grant; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.
- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –

1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - i. Associated with performance under this Grant; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. “Force labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. “Private entity”:
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:
 - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).

b) A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

23. **AIP Funded Work Included in a PFC Application.** Within 90 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated July 15, 2014, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
25. **Employee Protection from Reprisal.**
- a. Prohibition of Reprisals
1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
- b. Investigation of Complaints.
1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
- c. Remedy and Enforcement Authority.

1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.
27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in their project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.

SPECIAL CONDITIONS

28. **Design Grant.** This Grant Agreement is being issued in order to complete the design of the project. The Sponsor understands and agrees that within 2 years after the design is completed that the Sponsor will accept, subject to the availability of the amount of Federal funding identified in the Airport Capital Improvement Plan (ACIP), a grant to complete the construction of the project in order to provide a useful and useable unit of work. The Sponsor also understands that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the FAA may suspend or terminate grants related to the design.
29. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
30. **Unsigned Negotiated Agreement.** It is understood and agreed by the parties hereto, that this Grant is being issued on the basis of a preliminary agreement. It is further understood and agreed that the Federal Aviation Administration (FAA) will not concur with the issuance of a Notice to Proceed or approve any federal payments until the executed Negotiated Agreement has been submitted to and approved in writing by the Harrisburg Airports District Office.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

Rick Harner

(Signature)

Rick Harner

(Typed Name)

Manager, Harrisburg ADO

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated July 17, 2023

Sussex County, Delaware

(Name of Sponsor)

Todd F. Lawson

Todd F. Lawson (Jul 17, 2023 08:16 EDT)

(Signature of Sponsor's Authorized Official)

By: Todd F. Lawson

(Typed Name of Sponsor's Authorized Official)

Title: Sussex County Administrator

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, J. Everett Moore, Jr , acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Delaware . Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at July 17, 2023

J. Everett Moore, Jr
By: J. Everett Moore, Jr (Jul 17, 2023 09:27 EDT)
(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

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

B. Duration and Applicability.

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

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

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

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

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

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

1. General Federal Requirements

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

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.¹
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

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

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4,5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice For Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹

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

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

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

2. Responsibility and Authority of the Sponsor.**a. Public Agency Sponsor:**

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

b. Private Sponsor:

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

3. Sponsor Fund Availability.

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

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or

document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

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

7. Consideration of Local Interest.

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

8. Consultation with Users.

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

9. Public Hearings.

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

10. Metropolitan Planning Organization.

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

11. Pavement Preventive Maintenance-Management.

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

12. Terminal Development Prerequisites.

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

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

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

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

15. Veteran's Preference.

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

16. Conformity to Plans and Specifications.

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

17. Construction Inspection and Approval.

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

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

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

19. Operation and Maintenance.

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

20. Hazard Removal and Mitigation.

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

21. Compatible Land Use.

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

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

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

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

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95
 - b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

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

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

28. Land for Federal Facilities.

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

29. Airport Layout Plan.

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

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The

sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

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

30. Civil Rights.

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

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is

to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The (**Sussex County, Delaware**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other

participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

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

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of May 5, 2023.

35. Relocation and Real Property Acquisition.

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

36. Access By Intercity Buses.

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

37. Disadvantaged Business Enterprises.

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

38. Hangar Construction.

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

39. Competitive Access.

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

Application for Federal Assistance SF-424	
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	
*2. Type of Application * If Revision, select appropriate letter(s): <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation * Other (Specify) <input type="checkbox"/> Revision	
*3. Date Received: 05/05/2023	4. Applicant Identifier: GED
5a. Federal Entity Identifier: 3-10-0007	*5b. Federal Award Identifier: <input type="text"/>
State Use Only:	
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>
8. APPLICANT INFORMATION:	
*a. Legal Name: Sussex County, Delaware	
*b. Employer/Taxpayer Identification Number (EIN/TIN): 51-6001054	*c. UEI: QNNDLPJD39L4
d. Address:	
*Street 1:	P.O. Box 589
Street 2:	2 The Circle
*City:	Georgetown
County/Parish:	Sussex
*State: Province:	DE
*Country:	USA: United States
*Zip / Postal Code	19947-0589
e. Organizational Unit:	
Department Name: Engineering Department	Division Name: Airport
f. Name and contact information of person to be contacted on matters involving this application:	
Prefix: Mr.	*First Name: Robert
Middle Name: L.	
*Last Name: Bryant	
Suffix:	
Title: Airport Manager	
Organizational Affiliation:	
*Telephone Number: 302-855-7775	Fax Number:
*Email: robert.bryant@sussexcountyde.gov	

Application for Federal Assistance SF-424

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

B: County Government

Type of Applicant 2: Select Applicant Type:

Pick an applicant type

Type of Applicant 3: Select Applicant Type:

Pick an applicant type

*Other (Specify)

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

Federal Aviation Administration

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

***12. Funding Opportunity Number:**

*Title:

Non-Primary Entitlement Funding

13. Competition Identification Number:

Title:

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

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

Construct Parallel Taxiway B - Phase I

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

16. Congressional Districts Of:

*a. Applicant: DE-ALL

*b. Program/Project: DE-ALL

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

17. Proposed Project:

*a. Start Date: 07/01/2023

*b. End Date: 07/31/2024

18. Estimated Funding (\$):

*a. Federal	\$ 427,500
*b. Applicant	\$ 47,500
*c. State	\$ 0
*d. Local	\$ 0
*e. Other	\$ 0
*f. Program Income	\$ 0
*g. TOTAL	\$ 475,000

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

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

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

Yes No

If "Yes", explain:

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

** I AGREE

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

Authorized Representative:

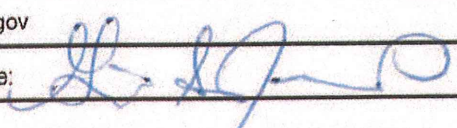
Prefix: Mrs. *First Name: Gina
Middle Name: _____
*Last Name: Jennings
Suffix: _____

*Title: Finance Director/COO

*Telephone Number: (302) 855-7741

Fax Number: _____

* Email: gjennings@sussexcountyde.gov

*Signature of Authorized Representative: 

*Date Signed: 05/05/2023

Application for Federal Assistance (Development and Equipment Projects)

PART II – PROJECT APPROVAL INFORMATION

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

PART II - SECTION B

Certification Regarding Lobbying

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

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

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

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

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

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

PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

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

N/A

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

N/A

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

N/A

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

Yes

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

Yes

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

Yes

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

N/A

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

N/A

PART II – SECTION C (Continued)

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

N/A

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

Yes

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

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

N/A

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

N/A

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

PART III – BUDGET INFORMATION – CONSTRUCTION

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

SECTION B – CALCULATION OF FEDERAL GRANT			
Cost Classification	Latest Approved Amount (Use only for revisions)	Adjustment + or (-) Amount (Use only for revisions)	Total Amount Required
1. Administration expense			
2. Preliminary expense			30,000
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			445,000
5. Other Architectural engineering fees			
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Subtotal (Lines 1 through 13)			\$ 475,000
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			475,000
17. Less: Ineligible Exclusions (Section C, line 23 g.)			
18. Subtotal (Lines 16 through 17)			\$ 475,000
19. Federal Share requested of Line 18			427,500
20. Grantee share			47,500
21. Other shares			
22. TOTAL PROJECT (Lines 19, 20 & 21)			\$ 475,000

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

SECTION D – PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE	
24. Grantee Share – Fund Categories	Amount
a. Securities	
b. Mortgages	
c. Appropriations (by Applicant)	47,500
d. Bonds	
e. Tax Levies	
f. Non-Cash	
g. Other (Explain):	
h. TOTAL - Grantee share	\$ 47,500
25. Other Shares	Amount
a. State	
b. Other	
c. TOTAL - Other Shares	
26. TOTAL NON-FEDERAL FINANCING	\$ 47,500

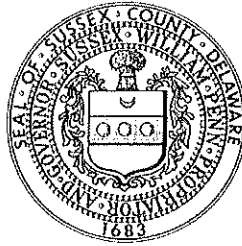
SECTION E – REMARKS (Attach sheets if additional space is required)

PART IV – PROGRAM NARRATIVE
(Suggested Format)

PROJECT: Construct Parallel Taxiway B - Phase I
AIRPORT: Delaware Coastal Airport
1. Objective: <p>This Phase I is for the design and bidding of a portion of the new Taxiway B from Taxiway H to the North end of the GA Apron Expansion (approx. 2,300' x 50').</p>
2. Benefits Anticipated: <p>The current parallel taxiway to Runway 4-22 extends through the terminal area apron and restricts the use of the apron for parking aircraft. The purpose of this project is to construct another segment of the parallel taxiway which was started at the RW 4 end of RW 4-22 when the runway was extended. This will eliminate traffic from taxiing through the apron area and improve the safety and efficiency of operations at the Airport. Additionally, the parallel taxiway will allow the terminal area to be developed in the future as shown on the approved ALP.</p>
3. Approach: (See approved Scope of Work in Final Application) <p>This Phase I will include design surveys, design geotechnical investigations, schematic and final design, preparation of bidding and construction documents, permitting, and bidding phase services.</p>
4. Geographic Location: <p>Sussex County, Delaware</p>
5. If Applicable, Provide Additional Information:
6. Sponsor's Representative: (include address & telephone number) <p>Mr. Robert L. Bryant, Airport Manager 21553 Rudder Lane, Georgetown, Delaware 19947 302-855-7775</p>

ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.
ASSISTANT COUNTY ENGINEER
(302) 855-7370 T
(302) 854-5391 F
mark.parker@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

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

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

RE: Starlight Meadows Road Improvements – Chapter 96 Sussex Community Improvements
A. Introduction of Resolution

DATE: August 15, 2023

Starlight Meadows is a community consisting of thirty-four (34) assessable parcels located off Williams Farm Road just north of the Town of Milton. The community by letter dated January 11, 2023, requested assistance from the County to repair and improve their existing roads through the Sussex Community Improvement (SCI) Program as defined in Chapter 96 of Sussex County Code. Following the provisions of the Code, the Engineering Department to date has performed the following actions:

- Determined that the community meets eligibility criteria as defined in the Code;
- Petitioned all assessable property owners within the Community regarding inclusion in the SCI Program
- Provided a preliminary cost estimate for road repair and improvements
- Provided the approximate costs to property owners in both lump sum and 10-year repayment options
- Provided advance notification and conducted a community meeting to discuss and receive comments regarding the SCI Program, estimated project costs, and subsequent election process necessary for project implementation

The Engineering Department has prepared a Resolution establishing a date, time, place and judge for an official Election to be held to consider the proposed Chapter 96 SCI Project for the Starlight Meadows community. Subject to official reading of the Resolution, the Engineering Department recommends approval of the Resolution which will trigger actions necessary to conduct an official Election with the assessable property owners within the community.

RESOLUTION NO. _____

**A RESOLUTION ESTABLISHING A DATE, TIME, PLACE AND JUDGE FOR AN ELECTION
TO BE HELD TO CONSIDER THE STARLIGHT MEADOWS CHAPTER 96
SUSSEX COMMUNITY IMPROVEMENT PROJECT**

WHEREAS, Chapter 96 of the Sussex County Code, Sussex Community Improvements, provides for a Sussex County Program to facilitate the improvements of streets, roadways, and other community amenities designated by the County Engineer that will, upon completion, benefit or serve the entire community and which are controlled by a private subdivision Property Owners Association, to be implemented by the Sussex County Engineering Department; and

WHEREAS, the subdivision known as Starlight Meadows, as represented on Sussex County Tax Map 335 - 7.00 Parcels 204-237, and on Recorder of Deeds Plot Book 71 - Page 131; located off Williams Farm Road (#235A), north of Milton, DE, within the Broadkill Hundred, requested petition forms be provided from the Sussex County Engineering Department to determine if there was adequate interest in their community to obtain an estimate of costs and charges for proposed improvements, and if so, to submit the question of establishing a Chapter 96 Sussex Community Improvement project for the community of Starlight Meadows to an election, in accordance with the provisions of Sussex County Code, Chapter 96, Sussex Community Improvements; and

WHEREAS, it was determined by the Sussex County Engineering Department that Starlight Meadows meets all criteria as defined by Sussex County Code Chapter 96 and thereby provided by direct mail the requested petition form to each property owner of record within Starlight Meadows on February 10, 2023 in accordance with the Sussex County Code, along with a project boundary map and project preliminary cost estimate, with estimated charges to each property owner; and

WHEREAS, nineteen (19) valid petition forms were returned to Sussex County Engineering Department and verified to represent approximately 56% of the thirty-four (34) assessable properties in the proposed project, thereby exceeding the fifty percent (50%) or more representation requirement in § 96-5 of the Sussex County Code; and

WHEREAS, on May 26, 2023, the Sussex County Engineering Department mailed to all Starlight Meadows property owners of record within the proposed project area a Notice of a Public Meeting to be held at the Sussex County Public Library in Milton on June 27, 2023; as required by §96-5 of the Sussex County Code; and

WHEREAS, Sussex County Engineering Department held the Public Meeting on June 27, 2023 to discuss the Chapter 96 community improvements proposal and receive comments, at the Sussex County Public Library in Milton with Starlight Meadows property owners, affirming the project boundary and estimated charges to each property owner in accordance with Sussex County Code.

NOW, THEREFORE,

BE IT RESOLVED, Sussex County Council hereby formally accepts the community of Starlight Meadows into the Sussex County Chapter 96 Sussex Community Improvement Program; and

BE IT FURTHER RESOLVED, that Sussex County Council approves for New Road Estates proposed Chapter 96 Sussex Community Improvement project, an estimated annual billing rate of \$730.00 for a ten (10) year time period, or an estimated lump sum payment cost of \$5,505.00 for each assessable property located within the boundary of the Starlight Meadows proposed Chapter 96 project, as determined by the Sussex County Engineering and Finance Departments; and

BE IT FURTHER RESOLVED, that Sussex County Council does establish Tuesday September 19, 2023 from 10 am to 4 pm., on the third floor of the Sussex County Administration Building located at 2 The Circle, Georgetown, DE 19947, as the date, time, and place for the Election to determine whether the property owners of Starlight Meadows are in favor of proceeding with improvements under the proposed Chapter 96 Project, as presented at the June 27, 2023 Public Meeting. A provision for Absentee Ballots shall also be provided as part of the Election process; and

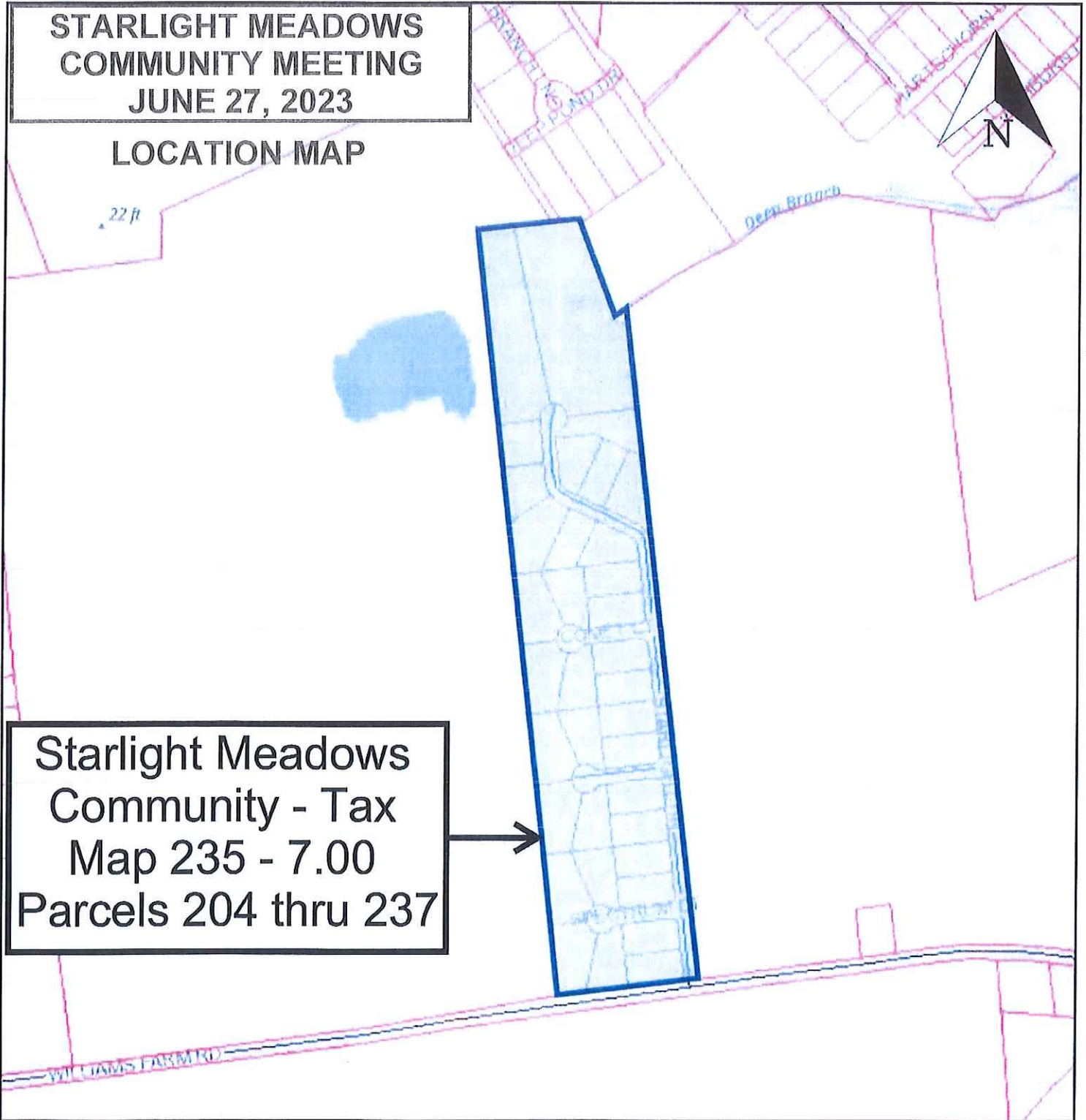
BE IT FURTHER RESOLVED, that Sussex County Council appoints J. Mark Parker, P.E., of the Sussex County Engineering Department, or his designee, to be the judge of said official Election; and

BE IT FURTHER RESOLVED, that Sussex County Council directs the Sussex County Engineering Department to provide notice to all assessable property owners of record in the Starlight Meadows proposed Chapter 96 Project, of the date, time, and place of the Election, including estimated costs and charges to property owners, as required by §96-5 of the Sussex County Code, and to provide proper notification of any necessary changes to date, time and location of the Election.

J. Mark Parker, P.E.
Assistant County Engineer
August 15, 2023

**STARLIGHT MEADOWS
COMMUNITY MEETING
JUNE 27, 2023**

LOCATION MAP



**Starlight Meadows
Community - Tax
Map 235 - 7.00
Parcels 204 thru 237**

EXHIBIT B - PRELIMINARY COST ESTIMATE

Updated 8/1/2023

Starlight Meadows

ITEM	ITEM DESCRIPTION	UNIT	QTY	UNIT COST	ITEM COST
1	Preliminary Design Cost				
1.1	Misc Permits	LS	N/A	\$ -	\$ -
1.2	DNREC NOI (not needed)	LS	N/A	\$ -	\$ -
1.3	SCD Design Review/Inspection Fees	LS	N/A	\$ -	\$ -
1.4	DelDOT Safety Permit [by County - assume Entrance Permit not needed]	LS	N/A	\$ -	\$ -
1.5	Design Survey (none needed)	LS	N/A	\$ -	\$ -
Subtotal Preliminary Design Cost					\$ -
2	Preliminary Construction Cost				
2.1	Mobilization	LS	1	\$ 4,869.05	\$ 4,869.05
2.2	Hot-Mix Milling	SY-IN	12743	\$ 1.35	\$ 17,203.05
2.3	Hot-Mix Type C Superpave, PG 64-22, 9.5 mm mix	TON	965	\$ 120.00	\$ 115,800.00
2.4	Williams Farm Rd Tie-in	LS	1	\$ 2,500.00	\$ 2,500.00
2.5	Driveway Tie-in	EA	28	\$ 150.00	\$ 4,200.00
2.6	Maintenance of Traffic	LS	1	\$ 3,000.00	\$ 3,000.00
2.7	Erosion & Sediment Control Measures (Assume none)			\$ -	\$ -
2.8	Topsoil, Seed & Mulch (Edge Stabilization)	SY	1355	\$ 5.25	\$ 7,113.75
Subtotal Preliminary Construction Cost					\$ 154,685.85
Subtotal Preliminary Design & Construction Cost					\$ 154,685.85

Project Engineer: Mark Parker

Approved by County Engineer:

 Date: 08/08/2023

Approved by Finance Director:

 Date: 08/08/2023

COST ESTIMATE SUMMARY

<i>Subtotal Prelim Design & Construction Cost</i>	\$	154,685.85
10% Project Contingency		\$15,468.58
Total Prelim Design & Construction Cost	\$	170,154.43
10% Administration Fee	\$	17,015.44
HOA Contributed Funds	\$	-
Total Project Cost	\$	187,169.87
Total Parcels		34
Interest Rate (10 yr)		5.50%
Lump Sum Repayment Cost Option	\$	5,505
10 Year Repayment Period Cost Option (per year, per parcel)	\$	730

STARLIGHT MEADOWS
PROPOSED CHAPTER 96 PROJECT – ASSESSABLE PROPERTIES
ESTIMATED ANNUAL ASSESSMENT

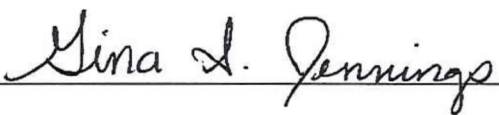
TAX MAP	PARCEL NO.	LOT NO.	OWNER	EST. ANNUAL ASSESSMENT
235-7.00	204	1	Burkentine, Patricia A.	\$730.00
235-7.00	205	2	Lebo, Bryan S. & Elaine A.	\$730.00
235-7.00	206	3	Wilkens, Henry E. & Tanyua D.	\$730.00
235-7.00	207	4	Sparks, Thomas III & Cheryl L.	\$730.00
235-7.00	208	5	Ewing, Linda R.	\$730.00
235-7.00	209	6	Willey, Michael L. & Connie L.	\$730.00
235-7.00	210	7	Esparza, Jesus Herrera	\$730.00
235-7.00	211	8	Rehm, John J. & Janice M.	\$730.00
235-7.00	212	9	Christ, Peter C.	\$730.00
235-7.00	213	10	Hendricks, William C. & Dawn R.	\$730.00
235-7.00	214	11	Ivins, Richard C.	\$730.00
235-7.00	215	12	Evans, Donald Rodney, IV	\$730.00
235-7.00	216	13	Dominick, Jason Patrick	\$730.00
235-7.00	217	14	Welch, Ann C. & Steven C. Sr.	\$730.00
235-7.00	218	15	Seabrease, Bonnie E.	\$730.00
235-7.00	219	16	Fink, Josef & Christiana	\$730.00
235-7.00	220	17	Klak, Edward K. & Kathleen	\$730.00
235-7.00	221	18	O'Connor, Christine M.	\$730.00
235-7.00	222	19	Radliff, Mary Patricia	\$730.00
235-7.00	223	20	Nieves, Orlando & Evelyn	\$730.00
235-7.00	224	21	Mock, Mike	\$730.00
235-7.00	225	22	Gomez, Victor M. Tepaz & Elsa Carado	\$730.00
235-7.00	226	23	Davis, Janet M.	\$730.00
235-7.00	227	24	Harrison, Susan K.	\$730.00
235-7.00	228	25	Lyons, Patricia	\$730.00
235-7.00	229	26	Duffy, Jene	\$730.00

TAX MAP	PARCEL NO.	LOT NO.	OWNER	EST. ANNUAL ASSESSMENT
235-7.00	230	27	Suess, William Arthur & Terry Lynn	\$730.00
235-7.00	231	28	Baker, William Jay	\$730.00
235-7.00	232	29	Mock, Todd L.	\$730.00
235-7.00	233	30	Mock, Todd L.	\$730.00
235-7.00	234	31	Mock, Todd L.	\$730.00
235-7.00	235	32	Mock, Todd L.	\$730.00
235-7.00	236	33	Mock, Todd L.	\$730.00
235-7.00	237	34	Ionita, Constantin D. & Maria	\$730.00

Notes: Parcel owners and estimated Annual Assessment are current as of 08/15/2023.

Approved by County Engineer: 

Date: 8/4/2023

Approved by Finance Director: 

Date: 8/4/2023

ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.
ASSISTANT COUNTY ENGINEER

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



Sussex County

DELAWARE
sussexcountyde.gov

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

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

RE: ***Davis, Bowen & Friedel, Inc. – 2019 Miscellaneous Engineering Base Contract
A. Amendment No. 9 – CADD Support Services***

DATE: August 15, 2023

On May 14, 2019, County Council awarded a five (5) year base contract for Miscellaneous Engineering Services to Davis, Bowen & Friedel, Inc. (DBF) as well as two other Consulting Firms. Since then, Council authorized utilization of the DBF base contract by approving eight (8) amendments with a total dollar value of \$1,787,000.00.

The Engineering Department has recently identified a need to supplement in-house engineering/project development resources based on current and anticipated workload over the next 6-12 months. To address this, the Engineering Department reached out to DBF to provide a Proposal to provide CADD Support Services on an as-needed basis to assist with the project development process.

The primary focus of the support services will be on our on-going Airport Stormwater Master Plan, the initial phase of which is scheduled to be constructed as part of the planned Parallel Taxiway B project beginning late summer 2024. The support services will be geared toward development of plans and details to be included with Sediment and Stormwater Plan sets to be submitted to Sussex County District.

This task may also be used to provide CADD and technical support on other project initiatives based on resource needs identified by the Engineering Department. DBF will assign technical personnel to projects to fit the defined scope of work and anticipated performance, to include Senior Designer, Designer and/or CAD I/II. The cost of the support services for each task will be based on number of staff hours needed and requested by the Engineering Department, in accordance with the approved contract rates, and will be tracked separately for each task.

The Engineering Department requests approval of Amendment No. 9 providing CADD Support Services on an as-needed basis, as determined by County Staff, for a NTE amount of \$50,000.00.



*Ring W. Lardner, P.E.
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA, LEED GA
Jason P. Loar, P.E.
Jamie L. Sechler, P.E.*

July 21, 2023
Revised July 28, 2023

Sussex County Engineering
Sussex County Administrative Office
2 The Circle
P.O. Box 589
Georgetown, Delaware 19947

Attn: J. Mark Parker, P.E.
Assistant County Engineer
DBF# P1897A23.068

RE: **PROPOSAL**
CADD Support Services
DBF #P1897B23.068

Dear Mr. Parker:

Davis, Bowen & Friedel, Inc. is pleased to present you with a proposal based on your request for CADD support services on an as-needed basis to supplement the County's in-house engineering resources. It is anticipated that the support services will almost exclusively be focused on the development of plans and details to be included with Sediment and Stormwater Plan sets for submission to Sussex Conservation District (SCD). We understand assistance would be requested for a variety of projects and that these projects would require DBF's experience with SCD's Design & Permitting standards and meeting all of the relevant SCD checklist requirements.

Our scope of work:

- The period of performance will be for approximately seven months ending on March 31, 2024. The period of performance can be extended upon mutual agreement between the County and DBF.
- We will provide up to 160 billable hours per month (33% of available staff). We recognize that the days and hours may not be consecutive and further acknowledge no guarantee of minimum work assignment. The three categories that may be utilized are:
 - Senior Designer (\$120.00 per hour): Assist with utility work, pump stations, force mains, treatment plants.
 - Designer (\$110.00 per hour): Assist with utility work, land development and erosion and sediment control.
 - CAD I or II (\$95.00 / \$85.00 per hour): Assist with plan preparation for various work.
- It is anticipated that most work assignments can be provided and coordinated remotely, however periodic face-to-face meetings may be necessary.
- CADD standards including sheet borders, layer management, plot preferences, etc. will be provided by the County.

PROPOSAL
Mr. J. Mark Parker, P.E.
July 21, 2023
Revised July 28, 2023
Page 2

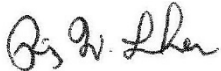
- County and DBF will work together as needed with regard to work assignments, staff time allotment, deadlines and required submission documents.

Our fee will be based on the hours worked in a given month and in accordance with the terms of the on-call engineering services contract.

Should you find this proposal acceptable, please execute below and return one (1) copy to us and retain one (1) copy for your files. Receipt of the signed copy will be considered our authorization to proceed.

On behalf of Davis, Bowen & Friedel, Inc., we appreciate the opportunity to be of continued service to Sussex County. Should you have any questions, comments, concerns, or would like to discuss this further please give me a call at your convenience.

Sincerely,
DAVIS, BOWEN & FRIEDEL, INC.



Ring W. Lardner, P.E.
Principal

\\Proposals\...\Sussex..Co..\P1897B23.068 On Call CADD Services

ACCEPTED BY: _____
Signature *Printed Name* *Date*

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: ***FY 2022 General Labor & Equipment Contract, Project 22-01***
A. George & Lynch, Inc., FY23 Close Out Change Order No. 2

DATE: August 15, 2023

In FY17 The Engineering Department developed a competitively selected time and material, best value bid process. The first General Labor & Equipment Contract was awarded to George & Lynch, Inc., on June 21, 2016, and was renewed on June 13, 2017, for an additional one-year period based on performance. It was re-advertised in the spring of 2018 again using the “best value” approach and an option for two (2) additional one-year periods at the same unit prices. On April 24, 2018, Council awarded the FY 2019 General Labor & Equipment Contract to George & Lynch, Inc.; on June 11, 2019, Council approved the first one-year contract extension through June 30, 2020, and on May 19, 2020, Council exercised the final one-year extension option.

