

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

**MEETING:  
August 24, 2021**

**\*\*DISCLAIMER\*\***

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

**COUNTY COUNCIL**

MICHAEL H. VINCENT, PRESIDENT  
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 24, 2021**

**10:00 A.M.**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes –August 10, 2021**

**Reading of Correspondence**

**Public Comments**

**Presentation – DelDOT Capital Transportation Program (CTP) Update**

**Todd Lawson, County Administrator**

1. Administrator's Report

**Karen Brewington, Human Resources Director**

1. Third Quarter Employee Recognition Awards

**Gina Jennings, Finance Director**

1. Delaware Transit Reimbursement Program Request

**Hans Medlarz, County Engineer**

1. Comcast Easement – Business Park
2. Concord Road / Route 13 Utility Upgrade – Standalone Contract Continuation Purchase Order Close-Out



**3. Construct GA Apron Expansion, Phase II**

**A. Approval to Award**

**B. Delta Task Order 3**

**Robert Bryant, Airport & Business Park Manager**

- 1. Acceptance of Federal Aviation Administration Airport Improvement Program Grant Offers**

**John Ashman, Director of Utility Planning & Design**

- 1. Request to prepare and post notices for the Public Hearing on the Blackwater Village Utilities**
- 2. Request to prepare and post notices for the Knapp Annexation in West Rehoboth**

**Grant Requests**

- 1. Chamber of Commerce for Greater Milford for festival expenses**
- 2. Delaware Botanic Gardens for virtual dinner to benefit operations**
- 3. Delaware State College Alumni Association, Sussex County Chapter, for Band to the Beach trip expenses**

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

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

**Possible action on Executive Session items**

**1:30 p.m. Public Hearings**

**Conditional Use No. 2249 filed on behalf of Mayapple Farm, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI FAMILY (41 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.91, MORE OR LESS” (property lying on the west side of Williamsville Road [S.C.R. 395] approximately 0.76 mile southeast of Lighthouse Road [Route 54]) (Tax I.D. No. 533-19.00-289.05) (911 Address: None Available)**

**Adjourn**

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 17, 2021 at 4:30 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountycle.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://sussexcountycle.gov/agendas-minutes/county-council>.

# # # #

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 10, 2021**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 10, 2021, at 10:00 a.m., in Council Chambers, with the following present:**

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

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

**Call to  
Order**

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

**M 346 21  
Approve  
Agenda**

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

**Motion Adopted: 5 Yeas.**

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

**Minutes**

**The minutes of July 27, 2021 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore reported that correspondence was received from the Girl Scouts of the Chesapeake Bay in appreciation of a grant.**

**Public  
Comments**

**Public comments were heard and the following spoke:**

**Lori Johnson of Selbyville raised questions about police, fire and ambulance presence on Route 54.**

**M 347 21  
Approve  
Consent  
Agenda  
Items**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to approve the following items listed under the Consent Agenda:**

- 1. Use of Existing Wastewater Infrastructure Agreement, IUA-1156  
Cardinal Grove Project, West Rehoboth Area**
- 2. Use of Existing Wastewater Infrastructure Agreement, IUA-1126  
Southern Landing Project, Millville Area**

**M 347 21  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Retiree  
Recognition**

**The Council recognized Mark Sheridan, Deputy Director of EMS, who is retiring after 27 years of service with the County.**

**Adminis-  
trator's  
Report**

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

**1. Certificate of Achievement for Excellence in Financial Reporting**

**I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Certificate of Achievement for Excellence in Financial Reporting for the 2020 Comprehensive Annual Financial Report. This is the 19th consecutive year that the County has received this prestigious award acknowledging the financial report. The award is among the highest forms of recognition for governmental accounting and financial reporting.**

**Congratulations to Gina Jennings, Finance Director/Chief Operating Officer, Kathy Roth, Deputy Finance Director, and the accounting staff for their efforts in achieving this award.**

**2. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Marsh Island Phase 1B (PS & FM) and Marsh Island Phase 5 (Construction Record), effective July 21st; Millville by the Sea, Seabreeze Village 8, Phase 2 (Construction Record), effective August 2nd; Marsh Farm Estates, Phase 4A, effective August 5th; and Americana Bayside, Weidman Parcel, Phase 1B (Construction Record), effective August 6th.**

**3. FY 2022 Human Service Grant Program**

**Applications for the Fiscal Year 2022 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to County-wide non-profit agencies for the purpose of enhancing health and human services which contribute to a safe, healthy and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.**

**To be eligible for a grant, organizations must fill out an application which is available on the County's website at [www.sussexcountyde.gov](http://www.sussexcountyde.gov). The deadline for filing grant requests is Thursday, September 30th.**

**Adminis-  
trator's  
Report  
(continued)**

**4. Council Meeting Schedule**

**A reminder that Council will not meet on August 17th. The next regularly scheduled Council meeting will be held on Tuesday, August 24th, at 10:00 a.m.**

**(Attachments to the Administrator's Report are not attachments to the minutes.)**

**Vehicle  
Request  
RFP**

**Michael Costello, Government Affairs Manager, presented the bid results and the Fleet Team's award recommendation for the Vehicle Purchases Request for Proposals (RFP). A total of three bids were received. The bid results were included in the Council's packets for this meeting.**

**M 348 21  
Award  
Vehicle  
RFP**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based on the Fleet Team's recommendation, that the Sussex County Council awards bid specifications A-1, B-1, C-6, C-7, D-1 and E-1 to Hertrich's Fleet, A-1-1 and C-2 to Chas S. Winner, Winner Ford, and F-1, H-1 and G-1 to First Due Customs.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Safety  
Building/  
Bid  
Results  
and  
Architec-  
tural  
Amend-  
ments  
2 and 3**

**Hans Medlarz, County Engineer, presented the bid results for the EMS Public Safety Building Project, Project C19-04. Eight (8) bids were received; Bancroft Construction Company (Bancroft) of Wilmington, Delaware, submitted the lowest responsive base bid in the amount of \$8,282,169.00. The Engineering Department recommends awarding the bid to Bancroft. Mr. Medlarz also presented Amendments 2 and 3 to the Architectural Contract for the Project. Mr. Medlarz reported that, following the presentation to Council in March, the scope still evolved considerably due to design revisions and added design features. Consequently, George, Miles & Buhr (GMB) and its subcontractors have exceeded the previously approved allocations bringing the project to bid. Mr. Medlarz presented Amendment No. 2 in the amount of \$75,000.00 for Additional Design Services and Amendment No. 3 in the amount of \$244,500.00 for the Construction Phase Services Contract. The Engineering Department recommends the approval of GMB's Amendment Nos. 2 and 3, increasing the not-to-exceed amount to \$681,400.00.**

**M 349 21  
Award Bid/  
Public  
Safety  
Building**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Contract C19-04, Sussex County Public Safety Building, be awarded to Bancroft Construction Company, for their low bid of \$8,282,169.00.**

**M 349 21  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**M 350 21  
Approve  
Amend-  
ments to  
Architec-  
tural  
Services  
Contract**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Amendment Nos. 2 and 3 to the Architectural Services Contract with George, Miles & Buhr, for the Sussex County Public Safety Building, be approved in the amounts not to exceed \$75,000.00 and \$244,500.00, respectively.**

**Motion Adopted: 5 Yeas.**

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

**Inland Bays  
Regional  
Wastewater  
Facility/  
Profes-  
sional  
Environ-  
mental  
Services  
and Geo-  
technical  
Engineering  
Services/  
Contract  
Amendment  
and Budget  
Revision  
to Base  
Contract**

**Hans Medlarz, County Engineer, presented a request for an increase to the Professional Environmental Services Contract (Project 19-05), Inland Bays and the Sussex Portion of the Chesapeake Bay Watershed. Previously, as a result of comments received from DNREC, additional data acquisition, soil testing, hydrogeologic evaluations and surface water assessments were necessary to update the project design documents and advance the project to the permit stage; the Council approved a Motion on February 2, 2021 to cover this work. Since that time, the Soils Investigative Report has been completed and identified a restrictive layer and concluded that areas exist within the project area that are favorable for construction of a submerged gravel wetland. Mr. Medlarz stated that additional testing is necessary and will require additional services from RK&K and Hillis-Carnes, the County's Geotechnical Consultant. The Engineering Department is requesting Council's approval of RK&K's 3rd Base Contract Amendment in the not to exceed amount of \$46,571.00. Mr. Medlarz also reported that additional geotechnical engineering services in the amount of \$4,070.00, as per a proposal from Hillis-Carnes, are required to support the testing for the final constructed Submerged Gravel Wetland design. To cover these services and other miscellaneous initiatives and activities, the Engineering Department is requesting that the ceiling for FY2022 be increased by \$25,000.00.**

**M 351 21  
Increase  
Environ-  
mental  
Services  
Base  
Contract**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Professional Environmental Services Base Contract with RK&K, Inc. be increased in the amount of \$46,571.00 for Hydrological Scaled Basin Testing and Subsequent Design Implementations.**

**Motion Adopted: 5 Yeas.**



**M 351 21  
(continued)**

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

**M 352 21  
Increase  
Geo-  
technical  
Engineering  
Services  
Contract**

**A Motion was made by made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the not-to-exceed cost associated with the Geotechnical Engineering Services Contract with Hillis-Carnes Associates be increased for Fiscal Year 2022 by \$25,000.00, for a total annual not to exceed amount of \$75,000.00.**

**Motion Adopted: 5 Yeas.**

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

**Western  
and  
Eastern  
Property  
Site  
Mainte-  
nance  
Contracts**

**Hans Medlarz, County Engineer, discussed the County’s Western and Eastern County Property Site Maintenance Contracts, explaining the difficulty of procuring the bids for the work. There were three attempts for the procurement and there were three different start dates due to these difficulties . One of the contracts expires, one will expire this year, and one will expire next year. Therefore, this work has been placed in a comprehensive package for a different approach; a year over year CPI Adjusted Performance Base Contract for the two local vendors.**

**M 353 21  
Modify  
Western  
Sussex  
Property  
Site  
Mainte-  
nance  
Contract**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering and Finance Departments, that the Western Sussex Property Site Maintenance Contract and the Landfill Site Maintenance Contracts be modified to a performance-based, year over year, continual contract with Consumer Price Index adjustments starting in 2022.**

**Motion Adopted: 5 Yeas.**

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

**SCRWF  
Treatment  
Process  
Upgrade  
& Rehoboth  
Beach WTP  
CIP  
Program  
Phase 2  
C/O 10 & 13**

**Hans Medlarz, County Engineer, presented Change Orders for the South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2. Change Order No. 10 for the Electrical Construction Project, Project C19-17, in the aggregate amount of \$7,320.00, is due to a design change (additional site lighting).**

**Change Order No. 13 for the General Construction Project, Project C19-11, in the amount of \$1,043,243.92, is due to differing site conditions (the newly**

**SCRWF Treatment Process** revealed site conditions require the full demolition of the upper level of the headworks as well as the channel between it and the splitter box).

**Upgrade & Rehoboth Beach WTP (continued)** Mr. Medlarz noted that Change Order No. 13 will be fully paid for by the City under their financing agreements; however, since it's the County's project, the County has to take the official action.

**M 354 21 Approve C/O #10/ Contract C19-17/ SCRWF Treatment Process Upgrade & Rehoboth Beach WTP** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 10 for Contract C19-17, South Coastal Regional Wastewater Treatment Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, Electrical Construction, be approved, increasing the Contract by \$7,320.00.

**Motion Adopted:** 5 Yeas.

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

**M 355 21 Approve C/O #13/ Contract C19-11/ SCRWF Treatment Process Upgrade & Rehoboth Beach WTP** A Motion was made by Mr. Schaeffer, seconded by Rieley, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 13 for Contract C19-11, South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, General Construction, be approved, increasing the Contract by \$1,043,243.92.

**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 the Council's consideration.

**M 356 21 Councilmanic Grant** A Motion was made by Mrs. Green, seconded by Mr. Hudson, to give \$4,000.00 (\$2,000.00 each from Mrs. Green's and Mr. Vincent's Councilmanic Grant Accounts) to the First State Community Action Agency for building repairs to the Walker's Mill Community Center.

**Motion Adopted:** 5 Yeas.

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

**M 357 21  
Council-  
manic  
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to give \$3,500.00 from Mr. Schaeffer's Councilmanic Grant Account to the Partnership for the Delaware Estuary for an ecotourism investment strategy.

**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. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WAREHOUSING FACILITY WITH OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.13 ACRES, MORE OR LESS" (Conditional Use No. 2263) filed on behalf of Southern Comfort Delaware, LLC (Tax I.D. No. 134-7.00-143.00) (911 Address: None Available).**

**Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRES, MORE OR LESS" (Conditional Use No. 2272) filed on behalf of Charles Stanley (Tax I.D. No. 231-12.00-40.01) (911 Address: 24250 Old Meadow Road, Seaford).**

**Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A MICROBREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.35 ACRES, MORE OR LESS" (Conditional Use No. 2282) filed on behalf of Lawrence Davies. (Tax I.D. No. 134-9.00-27.00) (911 Address: 38450 Hickman Road, Ocean View)**

**Mr. Hudson introduced the Proposed Ordinance entitled "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 CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.76 ACRES, MORE OR LESS" (Change of Zone No. 1940) filed on behalf of Community Bank Delaware, c/o Stephen W. Spence (Tax I.D. No. 234-23.00-262.00) (911 Address: 31816 & 24882 Indian Mission Road, Millsboro).**

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

**M 358 21**      **At 10:35 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to recess the Regular Session and go into Executive Session to discuss matters relating to potential litigation and land acquisition.**  
**Go Into Executive Session**

**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 10:40 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential litigation and land acquisition. The Executive Session concluded at 11:50 a.m.**

**M 359 21**      **At 11:55 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to come out of Executive Session and to reconvene the Regular Session.**  
**Reconvene Regular Session**

**Motion Adopted:      5 Yeas.**

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

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

**M 360 21**      **At 11:56 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to recess until 1:30 p.m.**  
**Recess**

**Motion Adopted:      5 Yeas.**

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

**M 361 21**      **At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to reconvene.**  
**Reconvene**

**Motion Adopted:      5 Yeas.**

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

**Rules**      **Mr. Moore reviewed the rules of procedure for public hearings.**

**Public  
Hearing/  
CU 2250**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION BUSINESS, WORK TRAILER, AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.968 ACRES, MORE OR LESS” (Conditional Use No. 2250) filed on behalf of Paola Pacheco Vazquez (Tax I.D. No. 230-12.00-10.04) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 24, 2021 at which time action was deferred. On July 8, 2021, the Commission recommended approval with the following conditions:**

- a. This use shall be limited to the Applicant’s construction business with work trailer and equipment storage. No retail sales or other business shall be conducted from the site.**
- b. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.**
- c. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- d. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall be no dumping or storage of concrete or similar materials on the site.**
- g. All maintenance of vehicles and equipment shall be performed indoors or offsite.**
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property’s setbacks.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission dated June 24 and July 8, 2021.)**

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

**The Council found that Paola Pacheco was present on behalf of her application. She stated that she is the property owner and that they operate a small family construction business; and that they wish to comply with the County’s regulations.**

**Public  
Hearing/  
CU 2250  
(continued)**

Following a review of the Planning and Zoning Commission’s recommended conditions, the Applicant expressed concern about Condition “g” which states “All maintenance of vehicles and equipment shall be performed indoors or off-site.” She stated that they would want to perform some equipment maintenance on the site.

Public comments were heard.

Hunter Emory (representing White Mahogany Investments, LLC and Fitzgerald Deputy Teatown Road, LLC, which are adjacent property owners) stated that a complaint was filed on the use taking place on this parcel which caused the Applicant to make application; that there is water on the property; that their concern is the water run-off onto area properties and that they are working with the Sussex Conservation District to get ditching; that the Applicant is already bringing dirt onto the site which will cause more run-off; that the Applicant currently has a pop-up tent/trailer on the site that someone is living in; that the Applicant may need a retention pond on the site; that another concern is the lack of bathroom facilities or a septic system on the property; and that proper preparation and proper steps need to be taken prior to permitting this use.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 362 21  
Amend  
Condition**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to amend Condition “g” to read as follows: “All maintenance of vehicles and equipment, except routine light maintenance such as oil changes and power washing, shall be performed indoors or offsite.”

**Motion Adopted: 5 Yeas.**

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

**M 363 21  
Adopt  
Ordinance  
No. 2793/  
CU 2250**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2793 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION BUSINESS, WORK TRAILER, AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.968 ACRES, MORE OR LESS” (Conditional Use No. 2250) filed on behalf of Paola Pacheco Vazquez, with the following conditions, as amended:

**M 363 21  
Adopt  
Ordinance  
No. 2793/  
CU 2250  
(continued)**

- a. This use shall be limited to the Applicant's construction business with work trailer and equipment storage. No retail sales or other business shall be conducted from the site.
- b. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.
- c. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- d. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- f. There shall be no dumping or storage of concrete or similar materials on the site.
- g. All maintenance of vehicles and equipment, except routine light maintenance such as oil changes and power washing, shall be performed indoors or offsite.
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- j. 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/  
CU 2254**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR AN AUTO GLASS TINTING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.021 ACRES, MORE OR LESS" (Conditional Use No. 2254) filed on behalf of Richard L., Jr. & Kelsey R. Dickerson Tilghman (Tax I.D. 532-19.00-52.00) (911 Address: 8227 W. Line Road, Delmar).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 24, 2021 at which time action was deferred. On July 8, 2021, the Commission recommended approval of the application with the following conditions:**

- a. The use shall be limited to a glass-tinting business. No other uses or sales shall occur on the property.
- b. The glass-tinting operation shall only occur within the existing pole building, and all materials shall be stored within the building.

**Public  
Hearing/  
CU 2254  
(continued)**

- c. The hours of operation shall be limited to 7:00 a.m. until 5:00 p.m.
- d. Signage shall be limited to one lighted sign along the roadway not to exceed thirty-two (32) square feet in size.
- e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- f. All entrances shall be subject to all DelDOT requirements.
- g. Failure to comply with any of these conditions of approval shall be grounds for termination of this Conditional Use approval.
- h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated June 24, 2021 and July 8, 2021.)

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

The Council found that Richard Tilghman was present on behalf of his application. He stated that he wishes to start his own window-tinting business; that his application is for a 26 x 30 pole building in which to operate a window tinting shop; that hours would be 7:00 a.m. to 5:00 p.m.; that most vehicles only need to be on the site for two to three hours; that, at most, he would have three customers' cars in his driveway at any given time; that he wants to erect a 32 square foot sign; and that he is in agreement with the conditions recommended by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 364 21  
Adopt  
Ordinance  
No. 2794/  
CU 2254**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2794 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO GLASS TINTING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.021 ACRES, MORE OR LESS" (Conditional Use No. 2254) filed on behalf of Richard L., Jr. & Kelsey R. Dickerson Tilghman, with the following conditions:

- a. The use shall be limited to a glass-tinting business. No other uses or sales shall occur on the property.
- b. The glass-tinting operation shall only occur within the existing pole building, and all materials shall be stored within the building.
- c. The hours of operation shall be limited to 7:00 a.m. until 5:00 p.m.
- d. Signage shall be limited to one lighted sign along the roadway not to exceed thirty-two (32) square feet in size.
- e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- f. All entrances shall be subject to all DelDOT requirements.



**M 364 21  
Adopt  
Ordinance  
No. 2794/  
CU 2254  
(continued)**

- g. Failure to comply with any of these conditions of approval shall be grounds for termination of this Conditional Use approval.**
- h. 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/  
CU 2259**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT FOR MULTI-FAMILY DWELLING UNITS (30 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.96 ACRES, MORE OR LESS” (Conditional Use No. 2259) filed on behalf of The Evergreene Companies, LLC, c/o Tim Naughton (Tax I.D. No. 134-13.00-72.02) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 24, 2021 at which time action was deferred. On July 22, 2021, the Commission recommended approval with the following conditions:**

- A. The maximum number of residential units within this entire development shall be 30.**
- B. The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development’s roadways, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- C. All entrance, intersection, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- D. The project shall be served by Sussex County sewer. the Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- E. The project shall be served by central water to provide drinking water and fire protection.**
- F. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- G. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- H. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.**

**Public  
Hearing/  
CU 2259  
(continued)**

- I. The interior street design shall meet or exceed Sussex County’s street design requirements. There shall be sidewalks on at least one side of all streets.**
- J. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.**
- K. Recreational amenities shall be completed no later than the issuance of the 15th residential building permit. These amenities shall include a pool, pool deck and bathrooms.**
- L. Construction, site work and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36 inch “NOTICE” sign confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- M. All of the buildings shall be set back at least 20 feet from all non-tidal wetlands.**
- N. There shall be a vegetated or forested buffer that is at least 20 feet wide installed along the western perimeter of this development. This shall utilize the existing poplar trees within the buffer area with vegetation added as a screen in accordance with the requirements of Sections 115-218D and 99-5 of the County Code. Where the trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area. In addition, a split rail or similar type of fence shall be installed along the boundary line of the property next to this buffer.**
- O. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. This Landscape Plan shall further identify all “Limits of Disturbance” within the site.**
- P. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until a Lot Grading Plan has been supplied to and approved by Sussex County. No Certificate of Occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual Site Grading Plan.**
- Q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using Best Management Practices to seek to minimize the risk of runoff into the stormwater management system, wetlands and waterways.**
- R. The failure to abide by these conditions shall result in the termination of this Conditional Use.**
- S. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Public  
Hearing/  
CU 2259  
(continued)**

**(See the minutes of the Planning and Zoning Commission dated June 24, July 8, and July 22, 2021)**

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

**Mr. Whitehouse reported that 83 letters (some possibly duplicates) were received in opposition to the application.**

**It was noted that DelDOT representative Steve McCabe was in attendance by teleconference.**

**The Council found that James Fuqua, Esq., was present on behalf of the application along with Tim Naughton, Applicant, and Cliff Mumford of Davis, Bowen & Friedel.**

**Mr. Fuqua stated that there is a zoning history relevant to this application (Conditional Use No. 2259) and he provided a history of the applications previously approved for this site. A 48-unit multi-family townhouse project was approved by the Sussex County Council for this site on two separate occasions (in 2004, Conditional Use No. 1519 was filed on behalf of Inland Bays, LLC and in 2010, Conditional Use No. 1850 was filed on behalf of Inland Bays, LLC). Conditional Use No. 1519 did not proceed and the preliminary approval expired, and Conditional Use No. 1850 did not proceed due to a recession and thereafter, with the project not being substantially underway, the approval expired.**

**Mr. Fuqua reported that this Conditional Use application is different when compared to the two prior applications in that it is for 30 multi-family units which will all be single family detached condominium units; that the site consists of 11.96 acres; that the density would be 2.5 units per acre (which is a reduction in density from 4 units in comparison to the previously approved applications); that the site is located in Investment Levels 2, 3 and 4 according to the Strategies for State Policies and Spending; that since the proposed site plan stays out of the Level 4 Area, the Office of State Planning stated that they have no objection to the proposed development; that there are a number of single-family, multi-family and commercial uses in the general area; that the area is urban in character; that the site contains 6 acres of non-tidal wetlands; that the wetlands were delineated by Environmental Resources; that the western side of the site is uplands which is the area to be developed; that the wetlands area will remain undisturbed; that the site is located in a County operated sewer district and wastewater capacity is available; that Sussex Shores Water Company will provide central water for domestic use and fire protection; that stormwater management facilities will be designed and constructed in accordance with DNREC's regulations and approved by the Sussex Conservation District; that DelDOT did not require a Traffic Impact Study; that DelDOT stated that the traffic impact would be negligible, as stated in DelDOT's letter dated October 8, 2020; that DelDOT will require the Applicant to dedicate additional right-of-way along the site**

**Public  
Hearing/  
CU 2259  
(continued)**

frontage to provide a 40 foot right-of-way on the side of the road that the entrance will be designed; that improvements will be required at the entrance; that there will be one cul-de-sac street for entering and leaving the development; that 16 units will be located on the west side of the street and 14 units will be located on the east side of the street; that there will be a recreational area on the east side of the street; that the recreational area will include a swimming pool; that each unit will have the capacity for 4 parking spaces; that there will be an additional 7 parking spaces in front of the recreational area; that sidewalks are proposed along the east side of the street; that there will be a minimum of a 10 foot building setback from the non-tidal wetland line; that the average setback is significantly greater than this; that one building will maintain at least the 10-foot setback and all other buildings will have a larger setback; that the western boundary and half of the northern boundary of the site that borders the Bethany Lakes development will have a 20-foot landscape buffer; that the buffer will be continued along the western boundary around the corner to approximately where the cul-de-sac is located; that the buffer cannot continue further because the 20 foot wide area will be where the County's sewer easement will be located; that they are proposing a privacy fence of at least 6 feet in height which would be constructed along the boundary from where the easement begins to where the wetlands begin; that the application complies with the purpose of the MR District; that the application is in accordance with the Comprehensive Plan, that the proposed development is in character with the nature of the area; that the proposed 30 units is a significant reduction in the 48 units previously approved in two separate applications; that the State Planning Office has no objection to the development; and that the Planning and Zoning Commission unanimously recommended approval of the application subject to conditions.

Mr. Fuqua reviewed the site plan and described the area including adjacent residential developments (including densities) and commercial activities.

Mr. Fuqua referenced some of the comments made at the Planning and Zoning Commission in opposition to the application:

- **Comment:** That 9.2 acres of the site is woodlands/wetlands and should not be utilized when determining density.

**Response:** That statement is incorrect. Tidal wetlands cannot be used to determine density but all wetlands located on this site are non-tidal wetlands which have always been permitted to be used for density calculations. Two (2) acres of the existing 9.2 acres of woodlands will be removed, leaving 7.38 acres undisturbed as part of the wetland areas. Under the proper density calculation, the proposed 30 units represent a density of 2.5 units per acre and the density permitted in the MR District is 4.35 units per acre.

