

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

**MEETING:  
November 19, 2019**

**\*\*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  
IRWIN G. BURTON III, VICE PRESIDENT  
DOUGLAS B. HUDSON  
JOHN L. RIELEY  
SAMUEL R. WILSON JR.



**Sussex County**

DELAWARE  
sussexcountyde.gov  
(302) 855-7743 T  
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**SUSSEX COUNTY COUNCIL**

**A G E N D A**

**NOVEMBER 19, 2019**

**10:00 A.M.**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes**

**Reading of Correspondence**

**Public Comments**

**Todd Lawson, County Administrator**

- 1. Delaware Department of Transportation TID (Transportation Improvement Districts) Update and Discussion**
- 2. 2020 Council Meeting Schedule and Holiday Schedule**
- 3. Administrator's Report**

**Gina Jennings, Finance Director**

- 1. Fourth Quarter Employee Recognition Awards**

**11:00 a.m. Public Hearings**

- 1. Milo's Haven Annexation into the Sussex County Unified Sanitary Sewer District Millville Area**
- 2. Chase Oaks Annexation into the Sussex County Unified Sanitary Sewer District Angola Neck Area**



**Hans Medlarz, County Engineer**

1. Herring Creek Sanitary Sewer District
  - A. Whitman, Requardt & Associates – Amendment 2 Construction Administration and Project Inspection
2. Wolfe Runne Sewer Expansion
  - A. George, Miles & Buhr, LLC – Standalone USDA Engineering Agreement

**John Ashman, Director of Utility Planning**

1. Chapel Branch Assessment Method Resolution

**Grant Requests**

1. Ducks Unlimited, Inc. for Delaware Ducks Unlimited Greenwing Event

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

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

**Possible Action on Executive Session Items**

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

**Conditional Use No. 2194 filed on behalf of Imagination-Renovation, LLC**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FURNITURE MAKING AND REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (lying on the east side of Rust Road approximately 0.25 mile south of Harbeson Road/Route 5)(Tax I.D. No. 234-4.00-10.32) (911 Address: 20601 Rust Road, Harbeson)**

**Change of Zone No. 1893 filed on behalf of Lisa Horsey**

**”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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.474 ACRE, MORE OR LESS” (lying at the northeast corner of Sussex Highway (Route 13) and Boyce Road) (Tax I.D. No. 132-12.00-113.00) (911 Address: 28537 Sussex Highway, Laurel)**

**Change of Zone No. 1894 filed on behalf of Howard Pepper, Jr.**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.368 ACRES, MORE OR LESS” (lying on the east side of DuPont Blvd. (Route 113), approximately 0.38 mile south of Lazy Lagoon Road) (Tax I.D. No. 533-4.00-61.00) (911 Address: 35029 DuPont Boulevard, Frankford)**

**Adjourn**

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

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In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on November 12, 2019 at 4:25 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.

###

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 12, 2019**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 12, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</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 012 19  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Minutes**

The minutes of November 5, 2019 were approved by consent.

**Public  
Comments**

A public comment period was held and the following spoke: Paul Reiger and Dan Kramer.

**Collective  
Bargaining  
Agreement/  
AFSCME  
AFL-CIO/  
Local  
Union  
1926**

Mr. Lawson reviewed the Collective Bargaining Agreement (CBA) between Sussex County and AFSCME affiliated Local Union No. 1926. The terms of the CBA were agreed upon by both sides after several days of negotiations, including mediation. The terms of the agreement were previously presented to the Council members in Executive Session and a copy of the agreement was previously distributed to the Council members. Mr. Lawson noted that the terms have not changed since last reviewed during a qualified discussion in Executive Session. The members of the Local Union No. 1926 ratified the CBA on November 4, 2019.

**M 013 19**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council authorizes the County Administrator to sign the ratified Collective Bargaining Agreement between Sussex County and the

**M 013 19** Delaware Public Employees Council 81 AFSCME AFL-CIO and its  
**Ratify** Affiliated Local Union 1926.

**Collective  
Bargaining  
Agreement  
(continued)**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Adminis-  
trator's  
Report**

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

**1. Advisory Committee on Aging & Adults with Physical Disabilities for  
Sussex County**

**The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet November 18<sup>th</sup> at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. The Conference Planning Subcommittee will also meet at 11:30 a.m. to discuss planning for the May 8, 2020, conference. A copy of the agenda for each meeting is attached.**

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

**Western  
Sussex  
Trans-  
mission  
Facilities/  
Contract 4/  
Project  
S19-28**

**Hans Medlarz, County Engineer, presented the bid results for the Western Sussex Transmission Facilities, Contract 4, Pump Stations, Project S19-28. The pump stations will be located in Bridgeville and Seaford. Four bids were received; Zack's Excavating, Inc. submitted the lowest responsible bid in the amount of \$3,236,939.00. The Engineering Department and George, Miles & Buhr recommend awarding the project to Zack Excavating, Inc. in the amount of \$3,236,939.00, which includes the Total Base Bid, including Bid Alternate No. 1.**

**M 014 19**  
**Award**  
**Contract**  
**S19-28/  
Western**  
**Sussex**  
**Trans-  
mission**  
**Facilities**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Contract S19-28, Western Sussex Transmission Facilities, Contract 4, Pump Stations, be awarded to Zack Excavating, Inc. for the Base and Alternate No. 1 total bid of \$3,236,939.00.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**FY 2019**  
**General**  
**Labor &**  
**Equipment**  
**Contract**

**Hans Medlarz, County Engineer, presented Change Order No. 2 to the FY 2019 General Labor & Equipment Contract, Project No. 19-01. Mr. Medlarz reported that several emergencies and several urgent repairs resulted in the Change Order; in order to cover the expanded scope, the**

(continued) **Engineering Department requests approval of Change Order No. 2, in the total amount of \$292,200.00. Mr. Medlarz presented a list of items that are covered in Change Order No. 2.**

**M 015 19**  
**Approve**  
**Change**  
**Order/**  
**Contract**  
**19-01/**  
**FY 2019**  
**General**  
**Labor &**  
**Equipment**  
**Contract**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2, FY 20, for Contract 19-01, FY 19 General Labor & Equipment Contract, in the amount of \$292,200.00, be approved for emergency work and urgent repair items.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Grant**  
**Request**

**Mrs. Jennings presented a grant request for Council's consideration.**

**M 016 19**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to give \$1,000.00 (\$500.00 each from Mr. Rieley's and Mr. Vincent's Councilmanic Grant Accounts) to the Good Samaritan Aid Organization for their annual Christmas outreach for needy families.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Old**  
**Business/**  
**CU 2183**

**Under Old Business, the Council considered Conditional Use No. 2183 filed on behalf of Brent and Lisa Hershey.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred. On September 26, 2019, the Commission recommended approval with conditions.**

**The County Council held a Public Hearing on this application on September 24, 2019 at which time action was deferred.**

**The public record was officially closed on October 8, 2019.**

**M 017 19**  
**Adopt**  
**Ordinance**  
**No. 2688/**  
**CU 2183**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2688 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE OR LESS" (Conditional**

**M 017 19**  
**Adopt**  
**Ordinance**  
**No. 2688/**  
**CU 2183**  
**(continued)**

**Use No. 2183) filed on behalf of Brent & Lisa Hershey, with the following conditions:**

- A. There shall not be any outside storage on the premises. This includes the prohibition against outside storage of building materials, construction materials, boats and RVs within the site.**
- B. The storage shall be limited to the structure that is identified as “The Existing Hog Barn” which is no longer used in farming operations. The collapsed dairy barn may not be rebuilt and used for storage purposes.**
- C. As stated by the Applicant, no sign shall be permitted.**
- D. The site shall be posted with hours of operation limited to 6:00 a.m. until 9:00 p.m. seven (7) days per week.**
- E. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.**
- F. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Old**  
**Business/**  
**CU 2184**

**Under Old Business, the Council considered Conditional Use No. 2184 filed on behalf of Linda Ann Yupco-Connors.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred. On September 26, 2019, the Commission recommended denial .**

**The County Council held a Public Hearing on this application on September 24, 2019 at which time action was deferred.**

**The public record officially closed on October 8, 2019.**

**M 018 19**  
**Adopt**  
**Proposed**  
**Ordinance/**  
**CU 2184**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS” (Conditional Use No. 2184) filed on behalf of Linda Ann Yupco-Connors.**

**Denied**

**Motion Denied: 5 Nays.**

**Vote by Roll Call: Mr. Hudson, Nay; Mr. Rieley, Nay;  
Mr. Wilson, Nay; Mr. Burton, Nay;  
Mr. Vincent, Nay**



**Old  
Business/  
CU 2187**

**Under Old Business, the Council considered Conditional Use No. 2187 filed on behalf of Daniel Ostinvil.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred. On September 26, 2019, the Commission recommended denial.**

**The County Council held a Public Hearing on this application on September 24, 2019 at which time action was deferred.**

**The public record officially closed on October 8, 2019.**

**M 019 19  
Adopt  
Ordinance  
No. 2689/  
CU 2187**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2689 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MOTOR VEHICLE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.1657 ACRE, MORE OR LESS” (Conditional Use No. 2187) filed on behalf of Daniel Ostinvil, with the following conditions:**

- A. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- D. The site shall be subject to all DelDOT entrance and roadway requirements.**
- E. The cars shall be parked within a fenced area, and the fence and parking area shall be shown on the Final Site Plan.**
- F. The automotive sales hours shall only be from 9:00 a.m. through 3:30 p.m., Monday through Friday, and 9:00 a.m. until 2:30 p.m. on Saturdays. There shall not be any Sunday hours.**
- G. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.**
- H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Lodging  
Tax  
Ordinance**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION**

**Public  
Hearing/  
Lodging  
Tax  
Ordinance  
(continued)**

**OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY”.**

**Synopsis: This Ordinance amends Chapter 103 (“Taxation”) of the Sussex County Code by adopting a new Article VI, §§ 103-39 through 103-42 which shall permit the imposition of a local lodging tax of no more than 3% of the rent for any room in hotel, motel or tourist home in the unincorporated areas of Sussex County in accordance with 9 Del. C. § 8112(b). The effective date for the tax imposed by this ordinance is January 1, 2020. Accordingly, operators of hotels, motels and tourist homes shall remit to the Sussex County Department of Finance, or its designee, the lodging tax imposed herein for January 2020 no later than February 15, 2020.**

**Mr. Lawson explained that this initiative started more than a year ago when the Delaware General Assembly approved enabling legislation for New Castle County to enact a lodging tax in that county only. With legislators’ support, both Sussex and Kent counties were successful in having the General Assembly pass enabling legislation for the remaining two counties this year (House Bill 228). Per the legislation, Sussex County may impose up to a 3% tax of the rent for any room or rooms in a hotel, motel, or tourist home, as defined by Delaware Code. The tax does not apply to short-term rentals, i.e. Airbnbs, VRBOs, etc. The tax only applies to venues within unincorporated Sussex County. The legislation approved for Sussex County limited the funding categories; the lodging tax funding can only be spent on projects within Sussex County and only on the following: capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality and flood control projects. In addition, Sussex County is permitted to use up to 5% of the funding for administration costs. To implement this new lodging tax, Council is required to pass an ordinance establishing the levy.**

**Mr. Lawson reported on the County’s proposal to collect the funds. If the Proposed Ordinance is passed, the funds will be collected through a monthly payment voucher; collections would begin in January 2020. It is estimated that this tax will generate \$1.3 million annually for Sussex County. This funding will be placed in a “lock box” account and controlled by the Sussex County Council; any future expenditures will be decided by the County Council and deliberated during the annual budget approval process. A priority will be focused on waterway dredging; County staff has already met with DNREC staff and identified eligible projects.**

**Mr. Lawson announced that information, including the monthly payment voucher, is available on the County’s website at [www.sussexcountvde.gov/lodging-tax](http://www.sussexcountvde.gov/lodging-tax).**