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

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

The Engineering Department broke the anticipated task list into two bid packages. Bid Package A contained the standard work items while Bid Package B contained the specialized drilling and boring items. The project was re-advertised and on July 2, 2021, bids were received from JJID, Inc. and George & Lynch, Inc.



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

In addition to a number of emergencies, Pump Station No.4 in Dewey Beach experienced significant equipment failures forcing an accelerated schedule. This is a major rebuilding effort of the oldest pump station in the system was expected to exceed \$2.0 million in total. Council approved increasing George & Lynch, Inc.'s award amount by \$1.75 million via Change Order No. 1 on March 29, 2022 and by another \$600,000.00 via Change Order No. 2 on May 24, 2022.

JJID, Inc. was mainly active in the 100+ acres agricultural "south" field regrading effort at the Inland Bays RWF with suitable material import exceeding \$700,000. Council approved increasing JJID, Inc.'s award amount by \$0.5 million via Change Order No. 1 on March 29, 2022 and by another \$650,000.00 via Change Order No. 2 on May 24, 2022.

Also on May 24, 2022, Council approved a one-year extension of Bid Package B to George & Lynch, Inc. in the amount of \$1,500,000.00 and a joint one-year extension of Bid Package A to JJID, Inc. and George & Lynch, Inc. in the amount of \$2,000,000.00 and 2,500,000.00 respectively for continued project completion as budgeted in the capital projects for the Environmental Services Division and the Coastal Airport through July 1, 2023. On February 21, 2023, Council approved FY23 Change Order No.1 for George & Lynch, Inc.'s Bid Package A in the not to exceed amount of \$2,400,000.00.

The first, one year extension for George & Lynch's contract expires June 30, 2023 and on May 23, 2023 County Council issued the second one-year extension in the budgeted amount of \$5,000,000 based on continued satisfactory performance.

On several occasions, JJID, Inc was unable to satisfactorily respond to emergency work in a timely manner. In addition, JJID, Inc. has failed to retain a fully functional mechanical pump station crew. Therefore, County Council closed out JJID's FY23 open work orders on May 23, 2023 and did not issue a second one-year extension.

Construction on both contracts crossed over the FY23/24 line and the Finance Department performed an analysis to determine the funds needed for balancing of projects costs. In conclusion, the Engineering and Finance Departments recommend issuance of FY23 balancing Change Order No. 2 in the amount of \$454,846.74 increasing the FY23 contract value up from \$4,900,000.00 to \$5,354,846.74.

The main cost drivers were Pump Station 47 in Bethany Beach due to the complex by-pass pumping running longer than anticipated because material delays. In addition, the electrical control building had to be rebuilt to an aesthetically acceptable condition. It was essentially cut in half to provide maintenance access to the wet wells. In doing this the concrete work was adjusted to reflect a stacked stone appearance to blend the structure into the residential area.

Pump Station 4 in Dewey was another large cost center that took longer than scheduled due to electrical material delays. It was a full conversion from an older dry well design to a modern wet well design, requiring a new wet well, reconfiguration of all yard piping and insertion valving to achieve adequate by-pass pumping.



***SUSSEX COUNTY
CHANGE ORDER REQUEST***

A. ADMINISTRATIVE:

1. Project Name: **FY 2022 G&L General Labor & Equipment Contract**
2. Sussex County Project No. 22-01
3. Change Order No. FY 23 2 – Bid Package A
4. Date Change Order Initiated - 8/4/23
5.
 - a. Original Contract Sum \$2,500,000.00
 - b. Net Change by Previous Change Orders \$2,400,000.00
 - c. Contract Sum Prior to Change Order \$4,900,000.00
 - d. Requested Change \$ 454,846.74
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$5,354,846.74
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

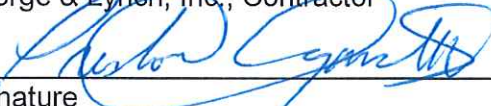
1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

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

C. **BRIEF DESCRIPTION OF CHANGE ORDER:**
Balancing final project costs.


D. **JUSTIFICATION FOR CHANGE ORDER INCLUDED?**
Yes No

E. **APPROVALS**

1. George & Lynch, Inc., Contractor
 8/7/2023

Signature Date
Preston Ayars

Representative's Name in Block Letters

2. Sussex County Engineer
 8/7/23

Signature Date

3. Sussex County Council President

Signature Date

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: **GHD Amendments 22 & 23 for Wolfe Neck RWF Professional Services**
A. Award of Advanced Electrical Design
B. Expansion of Study Scope to include Option 3c

DATE: August 15, 2023

GHD, Inc., held the County's engineering services contract associated with the SCRWF since December 7, 2001. They also held the City of Rehoboth Beach's engineering services contract associated since 2000. Council reaffirmed GHD as the "Engineer of Record" South Coastal in September of 2016 and again on May 14, 2019, at which time Council also included professional services associated with the City's Wastewater Treatment Plant. Since contract inception, Sussex County awarded twenty-one (21) amendments under this base contract.

In July of 2016, County Council authorized agreement negotiations with other wastewater service providers for the utilization of existing unallocated wastewater treatment capacity. On September 20, 2016, Council approved the initial agreement with the Lewes Board of Public Works (LBPW) for wastewater treatment and disposal. It allowed for the transmission of a year-round base flow rate of up to 75,000 gallons per day into the BPW's system with a seasonal ramp up of up to 300,000 gallons per day during the fall/winter season at a rate of \$2.40/1,000 gallons.

As per the LBPW's request, the County utilized George, Miles & Buhr, Inc., the Board's Engineer of Record for the design of the proposed improvements. Following the design completion and permitting Council approved on August 29, 2017, LBPW's assistance request under the FY18 General Labor & Equipment Contract for a joint project.

In the Spring of 2017, the LBPW and the City of Seaford and requested to be part of the County's regional biosolids system, culminating in Council's approval of the Agreements on May 16, 2017 for the transportation & treatment of Class B biosolids at the Inland Bays RWF.



In March of 2018, the LBPW requested an amendment to the Agreement allowing LBPW's service area tie-in(s) to the County's system and on March 20, 2018, Council approved Amendment No. 1 allowing wastewater to be transmitted and treated in the most cost-effective manner with the billing to be accomplished on a net zero metering basis.

On September 26, 2018, the County presented a request to increase the flow contributions at a Board meeting. Subsequently, the Board instructed their Counsel to draw up Amendment No. 2, which was accepted by County Council on January 8, 2018.

The Agreement for Wastewater Services with the Lewes BPW always contained Article IX pertaining to capital project cooperation. It states: *"Prior to finalizing any construction bid documents for any future capital projects increasing treatment capacity, the LBPW and the County shall jointly develop Add Alternates, if needed, and either party may require an Add Alternate that will be solely funded by the requesting party. Any Add Alternates benefitting both parties shall be awarded by mutual written consent, and the improvements made through Add Alternate(s) shall be paid proportionally by each party."*

Both parties were already planning for capital treatment plant improvements and expansions independently and the County Council committed substantial ARPA funding to the upgrade of wastewater treatment facilities in general and the Wolfe Neck RWF in particular. In this context, the County Engineer was authorized to initiate discussion with the Board.

The LBPW was also already pursuing a long-range plan for the wastewater treatment plant's future needs. The possible cooperation presents an opportunity to significantly reduce the LBPW's future long-term capital costs concerning sustainability of the wastewater treatment plant, especially compared to other potential options. Therefore, the Board held a workshop for public discussion and input on March 31, 2022. As a result of the input, a proposal from GHD, Inc., the consultant already representing both entities, was requested to evaluate the following three (3) options with variations:

1. Maintain wastewater treatment facility in its current flood plain location at its current capacity while "hardening" the perimeter to deal with climate change.
2. Relocate wastewater treatment facility outside of the flood plain, increase capacity to meet ultimate demand and investigate (2a) land treatment disposal, (2b) continued Canal discharge and (2c) ocean outfall.
3. Relocate wastewater treatment facility to Wolfe Neck in a partnership with County using the same capacity assumptions while investigating (3a) continued piped Canal discharge versus (3b) biological polishing.

The 2016 Agreement established a "handshake" point splitting capital responsibility between the parties. Under options 1 & 2, all activities would occur on the Board's side of the handshake point and the County would participate on the agreed upon prorated percentage. Under option 3, most of the transmission and all the treatment plant capital upgrades would occur on the County side of said point.

On May 24, 2022, Council approved to fund 50% of the long-range study in the amount of \$124,250.00 utilizing allocated ARPA. The results of the study were presented to County

Council on December 6, 2022. Since then, the LBPW held workshops on February 10th, March 22nd, April 12th, May 17th and June 14th to continue the open decision-making process.

In late June Sussex County was informed by DNREC officials of significant findings during a Phase 1 archeological study at the Wolfe Neck RWF associated with the proposed trail system. These findings have triggered a Phase 2 archeological study, commencing in fall of 2023 and encompassing the entire spray lease area. The impact has created uncertainty for biological polishing under option 3b as well as the proposed facility conversion from center pivot agricultural irrigation to a fixed-head irrigation in managed forests.

During the LBPW workshop on August 9th the concept of an ocean outfall from the Wolfe Neck RWF emerged as study Option 3c. Under this scenario the County would construct a new 5.25 mgd treatment facility relying mainly on the outfall and only spray irrigate at agronomically required rates using the existing irrigation systems.

With LBPW's waste load allocation in the Lewes-Rehoboth Canal no longer an asset, Option 3c would be a flow-based partnership requiring a new agreement detailing future operation and maintenance. The development of a flow-based agreement is anticipated to proceed in parallel with the GHD's expansion of the long-range study. Any Wolfe Neck treatment expansion can only occur in the location of the primary treatment lagoon requiring even more urgent removal of the accumulated biosolids. As a precursor of the removal, all incoming flows must be transferred to treatment lagoons 2 & 3. For the support of the biosolids removal and dewatering equipment a new electrical service and power distribution center is needed. It will be designed to accommodate both the immediate needs as well as the future plant expansion.

Therefore, the Engineering Department is now requesting Council's concurrence to award GHD's Amendment 22 – Advanced Electrical Design in the not to exceed amount of \$427,138.72 and Amendment 23 for the expansion of the long-range study to include Option 3c in the not to exceed amount of \$95,000.00, utilizing allocated ARPA funding.

SOUTH COASTAL REGIONAL WASTEWATER FACILITIES

SUSSEX COUNTY, DELAWARE

CONTRACT AMENDMENT NO. 22

This contract amendment, **Contract Amendment No. 22** dated _____, **2023** amends our original contract dated December 7, 2001, between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and GHD Inc., a State of Maryland Corporation, hereinafter referred to as CONSULTANT, whose address is 16701 Melford Boulevard, Suite 330, Bowie, Maryland 20715. Except as specifically amended herein, the provisions of the Original Contract dated December 7, 2001, as thereafter amended, remain in effect and fully valid.

By execution of this Amendment, the following sections are hereby added as new sections to the Original Contract, as respectfully numbered below.

ARTICLE FOUR

FEE STRUCTURE

- 4.4.1 The previous versions of Section 4.4 as set forth in **Contract Amendment Nos. 1 to 21** are hereby incorporated by reference. Notwithstanding any language to the contrary in such Amendments, the parties agree that those Amendments are intended to be additions to the Original Contract between the parties dated December 7, 2001.
- 4.4.2 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Detailed Design and Bid Phase Engineering Services for the WNRWF Electrical Service and Switchgear Replacement** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Four Hundred Twenty-Seven Thousand, One Hundred Thirty-Eight dollars and Seventy-Two cents (\$427,138.72)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4.2 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4.2 shall govern.

ARTICLE FOURTEEN

INCORPORATED DOCUMENTS

- 14.2 **Attachment A: Consultant's Scope of Services, Detailed Design and Bid Phase Engineering Services for the WNRWF Electrical Service and Switchgear Replacement** with Man-hour Spreadsheets. (**Contract Amendment No. 22**).

By execution of this Agreement, the following sections are amended as set forth below:

- 2.4 The CONSULTANT shall perform the Scope of Services attached hereto as Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment A.
- 4.3 The COUNTY shall pay the CONSULTANT for the satisfactory completion of the Scope of Services specified herein before in Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment, based on and limited to the following method of determination....”

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. **22** to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:
SUSSEX COUNTY

President, Sussex County Council

PREVIOUSLY APPROVED FORM

Date

ATTEST:

Clerk of the Sussex County Council


FOR THE CONSULTANT:

GHD Inc.



Vince Maillard, P.E.

WITNESS:



Attachment A

Your ref:
Our ref: 12619190

August 08, 2023

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

Design Engineering Services Proposal for the Wolfe Neck RWF Electrical Service & Switchgear Replacement

Dear Mr. Medlarz

GHD is pleased to submit this proposal for Engineering Services for the upgrade and expansion of the Wolfe Neck Regional Wastewater Facilities.

Introduction

Sussex County is planning on upgrading and expanding the Wolfe Neck Regional Wastewater Facilities (WNRWF) to approximately 5 MGD to accommodate growth and allow decommissioning of the Lewes Wastewater Treatment Plant (LWWTP). GHD has been assisting the Lewes Board of Public Works in the evaluation of options for the LWWTP and as Stearns and Wheler has previously provided engineering services to Sussex County specific to the WNRWF, including preparation of a 2006 preliminary engineering report for expansion of the facility.

The current plan for the facility includes a preliminary electrical project and a subsequent plant expansion project. The preliminary electrical project would make use of available American Rescue Plan Act (ARPA) funds and see the completion of early work that would otherwise constrain initial progress of the facility expansion. The facility expansion would comprise new treatment facilities, infrastructure for transfer of wastewater from Lewes, and a new effluent transfer and disposal system.

This proposal outlines the scope of work for detailed design and bid phase services for the preliminary electrical project, the WNRWF Electrical Service & Switchgear Replacement (ESSR). This phase of work will yield documents that Sussex County can bid for the new electrical service, electrical building, and switchgear that will ultimately become a critical component of the upgraded and expanded facility and provide new branch circuits for existing and relocated lagoon aerators to eliminate use of the existing duct bank within the berm of Lagoon 1. This will allow the commencement of solids removal from this lagoon, which will be necessary prior to decommissioning and regrading for the new treatment facilities.

Scope of Services

GHD will provide the following Detailed Design and Bid Phase Services for the WNRWF ESSR:

1. General

- a. Unless directed to prepare documents for a single prime contract, two sets of bid documents will be prepared for construction under two prime contracts; general construction and electrical construction, partly financed using available ARPA funds. Separate bid documents for equipment procurement will not be required.
 - b. Bid Documents will be prepared for each prime contract consisting of a Project Manual and Contract Drawings that specify and detail bidding and construction contract requirements for implementation of the preliminary electrical project. The Bid Documents for the construction contracts will include the following:
 - i. The Project Manual will include “front end” documents (Advertisement for Bids, Instructions to Bidders, Bid Form, and Agreement including General and Supplementary Conditions) and Technical Specifications.
 - ii. The “front end” documents will be provided by Sussex County to suit ARPA funding requirements. GHD will provide bid schedules to be incorporated in the documents prepared by Sussex County.
 - iii. The Technical Specifications will be prepared using the 16 Division format published by the Construction Specifications Institute (CSI), with Division 17 utilized for instrumentation and controls.
 - iv. Due to the specialized and complex nature of this project, customized technical specifications developed by GHD will be used for Divisions 1 through 17. Where possible, specifications prepared for work at the South Coastal Regional Wastewater Facilities (SCRWF) will be utilized.
 - c. Deliverables:
 - i. Draft bid documents will be provided for County review at the pre-100% stage of completion in electronic (PDF) format.
 - d. Meetings:
 - i. A review meeting will be held with the County within two weeks of the pre-100% submittal.
 - e. Opinions of probable construction cost.
 - i. GHD will not prepare an opinion of probable construction cost for the WNRWF ESSR.
2. Detailed Design Scope
- a. Detailed design shall be completed for the following concept:
 - i. New electrical service with new electrical building adjacent to the wooded area in the northwest corner of the site, southwest of Lagoon No. 2. This new service will facilitate a) re-feeding existing aerators in a manner that will allow de-commissioning of Lagoon No. 1, and b) providing sufficient power for the future plant expansion facilities.
 - A. New service and distribution equipment needs to accommodate the electrical power needs of the entire plant, including the plant expansion. This load will be estimated based on replicating the type of processes and equipment at SCRWF, estimating loads for WNRWF based on the smaller plant size. It is anticipated that distribution equipment will be 3000A or 4000A capacity.
 - B. New electrical building will be built-up design, custom size brick and block or similar, and not prefabricated type. This is due to long lead times for a prefabricated electrical building to be furnished by the switchboard manufacturer. A 3000A switchboard and ATS will be specified, with sufficient feeder CBs to eventually feed the existing Admin Building, irrigation pumps and headworks as well as the future plant expansion facilities. Electrical Building will be similar to the EPS Electrical Building at the South Coastal RWF, with double door at one end and single door at the other end (two entrances), with door height same as EPS Electrical Building.

- C. New electrical building will also need to be provided with a 6 section MCC to provide new motor starters for the aerators.
- D. New standby generator with anticipated size 1750 kW with outdoor walk-in enclosure and sub-base fuel tank, and with corresponding provisions for duct bank to allow connection to switchboard ATS. Specifications will include temporary generator and cables to test operation of ATS.
- E. New underground duct banks will be provided to feed the aerators to be installed in the remaining two lagoons. Duct banks will be sand encased with Schedule 40 PVC ducts; no concrete encasement is required.
- F. The County requested that no duct banks be installed into or up the slope of the existing lagoon mounds; therefore, an overland concrete conduit bridge will need to be designed to get from the new MCC up the slope of Lagoon No. 2, and then down into the ground to feed the various aerators around Lagoon Nos. 2 and 3. Duct banks will be installed in the existing roadways around the outside perimeters of Lagoons 2 and 3, staying as far away as possible from Lagoon No. 1 area. The Contractor will need to be made aware of existing underground cables feeding the aerators underground along the perimeter roadway so they can take care not to disturb them while installing the new duct bank.
- G. A new distribution duct bank will be installed from the electrical building to the existing Administration Building for 1) a temporary feeder from existing MCC to new, temporary motor starters installed under a temporary weather canopy adjacent to the new Electrical Building while new DP&L service and new switchboard are being installed, AND 2) for eventual re-feed of existing Administration Building as well as new treatment facilities. The County has expressed a desire to not re-use existing starters, so the option being pursued herein and in final design is to provide new temporary motor starters under a temporary canopy.
- H. The temporary motor starters and canopy and temporary feeder from existing MCC will be installed first in order to allow re-feeding of existing aerators in Lagoon Nos. 2 and 3 while the new Electrical Building, electrical service, MCC and switchboard are installed. Some form of power distribution must be provided for the temporary feeder and starters (power panelboard or other; TBD). Once the permanent service and power distribution equipment are in place, the temporary starters and canopy can be removed and the existing Admin Bldg. MCC re-fed from the new switchboard, and the existing electrical service at the site removed.
- I. Conduit stub outs from a new manhole will be provided for future connection under the plant expansion to provide power to the expanded treatment facilities. The new duct bank routing will need to be out of the way of the regrading work associated with taking Lagoon 1 out of service.
- J. The County has already met with representatives from DP&L on site, and DP&L is prepared to set a transformer within 25 feet of the location of the new electrical building. Primary feeder will be the responsibility of DP&L. Service lateral and service entrance conductors and underground duct banks will be part of the design and be the responsibility of the County.
- K. Because there is occasional stormwater ponding in the proposed location of the electrical building, the electrical building will be installed on a 24" high built up concrete pad with stairways at entrances. Sidewalks around building will be included in the design.
- L. Electrical building will be provided with PCS cabinet for monitoring of power distribution equipment and aerators as well as any future equipment installed nearby.
- M. FOPP will be required in building.

- ii. The existing electrical service is intended to be removed under this project, with the existing MCC re-fed from the new switchboard. Existing MCC will be replaced under the future plant expansion. Existing equipment currently fed from the existing MCC will continue to be fed from this MCC until the anticipated expansion is implemented (aerators excepted; these will be powered from new MCC). Existing equipment fed from the existing MCC includes (4) 150 hp vertical turbine type pumps controlled via VFDs and used to feed irrigation equipment; these VFDs will remain in service under this project.
- iii. The County indicated that there is no need for PCS control of the aerators, and they currently do not have PCS control. The aerator motor starters will be provided with HOA selector switches at the MCC, with the Auto mode for future connection to the PCS if the County desires this in the future, with control command terminals provided and jumpered. PCS monitoring of aerator run status and any equipment alarms will be provided.
- iv. A PCS cabinet (PCS-WNEB) will be provided to house a new PLC and a new IPC. This cabinet and corresponding PLC and IPC will be connected via Ethernet switch and fiber to the existing Administration Building.
- v. DP&L may or may not be able to install the new service in time to connect the new service equipment, due to long lead times for transformers. In light of this, and given that a duct bank between the new Electrical Building and the existing 1600A MCC will be required at some point, this design will include the duct bank, and the design for this task will include provisions for feeding the new temporary motor starters from the existing 1600A MCC at the Administration Building, either via a new 600A feeder CB installed in the MCC, or by tapping the existing MCC bus and setting a new enclosed 600A CB to feed the new MCC. The new, temporary motor starters are also planned to be provided in anticipation of long lead times for the new MCC. Once the temporary starters are no longer required, the new duct bank will be used to re-feed the existing Administration Building and related equipment. Sufficient space in the duct bank will be designed as well to provide feeders for the expanded treatment facilities from the new 3000A switchboard. The duct bank will include ducts for fiber cables as well as additional spare ducts.
- vi. Existing aerators are floating type with buoys holding up submersible power cables and held in place by stainless steel cables fastened to stakes at the lagoon perimeters. They are currently installed as follows:
 - A. Lagoon No. 1 10 aerators
 - B. Lagoon No. 2 4 aerators
 - C. Lagoon No. 3 2 aerators
- vii. 4 existing aerators will be moved from Lagoon No. 1 to Lagoon No. 2, and 2 existing aerators will be moved from Lagoon No. 1 to Lagoon No. 3, so that the new arrangement of aerators will be as follows:
 - A. Lagoon No. 2 8 aerators
 - B. Lagoon No. 3 4 aerators
- viii. All aerators will be existing; no new aerators will be required. It is presumed that the County will move the 6 aerators that need to be relocated and remove and store the remaining aerators; this will need to be confirmed.
- ix. The County has confirmed that the existing aerators do not have motor winding thermal switches or other equipment protective devices that need to be connected to the motor starter circuit.
- x. It is presumed that responsibility for electrical connections of the aerator cables to disconnect switches will be by Contractor, including cable bushings and cable grips.
- xi. All 12 aerators to be in service will be provided with new disconnect switches unless directed otherwise by the County.

- xii. No site lighting or lightning protection is required.
 - xiii. County will obtain drone “flyover” type site survey suitable for use with AutoCAD for GHD’s use.
 - xiv. There is an existing gravel/dirt roadway from main site access road to the proposed location of the electrical building, with a manual vehicular gate. The area is partially but not entirely fenced in. County indicated that no road improvements are required under the electrical service project.
 - xv. Grounding of existing or new fencing not required.
- b. Geotechnical Evaluation
 - i. GHD will obtain a geotechnical report for the WNRWF ESSR utilizing a subconsultant under an existing amendment.
 - c. Permits
 - i. GHD will assist with coordination with Sussex Conservation District and the creation and filing of permit submittals for a Standard Plan approval. Permit fees will be paid by County.
 - ii. Generator Air Permit (preliminary stages of application)
 - iii. A DNREC wastewater facilities construction permit will not be required.
3. Bid Phase Services Scope
- a. Provide Bid Documents to the County for each prime contract in electronic format (PDF) for the purpose of advertisement and distribution by the County. In addition, provide up to 4 paper copies of Project Manual and Drawings for internal County use.
 - b. Attend pre-bid meeting scheduled by the County and prepare minutes.
 - c. Review and respond to questions asked by potential bidders during Bidding. Incorporate comments into Addenda, to be given to the County in electronic format (PDF) for the purpose of distribution to potential bidders.
 - d. Attend bid opening.
 - e. Review all received bids for accuracy and completeness. Contact references for apparent low bidders.
 - f. Prepare letters of recommendation for the County summarizing the bid results and recommendations for award.

Schedule

The following schedule is tentatively proposed for detailed design and bidding of the WNRWF ESSR:

- Draft documents: 9/29/2023
- Bid documents: 10/20/2023
- Bid Award: 11/30/2023

Subconsultants

No subconsultants are anticipated to complete the detailed design and bidding services for the WNRWF ESSR. Sussex County will provide topographical survey. Geotechnical services will be arranged by GHD under a separate existing contract amendment.

Exclusions

The following items are not included in GHD’s detailed design and bid phase services:

1. Engineering services associated with the facility expansion project except as identified herein.
2. Preparation of cost estimates and opinions of probable construction cost
3. Preparation of separate bid documents for equipment procurement

4. Process modeling of the wastewater treatment processes.
5. Materials testing.
6. Topographic survey.
7. Wetlands delineation.
8. Floodplain impact remediation and permitting.
9. Soil borings. GHD will arrange for soil borings using the existing construction services amendment for ongoing work at South Coastal RWF.
10. Pile design. We have assumed all foundations will be slab on grade.
11. Coordination with the aerator manufacturer and assessment of the aerator equipment to determine cable requirements. We have assumed aerator cables will be reused and are suitable for Operation in the new locations.
12. Permit applications beyond those specifically identified herein.
13. Construction Phase services.
14. Additional meetings or presentations beyond those identified herein.

Engineering Fee

GHD proposes to provide engineering services for the Design Engineering Scope of Services based on direct hourly payroll costs paid to technical staff engaged on the project plus overhead and fringe benefit costs of 1.85 times actual payroll costs billed plus out-of-pocket and subconsultant expenses at cost, plus a fixed fee of 10% on direct costs plus overhead and fringe benefit costs. Total cost shall not exceed the following:

Table 1 Engineering Fee

Description	Cost
Direct Wage Costs	\$135,884.44
Overhead and Fringe Benefits	\$251,386.21
Fixed Fee	\$38,727.07
Expenses	\$1,141.00
Total	\$427,138.72

Please let us know if you have any questions or comments regarding this proposal.

Regards



Steven Clark
Project Manager

443-875-5061
steven.clark@ghd.com

GHD, Inc.
Hourly Direct Rate Ranges By Classification
Effective July 1, 2023

Personnel Category	Hourly Rate (\$/Hr)	
	Minimum	Maximum
Principal	75.00	88.00
Associate	60.00	84.00
Senior Engineer	55.00	82.00
Project Manager	45.00	70.00
Project Engineer	40.00	60.00
Engineer	26.00	40.00
Managing Designer	46.00	65.00
Senior Designer	36.00	46.00
Designer	25.00	36.00
Drafter	20.00	25.00
Senior Rep	30.00	46.00
Project Rep	24.00	30.00
Administrative Assistant	22.00	32.00

Rates are subject to annual adjustment
Rates do not include overhead and profit

CLIENT : <u>Sussex County, DE</u>		PREPARED BY: <u>SPC</u>																		CLIENT : <u>Sussex County, DE</u>		PREPARED BY: <u>SPC</u>														
PROJECT: <u>WNRWF ESSR Detailed Design & Bid</u>		CHECKED BY : <u>HJS</u>																		PROJECT: <u>WNRWF ESSR Detailed Design & Bid</u>		CHECKED BY : <u>HJS</u>														
		HOURS BY CATEGORY																				Overhead= 1.85 SUMMARY														
		TAY	SPC	HJS	Tom B	Patricia	RAC	Zenovy	Yusuf	DMM	Stephen P	Janosik	Claire	SHA	Harsha	ARCH	Jim Miller	HVAC	KML	KAB			Profit= 0.10 COST													
TASK DESCRIPTION		PR	AS	PR	SE	PE	SE	SE	SE	SE	DR	AS	PE	SE	SE	PE	SE	PE	SD	AA	HOURS	TASK DESCRIPTION	Car Miles	O'nights Rentals	O'nights Hotels	Eqpmt & Misc	Outside Tech	Drawings	Copy Center	Direct Labor	Indirect	Profit	Expenses	Total Price		
Project Management		16	64				4	16														100	Project Management	1200								7530	13930	2146	666	24272
Project Chartering		2	2	2	2		2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	36	Project Chartering									2173	4019	619		6811
Geotechnical Report			4					4	4			20								4	36	Geotechnical Report									2690	4976	767		8433	
Specifications																						8	Specifications													
Draft Bid Schedules			4					4													8	Draft Bid Schedules									556	1028	158		1742	
Draft Technical Specifications			32			48	12	44	20				12	16			8			20	212	Draft Technical Specifications									12497	23119	3562		39178	
Final Bid Schedules			2					2													4	Final Bid Schedules									278	514	79		871	
Final Technical Specifications			24			48	4	20					8	8			4			20	136	Final Technical Specifications									7536	13941	2148		23624	
Drawings																																				
General/Civil Drawings			16		24	40							80						320		480	General/Civil Drawings									19556	36179	5574		61310	
Architectural Drawings			4												80	120					204	Architectural Drawings									10899	20163	3106		34169	
Structural Drawings			4									4		240							248	Structural Drawings									15652	28956	4461		49069	
HVAC Drawings			2														32	40			74	HVAC Drawings									4574	8461	1303		14338	
Electrical Drawings			8				80	144	220		40										492	Electrical Drawings									29159	53944	8310		91413	
Standard Plan Permit Application			8										40								48	Standard Plan Permit Application									2398	4437	683		7518	
Generator Air Permit			8						8				40								56	Generator Air Permit									2841	5255	810		8905	
Internal QA/QC and Technical Review				32						20											52	Internal QA/QC and Technical Review									3976	7356	1133		12465	
Draft design review meeting			4		4		4	4	4		4										24	Draft design review meeting									1423	2633	406		4461	
Bid-Phase Services			40			40	16	40	24			2		16	4	12				8	202	Bid-Phase Services					220	4000			12149	22475	3462	475	38561	
TOTALS		18	226	34	30	176	126	280	278	22	46	28	162	278	110	134	46	42	326	50	2412	TOTALS	1200					220	4000	135884	251386	38727	1141	427139		
RATES THIS PROJECT	100%	88.00	74.78	88.00	60.00	45.00	77.58	64.10	55.29	58.00	24.00	84.00	45.00	62.57	65.00	45.00	82.00	45.00	36.00	32.00		UNIT RATES	0.555	120.00	200.00	1.0	1.0	1.25	0.05	BUDGET SUMMARY						
																						TOTAL EXPENSE COST	666					275	200							

SOUTH COASTAL REGIONAL WASTEWATER FACILITIES

SUSSEX COUNTY, DELAWARE

CONTRACT AMENDMENT NO. 23

This contract amendment, **Contract Amendment No. 23** dated _____, **2023** amends our original contract dated December 7, 2001, between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and GHD Inc., a State of Maryland Corporation, hereinafter referred to as CONSULTANT, whose address is 16701 Melford Boulevard, Suite 330, Bowie, Maryland 20715. Except as specifically amended herein, the provisions of the Original Contract dated December 7, 2001, as thereafter amended, remain in effect and fully valid.