**Public  
Hearing/  
CU 2259  
(continued)**

- **Comment: There is runoff and flooding in the area.**

**Response: The development of the stormwater management system will be designed and constructed in accordance with DNREC regulations which will be reviewed and approved by the Sussex Conservation District. Under the regulations of DNREC, stormwater run-off on the site cannot run off or flood adjacent properties; that run-off must be captured and contained on the site in accordance with the regulations.**

- **Comment: DelDOT did not require a Traffic Impact Study (TIS) but did recommend one.**

**Response: This is incorrect. DelDOT did not recommend a TIS. DelDOT's comments in the PLUS letter of December 18, 2020 states that a TIS is not warranted. In Bill Brockenbrough's letter of October 8, 2020, he stated that, because vehicle trips do not meet TIS minimum warrants, DelDOT considers the Development's impact to be negligible in the context of DelDOT's agreement with the County regarding land development coordination. DelDOT recommended that the Applicant not be required to perform a TIS.**

**In response to questions, Mr. Steve McCabe of DelDOT confirmed that a Traffic Impact Study (TIS) was not required. Mr. Hudson stated that he believes the Council can request a TIS in accordance with the most recent Memorandum of Understanding signed by the County and DelDOT. Mr. McCabe stated that, if the MOU states that, it would be the Council's right to make that request. In response to questions, Mr. McCabe commented on the Level of Service on Fred Hudson Road stating that he is unsure what that Level is, but that he can find out and report back. Mr. McCabe commented on improvements that DelDOT will be requiring to Fred Hudson Road.**

**Mr. Fuqua addressed a matter of concern that came up during the Planning and Zoning Commission's Public Hearing and in emails received by the County thereafter. Mr. Fuqua reported that an allegation was made at the Planning and Zoning Commission's public hearing "which unfairly attacked the reputation of Evergreene Companies and improperly influenced the conditions of approval recommended by the Commission". In response to those allegations, Mr. Fuqua stated that neither he nor the Applicant knew about this alleged violation. Mr. Fuqua also stated concerns regarding comments made by the Commission Members when they were discussing the application. Mr. Fuqua stated that he later found out that the County had never notified Evergreene of this alleged violation nor had the County taken any corrective or enforcement action against the alleged violation. The allegation that trees were removed in violation of conditions of approval is not true. Mr. Fuqua noted that he has submitted a letter into the record, with attached exhibits. He also noted that there has been no violation of the conditions of approval for the Coastal Corner development.**

**Public  
Hearing/  
CU 2259  
(continued)**

**Mr. Fuqua stated that the Planning and Zoning Commission’s recommended conditions for this application are an “element of punishment” for the stated allegation, including a condition for a mandatory 20 foot setback from non-tidal wetlands and a condition that a violation of a condition terminates the Conditional Use. Mr. Fuqua stated that there is no provision for requiring the 20 foot setback and the County cannot impose a condition that treats one applicant unequally and that the condition regarding a violation affords no opportunity for correction.**

**Mr. Fuqua stated that the Applicant accepts the conditions recommended by the Planning and Zoning Commission with the following comments:**

- In regards to Condition M, regarding the 20 foot non-tidal wetlands setback, there is no authority for that. However, with a realignment of the road, the units can meet the 20 foot non-tidal setback without the loss of any units. A revised site plan was submitted and it does incorporate the 20 foot non-tidal wetlands setback.**
- In regards to Condition N, the 20 foot landscaped buffer only addresses the western boundary. Mr. Fuqua stated that the Applicant is proposing to continue that landscaping buffer along the northern boundary to the point where the County’s sewer easement begins and to erect a six foot or higher privacy fence along the sewer easement area to where the wetlands begin. Mr. Fuqua submitted proposed language to amend Condition N.**
- In regards to Condition R which states “The failure to abide by these conditions shall result in the termination of this Conditional Use.”, Mr. Fuqua stated that this language is a little too much (the word “shall”).**

**Public comments were heard.**

**There were no public comments in support of the application.**

**The following spoke in opposition to the application: Tom Haug, Steve Guthrie, and Susan Fischer. Mr. Haug responded to Mr. Fuqua’s comments regarding “disparaging” comments that were made at the Planning and Zoning Commission’s public hearing noting that he never said “Evergreene”, only the “owner of the property” in his comments regarding the removal of trees. Mr. Haug stated that he asked the owner to consider leaving the trees up as a buffer between the two neighborhoods.**

**Mr. Haug urged Council to review final engineering plans and to consider run-off, drainage, buffers, and wetlands. He stated that cutting down trees will make drainage problems worse. Mr. Haug urged the Developer to put in underground stormwater run-off, i.e. underground water discharge pipes, and he urged Council to ask the owner to not take the trees down.**

**Public  
Hearing/  
CU 2259  
(continued)**

**Mr. Fuqua responded that all of the trees within the 20 foot buffer on the western boundary line will remain until the Developer meets with the HOA.**

**Mr. Guthrie stated that his major objection is traffic; that there will be an additional 500 trips per day which is not not-negligible; that Fred Hudson Road is very heavily used and subject to frequent back-ups; that a Traffic Impact Study is needed; that the Coastal Corners development will also be adding to the Cedar Neck /Fred Hudson Road traffic; that the quality of life in the area will be impacted; that a forested buffer is needed between the two developments; that a buffer of 20 feet is not sufficient, it should at least be 25 feet in order to create a separation between the two developments; and that the number of houses should be reduced.**

**Susan Fischer referenced the MR zoning of this property and stated that the Applicant states that they seek a density of 2.5 units per acre; that considerations of calculations without consideration of the distribution of homes across the property make a mockery of this density claim; that the parcel is 11.96 acres of which 9.2 acres are woodlands, leaving 2.7 acres; that they will cut down 2 acres of trees which will provide a total of 4.7 acres for 30 homes; that this results in 6.3 homes per acre which does not meet the definition of medium density; that the number of homes should be reduced to 18 or less; that traffic in the area will be negatively impacted; that current traffic already at times prevents egress and is dangerous; that a Traffic Impact Study is needed; that the cumulative impact must be considered; that the approvals of two prior applications for this site is not a reason to approve this application since conditions change (such as sea level rise). Ms. Fischer commented on the lack of similarities between this application and Bethany Lakes, i.e. entrance, stormwater ponds, etc. Ms. Fischer stated her concerns about the removal of trees, drainage and flooding, the need for a 30-foot forested setback, the use of pilings and the effects of construction (pounding of pilings, etc.) on her property. Ms. Fischer also noted that in regards to Condition L recommended by the Planning and Zoning Commission, signage should be posted in English and Spanish. Ms. Fischer referenced the Applicant's revised site plan to relocate the road and she urged a 30-foot forested buffer set-back along the western and northern borders with Bethany Lakes stating that a 20 foot buffer cannot adequately separate two different communities and provide sound buffering, privacy and security; that the 20-foot buffer to the wetlands and the 30-foot forested buffer with Bethany Lakes should be provided or the number of homes should be reduced; and that a forested buffer be required at the western and northern area of the project. That Condition N addresses the buffer between the proposed project and Bethany Lakes and she suggests the language include the northern border.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 365 21  
Defer  
Action/  
CU 2259**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to defer action on Conditional Use No. 2259 filed on behalf of The Evergreene Companies, LLC, c/o Tim Naughton.**

**Motion Adopted: 5 Yeas.**

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

**M 366 21  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to adjourn at 3:36 p.m.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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

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



GINA A. JENNINGS, MBA, MPA  
FINANCE DIRECTOR  
(302) 855-7741 T  
(302) 855-7749 F  
gjennings@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: Gina A. Jennings  
Finance Director/COO

RE: **DELAWARE TRANSIT CORPORATION FUNDING BUDGET**

DATE: August 17, 2021

As in the past, DART, a division of DelDOT, has allocated \$796,868, for funding of transportation expenses for various senior centers in Sussex County. This amount is \$6 different from last year. The County's responsibility is to approve a recommended funding amount for Fiscal Year 2022 as per State law. This process is an allocation of State grant funds to various senior agencies for transportation purposes. Because the funding level has not materially changed, the recommended funding for each agency is similar to previous years:

Nanticoke Senior Center	\$ 44,962
Indian River Senior Center	2,100
Laurel Senior Center	99,083
Lewes Senior Center	27,123
Cape Henlopen Senior Center	43,066
CHEER, Inc.	<u>580,534</u>
<b>TOTAL</b>	<b>\$796,868</b>

Attached is a spreadsheet displaying the history of allocations, the requested amount, and the recommended allocation. Copies of each agency's request is also attached. At the August 24<sup>th</sup> County Council meeting, I will be asking for your approval to allocate these State funds to these various agencies. Please feel free to contact me if you have any questions.

Attachments

pc: Mr. Todd F. Lawson

	Approved FY 2013	Approved FY 2014	Approved FY 2015	Approved FY 2016	Approved FY 2017	Approved FY 2018	Approved FY 2019	Approved FY 2020	Approved FY 2021		Requested FY 2022	Recommended FY 2022
Cape Henlopen Senior Center	43,066	43,066	43,066	43,066	43,066	43,065	43,065	43,065	43,066		48,196	43,066
CHEER, Inc.	580,534	580,534	580,534	580,534	580,534	580,525	580,525	580,525	580,534		779,300	580,534
Indian River Senior Center	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100		2,500	2,100
Lewes Senior Center	27,120	27,120	27,120	27,120	27,120	27,120	27,120	27,120	27,120		35,071	27,123
Laurel Senior Center	99,083	99,083	99,083	99,083	99,083	99,081	99,081	99,081	99,083		103,109	99,083
Nanticoke Senior Center	44,959	44,959	44,959	44,959	44,959	44,959	44,959	44,959	44,959		48,365	44,962
	796,862	796,862	796,862	796,862	796,862	796,850	796,850	796,850	796,862		1,016,541	796,868

Since the funding level has been consistent since 2010, this allocation has been consistent since 2010. The only reason the allocation was changed in 2010 was because Easterseals no longer received funding.

900 Public Safety Boulevard  
Dover, DE 19901-4503  
(302) 739-3278



119 Lower Beech Street, Suite 100  
Wilmington, DE 19805-4440  
(302) 577-3278

July 22, 2021

Mr. Todd Lawson  
Sussex County Administrator  
2 The Circle, P.O. Box 589  
Georgetown, DE 19947

Dear Mr. Lawson,

The amount of money approved for the FY'22 Sussex County Reimbursable Program is \$846,868. However, the State's budget bill epilogue language states that \$50,000 shall be allocated directly to the Sussex Cheer for transportation services. Therefore, you have a remaining \$796,868 to distribute.

Please determine the amount for each agency and write that amount on the attached budget forms. Please sign each form and email them to my attention at [mary.wahl@delaware.gov](mailto:mary.wahl@delaware.gov).

If you have any questions, I can be reached at 302-576-6113.

Sincerely,

A handwritten signature in black ink that reads "Mary Wahl".

Mary Wahl  
Finance Administration Manager

Enclosures

**APPENDIX A - PAGE 2 OF 2  
Delaware Transit Corporation  
Reimbursable Transportation Program  
Proposed Program Description  
FY '22  
JULY 1, 2021 – JUNE 30, 2022**

AGENCY'S NAME       NANTICOKE SENIOR CENTER

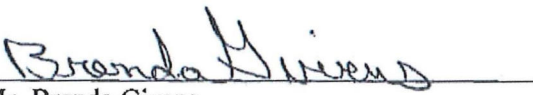
ADDRESS:               1001 West Locust Street, P.O. Box 406, Seaford, DE 19973

CONTACT PERSON:    Brenda Givens

TELEPHONE #: (302) 629-4939       EMAIL ADDRESS: Brenda.givens@nanticokeseniorcenter.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$	\$
b. Personal Vehicle Reimbursement	\$ 686.00	\$
c. Client Transportation Drivers	\$ 31,153.00	\$
d. Fuel, Oil and Fluids	\$ 3519.00	\$
e. Client Vehicle Maintenance	\$ 1,275.00	\$
f. Client Vehicle Insurance	\$ 4,206.00	\$
g. Client Transportation Misc. Expense	\$ 637.00	\$
<b>2. Admin. Wages &amp; Benefits (&lt;= 10% Total)</b>	\$ 5,991.00	\$
<b>3. Overhead (&lt;= 2% Total)</b>	\$ 899.00	\$
<b>4. Less Client Transportation Income</b>	(\$ 0            )	(\$            )
<b>TOTAL</b>	\$48,365.00	\$

Funding:    Approved Sussex County Apportionment   \$ \_\_\_\_\_

  
Ms. Brenda Givens  
Executive Director, Nanticoke Senior Center

7/22/21  
Date

\_\_\_\_\_  
John T. Sisson   Date  
Chief Executive Officer, DTC

\_\_\_\_\_  
Todd Lawson   Date  
Sussex County Administrator

**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '22**  
**JULY 1, 2021 – JUNE 30, 2022**

AGENCY'S NAME      LEWES SENIOR CENTER

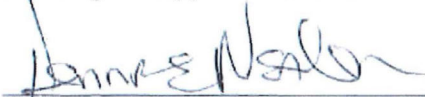
ADDRESS:              32083 Janice Road, Lewes, DE 19958

CONTACT PERSON:    Dennis Nealen

TELEPHONE #: (302) 645-9293                      EMAIL ADDRESS: lewesseniorcenter@gmail.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$ 0	\$
b. Personal Vehicle Reimbursement	\$ 1500 -	\$
c. Client Transportation Drivers	\$ 21,000	\$
d. Fuel, Oil and Fluids	\$ 4600 -	\$
e. Client Vehicle Maintenance	\$ 1500 -	\$
f. Client Vehicle Insurance	\$ 5201 -	\$
g. Client Transportation Misc. Expense	\$ 400	\$
<b>2. Admin. Wages &amp; Benefits (&lt;= 10% Total)</b>	\$ 3500	\$
<b>3. Overhead (&lt;= 2% Total)</b>	\$ (700)	\$
<b>4. Less Client Transportation Income</b>	(\$ 2430 -)	(\$ )
<b>TOTAL</b>	<b>\$ 35,071 -</b>	<b>\$</b>

Funding:    **Approved Sussex County Apportionment**                      \$ \_\_\_\_\_

  
 \_\_\_\_\_  
 Mr. Dennis Nealen  
 Executive Director, Lewes Senior Center

9-10-20  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 John T. Sisson                      Date  
 Chief Executive Officer, DTC

\_\_\_\_\_  
 Todd Lawson                      Date  
 Sussex County Administrator

**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program**  
**FY'22**  
**JULY 1, 2021 – JUNE 30, 2022**

AGENCY'S NAME INDIAN RIVER SENIOR CENTER

ADDRESS: 214 Iron Avenue, Millsboro, DE 19966

CONTACT PERSON: Janet Laws

TELEPHONE #: (302) 934-8839

EMAIL ADDRESS: 47jmlaws@gmail.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$ 2,500	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$	\$
d. Fuel, Oil and Fluids	\$	\$
e. Client Vehicle Maintenance	\$	\$
f. Client Vehicle Insurance	\$	\$
g. Client Transportation Misc. Expense	\$	\$
<b>2. Admin. Wages &amp; Benefits (≤ 10% Total)</b>	\$	\$
<b>3. Overhead (≤ 2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$ )	(\$ )
<b>TOTAL</b>	\$ 2,500	\$

Funding: **Approved Sussex County Apportionment** \$ \_\_\_\_\_

Janet Laws  
 Ms. Janet Laws  
 Executive Director, Indian River Senior Center

9-8-2020  
 Date

\_\_\_\_\_  
 John T. Sisson Date  
 Chief Executive Officer, DTC

\_\_\_\_\_  
 Todd Lawson Date  
 Sussex County Administrator

**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '22**  
**JULY 1, 2021 – JUNE 30, 2022**

AGENCY'S NAME      LAUREL SENIOR CENTER

ADDRESS:              P.O. Box 64, 113 N. Central Avenue, Laurel, DE 19956

CONTACT PERSON:    Penelope Duncan

TELEPHONE #: (302) 875-2536                      EMAIL ADDRESS: LSC5830@comcast.net

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$ 56485	\$
d. Fuel, Oil and Fluids	\$ 10080	\$
e. Client Vehicle Maintenance	\$ 11025	\$
f. Client Vehicle Insurance	\$ 13000	\$
g. Client Transportation Misc. Expense	\$ 2000	\$
<b>2. Admin. Wages &amp; Benefits (&lt;= 10% Total)</b>	\$ 10519	\$
<b>3. Overhead (&lt;= 2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$            )	(\$            )
<b>TOTAL</b>	<b>\$ 103109</b>	<b>\$</b>

**Funding:**    **Approved Sussex County Apportionment**                      \$ \_\_\_\_\_

Penelope Duncan  
 Ms. Penelope Duncan  
 Executive Director, Laurel Senior Center

9/14/2020  
 Date

\_\_\_\_\_  
 John T. Sisson                      Date  
 Chief Executive Officer, DTC

\_\_\_\_\_  
 Todd Lawson                      Date  
 Sussex County Administrator

**APPENDIX A - PAGE 3 OF 3**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '2022**  
**JULY 1, 2021 - JUNE 30, 2022**

AGENCY'S NAME: CHEER, INC.

ADDRESS: 546 S. Bedford St, ext., Georgetown, DE 19947

CONTACT PERSON: Kenneth S. Bock

TELEPHONE #: (302) 515-3040

EMAIL ADDRESS: kbock@cheerde.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a.) Purchased Client Transportation	\$ 5,000	\$
b.) Personal Vehicle Reimbursement	\$ 2,000	\$
c.) Client Transportation Drivers	\$ 437,610	\$
d.) Fuel, Oil and Fluids	\$ 87,000	\$
e.) Client Vehicle Maintenance	\$ 58,000	\$
f.) Client Vehicle Insurance	\$ 26,400	\$
g.) Client Transportation Misc. Expense	\$ 29,950	\$
<b>2. Admin. Wages &amp; Benefits (&lt;15% Total)</b>	\$ 115,990	\$
<b>3. Overhead (&lt; 3.03% Total)</b>	\$ 17,350	\$
<b>4. Less Client Transportation Income</b>	\$ -	\$
<b>TOTAL</b>	\$ 779,300	\$

Funding: Approved Sussex County Apportionment \$

*KSB*  
 Mr. Kenneth S. Bock  
 Chief Executive Officer, CHEER, Inc.

8/9/2020  
 Date

\_\_\_\_\_  
 John T. Sisson Date  
 Chief Executive Officer, DTC

\_\_\_\_\_  
 Todd Lawson Date  
 Sussex County Administrator



**APPENDIX A - PAGE 2 OF 2**  
**Delaware Transit Corporation**  
**Reimbursable Transportation Program**  
**Proposed Program Description**  
**FY '22**  
**JULY 1, 2021 - JUNE 30, 2022**

AGENCY'S NAME CAPE HENLOPEN SENIOR CENTER

ADDRESS: 11 Christian Street, Rehoboth Beach, DE 19971

CONTACT PERSON: Linda Bonville

TELEPHONE #: (302) 227-2055

EMAIL ADDRESS: Lindachsc@aol.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
<b>1. Client Transportation Expense</b>		
a. Purchased Client Transportation	\$ 0	\$
b. Personal Vehicle Reimbursement	\$ 0	\$
c. Client Transportation Drivers	\$ 35,036	\$
d. Fuel, Oil and Fluids	\$ 7,200	\$
e. Client Vehicle Maintenance	\$ 2,000	\$
f. Client Vehicle Insurance	\$ 3,000	\$
g. Client Transportation Misc. Expense	\$ 960	\$
<b>2. Admin. Wages &amp; Benefits (&lt; 10% Total)</b>	\$	\$
<b>3. Overhead (&lt; 2% Total)</b>	\$	\$
<b>4. Less Client Transportation Income</b>	(\$ )	(\$ )
<b>TOTAL</b>	<b>\$ 48,196.00</b>	<b>\$</b>

Funding: **Approved Sussex County Apportionment** \$ \_\_\_\_\_

Linda Bonville  
 Ms. Linda Bonville  
 Administrator, Cape Henlopen Senior Center

9/9/2020  
 Date

\_\_\_\_\_  
 John T. Sisson Date  
 Chief Executive Officer

\_\_\_\_\_  
 Todd Lawson Date  
 Sussex County Administrator

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

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

[hans.medlarz@sussexcountyde.gov](mailto:hans.medlarz@sussexcountyde.gov)



**Sussex County**

DELAWARE  
[sussexcountyde.gov](http://sussexcountyde.gov)

## 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, County Engineer

RE: ***Delaware Coastal Business Park, Parcel 135-20.00-75.00  
Comcast of Delmarva, LLC; Granting of Communications Utility Easement***

DATE: August 24, 2021

The Sussex County Engineering Department has re-established a working relationship with Comcast of Delmarva, LLC. who is proposing to install communication services within the Delaware Coastal Business Park. In order to provide the afore mentioned service desired by businesses to the Coastal Business Park, Comcast of Delmarva, LLC is proposing to install one (1) 2-inch conduit from Baltimore Ave. to Nanticoke Ave. The alignment of the conduit over the County's property will cross over an unencumbered portion of the Coastal Business Park property as proposed by the Engineering Department. Comcast of Delmarva, LLC has accepted that alignment and is requesting a communication utility easement to be granted.

The attached plot plan (exhibit #1) depicts the requested easement area consisting of a ten (10) foot wide easement extending approximately 600 linear feet across Coastal Business Park property for a total of 5,991 square feet. Comcast of Delmarva, LLC has reviewed and accepts the easement language and understands the importance of adhering to Title 26, Public Utilities, Chapter 8. Underground Utility Damages Prevention and Safety, Subchapter 1. Underground Utility Damage Prevention and Safety Act. Due to the presence of critical County owned utility assets, the Engineering Department will assign an onsite inspector to be present during all scheduled construction.

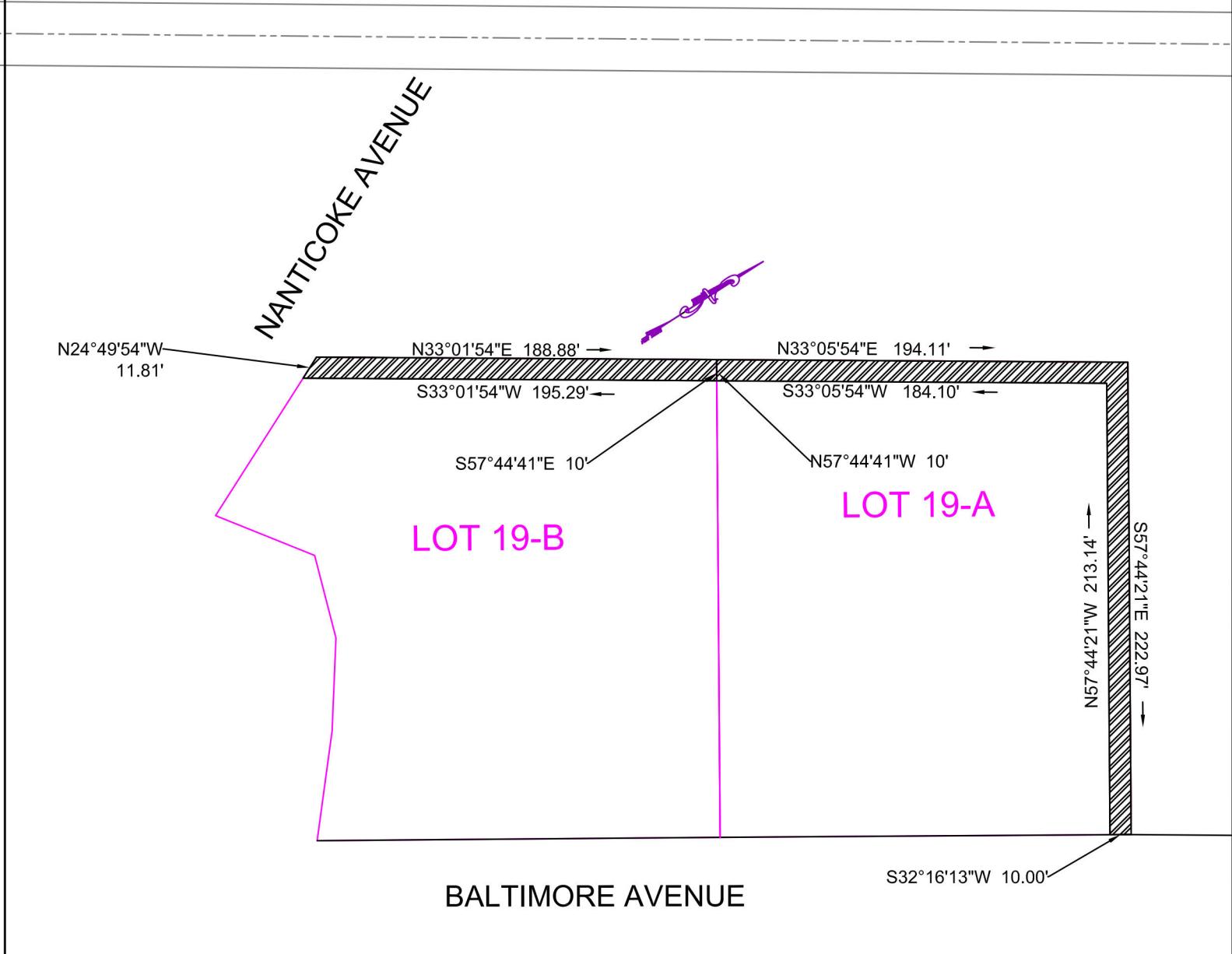
The Engineering Department calculated the possible compensation based on the area encumbered, the historical price per square foot and the discount for easements along lot lines and found it to be less than cost of appraisal. Therefore, the Department recommends the granting of the easement to Comcast of Delmarva, LLC in exchange for payment of "cost of appraisal" in the amount of \$2,000.00.



TITLE 26  
 Public Utilities  
 CHAPTER 8. Underground Utility Damage Prevention and Safety  
 Subchapter I. Underground Utility Damage Prevention and Safety Act

§ 806. Duties of excavators.