**Public comments were heard.**

**Public  
Hearing/  
Lodging  
Tax  
Ordinance  
(continued)**

**Dan Kramer stated that the County has surplus money in the budget and he questioned why the County is taxing for something when the funding is not needed. Mr. Kramer opposed the funding going to DNREC projects.**

**Julie Cummings, motel owner, stated that she is not opposed to the 3 percent but she is opposed to the State's definition of what a tourist home is; that the State needs to change the definition to include everyone, including condos, campgrounds, and Airbnbs; that renters of short term rentals use the beaches and they are all beneficiaries of the tourism programs in the County; and that excluding short term rentals from paying the tax gives them an unfair advantage. Ms. Cummings asked Council to send the legislation back to the State asking them to institute a fee on short term rentals.**

**Coy Johnston, hotel owner, stated that this extra tax will be a burden on the guests; that the hotel business is seasonal; that reservations were down in 2019; and that there is a fine line where hotels/motels will be charging too much.**

**Reinie Thompson, hotel manager, stated that she agrees with the other two speakers; that when you add the State tax with this proposed tax, it totals 11 percent, which is more than the tax in Ocean City, Maryland; that where the funding is going is loosely defined; that she questions if any research has been done on short term rentals and how much the County would gain; that possibly a smaller tax could be charged to short term rentals; and that this year has been a down year for the hotel/motel industry in the County.**

**Scott Thomas, Executive Director of Southern Delaware Tourism, stated that the Council needs to be conscious of what other regions are charging; that Sussex County needs to remain competitive; that when large groups come in, they pay close attention to taxes/costs; and that there is pressure on hotels and motels by short term rentals.**

**Gina White, Realtor, referenced definitions being used to define tourism housing versus short term lodging and she stated that this is an issue that impacts realtors.**

**There were no additional public comments.**

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

**M 020 19  
Adopt  
Ordinance  
No. 2687**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2687 entitled "AN ORDINANCE TO AMEND CHAPTER 103 ("TAXATION") OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY".**

**M 020 19  
(continued)**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 021 19  
Go Into  
Executive  
Session**

**At 11:02 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation and land acquisition.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 11:05 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation and land acquisition. The Executive Session concluded at 12:03 p.m.**

**M 022 19  
Reconvene  
Regular  
Session**

**At 12:09 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted: 4 Yeas, 1 Absent.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 023 19  
Land  
2019-R**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the Sussex County Council authorizes the County Administrator to negotiate, enter into a contract, and proceed to closing on property identified as Land 2019-R.**

**Motion Adopted: 4 Yeas, 1 Absent.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 024 19  
Adjourn**

**At 12:09 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to adjourn.**

**Motion Adopted: 4 Yeas, 1 Absent.**

**M 024 19  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

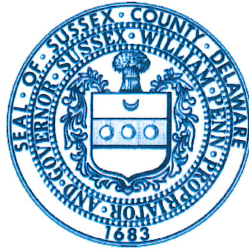
**Respectfully submitted,**

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

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

**DRAFT**


TODD F. LAWSON  
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**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson Jr.

FROM: Todd F. Lawson  
County Administrator 

RE: 2020 MEETING AND HOLIDAY SCHEDULE

DATE: November 15, 2019

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During Tuesday's meeting, the Council is scheduled to discuss and approve the 2020 Meeting and Holiday Schedule. As in past years, the County will follow the typical holiday schedule and will be closed on the traditional holidays, including:

- New Year's Day
- Martin Luther King Jr. Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Election Day
- Return Day
- Veterans Day
- Thanksgiving
- Christmas

Regarding the County Council's meeting schedule, the Council is scheduled to meet every Tuesday except on days affected by a holiday and days we select to not meet. If an additional meeting is needed, Council can always schedule one at its discretion.


I will review the full schedule during Tuesday's meeting. Please let me know if you have any questions or concerns.




## Milo's Haven Expansion Facts

- Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area).
- Requested by DBF (Davis Bowen & Friedel) on behalf of their clients Norman Stephen Price Revocable Trust for parcels 134-19.00-13.03 & 134-18.00-38.00.
- County Council granted Permission to Prepare & Post notices on October 22, 2019.
- The area was posted, and notice placed on the website on November 4, 2019. The annexation was advertised the week of the 4<sup>th</sup> and the 11<sup>th</sup>.
- \* • We have received a request to add another parcel 134-16.00-1212.00 to the boundary as well. The project will be obtaining an easement from this parcel for infrastructure installation and providing a connection point for them.
- The project is proposed at 179 EDUs and wishes to connect to existing infrastructure installed by the County. An Infrastructure Use Agreement will be required.
- The expansion will consist of 93.00 acres more or less.
- The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.

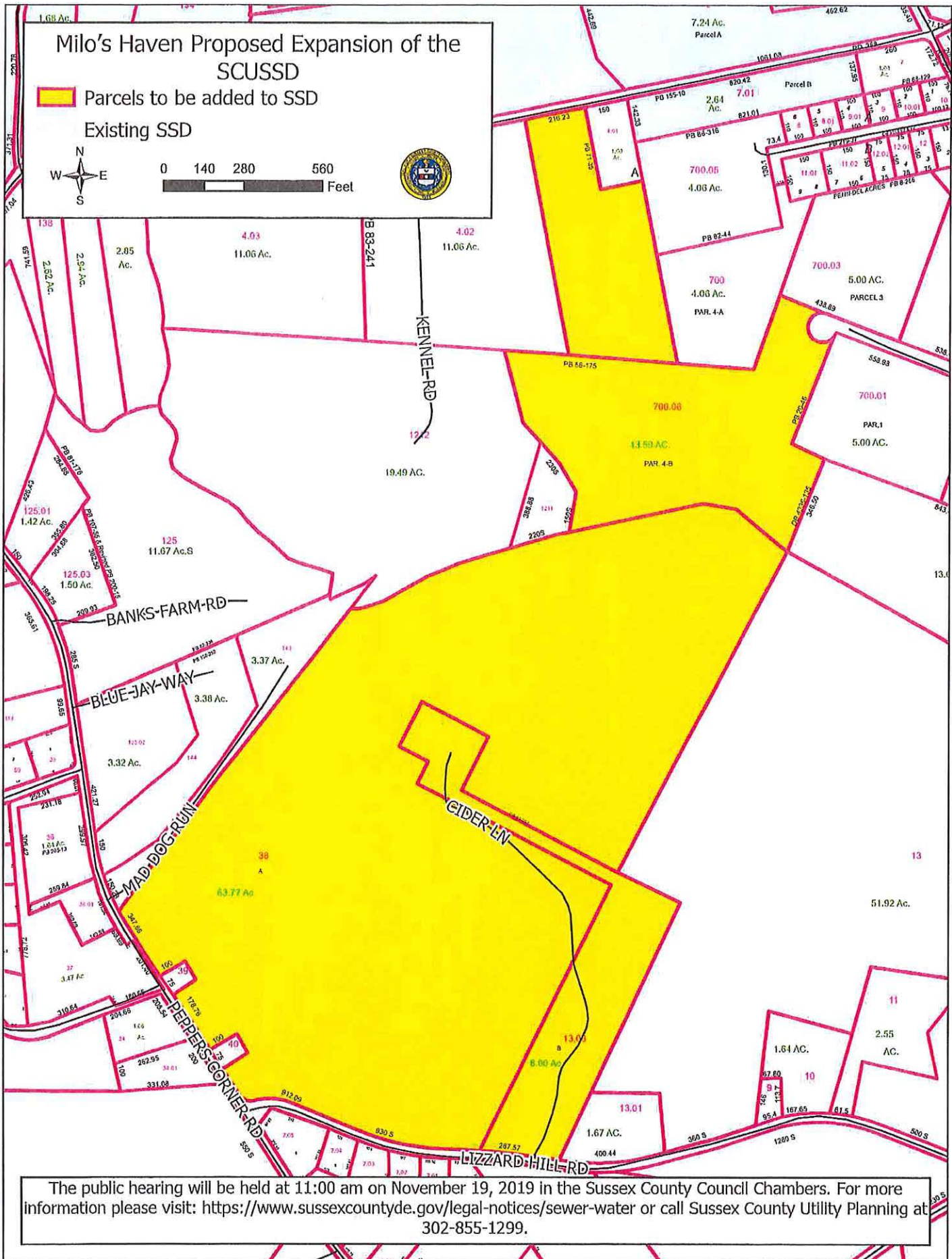
# Milo's Haven Proposed Expansion of the SCUSSD

 Parcels to be added to SSD

 Existing SSD




0 140 280 560 Feet



The public hearing will be held at 11:00 am on November 19, 2019 in the Sussex County Council Chambers. For more information please visit: <https://www.sussexcountycle.gov/legal-notice/sewer-water> or call Sussex County Utility Planning at 302-855-1299.



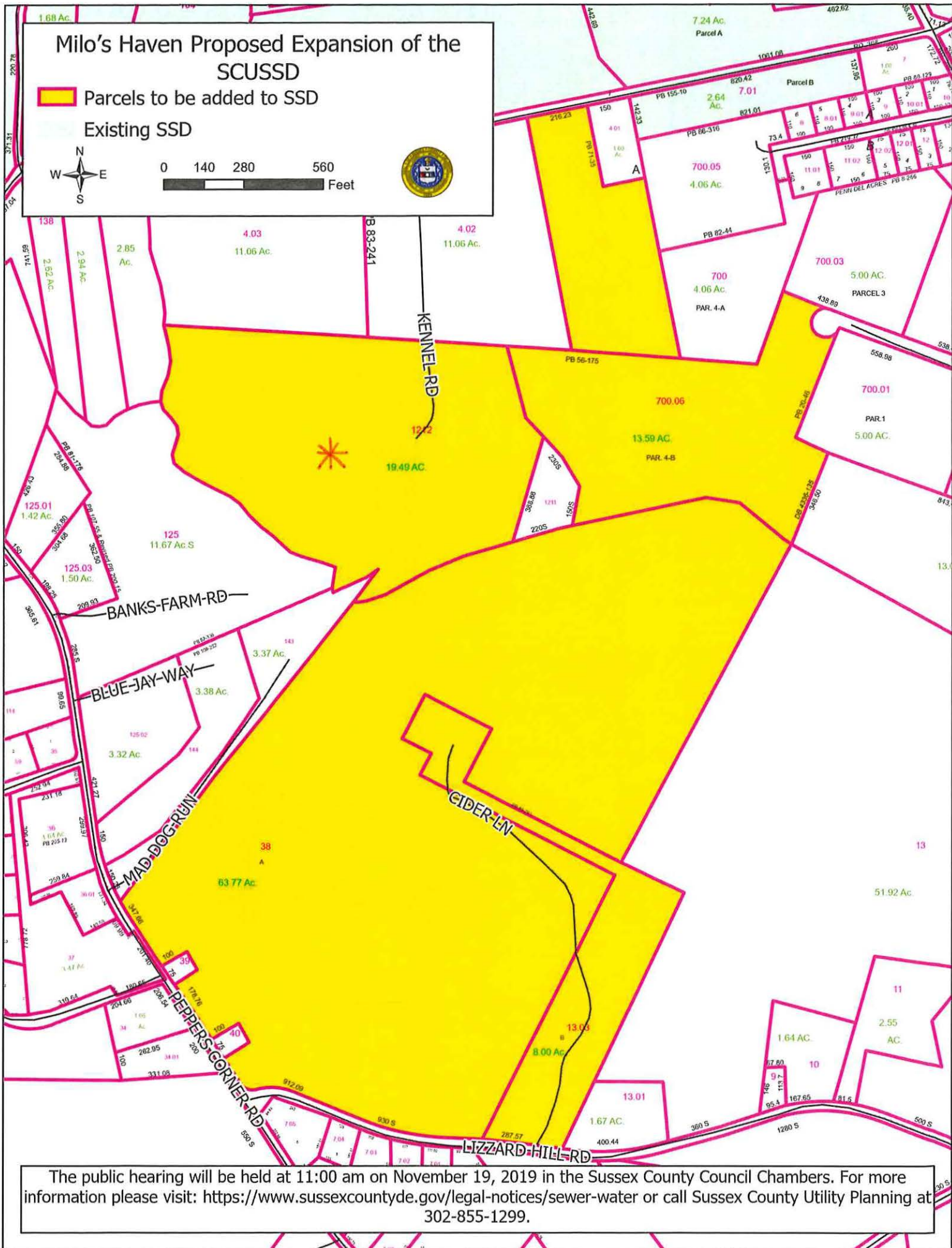
# Milo's Haven Proposed Expansion of the SCUSSD

 Parcels to be added to SSD

 Existing SSD



0 140 280 560 Feet



The public hearing will be held at 11:00 am on November 19, 2019 in the Sussex County Council Chambers. For more information please visit: <https://www.sussexcountyde.gov/legal-notices/sewer-water> or call Sussex County Utility Planning at 302-855-1299.