By execution of this Amendment, the following sections are hereby added as new sections to the Original Contract, as respectfully numbered below.

ARTICLE FOUR

FEE STRUCTURE

- 4.4.1 The previous versions of Section 4.4 as set forth in **Contract Amendment Nos. 1 to 22** are hereby incorporated by reference. Notwithstanding any language to the contrary in such Amendments, the parties agree that those Amendments are intended to be additions to the Original Contract between the parties dated December 7, 2001.
- 4.4.2 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Concept Design Engineering Services for the WNRWF Upgrade and Expansion** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Ninety-Four Thousand, Eight Hundred Sixty-One dollars and Twenty-Nine cents (\$94,861.29)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4.2 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4.2 shall govern.

ARTICLE FOURTEEN

INCORPORATED DOCUMENTS

- 14.2 **Attachment A: Consultant's Scope of Services, Concept Design Engineering Services for the WNRWF Upgrade and Expansion with Man-hour Spreadsheets. (Contract Amendment No. 23).**

By execution of this Agreement, the following sections are amended as set forth below:

- 2.4 The CONSULTANT shall perform the Scope of Services attached hereto as Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment A.
- 4.3 The COUNTY shall pay the CONSULTANT for the satisfactory completion of the Scope of Services specified herein before in Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment, based on and limited to the following method of determination....”

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. **23** to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:
SUSSEX COUNTY

President, Sussex County Council

PREVIOUSLY APPROVED FORM

Date

ATTEST:

Clerk of the Sussex County Council

FOR THE CONSULTANT:

GHD Inc.



Vince Maillard, P.E.

WITNESS:



Attachment A

Your ref:
Our ref: 12619190

August 09, 2023

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

Concept Design Engineering Services Proposal for the Wolfe Neck RWF Upgrade and Expansion

Dear Mr. Medlarz

GHD is pleased to submit this proposal for Engineering Services for the upgrade and expansion of the Wolfe Neck Regional Wastewater Facilities.

Introduction

Sussex County is planning on upgrading and expanding the Wolfe Neck Regional Wastewater Facilities (WNRWF) to approximately 5 MGD to accommodate growth and allow decommissioning of the Lewes Wastewater Treatment Plant (LWWTP). GHD has been assisting the Lewes Board of Public Works and the County in the evaluation of options for the LWWTP and as Stearns and Wheler has previously provided engineering services to Sussex County specific to the WNRWF, including preparation of a 2006 preliminary engineering report for expansion of the facility.

The current plan for the facility includes a preliminary electrical project and a subsequent plant expansion project. The preliminary electrical project would make use of available American Rescue Plan Act (ARPA) funds and see the completion of early work that would otherwise constrain initial progress of the facility expansion. The facility expansion would comprise new treatment facilities, infrastructure for transfer of wastewater from Lewes, and a new effluent transfer and disposal system.

This proposal outlines the scope of work for concept design of the facility expansion project. This phase of work will yield an addendum to a previous options report prepared for the Lewes Board of Public Works that describes and provides lifecycle costs for a new option: decommissioning of the LWWTP, a new treatment facility at WNRWF, and a new ocean outfall for effluent disposal.

Scope of Services

GHD will provide the following Conceptual Design Services for the facility expansion project:

1. Site Visit and Project Kickoff Meeting
 - a. GHD's project team will visit and tour the Wolfe Neck RWF, meet with the County and discuss key parameters, project aims and upcoming project milestones.
 - b. GHD will produce and circulate meeting minutes.

2. Wastewater Treatment Concept Development
 - a. Preliminary process sizing calculations will be undertaken based on an approach to design flows and loads confirmed by the County. The preferred unit processes and technologies will be confirmed at the Project Kickoff Meeting.
 - b. Site layout concept arrangement will be developed for the agreed unit processes and calculated sizes. The site layout concepts will consider options to reuse and/ or rehabilitate the existing lagoons for residual management and sludge drying.
 - c. GHD will then develop a hydraulic profile for the new site, using the facility dimensions and concept site layouts developed previously, and in consideration of existing site grade and other geographical parameters.
3. Effluent Discharge Concept Development
 - a. GHD will review installation methodologies, considering feasibility, limitations and impacts of each, for installation of a new ocean outfall to discharge treated effluent from the new treatment process. It is assumed that the land portion of the new outfall will be installed via horizontal direction drilling (HDD), via a launch pit within the Wolfe Neck site. The ocean-side portion will include evaluation a continuous directional drill and a section of open-cut trenching, once the outfall has advanced past the breakwater zone. It is assumed that the outfall will be required to discharge 6,000 linear feet from the coast (per Option 2c in the Lewes WWTF Long Range Planning Study).
 - b. Effluent pump station hydraulic calculations will be developed to size pumping equipment and to estimate electrical and other operating costs.
4. Develop Draft EIS outline and schedule for the Wolfe Neck Ocean Outfall. To obtain a permit for an Ocean Outfall, the EPA/DNREC will require an Environmental Impact Statement (EIS) to be performed.
 - a. GHD will develop a preliminary outline of the tasks that will be required to complete the Wolfe Neck EIS. The final EIS requirements will not be established by DNREC until the Public Scoping Period is complete.
 - b. The Rehoboth EIS will be reviewed to determine which sections could be used as a basis for the Wolfe Neck EIS, such as water quality monitoring, fisheries survey baseline, benthic sediments and infauna baselines, fishery, etc.
 - c. GHD will develop a timeline for development of an Environmental Impact Statement (EIS) based upon the Rehoboth and ongoing EIS Project(s).
5. Cost Estimation
 - a. GHD will develop a Preliminary Capital Cost Estimate for the proposed upgrades, including contingencies and allowances for professional services. Capital cost estimates will be presented in 2023 US Dollars.
 - b. Net Present Value (NPV) 2050 Operation & Maintenance Costs will be developed to estimate the Total Project Lifecycle Costs associated with the proposed works.
6. Technical Memorandum
 - a. The findings of GHD's concept development work will be summarized in a Technical Memorandum (TM), which will clearly reference the previously published Lewes WWTF Long Range Planning Study documents.
 - b. The TM will include four (4) concept drawings:
 - i. Proposed Site Plan
 - ii. Process Flow Diagram
 - iii. Plant Hydraulic Profile
 - iv. Force Main Alignments

- c. The TM will be issued in Draft format for County review. Following the Concept Review Meeting (see below), County comments will be incorporated into the TM, which will be issued as Final.
7. Progress meetings
 - a. GHD proposes to arrange and chair two (2) virtual progress meeting during the concept development phase.
 - b. GHD will produce and circulate meeting minutes.
 8. Concept Review Meeting
 - a. As outlined above, GHD will arrange and chair one (1) in-person Concept Review Meeting to discuss the analysis and findings of the Draft TM.
 - b. GHD will produce and circulate meeting minutes.

Schedule

The following schedule, with a total duration of 11 weeks, is proposed for the concept design services for the facility expansion project:

- Site Visit and Project Kickoff Meeting: 1 week from Notice to Proceed
- Draft TM submitted to County for review: 8 weeks from Notice to Proceed
- Concept Review Meeting: 1 week from submission of Draft TM
- Final TM submitted to County: 2 weeks from Concept Review Meeting

Subconsultants

No subconsultants are anticipated to complete the concept design services for the facility expansion project.

Exclusions

The following items are not included in GHD's concept design scope of services:

1. Collection or laboratory analysis of plant data
2. Materials testing.
3. Topographic survey.
4. Wetlands delineation.
5. Floodplain impact remediation and permitting.
6. Soil borings or geotechnical evaluation.
7. Permitting.
8. Detailed Design, Bid, and Construction Phase services.
9. Additional meetings or presentations beyond those identified herein.

Engineering Fee

GHD proposes to provide engineering services for the Concept Design Scope of Services based on direct hourly payroll costs paid to technical staff engaged on the project plus overhead and fringe benefit costs of 1.85 times actual payroll costs billed plus out-of-pocket and subconsultant expenses at cost, plus a fixed fee of 10% on direct costs plus overhead and fringe benefit costs. Total cost shall not exceed the following:

Table 1 *Engineering Fee*

Description	Cost
Direct Wage Costs	\$29,971.83
Overhead and Fringe Benefits	\$55,447.89
Fixed Fee	\$8,541.97
Expenses	\$899.60
Total	\$94,861.29

Please let us know if you have any questions or comments regarding this proposal.

Regards



Steven Clark
Project Manager

443-875-5061
steven.clark@ghd.com

GHD, Inc.
Hourly Direct Rate Ranges By Classification
Effective July 1, 2023

Personnel Category	Hourly Rate (\$/Hr)	
	Minimum	Maximum
Principal	75.00	88.00
Associate	60.00	84.00
Senior Engineer	55.00	82.00
Project Manager	45.00	70.00
Project Engineer	40.00	60.00
Engineer	26.00	40.00
Managing Designer	46.00	65.00
Senior Designer	36.00	46.00
Designer	25.00	36.00
Drafter	20.00	25.00
Senior Rep	30.00	46.00
Project Rep	24.00	30.00
Administrative Assistant	22.00	32.00

Rates are subject to annual adjustment
Rates do not include overhead and profit

CLIENT : <u>Sussex County, DE</u>		PREPARED BY: <u>TEB</u>		CLIENT : <u>Sussex County, DE</u>		PREPARED BY: <u>TEB</u>																		
PROJECT: <u>WNRWF Upgrade & Expansion Concept Design</u>		CHECKED BY : <u>SPC</u>		PROJECT: <u>WNRWF Upgrade & Expansion Concept Design</u>		CHECKED BY : <u>SPC</u>																		
		DATE: <u>8/8/2023</u>																						
		HOURS BY CATEGORY				Overhead= 1.85 SUMMARY																		
		TAY	SC	HJS	TB	KB	DD Exp	KL	KAB	Profit= 0.10 COST														
TASK DESCRIPTION		PR	AS	PR	SE	PE	SE	DR	AA	HOURS	TASK DESCRIPTION	Car Miles	O'nights Rentals	O'nights Hotels	Eqpmt & Misc	Outside Tech	Copy Drawings	Center	Direct Labor	Indirect	Profit	Expenses	Total Price	
Proposal and Chartering																								
Review Develop scope, design criteria, concept plan		2	2	2	4					10	Proposal and Chartering Review Develop scope, design criteria, concept plan									742	1372	211		2325
Kickoff and Site Visit																								
Kickoff meeting and plant Site Visit		8	8	8	8	8				40	Kickoff and Site Visit Kickoff meeting and plant Site Visit	360								2807	5193	800	200	9000
Plant Site Visit Notes / Picture Download		0.5	0.5	0.5	0.5	4				6	Plant Site Visit Notes / Picture Download									316	584	90		990
WWTP Concept Development																								
Preliminary Process Sizing & Hydraulics		1	2	2	8	24				37	WWTP Concept Development Preliminary Process Sizing & Hydraulics									1856	3434	529		5820
Consider refurbishment/ reuse of existing structure		1	2	2	4	8				17	Consider refurbishment/ reuse of existing structure									974	1803	278		3055
Site Arrangement and Sketches		1	2	2	4	16				25	Site Arrangement and Sketches									1295	2397	369		4061
Effluent Discharge Concept Development																								
Installation methodology/ feasibility review			2	16	4	16	48			86	Effluent Discharge Concept Development Installation methodology/ feasibility review									5559	10285	1584		17429
Effluent Pump Station Hydraulics			2		4	8				14	Effluent Pump Station Hydraulics									710	1314	202		2227
Preliminary PS structure sizing			2		4	8				14	Preliminary PS structure sizing									710	1314	202		2227
Cost Estimates																								
Cost Estimating - Capital			2	1	4	16				23	Cost Estimates Cost Estimating - Capital									1119	2071	319		3509
Cost Estimating - O&M				1	2	8				11	Cost Estimating - O&M									529	979	151		1658
Progress Meetings, Virtual (2) including meeting minutes		4	4	4	8	16				36	Progress Meetings, Virtual (2) including meeting minutes									2125	3931	606		6662
Draft TM		1			8	24				41	Draft TM									1787	3306	509		5602
Concept Drawings (4 total: site plan, process flow diagram, hydraulic profile, force main alignments)			4		4	16		40	4	68	Concept Drawings (4 total: site plan, process flow diagram, hydraulic profile, force main alignments)									2749	5086	783		8618
Draft TM Review - QA		4	4	4						12	Draft TM Review - QA									1003	1856	286		3145
Draft Report Review Meeting, In-person, including minutes			8	8	8	12				36	Draft Report Review Meeting, In-person, including minutes	360			500					2264	4188	645	700	7796
TM Revisions and Final submittal		2	2	2	4	16		16	4	46	TM Revisions and Final submittal									2087	3862	595		6544
Project Mngt (Assume 8 Week Schedule)		4	8							12	Project Mngt (Assume 8 Week Schedule)									950	1758	271		2979
Contract Closeout		1	4							5	Contract Closeout									387	716	110		1214
TOTALS		30	59	53	79	200	48	56	16	539	TOTALS	720			500					29972	55448	8542	900	94861
RATES THIS PROJECT		100%	88.00	74.78	88.00	60.00	40.12	65.00	36.00	32.00	BUDGET SUMMARY													
100% DIRECT LABOR RATE											UNIT RATES	0.555	120.00	200.00	1.0	1.0	1.25	0.05						
											TOTAL EXPENSE COST	400			500									

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: ***Wolfe Runne Sewer Expansion***
A. George, Miles & Buhr, LLC – Amendment No. 2

DATE: August 15, 2023

The Wolfe Runne community has been included in the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) since March 1990. On December 16, 2017 and January 27, 2018, the Engineering Department made presentations to the Community which outlined the potential costs associated with connecting to the County Sewer System. Subsequently, the Department received a letter from the Wolfe Runne Homeowners Association (HOA) dated March 6, 2018 which provided results of a formal ballot vote conducted by the HOA. The HOA reported that 81% of lot owners voted in favor of transitioning from private on-site septic systems to the central County sewer. Based on this outcome the HOA requested, on behalf of the residents, that a capital project be pursued.

The Department presented the information on April 17, 2018, and Council authorized a United States Department of Agriculture (USDA) funding application. On September 27, 2019, USDA issued a letter of conditions outlining loan and grant funding associated with the Wolfe Runne Sewer Extension Project in the amount of \$3,092,000.00 obligated as of September 30, 2019.

January 2019 issued RFP 19-22, Miscellaneous Engineering Services. Subsequently Council selected three (3) firms to provide professional services: Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); and KCI Technologies, Inc. (KCI). Additionally, the motion authorized the Engineering Department to negotiate Base Professional Service Agreements for a five-year period of July 1, 2019, through June 30, 2024. Project-based contract amendments under the base agreements, or individual project-specific agreements if required by a funding source, were each to be brought to Council for authorization.



As required by USDA's letter of conditions, GMB provided the EJCDC type base professional services agreement for a traditional gravity sewer design and permitting services associated with the Wolfe Runne Sewer Expansion Project S20-13. On November 19, 2019, Council approved George, Miles & Buhr, Inc.'s agreement with a not-to-exceed value of \$204,003.00.

The project area proved difficult to serve with gravity sewer since it has two low points at the end of separate cul-de-sacs Ketch and Cutter Courts. To maximize the reach of the existing system a key easement was required on the unimproved lot 66. Contact was made and an appraisal prepared culminating in a final meeting with the owner and his professional representative on August 4, 2021. In the end the easement could not be secured and with HOA Board's input on February 17, 2022, the effort shifted to the adjacent fully improved lot 65. The owners were cooperative, but utility conflicts forced an alignment not approved by their mortgage company. The ultimate failure of the original design approach was communicated to the Board at their April 27, 2022, meeting. Several members followed up at a subsequent meeting when the County committed to investigate alternative design options.

The results of this investigation were presented at another Board / open Membership meeting on September 14, 2022. During said meeting the Board expressed support of the presented alternative vacuum system approach. On October 26, 2022, the Engineering Department conveyed the desired design change to USDA staff who were generally supportive but advised that the environmental & engineering reports had to be updated as well as a supplemental funding application to be filed. The documents were filed by the end of 2022 and USDA issued comments which were reviewed in a meeting with the Agency on January 10, 2023.

The supplemental funding has tight underwriting deadlines requiring the alternative design and permitting to be completed in no more than three (3) months. GMB reviewed the available staffing and declined to design the alternate. Subsequently, DBF indicated they were able to meet the anticipated schedule and on January 31, 2023 County Council approved GMB's Amendment No. 1 in the amount of \$29,057.72 to close out the original design contract and DBF's EJCDC agreement for the alternate vacuum system design.

The County Team met Wolfe Runne HOA representatives on February 9th and April 13th to present the vacuum system concept. Ultimately the HOA rejected the system and requested the County to pursue the original design shifting the easement to lot 67. Said easement was recorded on June 7th and the Department engaged with the archeological consultant to clear the revised alignment. His report was received July 20th and submitted to the Agencies for concurrence. The Department received and reviewed GMB's Amendment No. 2 which covers the redesign as well as construction services.

The Departments requests Council's approval of GMB's Amendment No. 2 in the amount of \$325,188.00 for redesign and construction related services subject to USDA concurrence.

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated November 19, 2019.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 2

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement: November 19, 2019

Owner: Sussex County

Engineer: George, Miles & Buhr, LLC

Project: Wolfe Runne Sewer Expansion, Project# S20-13

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

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

Description of Modifications:

Additional Engineering Phase Services as outlined in Exhibit L – Proposal for Additional Design Phase Services, Bid Phase Services, and Construction Phase Services:

- ***Design Phase Services: \$36,241.00***
- ***Bid Phase Services: \$9,863.00***
- ***Construction Phase Services: \$80,268.00***
- ***Resident Project Representative: \$198,816.00***

****Services based on Contractor achieving substantial completion in 360 days and ready for final inspection in 390 days.***

Agreement Summary:

Original agreement amount:	\$ <u>204,003.00</u>
Net change for prior amendments:	\$ <u>233,060.72</u>
This amendment amount:	\$ <u>325,188.00</u>
Adjusted Agreement amount:	\$ <u>558,248.72</u>

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

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

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

OWNER:

ENGINEER:

Sussex County

George Miles & Buhr, LLC

By: _____

By: James C Hoageson, P.E.

Print name: Michael H. Vincent

Print name: James C. Hoageson

Title: President, Sussex County Council

Title: Sr. Vice President

Date Signed: _____

Date Signed: 8/2/2023

PREVIOUSLY APPROVED FORM

EXHIBIT A.1 - WORK PROGRAM MANHOOR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES

PART 1 - GENERAL

1. Grantee Sussex County, Delaware		2. Grant Number	
3. Name of Consultant George, Miles & Buhr, LLC		4. Date of Proposal <p align="right">31-Jul-23</p>	
5. Address of Consultant 206 West Main St Salisbury, MD 21801-4907		6. TYPE OF SERVICE TO BE FURNISHED Re-design Phase Services - Wolfe Runne Sanitary Sewer Expansion	

PART II - COST SUMMARY

7. DIRECT LABOR	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Director JCH	28	\$ 205.00	\$ 5,740.00	
Project Manager(s)	-	\$ 190.00	\$ -	
Project Engineer JES	4	\$ 140.00	\$ 560.00	
Graduate Engineer JBM	114	\$ 120.00	\$ 13,680.00	
Construction Rep DC	-	\$ 125.00	\$ -	
Project Coordinator SLH	12	\$ 105.00	\$ 1,260.00	
SR. Designer DLB	8	\$ 125.00	\$ 1,000.00	
Designer MMD	60	\$ 100.00	\$ 6,000.00	
Surveyor DG	24	\$ 130.00	\$ 3,120.00	
	-	\$ -	\$ -	
DIRECT LABOR TOTAL:	250			\$ 31,360.00
8. INDIRECT COSTS	RATE	x BASE =	ESTIMATED COST	
Overhead and Fringe	-	\$ 31,360.00	\$ -	
INDIRECT COSTS TOTAL:				\$ -
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION	mileage	200.00 mi @ \$0.58/mi	\$ 116.00	
(2) PER DIEM	meals			
TRAVEL SUBTOTAL:			\$ 116.00	
b. EQUIPMENT, MATERIALS, SUPPLIES			ESTIMATED COST	
	QTY.	COST		
plots/prints	200	\$ 3.00	\$ 600.00	
copies b/w	1,500	\$ 0.20	\$ 300.00	
copies color	100	\$ 0.50	\$ 50.00	
postage	1	\$ 50.00	\$ 50.00	
survey equipment	1	\$ 1,265.00	\$ 1,265.00	
EQUIPMENT SUBTOTAL:			\$ 2,265.00	
c. SUBCONTRACTS				
		Electrcial	\$ 2,500.00	
		Geotechnical	\$ -	
		Private Utility Locator	\$ -	
SUBCONTRACTS SUBTOTAL:			\$ 2,500.00	
OTHER DIRECT COSTS TOTAL:				\$ 4,881.00
10. ESTIMATED COST				\$ 36,241.00
11. FEE	Included in Standard Hourly Rate			\$ -
12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE				\$ 36,241.00

EXHIBIT A.1 - WORK PROGRAM MANHOOR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES

PART 1 - GENERAL

1. Grantee Sussex County, Delaware		2. Grant Number	
3. Name of Consultant George, Miles & Buhr, LLC		4. Date of Proposal 31-Jul-23	
5. Address of Consultant 206 West Main St Salisbury, MD 21801-4907		6. TYPE OF SERVICE TO BE FURNISHED Bid Phase Services - Wolfe Runne Sanitary Sewer Expansion	

PART II - COST SUMMARY

7. DIRECT LABOR	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Director JCH	14	\$ 205.00	\$ 2,870.00	
Project Manager(s)	-	\$ 190.00	\$ -	
Project Engineer JES	-	\$ 140.00	\$ -	
Graduate Engineer JBM	36	\$ 120.00	\$ 4,320.00	
Construction Rep DC	-	\$ 125.00	\$ -	
Project Coordinator SLH	8	\$ 105.00	\$ 840.00	
SR. Designer DLB	-	\$ 125.00	\$ -	
Designer MMD	8	\$ 100.00	\$ 800.00	
Surveyor DG	-	\$ 130.00	\$ -	
	-	\$ -	\$ -	
DIRECT LABOR TOTAL:	66			\$ 8,830.00
8. INDIRECT COSTS	RATE	x BASE =	ESTIMATED COST	
Overhead and Fringe	-	\$ 8,830.00	\$ -	
INDIRECT COSTS TOTAL:				\$ -
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION	mileage	100.00 mi @ \$0.58/mi	\$ 58.00	
(2) PER DIEM	meals			
TRAVEL SUBTOTAL:			\$ 58.00	
b. EQUIPMENT, MATERIALS, SUPPLIES			ESTIMATED COST	
	QTY.	COST		
plots/prints	200	\$ 3.00	\$ 600.00	
copies b/w	1,500	\$ 0.20	\$ 300.00	
copies color	50	\$ 0.50	\$ 25.00	
postage	1	\$ 50.00	\$ 50.00	
survey equipment	-	\$ 1,265.00	\$ -	
EQUIPMENT SUBTOTAL:			\$ 975.00	
c. SUBCONTRACTS				
		Electrcial	\$ -	
		Geotechnical	\$ -	
		Private Utility Locator	\$ -	
SUBCONTRACTS SUBTOTAL:			\$ -	
OTHER DIRECT COSTS TOTAL:				\$ 1,033.00
10. ESTIMATED COST				\$ 9,863.00
11. FEE	Included in Standard Hourly Rate			\$ -
12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE				\$ 9,863.00

EXHIBIT A.1 - WORK PROGRAM MANHOUR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES

PART 1 - GENERAL

1. <i>Grantee</i> Sussex County, Delaware		2. <i>Grant Number</i>	
3. <i>Name of Consultant</i> George, Miles & Buhr, LLC		4. <i>Date of Proposal</i> <p align="right">31-Jul-23</p>	
5. <i>Address of Consultant</i> 206 West Main St Salisbury, MD 21801-4907		6. <i>TYPE OF SERVICE TO BE FURNISHED</i> Contract Administration Phase Services - Wolfe Runne Sanitary Sewer Expansion	

PART II - COST SUMMARY

7. <i>DIRECT LABOR</i>	<i>ESTIMATED HOURS</i>	<i>HOURLY RATE</i>	<i>ESTIMATED COST</i>	<i>TOTALS</i>
Project Director JCH	159	\$ 205.00	\$ 32,595.00	
Project Manager(s)	-	\$ 190.00	\$ -	
Project Engineer JES	-	\$ 140.00	\$ -	
Graduate Engineer JBM	271	\$ 120.00	\$ 32,520.00	
Construction Rep DC	20	\$ 125.00	\$ 2,500.00	
Project Coordinator SLH	25	\$ 105.00	\$ 2,625.00	
SR. Designer DLB	-	\$ 125.00	\$ -	
Designer MMD	24	\$ 100.00	\$ 2,400.00	
Surveyor DG	-	\$ 130.00	\$ -	
	-	\$ -	\$ -	
DIRECT LABOR TOTAL:	499			\$ 72,640.00
8. <i>INDIRECT COSTS</i>	<i>RATE</i>	<i>x BASE =</i>	<i>ESTIMATED COST</i>	
Overhead and Fringe	-	\$ 72,640.00	\$ -	
INDIRECT COSTS TOTAL:				\$ -
9. <i>OTHER DIRECT COSTS</i>				
a. <i>TRAVEL</i>			<i>ESTIMATED COST</i>	
(1) <i>TRANSPORTATION</i> mileage	1,600.00	mi @ \$0.58/mi	\$ 928.00	
(2) <i>PER DIEM</i> meals				
TRAVEL SUBTOTAL:			\$ 928.00	
b. <i>EQUIPMENT, MATERIALS, SUPPLIES</i>			<i>ESTIMATED COST</i>	
plots/prints	400	\$ 3.00	\$ 1,200.00	
copies b/w	1,500	\$ 0.20	\$ 300.00	
copies color	100	\$ 0.50	\$ 50.00	
postage	1	\$ 50.00	\$ 50.00	
survey equipment	-	\$ 1,265.00	\$ -	
EQUIPMENT SUBTOTAL:			\$ 1,600.00	
c. <i>SUBCONTRACTS</i>				
		Electrcial	\$ 5,100.00	
		Geotechnical	\$ -	
		Private Utility Locator	\$ -	
SUBCONTRACTS SUBTOTAL:			\$ 5,100.00	
OTHER DIRECT COSTS TOTAL:				\$ 7,628.00
10. ESTIMATED COST				\$ 80,268.00
11. FEE	Included in Standard Hourly Rate			\$ -
12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE				\$ 80,268.00

EXHIBIT A.2 - WORK PROGRAM MANHOUR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES

PART 1 - GENERAL

1. <i>Grantee</i> Sussex County, Delaware		2. <i>Grant Number</i>	
3. <i>Name of Consultant</i> George, Miles & Buhr, LLC		4. <i>Date of Proposal</i> <p align="right">31-Jul-23</p>	
5. <i>Address of Consultant</i> 206 West Main St Salisbury, MD 21801-4907		6. <i>TYPE OF SERVICE TO BE FURNISHED</i> Resident Project Representative - Wolfe Runne Sanitary Sewer Expansion	

PART II - COST SUMMARY

7. <i>DIRECT LABOR</i>	<i>ESTIMATED HOURS</i>	<i>HOURLY RATE</i>	<i>ESTIMATED COST</i>	<i>TOTALS</i>
Project Director JHW	-	\$ 190.00	\$ -	
Project Manager(s) JCH	-	\$ 190.00	\$ -	
Project Engineer CP	-	\$ 118.00	\$ -	
Graduate Engineer JBM	-	\$ 105.00	\$ -	
Construction Rep DC	-	\$ 110.00	\$ -	
Inspector TBD	2,000	\$ 95.00	\$ 190,000.00	
CADD MMD	-	\$ 85.00	\$ -	
Surveyor DG	-	\$ 70.00	\$ -	
	-	\$ -	\$ -	
DIRECT LABOR TOTAL:	2,000			
8. <i>INDIRECT COSTS</i>	<i>RATE</i>	<i>x BASE =</i>	<i>ESTIMATED COST</i>	
Overhead and Fringe	-	\$ 190,000.00	\$ -	
INDIRECT COSTS TOTAL:				\$ -
9. <i>OTHER DIRECT COSTS</i>				
a. <i>TRAVEL</i>			<i>ESTIMATED COST</i>	
(1) <i>TRANSPORTATION</i> mileage	15,200.00	mi @ \$0.58/mi	\$ 8,816.00	
(2) <i>PER DIEM</i> meals				
TRAVEL SUBTOTAL:			\$ 8,816.00	
b. <i>EQUIPMENT, MATERIALS, SUPPLIES</i>				
	<i>QTY.</i>	<i>COST</i>	<i>ESTIMATED COST</i>	
plots/prints	-	\$ 3.00	\$ -	
copies b/w	-	\$ 0.20	\$ -	
copies color	-	\$ 0.50	\$ -	
postage	-	\$ 70.00	\$ -	
survey equipment	-	\$ 150.00	\$ -	
EQUIPMENT SUBTOTAL:			\$ -	
c. <i>SUBCONTRACTS</i>				
		Electrcial	\$ -	
		Geotechnical	\$ -	
		Private Utility Locator	\$ -	
SUBCONTRACTS SUBTOTAL:			\$ -	
OTHER DIRECT COSTS TOTAL:				\$ 8,816.00
10. ESTIMATED COST				\$ 198,816.00
11. FEE Included in Standard Hourly Rate				\$ -
12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE				\$ 198,816.00



ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801

PH: 410.742.3115

PH: 800.789.4462

salisbury@gmbnet.com

SALISBURY
BALTIMORE
SEAFORD
LEWES
OCEAN VIEW

www.gmbnet.com



JAMES H. WILLEY, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.
BENJAMIN K. HEARN, P.E.