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;



EASEMENT AREA LOT 19-B = 1,920.7702 SQ.FT.  
 EASEMENT AREA LOT 19-A = 4,071.6368 SQ.FT.

0 50 100

PROPOSED EASEMENT AGREEMENT FOR SUSSEX COUNTY

LOCATION:  
 BALTIMORE AVE.  
 GEORGETOWN, DE  
 TMP: 135-20.00-75.00

COMCAST OF DELMARVA, LLC

8031 CORPORATE DRIVE  
 NOTTINGHAM, MD 21236  
 UNITED STATES

DRAWN BY	C. CALIO 6/17/2021		
APPROVED BY			
REVISED BY			

**EXHIBIT #1**

Tax Map Parcel No. 135-20.00-75.00

Prepared by and return to:

## COMMUNICATIONS UTILITY EASEMENT

This is an Utility Easement made the \_\_\_\_ day of \_\_\_\_\_ 2021, by and between:  
Sussex County, a political subdivision of the State of Delaware, of P.O. Box 589, Georgetown,  
Delaware 19947, hereinafter referred to as "Grantor",

-AND-

Comcast of Delmarva, LLC, a corporation of Delaware hereinafter referred to as "Grantee",

WITNESSETH

For and in consideration of the sum of Two Thousand Dollars (\$2,000.00), the receipt of which is hereby acknowledged and other good and valuable consideration, the Grantor has this day agreed to sell, convey, transfer and deliver to the Grantee, a permanent easement and right-of-way, being more particularly described in Exhibit 1, dated 6/7, 2021 prepared by Comcast of Delmarva/LLC/10, and attached hereto, including a perpetual right to enter upon the real estate hereinafter with appropriate notice to construct, maintain and repair underground pipelines and associated above ground improvements for purpose of conveying communication lines across the lands owned by the Grantor, together with the right to excavate and the duty to refill trenches for the location of said pipelines; the right to remove trees, bushes, and undergrowth, and maintenance of said pipelines and to keep the area within the permanent utility easement perpetually free and clear of everything that would obstruct in any way the operation, maintenance, repair or replacement of said above and below ground improvements.

Comcast of Delmarva, LLC and their heirs, successors, and assigns, shall obtain the approval of Sussex County prior to entering onto the property prior to commencement of any site work or construction on the property.

Comcast of Delmarva, LLC and their heirs, successors, and assigns, shall adhere to Title 26, Public Utilities, Chapter 8. Underground Utility Damages Prevention and Safety, Subchapter 1. Underground Utility Damage Prevention and Safety Act.

Sussex County shall have the right and authority to require Comcast of Delmarva, LLC, upon reasonable notice, to relocate or terminate this easement in the event Sussex County determines that the easement, or Comcast of Delmarva, LLC work within the easement area,

interferes with or hinders use or development of Sussex County's property, or otherwise violates any federal, state, or local laws.

At termination of construction, repair, or restoration, Grantee agrees to restore said area of construction to its present condition and otherwise agrees to pay the reasonable costs of restoration.

Grantee agrees following the initial installation to be responsible for all geophysical utility locating services in response to a Miss Utility locate request, or if requested at any time by Sussex County.

Grantee shall indemnify and hold harmless Grantor, including its elected and appointed officials, directors, employees and agents, and their successors and assigns, against any loss or damage which shall be caused by the act or omission of the Grantee in the exercise of its rights under this easement.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year aforesaid.

SUSSEX COUNTY

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

\_\_\_\_\_  
Witness

STATE OF DELAWARE:

: SS

COUNTY OF SUSSEX:

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_ 2021, personally appeared before me, the Subscribe, a Notary Public for the State and County aforesaid, Michael H. Vincent, President of Sussex County Council, of SUSSEX COUNTY, a political subdivision of The State of Delaware, party to this indenture, known to me personally to be such, and acknowledged this indenture to be his act and deed, and the act and deed of the said political subdivision, and that the act of signing, sealing, acknowledging and delivering the said indenture was first duly authorized by said political subdivision.

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

\_\_\_\_\_  
Notary Public

Commission Expires: \_\_\_\_\_

COMCAST OF DELMARVA, LLC

*Daniel J Carr*

By: Daniel J. Carr  
Regional Vice President,  
Business Services

*Dawn Marie Dieter*

Witness

STATE OF MARYLAND :

: SS

COUNTY OF BALTIMORE :

Be it remembered that on this 4<sup>th</sup> day of AUGUST, 2021,  
personally came before me, a notary public in and for the State and County aforesaid,  
DANIEL J. CARR, known or satisfactorily proven to me to be the VP TITLE of Comcast of  
Delmarva, LLC, party to the foregoing Agreement, and acknowledged that, in his/her capacity as  
such, he executed this Agreement in his/her own hand for Comcast of Delmarva, LLC .

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

*Dawn Marie Dieter*  
Notary Public

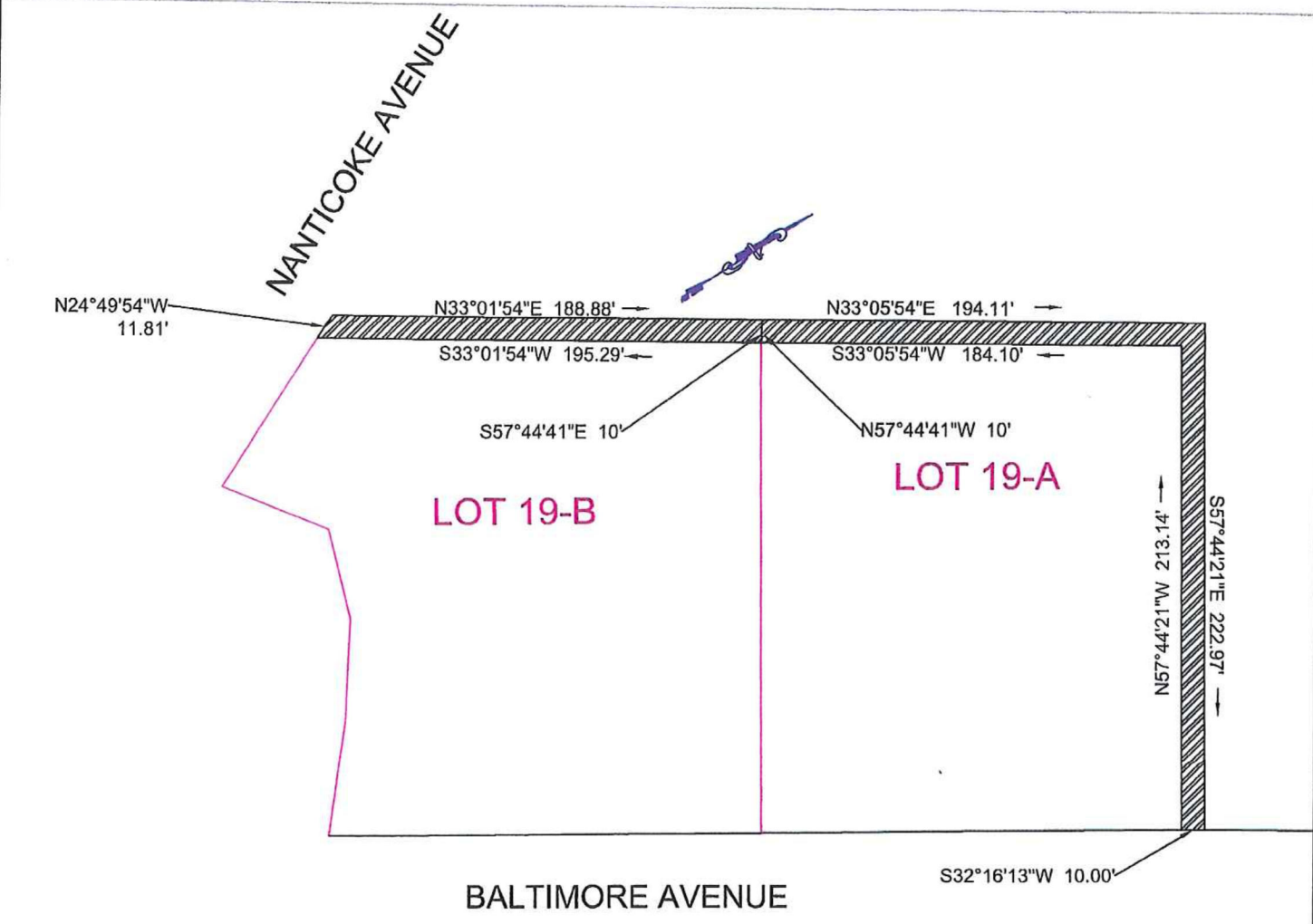
Commission Expires: 2/4/23



TITLE 26  
 Public Utilities  
 CHAPTER 8. Underground Utility Damage Prevention and Safety  
 Subchapter I. Underground Utility Damage Prevention and Safety Act

§ 806. Duties of excavators.

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;



EASEMENT AREA LOT 19-B = 1,920.7702 SQ.FT.  
 EASEMENT AREA LOT 19-A = 4,071.6368 SQ.FT.

0 50 100

PROPOSED EASEMENT AGREEMENT FOR SUSSEX COUNTY

LOCATION:  
 BALTIMORE AVE.  
 GEORGETOWN, DE  
 TMP: 135-20.00-75.00

COMCAST OF DELMARVA, LLC

8031 CORPORATE DRIVE  
 NOTTINGHAM, MD 21236  
 UNITED STATES

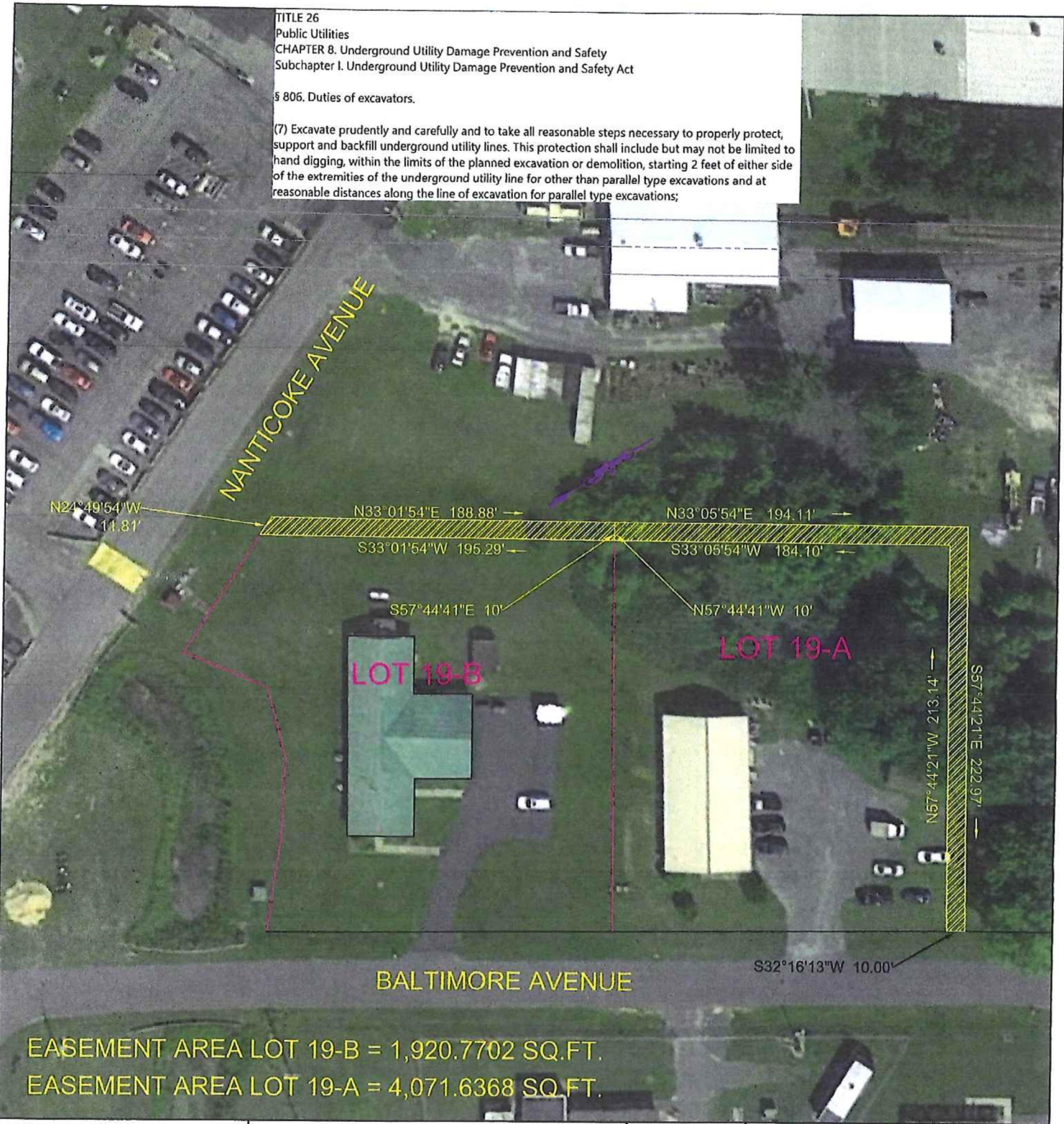
DRAWN BY	C. CALIO		
	6/17/2021		
APPROVED BY			
REVISED BY			

**EXHIBIT #1**

TITLE 26  
 Public Utilities  
 CHAPTER 8. Underground Utility Damage Prevention and Safety  
 Subchapter I. Underground Utility Damage Prevention and Safety Act

§ 806. Duties of excavators.

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;



0 50 100

PROPOSED EASEMENT AGREEMENT FOR  
 SUSSEX COUNTY

LOCATION:  
 BALTIMORE AVE.  
 GEORGETOWN, DE  
 TMP: 135-20.00-75.00

COMCAST OF DELMARVA, LLC

8031 CORPORATE DRIVE  
 NOTTINGHAM, MD 21236  
 UNITED STATES

DRAWN BY	C. CALIO		
	6/17/2021		
APPROVED BY			
REVISED BY			

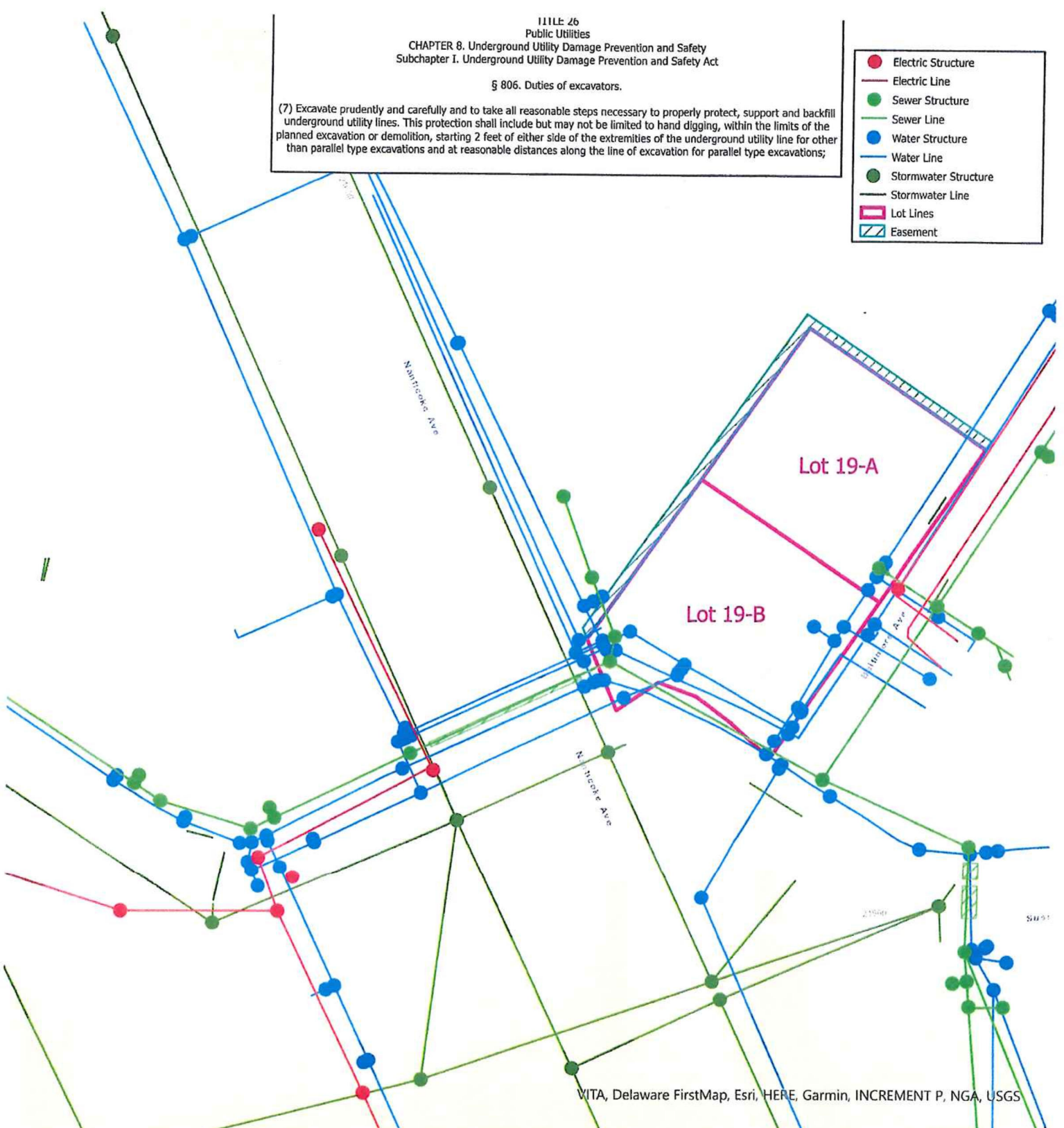


TITLE 26  
Public Utilities  
CHAPTER 8. Underground Utility Damage Prevention and Safety  
Subchapter I. Underground Utility Damage Prevention and Safety Act

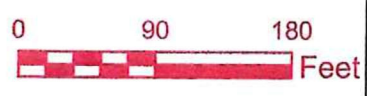
§ 806. Duties of excavators.

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting 2 feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;

<span style="color: red;">●</span>	Electric Structure
<span style="color: red;">—</span>	Electric Line
<span style="color: green;">●</span>	Sewer Structure
<span style="color: green;">—</span>	Sewer Line
<span style="color: blue;">●</span>	Water Structure
<span style="color: blue;">—</span>	Water Line
<span style="color: darkgreen;">●</span>	Stormwater Structure
<span style="color: darkgreen;">—</span>	Stormwater Line
<span style="border: 1px solid red; display: inline-block; width: 10px; height: 10px;"></span>	Lot Lines
<span style="border: 1px solid blue; border-style: dashed; display: inline-block; width: 10px; height: 10px;"></span>	Easement



VITA, Delaware FirstMap, Esri, HERE, Garmin, INCREMENT P, NGA, USGS



Location:  
Nanticoke Ave  
Baltimore Ave  
Sussex Ave



Comcast of Delmarva, LLC	DRAWN BY			
	APPROVED BY			
	REVISED BY			

8031 Corporate Drive  
Nottingham, MD 21236  
United States

# Exhibit #2

## 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 C. Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

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

**RE:** *Concord Road/RT-13 Utility Upgrade  
Stand-alone Contract Continuation Purchase Order - Close Out*

**DATE:** August 24, 2021

Council had previously awarded the USDA funded Contract No.15-03 for the Concord Road expansion of the Blades Sanitary Sewer District Area to Zack Excavating Inc. After conclusion of the initial scope of work Council authorized Change Order No.3 to utilize the remaining USDA grant funds within the contract to complete a partial gravity sewer extension towards the RT-13 corridor as well as an extension eliminating the Little Meadows pump station. The entire USDA funded scope was completed and on January 14, 2020 Council approved Change Order No.5 closing out the contract and granting project completion.

The Engineering Department suggested to Zack Excavating Inc. to consider assuming the remaining sewer extension across the northern portion of the RT-13 corridor, at the unit prices originally bid, except for the jacking & boring operations which were not part of the original contract. This request was contingent upon Zack Excavating Inc's acceptance of a no cost contract time suspension as well as a time extension of the Western Sussex Contract 4. Zack Excavating Inc. agreed and on June 2, 2020 Council issued a stand-alone Contract Continuation Purchase Order in the amount not to exceed \$794,338.20.

The initial phase of the scope went well, and gravity sewer was extended up to the western RT-13 right-of-way line as well as the Webb Business Park. The Church of the Nazarenes and the Webb Business Park were connected in accordance with their respective easement agreements under a time & material change order.



However, when the contractor started to construct the RT-13 jacking and boring pits in the late fall of 2020 previously unmarked communication cables were encountered. The Engineering Department redesigned the alignment, and, in the spring of 2021, an initial pipe crossing attempt was made. Unusually high groundwater levels forced the abandonment of the pilot hole. Additional dewatering was laid out and the County Engineer agreed to cover the pump lease cost for a second dewatering pump on the east side of RT-13.

A third crossing attempt was partially successful until the casing pipe hit an obstruction deflecting the most easterly 40-feet of the pipe to such a degree that it broke the weld seam and rendered it useless. Therefore only 160-feet of casing pipe is usable by accessing the casing pipe in the shoulder of the NB lane of RT-13. This can only be accomplished in the fall, under the County's General Labor & Equipment Contract, after reissuance of a DelDOT construction permit, utilizing stored material already on site.

In consideration of the impact the lengthy construction project had on the Church, the Contractor and the Engineer agreed to cover the repaving of the compromised parking lot on a 66%/33% cost split respectively.

Therefore, the Engineering Department requests Council approval to close out the purchase order in the reduced amount of \$541,196.88 and authorize payment of the additional expenses and stored materials in the amount of \$30,799.47.

# Zack Excavating, Inc.

2935 South Dupont Blvd  
Smyrna, DE 19977



Office: (302) 223-6223

Fax: (302) 223-6531

---

August 10, 2021

Hans Medlarz  
#2 The Circle  
Georgetown DE 19947

RE: 1/3 Hotmix and Trucking for Parking Lot at Church

Hans,

As per your conversation with Bill see below for 1/3 the cost of the hotmix and trucking for the paving at the church parking lot

Description	Quantity	Measurement	Unit Price	Total Price
Hotmix	58.43	TONS		\$3443.44
Trucking (3)	6	HRS	\$115.00	\$690.00
			Total	\$4,133.44

Respectfully,  
Aaron Fibelkorn  
Project Manager  
Zack Excavating, Inc.  
302-223-6223 (office )  
302-387-901 ( cell )



# Zack Excavating, Inc.

2935 South Dupont Blvd  
Smyrna, DE 19977



Office: (302) 223-6223

Fax: (302) 223-6531

---

August 10, 2021

Hans Medlarz  
#2 The Circle  
Georgetown DE 19947

RE: Materials purchased and not installed

Hans,

Please see list of materials purchased and not installed at Blades Rt 13 Extension

Description	Quantity	Measurement	Unit Price	Total Price
12" SDR 35 Pipe	574	LF	\$7.48	\$4,293.52
MH #7				\$2,269.14
MH #8				\$1,865.32
MH #9				\$1,986.33
MH # 10				\$1,682.20
			Total	\$12,096.51

Respectfully,  
Aaron Fibelkorn  
Project Manager  
Zack Excavating, Inc.  
302-223-6223 (office )  
302-387-901 ( cell )

## 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 Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

**FROM:** Hans Medlarz, P.E., County Engineer &  
Robert L. Bryant, A.A.E., Manager, Airport & Business Park

**RE:** *Delaware Coastal Airport, General Aviation Apron Expansion*  
*A. Acceptance of FAA Airport Improvement Program Grant Offers*  
*B. Construction Bid Award*  
*C. Approval of Task Order No.2 for Delta Airport Consultants, Inc.*

**DATE:** August 24, 2021

The Delaware Coastal Airport has an established need for mid-size jet aircraft overnight parking reflected in the County's capital projects plan. On April 28, 2020 County Council approved the Base Professional Services Agreement with Delta Airport Consultants, Inc. and Task Order No. 1 for the General Aviation Apron Expansion – Design Project, subject to FAA fee approval. Council furthermore authorized to submit the associated grant application to the FAA in accordance with the Airport Improvement Program.

The project includes the construction of a new general aviation aircraft parking apron depicted in the attached layout drawing. The apron is to be located adjacent to Taxiway A and bounded by Taxiway B. The apron was designed to provide parking spaces for as many as three (3) mid-size jets or thirteen (13) single-engine piston aircraft.

The Engineering Department is requesting County Council's acceptance of two (2) Federal Aviation Administration Airport Improvement Program grant offers listed below providing \$2,157,299 in federal funds for 100% of the allowable costs incurred during the construction phase of the Expand General Aviation Apron project.

- AIP Grant 3-10-0007-038-2021 is offered in the amount of \$166,666.00
- AIP Grant 3-10-0007-038-2021 is offered in the amount of \$1,990,631.00



In March the project was advertised and distributed to various contractors via email. The pre-bid meeting was held on April 1, 2021 and on April 21, 2021, three (3) bids were received. A copy of the bid results is attached with George & Lynch, Inc. submitting the lowest responsive bid. The Engineering Department and Delta Airport Consultants, Inc. recommend award of the contract to George & Lynch, Inc. in the amount of \$1,933,799.00 contingent upon FAA concurrence.

In addition, the Engineering Department solicited a fixed fee proposal from Delta Airport Consultants for professional construction administration services in the amount of \$220,000.00. FAA requirements include an independent fee estimate which was performed for \$3500.00 supporting the reasonableness of Delta Airport Consultants fixed fee price. Therefore, the Engineering Department recommends acceptance of Task Order No.2 to Delta Airport Consultants in the not to exceed amount of \$220,000.00 contingent upon FAA concurrence.