# **PUBLIC NOTICE**

## **PROPOSED MILO'S HAVEN EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (MILLVILLE AREA)**

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on **October 22, 2019** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Millville Area, to include the Milo's Haven subdivision and two other parcels on Beaver Dam Road and Lizard Hill Road, being situate in Baltimore Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

**Beginning** at a point, said point being on the SCUSSD boundary, said point also being on the southerly Right-of-Way (ROW) of Beaver Dam Road, said point further being the northwesternmost property corner of lands Now or Formerly (N/F) of Jerry Garland Chandler; thence proceeding by and with said lands in an easterly direction a distance of 216' ± to a point, said point being the northeasternmost property corner of said lands of Chandler, said point also being the northwesternmost property corner of lands N/F of Kaye E. Wells, Trustee; thence leaving said SSD and ROW and proceeding by and with said Chandler and Wells property lines in a southerly and easterly direction respectively a distance of 440' ± to a point, said point being the southeasternmost property corner of said lands of Wells; thence leaving said Wells lands and continuing by and with said Chandler lands in a southerly direction a distance of 646' ± to a point; said point being the southeasternmost property corner of said lands of Chandler, said point also being on the property line of lands N/F David W. Goodman & Kelly L. Goodman; thence leaving said Chandler lands and proceeding by and with said Goodman lands in an easterly, northerly, southeasterly, in a circle at the cul-de-sac of Pine Bark Ln. a total distance of 923' ± to a point, said point being on an easterly property line of said lands Goodman, said point also being on the westernmost property line of other lands N/F David W. Goodman & Kelly L. Goodman; thence proceeding by and with the original lands of Goodman in a southerly, easterly, and southerly direction respectively a total distance of 879' ± to a point, said point being the southeasternmost property corner of said lands of Goodman, said point also being the northeasternmost property corner of lands N/F Norman Stephen Price Revocable Trust; thence leaving said Goodman lands and proceeding by and with said Price lands in a southwesterly direction a distance of 1,266' ± to a point, said point being on a property line of other lands of Price; thence proceeding by and with said other lands of Price in a southeasterly and southwesterly and northwesterly direction respectively a total distance of 1,528' ± to a point, said point being the southwesternmost property corner of said other lands Price, said point also being the southeasternmost property corner of original lands of Price; thence proceeding by and with said original lands of Price in a westerly, northwesterly, northeasterly, northwesterly, southwesterly, northwesterly, northeasterly, northwesterly, southwesterly and northwesterly direction respectively a distance of 2,086' ± to a point, said point being the southeasternmost property corner of lands N/F Joanna M. White et. al.; thence continuing with said Price lands in a generally northeasterly direction a distance of 2,152' ± to a point, said point being a point on a property line of lands of Price and a common property corner of lands N/F of Mary Banks et. al., & David W. Goodman & Kelly L. Goodman; thence leaving said Price lands and continuing by and with said Goodman lands in a northwesterly, northeasterly and southeasterly direction respectively a total distance of 938' ± to a point, said point being the southwesternmost property corner of lands N/F of Jerry Garland

Chandler; thence leaving said Goodman lands and proceeding by and with said Chandler lands in a northerly direction a distance of 833'± to a point, said point being that of the BEGINNING.

NOTE: The above description has been prepared using Sussex County Tax Map 134-16.00, 18.00 and 19.00 and Sussex County property assessment records. The annexation contains 93 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 11:00 a.m. on November 19, 2019 in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299).

Hans M. Medlarz, P.E.  
County Engineer

## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLVILLE AREA, TO INCLUDE THE MILO'S HAVEN SUBDIVISION LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Milo's Haven subdivision, the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Rob Davis, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Milo's Haven subdivision and further described as follows:

**Beginning** at a point, said point being on the SCUSSD boundary, said point also being on the southerly Right-of-Way (ROW) of Beaver Dam Road, said point further being the northwesternmost property corner of lands Now or Formerly (N/F) of Jerry Garland Chandler; thence proceeding by and with said lands in an easterly direction a distance of 216' ± to a point, said point being the northeasternmost property corner of said lands of Chandler, said point also being the northwesternmost property corner of lands N/F of Kaye E. Wells, Trustee; thence leaving said SSD and ROW and proceeding by and with said Chandler and Wells property lines in a southerly and easterly direction respectively a distance of 440'± to a point, said point being the southeasternmost property corner of said lands of Wells; thence leaving said Wells lands and continuing by and with said Chandler lands in a southerly direction a distance of 646'± to a point; said point being the southeasternmost property corner of said lands of Chandler, said point also being on the property line of lands N/F David W. Goodman & Kelly L. Goodman; thence leaving said Chandler lands and proceeding by and with said Goodman lands in an easterly, northerly, southeasterly, in a circle at the cul-de-sac of Pine Bark Ln. a total

distance of 923'± to a point, said point being on an easterly property line of said lands Goodman, said point also being on the westernmost property line of other lands N/F David W. Goodman & Kelly L. Goodman; thence proceeding by and with the original lands of Goodman in a southerly, easterly, and southerly direction respectively a total distance of 879'± to a point, said point being the southeasternmost property corner of said lands of Goodman, said point also being the northeasternmost property corner of lands N/F Norman Stephen Price Revocable Trust; thence leaving said Goodman lands and proceeding by and with said Price lands in a southwesterly direction a distance of 1,266'± to a point, said point being on a property line of other lands of Price; thence proceeding by and with said other lands of Price in a southeasterly and southwesterly and northwesterly direction respectively a total distance of 1,528'± to a point, said point being the southwesternmost property corner of said other lands Price, said point also being the southeasternmost property corner of original lands of Price; thence proceeding by and with said original lands of Price in a westerly, northwesterly, northeasterly, northwesterly, southwesterly, northwesterly, northeasterly, northwesterly, southwesterly and northwesterly direction respectively a distance of 2,086'± to a point, said point being the southeasternmost property corner of lands N/F Joanna M. White et. al.; thence continuing with said Price lands in a generally northeasterly direction a distance of 2,152'± to a point, said point being a point on a property line of lands of Price and a common property corner of lands N/F of Mary Banks et. al., & David W. Goodman & Kelly L. Goodman; thence leaving said Price lands and continuing by and with said Goodman lands in a northwesterly, northeasterly and southeasterly direction respectively a total distance of 938'± to a point, said point being the southwesternmost property corner of lands N/F of Jerry Garland Chandler; thence leaving said Goodman lands and proceeding by and with said Chandler lands in a northerly direction a distance of 833'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 134-16.00, 18.00 & 19.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
MILO'S HAVEN ANNEXATION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )( :  
COUNTY OF SUSSEX )(

BE IT REMEMBERED That the subscriber, ROB DAVIS personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On November 4, 2019 he was a Planner for the Sussex County Engineering Department, Sussex County, State of Delaware, and
- B. On November 4, 2019 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations within the area being considered for annexation:
  - 1. On a stake near the stop sign at the intersection of the westerly end of Lizzard Hill Road with Peppers Corner Road, and near Delaware Electric Cooperative pole 20211;
  - 2. On a stake near the intersection of the southerly end of Mad Dog Run with Peppers Corner Road, and near Delaware Electric Cooperative pole 20204;
  - 3. On a stake near the intersection of the southerly end of Cider Lane with the northerly right of way of Lizzard Hill Road;
  - 4. On a stake near the southerly right-of-way of Beaver Dam Road and also near the northerly property line of parcel 134-16.00-4.00, and further near Delaware Electric Cooperative pole 22284;
  - 5. On a stake near the easterly right-of-way of Peppers Corner Road and the northerly property line of parcel 134-16.00-4.00, and near Delaware Electric Cooperative pole 20208, across from 35568 Peppers Corner Road.

  
ROB DAVIS

SWORN TO AND SUBSCRIBED before me on this, 17<sup>th</sup> day of Nov, A.D., 2019.