July 31, 2023

Sussex County Engineering Department
2 The Circle
PO Box 589
Georgetown, DE 19947

Attn: Mr. Hans Medlarz, P.E.

Re: Proposal for Engineering Professional Services
Wolfe Runne Sewer Expansion - Redesign

Dear Hans:

George, Miles & Buhr, LLC (GMB) is pleased to present this proposal for limited redesign within the Wolfe Runne project area. Our proposal is more particularly described as follows.

PROJECT LOCATION

Wolfe Runne Development located off Gills Neck Rd in Lewes, Delaware.

PROJECT DESCRIPTION

The Wolfe Runne Sewer Expansion was originally designed and permitted for construction in 2021. Due to issues with obtaining several key easements, the project has been on hold. Through the County's ongoing discussions with the HOA, alternative locations for the gravity sewer connection to Gills Neck Rd and the internal pump station site have been agreed upon in principle. As part of this redesign effort, GMB will prepare two easement exhibits for Sussex County's use in obtaining two critical easements from the HOA. No redesign efforts will commence until these easements are signed and recorded. The redesign efforts include gravity sewer relocation and alignment adjustments and the relocation of the proposed sewage pump station. It is noted within this proposal that standards have been changed by the Sussex Conservation District and the Sussex County Engineering Department and these contract documents will be updated accordingly.

SCOPE OF SERVICES

A. Design Phase Services:

1. Develop two (2) easement exhibits. One (1) easement exhibit for gravity sewer along a homeowner's parcel, and one (1) easement exhibit within the HOA common areas for gravity sewer connection to Gills Neck Rd and for a pump station site.
2. Supplemental field survey efforts related to the easement exhibits and incorporate into Civil 3D.

3. Revise the gravity sewer layout on Sheet C1.1 starting at an existing manhole in Gills Neck Rd and realign the sewer runs from MHs 1, 2, 3, 4,12, & 13. Update appropriate profile sheets as necessary.
4. Revise the gravity sewer layout on Sheet C1.1 in the vicinity of the pump station for MHs 18, 19, 20, & 32. Update appropriate profile sheets as necessary.
5. Relocate the pump station to along the edge of Spinnaker Circle in front of the tennis courts using the same pump station layout. Provide shoulder parking at the pump station. Grade to provide positive drainage.
6. Update the pump station discharge piping from stainless steel to Schedule 80 PVC on the plans and in the specifications.
7. Verify proposed pump selection is valid and update pump operating point, control settings, and pump curve on the drawings and in the specifications.
8. Revise the electrical drawings and specifications to change the SCADA communication link from radio to cellular.
9. Update pavement restoration detail sheet to define maximum trench pay width for pavement restoration, paving transition detail, and typical driveway restoration details, etc.
10. Update the Probable Construction Cost Estimate based on revised quantities to better align with current established bid items for pavement restoration, dewatering, driveway repair, etc. *Similar format as the Long Neck Sewer Expansion bid form.*
11. Revisions to the following construction drawings:
 - a. G1.2: update structures and pipes tables based on revised layout.
 - b. C1.1: update the site plan based on revised sewer layout.
 - c. C2.1: update LOD based on new sewer layout and ps site.
 - d. C3.1: update notes and site information.
 - e. C3.2,3.3: update ESC details to current version.
 - f. C4.0,4.1,4.2: update sewer details to current SCED standards.
 - g. C4.3: update grinder pump details to current.
 - h. C4.4: update pavement details and table.
 - i. C5.1,5.2,5.3,5.5: update profiles based on revised layouts.
 - j. C6.1: revise pump station site plan based on new location.
 - k. E1.1: update site plan to match new location.
 - l. E2.1: control cabinet and one-line revisions related to cellular SCADA.
 - m. E2.2: cabinet and SCADA revisions to cellular.
 - n. M2: TCP revisions to traffic control sequence of construction.
12. Revisions to the following specification sections:
 - a. 00111: Ad for Bid
 - b. 01100: Summary of Work

- c. 00410: Bid Form
- d. 01150: Measurement of Payment
- e. 11310: PS piping material and design point.
- f. 13320: Instrumentation and Controls
- g. 13440: Pump Control/SCADA PLC

13. Prepare Permit Applications

- a. DeIDOT Utility Construction Permit – Provide updated information to SCED for entry into UPA
- b. SCD Permit Application
- c. NOI Application
- d. DNREC Construction Permit

B. Bid Phase Services

- 1. Bid Phase Services as outlined in Exhibit A, Section A1.04, of the Agreement between the Owner and Engineer for Professional Services. Generally defined as follows:
 - a. Assist SCED with the advertisement to bid. SCED to publish the advertisement in appropriate newspapers.
 - b. Assist SCED with issuing the contract documents to prospective contractors and maintain a record of those receiving the documents.
 - c. Attend and chair the pre-bid meeting and distribute meeting minutes.
 - d. Prepare and issue addenda as necessary.
 - e. Respond to potential bidder's questions.
 - f. Review bids received and prepare bid tabulation.
 - g. Provide SCED with a letter of recommendation to award.

C. Construction Phase Services

- 1. Construction Phase Services as outlined in Exhibit A, Section A1.05, of the Agreement between the Owner and Engineer for Professional Services. Generally defined as follows:
 - a. Participate and chair a pre-construction conference prior to the commencement of Work at the Site.
 - b. Establish electronic transmittal protocols.
 - c. Review and determine the acceptability of monthly progress schedules.
 - d. Visit the site at various stages of construction.
 - e. Review and respond to Request for Information (RFIs).
 - f. Review and/or recommend change orders as appropriate.
 - g. Shop drawing review.
 - h. Review application for payments and make recommendations.
 - i. Review project status for issuance of Substantial Completion.
 - j. Review and issue Final Notice of Acceptability of the Work.

D. Resident Project Representative (RPR) Services

1. RPR Services as outlined in Exhibit A, Section A1.05 and as set forth in Exhibit D – Duties, responsibilities, and authority of the RPR.

FEE SUMMARY

We propose to provide the above defined Engineering Phase Services in accordance with EJCDC, EXHIBIT C - COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates per the following breakdown of fees:

Design Phase Services:	\$36,241.00
Bid Phase Services:	\$9,863.00
Contract Administration Services:	\$80,268.00
RPR Inspection Services:	\$198,816.00

TOTAL DESIGN PHASE SERVICES FEE: \$325,188.00

This proposal is valid for a period of sixty (60) days at which time GMB reserves the right to modify the fee and/or schedule.

EXCLUSION, ASSUMPTIONS, AND CONSIDERATIONS

- Excludes value engineering or modification to the plans outside of the scope explicitly defined within this proposal.
- Design changes to the gravity sewer alignment is contained to only the locations identified on the attached Site Plan Sheet C1.1 as marked up by the County. Any other gravity sewer, force main, LPS, or grinder station relocations, etc. are excluded.
- Excludes soil borings. No soil boring is proposed at the revised wet well location.
- Excludes any changes to the pumps previously selected, i.e., pump model, horsepower, etc.
- Excludes any changes to the generator and control panel. The only change to the pump station equipment will be related to the SCADA modification from radio to cellular.
- Excludes a landscaping plan for the pump station site. If landscaping is desired, an allowance will be added to the bid form.
- Excludes an entrance permit (residential or commercial) from DeIDOT for the pump station site. It is GMB's understanding from discussions with Sussex County that vehicular access to the station will be via a widening of the pavement along the site frontage to allow for parallel parking.
- Excludes all permitting and advertisement fees. Fees to be paid directly by Sussex County.
- Excludes coordinating and obtaining pavement corings from DeIDOT for determination of existing pavement section and proposed final pavement sections. All coordination of this work was agreed to be performed by Sussex County.
- Excludes any archaeological studies.

- Construction Phase Services is based on a contract duration of 360 consecutive days to reach Substantial Completion and 390 consecutive calendar days to reach Ready for Final Payment.
- Any item not specifically indicated herein is excluded from this agreement.

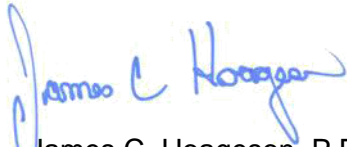
SCHEDULE

We propose to begin the Design Phase Services for this project within two (2) weeks of receipt of this signed proposal. We estimate two (2) to three (3) months to complete the documents and submit to SCED and the various permitting and review agencies. Once the plans are submitted to the various permitting and review agencies, we are no longer in control of the schedule. We will maintain communication with the agencies to facilitate the review process.

If this proposal meets with your approval, please execute in the space provided below and return one (1) copy to our office as acceptance and notification to proceed.

If you have any questions, do not hesitate to call me. We thank you for this opportunity.

Sincerely,



James C. Hoageson, P.E.
Sr. Project Manager

JCH/slh

Attachment: Site Plan, Sheet C1.1 dated April 16, 2021

APPROVED BY SUSSEX COUNTY ENGINEERING:

By: _____

Printed Name: _____

Date: _____

Title: _____

Phone Number: _____

Email Address: _____

NO.	DATE	REVISIONS

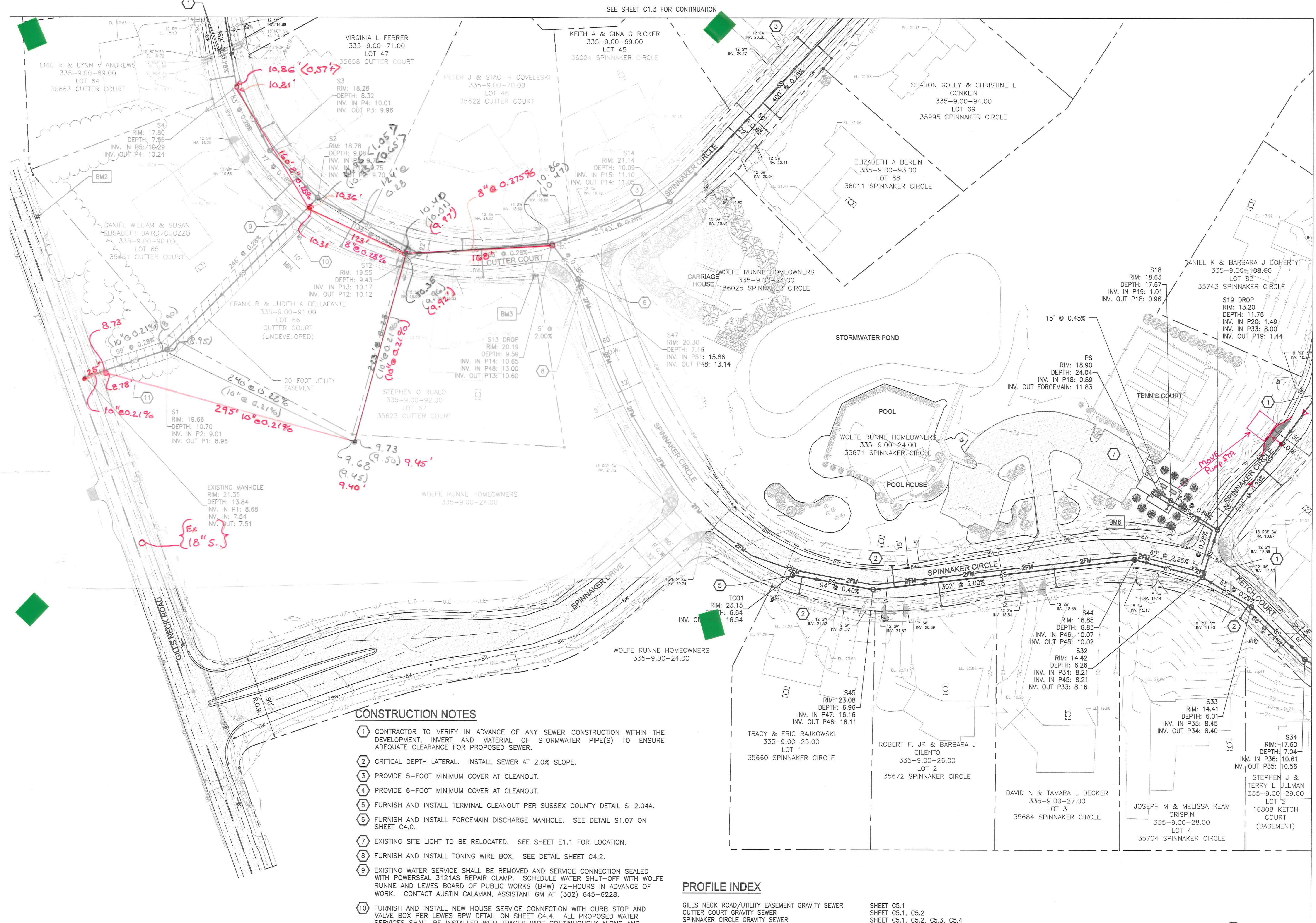
Design changes noted were provided by Sussex County Engineering Department

GMB
 GEORGE, MILES & BUHR, LLC
 ARCHITECTS & ENGINEERS
 SALISBURY • BALTIMORE • SEAFORD
 206 WEST MAIN STREET
 SALISBURY, MARYLAND 21801
 410-742-3115, FAX 410-548-5790
 www.gmbnet.com

WOLFE RUNNE SEWER EXPANSION
 COUNTY PROJECT #S20-13
 SUSSEX COUNTY, DELAWARE

SITE PLAN

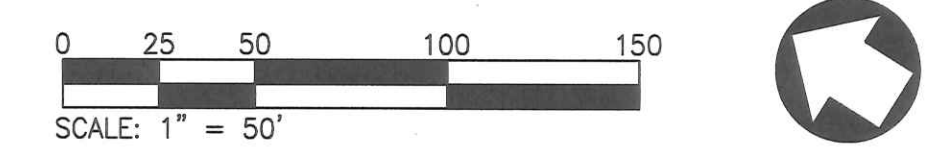
SCALE : AS NOTED	SHEET NO.
DESIGN BY : JCH	C1.1
DRAWN BY : MMD	
CHECKED BY : JCH	
DATE : APR. 16, 2021	



- CONSTRUCTION NOTES**
- CONTRACTOR TO VERIFY IN ADVANCE OF ANY SEWER CONSTRUCTION WITHIN THE DEVELOPMENT, INVERT AND MATERIAL OF STORMWATER PIPE(S) TO ENSURE ADEQUATE CLEARANCE FOR PROPOSED SEWER.
 - CRITICAL DEPTH LATERAL. INSTALL SEWER AT 2.0% SLOPE.
 - PROVIDE 5-FOOT MINIMUM COVER AT CLEANOUT.
 - PROVIDE 6-FOOT MINIMUM COVER AT CLEANOUT.
 - FURNISH AND INSTALL TERMINAL CLEANOUT PER SUSSEX COUNTY DETAIL S-2.04A.
 - FURNISH AND INSTALL FORCEMAIN DISCHARGE MANHOLE. SEE DETAIL S1.07 ON SHEET C4.0.
 - EXISTING SITE LIGHT TO BE RELOCATED. SEE SHEET E1.1 FOR LOCATION.
 - FURNISH AND INSTALL TONING WIRE BOX. SEE DETAIL SHEET C4.2.
 - EXISTING WATER SERVICE SHALL BE REMOVED AND SERVICE CONNECTION SEALED WITH POWERSEAL 3121AS REPAIR CLAMP. SCHEDULE WATER SHUT-OFF WITH WOLFE RUNNE AND LEWES BOARD OF PUBLIC WORKS (BPW) 72-HOURS IN ADVANCE OF WORK. CONTACT AUSTIN CALAMAN, ASSISTANT GM AT (302) 645-6228.
 - FURNISH AND INSTALL NEW HOUSE SERVICE CONNECTION WITH CURB STOP AND VALVE BOX PER LEWES BPW DETAIL ON SHEET C4.4. ALL PROPOSED WATER SERVICES SHALL BE INSTALLED WITH TRACER WIRE CONTINUOUSLY ALONG AND DIRECTLY ADHERED TO THE PIPE. MAINTAIN 10-FOOT MINIMUM HORIZONTAL DISTANCE FROM SEWER.
 - LIMIT TREE REMOVAL ONLY AS NECESSARY TO FACILITATE CONSTRUCTION.

PROFILE INDEX

GILLS NECK ROAD/UTILITY EASEMENT GRAVITY SEWER	SHEET C5.1
CUTTER COURT GRAVITY SEWER	SHEET C5.1, C5.2
SPINNAKER CIRCLE GRAVITY SEWER	SHEET C5.1, C5.2, C5.3, C5.4
KETCH COURT GRAVITY SEWER	SHEET C5.4
YAWL COURT GRAVITY SEWER	SHEET C5.2
SPINNAKER CIRCLE FORCE MAIN	SHEET C5.5



PLOT CODE
 P18-BLUE 200 INCHES (50mm)
 P19-MAGENTA 200 INCHES (50mm)
 P20-RED 200 INCHES (50mm)
 P21-YELLOW 200 INCHES (50mm)
 P22-GRAY 200 INCHES (50mm)
 P23-ORANGE 200 INCHES (50mm)
 P24-GREEN 200 INCHES (50mm)
 P25-BROWN 200 INCHES (50mm)
 P26-PINK 200 INCHES (50mm)
 P27-RED 200 INCHES (50mm)
 P28-BLUE 200 INCHES (50mm)
 P29-MAGENTA 200 INCHES (50mm)
 P30-RED 200 INCHES (50mm)
 P31-YELLOW 200 INCHES (50mm)
 P32-GRAY 200 INCHES (50mm)
 P33-ORANGE 200 INCHES (50mm)
 P34-GREEN 200 INCHES (50mm)
 P35-BROWN 200 INCHES (50mm)
 P36-PINK 200 INCHES (50mm)
 P37-RED 200 INCHES (50mm)
 P38-BLUE 200 INCHES (50mm)
 P39-MAGENTA 200 INCHES (50mm)
 P40-RED 200 INCHES (50mm)
 P41-YELLOW 200 INCHES (50mm)
 P42-GRAY 200 INCHES (50mm)
 P43-ORANGE 200 INCHES (50mm)
 P44-GREEN 200 INCHES (50mm)
 P45-BROWN 200 INCHES (50mm)
 P46-PINK 200 INCHES (50mm)
 P47-RED 200 INCHES (50mm)
 P48-BLUE 200 INCHES (50mm)
 P49-MAGENTA 200 INCHES (50mm)
 P50-RED 200 INCHES (50mm)

SEE SHEET C1.3 FOR CONTINUATION

SEE SHEET C1.2 FOR CONTINUATION

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

RE: *Western Sussex Unified Sewer District:
Contract 5, Project S19-29
A. Segment D: Change Order No. 5 and Substantial Completion*

DATE: August 15, 2023

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

The County requested funding consideration under the Clean Water State Revolving Fund and on August 14, 2018, the State issued a binding commitment offer in the overall amount of \$16,634,748 to be repaid within 30-years with 2.5% interest. On November 27, 2018, Council accepted the offer and approved the associated borrowing ordinance. After project completion, \$3,200,000 will be applied in principle forgiveness reducing the overall borrowing. On May 15, 2020 the County filed a supplemental CWSRF funding request in the amount of \$850,000 to cover unanticipated change orders associated with the DeIDOT restoration on RT-13. The County's request was approved by the Water Infrastructure Advisory Council during their July 15, 2020 meeting in the form of "Loan Forgiveness.

Council also authorized a 2nd request for supplemental funding for the Western Sussex District Area Expansion Project through the CWSRF in the amount of \$1,336,315.00. Once an offer is received, an associated debt ordinance would be introduced and voted on by Council after a public hearing. Since the project is already at the affordability limits an offer in the form of mostly "Loan Forgiveness" is expected.



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

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

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

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

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

Contract No.3 awarded to A-Del Construction Co, Inc. encountered no issues and on June 15, 2021 Council approved the balancing Change Order No. 1 in the credit amount of \$643,915.22 together with final project completion as of April 7, 2021.

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

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

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

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

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

- Segment A to A-Del Construction Co., Inc. for \$427,000.00
- Segment B to Richard E. Pierson Construction Co., Inc. for \$920,800.00
- Segment D to Standard Pipe Services, LLC for \$525,100.00
- Segment C due to irregularities in the low bid, Council rejected all bids for Segment C and authorized an immediate re-bid.

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

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

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

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

- Segment D was awarded to Standard Pipe Services, LLC for \$525,100.00. Standard Pipe Services, LLC proposed Change Order No. 1 in the amount of \$52,500.00 for unit rates covering camera work beyond the main for locating, cleaning and televising laterals estimated and Change Order No. 2 in the amount of \$33,900.00 or contingent

unit rates approval for heavy cleaning services prior to camera work. Council approved both change orders on July 12, 2022.

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

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

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

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

On June 20, 2023, Council approved Change Order No. 4 in the not to exceed amount of \$75,500.00 for additional repair scope at the unit prices bid and an associated four (4) week contract extension.

Since then, Standard Pipe Services, LLC completed the remaining scope items that could be resolved within the context of the approved unit bid items of Contract 5D. This concludes their contract leaving a balancing Change Order No. 5 in the credit amount of (\$32,236.00), and the new contract total of \$654,764.00.

The Engineering Department recommends awarding substantial completion as of July 21st, 2023, and the approval of Change Order No. 5 for Standard Pipe Services, LLC's in the credit amount of (\$32,236.00) contingent upon SRF concurrence.

Date of Issuance: 8/08/23	Effective Date: 8/15/23
Owner: Sussex County	Owner's Contract No.: S19-29
Contractor: Standard Pipe Services, LLC	Contractor's Project No.:
Engineer: Davis, Bowen & Friedel, Inc.	Engineer's Project No.: 1897B016
Project: Western Sussex Transmission Facilities: Contract 5 Segment D	Contract Name:

The Contract is modified as follows upon execution of this Change Order:
Repairs to compromised infrastructure and repairs to lateral connections.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ 525,100.00	Original Contract Times: Substantial Completion: <u>December 18, 2022</u> Ready for Final Payment: _____ 60 calendar days
Increase from previously approved Change Orders No. <u>1</u> to No. 4: \$161,900.00	Increase from previously approved Change Orders No. to No. 3: Substantial Completion: <u>December 18, 2022</u> Ready for Final Payment: _____
Contract Price prior to this Change Order: \$ 687,000.00	Contract Times prior to this Change Order: Substantial Completion: <u>June 23, 2023</u> Ready for Final Payment: _____
Decrease of this Change Order: (\$32,236.00)	[Increase] [Decrease] of this Change Order: 28 days Substantial Completion: <u>July 21, 2023</u> Ready for Final Payment: _____
Contract Price incorporating this Change Order: \$ 654,764.00	Contract Times with all approved Change Orders: Substantial Completion: <u>July 21, 2023</u> Ready for Final Payment: _____

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: <u><i>[Signature]</i></u>	By: _____	By: <u><i>[Signature]</i></u>	By: _____	By: <u><i>[Signature]</i></u>	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)			
Title: <u>County Engineer</u>	Title: _____	Title: <u>Sr. Project Manager</u>	Title: _____	Title: _____	Title: _____
Date: <u>8/10/2023</u>	Date: _____	Date: <u>8/9/23</u>	Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 9, 2023

RE: County Council Report for C/U 2400 filed on behalf of Kent Walston, LLC

The Planning and Zoning Department received an application (C/U 2400 filed on behalf of Kent Walston, LLC) for multi-family dwellings (5 units) on parcel 134-17.07-173.02. The property is located at the east side of Kent Avenue, approximately 350 feet north of Jefferson Bridge Road. The parcel size is 1.4 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on June 22, 2023. At the meeting of July 13, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and 16 recommended conditions as outlined within the motion (copied below). On August 1, 2023, Council deferred action for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting of June 22, 2023 and July 13, 2023.

Minutes of the June 22, 2023, Planning & Zoning Commission Meeting

C/U 2400 Kent Walston, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS. The property is lying on the east side of Kent Avenue (S.C.R. 361), approximately 350 feet north of Jefferson Bridge Road (S.C.R. 361A). 911 Address: N/A. Tax Map Parcel: 134-17.07-173.02.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, a letter received from the Sussex County Engineering Department Utility Planning Division, the



Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, and the property deed. Mr. Whitehouse stated zero comments in support, 29 comments in opposition, and 11 mail returns had been received for the Application.

The Commission found that Mr. Chris Pfeifer, P.E., with George, Miles & Buhr, LLC (GMB) spoke on behalf of the Applicant, Mr. Paul McCabe; that Mr. McCabe was also present along with Ms. Katja Kalinski, a Land Planner with George, Miles & Buhr, LLC. Mr. Pfeifer stated the site consists of a 1.37 acre parcel, located on Kent Avenue, adjacent to the Bethany Beach; that the project seeks a Conditional Use for five townhome units; that the site is currently zoned MR (Medium Density Residential) and is located within the Coastal Area; that the Application went through the PLUS process; that they received the PLUS comments on December 17, 2021; that they submitted their PLUS comment responses on August 24, 2022; that the site is located within State Investment Level I, which are areas developed in an urban or suburban fashion, where infrastructure is existing and readily available, and future redevelopment and infill projects are expected and encouraged by State policy; that the project would be considered an infill project; that the site is surrounded by existing residential units; that the area to the north is within the Town of Bethany Beach, and zoned R2; that R2 zoning permits for one, two, three and four standard dwelling unit buildings; that directly adjacent to the north is the Bethany Proper community, which includes townhomes; that the 126 unit townhome community is located on a 14.28 acre parcel, which results in a density of approximately 8.5 units per acre; the area to the south is located within Sussex County, being mostly zoned MR (Medium-Density Residential); however, there is one parcel directly adjacent that is zoned HR (High Density Residential), which has seven units located on 1.38 acres, resulting in approximately five units per acre; that the Application seeks five townhome units with garages, to be located on the 1.37 acre parcel; that this would result in a density of 3.67 units per acre; that the project would have a shared driveway off Kent Avenue; that stormwater management will be designed to meet the requirements of Sussex Conservation District; that they did hold a pre-application meeting with Sussex Conservation District on July 21st, 2021; that there is public water readily available from Bethany Beach; that public sewer is provided by Sussex County; that an entrance is proposed off Kent Avenue, which is a DelDOT major collector road; that the entrance design would be coordinated with all DelDOT rules, regulations, review and approval; that a Traffic Impact Study (TIS) was not required because it is anticipated that less than 500 vehicle trips would be generated per day; that they did submit an updated Service Level Evaluation Request on April 27th, 2023 for the five dwelling units and five townhomes; that what they received back from DelDOT on May 26th, 2023, reflected the wrong unit count, still reflecting the three units; that he went through, using the same handbook that DelDOT did, to generate those calculations; that he found the project, proposing five units, would still remain under the 50 ADT that DelDOT referenced in the letter; that an Environmental Assessment was completed by Environmental Resources, Inc.; that a Public Facilities Evaluation Report was prepared by GMB, LLC; that there were no threatened or endangered species found on the site; the Environmental Resources, Inc. (ERI) also preformed site investigations in early 2022, and no State regulated or title wetlands are located on the property; that there are no anticipated impacts to federally regulated wetlands; that the open space would be under the proposed condominium regime; that there is public sewer and water available at the entrance of the site; that the condominium would maintain the ownership of all the interior utilities as well as the shared driveway; that some of the economic benefits of the site is the proposed use would be an infill development for a parcel that is currently vacant; that per the Sussex County Comprehensive Plan, the site is located within State Investment Level 1, falling within the Coastal Area, which is a designated growth area, and the proposed project is consistent with the Comprehensive Plan.

Ms. Stevenson questioned the number of parking spaces provided.

Mr. Pfeifer stated there is a one-car garage provided with each unit and additional parking provided outside of the garage as well, equaling up to two provided parking spaces per unit, with two additional spots on the site.

The Commission found that one person was present in the room who wished to speak in support of the Application and three people were present who wished to speak in opposition.