U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Airports Division  
Eastern Region  
Delaware, Pennsylvania, New Jersey

FAA, Harrisburg Airports District Office  
3905 Hartzdale Drive, Suite 508  
Camp Hill, PA 17011  
717-730-2830  
717-730-2838 (Fax)

## AIP Grant Transmittal Letter

August 6, 2020

Dear Mr. Robert Bryant:

We are transmitting to you for execution the Grant Offer for Airport Improvement Program (AIP) Grant 3-10-0007-036-2020 at Delaware Coastal Airport in Georgetown, Delaware. This letter outlines expectations for success. Please read the conditions and assurances carefully.

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

- a. The governing body must provide authority to execute the grant to the individual signing the grant; i.e. the sponsor's authorized representative.
- b. The sponsor's authorized representative must execute the grant, followed but the attorney's certification, **no later than September 1, 2020** in order for the grant to be valid.
- c. Once the sponsor's authorized representative has electronically signed the grant, the sponsor's attorney will automatically be sent via email the grant to provide their digital signature.
- d. You will not be able to make any modification to the text, terms or conditions of the grant offer.
- e. Following the attorney's action, the executed grant will be automatically sent to all parties as an attachment to an email.

Subject to the requirements in 2 CFR §200.305, 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.

The terms and conditions of this agreement require you to complete the project without undue delay. 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.** Should you fail to make draws on a regular basis, your grant may be placed in "inactive" status, which will affect your ability to receive future grant offers.

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

- A signed/dated SF-270 (non-construction projects) or SF-271 or equivalent (construction projects) and SF-425 annually, due 90 days after the end of each federal fiscal year in which this grant is open (due December 31 of each year this grant is open); and
- Performance Reports, which are due within 30 days of the end of a reporting period as follows:
  1. Non-construction project: Due annually at end of the Federal fiscal year.
  2. Construction project: Submit FAA form 5370-1, Construction Progress and Inspection Report at the end of each fiscal quarter.

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 assure your organization will comply with applicable audit requirements and standards.

Once the project(s) is completed and all costs are determined, we ask that you close the project without delay and submit the necessary final closeout documentation as required by the Harrisburg Airports District Office.

Mr. Brian Gearhart, [brian.gearhart@faa.gov](mailto:brian.gearhart@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*

[Rick Harner \(Aug 6, 2020 16:55 EDT\)](#)

Rick Harner  
Manager

cc: Brian Gearhart, HARADO



U.S. Department  
of Transportation  
Federal Aviation  
Administration

**GRANT AGREEMENT**

**PART I – OFFER**

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Federal Award Offer Date	August 6, 2020
Airport/Planning Area	Delaware Coastal Airport
AIP Grant Number	3-10-0007-036-2020
Unique Entity Identifier	175532589
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 22, 2020, 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:

**Expand General Aviation Apron (Final Design), Phase II**

which is more fully described in the Project Application.

**NOW THEREFORE**, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, as applied and interpreted consistent with the FAA Reauthorization Act of 2018 (see 2018 FAA Reauthorization grant condition.), (b) and 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 Assurances and conditions as herein provided.

**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay one hundred (100) 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 **\$329,500.**  
 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  
     **\$329,500** airport development or noise program implementation; and,  
     \$0 for land acquisition.
2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.  
 The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR §200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR §200.343).  
 The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.
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.** 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 the regulations, policies, and procedures of the Secretary. 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, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the 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 **September 1, 2020,** 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 Universal Identifier.**
  - 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/SAM/pages/public/index.jsf>.
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 eInvoicing 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.

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 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, 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.

- 17. Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 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 15 percent for land project if funds are available.
- 18. Audits for 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/>. Provide one copy of the completed audit to the FAA if requested.
- 19. 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 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 (e.g. Sub-contracts).
  - C. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.
- 20. 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:
      - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
      - b. 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.
- 21. AIP Funded Work Included in a PFC Application.**
- Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under

this award until project work addressed under this award is removed from an approved PFC application by amendment.

**22. 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.

**23. Employee Protection from Reprisal.**

A. Prohibition of Reprisals –

1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee 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), 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 office or employee responsible for oversight of a grant program;
  - v. A court or grand jury;
  - vi. A management office of the grantee or subgrantee; or
  - vii. A Federal or State regulatory enforcement agency.
3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
4. 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.
5. 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)
6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

**24. 2018 FAA Reauthorization.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 3, 2014. On October 5, 2018, the FAA Reauthorization Act of 2018 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the Act is at <https://www.congress.gov/bill/115th-congress/house-bill/302/text>.

**SPECIAL CONDITIONS**

25. **Plans and Specifications Prior to Bidding.** The Sponsor agrees that it will submit plans and specifications for FAA review prior to advertising for bids.
26. **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.



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, as provided by the Act, 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 assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

*Rick Harner*

Rick Harner (Aug 6, 2020 16:55 EDT)

*(Signature)*

Rick Harner

*(Typed Name)*

Manager, Harrisburg ADO

*(Title of FAA Official)*

**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 terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

Dated August 7, 2020

Sussex County, Delaware

(Name of Sponsor)

*Hans medlarz*

Hans medlarz (Aug 7, 2020 07:12 EDT)

(Signature of Sponsor's Authorized Official)

By: Hans medlarz

(Typed Name of Sponsor's Authorized Official)

Title: Sussex County Engineer

(Title of Sponsor's Authorized Official)

**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 has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. 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.

Dated August 11, 2020

By:

*J. Everett Moore, Jr*

J. Everett Moore, Jr (Aug 11, 2020 07:44 EDT)

(Signature of Sponsor's Attorney)

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

## ASSURANCES

### AIRPORT SPONSORS

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#### A. General.

- a. 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.
- b. 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.
- c. 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, 25, 30, 32, 33, and 34 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 project including but not limited to the following:

**FEDERAL LEGISLATION**

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1,2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 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 - 42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- 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.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

**EXECUTIVE ORDERS**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- 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 Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

#### FEDERAL REGULATIONS

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- 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. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4,5,6</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- 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.<sup>1,2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>

- 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 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

### **SPECIFIC ASSURANCES**

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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.

### **FOOTNOTES TO ASSURANCE C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- <sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

#### **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. 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 insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure 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.**

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 section 44706 of Title 49, United States Code, 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, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), 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 Section 471.12 of Title

49, United States Code. 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 airmen 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.

- a.) 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.
- b.) 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.
- c.) 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.
- d.) 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.
- e.) 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.
- f.) 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.
- g.) 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 Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
    - a.) 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.

- b.) Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## 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. by gross weights of such aircraft) is in excess of five million pounds 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.

## 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, or rights in buildings of the sponsor 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. 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 nonaviation 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.
- a.) 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, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any 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 §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, 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 **(Name of Sponsor)**, 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 that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin 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 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, creed, sex, age, or handicap 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 Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid 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, (1) 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 Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid 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.**

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 with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 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 the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated April 18, 2019, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

**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 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 DBE and 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 1936 (31 U.S.C. 3801).

**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 section 47102 of title 49, U.S.C.) 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.



## FAA Airports

### Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 4/18/2019

View the most current versions of these ACs and any associated changes at:  
[http://www.faa.gov/airports/resources/advisory\\_circulars](http://www.faa.gov/airports/resources/advisory_circulars) and  
[http://www.faa.gov/regulations\\_policies/advisory\\_circulars/](http://www.faa.gov/regulations_policies/advisory_circulars/)

NUMBER	TITLE
70/7460-1L Change 2	Obstruction Marking and Lighting
150/5000-9A	Announcement of Availability Report No. DOT/FAA/PP/92-5, Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations
150/5000-17	Critical Aircraft and Regular Use Determination
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1- 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5200-28F	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30D Change 1	Airport Field Condition Assessments and Winter Operations Safety
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications

NUMBER	TITLE
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVIS)
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16E Changes 1	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26 Changes 1-2	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-13A Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C Change 1	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards

NUMBER	TITLE
150/5320-5D	Airport Drainage Design
150/5320-6F	Airport Pavement Design and Evaluation
150/5320-12C Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5235-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30J	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42H	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43H	Specification for Obstruction Lighting Equipment

NUMBER	TITLE
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46E	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49D	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13A	Airport Terminal Planning
150/5360-14A	Access to Airports By Individuals With Disabilities
150/5370-2G	Operational Safety on Airports During Construction
150/5370-10H	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5390-2C	Heliport Design

NUMBER	TITLE
150/5395-1A	Seaplane Bases



**THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY**

Updated: 3/22/2019

<b>NUMBER</b>	<b>TITLE</b>	
150/5100-14E Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects	
150/5100-17 Changes 1 - 7	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects	
150/5300-15A	Use of Value Engineering for Engineering Design of Airport Grant Projects	
150/5320-17A	Airfield Pavement Surface Evaluation and Rating Manuals	
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects	
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements	
150/5380-7B	Airport Pavement Management Program	
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness	pard



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Eastern Region  
Delaware, Pennsylvania, New Jersey

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

**Consolidated Appropriations Act of 2020 (Public Law Number 116-94) Grant Transmittal Letter**

July 27, 2021

Mr. Robert Bryant  
Sussex County Delaware  
Delaware Coastal Airport  
P.O. Box 589  
Georgetown, DE 19947  
[robert.bryant@sussexcountyde.gov](mailto:robert.bryant@sussexcountyde.gov)

Dear Mr. Bryant:

We are transmitting to you for execution the Grant Offer for the Consolidated Appropriations Act of 2020 (Public Law Number 116-94), Grant Number 3-10-0007-039-2021 at Delaware Coastal Airport in Georgetown, Delaware. This letter outlines expectations for success. Please read the conditions and assurances carefully.

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

- a. The governing body must provide authority to execute the grant to the individual signing the grant; i.e. the sponsor's authorized representative.
- b. The sponsor's authorized representative must execute the grant, followed but the attorney's certification, **no later than August 27, 2021** in order for the grant to be valid.
- c. Once the sponsor's authorized representative has electronically signed the grant, the sponsor's attorney will automatically be sent via email the grant to provide their digital signature.
- d. You will not be able to make any modification to the text, terms or conditions of the grant offer.
- e. Following the attorney's action, the executed grant will be automatically sent to all parties as an attachment to an email.

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

The terms and conditions of this agreement require you to complete the project without undue delay. 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.** Should you fail to make draws on a regular basis, your grant may be placed in "inactive" status, which will affect your ability to receive future grant offers.

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

- A signed/dated SF-270 (non-construction projects) or SF-271 or equivalent (construction projects) and SF-425 annually, due 90 days after the end of each federal fiscal year in which this grant is open (due December 31 of each year this grant is open); and
- Performance Reports, which are due within 30 days of the end of a reporting period as follows:
  1. Non-construction project: Due annually at end of the Federal fiscal year.
  2. Construction project: Submit FAA form 5370-1, Construction Progress and Inspection Report at the end of each fiscal quarter.

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 assure your organization will comply with applicable audit requirements and standards.

Once the project(s) is completed and all costs are determined, we ask that you close the project without delay and submit the necessary final closeout documentation as required by the Harrisburg Airports District Office.

Mr. Timothy DeWire, [timothy.p.dewire@faa.gov](mailto: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 (Jul 27, 2021 11:27 EDT)

Rick Harner  
Manager

cc: Timothy DeWire, HARADO



U.S. Department  
of Transportation  
Federal Aviation  
Administration

**GRANT AGREEMENT**  
**Part I - Offer**

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Federal Award Offer Date	July 27, 2021
Airport/Planning Area	<u>Delaware Coastal Airport</u>
Supplemental Appropriation Grant Number	<u>3-10-0007-039-2021</u>
Unique Entity Identifier	<u>175532589</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 3, 2021, 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:

**Expand General Aviation Apron (Construct), Phase IV**

which is more fully described in the Project Application.

**NOW THEREFORE**, Pursuant to and for the purpose of carrying out the FAA Reauthorization Act of 2018 (Public Law Number 115-254) and the Further Consolidated Appropriations Act of 2020 (Public Law Number 116-94), as amended by the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act")(Public Law 116-136), and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated February 2020, (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 Assurances, terms, and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay one hundred (100) per 49 U.S.C. § 47109 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 **\$1,990,631**.

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 United States Code (U.S.C.) § 47108(b):

\$ 0 for planning

\$ 1,990,631 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 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 Public Law Number 116-94, as amended by Public Law 116-136, regulations, policies, and procedures of the Secretary. 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, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the 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 27, 2021**, 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/SAM/pages/public/index.jsf>.
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 eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
  13. **Informal Letter Amendment of Supplemental Appropriation 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 supplemental appropriation funds will be available until September 20, 2022.  
  
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.  
  
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 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 goods 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.
  17. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 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, 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, the additional 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 in Condition No. 5 herein for any amount increased over the initial grant amount.

**18. 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.

**19. 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 individual or firm are not excluded or disqualified from participating.
- b. Require all contractors and subcontractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
- c. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.

**20. 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:



- A. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - B. 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.

**21. Trafficking in Persons.**

- a. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not --
  - 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - 2. Procure a commercial sex act during the period of time that the award is in effect; or
  - 3. Use forced labor in the performance of the award or subawards under the award.
- b. We as the Federal awarding agency, may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity --
  - 1. Is determined to have violated a prohibition in paragraph A of this award term; or
  - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A.1 of this award term through conduct that is either --
    - a. Associated with performance under this award; or
    - b. 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 Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.
- c. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph A of this award term.
- d. Our right to terminate unilaterally that is described in paragraph A of this section:
  - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
  - 2. Is in addition to all other remedies for noncompliance that are available to us under this award.

**22. Priority Consideration Funded Work Included in a PFC Application.** Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

**23. 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.

24. **Employee Protection from Reprisal.**

- a. Prohibition of Reprisals —
1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee 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), 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 office or employee responsible for oversight of a grant program;
    - v. A court or grand jury;
    - vi. A management office of the grantee or subgrantee; or
    - vii. A Federal or State regulatory enforcement agency.
  3. Submission of Complaint — A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
    - a. 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.
    - b. 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. Assumption of Rights to Civil Remedy — Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

**SPECIAL CONDITIONS**

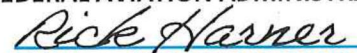
25. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
26. **Project Containing Paving Work in Excess of \$500,000.** The Sponsor agrees to:
- a. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:

1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;
  2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;
  3. Procedures for determining that the testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation referenced in the contract specifications (D 3666, C 1077);
  4. Qualifications of engineering supervision and construction inspection personnel;
  5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and
  6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- b. Upon completion of the project, submit a final test and quality assurance report documenting the summary results of all tests performed; highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. The Sponsor further agrees to submit interim test and quality assurance reports in a timely manner when requested by the FAA.
  - c. Failure to provide a complete report as described in paragraph B, or failure to perform such tests, will, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under this project.
  - d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
27. **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.
  28. **Construction Safety Phasing Plan**. Physical work on the construction of Expand General Aviation Apron (Construct), Phase IV, cannot begin until such time as a final FAA airspace determination has been made on the Construction Safety Phasing Plan.
  29. **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, as provided by the Act, 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 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.

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION

  
Rick Harner (Jul 27, 2021 17:27 EDT)

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(Signature)

Rick Harner

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(Typed Name)

Manager, Harrisburg ADO

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(Title of FAA Official)

**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.<sup>1</sup>

Dated July 28, 2021

Sussex County, Delaware

*(Name of Sponsor)*

Hans Medlarz  
Hans Medlarz (Jul 28, 2021 06:42 EDT)

*(Signature of Sponsor's Authorized Official)*

By: Hans Medlarz

*(Typed Name of Sponsor's Authorized Official)*

Title: Sussex County Engineer

*(Title of Sponsor's Authorized Official)*

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 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 has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. 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 grant assurances, terms, and conditions 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.<sup>2</sup>

Dated at July 29, 2021

By: J. Everett Moore, Jr  
J. Everett Moore, Jr (Jul 29, 2021 14:14 EDT)  
*(Signature of Sponsor's Attorney)*

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

## **ASSURANCES**

### **AIRPORT SPONSORS**

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#### **A. General.**

- a. 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.
- b. 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.
- c. 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, 25, 30, 32, 33, and 34 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 project including but not limited to the following:

### FEDERAL LEGISLATION

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act — 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 – Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 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 -42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 – Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.<sup>1</sup>
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).



**EXECUTIVE ORDERS**

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- a. Executive Order 11246 – Equal Employment Opportunity<sup>1</sup>
- 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 Construction<sup>1</sup>
- f. Executive Order 12898 – Environmental Justice

**FEDERAL REGULATIONS**

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- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 – Non-procurement 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 – Discrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for predetermination of wage rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- k. 29 CFR Part 5 – Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 18 – Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- n. 49 CFR Part 20 – New restrictions on lobbying.
- o. 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.
- p. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

- q. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1 2</sup>
- r. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- s. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>
- t. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- u. 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.
- v. 49 CFR Part 32 – Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- w. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- x. 49 CFR Part 41 – Seismic safety of Federal and federally assisted or regulated new building construction.

#### **SPECIFIC ASSURANCES**

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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.

#### **FOOTNOTES TO ASSURANCE C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- <sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

**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 insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure 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.**

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 section 44706 of Title 49, United States Code, 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, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), 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 Section 47112 of Title 49, United States Code. 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 airmen 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 Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 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 Section 47107 of Title 49, United States Code.

## 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, or rights in buildings of the sponsor 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, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any 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 §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, 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 that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin 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 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, creed, sex, age, or handicap 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 Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport

development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid 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, (1) 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 Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid 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.**

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 for AIP projects as of May 3, 2021.

**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 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 1936 (31 U.S.C. 3801).

**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 section 47102 of title 49, U.S.C.) 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.



## **Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects**

View the most current versions of FAA's Advisory Circulars (A/Cs) here:

[https://www.faa.gov/regulations\\_policies/advisory\\_circulars/](https://www.faa.gov/regulations_policies/advisory_circulars/)

Airports A/Cs are found in the 150 series. In addition Airspace A/Cs, found in the 70 series, also may apply for certain projects.



Email Only

April 26, 2021

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

**Subject: Bid Review**  
Construct GA Apron Expansion - Phase II  
Delaware Coastal Airport  
Sussex County, Delaware  
AIP Project No. 3-10-0007-(Pending)-2021

Dear Mr. Bryant:

Delta has reviewed the bids for the proposed project. There were three (3) bids submitted with the low Bid being 8.2% above the Engineer's Opinion of Probable Construction Cost (EOPCC).

George & Lynch, Inc. submitted the apparent low bid as follows:

	<i>Engineer's Estimate</i>	<i>George &amp; Lynch, Inc.</i>
Base Bid	\$1,786,910.00	\$1,933,799.00

A copy of the Bid Tabulation is enclosed. Bids were also received from JJID, Inc. and Highway and Safety Services, Inc.

A review of the Bid Proposals is as follows:

George & Lynch, Inc.

1. No discrepancies were noted. Their Proposal appears to be complete per the Bid requirements.

JJID, Inc.

1. Pages 9 through 15 – The Bidder did not include any written words for the unit prices on the Bid Schedule Form as required on Page 12 of the General Provision Section 20-07 in the Bid Documents.
2. Pages 32 through 34 – The Bidder checked on Page 32 that they were committed to a minimum of 5.8% DBE utilization on this project. Their documented DBE subcontractor backup on Page 33 listed only one (1) DBE firm. Janette Redrow Ltd. is a certified DBE firm in the DelDOT DBE Program, however, it appears that Janette Redrow Ltd. is being used as both a trucking service and a material supplier. Trucking would count at 100% of the value of the trucking, however, a material supplier is only permitted to be counted at 60% of their contract value toward the DBE Participation Goal in accordance with 49 CFR Part 26 referenced on Page 15 of Section 200, FAA Required Contact

3544 N PROGRESS AVE, SUITE 200, HARRISBURG, PA 17110

P. (717) 652-8700 F. (717) 652-8371 [WWW.DELTAIRPORT.COM](http://WWW.DELTAIRPORT.COM)

Provisions, A12 (attached). The specific section that stipulates the 60% cap is 49 CFR Part 26.55(e)(2)(i) (attached). Based on the above, the entire \$120,000.00 estimated amount of work submitted would have to be for trucking and \$0.00 as a supplier in order to meet the DBE Participation Goal of 5.8%. However, JJID, Inc. states they will also be used as a supplier, therefore it would not be possible for them to meet the 5.8% DBE Participation Goal. Additionally, JJID, Inc. did not include any additional Good Faith Effort as required by the Bid Documents in accordance with 49 CFR Paragraph 26.53(a) (attached).

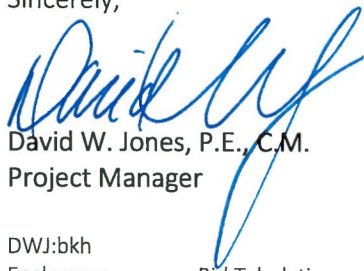
Highway and Safety Services, Inc.

1. Page 7 – The Bidder’s signature is missing from the Revised Bid Proposal.

The County and their attorney should review the Bid Tabulation, the original Bid Proposals, and the appropriate sections of the Bid Document requirements to verify that George & Lynch, Inc. is the lowest responsive bidder. We have enclosed all relevant information for your review of these items.

If you would like to have a conference call to discuss these items, please advise and I will be happy to make myself available.

Sincerely,



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

DWJ:bkh

Enclosures:

Bid Tabulation

Original Bid Proposal Packages (George & Lynch, Inc., JJID, Inc., Highway and Safety Services, Inc.)

Section 20 - Proposal Requirements and Conditions

Section 200, FAA Required Contact Provisions - A12, DBE Required Provisions

49 CFR Parts 26.53 and 26.55 (pertinent sections highlighted)

Reference:

Delta Project No. 20038



**BID TABULATIONS**

**Construct GA Apron Expansion - Phase II**

Delaware Coastal Airport  
Georgetown Delaware

AIP Project No. 3-10-0007-Pending (Construction)  
Delta Project No. 20038

Bid Opening Date: April 21, 2021

Item No.	Spec. No.	Description	Unit	Bid Quantity	Engineer's Estimate		George & Lynch , Inc.		JJID, Inc.		Highway and Safety Services, Inc.	
					Unit Price	Estimate Amount	Unit Price	Bid Amount	Unit Price	Bid Amount	Unit Price	Bid Amount
54	L-110	NON-ENCASED ELECTRICAL CONDUIT, 1 WAY - 2" PVC CONDUIT	LF	1,200	\$10.00	\$12,000.00	\$6.20	\$7,440.00	\$7.00	\$8,400.00	\$29.90	\$35,880.00
55	L-110	BORED ELECTRICAL CONDUIT, 1 WAY - 2" HDPE CONDUIT	LF	80	\$60.00	\$4,800.00	\$64.05	\$5,124.00	\$70.00	\$5,600.00	\$86.25	\$6,900.00
56	L-110	BORED ELECTRICAL CONDUIT, 2 WAY - 2" HDPE CONDUIT	LF	80	\$70.00	\$5,600.00	\$66.00	\$5,280.00	\$72.00	\$5,760.00	\$172.50	\$13,800.00
57	L-115	ELECTRICAL JUNCTION STRUCTURE, L-867 PULLCAN	EA	2	\$1,500.00	\$3,000.00	\$2,631.00	\$5,262.00	\$3,000.00	\$6,000.00	\$4,140.00	\$8,280.00
58	L-115	ELECTRICAL JUNCTION STRUCTURE, 2-UNIT L-867 PULLCAN PLAZA	EA	2	\$2,000.00	\$4,000.00	\$3,929.00	\$7,858.00	\$4,300.00	\$8,600.00	\$5,290.00	\$10,580.00
59	L-125	L-861T(L) ELEVATED MITL (LED) ON NEW BASE WITH NEW TRANSFORMER	EA	8	\$1,500.00	\$12,000.00	\$1,751.00	\$14,008.00	\$2,000.00	\$16,000.00	\$2,070.00	\$16,560.00
60	L-125	RELOCATED L-861T(L) ON NEW BASE	EA	12	\$1,000.00	\$12,000.00	\$1,462.00	\$17,544.00	\$1,600.00	\$19,200.00	\$1,610.00	\$19,320.00
61	L-125	L-858 UNLIGHTED AIRFIELD GUIDANCE SIGN	EA	1	\$2,000.00	\$2,000.00	\$3,157.00	\$3,157.00	\$3,500.00	\$3,500.00	\$3,220.00	\$3,220.00
62	R-908	SOIL STABILIZATION MAT	SY	100	\$4.00	\$400.00	\$5.25	\$525.00	\$10.00	\$1,000.00	\$20.00	\$2,000.00
<b>Total:</b>						\$1,786,910.00		\$1,933,799.00		\$2,059,000.00		\$2,426,845.00
<b>DBE Participation:</b>						goal = 5.8%		6.1%		5.8%		5.8%

**Errors in Bid Proposal Corrected:**

JJID, Inc • The Bidder did not include any written words for the unit prices on the Bid Schedule Form.  
 • The Submitted DBE Subcontractor offers both trucking services and is a material supplier. A material supplier is only permitted to be counted at 60% of the contract value. Only if the Bidder's full estimated value of work submitted was used for trucking would they achieve the 5.8% DBE Participation Goal.

THIS IS TO CERTIFY THAT THE BIDS TABULATED HEREIN WERE OPENED AT 2:00 PM LOCAL TIME ON APRIL 21, 2021 AT THE COUNTY COUNCIL CHAMBERS, SUSSEX COUNTY ADMINISTRATIVE BUILDING, 1st FLOOR, 2 THE CIRCLE, GEORGETOWN, DELAWARE 19947, AND THAT ALL OF SAID BIDS WERE ACCOMPANIED BY ACCEPTABLE BID BONDS OR CERTIFIED CHECKS.