  
NOTARY PUBLIC

SHARON E. SMITH  
NOTARY PUBLIC  
STATE OF DELAWARE

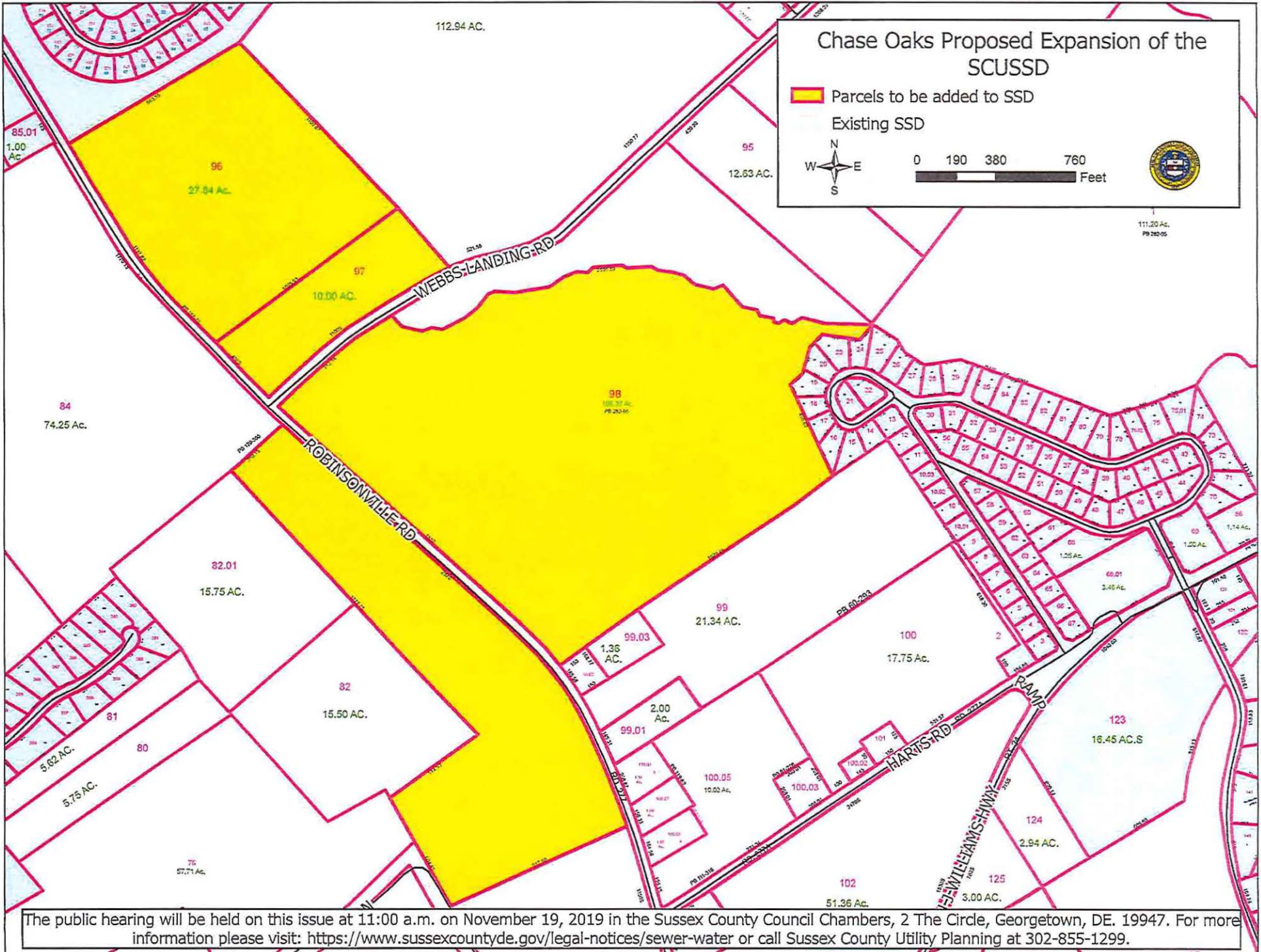
My Commission Expires

6/14/2022

My Commission Expires on 6/14/22

## **Chase Oaks Expansion Facts**

- Expansion of the Sussex County Unified Sanitary Sewer District (Angola Area).
- Requested by Solutions IPEM on behalf of their client Charter Oak Investment, LLC for parcels 234-6.00-96.00, 97.00 & 98.00.
- County Council granted Permission to Prepare & Post notices on October 22, 2019.
- The area was posted, and notice placed on the website on November 4, 2019. The annexation was advertised the week of the 4<sup>th</sup> and the 11<sup>th</sup>.
- The project is proposed at 254 EDUs and wishes to connect to existing infrastructure installed by the County. An Infrastructure Use Agreement will be required.
- The expansion will consist of 175.34 acres more or less.
- The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.



The public hearing will be held on this issue at 11:00 a.m. on November 19, 2019 in the Sussex County Council Chambers, 2 The Circle, Georgetown, DE. 19947. For more information please visit: <https://www.sussexcountyde.gov/legal-notice/ sewer-water> or call Sussex County Utility Planning at 302-855-1299.



# PUBLIC NOTICE

## PROPOSED CHASE OAKS EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (ANGOLA NECK AREA)

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on **October 22, 2019** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Angola North Area, to include the Chase Oaks subdivision on Robinsonville Road, being situate in Indian River Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

**Beginning** at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point being the northeasternmost property corner of lands Now or Formally (N/F) of Rose M. Bryan & Terry Allen Bryan; thence proceeding by and with said SCUSSD and Bryan property boundaries in a generally southwesterly and southeasterly directions respectively a total distance of 1,000'± to a point, said point being the southernmost property corner of lands N/F of Steven L. Hess; thence leaving said SCUSSD boundary and continuing with said Bryan lands in a southwesterly direction a distance of 1,603'± to a point, said point being the northwesternmost property corner of lands N/F of William Lardi, Trustee, said point also being on the northerly Right Of Way (ROW) of Robinsonville Road; thence leaving said Bryan lands and proceeding in a southwesterly direction across Robinsonville Road a total distance of 50'± to a point, said point being on the southerly ROW of Robinsonville Road, said point also being on the property line of the same lands of Bryan; thence proceeding by and with said ROW and Bryan lands in a southeasterly direction a distance of 951'± to a point, said point being the northeasternmost property corner of lands N/F of Robert Roland Hill, Jr., Trustee; thence leaving said ROW and proceeding by and with said Bryan lands in a southwesterly, northwesterly, northeasterly, northwesterly and northeasterly direction respectively a total distance of 4,146'± to a point, said point being on the southerly ROW of Robinsonville Road, said point also being the easternmost property corner of lands N/F of John M. Novosel and Linda C. Novosel; thence leaving said Bryan lands and proceeding by and with said ROW and Novosel lands in a northwesterly direction a distance of 1,720'± to a point, said point being on the SCUSSD (West Rehoboth Area) boundary; thence leaving said ROW and Novosel lands and proceeding by and with said SCUSSD boundary in a northeasterly direction a distance of 1,013'± to a point, said point being the northwesternmost property corner of lands N/F of Deerfield Farm, Inc.; thence leaving said SCUSSD boundary and proceeding by and with said Deerfield Farm lands in a southeasterly direction a distance of 1,576'± to a point, said point being on the northwesterly ROW of Webbs Landing Road, said point also being the easternmost property corner of lands N/F of Annie S. Eighmie, James W. Eighmie & Louise Turner; thence leaving said Deerfield lands and proceeding by and with said ROW and Eighmie lands in a southwesterly direction a distance of 398'± to a point, said point being on said lands of Eighmie boundary and said ROW; thence leaving said Eighmie lands and ROW and proceeding across Webbs Landing Road in a southeasterly direction a distance of 50'± to a point, said point being on the southeasterly ROW of Webbs Landing Road, said point also being a property corner of land N/F of Rose M. & Terry A. Bryan; thence leaving said ROW and proceeding by and with said Bryan lands following the centerline of a meandering natural swale in a generally easterly direction a distance of 2,568'± to a point, said point being that of the **BEGINNING**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-6.00 & 7.00 and Sussex County property assessment records. The annexation contains 144 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 11:00 a.m. on November 19, 2019 in the Sussex County Council Chambers, 2 The Circle, Georgetown, Delaware 19947. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299).

Hans M. Medlarz, P.E.  
County Engineer

## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE CHASE OAKS SUBDIVISION LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Chase Oaks subdivision, the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Rob Davis, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Chase Oaks subdivision and further described as follows:

**Beginning** at a point, said point being on the SCUSSD (Angola Neck Area) boundary, said point being the northeasternmost property corner of lands Now or Formally (N/F) of Rose M. Bryan & Terry Allen Bryan; thence proceeding by and with said SCUSSD and Bryan property boundaries in a generally southwesterly and southeasterly directions respectively a total distance of 1,000'± to a point, said point being the southernmost property corner of lands N/F of Steven L. Hess; thence leaving said SCUSSD boundary and continuing with said Bryan lands in a southwesterly direction a distance of 1,603'± to a point, said point being the northwesternmost property corner of lands N/F of William Lardi, Trustee, said point also being on the northerly Right Of Way (ROW) of Robinsonville Road; thence leaving said Bryan lands and proceeding in a southwesterly direction across Robinsonville Road a total distance of 50'± to a point, said point being on the southerly ROW of Robinsonville Road, said point also being on the property line of the same lands of Bryan; thence proceeding by and with said ROW and Bryan lands in a southeasterly direction a distance of 951'± to a point, said point being the northeasternmost property corner of lands N/F of Robert Roland Hill, Jr., Trustee;

thence leaving said ROW and proceeding by and with said Bryan lands in a southwesterly, northwesterly, northeasterly, northwesterly and northeasterly direction respectively a total distance of 4,146'± to a point, said point being on the southerly ROW of Robinsonville Road, said point also being the easternmost property corner of lands N/F of John M. Novosel and Linda C. Novosel; thence leaving said Bryan lands and proceeding by and with said ROW and Novosel lands in a northwesterly direction a distance of 1,720'± to a point, said point being on the SCUSSD (West Rehoboth Area) boundary; thence leaving said ROW and Novosel lands and proceeding by and with said SCUSSD boundary in a northeasterly direction a distance of 1,013'± to a point, said point being the northwesternmost property corner of lands N/F of Deerfield Farm, Inc.; thence leaving said SCUSSD boundary and proceeding by and with said Deerfield Farm lands in a southeasterly direction a distance of 1,576'± to a point, said point being on the northwesterly ROW of Webbs Landing Road, said point also being the easternmost property corner of lands N/F of Annie S. Eighmie, James W. Eighmie & Louise Turner; thence leaving said Deerfield lands and proceeding by and with said ROW and Eighmie lands in a southwesterly direction a distance of 398'± to a point, said point being on said lands of Eighmie boundary and said ROW; thence leaving said Eighmie lands and ROW and proceeding across Webbs Landing Road in a southeasterly direction a distance of 50'± to a point, said point being on the southeasterly ROW of Webbs Landing Road, said point also being a property corner of land N/F of Rose M. & Terry A. Bryan; thence leaving said ROW and proceeding by and with said Bryan lands following the centerline of a meandering natural swale in a generally easterly direction a distance of 2,568'± to a point, said point being that of the **BEGINNING.**

NOTE: The above description has been prepared using Sussex County Tax Map 234-6.00 & 7.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT.  
CHASE OAKS ANNEXATION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )(

COUNTY OF SUSSEX )(

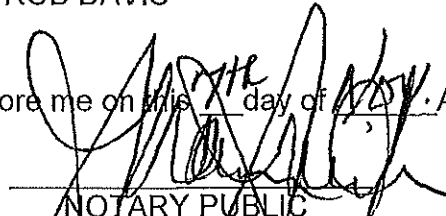
BE IT REMEMBERED That the subscriber, ROB DAVIS personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On November 4, 2019 he was a Planner for the Sussex County Engineering Department, Sussex County, State of Delaware, and
- B. On November 4, 2019 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations within the area being considered for annexation:
  - 1. On a stake near the northerly right of way of Webb's Landing Road, approximately 500 feet northeasterly of the intersection of Webb's Landing Road and Robinsonville Road;
  - 2. On a stake near the southerly corner of the intersection of Webb's Landing Road and Robinsonville Road;
  - 3. On a stake near the westerly right of way of Robinsonville Road, and also near Delaware Electric Cooperative pole 32298;
  - 4. On a stake near the easterly right of way of Robinsonville Road, approximately 75-foot northwesterly of Delaware Electric Cooperative pole 32294;
  - 5. On a stake near the westerly right-of-way of Robinsonville Road, across from 20743 Robinsonville Road;
  - 6. On a stake near the easterly right of way of

Robinsonville Road, and also near the northwesterly property corner of 234-34.10-7.01.

  
ROB DAVIS

SWORN TO AND SUBSCRIBED before me on this 17th day of July, A.D., 2019.

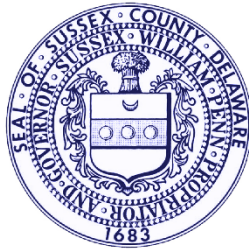
  
NOTARY PUBLIC

My Commission Expires 6/14/2022.

SHARON E. SMITH  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires on 6/14/22

## 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 Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

**FROM:** Hans Medlarz, County Engineer

**RE:** *Herring Creek Sanitary Sewer District  
A. Whitman, Requardt & Associates – Amendment No. 2  
Construction Administration and Project Inspection  
Project S20-06*

**DATE:** November 19, 2019

On January 24, 2014, County Council awarded a five (5) year, cost plus fixed fee type, base contract regarding engineering services for the North Coastal Planning Area to Whitman, Requardt and Associates, LLP (WRA). On November 1, 2016, the first scope of work for the EJCDC Herring Creek Sanitary Sewer District Agreement was approved, in the amount of \$102,649.00, for aerial mapping and environmental assessment issues.

On August 2, 2016, County Council approved the addition of the Herring Creek area to the Unified Sewer District. On March 20, 2017, the Finance Department filed an overall funding application for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service. Due to the size of the project USDA approached the County with a phasing plan. Phase 1 encompasses the pump stations and pressure mains in conjunction with the necessary the right-of-way acquisitions. Phase 2 provides the sewer collection system for all subdivisions off Sloan Road while Phase 3 provides the collection system for all minor and major subdivisions off Banks Road.

On June 21, 2017, the County accepted the letter of conditions and the obligating document associated with the Phase 1 in the amount of \$4,287,000 of loan and \$990,000 of grant funding. On January 30, 2018, Council approved the USDA Loan Resolution for Phase 1 and introduced the associated ordinance which was heard and approved by Council on March 13, 2018.