Mr. William [Bill] Lindlaw spoke in opposition to the Application. Mr. Lindlaw stated he is the HOA President of the Bethany Proper community; that Bethany Proper has 126 homes; that the homes located to the east have significant water issues and has had the issue for 40 years; that the area is a very marshy wet area; that they have required extra sub-pumps due to the water runoff from the lot; that they are very concerned with the current plans driveway location; that they feel the driveway location will exacerbate the runoff issue; that there is a drainage pond down at the bottom, but they are unsure how that pond will benefit their houses; that the picture shown was a bit misleading; that when the site was staked out, the property line was found to be located right on the decks of their houses, not leaving any space; that they were told when the houses were built over 40 years ago, the property line was misconstrued; that the houses were build practically to the property line; that they were assuming the project would be for two units; that five units will take up all of the buildable space; that the southern portion of the property is not buildable, as it is very marshy; that everything on the site will be either a street or a building, leaving very little green left; that they feel the proposed buffer may not be constructed as it appears; that they fear the area will become very sparse, creating the water issues to be compounded; that for these reasons, they would prefer to see a lower density proposed; that there was a new, two unit, duplex built nearby, on a similar property, and that is what they were expecting to be proposed for the site.

Mr. Pfeifer stated the goal is to leave as much of the wooded area as possible; that the property owner also desires to save as many trees as possible, as he also desires to have a buffer in that area; that they have attempted to leave as many woods as possible along the property line located between the site and Bethany Proper; that they are required to meet Sussex Conservation District requirements, and the proposed project is not allowed to make the stormwater situation any worse than it currently is.

Chairman Wheatley stated the Applicant is not obligated to fix the current water runoff issues; however, the Applicant cannot make the issue any worse.

Mr. Hopkins questioned if the topography of the site currently drains onto adjacent properties, and where any overflow drainage will go.

Ms. Wingate questioned the amount of overflow that would occur since the stormwater management would be constructed to capacity.

Mr. Pfeifer stated there is a sump located in the area where the stormwater facility is located in the southeast corner of the property; that theoretically, as the sump fills up, it does spill over onto adjacent properties; that there is a small swale located at the front of the site, that overflow drainage would discharge to; that there is no infiltration located on the site, and larger storm events would potentially create overflow, but the site would be designed to handle the overflow.

Mr. Hopkins stated he felt it was important that neighbors understand that the paved areas will be graded around the houses to ensure the water runoff will make its way to the stormwater pond; that once the pond fills, the runoff would flow towards the front of the property and out toward the ditch.

Mr. Pfeifer agreed with Mr. Hopkins's comments, confirming his statement was correct.

Chairman Wheatley questioned Mr. Whitehouse as to what would currently be permitted, without a Conditional Use, within the MR (Medium-Density Residential) Zoning District.

Mr. Whitehouse stated any multi-family would require a Conditional Use unless one were to propose a principal dwelling with a garage-studio apartment, or the property could be subdivided with lots as low as 10,000 sq. ft. because the property is served by sewer.

Mr. Robertson stated a property larger than one acre could get at least four lots, assuming the geometry works out on the site.

Chairman Wheatley stated when considering that information, the plan does appear to be sensitive to the adjacent properties, as the wooded areas are kept intact, and the Commission is able to condition the project to ensure the proposed trees are kept.

Mr. Hopkins questioned if the rendering reflected the current growth or the proposed growth; that if the topography has a hard fall off, it may be more beneficial to elevate the roads; that this could create the only runoff to the adjacent properties to be the runoff that falls within the trees and runs down, and the question is, would it be better to take out the trees, elevate, and then put trees back in.

Mr. Pfeifer stated that the topography is flat currently; that their proposed design would make it so that the paved area runoff would not be directed to adjacent properties.

Chairman Wheatley questioned if the current plan would be achievable without losing the existing woods, and stated the Commission can also require plantings if desired.

Mr. Pfeifer stated they would need to take a closer look at the grading; that there is some number of woods that would be able to remain on the site; that he could not currently confirm that number and they are attempting to keep as many existing trees onsite as possible.

Mr. Mears stated he grew up in Bethany Beach; that Bethany Proper foundations were built below grade; that due to this, sump pumps have been required; that this issue is going to exist regardless of what happens on the subject site, and that testimony had already been provided stating that.

Chairman Wheatley agreed with Mr. Mears' comments; that he stated, mistakes made on the adjacent property are not the responsibility of the Applicant, and the Applicant has no requirement to fix the issues of another site, but the law states the Applicant cannot make those existing issues any worse.

Mr. John Wassell spoke in opposition to the Application. Mr. Wassell stated he owns property within Bethany Proper; that he felt like the statement "*saving as many trees as possible*" was a bit generic, and he would like to narrow that down; that there are a lot of trees currently existing; that his property is adjacent to the site and the existing trees; that from the plans he understood most of the trees, being approximately 85% to 90%, of the trees will be removed; that he would request the developer to be

more concise on the number of trees to be removed; that the current residents can walk to the beach from Bethany Proper; that they do not want to see people cutting through the community; that he questioned if a fence was included in the plan to avoid the potential issue.

Mr. Robertson stated that if the project were to be approved, the requirement would be whatever the County would require; that the County would place conditions on the project, which would be required to be reflected on the Final Site Plan showing precisely what trees are to remain.

Chairman Wheatley stated he understood the concern of trespassing, however, it is not the Applicant's responsibility to place a fence, but the Commission would consider the concern.

Mr. Robertson stated there were multiple emails submitted suggesting the same concern from other residents of Bethany Proper.

Mr. Bob Nichols spoke in opposition to the Application. Mr. Nichols stated he was curious as to what the one kick-out area is proposed for as reflected on the drawing; that the questioned if the area was proposed for additional parking or proposed for a dumpster, and the trash pick-up location is a concern for him.

Ms. Wingate stated most units have regular trash pick up once a week and do not have dumpsters.

Chairman Wheatley stated if a dumpster is involved, screening would be required.

Ms. Ellen McGee spoke in support of the Application. Ms. McGee stated she is familiar with the property, and she knows the Applicant's family; that the family has lived in the area for generations; that she understood the neighbors' concerns, however, she believed the Applicant would do a good job.

The Commission found that one person wished to speak by teleconference in opposition to the Application.

Mr. John Fehrenbach spoke in opposition to the Application. Mr. Fehrenbach spoke with concerns regarding the retention of trees, the requirement for buffers, and the height restriction of the proposed buildings.

Mr. Whitehouse stated the zoning district would limit the buildings to a maximum of 42 feet; that there are mechanisms within the Code that require planting, bonding, maintenance, and inspection of landscape buffers and there is an inspection process for that.

Mr. Mears stated the neighboring properties located within the Town of Bethany have a 31-foot maximum height requirement within their Code; that this is the reason for the differences in building height; that this creates the feeling the building would tower over others, and the Applicant, nor Bethany Property owners, are able to control the fact that the properties are found within two different jurisdictions.

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

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

In relation to C/U 2400 Kent Walston, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application, which had been deferred since June 22, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2400 Kent Walston, LLC, for five (5) Multi-Family Units based upon the record made during the public hearing and for the following reasons:

1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer are available. This Conditional Use application, along the border with the Town of Bethany Beach where central water and sewer is available, complies with the purposes of the MR zone.
2. The property is in the vicinity of other residential housing types including single-family homes, townhomes, and other multi-family development. This Conditional Use is consistent with other zoning and development in the area.
3. DelDOT has reviewed the proposed project and has determined that the development's traffic impact will be "diminutive". This development will also be required to comply with all roadway and entrance improvements mandated by DelDOT.
4. This small multi-family conditional use meets the purpose of the Zoning Code since it promotes the orderly growth of the County in an appropriate location.
5. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer, nearby commercial uses, and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
6. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
7. This recommendation is subject to the following conditions:
 - A. There shall be no more than five (5) Units within the development.
 - B. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
 - C. Central sewer shall be provided to the development by Sussex County. The Developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
 - D. The development shall be served by a central water system providing adequate drinking water and fire protection.
 - E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - F. Interior street design shall comply with or exceed Sussex County standards.

- G. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
- H. The trash receptacles shall be standard roll-out residential containers assigned to each unit. They shall be stored in an enclosed area. No dumpsters shall be permitted.
- I. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 5:30 p.m., Monday through Friday, and between 7:00 am and 4:00 pm on Saturdays from October 1st through May 15th of each year. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- J. A 20-foot-wide undisturbed forested buffer shall be installed along the perimeter of the development adjacent to Bethany Proper. This buffer area shall utilize existing trees and other vegetation to the fullest extent, with infill planting as needed to comply with the buffer requirements in Section 99-5 of the Sussex County Code in that location.
- K. The Final Site Plan shall include a landscape plan for the development showing the forested areas to be preserved, the proposed tree and shrub landscape design, and the buffer areas. The existing trees and other vegetation that will not be disturbed shall be clearly shown on the Final Site Plan and marked on the site itself so that they are not disturbed during construction.
- L. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, and open space.
- M. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- N. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- O. The Final Site Plan shall depict or note these Conditions of Approval and it shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Ms. Wingate questioned if Mr. Mears would consider removing, “*from October 1st through May 15th of each year*” from Condition I of the motion.

Mr. Mears stated he placed that requirement to accommodate the residents of Bethany, by allowing no construction to be permitted on Saturdays during peak season, which mirrors the requirements of the Town of Bethany since the site is located directly adjacent to properties located under the Town of Bethany’s municipality, and the requirement would only apply to Saturdays.

Mr. Robertson suggested the motion be reworded to state:

- I. Construction, site work, and deliveries may occur on the site at any time Monday through Friday year-round, and between 7:00 am and 4:00 pm on Saturdays from October 1st through May 15th of each year. No Sunday hours are permitted. [No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and

Spanish shall be prominently displayed at the site entrance during construction.]

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2400 Kent Walston, LLC, for the reasons and the conditions stated, and with the amendment to Condition I in the motion. Motion carried 3-0. Mr. Collins abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: June 22nd, 2023

Application: CU 2400 Kent Walston, LLC

Applicant: Kent Walston, LLC
30398 Pavilion Drive #1704
Ocean View, DE 19970

Owner: Kent Walston, LLC
30398 Pavilion Drive #1704
Ocean View, DE 19970

Site Location: Lying on the east side of Kent Avenue (S.C.R. 361), approximately 350 feet north of Jefferson Bridge Road (S.C.R. 361A)

Current Zoning: Medium Residential (MR) Zoning District

Proposed Zoning: Medium Residential (MR) Zoning District

Proposed Use: 5 Multi-Family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Bethany Beach Fire Company

Sewer: Sussex County

Water: Bethany Beach

Site Area: 1.4 acre +/-

Tax Map ID: 134-17.07-173.02



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 15th, 2023
RE: Staff Analysis for C/U 2400 Kent Walston, LLC

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2400 Kent Walston, LLC to be reviewed during the June 22nd, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 134-17.07-173.02 to allow for Multi-Family (5 units). Specifically, the Application is for the one Townhouse consisting of five (5) units. The property is located on the east side of Kent Avenue (S.C.R. 361), approximately 437-ft north of the intersection of Kent Avenue (S.C.R. 361) and Jefferson Bridge Road (S.C.R. 361-A) in Bethany Beach, Delaware. The subject property contains 1.37 acres +/-.

Site Considerations

The DelDOT Service Level Evaluation Response indicates that the proposed use will generate fewer than 50 vehicle trips per day and that the development's traffic impact is considered "diminutive" in the context of DelDOT's agreement with the County regarding land development coordination. Therefore, no TIS is required for this proposal.

It should be further noted that the subject property is not located within any established Transportation Improvement Districts.

Additionally, the County's Online Mapping System confirms that the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has land use designation of "Coastal Area." The properties to the south, east, and west all have a land use designation of "Coastal Area" with properties to the north having a land use designation of "Municipalities."



As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The property contains the zoning classification of Medium Density Residential (MR) District.

Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Medium Density Residential District is an applicable Zoning District within the “Coastal Area” Future Land Use Map Designation.

All lands on the east and west of the subject property are zoned Medium Density Residential (MR) apart from one large parcel to the east being the community of Sea Colony zoned High Density Residential (HI-1, HI-2) and one large parcel to the west which is along Coastal Highway (Rt.1) being zoned General Commercial (C-1). The lands to the north of the subject property are located within the town limits of Bethany Beach

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been five (5) Conditional Uses within a 1-mile radius of the Application site. Of these Applications, all two (2) were approved by the Sussex County Council, two (2) were withdrawn, and one (1) has yet to be heard.

A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

Based on the analysis provided, the Conditional Use to allow for Multi-Family (5 Units), in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to consideration of scale and impact.

Conditional Use Number	Tax Parcel #	APPLICANT	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
2424	134-17.07-190.00	William Buchanan, Jr.	MR	Multifamily Dwelling Units (6)			
2333	134-17.07-173.02	Kent Walston	AR-1/MR	Multi-Family		Withdrawn	
2279	134-17.11-6.00	Ron Sutton	MR	Multi-Family (11 Units)		Withdrawn	
2222	134-17.11-40.00	Jessica F. Peake	C-1	Mini Golf Course	6/9/2020	Approved	2713
1930	134-13.15-159.00	Penn Central, LLC	B-1	Mutli-Family Dwelling Structures	7/24/2012	Approved	2272



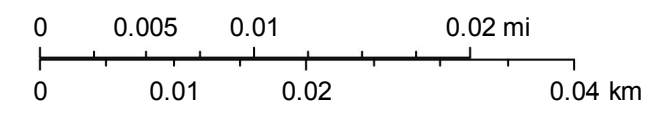
Sussex County

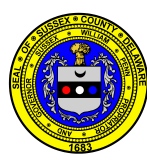


PIN:	134-17.07-173.02
Owner Name	KENT WALSTON LLC
Book	5429
Mailing Address	30398 PAVILION DR 1704
City	OCEAN VIEW
State	DE
Description	WILLIAM F WILGUS JR
Description 2	LOT 1
Description 3	BLK 2
Land Code	

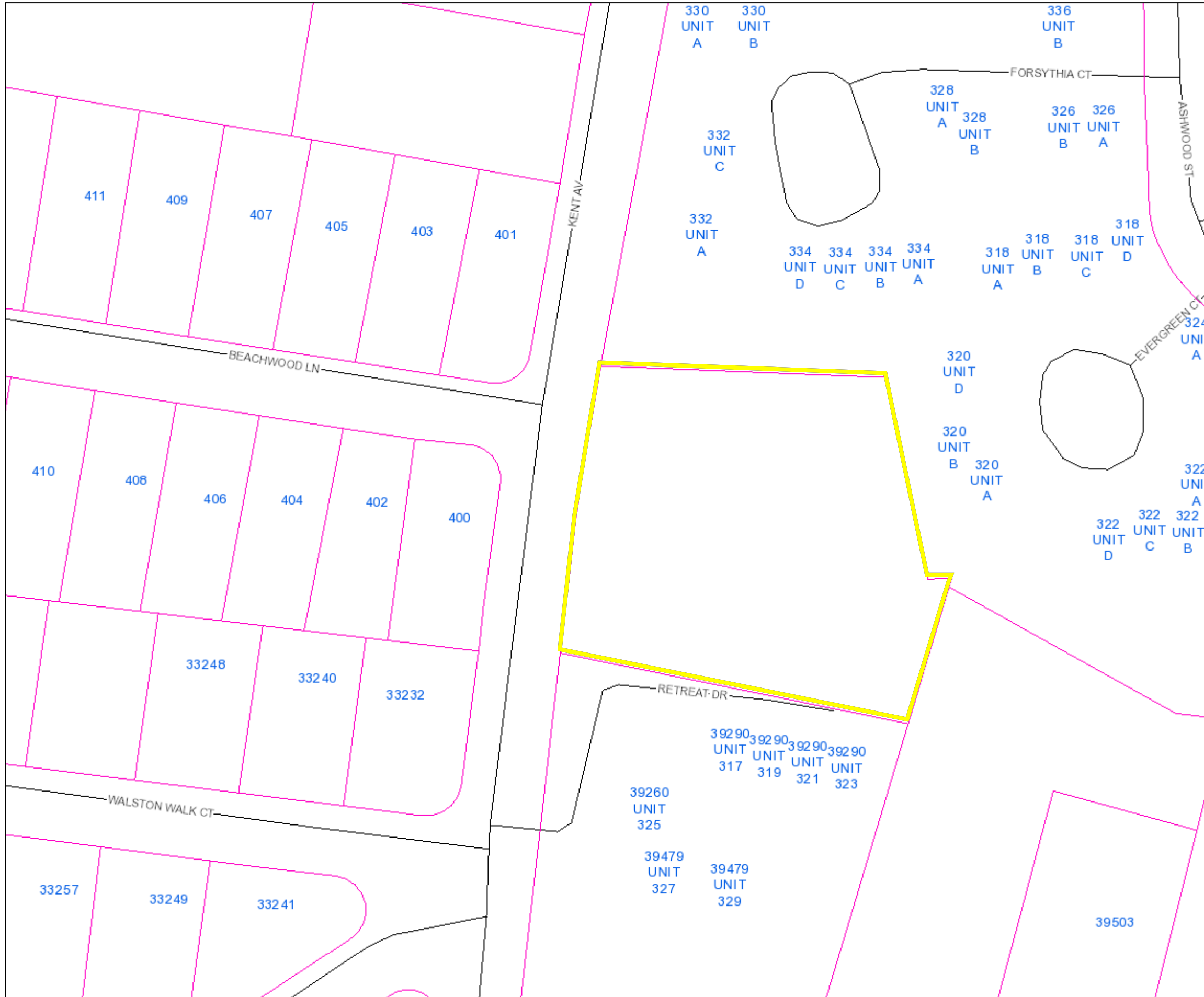
- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

1:564





Sussex County



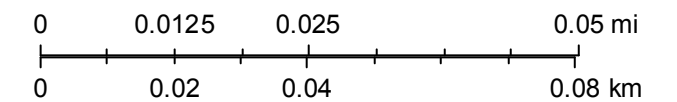
PIN:	134-17.07-173.02
Owner Name	KENT WALSTON LLC
Book	5429
Mailing Address	30398 PAVILION DR 1704
City	OCEAN VIEW
State	DE
Description	WILLIAM F WILGUS JR
Description 2	LOT 1
Description 3	BLK 2
Land Code	

- polygonLayer**

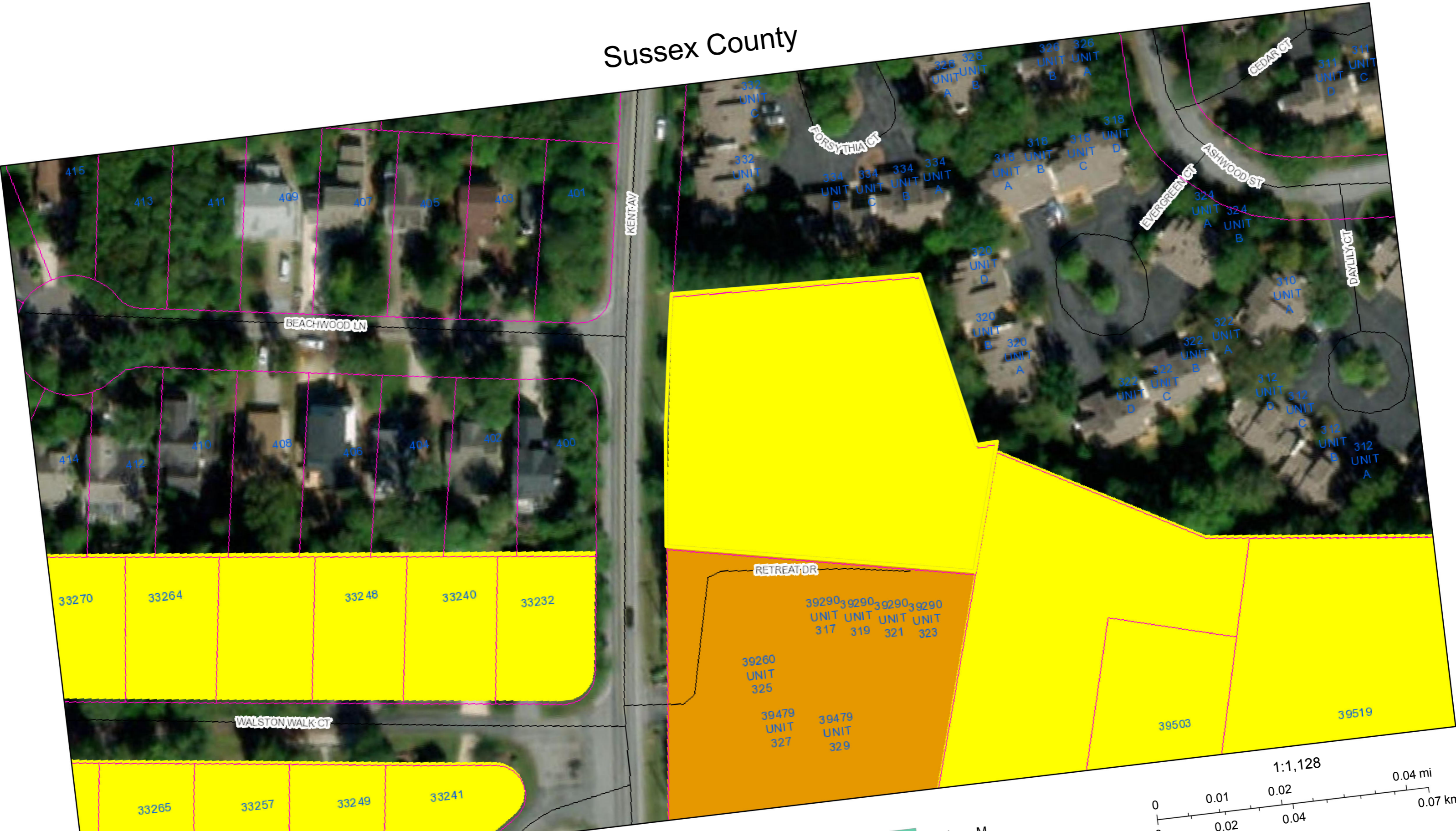
 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries

1:1,128



Sussex County



May 19, 2023

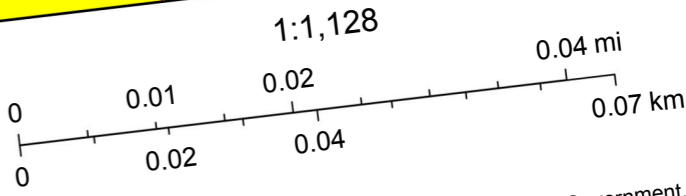
- Override 1
- Override 1
- Tax Parcels
- 911 Address
- Streets

- Zoning
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-2

- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1

- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1

- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1
- County Boundaries



Maxar, Microsoft, Sussex County, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 6/6/23

Council District 4: Mr. Hudson
Tax I.D. No. 134-17.07-173.02
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS

WHEREAS, on the 17th day of October 2022, a conditional use application, denominated Conditional Use No. 2400 was filed on behalf of Kent Walston, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 2400 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2400 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Kent Avenue (S.C.R. 361), approximately 350 feet north of Jefferson Bridge Road (S.C.R. 361A), and being more particularly described in the attached deed prepared Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 1.4 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.

PROPOSED

VINCENT
YES. 7/27

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Wednesday, July 26, 2023 10:54 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	American Cancer Society Inc.
Project Name	Relay For Life of Sussex County, DE
Federal Tax ID	13-1788491
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The mission of the American Cancer Society is to improve the lives of people with cancer and their families through advocacy, research, and patient support, to ensure everyone has an opportunity to prevent, detect, treat, and survive cancer.
Address	PO Box 1877
City	Salisbury
State	MD

Zip Code	21802
Contact Person	Debbie White
Contact Title	Sr. Development Manager
Contact Phone Number	410-845-3049
Contact Email Address	debbie.white@cancer.org
Total Funding Request	\$1500.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Health and Human Services

Primary Beneficiary Category	Other
Beneficiary Category Other	cancer patients, survivors & their families
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	43
Scope	Funds raised through our signature fundraising event, Relay For Life, support ACS free programs offered to any cancer patient in need: help via 24/7/365 website and 800#, free rides to treatment, free lodging at our Hope Lodge located in Philadelphia and Baltimore for use by residents of Sussex County who are being treated there, peer to peer support through our Cancer Survivor Network and via ACS CARES, and education on prevention and detection of all types of cancer.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	60,000.00
Description	Operating Expenses
Amount	1,600.00
Description	Fundraising Expenses
Amount	1,400.00

Description	Personnel
Amount	500.00
TOTAL EXPENDITURES	3,500.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	56,500.00
Name of Organization	American Cancer Society
Applicant/Authorized Official	Debbie White
Date	07/26/2023
Affidavit Acknowledgement	Yes

VINCENT
YES. 7/27

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, July 24, 2023 1:18 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization Western Sussex Chamber of Commerce

Project Name 11th Annual Broad Creek Bike and Brew

Federal Tax ID 51-0109649

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission The mission of the Western Sussex Chamber of Commerce is to promote sound business growth, while serving as the primary information source for business, community, interested individuals, and civic organizations, including key events and issues related to the Western Sussex area. To provide a network, support, and leadership to current member businesses while attracting new businesses and members. Also to promote area businesses through activities and events through tourism

Address PO Box 26

City	Seaford
State	DE
Zip Code	19940
Contact Person	Suzanne Barger
Contact Title	Administrative Assistant
Contact Phone Number	704-792-5702
Contact Email Address	admin@westernsussexcoc.com
Total Funding Request	1000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	1000.00
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	5

**Program Category
(choose all that
apply)** Cultural
Health and Human Services

**Primary Beneficiary
Category** Other

**Beneficiary Category
Other** Local Non-Profits

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 15

Scope This 11th annual event is used to draw attention to Western Sussex County area businesses and tourism. While raising funds for Local non-profits and the Western Sussex Chamber.
Over 4000 riders have participated in the Broad Creek Bike and Brew since its start in 2012. We have been able to give back close to \$20,000 to many organizations in our Western Sussex Community.

This is the largest fund raising event of the year for the Western Sussex Chamber of Commerce helping us to fulfill our mission of promoting local area business and the leaders of those businesses. As well as promoting Laurel as a nature tourism destination.

**Please enter the
current support your
organization receives
for this project (not
entire organization
revenue if not
applicable to request)** 0.00

Description	Advertising and promotion
Amount	7,850.00
Description	Event food and entertainment
Amount	5,400.00
Description	Misc. costs
Amount	1,500.00
Description	Give back to community
Amount	5,000.00
TOTAL EXPENDITURES	19,750.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-19,750.00
Name of Organization	Western Sussex Chamber
Applicant/Authorized Official	Suzanne Barger
Date	07/24/2023
Affidavit Acknowledgement	Yes

Schaeffer
Yes. 8/1/22

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Monday, July 24, 2023 7:19 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	West Side New Beginnings, Inc. ✓
Project Name	Safety Street Lights
Federal Tax ID	51-0350410 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To establish a cohesive network to provide the community a safe place to live, to address the needs and concerns of the community as they relate to safety, alcohol, tobacco, and other drugs prevention, self-esteem, housing, nutrition, education, recreation, and provide after-school and summer enrichment camps for children of the community.
Address	19801 Norwood Street
City	Rehoboth
State	Delaware

Zip Code	19971
Contact Person	Diaz Bonville
Contact Title	President
Contact Phone Number	3025282265
Contact Email Address	Diaz122455@aol.com
Total Funding Request	\$2,000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	5300.00
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Cultural Educational Health and Human Services

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 150

Scope West Rehoboth is a historic and predominately African-American community just a stone throw away from the wealthy subdivision of Rehoboth Beach, Delaware. With pride and determination, it treasure its past, preserve its future, provide affordable housing. Most of the children, youth and their families live below the poverty line. Most of the families work seasonal. Most of the adults have not completed high school. West Side New Beginnings, Inc. would like to provide street lights for the community residents so the children, youth and their families, and others can feel safe. Street lights will help curve negative behavior for the entire community, especially the community center where programs are held.

Religious Components N/A

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0.00

Description Project Safety Street Lights

Amount 2,000.00

TOTAL EXPENDITURES 2,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -2,000.00

Name of Organization West Side New Beginnings, Inc.

**Applicant/Authorized
Official** Diaz Bonville

Date 07/24/2023

**Affidavit
Acknowledgement** Yes

HUDSON & GREEN.
YES. GRN. 8/1

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Saturday, July 29, 2023 8:27 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization Shoes That Fit ✓

Project Name Sussex County Back to School Program- Fall 2023

Federal Tax ID 95-4425565 ✓

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No ✓

Organization's Mission Shoes That Fit's Mission is to tackle one of the most visible signs of poverty in America by giving children in need new athletic shoes to attend school with dignity and joy, prepared to learn, play, and thrive. Our vision is that, one day, every child who needs new shoes receives them allowing all children the opportunity to reach their highest potential. We believe that investing in the education and well-being of our children has a profound impact on their lives. We are committed to helping to build the confidence and dignity of the children we serve and to working towards a just and equitable world where all children have equal opportunities.

Shoes That Fits' purpose is to empower kids to play, jump, run, skip, learn grow and thrive by providing them with new shoes. Proper shoes empower children to run free at recess... participate in sports... engage with peers shame-free... get a boost of confidence... concentrate in class... and experience less stress. Shoes can do so much for kids- allowing them to enjoy the typical experiences of childhood, stepping into every day with dignity, joy and confidence. It's a simple solution that changes everything.