SIGNATURE OF ENGINEER:  DATE: 4/26/2021

**TASK ORDER NO. TWO (2)  
PROFESSIONAL SERVICES AGREEMENT**



**PROJECT:** Construct GA Apron Expansion, Phase II (Construction Administration)

**AIRPORT:** Delaware Coastal Airport

**DELTA PROJECT NO.:** 20038

**DATE OF ISSUANCE:** April 23, 2021

**ATTACHMENTS:** 1) Scope of Services  
2) Rate Schedule

**METHOD OF PAYMENT:** Construction Administration - Unit Price + Fixed Fee

**TASK ORDER AMOUNT:** \$ 220,000

**CONTRACT TIME:** 75 Days Estimated Construction Contract Time

**PROJECT DESCRIPTION:** ▪ Construct GA Apron Expansion (9,000 SY)

*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.*

**ACCEPTED:**

Digitally signed by Kenneth W Moody  
by: Date: 2021.04.23 14:49:47 -04'00'

Kenneth W. Moody, P.E.  
Vice President  
Delta Airport Consultants, Inc.  
3544 North Progress Avenue, Suite 200  
Harrisburg, Pennsylvania 17110

**APPROVED:**

by: 

Hans M. Medlarz, P.E.  
County Engineer  
Sussex County, Delaware  
2 The Circle (P.O. Box 589)  
Georgetown, Delaware 19947

8/19/21

Construct GA Apron Expansion, Phase II (Construction Administration)  
Delaware Coastal Airport  
Delta Project No. 20038

April 23, 2021

PHASE	DETAILED TASKS
CONSTRUCTION ADMINISTRATION (CA)	Scope of Services and Contract Grant Applications (2) Grant Funding Assistance Owner Coordination Release for Construction Drawings & Specs Coordinate Subconsultants Project Correspondence Preconstruction Meeting Shop Drawing Review Construction Administration Coordinate RPRs Daily Materials Testing Review Site Visits/Progress Meetings (8) Punchlist Inspection Final Inspection Record Drawings Airport Layout Plan Update Final Project Report Contractor Pay Requests (4)
RESIDENT PROJECT REPRESENTATIVE	Field Representative - BY OWNER

ITEMS NOT INCLUDED IN SCOPE: ADIP Survey  
Field Representative Services

**ATTACHMENT 2  
RATE SCHEDULE**



Delta Airport Consultants, Inc.  
Date: April 30, 2020

<u>Item</u>	<u>2021</u>
<b>Work Hours Billing Rates (with overhead)</b>	
Principal	\$260
Project Manager/Registered Professional	\$227
Design Professional (Engineer/Planner)	\$143
Project Production/Administration	\$115
Field Representative	\$108
<b>Direct Nonsalary Expenses</b>	
Automobile (per mile)	Federal Gov. guidelines
Aircraft (per mile)	Federal Gov. guidelines
Per Diem - Field Assignments	Federal Gov. guidelines
Meals & Lodging per calendar day (long term)	
Airline, Rental Car, Charter, etc.	Direct
Printing	Direct
Bid Advertisement	Direct
Meals & Lodging (short term)	Direct
Miscellaneous	Direct

**Notes:**

1. Billing rates for future years will be increased by 3% annually.
2. Billing rates based on estimated 2021 salaries (i.e.: 2020 salaries plus 3% inflation).
3. Work hour rates include labor overhead, general & administrative overhead per FAA AC 150/5100-14E, paragraph 4-10



# MEMO



DATE: April 23, 2021

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

FROM: David W. Jones, P.E. Delta Airport Consultants, Inc.

RE: Reference Information

---

TASK ORDER NO. TWO (2)  
Construct GA Apron Expansion, Phase II (Construction Administration)  
Delaware Coastal Airport

Please find attached, for your use during review, reference information and backup calculations to support the professional services fee for the above referenced project.

Reference Information: 1) Fee Summary  
2) Labor Detail  
3) RFPs and Subconsultant Proposals

**REFERENCE INFORMATION 1  
FEE SUMMARY**



Construct GA Apron Expansion, Phase II (Construction Administration)  
 Delaware Coastal Airport  
 Delta Project No. 20038

April 23, 2021

<b>FEE SUMMARY</b>		
Construction Administration Phase Services		\$125,000
<u>SUBCONSULTANTS</u>		
Construction/As-Built Surveys	Mountain Consulting (DBE)	\$25,000
CA Compliance Monitoring	Ken Weeden & Associates (DBE)	\$8,000
SWM Certified Construction Reviewer	GMB	\$20,000
QA Testing	Hillis-Carnes	\$24,500
<u>OTHER DIRECT</u>		
Travel & Miscellaneous		\$5,000
Fixed Fee		\$12,500
	<b>UNIT PRICE PLUS FIXED FEE TOTAL:</b>	<b>\$220,000</b>

REFERENCE INFORMATION 2  
LABOR DETAIL



Construct GA Apron Expansion, Phase II (Construction Administration)  
Delaware Coastal Airport  
Delta Project No. 20038

April 23, 2021

TASKS	PRIN	PM	DP	PA	RPR
CONSTRUCTION ADMINISTRATION (CA)	0	302	186	256	0





Email Only

April 16, 2021

Mr. Brian Turner  
Mountain Consulting, Inc.  
103 S. Bradford Street  
Dover, Delaware 19904

**Subject: Request for Proposal -- Construction & Record Drawing Surveys**  
Construct GA Apron Expansion - Phase II  
Delaware Coastal Airport  
Sussex County, Delaware  
AIP No. 3-10-0007- Pending -2021

Dear Mr. Turner:

Delta Airport Consultants, Inc. is requesting a proposal from your firm to provide construction and record drawing surveys for the above referenced project at the Delaware Coastal Airport in Georgetown, Delaware. The proposal shall be based on the following scope of work:

#### **SCOPE OF WORK**

##### **Item 1 - Construction Surveys**

1. Provide on-call surveying services to verify the Contractor's grades on subgrade, pavement subbase, base, and surface courses. Additional surveys should be anticipated to verify elevations on drainage structures, pipes, etc. to be installed as part of the project. Based on the project contract time of 75 calendar days, please plan to provide ten (10) days of a survey crew and associated office time for the construction surveys.

##### **Item 2 – Record Drawings Surveys**

2. Provide cross-sections on each 50-foot station for Baseline "4-22". All station and offsets shall be reported with respect to Baseline "4-22". Elevations shall be reported at pavement centerline, each even 25-foot offset, edge of pavement, pavement tie-in, 10-foot offset from edge of pavement, shoulder tie-in, and each break in grade. Cross sections shall extend through the grading limits shown on the enclosed plan sheets. For the preparation of your proposal, it should be assumed that the surveys will be completed during normal working hours.
3. Locate all drainage structures installed as part of the project and report top elevations and inverts for all pipes in the structure. Horizontal locations shall be reported to center on structure with respect to Baseline "4-22".
4. Provide elevations for the drainage ditches constructed as part of the project. Elevations shall be given at the upper and lower limits, as well as at 100-foot intervals.
5. All expenses shall be estimated based on the latest Federal guidelines for items such as mileage, meals, per-diem, etc.

## FORMAT

6. All elevations shall be based upon the existing PACS/SACS network at the airport (GED C, GED E). Horizontal control shall be based on state plane coordinate system NAD 83. Vertical control shall be based on NGS NAVD 88. Spot elevations shall be given to 0.01 feet for paved sections and 0.1 feet for turfed sections. Locations of permanent items within the project limits shall be shown relative to Baseline "4-22"(horizontal control 0.05').

7. It is requested that three (3) files (AutoCAD 2000 Format or newer) containing the following information be submitted for our use:

File 1: [20038plan.dwg] - Planimetrics files (All objects in this file shall have zero elevation.)

File 2: [20038cont.dwg] - Contours file. This file should include contours, contour labels and spot information.

File 3: [20038bkln.dwg] - Breaklines used to generate the contours.

- The drawing world shall be oriented with the State Plane Coordinate System NAD 83.
- The grid pattern on the drawings shall be based on the State Plane Coordinate System NAD 83.
- No elevations shall be assigned to any lines or objects in the planimetrics file. Only contours, breaklines and spot elevations shall have elevations assigned to them.
- All spots shall be on the appropriate layer and contain an attribute for elevation and point description.
- All contours shall be continuous polylines with intermediate and index layers. (Break contours for annotation only.)
- All existing features shall be placed in the drawing files using the appropriate layers and linetypes, as specified in the attached "Standard Request for Proposal Layers" list. A digital copy of Delta's standard drawing template file (delta.dwt) and standard linetype definition file (delta.lin) is enclosed.
- All text in the drawing file shall be standard (Arial font), sized to match ALeroy@ standard templates (80, 100, 120, etc.) scaled for a 1" = 30' plot scale.
- Drawing entities shall have color and linetype set ABYLAYER@.
- If any non-standard symbols are used in the drawing, provide a copy of the necessary code required to load and edit the drawing as submitted.
- No linework shall be broken in order to add specific "pattern" to create the look of a custom linetype. (An example of this would be breaking a line at specific intervals to add an "X" text object to distinguish a fenceline.) As stated, a copy of Delta's standard linetype definition file is included. If the surveyor is unable to use this linetype definition file, the "continuous"

linetype should be used in place of Delta's custom linetypes. No additional text items or symbols should be placed along the line to "approximate" a custom linetype.

8. It is requested that one (1) LandXML file be provided of the as-built ground surface model, as used to generate the contours file provided in the previous section. The file should be compliant with LandXML Version 1.0 for Civil 3D software compatibility.

File 4: [20038FG.xml] - As-built Ground Surface Model in the State Plane Grid Coordinate System.

9. It is also requested that two (2) ASCII text point files be included, both should be in the format: point number, northing, easting, elevation, description (P,N,E,Z,D)

File 5: [20038SPC.asc] - All points given in the State Plane Coordinate System NAD 83.

File 6: [20038BLC.asc] - Same points as given in "File 5" translated to Baseline "4-22" station and offset coordinates.

10. All computer files (drawing files, LandXML file, and ASCII points files) shall be submitted on CD or DVD (+R/+RW formats preferred.)
11. **Please prepare proposal showing separate line item cost each for Items 1 and 2.**

## **GENERAL**

12. If accepted, your proposal shall serve as a basis for a **not-to-exceed unit price contract** directly with Delta Airport Consultants, Inc. **The proposal shall include a fee schedule, estimated workhours, anticipated non-salary cost and a "not-to-exceed" ceiling figure, rounded to the nearest thousand.** A copy of Delta's Subconsultant Agreement has been attached for your review.
13. As soon as your services are complete, your firm should invoice Delta Airport Consultants, Inc. Your invoice will then be included with the next Delta invoice. Payment for your services will be forwarded within fourteen (14) days upon receipt of payment from the Owner. In order to be included with the next Delta invoice, your invoice should be received no later than the 25th of the month.
14. The invoice shall, at a minimum, include the following:
  - a. Project name: *Construct GA Apron Expansion - Phase II*
  - b. Airport name: *Delaware Coastal Airport*
  - c. Delta project number: *20038*
  - d. Invoice number
  - e. Workhour cost, with breakdown of hours and fees
  - f. Non-salary costs
15. All crews working in the active aircraft operation areas shall have aviation band radios and monitor the Unicom Frequency 123.0 MHZ at all times. All activities on the airfield shall be

coordinated with the Owner and the Engineer prior to the start of work. Work shall be scheduled to coincide with the Contractors activities. The work crews shall be prepared to clear the safety areas during aircraft operations as ordered by the Engineer and/or Owner.

16. Delta will contact Mountain Consulting prior to beginning any reconnaissance and/or field work for the project. Delta's Project Manager and contact for this project is:

David W. Jones, P.E.  
Delta Airport Consultants, Inc.  
717-652-8700  
djones@deltaairport.com

17. Please advise if your firm is a Disadvantaged Business Enterprise (DBE) certified by the DelDOT DBE Program. The DelDOT website ([deldot.gov/Business/dbe/index.shtml](http://deldot.gov/Business/dbe/index.shtml)) should be used for verification of current eligibility for DBE Firms in the State of Delaware.

18. Please carefully review the insurance requirements noted on the attached Subconsultant Agreement and notify us if there are any concerns about meeting those requirements. Your proposal shall include the cost of an appropriate project specific insurance rider to meet these requirements.

Delta is requesting your proposal on or before April 19, 2021. It is anticipated that a notice-to-proceed for your work will be given during Summer/Fall 2021 unless the grant is not issued early enough in 2021, at which point it would be Spring 2022.

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: Standard Request for Proposal Layers  
Grading & Drainage Plan Sheets  
Sample Subconsultant Agreement  
Reference: Delta Project No. 20038





April 20, 2021

Mr. David W. Jones, PE  
3544 North Progress Ave, Suite 200  
Harrisburg, PA 17110

**RE: Proposal for Professional Surveying Services  
Construction & Record Drawing Surveys**

Dear Mr. Jones:

Mountain Consulting, Inc. (hereinafter referred to as MC) is pleased to furnish you (hereinafter referred to as Owner) this proposal to provide surveying services in support of the proposed GA Apron Expansion, Phase II at the Delaware Coastal Airport in Georgetown. The project area is approximately 3.70 acres +/- and consists of a new bituminous concrete tarmac (210' x 370') and associated drainage improvements. The proposed drainage improvements consist of both open and closed drainage systems.

Our Scope of Services and Fee, further defined herein, is based on our understanding of the project, our knowledge of applicable ordinances and regulations as they relate to the proposed project, as well as our experience on past projects of similar nature. Therefore, given MC's current understanding of the project's background, MC proposes the following Scope of Services.

**A. SCOPE OF SERVICES**

**1. Construction Survey (Stakeout) \$15,000**

MC shall provide the labor, equipment, and materials to stakeout the cut/fill grades for the proposed tarmac and drainage improvements to include the drainage structures, subsurface stormwater piping and the ditches in accordance with the approved construction plans. Per the Request for Proposal MC will verify the contractor's grades at subgrade, pavement subbase, base, and surface course. MC will also verify elevations on the installed drainage structures and associated stormwater pipes.

**2. Record Drawing (As-built) Survey \$10,000**

MC will conduct a Record Drawing (As-built) Survey to field verify the completeness and accuracy of the proposed construction. The Record Drawing survey will include a topographic survey of the project area to include confirming the horizontal and vertical control of the project site, field verification of the new tarmac, and generation of the topographic base map. All surface features to include drainage improvements that are within the limits of the construction area will be shown and identified on the

Record Drawing. MC will also provide a cross-sections on each 50-foot station and will extend through the grading limits shown on the approved construction drawings. Per the RFP, MC will also provide a topographic record data of the new drainage ditches at 100-foot intervals.

**B. Fees and Payments**

MC will provide our services on a lump sum basis and in accordance with the attached General Contract Conditions. The fee to perform the work described in the above Scope of Services is \$25,000.00. If the scope changes, we will proceed only after reaching a mutually acceptable fee adjustment.

This agreement is solely between Delta Airport Consultants and Mountain Consulting, Inc. and all invoices are payable by Delta Airport Consultants, Inc. to Mountain Consulting, Inc. As acceptance of the terms of this Agreement and as authorization to proceed, kindly sign and return one copy of this proposal for our files.

We appreciate this opportunity to be of service to you and support the development activities proposed for this project. Please initial each page of this Agreement and the General Contract Conditions and return an executed copy. If you have any questions concerning the enclosed, do not hesitate to contact me at 302-744-9875 or by email at [bturner@mountainconsultinginc.com](mailto:bturner@mountainconsultinginc.com).

Very truly yours,

**MOUNTAIN CONSULTING, INC.**



Brian G. Turner  
Engineering Manager

ACCEPTED BY: \_\_\_\_\_  
(Signature) (Date)



Email Only

April 12, 2021

Mr. Kevin Weeden  
Ken Weeden & Associates, Inc.  
1290 Kennestone Circle, Suite A213  
Marietta, Georgia 30066

**Subject: Request for Proposal - Construction Compliance Monitoring**  
Construct GA Apron Expansion - Phase II  
Delaware Coastal Airport  
Sussex County, Delaware  
AIP No. 3-10-0007- Pending -2021

Dear Mr. Weeden:

Delta Airport Consultants, Inc. is preparing a contract for construction administration services for the above referenced project at the Delaware Coastal Airport. The project consists of construction to expand the general aviation apron. The duration of the project is anticipated to be 75 total calendar days (71 calendar days initially, approx. 30 calendar day temporary stop, 2 calendar days, approx. 30 calendar day temporary stop, 2 calendar days). Your firm will be responsible for helping to ensure compliance with 49 CFR 26.37. Delta requests that your firm submit a proposal for the following scope of work:

#### SCOPE OF WORK

1. Task 1: Onsite Monitoring
  - Document (real time) active field monitoring of work sites at a minimum of two (2) visits to ensure DBE firms are performing work committed to them in approved awards and contracts in accordance with 49 CFR § 26.37(b)
  - Confirm Wage/Labor compliance with requirements of the Davis-Bacon Act
  - Conduct and Document any other On-Site Labor Interviews,
  - Perform CUF (commercially useful function) reviews of DBE firms working on project to ensure compliance with 49 CFR § 26.55
  - Prepare and submit reports after each round of onsite visits.
2. Task 2: Payroll Review
  - Collect, Review and Retain Certified Payrolls - For Primes and all Subcontracts
3. Task 3: Project Management/Closeout
  - Attend Pre-construction Meeting
  - Assist Delta with Responding to Contractor Requests for Additional USDOL Labor Classifications.
  - Compilation of a brief Final Project Summary, for:
    - DBE Program and Davis-Bacon Program compliance.

3544 NORTH PROGRESS AVENUE, SUITE 200, HARRISBURG, PENNSYLVANIA 17110

P. (717) 652-8700 F. (717) 652-8371 [WWW.DELTAIRPORT.COM](http://WWW.DELTAIRPORT.COM)

- Provide Full Set of Certified Payrolls, Labor Interviews, and other Compliance Documents to the Airport upon Project Completion.

4. **Please provide a separate cost for Tasks 1, 2, and 3.**

**GENERAL**

5. If accepted, your proposal shall serve as a basis for a **not-to-exceed unit price contract** directly with Delta Airport Consultants, Inc. **The proposal shall include a fee schedule, estimated workhours, anticipated non-salary cost and a "not-to-exceed" ceiling figure, rounded to the nearest thousand.** All expenses shall be estimated based on the latest Federal guidelines for items such as mileage, meals, per-diem, etc. A copy of Delta's Subconsultant Agreement has been attached for your review.
6. As soon as your services are complete, your firm should invoice Delta Airport Consultants, Inc. Your invoice will then be included with the next Delta invoice. Payment for your services will be forwarded within fourteen (14) days upon receipt of payment from the Owner. In order to be included with the next Delta invoice, your invoice should be received no later than the 25<sup>th</sup> of the month.
7. The invoice shall, at a minimum, include the following:
- a. Project name: *Construct GA Apron Expansion - Phase II*
  - b. Airport name: *Delaware Coastal Airport*
  - c. Delta project number: *20038*
  - d. Invoice number
  - e. Workhour cost, with breakdown of hours and fees
  - f. Non-salary costs
8. All activities on the airfield shall be coordinated with the Engineer, and the Owner.
9. Delta will contact Weeden & Associates prior to beginning any reconnaissance and/or field work for the project. Delta's Project Manager and contact for this project is:
- David W. Jones, P.E.  
Delta Airport Consultants, Inc.  
717-652-8700  
djones@deltaairport.com
10. Please advise if your firm is a Disadvantaged Business Enterprise (DBE) certified by the DelDOT DBE Program. The DelDOT website ([deldot.gov/Business/dbe/index.shtml](http://deldot.gov/Business/dbe/index.shtml)) should be used for verification of current eligibility for DBE Firms in the State of Delaware.

11. Please carefully review the insurance requirements noted on the attached Subconsultant Agreement and notify us if there are any concerns about meeting those requirements.

Delta is requesting your proposal on or before April 16, 2021. It is anticipated that a notice-to-proceed for your work will be given during Summer/Fall 2021 unless the grant is not issued early enough in 2021, at which point it would be Spring 2022.

If you should 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: Sample Subconsultant Agreement  
Reference: Delta Project No. 20038

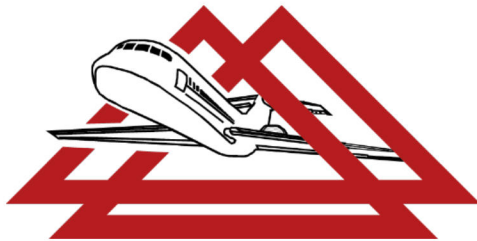
# DBE CONTRACT COMPLIANCE MONITORING CONSULTING SERVICES

for the

Delaware Coastal Airport

Construct GA Apron Expansion - Phase II  
DBE Program Compliance Monitoring

submitted to



***DELTA AIRPORT  
CONSULTANTS, INC.***

by



Planning Consultants

WILMINGTON - RALEIGH - ATLANTA

April 2021

**Ken Weeden and Associates Inc. (KWA)** is pleased to submit this proposal to Delta Airport Consultants for the Delaware Coastal Airport to provide DBE program compliance monitoring services for the Construct GA Apron Expansion - Phase II. Founded and based in Wilmington, North Carolina in 1989, KWA is a full-service DBE programs consulting firm now in our 32nd year of continuous operation. Our company is nationally recognized for its expertise in USDOT DBE and ACDBE programs (49 CFR Parts 26, and 23), especially with airports. We have developed DBE and ACDBE programs for, and have provided consulting services to, airports in 36 states and three (3) U.S. territories and in all five (5) FAA airport size categories (i.e., large-, medium-, small-, and non-hub primary, and non-primary (general aviation). KWA is certified as a Disadvantaged Business Enterprise (DBE) in 12 states, including the Virginia Department of Small Business and Supplier Diversity.

KWA's specific and relevant areas of expertise include the following:

1. DBE and ACDBE program plan development and goal methodology development for airports, transit systems, and state DOTs, as applicable.
2. Program Administration/Implementation/Consulting – On-Call Services
- 3. Compliance monitoring on-site services, long-term, or short-term.**
4. Training and Professional Staff Development-National DBE Training Institute
5. Disparity Studies

KWA proposes to provide the following DBE contract compliance program monitoring services as requested by Delta Airport Consultants:

### **Task 1: On-site Project Monitoring for DBE Compliance and Goal Tracking**

KWA proposes to perform all necessary on-site reviews for the construction phase of the Delaware Coastal Airport's Construct GA Apron Expansion - Phase II. Activities will include but are not limited to:

- Documenting (real time) active field monitoring of work sites at a minimum of once monthly to ensure DBE firms are performing work committed to them in approved awards and contracts in accordance with 49 CFR § 26.37(b).
- Confirming wage/labor compliance with requirements of the Davis-Bacon Act for prime contractors and subcontractors.
- Conducting and documenting any other on-site labor interviews.

- Performing commercially useful function (CUF) reviews of DBE firms working on the project to ensure compliance with 49 CFR § 26.55.
- Preparing and submitting reports after each round of on-site visits.

**Task 2: Review Pay Application Request and Prompt Payment Compliance**

KWA proposes to receive monthly copies of prime contractors’ and subcontractors’ Pay Application Request to verify prompt payment and payroll/payrates compliance. KWA proposes to review relevant documents to ensure that prompt payment and contract provision requirements are met. Activities include but are not limited to:

- Collecting, reviewing, and retaining certified payrolls for all prime contracts and subcontracts.

**Task 3: Project Management**

- Review the Owner’s DBE program plan and its requirements.
- Attend the pre-construction meeting.
- Assist Delta Airport Consultants with responding to contractor requests for additional USDOL labor classifications.
- Compile a brief Final Project Summary for the following:
  - DBE Program and Davis-Bacon Program compliance.
  - Full set of certified payrolls, labor interviews, and other compliance.
  - Documents to the airport upon project completion.

**Project Team and Project Management: KWA-CCMT**

A select KWA Contract Compliance Monitoring Team (KWA-CCMT) shall provide services on-site to Delta Airport Consultants for Delaware Coastal Airport. KWA Senior Compliance Specialist, Jeremy R. Weeden, will lead the team in the field. Wilfred Nixon, Senior Vice President, will coordinate all services from the Wilmington office, with Ken Weeden serving as Overall Project Manager. Brief resumes of Team members follow:

**Kenneth Weeden, Overall Project Manager**

For nearly 40 years Mr. Weeden has directed, prepared, coordinated and served as project support for a variety of planning projects, including airport master plans, highway development plans, railway corridor studies, comprehensive urban plans, and land use/socioeconomic analysis for airport and transportation projects, and the Disadvantaged



Business Enterprise (DBE) Program, under 49 CFR, parts 26 and 23. Mr. Weeden founded *KWA* in 1989, after working nine years for a notable engineering and planning consulting firm (Talbert, Cox & Associates), which was based in Wilmington, North Carolina. Mr. Weeden has been working with the USDOT/FTA/FAA/FHWA Disadvantaged Business Enterprise (DBE) programs since 1980 and has led in the preparation of hundreds of program documents in projects in 36 states and in three U.S. territories (i.e., Puerto Rico, the US Virgin Islands, and the Northern Mariana Islands (Saipan)) and for more than 150 different transportation entities. He is a national expert in DBE-ACDBE/MBE/SBE program development and implementation. This expertise includes program development, implementation, training, joint venture reviews, certification assistance, and conducting program assessments and evaluations. Mr. Weeden is also the founder and lead trainer of the National DBE Training Institute ([www.natdbe-ti.com](http://www.natdbe-ti.com)).

### **Education**

- Bachelor of Arts, Journalism and Sociology: University of Mississippi, Oxford, Mississippi (1973)
- Master of Regional Planning: University of North Carolina at Chapel Hill (1975)
- Professional Certificate in NEPA Environmental Impact Assessments for the Human Environment: Nicholas School of the Environment, Duke University
- Professional Certificate in Airport Noise, Land Use Controls: Georgia Institute of Technology (Georgia Tech)

### **Wilfred Nixon, Senior Vice President, KWA-Wilmington**

Wilfred has worked primarily out of the KWA Wilmington NC office since 2002. He has nearly 18 years of substantial expertise in all phases of the DBE/MBE/HUB program services offered by KWA. In addition to helping to manage the Wilmington office his experience also includes leading the KWA Wilmington team in the development of Disadvantaged Business Enterprise (DBE) and Airport Concession DBE programs and triennial goal documents for numerous airports of all sizes. His list of projects for DBE and Airport Concession DBE services include **Wilmington International Airport, Myrtle Beach International, Coastal Carolina Regional, Asheville Regional Airport, Tulsa International, Atlanta-Hartsfield Jackson International, Tampa International, Norfolk International, and Memphis International Airport**. Wilfred is also an expert in project monitoring and in the development of Good Faith Efforts reviews, and annual accomplishment reports. He also has extensive experience in planning and implementing stakeholder outreach sessions to facilitate DBE/MBE/HUB participation in projects. Wilfred has also served as a Senior Trainer with the National DBE Training Institute, specializing in report development, good faith effort reviews, and monitoring and enforcement requirements, since its inception in 2009.