On June 8, 2018, the County accepted the letter of conditions and the obligating document associated with the Phase 2 in the amount of \$5,600,000 of loan and \$1,899,000 of grant funding. On June 19, 2018 Council approved the USDA Loan Resolution for Phase 2 and introduced the associated ordinance which was heard and approved by Council on July 17, 2018.

On August 2, 2018, the County accepted the letter of conditions and the obligating document associated with the Phase 3 in the amount of \$5,601,000 of loan and \$1,900,000 of grant funding. On September 11, 2018, Council approved the USDA Loan Resolution for Phase 3 and introduced the associated ordinance authorizing the issuance of up to \$5,601,000 of general obligation bonds.

With funding for all three phases in place, Amendment No. 1 for final design of the Herring Creek Sanitary Sewer District Pump Station, Force Main and Sewers was approved on October 2, 2018.

On October 8, 2019, Council awarded the construction contract for Phase I of the Herring Creek project to Chesapeake Turf, LLC in the amount of \$4,256,760.00.

The Department is now requesting approval for the attached WRA Amendment No.2 to the EJCDC Base Agreement in a “not to exceed” amount of \$307,304.00 for construction administration and project inspection of project 20-06.



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

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No.   2**

The Effective Date of this Amendment is: \_\_\_\_\_.

Background Data

Effective Date of Project Order:

Owner: Sussex County

Engineer: Whitman, Requardt & Associates

Project: Herring Creek Sanitary Sewer District

Nature of Amendment:

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

Description of Modifications:

*See Attachment A – Scope of Services for details.*

Project Order Summary:

Original Project Order amount:	\$ <u>102,649.00</u>
Net change for prior amendments:	\$ <u>743,534.00</u>
This amendment amount:	\$ <u>307,304.00</u>
Adjusted Project Order amount:	\$ <u>1,153,487.00</u>

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

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

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

OWNER:

Sussex County Council

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

Print \_\_\_\_\_

name: \_\_\_\_\_

Title: President, Sussex County Council

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

ENGINEER:

Whitman, Requardt & Associates, LLP

By: 

Print \_\_\_\_\_

name: Dennis J. Hasson P.E, BCEE

Title: Partner

Date Signed: November 5th, 2019

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

\_\_\_\_\_  
Ms. Robin Griffith  
Clerk of the County



## SCOPE OF SERVICES

### HERRING CREEK SANITARY SEWER DISTRICT (HCSSD) CONTRACT S20-06

#### CONSTRUCTION ADMINISTRATION AND PROJECT INSPECTION

This attachment outlines the required Scope of Services for **HCSSD Construction Administration and Project Inspection for County Contract S20-06**. This work effort will generally include services during the Construction Phase of the Project for Contract Administration, Submittal Reviews, Observation of the Work, and Project Inspection, unless noted below for each specific project. The Derivation of Man-hours and Estimated Fee for these tasks are provided in the summary spreadsheets included with this document. This proposal is limited to Contract S20-06, for the 14<sup>th</sup> month duration from November 2019 through January 2021 (13 month contract duration with one month for closeout).

#### PART A - CONSTRUCTION ADMINISTRATION

- 1. General Construction Administration.** WRA will consult with Sussex County and act as the County's representative during the duration of all construction projects. This effort involves the day to day coordination of in-house and field personnel during the construction phase. This proposal assumes approximately 6 hours/week for general construction administration by the Construction Manager.
- 2. Preconstruction and Monthly Progress Meetings.** WRA will prepare meeting agendas, conduct monthly progress meetings and issue meeting minutes. It is assumed that there will be one progress meeting day per month during the duration noted above, which will be attended by the construction manager and resident project representative.
- 3. Specialized Site Visits by Specialized Inspectors.** During the startup of the pump stations, WRA will make visits to the site by specialized inspectors (SCADA, electrical, mechanical) when requested by Sussex County. WRA will produce a project completion list for use by the County. It is assumed that the Pump Station startups will be performed on a combined 4 days for all eight pump stations. It is also assumed that soils inspection subtracted out by WRA will be required for the pump station contract.
- 4. Requests for Information (Clarifications).** When requested by Sussex County, respond to Requests for Information (RFIs) relating to the contract documents. This proposal assumes a total of three (3) RFIs total will be required.
- 5. Change Orders and Work Change Directives.** Upon the request of Sussex County, WRA will review the Contractor's change order requests. WRA will document its findings in a memorandum to Sussex County. It is assumed that no more than Two (2) change order

requests in total (including the final balancing change order submitted by the Contractor for each contract) will be required.

6. ***Shop Drawings and Samples.*** WRA will review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other data which the Contractor is required to submit for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incidental thereto.
7. ***Operation and Maintenance Manuals.*** WRA will review Operation and Maintenance Manuals provided by the Contractor. It is assumed that a maximum of two reviews will be required.
8. ***Applications for Payment.*** Based on WRA's observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, determine the amounts that WRA recommends the Contractor be paid by Sussex County. Such observations and review, mean that, to the best of WRA's knowledge, information and belief, the Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, and the conditions precedent to the Contractor being entitled to such payment appear to have been fulfilled insofar as it is WRA's responsibility to observe the Contractor's Work. In the case of unit price work, WRA's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
9. ***Substantial Completion.*** At the request of the County, WRA will assist the County in conducting an inspection for each contract to determine if the Work is Substantially Complete.
10. ***Contractor's Completion Documents.*** At the completion of the Construction Phase, WRA will coordinate with the Contractors to obtain as-built information and will provide the County with final electronic CADD files from the original contracts, as well as the Contractors electronic as-builts. The County will generate final as-builts from the information provided.

## **PART B - PROJECT INSPECTION**

WRA shall furnish one Project Inspector for the inspection and field contract administration. The Inspector will observe the work done by the Contractor and promptly inform the County of deviations from the Contract Documents. The Project Inspector will serve as WRA's representatives in the field, providing information on the daily progress of the job to WRA technical personnel. It is assumed that the Project Inspector will provide part time inspection (20 hours/week) for a 14 month duration.

**PROJECT NAME: Herring Creek Construction Administration and Inspection**

**MANHOUR ESTIMATE AND PROPOSAL**  
**CLIENT: Sussex County Engineering Department**  
**PROJECT DESCRIPTION: Construction Administration and Resident Project Representation**

**REVISION DATE BY** Attachment A  
 11/4/2019  
 DJH/WFH

TASK	Phase A - Construction Administration	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Proj. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Engineer	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager	WRA TOTALS	WRA EXPENSES	Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
																						Use Labor Cost Rates for year: 2020
A1	General construction administration	25														336	361	T	\$400		-	\$
A2	Pre-construction and monthly progress meetings	8														112	120	T	\$200		-	\$
A3	Specialized site visits by specialized inspectors				16					32	32		32			32	144	T	\$1,000	\$8,000		
A4	Request for information (clarifications)	3				2			2		2	2				3	14	-	\$		-	\$
A5	Change orders and work change directives	2				2			2		2	2				2	12	-	\$		-	\$
A6	Shop drawings and samples	10	30	20	24	4	50		20	40	80		80			26	384	-	\$		-	\$
A7	Operation and Maintenance Manuals	4						16			16		16				52	-	\$		-	\$
A8	Application for Payment															56					-	\$
A9	Substantial Completion															8	8	-			-	\$
A10	Contractors Completion Documents	2		2						2			2				8				-	\$
<b>PHASE A SUBTOTALS =</b>		<b>54</b>	<b>30</b>	<b>22</b>	<b>40</b>	<b>8</b>	<b>50</b>	<b>16</b>	<b>24</b>	<b>74</b>	<b>132</b>	<b>0</b>	<b>134</b>	<b>0</b>	<b>0</b>	<b>607</b>	<b>1135</b>	<b>\$1,600</b>	<b>Subcontractor Total</b>		<b>\$8,000</b>	
<b>PHASE A SUB-TOTAL DOLLARS =</b>		<b>\$10,012</b>	<b>\$4,248</b>	<b>\$2,270</b>	<b>\$5,837</b>	<b>\$1,248</b>	<b>\$5,136</b>	<b>\$2,861</b>	<b>\$3,447</b>	<b>\$8,880</b>	<b>\$19,246</b>	<b>\$0</b>	<b>\$23,075</b>	<b>\$0</b>	<b>\$0</b>	<b>\$88,865</b>	<b>\$175,124</b>		<b>Profit on Sub</b>		<b>0.0%</b>	
																			<b>WRA Total</b>		<b>\$176,724</b>	
																			<b>PHASE A TOTAL</b>		<b>\$184,724</b>	

TASK	Phase B - Resident Project Representation	Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Prof. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Eng.	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager	WRA TOTALS	WRA EXPENSES	Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
																						Use Labor Cost Rates for year: 2020
B1	Project Inspector (Contract S20-06)														1200		1200	T	\$900		-	\$
																	0	-			-	\$
																	0	-			-	\$
																	0	-	\$		-	\$
																	0	-	\$		-	\$
																	0	-	\$		-	\$
<b>PHASE B SUBTOTALS =</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1200</b>	<b>0</b>	<b>0</b>	<b>1200</b>	<b>\$900</b>	<b>Subcontractor Total</b>		<b>\$0</b>	
<b>PHASE B SUB-TOTAL DOLLARS =</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$121,680</b>	<b>\$0</b>	<b>\$0</b>	<b>\$121,680</b>		<b>Profit on Sub</b>		<b>0.0%</b>	
																			<b>WRA Total</b>		<b>\$122,580</b>	
																			<b>PHASE B TOTAL</b>		<b>\$122,580</b>	

**TOTAL \$307,304**

		Project Manager	Civil Engineer	Civil Designer / CADD	Geotech Engineer	Struct. Engineer	Struct. Designer / CADD	Mech. Assoc. / Prof. Engr.	Mech. Engineer	Mech. Designer / CADD	Elect. Eng.	Electrical CAD	SCADA Engineer	Resident Inspector	Project Inspector	Construction Manager
Bare Labor Cost rates for year	2020	\$77.25	\$59.00	\$43.00	\$60.80	\$65.00	\$42.80	\$74.50	\$59.85	\$50.00	\$60.75	\$44.35	\$71.75	\$42.25	\$32.00	\$61.00
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.4	\$185.40	\$141.60	\$103.20	\$145.92	\$156.00	\$102.72	\$178.80	\$143.64	\$120.00	\$145.80	\$106.44	\$172.20	\$101.40	\$76.80	\$146.40
Bare Labor Cost rates for year																
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.4	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bare Labor Cost rates for year																
Contract Rates - LOADED LABOR AT A FACTOR OF:	2.4	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

**WRA EXPENSES**

T = Travel @.48 mile  
 R = Reproduction  
 E = Equipment Rental  
 S = Subcontractor  
 L = Laboratory Cost



## 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 Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

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

RE: ***Wolfe Runne Sewer Expansion***  
***A. George, Miles & Buhr, LLC – Standalone USDA Engineering Agreement***

DATE: November 19, 2019

The Wolfe Runne community has been included in the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) since March 1990.

On December 16, 2017 and January 27, 2018, the Engineering Department made presentations to the Community which outlined the potential costs associated with connecting to the County Sewer System. The Department then received a letter from the Wolfe Runne Homeowners Association (HOA) dated March 6, 2018 which provided results of a formal ballot vote conducted by the HOA in the prior month. The HOA reported that 81% of lot owners voted in favor of transitioning from private on-site septic systems to the central County sewer. Based on this outcome the HOA requested, on behalf of the residents, that a capital project be considered integrating the Community into the County's system.

The Department presented these details to Council at the April 17, 2018 meeting. Upon recommendation by the Department, Council approved a motion granting permission to proceed with an application for funding to provide sanitary sewer service to the Wolfe Runne community.