Our services have a profound impact on the children in our community

- Absence- Children without the proper shoes may not attend school because their families are afraid their children will be taken away from them for not properly providing them with basic needs.
- Health- Children without the proper shoes can suffer physical impacts (shoes don't fit properly, illness from wearing shoes that are wet, etc.)
- Educational focus- Children don't feel comfortable in school if they are ridiculed by their peers because of the appearance of their shoes. They can't properly engage or focus on learning.
- Normalcy- Children have to be their own advocates to solve shoe needs when no one else can help them- they are forced to solve for this basic need themselves with no parental support.
- Adults in the community care- For some children, having adults provide shoes that are brand new may be the first time they have had this experience- it gives them hope and trust that others do care

The following percentages of educators report improvement in these areas after kids receive new shoes:

- 46% attendance
- 87% self-esteem
- 75% physical activity
- 62% behavior

A teacher's story:

"My favorite memory is how kids from K-3rd love to run the minute they get their new shoes. The shoes are like wings that help them fly! Often they want me to watch them run, to see how fast they are now. Lots of times, their shoes were super tight and probably painful. Thus the almost instant desire to run. I have had to pry off old shoes that kids were wedged into to give them new shoes almost two sizes bigger. I have had kids walking on the squished heels of their shoes to make them slides that would fit. Yet I don't judge the parents wanting to get as much wear out of shoes as possible. They are expensive! With the older kids, 4th and 5th, they hold the new shoes gingerly like a treasure. They have a much more tangible sense of gratitude because they are old enough to understand the cost of shoes. They frequently try to get a pair for a friend or ask if I have extras because someone they know needs shoes too. It's very heartwarming to see kids who receive want to give. On a personal level, so often we are not in a position as school employees to spoil our kids. So, passing out a lot of new sneakers feels like a real Oprah moment! You get new shoes! You get new shoes! It's a moral boost for us as well! I know the parents really appreciate the shoes too. The rents in our neighborhood have skyrocketed. Many families are living two generations to a two-bedroom apartment. Inflation hurts at the gas pump, at the grocery store. Heck! A load of laundry at the laundry mat can be up to \$6!! When you think that minimum wage for many of our parents is under \$20 an hour, a pair of sneakers can be two to three hours wages. Having nice shoes on their kids helps the parents' confidence too. When they take their kids to the doctor, the parent conference, church etc... and the staff see nice shoes, the parents feel less judged. It's a ripple effect."

Organization Overview-

Shoes That Fit is a non-profit that is based in Claremont, California with local chapters in all 50 states. The strength of our organization is the combination of a centralized organization with strategic partnerships and vision combined with the intimate knowledge and focus of our chapters to ensure local needs of local children are met.

Shoes That Fit delivers a unique service which sources and delivers new shoes for children in need within the communities where we are based. The 'secret sauce' of our services includes:

1. Working directly with school personnel to leverage their based on their knowledge of students in need of our services
2. Providing new, brand name sneakers
3. Delivering directly to the student's school for discreet distribution
4. Ensuring 100% of any funding received is used to purchase new sneakers

The organization's impact within the community includes:

- 1.. Positively impacting children's self-esteem, school attendance, physical activity, and behavior with the simple gift of new shoes.
2. Supporting families with financial challenges by providing a resource for their children's shoe needs
3. Collaborating with school personnel (homeless advocates, family crisis therapists) to provide a source for shoes for the children they support.

Address	1420 N. Claremont Blvd, Suite 2014-A
City	Claremont
State	California
Zip Code	91711
Contact Person	Joanne Glauser
Contact Title	President- Delaware Chapter, Shoes That Fit
Contact Phone Number	302-545-7652

Contact Email Address	<u>jhglaus@gmail.com</u>
Total Funding Request	\$3000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	30
Program Category (choose all that apply)	Health and Human Services
Primary Beneficiary Category	Low to Moderate Income
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	250

Scope

The goal of this program is to provide 250 homeless and low income students in Sussex County with new sneakers for attendance in the 2023/2024 school year.

The Council Grant Program requested funds will allow purchase of 75 sneakers for homeless and low income Delaware students in Sussex County. The specific students receiving the new sneakers will be determined by school district contacts that Shoes That Fit works with.

Shoes That Fit's national organization sources the sneakers for each Shoes That Fit Chapter to purchase, these are name brand sneakers (Adidas, Fila, Nike, Skechers) at a fixed price including delivery to the point of distribution. All sneakers are provided at no cost to the schools for distribution to the students they designate most in need.

Shoes That Fit's program supports the population of homeless and low income children in need in Sussex County to overcome one of the many hurdles they face by providing them with new, brand name sneakers that are comfortable and make them feel good about themselves. Sussex County has 20% of children under 18 living in poverty. In 2022 there were 859 students within Sussex County school districts that were homeless. Fulfilling a basic need like providing new shoes so these children can attend school with dignity and self-esteem is key to their ability to focus on learning and more positively engaging with their peers.

Although schools recognize the importance of fulfilling basic needs like shoes for their students who are homeless or in low income families, they rely on external support because there is no budget for an expensive necessity like shoes. Schools are extremely grateful for the service that Shoes That Fit provides because of the quality of the sneakers provided, the delivery to the school, and, most importantly, the impact these donations have on the student. School personnel have consistently reported that a simple donation like shoes is impactful to the student's confidence, engagement in school, and positive behavior.

The donation of shoes also helps the families of these students by removing the financial stress of purchasing shoes from their limited budget. Parents are grateful that their children receive new, brand name sneakers to support their child's dignity and confidence. There is nothing more uplifting and hopeful for parents than to see your child start each school year with a smile on their face and excitement in their eyes.

Fighting the real impacts of poverty is the problem our Back to School Program targets by providing new shoes. Whatever we experience in childhood has a powerful impact upon us for the rest of our days. This is encouraging if your childhood is full of stability and opportunity but is heartbreaking when it is not.

Research has shown that the stress, shame, and survival mode caused by poverty disrupt full participation and learning at school each day. "Childhood poverty has been linked to academic failure and school dropout, and to reduced rates of college attendance and graduation." These children face hardships and hurdles that put them behind their peers and hinder them from reaching their full potential in life.

Being successful at school is a real challenge for kids from poor families because poverty at home doesn't stay there. Children come to school stressed out and ashamed, making it difficult to concentrate and learn. They lag academically and fall further behind their peers each year. It strains relationships with peers, leading children into isolation. Poverty steals a child's future before it even begins to take root' Providing children in poverty with the shoes they deserve is one element of the formula to setting these children on a path for success.

**Religious
Components**

Not Applicable

**Please enter the
current support your**

7,000.00

organization receives
for this project (not
entire organization
revenue if not
applicable to request)

Description 150 Small size Children's brand name snakers (\$30)

Amount 4,500.00

Description 100 Large size children's brand name sneakers (\$55)

Amount 5,500.00

TOTAL EXPENDITURES 10,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -3,000.00

Name of Organization Shoes That Fit

**Applicant/Authorized
Official** Joanne Glauser

Date 07/29/2023

**Affidavit
Acknowledgement** Yes

Casey Hall

From: Joanne Glauser <jhglaus@gmail.com>
Sent: Tuesday, August 1, 2023 9:40 AM
To: Casey Hall
Subject: Re: Sussex County Council Grant Request.

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hello Casey,

Hope you are doing well.

Please see the benefiting schools below.

- ~~1- North Dover Elementary (Dover)~~
- 2- Phyllis Wheatley Elementary (Bridgeville)
- ~~3- Lake Forrest North Elementary (Felton)~~
- 4- John M. Clayton Elementary (Frankford)
- 5- Lord Baltimore Elementary (Oceanview)
- 6- Phillip C. Showell Elementary (Selbyville)
- 7- Selbyville Middle School (Selbyville)
- 8- Indian River High School (Dagsboro)

Thank you for the opportunity to request these funds to support the children of Sussex County.

Joanne Glauser
Shoes That Fit- Delaware Chapter

On Tue, Aug 1, 2023 at 8:17 AM Casey Hall <casey.hall@sussexcountypde.gov> wrote:

Good morning.

We have received your grant request for the Sussex County Council. Upon having the request submitted for Council's consideration can you please offer further details to help direct the request to its specific district(s).

1. Please provide the name of the school (s) in which the approved funds will be benefiting.

We look forward to hearing from you.

Thank you,

SCHAEFFER.
yes. 8/1

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, August 1, 2023 9:45 AM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	Clear Space Theatre Company ✓
Project Name	Arts Institute
Federal Tax ID	20-1712916 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To inspire audiences, artists, and students by providing high-quality performances and educational experiences.
Address	20 Baltimore Ave
City	Rehoboth Beach
State	DE
Zip Code	19971
Contact Person	Stephanie Whitcomb

Contact Title	Director of Development
Contact Phone Number	302.227.2270
Contact Email Address	Stephanie@ClearSpaceTheatre.org
Total Funding Request	\$2,000
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	1500
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	2
Program Category (choose all that apply)	Cultural Educational Fair Housing
Primary Beneficiary Category	Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

500

Scope

Offering an institute for the performing arts in Sussex County continues to be at the forefront of the mission of Clear Space Theatre Company. In order to augment the rich performing arts that are already established in this area, it is our hope that a training facility will create a community of professional performers. We feel that professionalism occurs when knowledge and skills are gained through the systematic study of a chosen area. The classes of the Arts Institute are designed to move students, of all ages and ability levels, through a logical progression of learning that will allow a sense of self-confidence and ownership of the performing arts.

Guiding Principles of the Clear Space Performing Arts Institute:

Students thrive in an environment that offers challenging but attainable goals.

The arts reveal the creative process in each student and inspire collaborative problem solving.

Arts education experiences build self-confidence allowing students to find a larger, more expansive version of self to guide change in the world around them.

Religious Components

n/a

Please enter the current support your organization receives for this project (not entire organization)

32,000.00

revenue if not applicable to request)

Description	Rent
Amount	23,000.00
Description	utilities, maintence
Amount	10,000.00
Description	marketing
Amount	14,000.00
Description	teachers, couselfors, choreographers
Amount	0.00
Description	royalties and performance expenses
Amount	15,000.00
Description	insurance
Amount	5,000.00
Description	office expenses
Amount	3,000.00
Description	banking fees
Amount	10,000.00
TOTAL EXPENDITURES	80,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -48,000.00

Name of Organization Clear Space Theatre

**Applicant/Authorized
Official** Stephanie H. Whitcomb

Date 08/01/2023

**Affidavit
Acknowledgement** Yes

HUDSON.
Yes. 8/4

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Thursday, August 3, 2023 1:00 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization

Delaware Botanic Gardens, Inc. ✓

Project Name

Annual Fundraising Dinner

Federal Tax ID

32-0371538 ✓

Non-Profit

Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)

No

Organization's Mission

The Delaware Botanic Garden (DBG), founded in 2012, is a registered 501 (c)(3) organization, with a mission to create a world-class, inspirational, educational, and sustainable public botanic garden in southern Delaware for the benefit and enjoyment of all. DBG, beautifully situated on Pepper Creek in Dagsboro, DE, is unique in that it is a volunteer run organization, with a volunteer Board of Directors and Advisory Council who offer their professional experience, horticultural knowledge, and management experience. A volunteer team of approximately 200 work diligently to keep the Garden in bloom. The administration and operations are carried out by a 7 person staff.

The DBG vision is for beautiful, engaging, gardens that inspire and educate. Among the strategic priorities to realize this vision is to raise funds and build an engaged and supportive community through a variety of experiences.

To accomplish this vision, DBG's major community fundraising event is the Annual Dinner, offered this year on Thursday, September 28, 2023. The event has attracted guests from all three (3) counties in the State, representing many different communities, including state & local elected officials, business entrepreneurs, and horticultural enthusiasts. The proceeds from this 300 person dinner will be used to fund a wide range of programmatic, educational, and general operating expenses.

Address	P. O. Box 1390
City	Ocean View
State	DE
Zip Code	19970
Contact Person	Sheryl Swed
Contact Title	Executive Director
Contact Phone Number	202-262-9856
Contact Email Address	sherylswed@delawaregardens.org
Total Funding Request	\$5000
Has your organization received other grant	Yes

**funds from Sussex
County Government
in the last year?**

**If YES, how much was
received in the last 12
months?** 3500

**Are you seeking other
sources of funding
other than Sussex
County Council?** Yes

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

**Program Category
(choose all that
apply)** Other

**Program Category
Other** Public Botanic Garden

**Primary Beneficiary
Category** Other

**Beneficiary Category
Other** Sussex County citizens

**Approximately the
total number of
Sussex County
Beneficiaries served,
or expected to be
served, annually by
this program** 12000

Scope DE, is unique in that it is a volunteer run organization, with a volunteer Board of Directors and Advisory Council who offer their professional experience, horticultural knowledge, and management experience. A volunteer team of approximately 200 work diligently to keep the Garden in bloom. The administration and operations are carried out by a 7 person staff.

The DBG vision is for beautiful, engaging, gardens that inspire and educate. Among the strategic priorities to realize this vision is to raise funds and build an engaged and supportive community through a variety of experiences. The proceeds from this 300 person dinner will be used to fund a wide range of programmatic, educational, and general operating expenses.

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0,00

Description Personnel Director of Horticulture, Grounds Director and Horticulture staff

Amount -5,000.00

TOTAL EXPENDITURES -5,000.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION 5,000.00

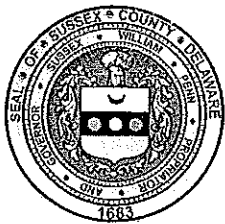
Name of Organization Delaware Botanic Gardens

Applicant/Authorized Official Sheryl Swed

Date 08/03/2023

Affidavit
Acknowledgement

Yes



SUSSEX COUNTY GOVERNMENT
GRANT APPLICATION

SCHAEFFER
YES 8/4

Delaware State College Alumni Association

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: DSU AA Sussex County Chapter

PROJECT NAME: Band To The Beach

FEDERAL TAX ID: 23-7009445 cyt NON-PROFIT: YES NO cyt

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?
 YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION:
To Bring DSU Band to Rehoboth, DE.
Sept 3, 2023 for Labor Day Performance

ADDRESS:
P.O. Box 179
Lewes DE 19958
(CITY) (STATE) (ZIP)

CONTACT PERSON: Elizabeth Allen

TITLE: Treasurer

PHONE: 302-236-4078 EMAIL: Elizabeth.Allen@Cape.K12.de.us

TOTAL FUNDING REQUEST: \$3,125 cyt

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

If YES, how much was received in the last 12 months? NA

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? NA

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

Fair Housing
Infrastructure¹

Health and Human Services
Other

Cultural
Educational

BENEFICIARY CATEGORY

Disability & Special Needs
Elderly Persons
Minority

Victims of Domestic Violence
Low to Moderate Income²
Other

Homeless
Youth

BENEFICIARY NUMBER

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

SECTION 3: PROGRAM SCOPE

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

Every year DSU Band Comes to Rehoboth, DE. to perform for Labor day. We are asking for help to bring them here by buses. We need 3 this year the band has gotten very large with students. We need help with busing and feeding the students for that day before the event. at 7-9 at the Rehoboth, DE, Bandstand.

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

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

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

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

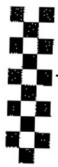
SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Buses	\$ 3125.00
Pizza	600.00
Drinks	250.00
TOTAL EXPENDITURES	\$ 0.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the DSUAA Sussex County agrees that:
(Name of Organization)

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



SECTION 5: STATEMENT OF ASSURANCES (continued)

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

Elizabeth Allen
 Applicant/Authorized Official Signature

7/31/23
 Date

M. D. Dow
 Witness Signature

8/3/23
 Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

302 855 7749
 Casey Han

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

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

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

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

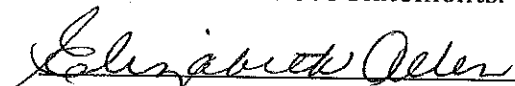
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

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

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

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


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



Applicant/Authorized Official Signature

7/31/23

Title



Witness Signature

7/31/23

Date

To Be Introduced: 8/15/23

Council District 4: Mr. Hudson
Tax I.D. No. 234-29.00-53.00
911 Address 27073 John J. Williams Highway, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS

WHEREAS, on the 20th day of December 2022, a conditional use application, denominated Conditional Use No. 2418 was filed on behalf of the Nanticoke Indian Association.; and

WHEREAS, on the ____ day of _____ 2023, 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. 2418 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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. 2418 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the south side of John J. Williams Highway (Rt. 24) approximately 200 ft. west of Layton Davis Road (S.C.R. 312A) and being more particularly described in the attached legal description prepared by Merestone Consultants, Inc. said parcel containing 0.915 ac. more or less.

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

To Be Introduced: 8/15/23

Council District 2: Mrs. Green
Tax I.D. No.: 231-6.00-24.02
911 Address: 13418 Seashore Highway, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT AND ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS

WHEREAS, on the 18th day of January 2023, a conditional use application, denominated Conditional Use No. 2422 was filed on behalf of Garden Estates, Inc.; and

WHEREAS, on the ____ day of _____ 2023, 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. 2422 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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. 2422 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Nanticoke Hundred, Sussex County, Delaware, and lying on south side of Seashore Highway (Rt. 18) approximately 0.83 mile northwest of State Forest Road (S.C.R. 579) and being more particularly described in the attached legal description prepared by Lawrence B. Steele, III P.A., said parcel containing 5.01 acre, more or less.

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

To Be Introduced: 8/15/23

Council District 5: Mr. Rieley
Tax I.D. No.: 233-5.00-132.00 (portion of)
911 Address: 26614 Handy Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.34 ACRES, MORE OR LESS

WHEREAS, on the 4th day of November 2022, a zoning application, denominated Change of Zone No. 1999 was filed on behalf of Horacio Paxtor; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1999 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [GR General Residential] and adding in lieu thereof the designation and C-2 Medium Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land, lying and being situate in Dagsboro Hundred, Sussex County, Delaware, and lying on south side of Handy Road (S.C.R. 337) approximately 545 ft. northwest of DuPont Boulevard (Rt. 113) and being more particularly described in the attached legal descriptions prepared by Tunnell & Raysor, P.A., said parcels containing 1.34 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.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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

hans.medlarz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

FROM: Hans Medlarz, P.E., County Engineer
Gina A. Jennings, MPA, MBA, Finance Director

DATE: August 15, 2023

RE: *Long Neck Communities Area Expansion
Supplemental Borrowing Ordinance*

The original Branch & Autumn Roads area was annexed into the Uniform Sanitary Sewer District in 2015 as part of a developer driven project. However, the extent of the offsite improvements made the project unaffordable and the Branch and Autumn Road portions beyond the intersections were removed from the development project requirements. Subsequently the Tucks Road area requested district annexation and was added to the Notice of Intent for funding after Council approval of the annexation. Prior to receiving the official offer to apply for the funding the Sherwood Forest and Steele Land Development area requested annexation into the Unified Sanitary Sewer District.

The proximity of the (3) areas allowed to group them under one project creating an economy of scale and since all the areas were in the Long Neck area, the name was changed to “Long Neck Communities”. The project serves approximately 264 parcels with central sewer service.

In April of 2020, the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submittal of the funding application to Delaware State Revolving Fund (SRF). On April 9, 2020, these Documents were combined with the overall funding application prepared by the Finance Department and filed for an overall project cost of \$7,788,761.00. On August 24, 2020, the County received the Binding Commitment Letter from DNREC Environmental Finance. August 25, 2020, the County accepted the Binding Commitment Offer and the obligating documents associated in the loan amount of \$7,788,761.00 with the expectation of up to \$3,860,000.00 of principal forgiveness, reducing the principal amount of the bonds outstanding to \$3,928,761.00 upon project completion.



On March 1, 2022, Council approved the associated debt ordinance authorizing the issuance of up to \$7,788,761.00 of general obligation bonds of Sussex County in connection with the construction and equipping of the Long Neck Communities Area of the Sussex County Unified Sanitary Sewer District.

On February 28, 2023, Council requested supplemental Clean Water State Revolving Fund funding in the amount of \$2,036,840.00 for the difference in costs between the original construction budget in 2020 and the actual bid amount submitted in 2023. On March 22, 2023, the County received the Binding Commitment Letter from DNREC Environmental Finance. On June 20, 2023, the County accepted the Binding Commitment Offer and the obligating documents associated with the interest during construction. The entire amount will be forgiven upon project completion.

The Finance and Engineering Departments recommended introduction of the associated debt ordinance authorizing the issuance of up to \$2,036,840.00 of general obligation bonds of Sussex County in connection with the Long Neck Communities Area of the Sussex County Unified Sanitary Sewer District. The Ordinance was introduced on July 11, 2023, with a public hearing date of August 15, 2023.





Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 11, 2023

RE: County Council Report for C/U 2364 filed on behalf of Seaford Community Energy Initiative, LLC

The Planning and Zoning Department received an application (C/U 2364 filed on behalf of Seaford Community Energy Initiative, LLC) for a solar farm to be located at tax parcel 331-3.00-138.00. The property is located at on the east side of Conrail Road (SCR 546) approximately 0.71 mile south of Hearn's Pond Road. The parcel size is 26.72 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 11 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 13, 2023 and July 27, 2023.

Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings, C/U 2364 Seaford Community Energy Initiative, LLC and C/U 2365 Frankford Community Energy Initiative II, LLC, have the same Applicant, essentially being the same type of application, but in two different locations. Chairman Wheatley stated the Applicant had requested to consolidate the two applications into one presentation; that the Commission would action on each application separately and granted the request to consolidate the presentations.



C/U 2364 Seaford Community Energy Initiative, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS. The property is lying on the east side of Conrail Road (S.C.R. 546) approximately 0.71 mile south of Hearn's Pond Road (S.C.R. 544). 911 Address: N/A. Tax Map Parcel: 331-3.00-138.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the Staff Analysis, a copy of the property legal description, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated zero written comments were received for the Application.

The Commission found that Mr. Mike Riemann, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar. Mr. Riemann stated the applications are under two different LLCs, however, ECA Solar is the Applicant for both Applications; that Becker Morgan Group was the engineer for both applications as well.

Mr. Riemann stated the property for C/U 2364 Seaford Community Energy Initiative, LLC is located north of the City of Seaford, along Conrail Rd.; that the property is approximately 41 acres; that the area proposed for the Conditional Use, being the location of the solar arrays, consists of approximately 26.72 acres; that the property is zoned AR-1 (Agricultural Residential); that the site is currently utilized for agricultural use; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that both solar applications do generally comply with the new Ordinance requirements; that within the proposed solar array, the solar panels are shown in rows; that access is proposed from Conrail Rd.; that there will be a gravel road that comes up through the center of the site; that the property does have an existing power line easement with Delmarva Power; that the panels have been split to allow for the gravel access easement for Delmarva Power, as well as to avoid a large tree which they are attempting to maintain in its existing location; that they have provided landscape buffers around the property; that there is one area where they did not provide a landscape buffer, as there is already an existing landscape hedge row; that they did provide landscaping around the residential properties located at the front; that they did not provide landscaping in the back of the property, as that area is within the existing Delmarva Power easement located along that portion of the boundary line; that within the newly adopted Solar Ordinance, there is a distance requirement of 200 ft. between adjacent dwellings and the nearest solar panel; that for the subject application, they are slightly off meeting the 200 ft. distance requirement in one particular area; that within that area the nearest point of distance is 184 ft; that the application was submitted prior to the adoption of Ordinance No. 2920, and due to this, they would request the 184 ft. proposed distance be permitted; that the reason for the encroachment is due to their efforts to save the existing tree on the site, by pushing the location of the solar panels away from the tree; that the entire perimeter of the solar array is fenced with an eight foot, not wire, fence; that some of the solar facilities seen are leased agreements; that with the subject application, ECA Solar has already purchased, and own the property; that the application is for a community solar facility,

which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property by providing adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, other than the one exception previously discussed; that submitted in the Exhibit Booklet there were property value studies provided; that the studies did not look at the two subject sites, however they did look at solar valuations and the impact on property values; that there have been a lot of studies done, which demonstrate that there are no negative impacts to surrounding property values, and with the proposed types of solar facilities, especially in rural areas, they did provide Findings of Facts and recommended Conditions of Approval for the Commission's review and consideration. Mr. Riemann presented the Commission with project renderings and visuals for reference.

Mr. Whitehouse advised the Commission that the Application is not required to be held to the provisions of the Solar Ordinance, as it was submitted prior to the Ordinance adoption, however, County Council does have the discretion and authority to impose conditions and requirements as they deem necessary.

The Commission found that Mr. Michael Redding, Director of Civil Engineering with ECA Solar, presented on behalf of Applicant. Mr. Redding stated ECA Solar's main purpose of business is community power and the development of community-powered solar facilities; that ECA Solar has been in business since 2013; that they have worked in fairly large regional areas from the northeast down through the Mid-Atlantic and out west; their main purpose is to bring community solar facilities to places like Delaware; that they currently have several facilities in development in Delaware; that the two subject applications will be part of the Community Power Program in Delaware, which allows for local businesses and residents to benefit from solar power at a reduced electric cost, and the program also requires ECA Solar to set aside a certain percentage for low to moderate income residents who can also benefit from the solar power.

Ms. Wingate questioned if there would be a hardship in removing some of the panels in an attempt to achieve the 200-ft. distance requirement.

Mr. Redding stated the design for the subject site is a tracker system; that a tracker system runs in a north and south direction; that these systems are more connected than other systems; that with the tracker system, it would be much more challenging to remove a couple of pieces because the system does not come apart in pieces.

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

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

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

In relation to C/U 2364 Seaford Community Energy Initiative, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2364 Seaford Community Energy Initiative, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 26.72 acres of a larger 40.97-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. Although the submission of this application pre-dated the adoption of Ordinance No. 2920 governing solar farms, this project generally complies with that ordinance as to buffers and setbacks.
5. With the conditions imposed in this recommendation including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted or retained vegetation along the northern, western, and southern sides of this site to screen the view of the solar farm while allowing the solar arrays to function properly.

10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the northern, western, and southern sides of the solar area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing them to function properly. No buffering shall be required along the eastern boundary of the site adjacent to other lands that are being farmed. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in this buffer area.
 - J. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2364 Seaford Community Energy Initiative, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Butler abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 13, 2023

Application: CU 2364 Consolidated Edison Development Inc. (Woodland Ferry Road)

Applicant: Seaford Community Energy c/o Michael Redding P.E.
282 Moody Street #202
Waltham, MA 06379

Owner: Glenville Hollow Farms c/o Steven & Cynthia Yingling
4464 Glenville Road
Glen Rock, PA 17327

Site Location: Lying on the east side of Conrail Road (S.C.R. 546) approximately (0.67) miles south of the intersection of Conrail Road (S.C.R. 546) and Hearn's Pond Road (S.C.R. 544).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a (26.7189) acre portion of the parcel.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Seaford Fire Department

Sewer: N/A

Water: N/A

Site Area: 40.97 acres +/- (p/o 26.7189 acres +/-)

Tax Map ID: 331-3.00-138.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 30th, 2023
RE: Staff Analysis for C/U 2364 Seaford Community Energy Initiative, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2364 Seaford Community Energy Initiative, LLC to be reviewed during the July 13th, 2023 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.

Tax Parcel ID(s): 331-3.00-138.00

Proposal: The request is for a Conditional Use for Tax Parcel 331-3.00-138.00 to allow for a solar farm on the site lying east side of Conrail Road (S.C.R. 546) approximately (0.71) miles south of Hearn Pond Road (S.C.R. 544). The improvements are proposed on a (26.7189) acre portion of the parcel which is comprised of a total of 40.97 acres +/-

Zoning: The property is zoned Agricultural Residential (AR-1) District. The parcels on all sides of the subject property are zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: Developing Area

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Growth Area and has a land use designation of "Developing Area." The properties to the north, south, and east of the subject site also contain the Future Land Use Map designation of "Developing Area" with the parcels to the west across Conrail Road (S.C.R. 546) designated as "Low Density Area."

The Comprehensive Plan notes that "Developing Areas" are emerging growth areas which "demonstrate the characteristics of developmental pressures," and are adjacent to municipalities, Town Centers, or future municipal annexation areas (2018 Sussex County Comprehensive Plan, 4-14). The Plan provides guidelines for future growth noting, "in selected areas and at appropriate



intersections, commercial uses should be allowed” in order to “provide for convenient services and to allow people to work close to home” (2018 Sussex County Comprehensive Plan, 4-14). The Plan also notes that “portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks” (2018 Sussex County Comprehensive Plan, 4-14).