### **Education**

- Bachelor of Science, Environmental Science: North Carolina Agricultural and Technical State University, Greensboro, North Carolina (1996)
- Master of Business Administration: University of North Carolina at Wilmington, Wilmington, North Carolina (2001)
- Certificate in Airport Planning — University of Texas (2002)

### **Jeremy R. Weeden, Senior Compliance Specialist - Ken Weeden & Associates, Inc.**

Jeremy initially worked for KWA for two years (2006-2008) before going on to work for 10 years for the City of Charlotte NC as a Contract Compliance Specialist with the Engineering and Property Management Division. Jeremy rejoined KWA in June 2018. His 13 years of extensive work with DBE and MWBE goals programs, project monitoring and tracking of expenditures, and reporting, is an asset to KWA clients. His work experience also includes performing DBE certifications. His work with the City of Charlotte included supervising and administering contract compliance for two of the City's major public transit projects (i.e., the Gold Line Streetcar Phase I (\$25 million), and Phase II- (\$95 million). His skillsets also include:

- Ensuring project compliance with city, state, and federal contract regulations for DBE, MWBE, and Davis-Bacon, wage and hour report preparation, commercially useful function (CUF) Reviews, and conducting wage interviews and review of payrolls.

### **Education**

- Bachelor of Arts, Urban Planning & African American Studies-University of North Carolina at Greensboro, (UNC-G) 2004
- Compliance Administrator Certification-Morgan State University Center for Continuing Education, 2016 (Through completion of course by American Contract Compliance Association-ACCA)
- Master of Business Administration – Johnson and Wales University, 2017 (In Progress)

## **Time of Performance**

KWA will commence work as soon as practical after issue of a Work Authorization for these services within a timeframe agreeable to Delta Airport Consultants. All work set forth above shall continue through the completion of the airport project construction phase, which is projected for approximately 75 days, assuming generally favorable conditions, and timely submission of any data needed from prime contractors and sub-contractors.

## **FEE PROPOSAL/COMPENSATION**

KWA proposes to provide the services described above based on the hourly fee schedule/rates contained in the chart shown below: Invoices will be submitted monthly.

<b>Personnel</b>	<b>Hourly Rates</b>
Jeremy Weeden, Compliance Specialist	\$105
Wilfred Nixon, Senior Vice President	\$140
Kenneth Weeden, Overall Project Manager	\$198

A detailed projection of estimated labor costs and any direct costs are shown in the attached table below. The intensity of the actual on-site reviews will vary depending on the numbers and layers of subcontracts, i.e., Tier 1, Tier 2, etc. All contractors are required to comply with payroll and DBE requirements. The budget projection tries to capture an overall weekly, then monthly average for the entire estimated three-month period.

# **Fee/Budget**

<b>Project Activity</b>	<b>Monthly Average Estimated Hours</b>	<b>Project Manager</b>	<b>Compliance Specialist</b>	<b>Senior Vice President</b>
<b>Personnel</b>		<b>Kenneth Weeden</b>	<b>Jeremy R. Weeden</b>	<b>Wilfred Nixon, Jr.</b>
<b>Hourly Rates</b>		<b>\$198</b>	<b>\$105</b>	<b>\$140</b>
1 Task 1: Onsite Project Monitoring for DBE Compliance and Goal Tracking	12.00	0.00	12.00	0.00
2 Task 2: Review Pay Application Request and Prompt Payment Compliance	8.00	0.00	6.00	2.00
3 Task 3: Project Management	8.00	2.00	2.00	4.00
<b>TOTALS:</b>	<b>28.00</b>	<b>2.00</b>	<b>20.00</b>	<b>6.00</b>

<b>Monthly Average</b>	<b>\$3,336.00</b>	<b>\$396.00</b>	<b>\$2,100.00</b>	<b>\$840.00</b>
<b>Two month (75-day) Total</b>	<b>\$6,672.00</b>			
<b>Flight - 2 Trips</b>	<b>\$800.00</b>			
<b>Lodging (2 night) - \$95/night</b>	<b>\$190.00</b>			
<b>Rental Car (2 Trips)</b>	<b>\$190.00</b>			
<b>Grand Total</b>	<b>\$7,852.00</b>			
<b>Rounded</b>	<b>\$8,000.00</b>			



Email Only

April 15, 2021

Christopher J. Pfeifer, P.E.  
Project Manager  
GMB Architects/Engineers  
206 West Main Street  
Salisbury, Maryland 21801

Subject: **Request for Proposal – Certified Construction Reviewer**  
Construct GA Apron Expansion - Phase II  
Delaware Coastal Airport  
Sussex County, Delaware  
AIP No. 3-10-0007- Pending -2021

Dear Mr. Pfeifer:

Delta Airport Consultants, Inc. is preparing a contract for construction phase services for the referenced project. Delta requests that your firm submit a proposal for Certified Construction Reviewer Services based on the following scope of work for the referenced project at the Delaware Coastal Airport in Georgetown, Delaware.

#### **SCOPE OF WORK**

1. Review Contractor prepared shop drawings associated with the GMB design.
2. Attend Owner/Contractor bi-weekly meetings during construction.
3. Represent the Owner's interest in meetings with regulatory agencies.
4. Verify submitted change order conditions.
5. Perform inspections at the substantial completion stage to develop punchlist items associated with the GMB design requiring correction. Delta is to prepare Substantial Completion notices.
6. Perform a final inspection to ensure the satisfactory completion of all punchlist items associated with the GMB design.
7. Perform the duties of the Certified Construction Reviewer (CCR) in accordance with the Sussex Conservation District's Sediment and Stormwater Certified Construction Reviewer Policy. Assume a duration of 75 calendar days for the construction period.
8. Coordinate between Delta and Delta's surveyor regarding the requirements of the As-built Stormwater Management surveys.

3544 NORTH PROGRESS AVENUE, SUITE 200, HARRISBURG, PENNSYLVANIA 17110

P. (717) 652-8700 F. (717) 652-8371 [WWW.DELTAairport.com](http://WWW.DELTAairport.com)

9. Prepare As-built Drawings for Stormwater Management Facilities for Sussex Conservation District review and approval.

## GENERAL

8. If accepted, your proposal shall serve as a basis for a **not-to-exceed unit price contract** directly with Delta Airport Consultants, Inc. **The proposal shall include a fee schedule, estimated workhours, anticipated non-salary cost and a "not-to-exceed" ceiling figure, rounded to the nearest thousand.** All expenses shall be estimated based on the latest Federal guidelines for items such as mileage, meals, per-diem, etc. A copy of Delta's Subconsultant Agreement has been attached for your review.
9. As soon as your services are complete, your firm should invoice Delta Airport Consultants, Inc. Your invoice will then be included with the next Delta invoice. Payment for your services will be forwarded within fourteen (14) days upon receipt of payment from the Owner. In order to be included with the next Delta invoice, your invoice should be received no later than the 25<sup>th</sup> of the month.
10. The invoice shall, at a minimum, include the following:
  - a. Project name: *Construct GA Apron Expansion - Phase II*
  - b. Airport name: *Delaware Coastal Airport*
  - c. Delta project number: *20038*
  - d. Invoice number
  - e. Workhour cost, with breakdown of hours and fees
  - f. Non-salary costs
11. All crews working in the active aircraft operations area shall have aviation band radios and monitor the Unicom Frequency 123.0 MHZ at all times. All activities on the airfield shall be coordinated with the Owner and the Engineer prior to the start of work.
12. Delta will contact GMB prior to beginning any reconnaissance and/or field work for the project. Delta's Project Manager and contact for this project is:

David W. Jones, P.E.  
Delta Airport Consultants, Inc.  
717-652-8700  
djones@deltaairport.com
13. Please advise if your firm is a Disadvantaged Business Enterprise (DBE) certified by the DelDOT DBE Program. The DelDOT website ([deldot.gov/Business/dbe/index.shtml](http://deldot.gov/Business/dbe/index.shtml)) should be used for verification of current eligibility for DBE Firms in the State of Delaware.
14. Please carefully review the insurance requirements noted on the attached Subconsultant Agreement and notify us if there are any concerns about meeting those requirements. If not, your

proposal shall include the cost of an appropriate project specific insurance rider to meet these requirements.

Delta is requesting your proposal on or before April 16, 2021. It is anticipated that a notice-to-proceed for your work will be given during Summer/Fall 2021 unless the grant is not issued early enough in 2021, at which point it would be Spring 2022.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "David W. Jones".

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

DWJ:bkh

Enclosures: Sample Subconsultant Agreement

Reference: Delta Project No. 20038





GEORGE, MILES & BUHR, LLC



ARCHITECTS  
ENGINEERS

206 WEST MAIN STREET  
SALISBURY, MD 21801  
PH: 410.742.3115  
PH: 800.789.4462  
FAX: 410.548.5790

SALISBURY  
BALTIMORE  
SEAFORD

[www.gmbnet.com](http://www.gmbnet.com)



JAMES H. WILLEY, JR., P.E.  
PETER A. BOZICK, JR., P.E.  
JUDY A. SCHWARTZ, P.E.  
CHARLES M. O'DONNELL, III, P.E.  
W. BRICE FOXWELL, 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.  
W. MARK GARDOCKY, P.E.  
MORGAN H. HELFRICH, AIA  
KATHERINE J. MCALLISTER, P.E.  
ANDREW J. LYONS, JR., P.E.

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

April 16, 2021

Delta Airport Consultants, Inc.  
3544 N. Progress Avenue  
Suite 200  
Harrisburg, PA 17110

Attn: Mr. David Jones, P.E.

Re: GED Construct GA Apron Expansion – Phase II  
Delaware Coastal Airport  
Sussex County, Delaware

Dear Mr. Jones:

We are pleased to provide the following proposal for services during construction for the proposed GA Apron Expansion- Phase II.

### **Scope of Work**

We understand the scope of work to include the following professional services:

1. Review Contractor prepared shop drawings associated with GMB design.
2. Attend Owner/Contractor bi-weekly meetings during construction. We are assuming a 75-calendar day construction period.
3. Represent the Owner's interest in meetings with regulatory agencies.
4. Verify submitted change order conditions.
5. Perform inspections at the substantial completion stage to develop punchlist items requiring correction. Delta is to prepare substantial completion notices.
6. Perform a final inspection to ensure the satisfactory completion of all punchlist items associated with the GMB design.
7. Perform the duties of the Certified Construction Reviewer (CCR) in accordance the Sussex Conservation District's Sediment and Stormwater Certified Construction Reviewer Policy. We are assuming a 75-calendar day construction period.
8. Coordinate between Delta and Delta's surveyor regarding the requirements of the As-built Stormwater Management surveys.
9. Prepare As-built drawings for Stormwater Management Facilities for Sussex Conservation District review and approval.

### **Exclusions**

1. Review of pavement design and site design unrelated to stormwater management.

2. This proposal does not provide for any utility work unrelated to the stormwater management design. That would include, but not be limited to electric and communication services and/or relocations.
3. All other services not specifically included in the above scope of work.

**Fees**

We are proposing to bill for these services on a cost plus fixed fee basis. Our labor estimate is attached.

Please feel free to give me a call with any questions. If upon review this proposal is acceptable, please return one copy to us.

The opportunity to submit this proposal is greatly appreciated and we look forward to working with you.

Sincerely,



Christopher J. Pfeifer, P.E.  
Project Manager

CJP/  
Enclosures

**ACCEPTED FOR DELTA AIRPORT CONSULTANTS, INC.:**

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

\_\_\_\_\_  
Printed Name

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

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

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**GA Apron Expansion  
Direct Labor, Indirect Costs, Direct Expenses, Subconsultants and Fixed Fee**

**PART 1 - GENERAL**

1. Grantee <b>Delta Airport Consultants</b>		2. AMENDMENT	
3. Name of Consultant <b>George, Miles &amp; Buhr, LLC</b>		4. Date of Proposal <b>16-Apr-21</b>	
5. Address of Consultant <b>206 West Main Street Salisbury, MD 21801-4907</b>		6. TYPE OF SERVICE TO BE FURNISHED <b>Services During Construction</b>	

**PART II - COST SUMMARY**

7. DIRECT LABOR	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Director	4	\$ 60.77	\$ 243.08	
Sr Project Manager	10	\$ 60.00	\$ 600.00	
Project Manager	40	\$ 37.75	\$ 1,510.00	
Graduate Engineer	24	\$ 30.00	\$ 720.00	
Senior Designer	24	\$ 35.00	\$ 840.00	
CADD Drafter	24	\$ 21.00	\$ 504.00	
Surveyor			\$ -	
Resident Project Representative	60	\$ 31.00	\$ 1,860.00	
Project Coordinator	15	\$ 33.50	\$ 502.50	
<b>DIRECT LABOR TOTAL:</b>	201			\$ 6,779.58
8. INDIRECT COSTS	RATE	x BASE =	ESTIMATED COST	
Overhead and Fringe (2020)	1.4820	\$ 6,780	\$ 10,047.34	
<b>INDIRECT COSTS TOTAL:</b>				\$ 10,047.34
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION	mileage		\$ 600	
(2) PER DIEM	meals		\$ -	
<b>TRAVEL SUBTOTAL:</b>			\$ 600.00	
b. EQUIPMENT, MATERIALS, SUPPLIES			ESTIMATED COST	
	plots/prints		\$ 50	
	copies	50	\$ 0.20	\$ 10
	Permit Fees			
	postage		\$ 50	
	other			
<b>EQUIPMENT SUBTOTAL:</b>			\$ 110.00	
c. SUBCONTRACTS			ESTIMATED COST	
<b>SUBCONTRACTS SUBTOTAL:</b>			\$ -	
<b>OTHER DIRECT COSTS TOTAL:</b>			\$ 710.00	\$ 710.00
<b>10. ESTIMATED COST</b>				\$ 17,536.92
<b>11. FIXED FEE - 10%</b>				\$ 1,682.69
<b>12. TOTAL ESTIMATED COST PLUS FIXED FEE</b>				\$ 20,000.00



Email Only

April 12, 2021

Mr. Jerry Johnson  
Vice President/Regional Manager  
Hillis-Carnes Engineering Associates, Inc.  
421 Snow Hill Road  
Salisbury, Maryland 21804

**Subject: Request for Proposal – Quality Acceptance Testing**  
Construct GA Apron Expansion - Phase II  
Delaware Coastal Airport  
Sussex County, Delaware  
AIP No. 3-10-0007- Pending -2021

Dear Mr. Johnson:

Delta Airport Consultants, Inc. is preparing a contract for construction phase services for the above referenced project. Delta requests that your firm submit a proposal for materials acceptance testing based on the following scope of work:

#### SCOPE OF WORK

1. The acceptance testing services include the following materials and approximate quantities:
  - a. Approx. 9,000 square yards of P-152 Subgrade
  - b. Approx. 9,000 square yards of P-154 Subbase Course
  - c. Approx. 9,000 square yards of P-156 Cement Treated Subgrade (*if utilized, at Owner's discretion*)
  - d. Approx. 9,000 square yards of P-209 Crushed Aggregate Base Course
  - e. Approx. 3,200 tons of P-401 Asphalt Surface Course
  - f. Approx. 960 linear feet of pipe trench backfill
  - g. Misc. Concrete for anything cast-in place (*anticipated to be only tie-down anchors*)
2. Testing of the above items shall be completed in accordance with the enclosed As-Bid Plans and Specifications.
3. Review of job mix formulas (JMFs) and material submittals for the above items.
4. Provide daily reports of P-401 production and field acceptance test results.
5. Provide a weekly updated summary of all acceptance test results with failing tests highlighted and cross referenced to the subsequent passing retest.
6. Provide for at least three (3) on-call site visits by a Senior Geotechnical Engineer to review and investigate unexpected site conditions such as unsuitable/muck soils, sinkholes, and rock excavation/embankment. Provide reports and recommendations for procedures or repair of the areas.

3544 NORTH PROGRESS AVENUE, SUITE 200, HARRISBURG, PENNSYLVANIA 17110

P. (717) 652-8700 F. (717) 652-8371 [WWW.DELTAIRPORT.COM](http://WWW.DELTAIRPORT.COM)

7. The anticipated contract time is 75 calendar days. It is anticipated that construction will begin in the Summer/Fall 2021, but could be Spring 2022 if the grant is not issued early enough in 2021.
8. The Contractor will not be providing an on-site trailer for use by your firm. Any on-site space required by your firm for general office use and/or testing shall be included in your fee.
9. Provide a final report summarizing all testing for the project, within 14 days of construction completion.
10. The project specifications require that testing organizations meet ASTM requirements for testing of some FAA specification materials, as noted below. This may require subcontracting to a certified firm if your firm is not certified. Please provide certification that your firm or your subconsultant firm will meet the applicable requirements.
  - a. P-401 Bituminous Concrete - ASTM D3666

#### GENERAL

11. If accepted, your proposal shall serve as a basis for a **not-to-exceed unit price contract** directly with Delta Airport Consultants, Inc. **The proposal shall include a fee schedule, estimated workhours, anticipated non-salary cost and a "not-to-exceed" ceiling figure, rounded to the nearest thousand.** All expenses shall be estimated based on the latest Federal guidelines for items such as mileage, meals, per-diem, etc. A copy of Delta's Subconsultant Agreement has been attached for your review.
12. As soon as your services are complete, your firm should invoice Delta Airport Consultants, Inc. Your invoice will then be included with the next Delta invoice. Payment for your services will be forwarded within fourteen (14) days upon receipt of payment from the Owner. In order to be included with the next Delta invoice, your invoice should be received no later than the 25th of the month.
13. The invoice shall, at a minimum, include the following:
  - a. Project name: *Construct GA Apron Expansion - Phase II*
  - b. Airport name: *Delaware Coastal Airport*
  - c. Delta project number: *20038*
  - d. Invoice number
  - e. Workhour cost, with breakdown of hours and fees
  - f. Non-salary costs
14. Delta will coordinate with Hillis-Carnes for any/all activities on the airfield. Delta's Project Manager and contact for this project is:

David W. Jones, P.E.  
Delta Airport Consultants, Inc.  
717-652-8700  
djones@deltaairport.com

15. Please advise if your firm is a Disadvantaged Business Enterprise (DBE) certified by the DelDOT DBE Program. The DelDOT website ([deldot.gov/Business/dbe/index.shtml](http://deldot.gov/Business/dbe/index.shtml)) should be used for verification of current eligibility for DBE Firms in the State of Delaware.
16. Please carefully review the insurance requirements noted on the attached Subconsultant Agreement and notify us if there are any concerns about meeting those requirements.

Delta is requesting your proposal on or before April 16, 2021.

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: Plan Sheets (General Layout, Overall Phasing Layout, Phasing Notes, Grading & Drainage, and Paving Details)  
Specifications (P-152, P-154, P-156, P-209, P-401)  
Sample Subconsultant Agreement

Reference: Delta Project No. 20038

417 Maryland Avenue  
Delmar, MD 21875  
Phone (410) 749-0940  
Fax (410) 896-3478  
www.hcea.com

April 19, 2021

Mr. David Jones  
Vice President  
Delta Airport Consultants, Inc  
3540 N. Progress Ave., Suite 102  
Harrisburg, PA 17110

Re: Proposal to Provide Construction Materials Testing and Inspection Services  
**GA Apron Expansion Phase II**  
Rudder Lane, Salisbury, MD 21804  
HCEA Proposal Number P210127SAL

Dear Mr. Jones:

Hillis-Carnes Engineering Associates, Inc. (HCEA) is pleased to submit this proposal to provide construction materials testing and inspection services for the above referenced project. Our estimate is based on the documents made available to us, as well as our experience with projects of this nature.

It is our understanding that this project consists of:

The acceptance testing services include the following materials and approximate quantities:

- a. Approx. 9,000 square yards of P-152 Subgrade
- b. Approx. 9,000 square yards of P-154 Subbase Course
- c. Approx. 9,000 square yards of P-156 Cement Treated Subgrade (if utilized, at Owner's discretion)
- d. Approx. 9,000 square yards of P-209 Crushed Aggregate Base Course
- e. Approx. 3,200 tons of P-401 Asphalt Surface Course
- f. Approx. 960 linear feet of pipe trench backfill
- g. Misc. Concrete for anything cast-in place (anticipated to be only tie-down anchors)

We trust this proposal clearly and concisely outlines our scope of services and associated fees. A project work order and our terms and conditions are included on the following pages. Should you have any questions or concerns, please do not hesitate to call us at (410) 749-0940. Thank you for the opportunity to present this proposal. We look forward to your response and the opportunity of working with your firm as team members towards the successful completion of this project.

Sincerely,

**HILLIS-CARNES ENGINEERING ASSOCIATES, INC.**



Joshua Miller  
Project Manager



Jerry Johnson  
Vice President/Delmarva Regional Manager  
[jjohnson@hcea.com](mailto:jjohnson@hcea.com)

## FEE SCHEDULE

The following estimate is for budgeting purposes and was prepared with the benefit of the project construction schedule. Actual units will be billed as they are expended on a time and materials basis, as directed by the Client, whether less than or greater than the estimate.

### Budget Estimate:

DESCRIPTION	QTY	RATE	U/M	ITEM TOTAL
<b>FIELD SERVICES</b>				
Senior Project Engineer	15	\$ 145.00	Hour	\$ 2,175.00
Report Review	10	\$ 80.00	Hour	\$ 800.00
Project Manager	5	\$ 80.00	Hour	\$ 400.00
QC Testing Overtime	10	\$ 58.00	Hour	\$ 580.00
QA Testing 1/2 Day Rate	5	\$ 240.00	Day	\$ 1,200.00
QA Testing Daily Rate	30	\$ 450.00	Day	\$ 13,500.00
Nuclear Gauge Rental	35	\$ 30.00	Day	\$ 1,050.00
Asphalt Lab Technician	5	\$ 450.00	Day	\$ 2,250.00
SUBTOTAL				\$ 21,955.00
<b>LABORATORY SERVICES</b>				
Proctor-P209	1	\$ 130.00	Each	\$ 130.00
Sieve Analysis	3	\$ 80.00	Each	\$ 240.00
Concrete Cylinders	25	\$ 12.00	Each	\$ 300.00
Soil Cement Cylinders	12	\$ 25.00	Each	\$ 300.00
Proctor-P152	2	\$ 110.00	Each	\$ 220.00
SUBTOTAL				\$ 1,190.00
<b>REIMBURSABLES</b>				
Trip Charge	35	\$ 30.00	Trip	\$ 1,050.00
SUBTOTAL				\$ 1,050.00
<b>TOTAL BUDGET ESTIMATE</b>				<b>\$ 24,500.00</b>

Budget Estimate Rounded to whole number



## 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

## Proposed Blackwater Village Area Additional Utilities PERMISSION TO POST FACT SHEET

- In February 2021 Sussex County Council adopted the resolution establishing the Blackwater Village area of the SCUSSD to begin the process of providing central sewer to the area.
- Immediately following that the Engineering Department received a packet of petitions requesting the County provide water service, Street lighting and drainage improvements.
- The Engineering Department prepared and distributed polling letters to the entire community on their interest to these three additional utilities on March 4, 2021. A second notice was sent on June 27, 2021.
- The County has received responses representing 171 of the 277 recorded lots in the community. With 98 interested in water service, 118 interested in street lighting and 97 in drainage improvement.
- The Engineering Department would like to request for permission to prepare and post notices for a Public Hearing to provide additional information to the community including potential costs, impacts and timelines.
- After the Public Hearing we will schedule a referendum and place all (3) additional utilities on the ballot as separate items and have the entire area vote.
- If permission is granted, the department will plan, advertise and post for the Public Hearing on the additional utilities tentatively for October 1, 2021, if the location can be secured.



# BLACKWATER VILLAGE ADDITIONAL UTILITIES

Parcels of Interest



## ENGINEERING DEPARTMENT

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



# Sussex County

DELAWARE  
sussexcountype.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

## Proposed Knapp Parcels Expansion of the Sussex County Unified Sanitary Sewer District

### PERMISSION TO POST FACT SHEET

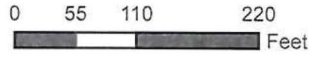
- Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department has received a request from Davis, Bowen & Friedel, Inc. on behalf of their client Leslie Gay Knapp Marini, Successor Trustee Under Revocable Trust Agreement of Halsey G. Knapp and Joan D. Knapp the owners/developers of (10) parcels along New Road.
- One parcel is already in the sewer district and a recent property line adjustment has left one parcel partially in the sewer district and the remaining (8) were previously served with sewer laterals but never in the district.
- The parcels are served with 6- inch laterals for single family homes.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for September 28, 2021 at the regular County Council meeting.