Sussex County received a letter of conditions dated September 27, 2019 from the United States Department of Agriculture (USDA) which outlined loan and grant funding associated with the Wolfe Runne Sewer Extension Project, as administered by the Rural Utilities Service (RUS). Funding was then approved and assistance in the amount of \$3,092,000 obligated as of September 30, 2019. The sewer expansion project now proceeds into a design phase having funding secured.

The Engineering Department's procurement process for 5-year Professional Service Contracts began in January 2019 with issuance of RFP 19-22, Miscellaneous Engineering Services. An explanation of the selection process and a Selection Committee recommendation were presented to Council at the May 14, 2019 session. Council approved a motion selecting three (3) consulting



A. GMB – Standalone USDA Engineering Agreement

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

Over the past several weeks staff from the Engineering Department held meetings with each consulting engineering firm to discuss various capital projects. GMB was asked to develop and submit a scope of work with fee estimate for preliminary design, final design, and bidding phase services associated with the Wolfe Runne Sewer Expansion Project. Additionally, a standalone project-based agreement for professional services is required with USDA funding, and therefore the Department worked with GMB to make the necessary federal revisions to the base agreement.

As requested, GMB provided the Base Owner-Engineer Professional Services Agreement signed November 1, 2019, for design and bidding services associated with the Wolfe Runne Sewer Expansion Project S20-13, with an estimated total cost of \$204,003. As per USDA policy, the agreement, scope and cost were forwarded for their review.

The Engineering Department has reviewed the scope of services and estimated fee provided by GMB and recommends Council authorize approval of the professional services agreement at a not-to-exceed value of \$204,003, for design and bidding of the Wolfe Runne Sewer Expansion, Sussex County Project S20-13, contingent upon USDA approval.



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

#### **General:**

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

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

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

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

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National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314-2794  
(703) 684-2882  
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American Council of Engineering Companies  
1015 15th Street N.W., Washington, D.C. 20005  
(202) 347-7474  
[www.acec.org](http://www.acec.org)

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

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

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

Prepared by



Issued and Published Jointly by



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

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[www.nspe.org](http://www.nspe.org)

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1801 Alexander Bell Drive, Reston, VA 20191-4400  
(800) 548-2723  
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**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR PROFESSIONAL SERVICES**

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

Owner’s Project, of which Engineer’s services under this Agreement are a part, is generally identified as follows:

**Wolfe Runne, Project# S20-13**

("Project").

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

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

Owner and Engineer further agree as follows:

**ARTICLE 1 – SERVICES OF ENGINEER**

1.01 *Scope*

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

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

2.01 *General*

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

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

### **ARTICLE 3 – TERM; SCHEDULE FOR RENDERING SERVICES**

#### **3.01 Commencement and Term**

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

#### **3.02 Time for Completion**

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

### **ARTICLE 4 – INVOICES AND PAYMENTS**

#### **4.01 Invoices**

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

#### **4.02 Non-Payment of Undisputed Invoices**

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



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

## **ARTICLE 5 – OPINIONS OF COST**

### **5.01 *Opinions of Probable Construction Cost***

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

### **5.02 *Opinions of Total Project Costs***

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

## **ARTICLE 6 – GENERAL CONSIDERATIONS**

### **6.01 *Standards of Performance***

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

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

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

#### 6.02 *Design Without Construction Phase Services*

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

#### 6.03 *Use of Documents*

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

#### 6.04 *Electronic Transmittals*

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

#### 6.05 *Insurance*

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

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

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

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

#### 6.06 *Suspension and Termination*

##### A. *Suspension:*

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

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

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

D. *Payments Upon Termination:*

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

6.07 *Controlling Law*

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

6.08 *Successors, Assigns, and Beneficiaries*

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

6.09 *Dispute Resolution*

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



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

#### 6.10 *Environmental Condition of Site*

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

#### 6.11 *Indemnification and Mutual Waiver*

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

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

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

#### 6.12 *Records Retention*

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

#### 6.13 *Miscellaneous Provisions*

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

## ARTICLE 7 – DEFINITIONS

### 7.01 *Defined Terms*

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

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

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

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

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

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

B. *Day*:

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

## ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

### 8.01 *Exhibits Included*:

- A. Exhibit A, Engineer’s Services.

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

#### 8.02 *Total Agreement*

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

#### 8.03 *Designated Representatives*

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

#### 8.04 *Engineer's Certifications*

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

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

#### 8.05 Federal Requirements

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



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

Owner: Sussex County

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

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Attorney

ATTEST:

\_\_\_\_\_  
Clerk of the Sussex County Council

Engineer:

By: Judy A. Schwartz  
Print name: Judy A. Schwartz  
Title: Sr. Vice President  
Date Signed: 11-1-19

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

State of: DE # 28

Address for Engineer's receipt of notices:  
400 High St  
Seaford, DE 19973

Designated Representative (Paragraph 8.03.A):  
Judy A. Schwartz  
Title: Sr. Vice President  
Phone Number: 302-628-1421  
E-Mail Address: jschwartz@gmbnet.com

This is **EXHIBIT A**, consisting of 18 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_.

## **Engineer's Services**

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

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

### **PART 1 – BASIC SERVICES**

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

A. Engineer shall:

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

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#### **Exhibit A – Engineer's Services**

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

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

## A1.02 *Preliminary Design Phase*

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

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

9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
    - a. Survey & Basemapping Scope: Topographic survey of the project area to aid in the design of the gravity sewer collection and low pressure system with a focus of locating and identifying existing utilities, grades, easements, property lines, etc. Basemapping of existing utilities will be established with communications with Miss Utility and supplemented with a private utility locator for key areas. Available design drawings and as-builts of existing utilities will be requested from the utility provider for review and incorporation into the base drawings. Generation of easement plates for Owner's use in obtaining and recording necessary easements.
    - b. Geotechnical Investigation Scope Includes various soil borings and pavement corings to establish ground water elevation, soil conditions, and road section composition.
  10. Furnish three (3) review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner in accordance with the approved schedule attached, and review them with Owner. Within 14 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Owner approves Preliminary Design Phase deliverables and provides review comments to Engineer.

#### A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
  1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
  2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
  3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities;

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

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

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

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

#### A1.04 *Bidding or Negotiating Phase*

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **PART 2 – ADDITIONAL SERVICES**

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

A. If authorized in writing by Owner in advance, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C, if previously authorized in writing.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact

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

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



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

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

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

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

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

This is **EXHIBIT B**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_.

## **Owner's Responsibilities**

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

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

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

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**Exhibit B – Owner's Responsibilities**

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

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

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

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

This is **EXHIBIT C**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_.

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

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

**ARTICLE 2 – OWNER’S RESPONSIBILITIES**

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

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.
  2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
  3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
  4. The total compensation for services under Paragraph C2.01 is estimated to be \$204,003.00. See Appendix 3 for breakdown.
  5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner and Agency. See also C2.03.C.2 below.
  6. The total estimated compensation for Engineer’s services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer’s Consultants' charges.
  7. The amounts billed for Engineer’s services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer’s employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer’s Consultants' charges.



8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of July 1, 2020) to reflect equitable changes in the compensation payable to Engineer. Changes will not be effective unless and until concurred in by the Owner and Agency.

#### C2.02 *Compensation For Reimbursable Expenses*

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

#### C2.03 *Other Provisions Concerning Payment*

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

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

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

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

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

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

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

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

**B. Compensation for Reimbursable Expenses:**

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

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

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

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

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

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

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.
- B. *Compensation For Reimbursable Expenses:*
1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
  2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
  3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.0.
  4. The Reimbursable Expenses Schedule will be adjusted annually (as of July 1, 2020) to reflect equitable changes in the compensation payable to Engineer. Changes will not be effective unless and until concurred in by the Owner and Agency.
- C. *Other Provisions Concerning Payment for Additional Services:*
1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.

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

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

## Reimbursable Expenses Schedule

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

Internal:

Photocopies:	
Black & White	\$ 0.20
Color	\$ 0.50
Prints/Plots:	
Black & White/Color	\$ 0.50/s.f.
Mylar	\$ 2.00/s.f.
Travel:	
Mileage	\$ 0.580/mile
Subsistence (Meals & Lodging)	At Actual Cost
Overnight/Immediate Delivery	At Actual Cost
Other:	
Electronic Media Copies/Transfers/File	\$ 300.00/file
Website Project File Sharing	\$ 1.00/MB/month
Construction Management Software	\$ 200.00/month
Surveying Equipment/Total Station Only	\$ 35.00/day
Surveying Equipment/Total Station + GPS Unit	\$ 150.00/day
Testing	At Actual Cost

Note: All items per each, unless noted.

***See Amendment for current expense schedule.***

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## Standard Hourly Rates Schedule

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A. *Standard Hourly Rates:*

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

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

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

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



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

## Breakdown of Hourly Rate Fee Price

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

EXHIBIT A - WORK PROGRAM MANHOUR ESTIMATES, STANDARD HOURLY RATES & REIMBURSABLES						
PART I - GENERAL						
1. Grantee			2. Grant Number			
Sussex County, Delaware						
3. Name of Consultant			4. Date of Proposal			
George, Miles & Buhr, LLC			30-Oct-19			
5. Address of Consultant			6. TYPE OF SERVICE TO BE FURNISHED			
206 West Main St			Engineering Design - Wolfe Runne Wastewater Collection System			
Salisbury, MD 21801-4907						
PART II - COST SUMMARY						
7. DIRECT LABOR			ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
	Project Director	JS	120	\$ 190.00	\$ 22,800.00	
	Project Manager(s)	JCH	182	\$ 180.00	\$ 32,760.00	
	Project Engineer	CP	260	\$ 110.00	\$ 28,600.00	
	Graduate Engineer	JBM	240	\$ 100.00	\$ 24,000.00	
	Sr Designer	DJ	280	\$ 87.00	\$ 24,360.00	
	Project Coordinator	SLH	60	\$ 90.00	\$ 5,400.00	
	CADD	MMD	320	\$ 80.00	\$ 25,600.00	
	Surveyor	DG	160	\$ 70.00	\$ 11,200.00	
	Technian	DY	80	\$ 40.00	\$ 3,200.00	
<b>DIRECT LABOR TOTAL:</b>			1,702			\$ 177,920.00
8. INDIRECT COSTS			RATE	x BASE =	ESTIMATED COST	
	Overhead and Fringe		-	\$ 177,920.00	\$ -	
<b>INDIRECT COSTS TOTAL:</b>						\$ -
9. OTHER DIRECT COSTS						
a. TRAVEL					ESTIMATED COST	
(1) TRANSPORTATION	mileage		1,240.00	mi @ \$0.58/mi	\$ 719.20	
(2) PER DIEM	meals					
<b>TRAVEL SUBTOTAL:</b>					\$ 719.20	
b. EQUIPMENT, MATERIALS, SUPPLIES			QTY.	COST	ESTIMATED COST	
	plots/prints		210	\$ 2.00	\$ 420.00	
	copies b/w		2,094	\$ 0.20	\$ 418.80	
	copies color		100	\$ 0.50	\$ 50.00	
	postage		1	\$ 175.00	\$ 175.00	
	survey equipment		12	\$ 150.00	\$ 1,800.00	
<b>EQUIPMENT SUBTOTAL:</b>					\$ 2,863.80	
c. SUBCONTRACTS						
					Electrcial	\$ 6,500.00
					Geotechnical	\$ 10,000.00
					Private Utility Locator	\$ 6,000.00
<b>SUBCONTRACTS SUBTOTAL:</b>					\$ 22,500.00	
<b>OTHER DIRECT COSTS TOTAL:</b>						\$ 26,083.00
<b>10. ESTIMATED COST</b>						\$ 204,003.00
<b>11. FEE</b> Included in Standard Hourly Rate						\$ -
<b>12. TOTAL ESTIMATED STANDARD HOURLY RATE FEE</b>						\$ 204,003.00

### Exhibit C – Appendix 3: Standard Hourly Rates Schedule.

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This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated \_\_\_\_\_.