“Low Density” Areas are areas that the County envisions as “a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property” (Sussex County Comprehensive Plan, 4-18). The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

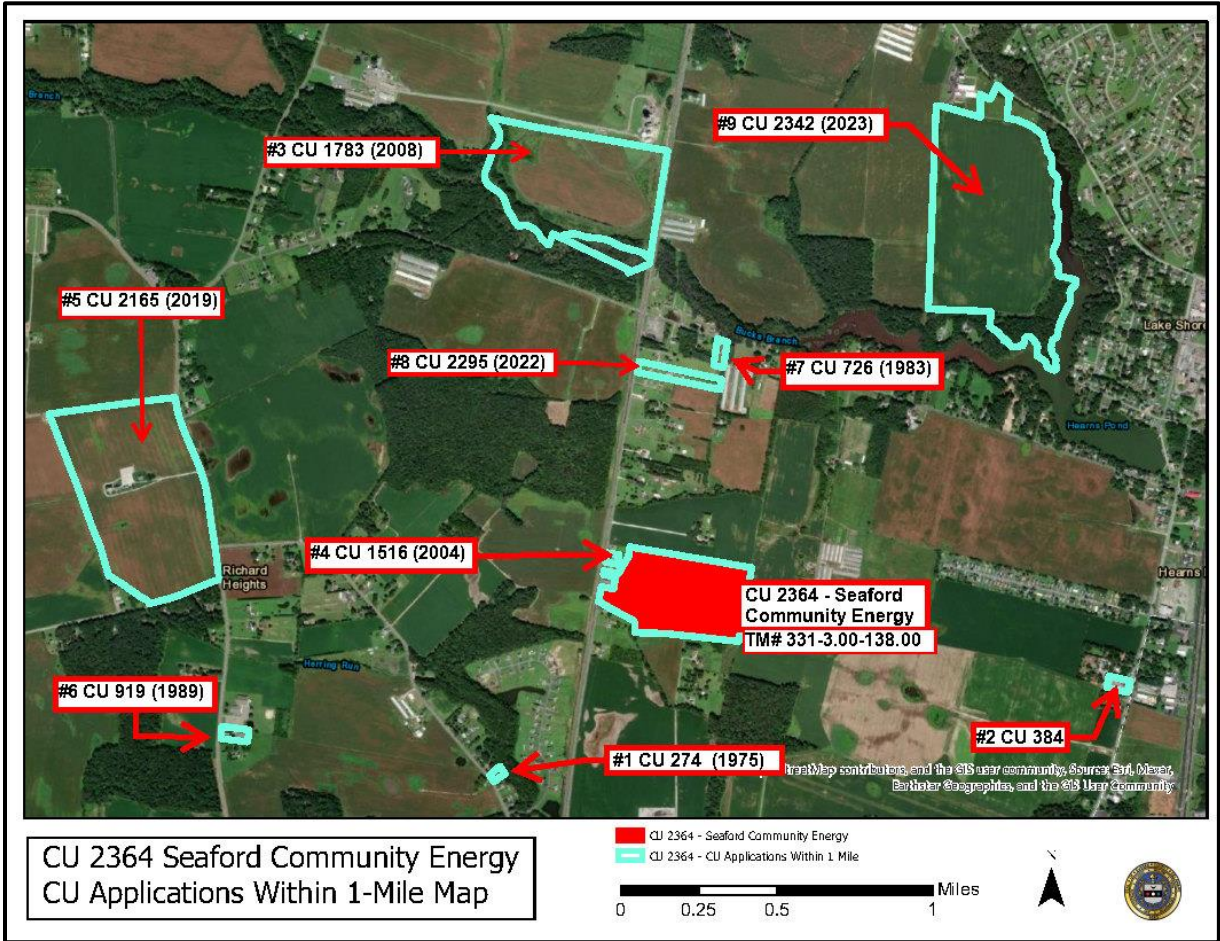
Further Site Considerations:

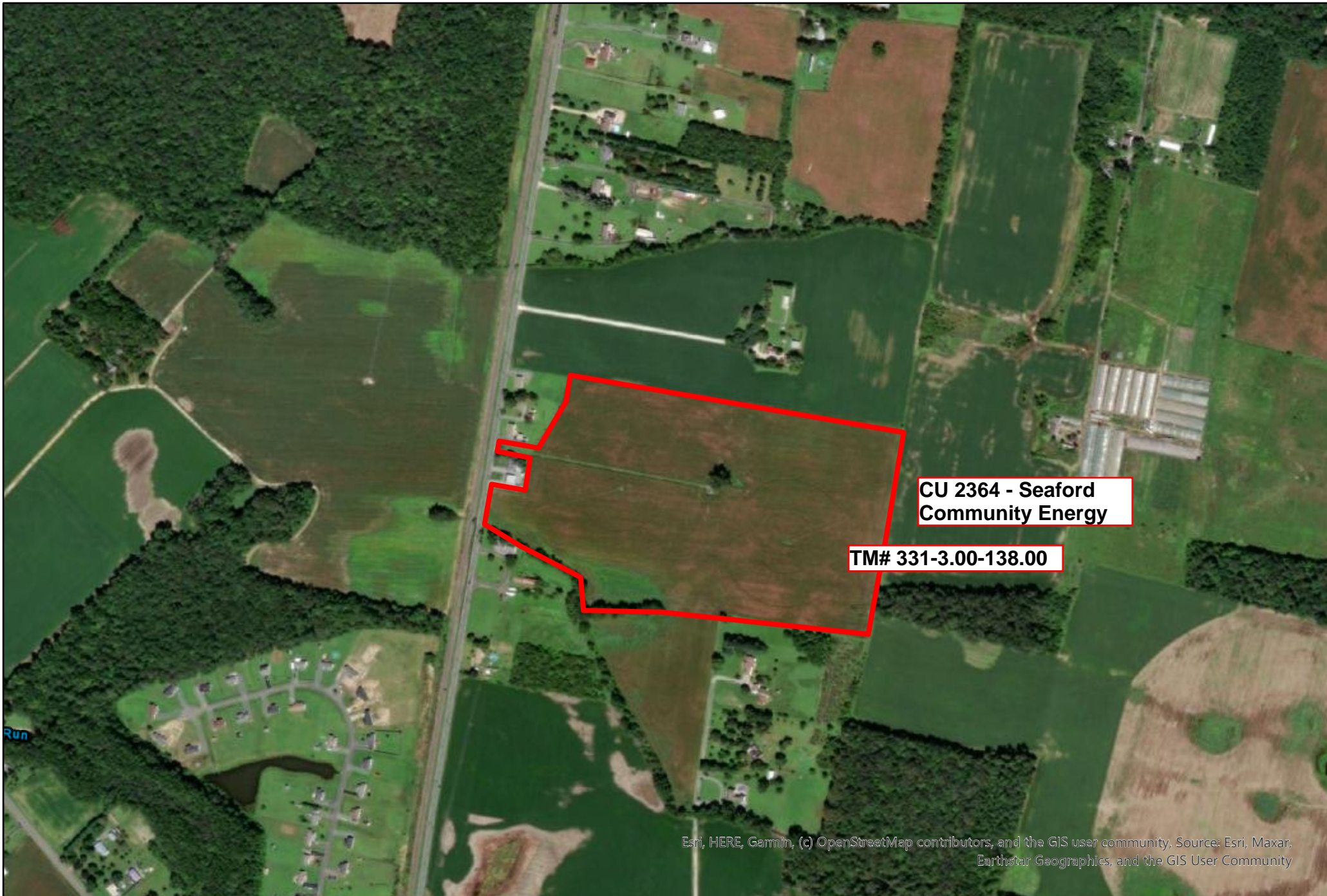
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone X and within areas of “Good” Groundwater Recharge Potential. The site is not located in a Wellhead Protection Area.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar farm, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

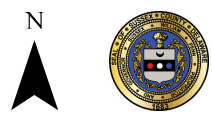
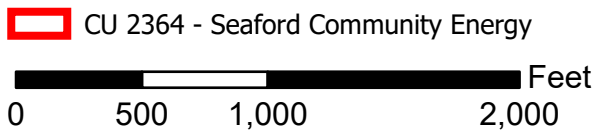
#9	<u>CU 2342</u>	Turning Point Energy	AR-1	Community Solar Facility	Approved	2/21/2023	2904
----	----------------	----------------------	------	--------------------------	----------	-----------	------





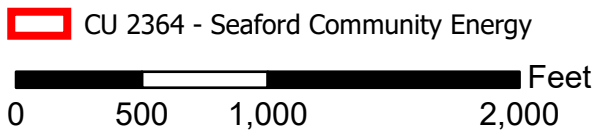
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2364 Seaford Community Energy Aerial Map






**CU 2364 Seaford Community Energy
Aerial Map**

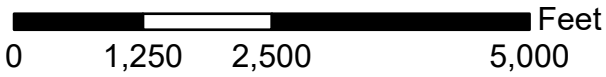


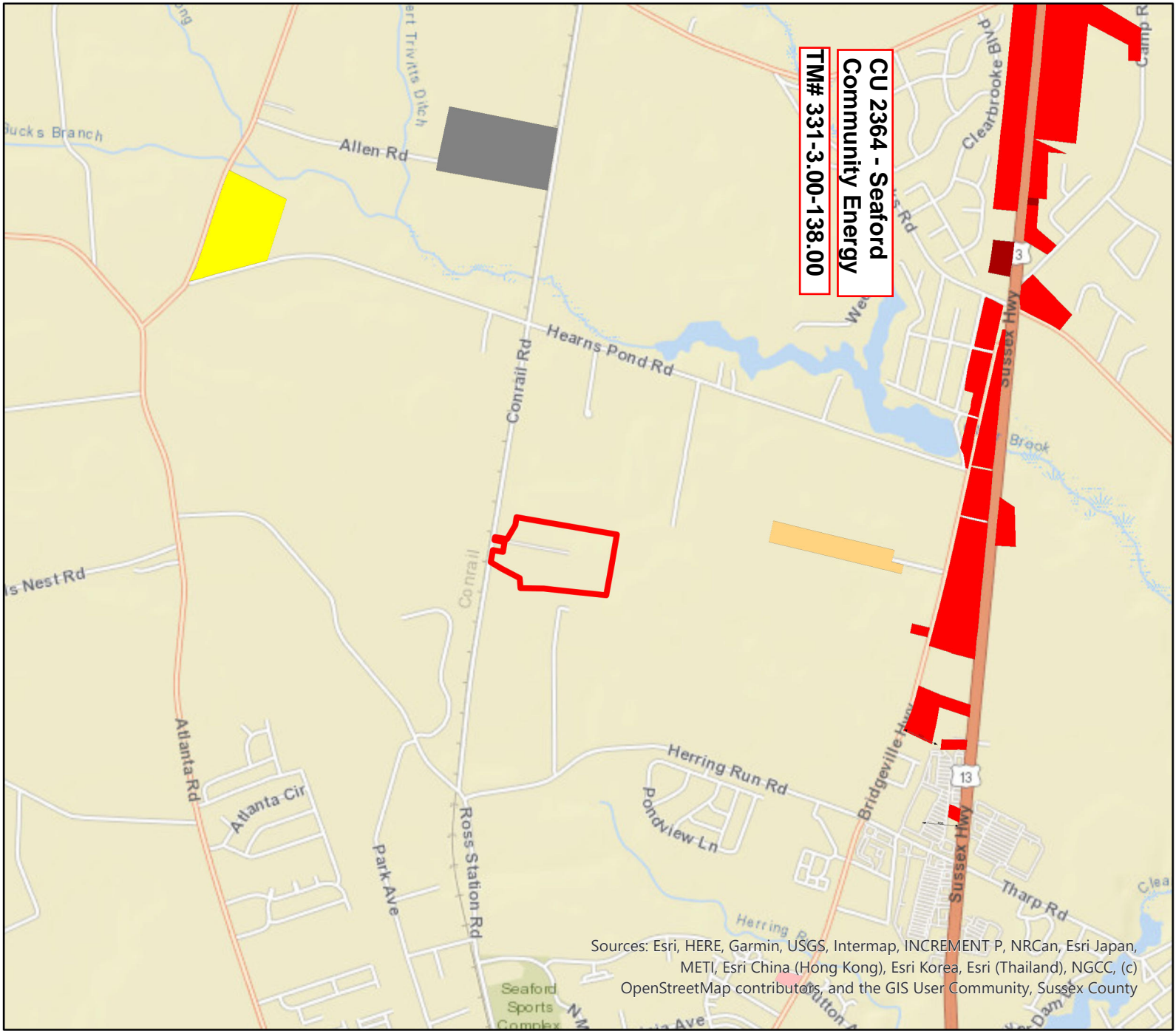
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



CU 2364 Seaford Community Energy Street Map

 CU 2364 - Seaford Community Energy





Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, Sussex County

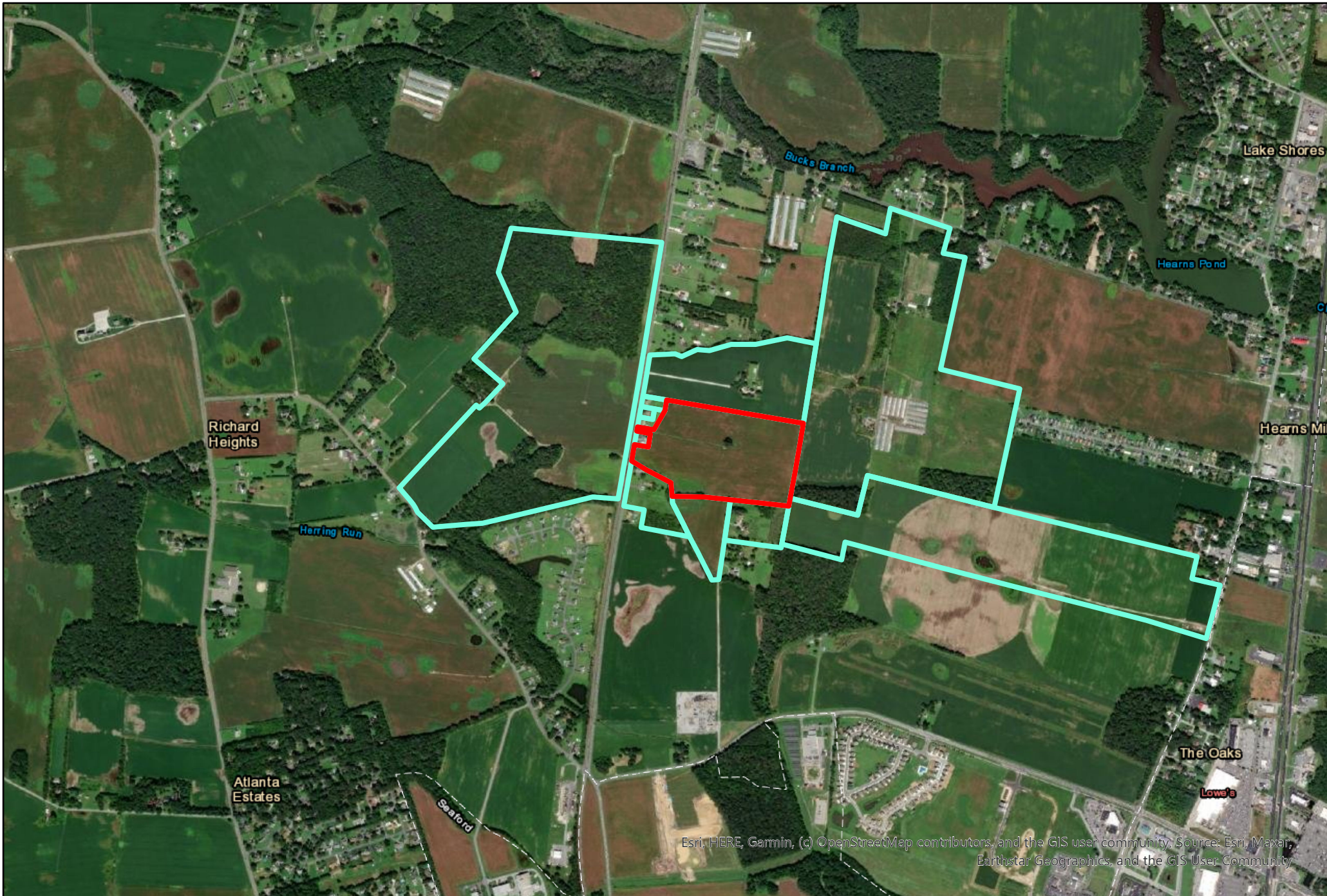
CU 2364 Seaford Community Energy Zoning Map

CU 2364 - Seaford Community Energy

0 0.25 0.5 1 Miles

N

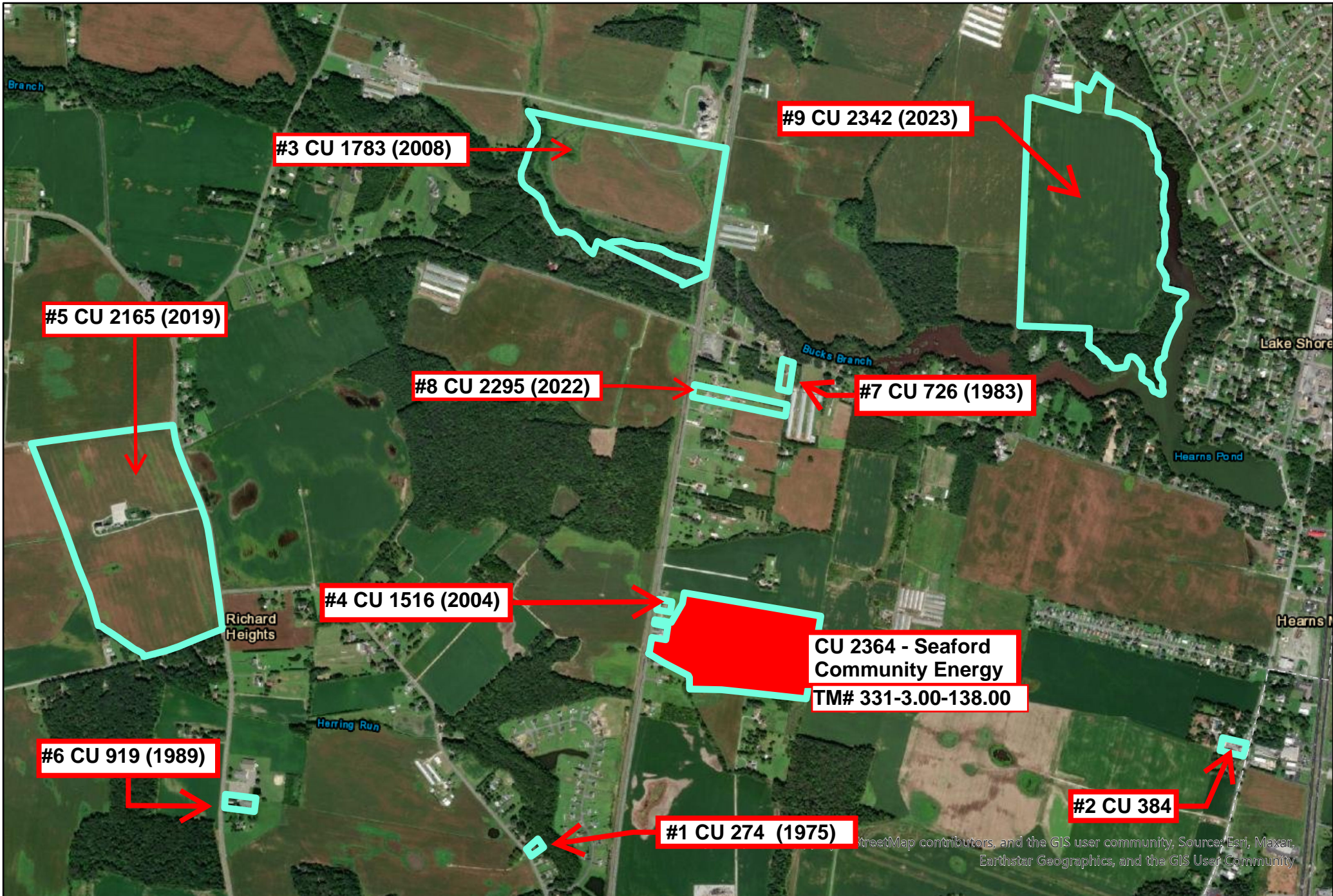




CU 2364 Seaford Community Energy Mailing List Map

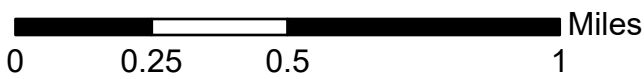
- CU 2364 - Seaford Community Energy
- Mailing List Parcels






CU 2364 Seaford Community Energy CU Applications Within 1-Mile Map

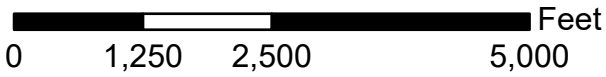
- CU 2364 - Seaford Community Energy
- CU 2364 - CU Applications Within 1 Mile

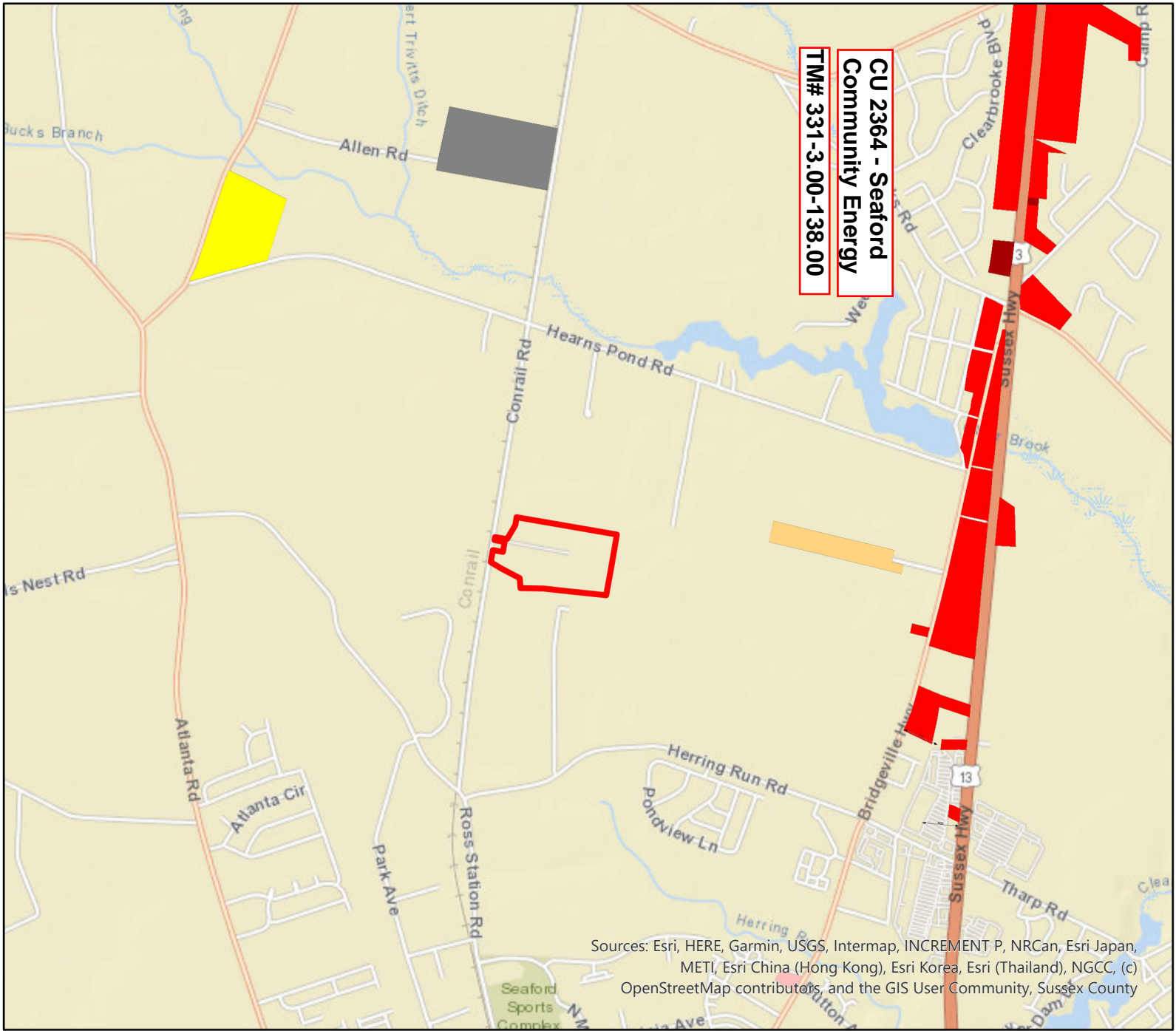




CU 2364 Seaford Community Energy Street Map

 CU 2364 - Seaford Community Energy



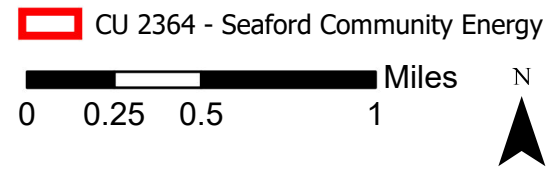


Zoning

- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, Sussex County

CU 2364 Seaford Community Energy Zoning Map



To Be Introduced: 6/6/23

Council District 1: Mr. Vincent
Tax I.D. No. 331-3.00-138.00 (p/o)
911 Address N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.7189 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.9655 ACRES, MORE OR LESS

WHEREAS, on the 11th day of April 2022, a conditional use application, denominated Conditional Use No. 2364 was filed on behalf of Seaford Community Energy Initiative, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 2364 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2364 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Seaford Hundred, Sussex County, Delaware, and lying on the east side of Conrail Road (S.C.R. 546) approximately 0.71 mile south of Hearn's Pond Road (S.C.R. 544) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said portion of the parcel containing 26.7189 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.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 11, 2023

RE: County Council Report for C/U 2365 filed on behalf of Seaford Community Energy Initiative II, LLC

The Planning and Zoning Department received an application (C/U 2365 filed on behalf of Seaford Community Energy Initiative II, LLC) for a solar farm to be located at tax parcel 533-4.00-23.00. The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (SCR 380). The parcel size is 42.95 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 12 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 13, 2023 and July 27, 2023.

Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings, C/U 2364 Seaford Community Energy Initiative, LLC and C/U 2365 Frankford Community Energy Initiative II, LLC, have the same Applicant, essentially being the same type of application, but in two different locations. Chairman Wheatley stated the Applicant had requested to consolidate the two applications into one presentation; that the Commission would action on each application separately and granted the request to consolidate the presentations.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

C/U 2365 Frankford Community Energy Initiative II, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS. The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380). 911 Address: N/A. Tax Map Parcel: 533-4.00-23.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, the Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, a letter received from Watershed Eco, LLC in relation to wetland delineation, and a copy of the DeDOT Service Level Evaluation Response. Mr. Whitehouse stated zero comments and two mail returns had been received for the Application.

The Commission found that Mr. Mike Riemann, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar. Mr. Riemann stated the applications are under two different LLCs, however, ECA Solar is the Applicant for both Applications; that Becker Morgan Group was the engineer for both applications as well.

Mr. Riemann stated the property for C/U 2365 Frankford Community Energy Initiative II, LLC, is located just south of Frankford, along Rt. 113; that the total area of the site consists of 42.95 acres; that the Conditional Use area consists of 17.73 acres; that the property has split zoning being, C-1 (General Commercial) and AR-1 (Agricultural Residential); that the C-1 zoning runs along the front portion of site; that the property also falls within the CHCOZ (Combined Highway Corridor Overlay Zone); that the property does contain some existing forest; that the property is a combination of agricultural open land, and some existing woods; that the arrays are accessed by Rt. 113; that the wooded area is approximately 31.85 acres; that they proposed to clear approximately 15.47 acres of the total 48.6 acres of woods; that there is a small area of wetlands located in the middle of the site; that the wetland area consists of approximately 1,000 sq. ft.; that they have received a permit issued from the Army Corp of Engineers to fill the area, as it was an isolated wetland area; that he believed there was some debate regarding if the area would still be considered a wetland, but nonetheless, they have obtained a permit; that the project will have some mitigation areas around the perimeter of the property that consist of some pollinator gardens and habitat supplements which were part of the permit; that this area is reflected in dark green color, surrounding the property on the rendering; that in this area, the woods will be cut down, however, the stumps will remain; that this was required to ensure shading from the trees did not cause issues with the functionality of the arrays; that by leaving the stumps in the vegetation, it will allow the trees to come back, at which time the owner will maintain the tree at a consistent height of approximately 10 ft., which will still allow the facility to work properly; that additional landscape is provided along Rt. 113, and the adjacent residential property; that no additional landscaping is proposed in areas where the perimeter is already sufficiently screened from neighboring areas; that the project overview is the same as the previous application; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that this solar application does comply with all of the requirements set forth in the newly adopted Solar Ordinance; that the application is for a community

solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property with provided adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, that submitted in the Exhibit Booklet there were property value studies provided; that the studies did not look at the two subject sites, however they did look at solar valuations and the impact on property values; that there have been a lot of studies done, which demonstrate there are no negative impacts to surrounding property values, and with the proposed types of solar facilities, especially in rural areas, they did provide Findings of Facts and recommended Conditions of Approval for the Commission's review and consideration. Mr. Riemann presented the Commission with project renderings and visuals for reference.

The Commission found that Mr. Michael Redding, Director of Civil Engineering with ECA Solar, presented on behalf of Applicant. Mr. Redding stated ECA Solar's main purpose of business is community power and the development of community-powered solar facilities; that ECA Solar has been in business since 2013; that they have worked in fairly large regional areas from the northeast down through the Mid-Atlantic and out west; their main purpose is to bring community solar facilities to places like Delaware; that they currently have several facilities in development in Delaware; that the two subject applications will be part of the Community Power Program in Delaware, which allows for local businesses and residents to benefit from solar power at a reduced electric cost, and the program also requires ECA Solar to set aside a certain percentage for low to moderate income residents who can also benefit from the solar power.

Mr. Mears questioned if the proposed eight-foot fence would require approval from the Sussex County Board of Adjustment.

Mr. Whitehouse stated the property is commercial, and the residential maximum height is seven feet, and he did not believe a variance would be required.

Ms. Wingate requested confirmation on the number of trees proposed to be cleared for the Frankford property.

Mr. Riemann stated they propose to clear 15.47 acres out of the 31.85 acres which make up the array area.

Mr. Robertson questioned the width of the area proposed for tree cutting and leaving of the stumps.

Mr. Riemann stated he believed the area to be approximately 100 feet.

The Commission found that there was no one present in the room who wished to speak in support of, or in opposition to the Application.

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

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

In relation to C/U 2365 Frankford Community Energy Initiative II, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2365 Frankford Community Energy Initiative II, LLC for a solar farm in the AR-1 and C-1 Districts based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 17.68 acres of a larger 42.95-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. Although this Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar farms, this proposed conditional use complies with the buffer and setback requirements of that Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the boundary of this site facing Route 113 to screen it from view from the highway. In addition, there will be a 100-foot-wide cleared

area ~~between~~ [beyond] the perimeter fence that will remain in a natural state once trees are removed from this open space to allow the solar panels to function.

10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use. The site plan shall also clearly show the forested areas within the entire property that will remain undisturbed.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the boundary of this site facing Route 113. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
 - J. In addition, there shall be a 100-foot-wide cleared area around the ~~remainder~~ [fenced perimeter] the of site.
 - K. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for C/U 2365 Frankford Community Energy Initiative II, LLC for the reasons and conditions stated in the amended motion. Motion carried 4-0. Mr. Butler abstained.