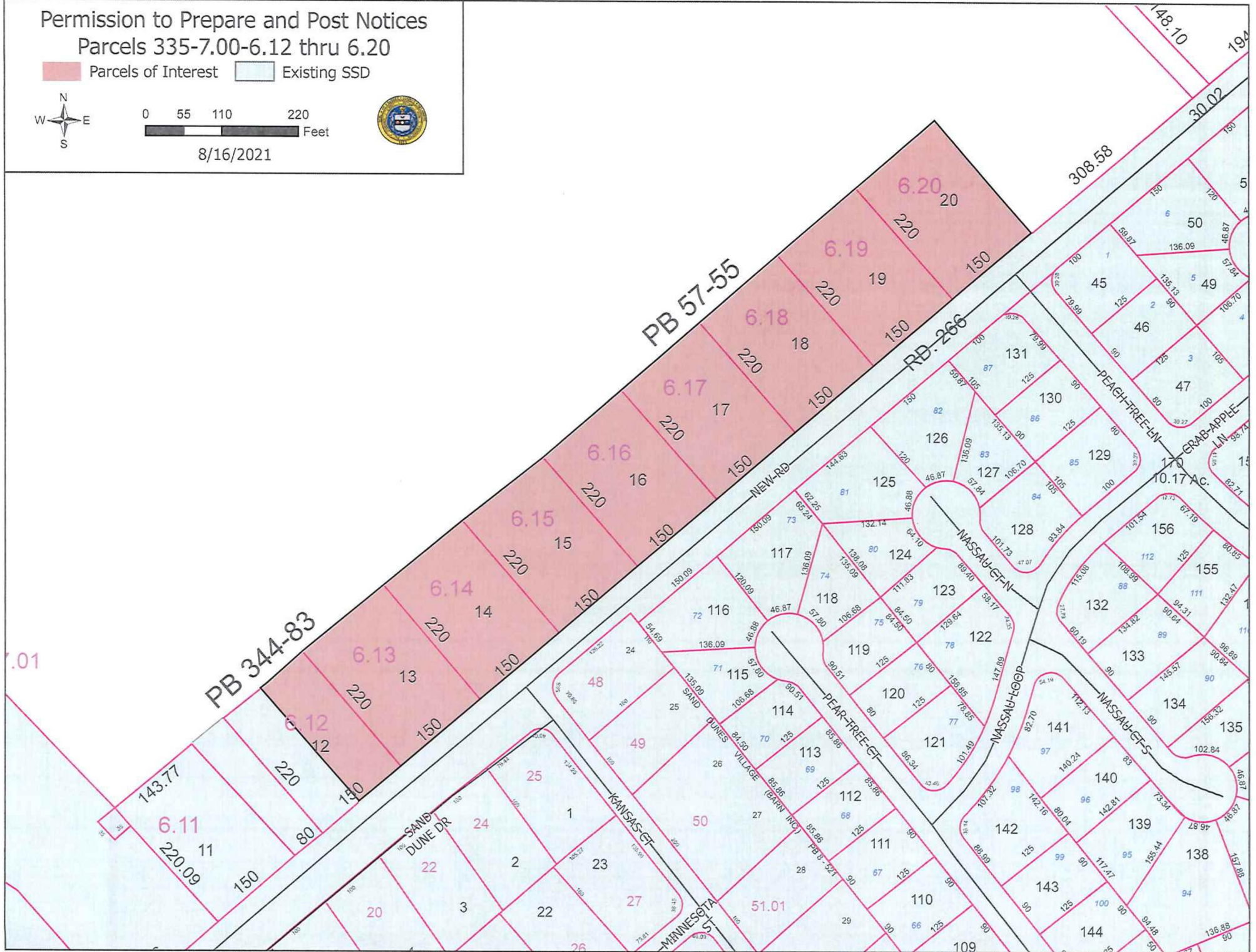
# Permission to Prepare and Post Notices

## Parcels 335-7.00-6.12 thru 6.20

Parcels of Interest Existing SSD



8/16/2021





# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Chamber of Commerce for Greater Milford  
PROJECT NAME: Riverwalk "Freedom" Festival 20th Anniversary  
FEDERAL TAX ID: 51-0319055 NON-PROFIT:  YES  NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?  
 YES  NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION:

ADDRESS: 24 NW Front Street Suite 101

Milford DE 19963  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Jo Schmeiser  
TITLE: Executive Director  
PHONE: 302-422-3344 EMAIL: jschmeiser@milfordchamber.com

**TOTAL FUNDING REQUEST: 2,000.00**

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

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

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? 1/14

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

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

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

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

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

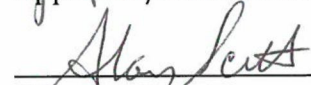
For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County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


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

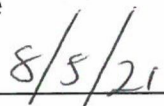
In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

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

  
\_\_\_\_\_  
Applicant/Authorized Official Signature

  
\_\_\_\_\_  
Witness Signature

  
\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Date

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

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

### BENEFICIARY CATEGORY

- |  |   |                                   |
|--|---|-----------------------------------|
| <input checked="" type="checkbox"/> Disability & Special Needs | <input checked="" type="checkbox"/> Victims of Domestic Violence                                    | <input type="checkbox"/> Homeless |
| <input checked="" type="checkbox"/> Elderly Persons            | <input checked="" type="checkbox"/> Low to Moderate Income <sup>2</sup>                             | <input type="checkbox"/> Youth    |
| <input type="checkbox"/> Minority                              | <input checked="" type="checkbox"/> Other <u>This festival benefits the whole Milford Community</u> |                                   |

### BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:  
5000-8000

## 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.

On September 18, 2021 the Milford community will celebrate with our 20th anniversary of the Riverwalk "Freedom" Festival. We will have crafters, vendors (over 120), kids games, pet park parade, food vendors, live entertainment, car show, and finish with fireworks (about 20 minutes). All of the city businesses participate with sidewalk sales or special promotions. This event benefits the whole Milford community.

**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

<b>REVENUE</b>	We never know how much we will receive, since our fireworks are funded by sponsorship donations and this changes from year to year.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	
<b>EXPENDITURES</b>	Fireworks cost \$-14,000
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. <b>(Put amounts in as a negative)</b>	
	-\$ 14,000.00
<b>TOTAL EXPENDITURES</b>	-\$ 14,000.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-\$ 14,000.00

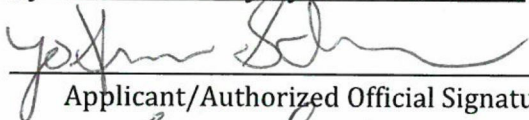
### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Chamber of Commerce for Greater Milford agrees that:  
(Name of Organization)

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

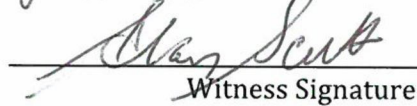
**SECTION 5: STATEMENT OF ASSURANCES (continued)**

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

  
Applicant/Authorized Official Signature

8-5-21

Date

  
Witness Signature

8/5/21

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Delaware Botanic Gardens  
PROJECT NAME: 2021 DBG Virtual Dinner to benefit operations  
FEDERAL TAX ID: 32-0371538 NON-PROFIT:  YES  NO

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

YES  NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: Delaware Botanic Gardens (DBG) mission is to create a world-class, inspirational, educational, and sustainable public botanic garden in southern Delaware for the benefit and enjoyment of all. Garden Visitors will represent a diverse cross-section of our population, and to that end, the Gardens and facilities will be planned to offer opportunities for enjoyment that bridge cultural, ethnic, economic, and generational circumstances.

ADDRESS: P.O. Box 1390

Ocean View DE 19970  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Craig Sims  
TITLE: Director of Development  
PHONE: 610-241-2637 EMAIL: craig.sims@delawaregardens.org

**TOTAL FUNDING REQUEST: \$5000.00**

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

If YES, how much was received in the last 12 months? \$3500.00

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

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 3%

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- Fair Housing  
 Infrastructure<sup>1</sup>  
 Health and Human Services  
 Other Conservation / Recreation  
 Cultural  
 Educational

### BENEFICIARY CATEGORY

- Disability & Special Needs  
 Elderly Persons  
 Minority  
 Victims of Domestic Violence  
 Low to Moderate Income<sup>2</sup>  
 Other All Sussex County Residents and Visitors  
 Homeless  
 Youth

### BENEFICIARY NUMBER

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

6500

## 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.

Your sponsorship of the 2021 DBG Virtual Dinner Party supports DBG becoming a Sussex County destination in 2021, as well as continuing its progress toward building the next phases of its Master Plan. This annual fundraising event is being held September 23 from 5-8 PM virtually. Organizations sponsoring the event include SoDel Concepts, Banks Wine & Spirits, SEA Studio Architects, Good Earth Markets, Pennoni Associates, among others (see <http://www.delawaregardens.org/new-events/>).

As the lessee and steward of the Sussex County Land Trust property (formerly the Cannon Property), Delaware Botanic Gardens (DBG) was chartered to build a world class public garden for Delaware residents and visitors to Sussex County. We have made great progress toward that goal. The restoration of the 37+ acre parcel bordering Pepper Creek now includes major gardens features, a rustic Welcome Center, parking area, and will soon have permanent restrooms. More than 200 community volunteers, staff members, and supporting Delmarva business partners worked diligently to accomplish this first phase of the DBG Master Plan.

Designed by Piet Oudolf, renowned Dutch gardener and author, the Meadow Garden meanders across two acres of the property and includes viewing knolls and an "infinity" pathway. DBG Volunteers planted over 70,000 native and naturally compatible perennials and grasses in this meadow habitat. Between the Meadow Garden and water's edge, is the 12-acre Woodland Garden, DBG's intrinsic natural wonder that provides a Delaware forested wetland habitat for diverse coastal creatures and ecologically connects the DBG upland garden habitats to 1,000 feet of riverine shoreline along Pepper Creek. In 2018, the Woodland Garden was tailored into a destination by adding 1.8-miles of ADA-compliant natural woodland trails that lead to the shoreline and several large iconic birdnests to mimic nature, as well as support public events. At the east edge of the woodland sits the Folly Garden, a unique coastal garden built on the site of the former 19th Century farmhouse. Native Delaware volunteers & contributors commented that the "restful" Folly provides a sense of place that characterizes early Delaware Shore farmhouse gardens.

In spring 2018, DBG's educational mission began with the hosting of thirty-two Sussex Central High School science students who conducted a "hands-on" biochemical study on the Dogfish Learning Garden's "Wetlands Outdoor Classroom", a newly-created wetland and its buffer. The created wetland is surrounded by three "Inland Dunes" that recreate a virtually extinct habitat once found along the Nanticoke River. The study resulted in a DBG Field Guide. Girl Scout Troop 20566 from York, PA raised their own money, bought 500 plants including four Redbud trees, drove to DBG, and planted a new woodlands edge garden, now called the "Girl Scout Garden". In 2018, DBG initiated partnerships with academia, the Center for the Inland Bays (CIB), and DNREC. Karen Steenhoudt who recently joined the DBG Board, during her time as a Temple Undergraduate she worked on her "Capstone Project" in collaboration with DBG and CIB, providing a conceptual restoration design for DBG's eroding Pepper Creek shoreline. In 2020 the project came to life using Living Shoreline restoration techniques that promote natural, sustainable solutions to reducing erosion and stabilizing the riverine coastline. DNREC is providing partial funding and technical support for this restoration. DBG is also working with DelDot on a new shoreline restoration project that will save another 500 feet of waterfront. The DBG Living Shoreline will act as a demonstration site for sustainable design techniques in shoreline management.

In building a garden that not only preserves and protects our native coastal plain, but also provides a legacy to its character through community outreach and education, Sussex County benefits both aesthetically and economically from the Delaware Botanic Gardens. The Gardens provide a venue that supports eco-tourism, and subsequently local town and county economics. Recreation and open space in our county are enriched, meeting SC Comprehensive Plan goals.

We thank you for your leadership to our communities and appreciate your continuing support of this important endeavor.

**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.**

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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

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	
<b>EXPENDITURES</b>	
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. <b>(Put amounts in as a negative)</b>	
PERSONNEL: Director of Horticulture; Grounds Supervisor; Horticulture Staff	-\$ 5,000.00
<b>TOTAL EXPENDITURES</b>	-\$ 5,000.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	-\$ 5,000.00


### SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Delaware Botanic Gardens 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)**

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

  
\_\_\_\_\_  
Applicant/Authorized Official Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Witness Signature

  
\_\_\_\_\_  
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

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

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

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

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

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

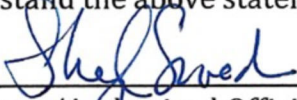
For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

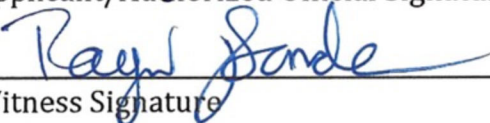
For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County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

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

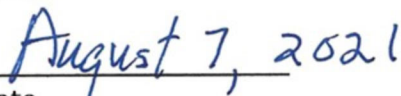
In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

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

  
\_\_\_\_\_  
Applicant/Authorized Official Signature

  
\_\_\_\_\_  
Witness Signature

  
\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Date





# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

Delaware State College Alumni Association

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: D.S.U. AA Sussex County Chapter

PROJECT NAME: Band To The Beach

FEDERAL TAX ID: 237009665 NON-PROFIT:  YES  NO

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

YES  NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION:

To bring the band to Rehoboth, for Labor Day Weekend Sunday 9/5/21

ADDRESS: P.O. Box 179

Lewes Delaware 19958  
(CITY) (STATE) (ZIP)

CONTACT PERSON: Elizabeth Allen

TITLE: Treasurer

PHONE: (302) 236-4078 EMAIL: Elizabeth.Allen@cape.k12.de.us

TOTAL FUNDING REQUEST: \$3500.00

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

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

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?

## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- |  |  |                                      |
|--|--|--------------------------------------|
| <input type="checkbox"/> Fair Housing                | <input type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural    |
| <input type="checkbox"/> Infrastructure <sup>1</sup> | <input type="checkbox"/> Other _____               | <input type="checkbox"/> Educational |

### BENEFICIARY CATEGORY

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

### 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.

Sussex County Chapter has had the D.S.U. band come to the Rehoboth Band Stand for years celebrating Labor Day Weekend, we need buses to get the band here to play. We also feed them pizzas and sodas to drink for this event. This is all done before they perform. The chapter is asking for your help to make this happen.

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

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	
<b>EXPENDITURES</b>	
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. <b>(Put amounts in as a negative)</b>	
<b>TOTAL EXPENDITURES</b>	\$ 0.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$ 0.00


### SECTION 5: STATEMENT OF ASSURANCES

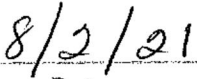
If this grant application is awarded funding, the DSUAA Sussex County Chapter agrees that:  
(Name of Organization)

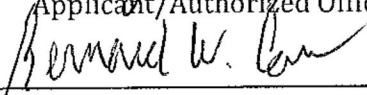
- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application.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

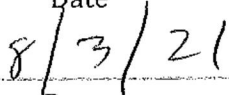
**SECTION 5: STATEMENT OF ASSURANCES (continued)**

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

  
\_\_\_\_\_  
Applicant/Authorized Official Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Witness Signature

  
\_\_\_\_\_  
Date

Completed application can be submitted by:

Email: [gjennings@sussexcountyde.gov](mailto:gjennings@sussexcountyde.gov)

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

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

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

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

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

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

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

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

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

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

Elizabeth Allen  
Applicant/Authorized Official Signature

Bernard W. Carr  
Witness Signature

Treasurer  
Title

8/2/21  
Date

**To Be Re-Introduced 08/24/21**

**Council District 3 - Schaeffer  
Tax I.D. No. 334-6.00-686.00  
911 Address: 34360 Postal Lane, Lewes**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS**

**WHEREAS, on the 11th day of January 2021, a conditional use application, denominated Conditional Use No. 2262 was filed on behalf of Matthew Hete; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2262 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article V, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2262 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Postal Lane approximately 0.22 mile northeast of Plantation Road and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 1.25 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.**

**To Be Introduced 08/24/21**

**Council District 1 - Vincent  
Tax I.D. No. 232-19.00-12.02  
911 Addresses: 31531 Jestice Farm Road, Laurel**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOWING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.078 ACRES, MORE OR LESS**

**WHEREAS, on the 1st of July 2021, a conditional use application, denominated Conditional Use No. 2296 was filed on behalf of Michael Milligan; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2296 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2296 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 Broad Creek Hundred, Sussex County, Delaware, and lying on the east side of Jestice Farm Road (S.C.R 449A) approximately 0.31 mile south of Johnson Road (S.C.R 447), and being more particularly described in the attached legal description prepared by Haller & Hudson, containing 3.078 acres, more or less.**

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



**To Be Introduced 08/24/21**

**Council District 4 - Hudson  
Tax I.D. No. 334-12.00-127.02  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2046 (ORDINANCE NO. 2479) RELATED TO PERMITTED HOURS OF CONSTRUCTION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.61 ACRES, MORE OR LESS**

**WHEREAS, on the 2nd day of July 2021, a conditional use application, denominated Conditional Use No. 2297 was filed on behalf of Schell Brothers, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2297 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2297 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeast side of Warrington Road (S.C.R. 275), approximately 0.25 mile southeast of John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by The Malmberg Firm, LLC, said parcel containing 36.61 acres, more or less.**

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

Council District 2 - Green

Tax I.D. Nos. 130-3.00-246.00, 247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00

911 Addresses: None Available

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS**

WHEREAS, on the 6th of July 2021, a conditional use application, denominated Conditional Use No. 2298 was filed on behalf of Freeman Solar, LLC; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2298 be \_\_\_\_\_; and

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

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

**Section 1.** That Chapter 115, Article 115, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2298 as it applies to the property hereinafter described.

**Section 2.** The subject property is described as follows:

**ALL** that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36), said property shown on a plat prepared by Pennoni Associates, Inc. and entitled "Conditional Use Site Plan" and being more particularly described in the attached legal description, dated June 30, 2021, prepared by Pennoni Associates, Inc., said parcels containing 350.96 acres, more or less.

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

**To Be Introduced 08/24/21**

**Council District 5 - Rieley  
Tax I.D. Nos. 533-5.00-38.00 & 41.04  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS**

**WHEREAS, on the 16th day of July 2021, a conditional use application, denominated Conditional Use No. 2300 was filed on behalf of MRBP, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2300 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2300 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 southwest side of McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92) and being more particularly described in the attached legal descriptions prepared by Scott and Shuman, P.A., said parcels containing 56.93 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  
(302) 854-5079 F  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 19, 2021

RE: County Council Report for CU 2249 filed on behalf of Mayapple Farm, LLC

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The Planning and Zoning Department received an application (CU 2249 filed on behalf of Mayapple Farm, LLC) for a Conditional Use for parcel 533-19.00-289.05 for multi-family (41 units). The property is within the Agricultural Residential (AR-1) Zoning District and is located on the west side of Williamsville Rd (SCR 395) approximately 0.76 mile southeast of Lighthouse Rd (Rt. 54). The parcel size is 20.91 acres +/-.

The Planning and Zoning Commission held a public hearing on July 8, 2021. At the meeting of July 22, 2021 the Commission recommended approval of the application for the 10 reasons and subject to the 20 recommended conditions outlined within the motion (included below).

Below are the draft minutes from the Planning & Zoning Commission meeting of July 8, 2021 and the draft minutes from the Planning & Zoning Commission meeting of July 22, 2021.

Draft Minutes of the July 8, 2021 Planning & Zoning Commission Meeting

### **C/U 2249 Mayapple Farm, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for multi-family (41 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 20.91 acres, more or less.** The property is lying on the west side of Williamsville Road (S.C.R. 395), approximately 0.76 mile southeast of Lighthouse Road (Route 54). 911 Address: N/A. Tax Parcel: 533-19.00-289.05.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's exhibit booklet, a copy of the staff analysis, a copy of the DelDOT Service Level Evaluation Response confirming a Traffic Impact Study is not required, a copy of a letter received from Sussex County



Engineering Department Utility Planning Division, a copy of the PLUS letter, two mail returns, and one letter of opposition which has been circulated to the Commission.

The Commission found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, Mayapple Farm, LLC; that also present are the owners of the property, Mr. Lawton Myrick and Mrs. Mindy Myrick, Mr. Steven Marsh with GMB, and Mr. Ed Launay with Environmental Resources, Inc.; that the Application is for a Conditional Use for 41 single-family detached condominium units; that the parcel contains 20.91 acres; that it is off Williamsonville Rd which runs south of Route 54. and north of the Maryland border; that the property is in the Agricultural Residential (AR-1) Zoning District and is designated as being within the Coastal Area on the County's Future Land Use Map; that a variety of uses are permitted in the Coastal Area; that the permitted density is 2.178 per acre; that the Applicant is proposing a density of 1.9 units per acre; that these are single-family homes but all common area would be owned by the Condominium Association; that the maximum number of multi-family dwelling structures will not exceed 2 dwelling units; that there is only 0.05 acre of wetlands; that there will be 12.86 acres, which is 63% of open space; that there will be a 75-foot vegetative buffer along the property frontage on Williamsville Road; that in the PLUS comments the property is referred to be a Level 3 and Level 4; that the comments are a guide and not the reality of the area; that there is a fair amount of single-family living around the area and Medium Residential Zoning; that to the east of the property is Americana Bayside which includes townhomes and single-family developments; that to the west is Bayview; that the proposed Application is marketed for people looking for second homes, or elderly residents that desire low-maintenance homes; that the Application is consistent with the Sussex County Land Use Plan; that there would be houses with parking below the home; that the floorplan will be more condensed and will provide less impervious area; that the Applicant is trying to do the equivalent of a cluster-design which provides more open space in a way that is more marketable; that there will be a 50-ft. buffer where there are tidal wetlands; that the proposed residents will reside on the uplands; that the non-tidal wetlands are wooded and will remain as it currently is with a 25-ft. buffer; that a 30-ft. vegetative buffer will be placed around the property in the areas adjacent to all other properties; that with Soil Conservation District approval there will be two wet stormwater ponds; that there would be a kayak launch at the lagoon that will lead into the bay; that at the entrance of the property there is a pool and pool complex; that there will be a required multi-modal path along Williamsville Road; that sidewalks will be located on one side of the street adjacent to the stormwater pond; that there are no endangered species located on the property; that 82 total parking spaces are required but the Applicant is providing 108 parking spaces; that there would be a parking space under the home, in the resident's driveway and additional spaces for guest parking in various places; that Artesian Water Company will provide water; that sewer will be annexed into the West Fenwick Sewer District; that the project will have central water and County sewer; that the project will add an economic benefit to residents in the area by providing construction employment and bring increased financial revenue to the area; that the project integrates into the present terrain by only developing the uplands; that the project has a smaller footprint with the current design; that the project is preserving all the slopes to prevent a lot of grading; that there will be no use of wetlands; that there will be preservation of natural features; that there will be minimal tree and soil removal; that an adjacent property owner, Ms. Carol Camilleo, had concerns about the construction; that there will be conditions to construction limitation times and signage; that the Final Site Plan will obtain the approval of the Sussex Conservation District; that all entrances will comply with all of DelDOT's requirements; that an area for a school bus stop will be established if necessary; that the location of the school bus stop will be determined by the School District; that road naming and addressing will be subject to further review by the County; that the Final Site Plan and record of Condominium Declarations for the property will prohibit the application of fertilizer or similar soil additives on the property by

individual property owners; that all fertilizers and soil additives will be managed by the Condominium Association using best management practices; that all recreational amenities will be completed no later than the 20<sup>th</sup> Building Permit; that the Final Site Plan will include a landscape plan for all the buffers; that all construction, site work, grading and deliveries will only occur from Monday through Friday, between 7:00 am through 6:00 pm, Saturdays 8:00 am through 4:00 pm, with no Sunday construction; that a 24 x 36" bi-lingual sign will permanently be placed at the entrance of the site confirming the hours during construction and the preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan depicting and noting the conditions and the Final Site Plan will be subject to review.

The Commission found that Mr. Lawton Myrick spoke on behalf of his Application; that it is his goal to create a note-worthy residential project that he would be proud to be associated with; that he feels single-family homes were the best fit for the property site; that the property is in a desirable location; that with the right vision for the site it will lend itself to a nice enclave of homes; that due to small size and semi-custom architecture the neighborhood will have a boutique feel to it compared to larger subdivisions; that a difference in architecture was sought to set Mayapple Farms apart from other developments; that he spent money out-of-pocket to have 3 homes designed at 3 different elevation levels; that the intent is for a raised beach-home style with room for parking and storage underneath and the first floor can be finished to the owners liking; that the main living areas would be on the second and third floors; that he is partnering with a local builder that also shares the Applicant's vision and willing to invest money into further developing the home plans and he and his wife are considering owning one of the homes and becoming residents of the community and not just the developer of the project.

Ms. Wingate questioned if the north-end roadway will be conducive for emergency vehicles to turn around in, if there will be signage for no parking in the area, and asked for clarification on the location of the buffers.

Mr. Steven Marsh, an engineer with GMB, stated that the turn-around at the end will have to meet the State Fire Marshall's requirements and approval; that the area is not for parking and there will be signage posted stating it is a no-parking area.

Mr. Lawton Myrick stated the existing woods will not be taken out and will serve as the wooded buffer; that the intent of the Application will plant a 30-ft. buffer with possible topsoil to create a small berm and the existing woods will remain intact within the 30-ft. designated area where it already pre-exists.

Ms. Wingate stated she did not see the report from Mr. Ed Launay and requested that Mr. Launay confirm the GMB report accurately reflected his findings.

Mr. Ed Launay stated he did write a letter regarding threatened and endangered species on the site; that he also assisted GMB on parts of the PLUS response; that there are no tidal wetlands on the site; that the tidal wetland buffers measure from the lagoon; that the lagoon is tidal waters; that there is a 50-ft. required buffer from the lagoon which is provided; that the U.S. Army Corp of Engineers had previously issued a Jurisdiction of Determination Approval letter; that the letter has since expired; that he has issued a request for a new letter; that a permit is required from DNREC for the canoe and kayak launch; that it will be a small fixed pier that will go over the water somewhat, but will be close to the shoreline; there will be a cradle attached to the fixed pier that will go up and down with the tide to place their canoe or kayak on; that the intent is not to have boats stationed in the area, but to make

it that someone with a boat could potentially pick up a passenger.

Mr. Robertson asked if the lagoon was under the jurisdiction of DNREC or Maryland jurisdiction.

Mr. Ed Launay stated they have thoroughly researched the topic of the lagoon jurisdiction; that Mr. Bob Rigdon surveyed the area; that the lagoon is on the property line; that about 1/3 of the lagoon is located on the Applicant's property; that the other 2/3 of the lagoon is located in Maryland; that the Applicant has enough lagoon located in Delaware to be able to do what needs to be done.

Ms. Wingate questions what the clam-shell parking space is and what it will be used for.