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

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

### **ARTICLE 1 - SERVICES OF ENGINEER**

#### *D1.01 Resident Project Representative*

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

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

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

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

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

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

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

11. *Records:*

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

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

12. *Reports:*

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

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

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

15. *Completion:*

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

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

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

D. Resident Project Representative shall not:

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

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

***[Notes to User]***

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

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



**NOTICE OF ACCEPTABILITY OF WORK**

---

**PROJECT:**

**OWNER:**

**CONTRACTOR:**

**OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:**

**EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:**

**ENGINEER:**

**NOTICE DATE:**

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**To:** \_\_\_\_\_

**Owner**

**And To:** \_\_\_\_\_

**Contractor**

**From:** \_\_\_\_\_

**Engineer**

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

**CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

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

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

---

Exhibit E – Notice of Acceptability of Work.

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

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and American Society of Civil Engineers. All rights reserved.

Page 2



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

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

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

Dated: \_\_\_\_\_

## Insurance

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

### G6.05 Insurance

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

1. By Engineer:

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

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

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

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

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

This insurance shall include coverage for all of the following:

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

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Exhibit G – Insurance.

this Agreement;

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

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

\$5,000,000 each occurrence;

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

\$5,000,000 completed operations aggregate.

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

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

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

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

d. Business Auto Liability Insurance:

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

This insurance shall include coverage for all of the following:

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

e. Professional Liability – required limits of liability:

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

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

f. Other (specify): \$[ ]

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

## Dispute Resolution

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

### H6.08 *Dispute Resolution*

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

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

## **Special Provisions**

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

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

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. \_\_\_\_\_**

The Effective Date of this Amendment is: \_\_\_\_\_.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

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

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

Description of Modifications:

Agreement Summary:

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

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

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

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

OWNER:

ENGINEER:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

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

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

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

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

PREVIOUSLY APPROVED FORM





## ENGINEERING DEPARTMENT

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




# Sussex County

DELAWARE  
sussexcountye.gov  
HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER  
JOHN J. ASHMAN  
DIRECTOR OF UTILITY PLANNING

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

FROM: Hans Medlarz, County Engineer  
John J. Ashman, Director of Utility Planning 

RE: *Chapel Branch Area of the Sussex County Unified Sanitary Sewer District  
Revised Assessment Method  
Referendum Results  
File: CB-1.06*

DATE: November 19, 2019

On November 1, 2016, County Council established the Chapel Branch Area of the Sussex County Unified Sanitary Sewer District with the re-payment of capital expenses based on a front foot assessment. The Engineering Department received a letter from the Chapel Green Homeowners Association Inc. dated March 20, 2019 requesting annual billing using the EDU formula, not the quarterly front-frontage formula as previously approved by referendum. In addition, the Department received a letter from Oak Crest Farms Property Owners Association stating the Board of Directors are in support of an EDU based assessment.

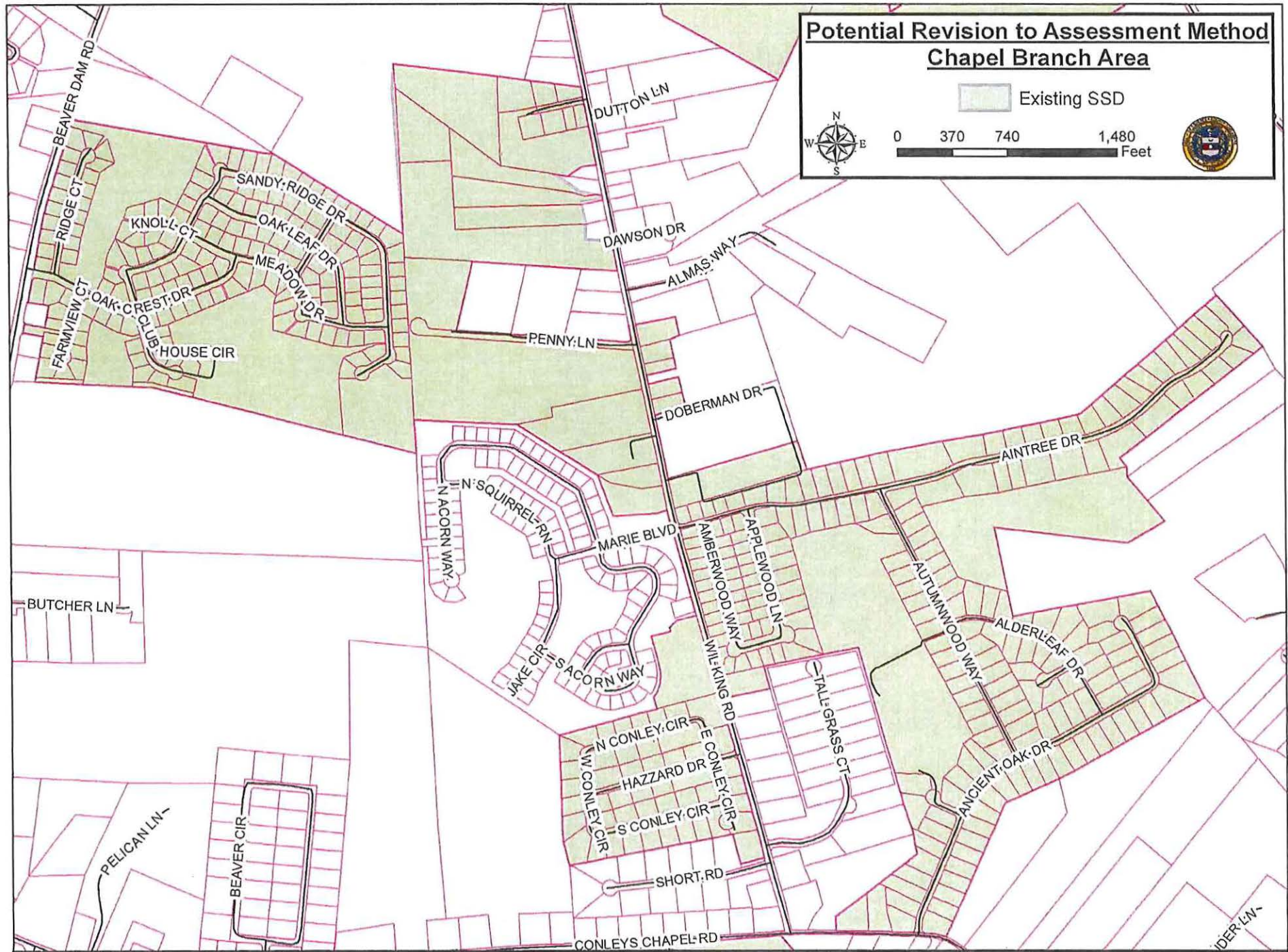
The Finance and Engineering Departments were advised by the County Attorney that in order to revise the assessment method a second referendum would be required. On September 7, 2019 the Engineering Department held a public hearing on revising the assessment method. The previously approved rates are \$8.00 per front-foot whereas a parcel with an improvement, and 40 front feet would be assessed \$320.00 and a parcel with 100 front feet would pay \$800.00, unimproved lots pay full front-foot assessment. The revised assessment method presented would revise the assessment to a uniform \$680.00 per EDU.

On September 17, 2019 County Council authorized a second referendum for the Chapel Branch area revising the assessment method to a uniform per EDU basis. The Engineering Department held the Referendum on Saturday October 26, 2019 from 9am-12pm. The results of the referendum were 220 for the uniform \$680.00 per year assessment rate and 28 against the \$680.00



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

per EDU assessment rate. These results include the 51 absentee ballots received. The Engineering Department will be presenting a Resolution to adjust the re-payment method of the capital expenses associated with the Chapel Branch Area Sewer infrastructure installation.



**Potential Revision to Assessment Method  
Chapel Branch Area**

Existing SSD



0 370 740 1,480 Feet



The referendum to be held on this issue will be October 26, 2019 from 9 AM till 12 PM at Conley's United Methodist Church, 33106 Jolyn's Way, Lewes, Delaware.  
For more information please visit: <https://www.sussexcountyde.gov/legal-notices/sewer-water>. Or call Sussex County Utility Planning at 302-855-1299

## RESOLUTION

A RESOLUTION TO ADJUST THE ASSESSMENT METHOD FOR THE RE-PAYMENT OF CAPITAL EXPENSES ASSOCIATED WITH THE CHAPEL BRANCH AREA SEWER INFRASTRUCTURE INSTALLATION

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer District (SCUSSD), and;

WHEREAS, in accordance with 9 Del.Code, Section 6503, Sussex County Council created the Chapel Branch Area of the Sussex County Unified Sanitary Sewer District, and;

WHEREAS, the Referendum approved by the voters in the Chapel Branch Area was based on a front-footage type sewer debt assessment method, and;

WHEREAS, Conley's Chapel Village subdivision was annexed into the Chapel Branch Area of the SCUSSD on the same assessment method, and;

WHEREAS, based on requests from the Chapel Green Homeowners Association and Oak Crest Farms Property Owners Association the Sussex County Engineering Department held a Public Hearing on revising the assessment method, and;

WHEREAS, the Engineering Department provided the public hearing results to County Council and requested and obtained authorization to hold a second referendum revising the assessment method to a unit basis, and;

WHEREAS, the Engineering Department mailed notices to all property owners providing information on the date, time, location and absentee balloting, and;

WHEREAS, the Engineering Department posted notices of the referendum in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof, and;

WHEREAS, the Referendum was held and the results of said meeting were presented to County Council;

NOW, THEREFORE,

BE IT FURTHER RESOLVED that the Sussex County Council adopts the revised assessment method on a unit basis for the Chapel Branch Area of the SCUSSD.



# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

*CK. Payable to: Ducks Unlimited, Inc.*

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME:

PROJECT NAME:

FEDERAL TAX ID:  *58-1443344* 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: *Ducks Unlimited understands the importance of youth and education, especially when it involves wetland conservation and outdoor education.*

ADDRESS:

(CITY) (STATE) (ZIP)

CONTACT PERSON:

TITLE:

PHONE:  EMAIL:

### TOTAL FUNDING REQUEST: \_\_\_\_\_

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 checked="" 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 checked="" 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:

500

## 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.

**See Letter Attached**



October 24, 2019

To Whom It May Concern,

Delaware Ducks Unlimited is proud to present the 16<sup>th</sup> annual Greenwing Youth Conservation Festival to be held on April 4<sup>th</sup> at Owens Station in Greenwood, Delaware. Thanks to your continued support, we are able to put on a successful event year after year for our future conservationists! DNREC will be on site for demonstrations and much more!

The Greenwing program is run at the national Ducks Unlimited level. Delaware leads the charge as host of the biggest youth event in the country. Year after year, we earn the distinguished award on from your support for young Greenwing participants. Depending on the level of your donation, you will receive a host of benefits including the knowledge that your donation will go directly to support the Greenwing program and directly impact the education of youth in the state.

2020's planning the event is an outlet for youth to learn about wildlife management, wetland conservation, and safety education related to outdoor activities. Each participant not only gains valuable education the day of the event, and will be registered in the Ducks Unlimited Greenwing Program for one year and continue to receive educational publications throughout the year. Today's youth are the conservationists of tomorrow!

Please mail donations to:  
Christopher Donahue  
1211 Pimpernell Path  
Middletown, DE 19709

Address Donations to:  
Delaware Ducks Unlimited Greenwing

Thank you,

  
Christopher Donahue  
Delaware Ducks Unlimited Greenwing Committee Chairman



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>		
Operating Costs		(15,000)
Child Membership to Greenwing		(15,000)
	<b>TOTAL EXPENDITURES</b>	(\$30,000)      \$ 0.00
	<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	(\$30,000)      \$ 0.00

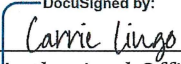
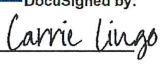
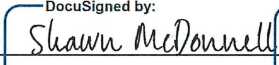

**SECTION 5: STATEMENT OF ASSURANCES**

If this grant application is awarded funding, the **Delaware Ducks Unlimited** 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.**

DocuSigned by:  Applicant/Authorized Official Signature	DocuSigned by:  Signature	3/26/2019 11/6/2019  Date
DocuSigned by:  Witness Signature	DocuSigned by:  Signature	3/26/2019 11/6/2019  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.