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



Sussex County

DELAWARE
sussexcountyde.gov
302-855-7878 T
302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 13, 2023

Application: CU 2365 Frankford Community Energy Initiative II LLC

Applicant: Frankford Community Energy Initiative II LLC c/o Michael Redding P.E.
282 Moody Street #202
Waltham, MA 06379

Owner: Robert B. Wilgus, Viola Hagberg, Edward B. Wilgus c/o Viola Hagberg
700 Mease Plaza
Dunedin, FL 34698

Site Location: Lying on the east side of DuPont Boulevard (Rt. 113), 300-ft south of the intersection of DuPont Boulevard (Rt. 113) and Lazy Lagoon Road (S.C.R. 380)

Current Zoning: General Commercial (C-1) Zoning District & Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility

Comprehensive Land Use Plan Reference: Commercial Area & Developing Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Frankford Fire Department

Sewer: N/A

Water: N/A

Site Area: 42.95 acres +/-

Tax Map ID: 533-4.00-23.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 5th, 2023
RE: Staff Analysis for C/U 2365 Frankford Community Energy Initiative II LLC

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2365 Frankford Community Energy Initiative II LLC to be reviewed during the July 13th, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 533-4.00-23.00 to allow for a Solar Energy Facility to exist on a portion of the parcel containing 17.726-acres +/- . The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250-ft south of Lazy Lagoon Road (S.C.R. 380) in Frankford Delaware. The subject property contains 42.95-acres +/- .

Site Considerations

The DelDOT Service Level Evaluation Response indicates that the proposed use will generate fewer than 50 vehicle trips per day and that the development's traffic impact is considered "diminutive" in the context of DelDOT's agreement with the County regarding land development coordination. Therefore, no TIS is required for this proposal.

It should be further noted that the subject property is not located within any established Transportation Improvement Districts.

Additionally, the County's Online Mapping System confirms that the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has land use designation of "Commercial" and "Developing Area." The properties to the south, east, and west (across Dupont Boulevard (Rt. 113)) all have a land use designation of "Developing Area" with properties to the north having a land use designation of "Commercial" and "Industrial."



As outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.

Zoning Information

The property contains the zoning classifications of General Commercial (C-1) District and Agricultural Residential (AR-1) District.

All lands to the east of the subject property are zoned General Residential (GR) District. Lands to the west (across DuPont Boulevard (Rt. 113)) are zoned General Commercial (C-1) District. Lands to the north are zoned General Commercial (C-1) District and Heavy Industrial (HI-1) District. All adjacent lands to the south of the subject site are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been two (2) Conditional Uses within a 1-mile radius of the Application site.

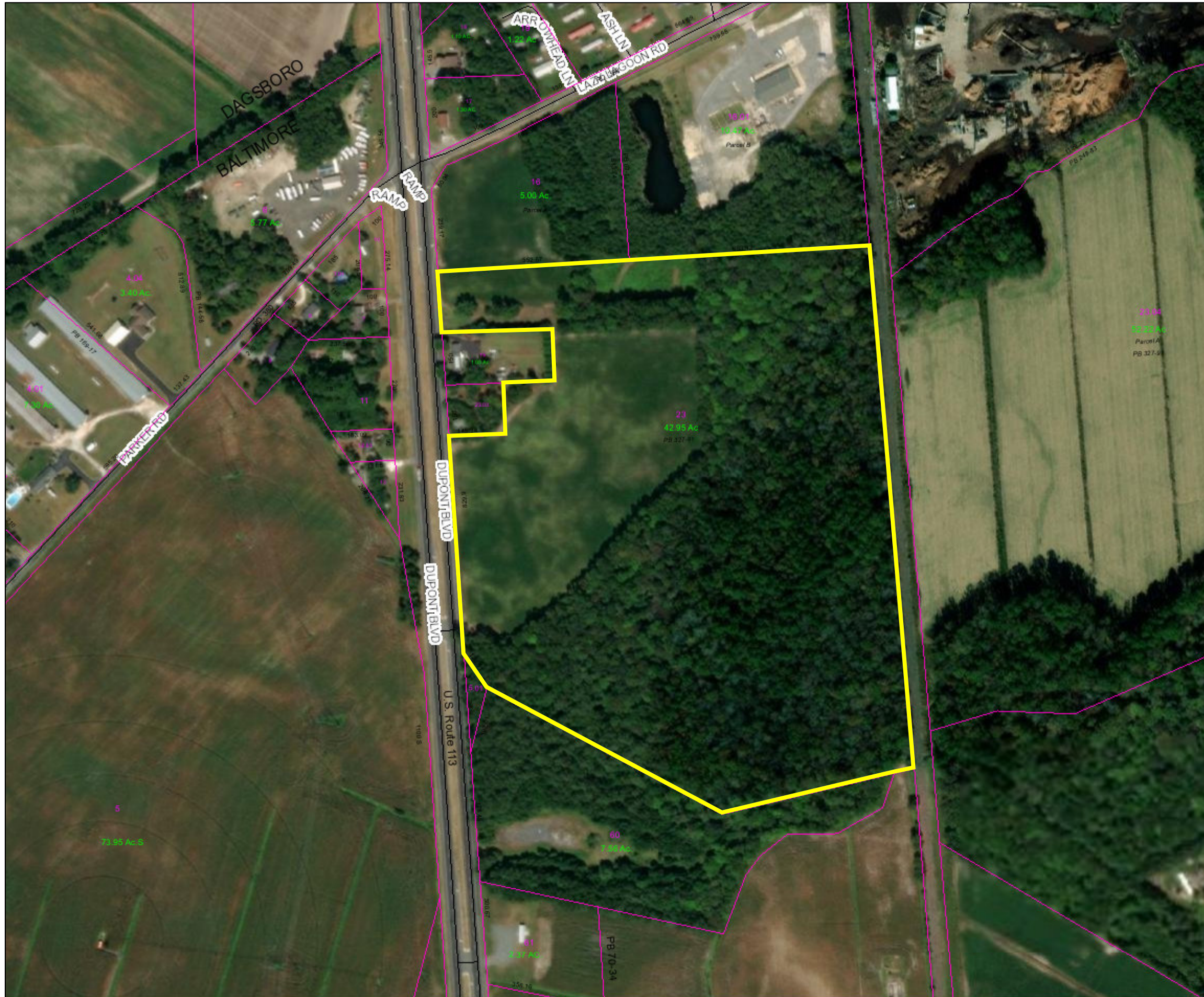
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

Based on the analysis provided, the Conditional Use to allow for a Solar Energy Facility, to exist on 17.726-acres +/-, in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to consideration of scale and impact.

Conditional Use Number	Tax Parcel #	APPLICANT	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
2325	533-9.00-58.00	David Blank	AR-1	Campground	<Null>	Deferred	<Null>
1996	533-4.00-13.00	Hector Patraca Carmona	C-1	Food Vendor	10/28/2014	Approved	2375



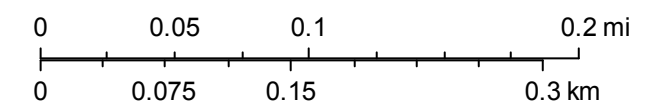
Sussex County



PIN:	533-4.00-23.00
Owner Name	GREENPATH DUPONT FRANKFORD LANDCO LLC
Book	5791
Mailing Address	PO BOX 13
City	OCEAN VIEW
State	DE
Description	E/DUPONT BLVD
Description 2	RESIDUAL LANDS
Description 3	FX
Land Code	

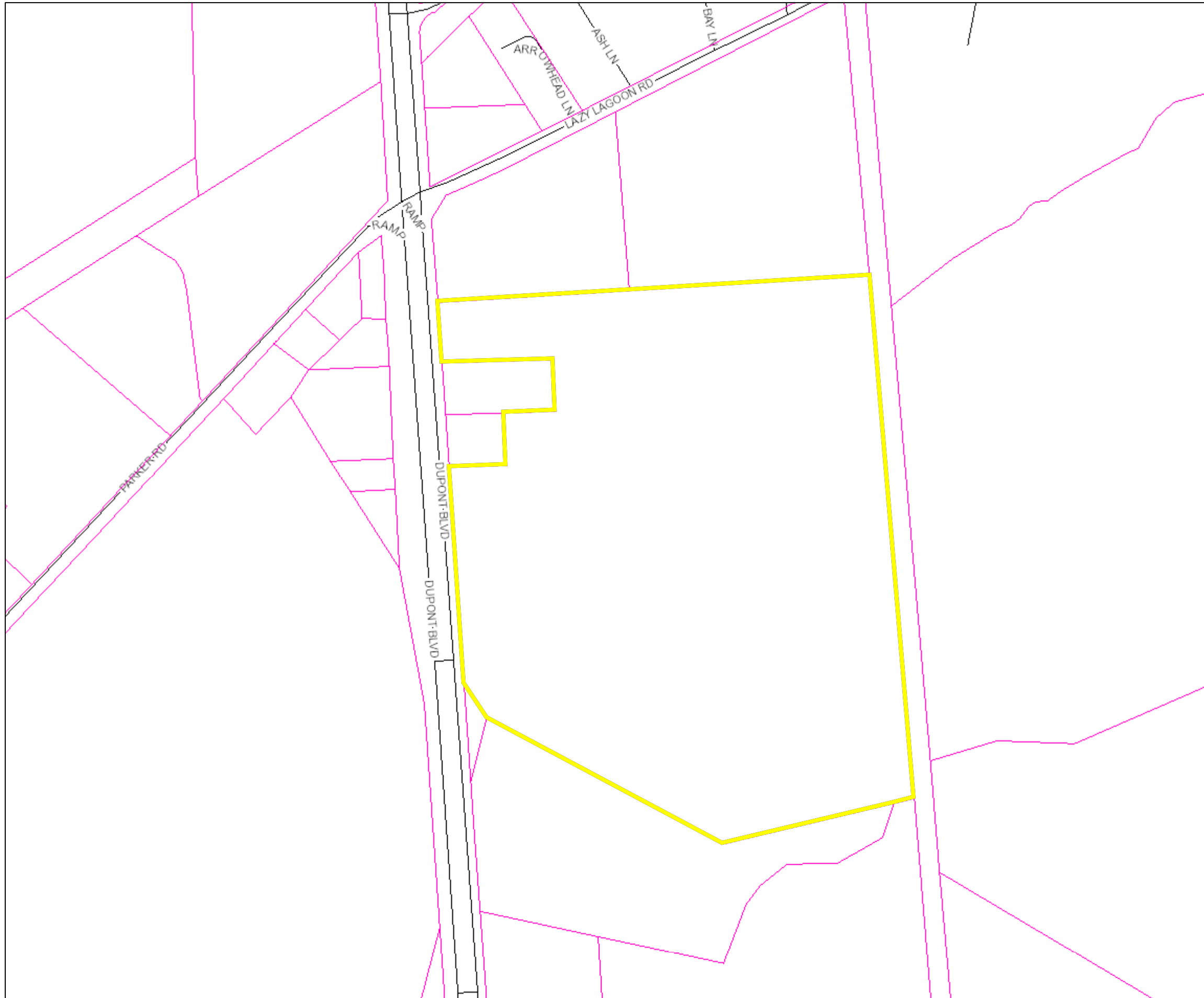
- polygonLayer**
Override 1
- polygonLayer**
Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





Sussex County



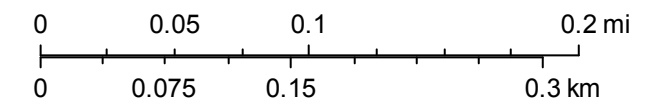
PIN:	533-4.00-23.00
Owner Name	GREENPATH DUPONT FRANKFORD LANDCO LLC
Book	5791
Mailing Address	PO BOX 13
City	OCEAN VIEW
State	DE
Description	E/DUPONT BLVD
Description 2	RESIDUAL LANDS
Description 3	FX
Land Code	

- polygonLayer**

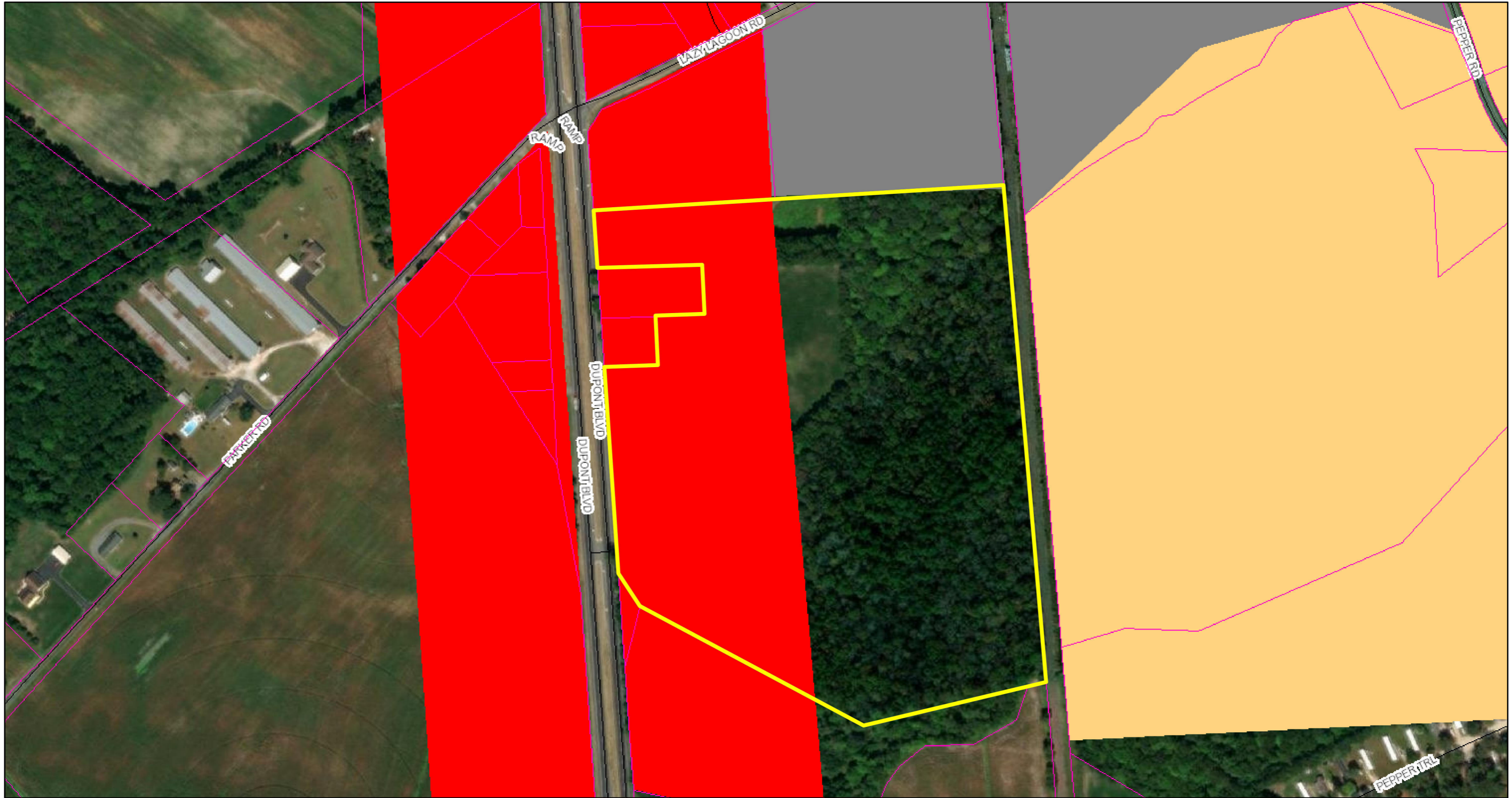
 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



Sussex County



June 12, 2023

- Override 1
- Override 1
- Tax Parcels
- Streets
- Zoning
- Agricultural Residential - AR-1

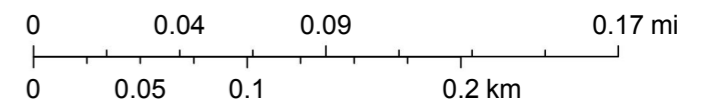
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP

- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3

- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1

- Light Industrial - LI-2
- Heavy Industrial - HI-1
- County Boundaries

1:4,514



Sussex County, Sussex County Government, Maxar

Introduced: 01/31/23

Council District 4: Mr. Hudson
Tax I.D. No. 533-4.00-23.00
911 Address N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS

WHEREAS, on the 11th day of April 2022, a conditional use application, denominated Conditional Use No. 2365 was filed on behalf of Frankford Community Energy Initiative II, LLC; and

WHEREAS, on the ____ day of _____ 2023, 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. 2365 be _____; and

WHEREAS, on the ____ day of _____ 2023, 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, Articles XI and IV, Subsection 115-22 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2365 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Dupont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 49.25 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.

PROPOSED

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 11, 2023

RE: County Council Old Business Report for C/Z 1989 filed on behalf of Fernando Robles

The Planning and Zoning Department received an application (C/Z 1989 filed on behalf of Fernando Robles) for a Change of Zone of parcel 135-19.00-23.03 from an AR-1 Agricultural Residential Zoning District a C-2 Medium-Commercial District. The property is located at 19724 Justin Drive, Georgetown. The parcel size is 5.42 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 23, 2023, the Planning & Zoning Commission recommended denial of the application for the 7 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of July 13, 2023, and July 27, 2023.

Minutes of the July 13, Planning & Zoning Commission Meeting

C/Z 1989 Fernando Robles

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 ACRES, MORE OR LESS. The property is lying on the northwest side of County Seat Highway (Rt. 9), approximately 0.85 mile southwest of DuPont Boulevard (Rt. 113). 911 Address: 19724 Justin Drive, Georgetown. Tax Map Parcel: 135-19.00-23.03 (p/o).



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Boundary Location Survey, the Applicant's Conceptual Layout Plan, the Applicant's Exhibits, the Staff Analysis, the DelDOT Service Level Evaluation Response, a copy of the property deed, and a letter received from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated zero comments had been received for the Application.

The Commission found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, presented on behalf of the Applicant; that also present were Mr. Eric Wall, Registered Landscape Architect and Project Manager with Pennoni Associates, and Mr. Fernando Robles, who presented on behalf of the Robles family. Mr. Davidson stated the Robles family are the owners of El Gran Charro store and restaurant located within the Town of Georgetown; that the application is a request to amend the Comprehensive Zoning Map of Sussex County for a property currently located within the AR-1 (Agricultural Residential) Zoning District of Georgetown; that the property is located on the northside of County Seat Hwy (Delaware Rt. 28) (U.S. Rt. 9); that the property is located 4,300 ft. west of DuPont Blvd (U.S. 113); that the request is to rezone a 2.47 acre portion of the total 5.42 acre property, from AR-1 (Agricultural Residential) to C-2 (Medium Commercial); that the property has been owned by the Robles family since 2007, being approximately 16 years; that the Robles currently reside on the property, as well as, own a large farm property across the road; that the Robles family has their residential home and equestrian activities located toward the rear of the property; that the property is bordered on the south by County Seat Highway, which is considered a minor arterial highway; that the property is bordered on the north, east and west by lands zoned AR-1 (Agricultural Residential); that the adjacent lands to the north and west do have Conditional Uses, with one Conditional Use being for a used automotive business; that the adjacent AR-1 to the east is used for agricultural and residential purposes; that these lands are located within a growth area for Sussex County, and within the Future Annexation Area for the Town of Georgetown; that in Ordinance 2550, Sussex County stated the desire to create more specific C-2 (Medium Commercial) Zoning District, with smaller, more related used within the district, to promote better planning and predictability within Sussex County that the purpose of the C-2 (Medium Commercial) district is to support uses that include retail sales and performance of consumer services; that the C-2 District permits a variety of retail, professional and service businesses; that the district shall be primarily located near arterial and collector streets, accommodating community and commercial uses that do not have outside sales or storage; that the approval of the rezoning request to C-2 will allow the Robles to relocate their family business, El Gran Charro, to a portion of their family lands on a particular stretch along County Seat Hwy.; that they desire to expand their existing restaurant, which is currently located at the College Park Shopping Center in Georgetown, which is more familiarly known as the Walmart Shopping Center; that the Robles have outgrown their current area in the shopping center; that they desire to create a quality restaurant that will focus on the customers for the nearby, existing and future communities; that within the submitted exhibits, is a potential annexation area map for the Town of Georgetown, which reflects the subject site vicinity to it; that the property is not contiguous to the Town of Georgetown, as it is located several properties away; that currently there is no ability for the Robles to be annexed into the Town of Georgetown; that the majority of their land, including the large farm area across the street are located within the future annexation area; that in the 2019 Sussex County Comprehensive Plan, the area of the proposed rezoning is identified as a Developing Area, which are areas of newer emerging growth, that demonstrate the characteristics of developmental pressure; that most of the proposed developing areas are adjacent to municipalities within areas

adjacent to the potential future annexation area of the municipality; that the Comprehensive Plan suggests that each application be reviewed on its own merit, so that it does not have a negative impact on the surrounding area of the County in general; that multiple Conditional Uses are located within the vicinity of the property; that other small business located along County Seat Hwy; that permitted uses listed in Developing Areas per the Comprehensive Plan, with good road access and few nearby homes should allow for commercial uses; that the property is located on a minor arterial road, according to DelDOT's Highway Functional Classification; that any additional right of way and easements will be dedicated as such during future planning of the property; that the proposed use is expected to have a minor impact, per the DelDOT Service Level Evaluation Response, which meets the Ordinance of Sussex County; that in lieu of doing a Traffic Impact Study (TIS) of the property, the project would qualify to pay a fee; that the Robles family will be required to pay the fee in lieu of the amount of traffic that will potentially be generated by the site; that the Robles will pay that fee to DelDOT; that the Comprehensive Plan is a guide for the future use of land; that the County's official Zoning Map must be consistent with the uses and intensities provided in the Future Land Use Plan; that Table 4.5-2 is provided as a tool for assisting with and determining which zoning districts are applicable to each Future Land Use Category; that under Table 4.5-2 for the Developing Area, C-2 (Medium Commercial) Zoning is an applicable district within that area; that the 2020 Strategies for State Policies and Spending identifies the property within Investment Level 2, therefore all infrastructure needs will be funded by the Applicant; that additional public infrastructure, such as road and access improvements, will benefit the community and be paid for by the Applicant; although site plans do not have a lot of merit in relation to rezoning requests, Pennoni has prepared and submitted a small site plan of how the Robles family desire the property to be developed; that there is an existing entrance; that the equestrian area will remain in the back, along with the horse stalls, barns, pasture and riding area; that there is an existing concrete pad, which is the proposed location for their desired restaurant, where they can utilize the existing infrastructure, as part of their farm; that the existing entrance would be used as shared access; that the new entrance would be upgraded and permitted through DelDOT; that a parking area is proposed; that all parking is located outside of the front yard setback; that part of the front yard could be utilized for infiltrations and stormwater management; that soil testing was performed on the site which determined an area suitable for the proposed septic system, until the Town of Georgetown moves their infrastructure outward; that the soil testing confirmed the area would be able to handle the typical size restaurant the Robles have proposed for the property; that there are no 404 non-tidal wetlands located on the property; that the property is located within a Flood Zone X; that there are no archeological, historical or natural features located on the site; that stormwater will be placed on the site, using best management practices; that a DNREC permitted commercial well and on-site wastewater treatment system would be placed on the site, until the Town of Georgetown is able to provide their infrastructure; that they feel the proposed rezoning meets the general purpose of the Zoning Ordinance, as it is located in an appropriate location, it meets the purpose of the Zoning District, Future Land Use Plan and the State Strategies and Objectives stated within the Comprehensive Plan, and the rezoning will promote growth and development through community design, mobility, utilities, transportation, and economic development in an area where a general mixture of commercial and service activities now exists, being essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

Mr. Robertson requested to make a few brief points for the benefit of the public. Mr. Robertson stated the application request is for a change in zoning to C-2 (Medium Commercial); that there are a number

of permitted uses within that zoning, such as hotels, convenience and retail stores, and restaurants; that typically, applicants present with a certain use in mind for the rezoning; that it is helpful for the Commission to know, however, the proposed use does not really have any relevance to the decision for a change in zone; that Mr. Davidson spoke about a “fee in lieu” instead of a TIS (Traffic Impact Study); that in land use applications, particularly larger ones, an applicant applies to DelDOT, who may require a Traffic Impact Study (TIS); that Traffic Impact Studies are where an analysis is performed on all the roads and intersections around the area, and the impact the development is proposed of have on those roads and intersections; that a report is then prepared on whether or not DelDOT agree or approve the development; that typically, for smaller land use applications or applications in areas where multiple studies have already been performed, DelDOT will state they do not need a TIS, but will require a payment in lieu of performing the TIS; that there is a public misconception in regards to the fees in lieu of; that the fee is not related to the required DelDOT improvements, and they are two separate requirements.

Ms. Wingate questioned the reasoning why the Applicant did not apply for a Conditional Use if the restaurant was the only intention for the property, if there are other commercially zoned properties in the immediate area, and if there was an estimated time when the Town’s sewer and water services would be available to the site.

Mr. Davidson stated the C-2 (Medium Commercial) Zoning will allow the Robles flexibility and the ability to expand their restaurant; that they felt a Conditional Use would not be in their best interest, as it may be conditioned in such a way it would not allow the business to grow; that additionally, there is a financial interest; that a proper zoning would allow for easier financing for the Robles business project; that a Conditional Use, having certain stipulations, could prevent the Robles from receiving the type of appraisal they would require to be able to build their facility; that there is a lot of work that goes into building a brand new facility; that this is the reason the Robles proposed only a portion of their property, which narrowed the re-zoning request down to the minimum area needed for the restaurant and parking area; that there are multiple commercial use properties in the immediate vicinity of the site, however, they are mostly conditional uses; that the site is located within the Town of Georgetown’s future expansion area; that the Town of Georgetown and the Rt. 113 quarter is changing; that due to this, Georgetown is losing a lot of commercial properties within some of the major intersections with the construction of the overpasses; that the properties to the north and south have been constricted in regards to where these types of businesses can be located; that there have been talks about pushing the businesses to the west along the minor arterial highway and other major roads; that the location of Delaware Technical Community College is along a minor arterial highway; that these are the areas where growth is occurring and anticipated for the Town of Georgetown, as they lose businesses such as Royal Farms, Hardee’s and NAPA Auto Parts; that this is the reason they requested the small portion of commercial to be located in the front, nearest to the major arterial roadway, with the residential portion located in the back and they are attempting to mirror this preferred type of land planning.

Mr. Mears questioned if the rezoning was approved, would the parking location be able to comply with the required setbacks, as it is preferred when a site is not neighboring commercial properties.

Mr. Davidson stated the provided plan was a Conceptual Site Plan, and they would ensure the parking location would meet the required setbacks.

Mr. Robertson stated that Sussex County has a Memorandum of Understanding (MOU) with DelDOT regarding the level of service; that DelDOT rates intersections and roads at Levels of Service A through F; that the DelDOT Levels of Service are based on traffic counts; that for the subject use, DelDOT has indicated that the traffic impact is considered minor; that if the rezoning is approved, the Applicant is required to go through site plan review for approval; that DelDOT will ensure that the project does not adversely impact the Level of Service, or at least ensure the level remains the same and DelDOT's classifications are based on the number of vehicle trips generated.

The Commission found that no one was present who wished to speak in support of or in opposition to the Application.

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

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

In relation to C/Z 1989 Fernando Robles. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Ms. Wingate moved that the Commission recommend denial for C/Z 1989 Fernando Robles for a change in zone from AR-1 Agricultural-Residential and MR Medium Density zoning to C-2 "Medium Commercial" zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. Although this site is located along Route 9, there are no other commercially zoned properties in the immediate vicinity of it. This would essentially be an isolated area of spot zoning that is inconsistent with the AR-1 zoning that surrounds it.
3. The site is not currently served by central water and sewer, and there is no indication that these services will be available to the site at any time in the near future. For this reason, a change in zone to C-2, with the more intensive uses that are permitted in that zoning district, is not appropriate at this time.
4. I am sympathetic to the Applicant's reason for requesting this rezoning so that he can relocate his restaurant to this site from where it has outgrown its present location. But, this is not a sufficient justification for the C-2 Zoning at this location, with all the permitted uses that can occur within that zoning category. It may be more appropriate to seek a conditional use for the Applicant's specific intended use so that the use is limited to what the Applicant wants to do, with appropriate conditions. That would be a separate decision based on whatever information might be presented in support of it.
5. I am not satisfied that the proposed isolated commercial rezoning in this location will not have an adverse impact on neighboring properties or area roadways.
6. I am not satisfied that the proposed rezoning to C-2 in this isolated location meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity, and welfare of the County.

7. For all of these reasons, it is my motion that the Commission recommend denial of this request to rezone the subject property from AR-1 to a C-2 Medium Commercial Zoning District.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend denial for C/Z 1989 Fernando Robles for the reasons stated in the motion. Motion carried 4-0. Mr. Butler abstained.

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

Introduced: 06/20/23

Council District 5: Mr. Rieley
Tax I.D. No.: 135-19.00-23.03 (p/o)
911 Address: 19724 Justin Drive, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 ACRES, MORE OR LESS

WHEREAS, on the 16th day of June 2022, a zoning application, denominated Change of Zone No. 1989 was filed on behalf of Fernando Robles; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1989 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential] and adding in lieu thereof the designation C-2 Medium Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the northwest side of County Seat Highway (Rt. 9) approximately 0.85 mile southwest of DuPont Boulevard (Rt. 113) and being more particularly described in the attached legal description prepared by Pennoni Engineering., said parcel containing

2.47 ac., 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.

PROPOSED