Mr. Myrick stated the clam-shell parking was an aesthetic coastal look that he preferred; that he had originally seen at Bayside; that the location is designated for guest parking; that the driveways will be concrete slabs.

The Commission found that Ms. Wendy Megee spoke in opposition to the Application; that she and her husband have a 2,200 sf. home with a 1,000 sq. ft. full barn; that they recently fenced in 1.5 acres for their equine animals; that she is concerned about the effect of construction and pilings on her equine animals; that she is in favor of development and growth in the area; that she also has concerns about the water and the dense population in the area and the traffic in the area; that Williamsville Road is a small, tow-lane road, located in a agricultural area; that there is no bicycle lane and no sidewalks; that she has seen three accidents involving pedestrians on Williamsville Road in the few months she has lived in the area; that Williamsville Road is currently used as a construction entrance for the Bayside area; that she has concern for the increased amount of construction vehicles and their size on the small road; that she has concerns about the stormwater management plan; that her property borders that portion of the Mayapple Farm property; that it was not mentioned how it will be maintained and who will be responsible for maintaining it; that the area is already an AE 5 Flood Zone; that she had to bring in 50 truck loads of dirt to keep the grade up and the flooding down; that the lagoon will have to be dredged to use for boats and a kayak pier; that she is concerned about additional flooding from the effects of dredging the lagoon; she questions what measure will be taken to protect her property; that the dredging will also affect the ditch line on the Maryland side of the property; that the ditch is not maintained by the State of Delaware; that she request a greater amount of buffer like the additional buffer given to the other adjoining properties or a less amount of town homes in the proposed space; that the homes are large and will obstruct the views from the neighboring residents; that she questions if there will be obstructions or barriers all the way around the property; that she will end up looking at the fill pond; that she is concerned about potential noise from the fill pond and how it will affect her animals; that she did not recall this property being for sale in 2005, but does recall it being for sale in 2018; that she has concerns about the animals in the wooded area getting pushed out onto her or neighboring properties; and that the proposed Application does not fit in the area as a lot of it is agricultural.

The Commission found that Mr. Don Downey spoke in opposition to the Application; that he is concerned about the potential noise of the community; that he understood the buffer to be 30-ft. but had heard 25-ft buffer during the proposal presentation; that he questions who will maintain the vegetated buffer; and that he does not understand why it is sometimes referred to as a townhome and other times referred to as a condominium; that he is also concerned about the increased traffic impacts on the road; and that he is concerned about vehicle lights on his property.

Chairman Wheatley stated that a condominium is a type of ownership of the home and that cars will not be able to park in the area and the State Fire Marshall's office would not approve that.

The Commission found that Mr. Sanden Swanson spoke by teleconference in opposition of the Application; that his concerns were the dangers of the road with increased traffic, the density of the area, the noise and effects of pile-driving the agricultural ditches; that he did not see some of the agricultural ditches on the proposed drawings and he feels that no construction should be permitted on Saturdays.

Mr. Marsh stated there are many ways to construct pilings; that the Applicant does not anticipate driving the pilings; that they are willing to speak with nearby residents regarding piling construction; that it is a surface water aquifer, not the confined drinking aquifer; that they are two different things; that he feels being on pilings allows the ground to stay at a more natural grade due to not having to put fill there and that he does not see an impact on drinking water under the current construction proposed.

Chairman Wheatley requested that Mr. Marsh address the concerns of flooding onto adjacent properties.

Mr. Marsh stated the Applicant will have to meet the requirements of the Sussex Conservation District; that they will have to show that the capacity that they are discharging does not exceed the capacity of the receiving channel that they are discharging to which is a ditch; that the ditch maintenance is under the maintenance agreement with Sussex Conservation District; that the Applicant can maintain what is on their property; that the Applicant cannot maintain anything on anyone else's property unless there is an agreement in place; that he is certain the Applicant would be willing to work with the Megees to make sure the ditch is maintained appropriately.

Ms. Stevenson requested a response to the concern of light, noise, and privacy issues of the stormwater management system next to the Megee property.

Mr. Willard stated that up to Ms. Megee's property is a 75-ft. buffer which connects to a 30-ft. buffer that goes down to the edge of Ms. Megee's property; that the back edge is already a wooded area that will not be disturbed and stormwater pond will be blocked by the 30-ft. vegetative buffer.

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 Application C/U 2249 Mayapple Farm, LLC, Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 5-0.

#### Draft Minutes of the July 22, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since July 8, 2021.

Ms. Wingate moved that the Commission recommend approval for Conditional Use # 2249 for MAYAPPLE FARM, LLC for Multi-Family Units in the AR-1 Zoning District based upon the record made during the public hearing and for the following reasons:



1. This application seeks the approval of 41 multi-family units that will have the appearance of single-family homes.
2. The property is in an area where a variety of development has occurred. There is the nearby Bayside development with many single- and multi-family units and there are other developments with similar characteristics and densities nearby. This project is consistent with these other nearby uses and it is appropriate in this location.
3. This application seeks a density of 2.178 units per acre. This is within the permitted density of the AR-1 Zone.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” and medium and higher densities are acceptable when a site is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
5. The proposed development will not have an adverse impact on the neighboring properties or community.
6. The project will not have an adverse impact upon traffic or roadways. The developer will be required to make road improvements required by DelDOT and contribute to other area road improvements to be built by DelDOT.
7. The Level of Service of nearby roadways and intersections will not be significantly adversely affected by this development.
8. The development will be served by central sewer.
9. The development will be served by central water.
10. As a multi-family development in the AR-1 District, this development must comply with the 40% open space and 75-foot buffer requirements of Section 115-22 of the Zoning Code.
11. This recommendation is subject to the following conditions:
  - A. The maximum number of residential units within this entire development shall be 41.
  - B. The Applicant shall form a condominium association to be responsible for the perpetual maintenance of the development’s roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
  - C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - E. The project shall be served by central water to provide drinking water and fire protection.
  - F. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - G. The Final Site Plan shall contain the approval of the Sussex County Conversation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - H. All streetlights shall be shielded and downward screened so that they do not shine on neighboring properties or roadways.
  - I. The interior street design shall meet or exceed Sussex County’s Street design requirements. There shall be sidewalks on at least one side of all streets.
  - J. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.

- K. Recreational amenities shall be completed no later than the issuance of the 20<sup>th</sup> Residential Building Permit.
- L. As required by Section 115-22 of the Zoning Code for multi-family developments in the AR-1 Zone, the Site Plan shall be revised to include at least 40% of the site as open space and there shall be a 75-foot-wide perimeter buffer along the County Road. The development shall comply with the design, vegetation type, planting, and other requirements of Section 115-22G regarding multi-family dwellings in the AR-1 District.
- M. Construction, site work, and deliveries shall only occur on the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday. No Saturday or Sunday hours are permitted. A 24 inch by 36-inch “NOTICE” sign confirming these hours in both English and Spanish shall be prominently displayed at all entrances to the site during construction.
- N. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributary streams, tidal wetlands, perennial rivers, and nontidal streams. There shall also be a 25-foot-wide buffer from all non-tidal wetlands. There shall be minimum disturbance of trees and other vegetation within these buffer areas. This specifically includes the existing woodlands along the southeastern boundary of the development between the proposed units and the adjacent property. Required silt fencing shall be installed upland of these buffer areas (using the edge of the buffer nearest the interior development) to avoid disturbance. Construction activities within the buffer area shall be minimum. Any disturbance in the buffer area shall be indicated on the Final Site Plan and the “Limits of Disturbance” shall be indicated on the Final Site Plan.
- O. The Final Site Plan shall include a Landscape Plan confirming all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. This Landscape Plan shall further identify all “Limits of Disturbance” within the site.
- P. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- Q. As proffered by the Applicant, the Final Site Plan and the recorded condominium covenants shall prohibit the application of fertilizers or similar soil additives on the property by the individual unit owners. All such applications shall be managed by the Condominium Association and a contractor of its designation using best-managed practices to seek to minimize the risk of runoff into the stormwater management system, wetlands, and waterways.
- R. Because the proposed stormwater management pond is located adjacent to a property used for agricultural purposes including live animals, there shall not be any fountains or similar equipment that might generate noise or spray used in these ponds.
- S. The Final Site Plan and recorded condominium documents shall contain the “Agricultural Use Protection Notice.”
- T. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried to recommend approval of C/U 2249 for Mayapple Farm, LLC for the reasons and conditions stated in the motion. Motion carried 3 – 1 with Ms. Stevenson dissenting.

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date July 8, 2021.

Application: Mayapple Farm, LLC (CU 2249)

Applicant: Mayapple Farm, LLC (Attention: Lawton Myrick)  
5973 Smithy's Lane  
Salisbury, MD 21801

Owner: Mayapple Farm, LLC (Attention: Lawton Myrick)  
5973 Smithy's Lane  
Salisbury, MD 21801

Site Location: Lying on the west side of Williamsville Road (S.C.R. 395), approximately 0.76-mile property southeast of Lighthouse Road (Route 54).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: 41 Multi-family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmatic District: Mr. Rieley

School District: Indian River School District

Fire District: Roxana Fire District

Sewer: Sussex County Public Works

Water: Artesian Water Company

Site Area: 23.70 acres +/-

Tax Map IDs: 533-19.00-289.05



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PLANNING & ZONING DIRECTOR  
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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren Devore, Planner III  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: July 1<sup>st</sup>, 2021  
RE: Staff Analysis for CU 2249 Mayapple Farm, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2249 Mayapple Farm, LLC to be reviewed during the July 8, 2021, 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.

The request is for a Conditional Use (C/U 2249) for 41 multifamily units (single-family detached condominiums) to be located on the west side of Williamsville Road (S.C.R. 395), approximately 0.76 mile southeast of Lighthouse Road (Route 54). The property consists of Tax Parcel 533-19.00-289.05, which contains 20.91 acres +/-.

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 a land use designation of "Coastal Area." The properties to the north, south, west and east of the subject property also have the land use designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided 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 also 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.

The property is zoned Agricultural Residential (AR-1). The properties to the north and west (to include the Bay View Estates Subdivision) are all zoned Agricultural Residential (AR-1) as is the property to the northeast on the opposite side of Williamsville Road (S.C.R. 395). The adjacent community of Americana Bayside to the east of the subject property is zoned Medium Density Residential, Residential Planned Community (MR-RPC).

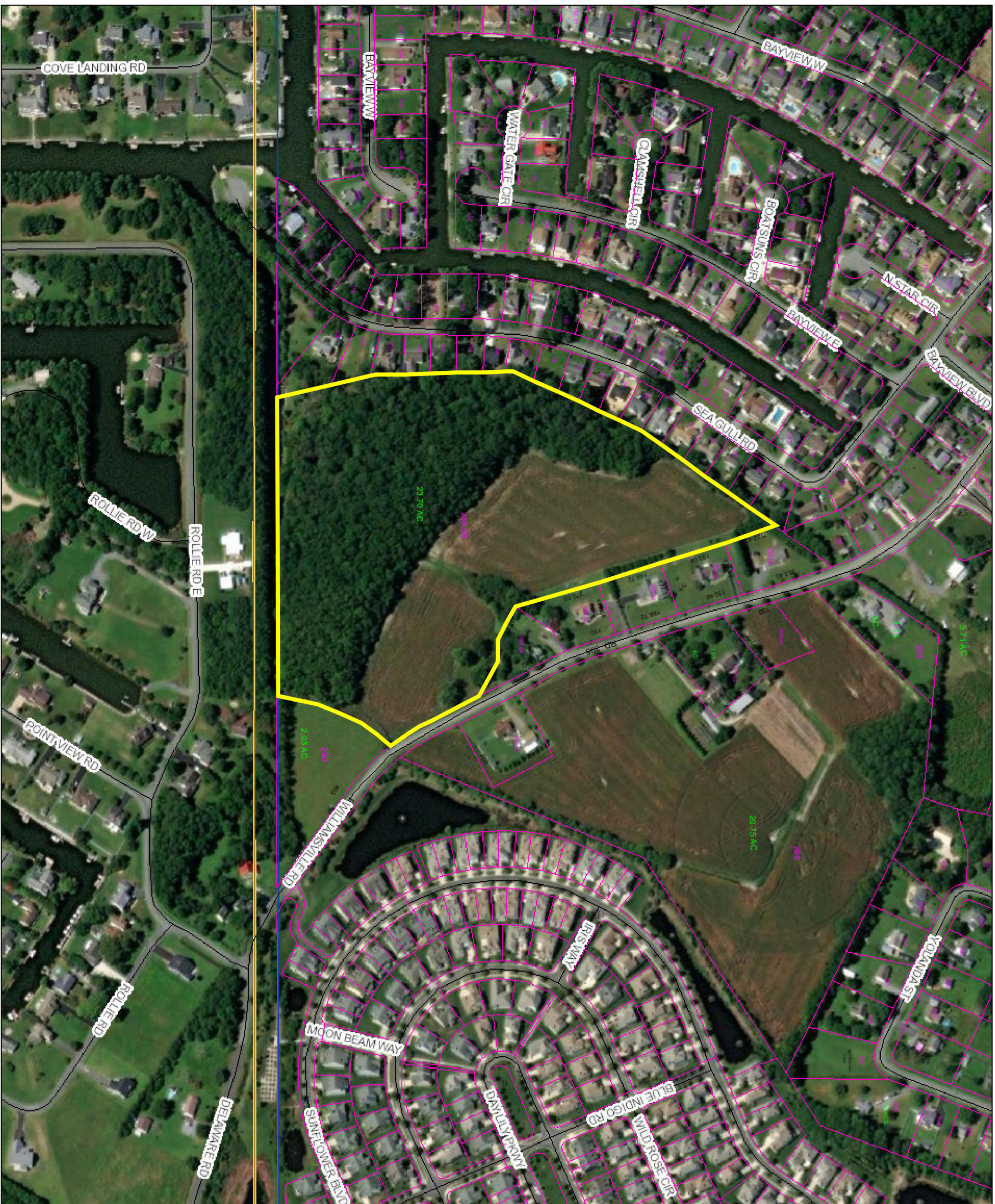
Since 2011, there have been six (6) Conditional Use applications within a 0.5-mile radius of the application site. The first application was for Conditional Use No. 1438 to allow for the expansion of boat storage and amendment to the Conditions of Approval as part of an existing Conditional Use application, C/U 1106. The application was approved by the Sussex County Council at their



meeting of Tuesday, March 15, 2018 and the use was adopted through Ordinance No. 2575. The second application was Conditional Use No. 1367 to allow for a sign shop. The application was approved by the Sussex County Council at their meeting of Tuesday, November 28, 2000 and the use was adopted through Ordinance No. 1417. The third application was Conditional Use No. 2197 to allow for 62 multifamily units (duplex units). The application was approved by the Sussex County Council at their meeting of Tuesday, December 17, 2019 and the use was adopted through Ordinance No. 2701. The fourth application was for Conditional Use No. 1152 to allow for a retail sales and consignment shop. The application was approved by the Sussex County Council at their meeting of Tuesday, April 30, 1996 and the use was adopted through Ordinance No. 1088. The fifth application was Conditional Use No. 1227 to allow for a corn maze recreation activity. The application was approved by the Sussex County Council at their meeting of Tuesday, April 7, 1998 and the use was adopted through Ordinance No. 1225.

It should be noted that the sixth application, also located near the project site, is currently pending hearings before the Planning and Zoning Commission and the Sussex County Council. This application is for Conditional Use No. 2292 to allow for 32 multifamily duplexes.

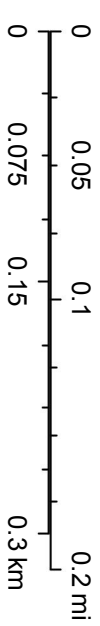
Based on the analysis of the land use, surrounding zoning, and uses, a Conditional Use (C/U 2249) to allow for 41 multifamily units in this location could be considered as being consistent with the land use, area zoning, and surrounding uses.



<b>PIN:</b>	533-19-00-289.05
<b>Owner Name</b>	MAYAPPLE FARM LLC
<b>Book</b>	5351
<b>Mailing Address</b>	5973 SMITHYS LN
<b>City</b>	SALISBURY
<b>State</b>	MD
<b>Description 1</b>	W/RT 395
<b>Description 2</b>	2800' SE/RT 54
<b>Description 3</b>	N/A
<b>Land Code</b>	

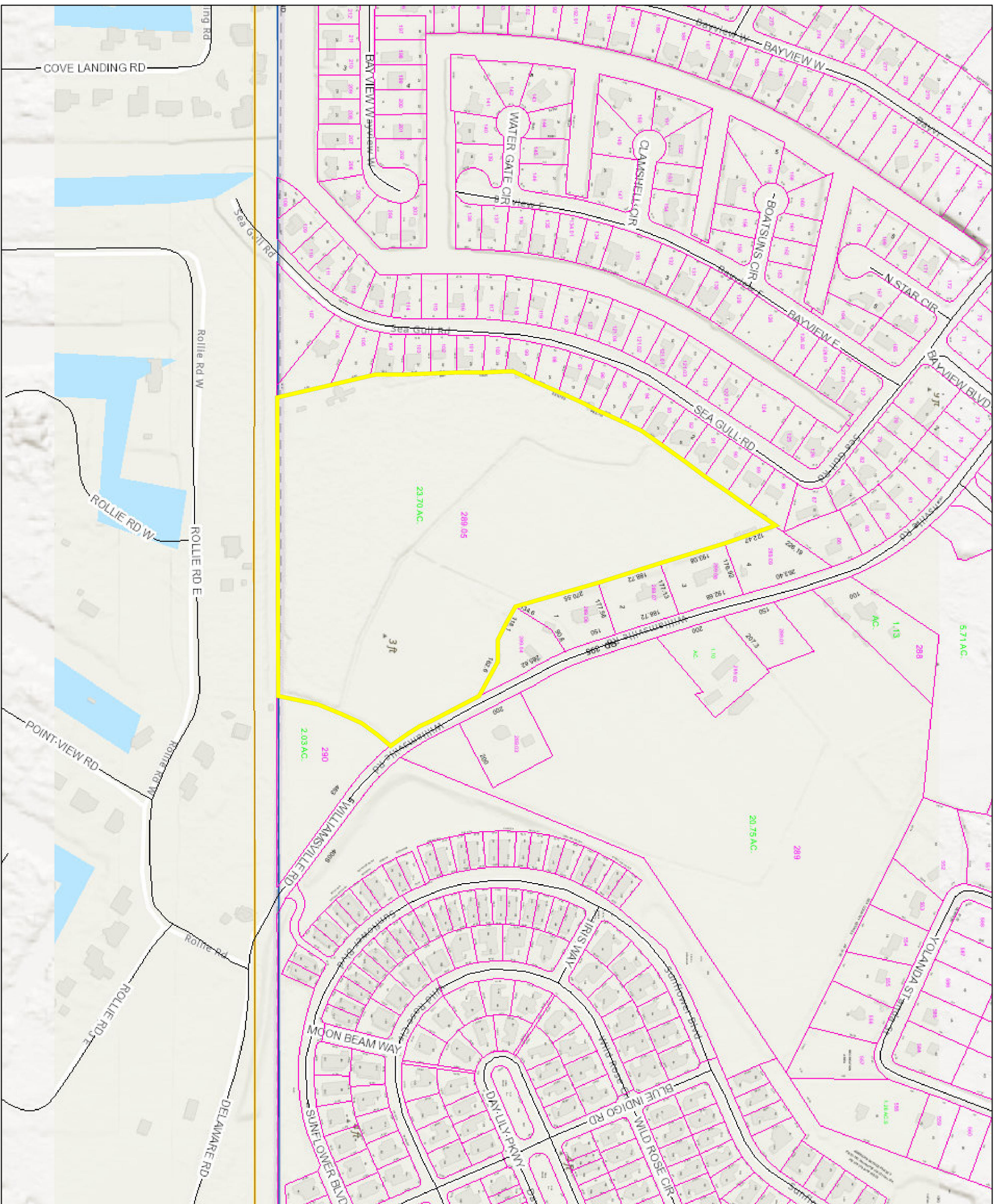
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- Tax Parcels
- Streets
- County Boundaries
- DOE School Districts

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# Sussex County



**PIN:** 533-19-00-289.05

**Owner Name** MAYAPPLE FARM LLC

**Book** 5351

**Mailing Address** 5973 SMITHYS LN

**City** SALISBURY

**State** MD

**Description** W/RT 395

**Description 2** 2800' SE/RT 54

**Description 3** N/A

**Land Code**

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**polygonlayer**

Override 1

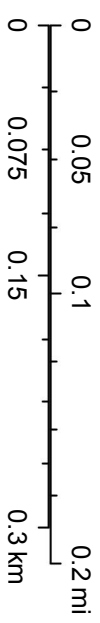
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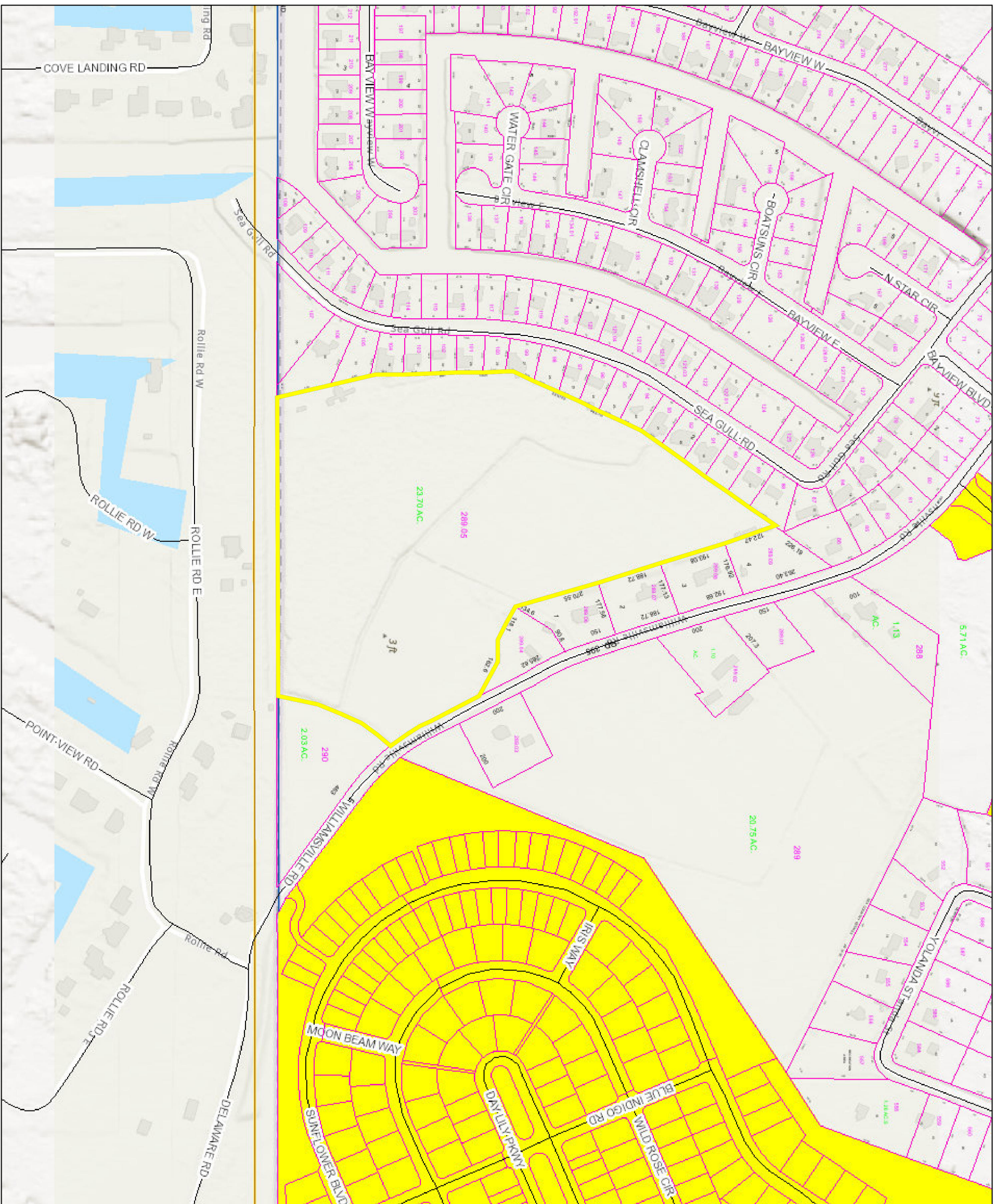
— Streets

□ County Boundaries

□ DOE School Districts

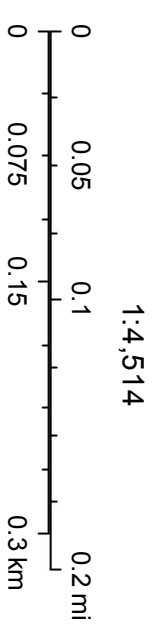
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<b>PIN:</b>	533-19-00-289.05
<b>Owner Name</b>	MAYAPPLE FARM LLC
<b>Book</b>	5351
<b>Mailing Address</b>	5973 SMITHYS LN
<b>City</b>	SALISBURY
<b>State</b>	MD
<b>Description 1</b>	W/RT 395
<b>Description 2</b>	2800' SE/RT 54
<b>Description 3</b>	N/A
<b>Land Code</b>	

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| □            | Tax Parcels |
| —            | Streets     |





**Introduced 11/17/20**

**Council District 5 - Rieley  
Tax I.D. No. 533-19.00-289.05  
911 Address: None Available**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI FAMILY (41 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.91, MORE OR LESS**

**WHEREAS, on the 29<sup>th</sup> day of October 2020, a conditional use application, denominated Conditional Use No. 2249 was filed on behalf of Mayapple Farm, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2249 be \_\_\_\_\_; and**

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

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

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2249 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 west side of Williamsville Road (S.C.R 395) approximately 0.76 mile southeast of Lighthouse Road (Route 54) and being more particularly described in the attached legal description prepared by Cypress Surveys, LLC, said parcel containing 20.91 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.**