DocuSigned by:  
Carrie Lingo  
Applicant/Authorized Official Signature

Southern Zone Chair  
\_\_\_\_\_

Title

DocuSigned by:  
[Signature]  
Witness Signature

11/6/2019

Date

Vincent  
11-07-19

JANELLE M. CORNWELL, AICP  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
janelle.cornwell@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 15, 2019

RE: County Council Report for CU 2194 Imagination-Renovation, LLC

---

The Planning and Zoning Department received an application (CU 2194 Imagination-Renovation, LLC) for a Conditional Use for parcel 234-4.00-10.32 to allow for a furniture making and repair business to be located at 20601 Rust Rd. The Planning and Zoning Commission held a public hearing on October 17, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, an exhibit booklet, comments from the Sussex Conservation District, the result from the DelDOT Service Level Evaluation requests, and comments from the Sussex County Engineering Department of Utility Planning Division.

That the Commission found that Mr. David Hutt an Attorney with Morris James, LLP and Mr. Phillip Bortz one of the owners of the property and also one of the Principals of Imagination-Renovation, LLC were present of behalf of the application; that Mr. Hutt stated the application is for a cabinet, furniture, and repair business; that the property is located on Rust Road; that the buildings in the back are proposed to be used for the business; that the Applicants had just acquired the property; that the seller of the property was a contractor/builder and had used the building in the past in a similar manner to that proposed; that that property does consist of 5-acres and is similar to other parcels in the area; that the property is zoned AR-1 (Agricultural Residential District); that the Land Use Classification per the 2019 Comprehensive Plan is in the "Low-Density Area"; that DelDOT stated that a Traffic Impact Study ("TIS") was not required because DelDOT views the impact as being negligible; that one the existing pole barns is approximately 4,000 square feet in area and the second one is under 400 square feet; that Imagination-Renovation, LLC is a custom cabinetry maker and furniture making business; that the proposal for the Conditional Use is that the two buildings would be the workshop where the cabinetry and furniture is constructed; that the cabinets are then taken to the customer's home for installation; that there would be very little customer or retail traffic that would occur at the



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

property; that they would have two to four cabinet makers or apprentices that would be working at the site; that the typical hours of operation are 8:00 am to 4:00 pm or 4:30 pm; that proposed Finding of Facts and conditions were submitted into the record; that they are requesting the hours of operation to be from 7:00 am to 5:00 pm, Monday through Friday and 8:00 am to 2:00 pm on Saturdays; that there would be no Sunday hours; that over the past years they have worked only two to three Saturdays in total; that the proposed use would likely be unnoticed from the road due to the location of the buildings on the site; that all the work is indoors; that all the materials are stored indoors; that there is very little traffic; that the Applicant's live at the property; that there would be no retail sales; that the only time a customer would come to the site is during production; that the area is a busy construction area for new homes; that the proposed Conditional Use is appropriate because this business is public or semi-public and for the convenience, welfare, and also promotes orderly growth; that there are several Conditional Uses in the area; that there would be no odor or noise with the use; that it would only be employees going to the buildings; that proposed Finding of Facts and conditions were submitted into the record; that one of the proposed conditions relates to an un-lit sign that would not be greater than 32 square feet in size; that the Applicant has spoken to the neighbors and they had no objections; that Ms. Stevenson asked how the materials arrive to the buildings; that the materials are delivered by delivery trucks; that Mr. Bortz stated that one tractor trailer would deliver the materials, such as lumber, per month; that the cabinets are custom-designed and are generally are small in size and the Applicant's often just go to lumber yards to pick-up the required materials; that Ms. Stevenson asked if there would be any storage of any materials outside; that Mr. Bortz stated there would be no materials stored outside and all the work is to be undertaken indoors; that Ms. Stevenson ask how many parking spaces does the Applicant want; that Ms. Cornwell stated the parking would be based on the square footage building or the number of employees; that Mr. Hutt stated that there is adequate room for parking; that Ms. Stevenson ask if the Conditional Use was for the whole property or just in the rear of the property; that Mr. Hutt stated the application is for the whole property; that Mr. Hopkins asked how many employees will there be; that Mr. Hutt stated six employees would be the maximum to allow for growth; that Mr. Hopkins asked if the tractor trailer would drive down the driveway or deliver from the road; that Mr. Bortz stated yes, the tractor trailer would use the paved driveway to deliver the materials; that Mr. Mears asked if they spray their finishes and if there would be a spray room; that Mr. Bortz stated that they do have a spray room and they only use water base latex and no oil based lacquers; that Ms. Bulkilvish asked, if the Applicant does do some re-finishing, whether clients could be bringing their pieces to the property; that Mr. Bortz stated that within the last two years, only four customers had showed up for something to be fixed; that he would probably put a sign on the building and not a sign along the road; that all the measurements are normally undertaken at the customer's home; that Mr. Sharp ask if there are any chemicals used on the site; that Mr. Bortz replied no; that Mr. Sharp ask if any welding is done at the site; and that Mr. Bortz stated the materials are all wood and no there is no welding.

That the Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to defer action for further consideration. Motion carried 5-0.

The Planning Commission has not made a recommendation regarding the application.

## PLANNING & ZONING

JANELLE M. CORNWELL, AICP  
DIRECTOR

(302) 855-7878 T  
(302) 854-5079 F



# Sussex County

DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren DeVore, Planner III  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 9, 2019  
RE: Staff Analysis for CU 2194 Imagination-Renovation, LLC

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2194 Imagination-Renovation, LLC. to be reviewed during the October 17, 2019 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 Condition Use for parcel 234-4.00-10.32 to allow for a furniture making and repair business to be located at 20601 Rust Road in Harbeson, Delaware. The size of the property is 5.0 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 property has the land use designation of Commercial Areas.

The surrounding land use to the north, south, east and west are designated on the Future Land Use Map as "Low Density Areas" (with the exception of a single, small parcel to the east which is designated "Commercial Area." Low Density Areas primarily recognize businesses that support agricultural activities and the development of single-family homes. The focus of retail and office uses in Low Density Areas should be for providing convenience goods and services to nearby residents.

The property is zoned AR-1 (Agricultural Residential District.) The adjoining and surrounding parcels to the north, south, east and west (on the opposite side of Rust Road) are all zoned Agricultural Residential (AR-1) (except for a single parcel to the east, zoned Neighborhood Business (B-1).

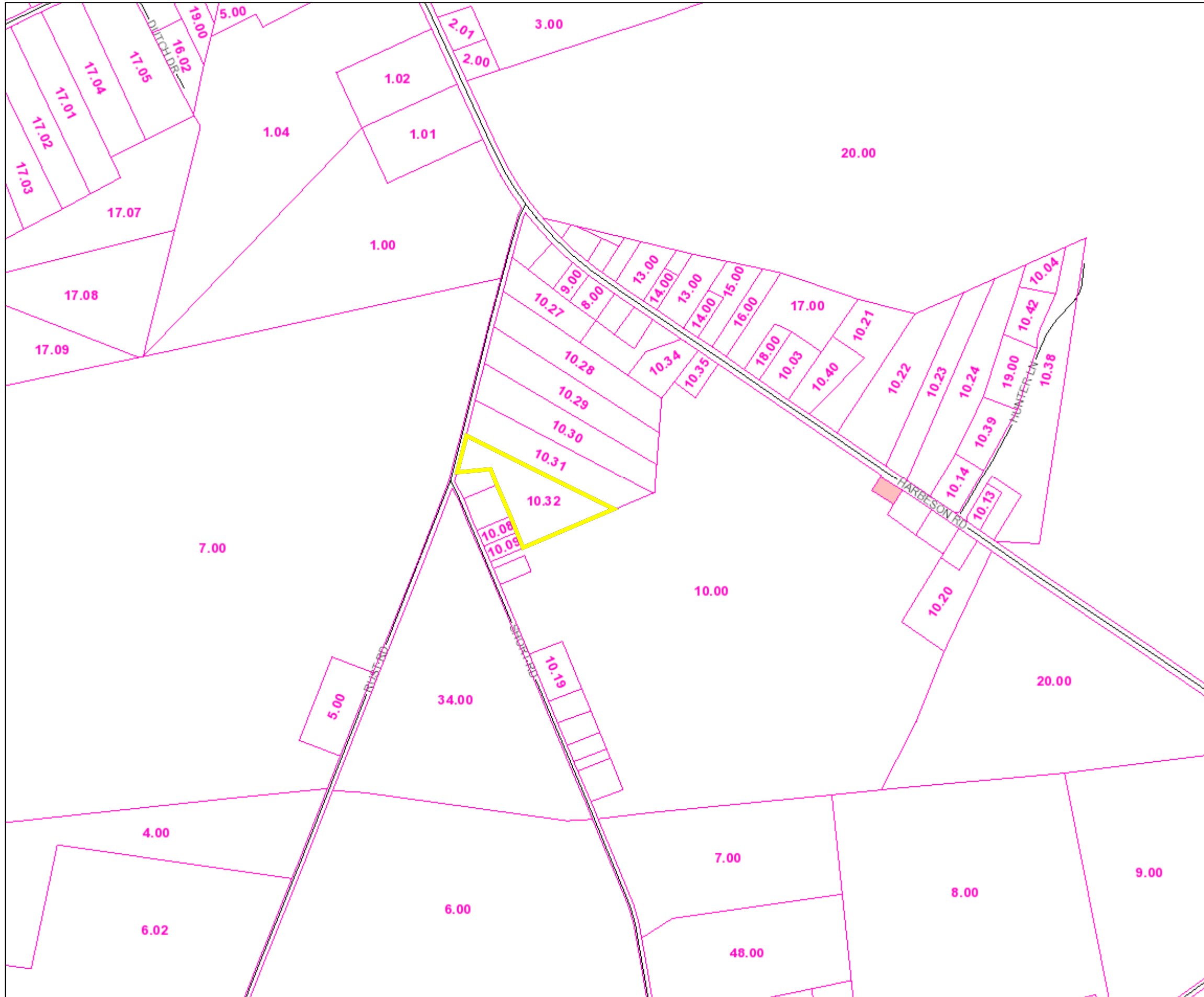
Since 2011, there have been four (4) Conditional Use applications submitted in the area of the application site. CU 1980 to the east, for a used car sales facility on a parcel zoned (B-1) Neighborhood Business District which was approved, CU 2185 for multi-family (2-units) which is currently pending, CU 1915 to the north, for a manufacture home installation business and related equipment storage which was approved, and CU 2105 to the north, for a commercial landscaping business with outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business which was also approved.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use for a furniture making and repair business could be considered consistent with the land use, area zoning and surrounding uses.





# Sussex County



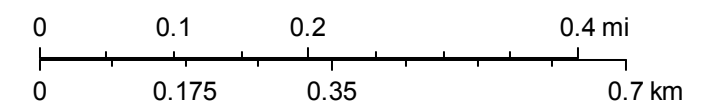
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<b>Owner Name</b>	SMITH RENEE	MARSELL
<b>Book</b>	5019	
<b>Mailing Address</b>	20601 RUST RD	
<b>City</b>	HARBESON	
<b>State</b>	DE	
<b>Description</b>	N S/RT 5	
<b>Description 2</b>	E/RT 296A	
<b>Description 3</b>	LOT 8	
<b>Land Code</b>		

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- Tax Parcels
- Streets

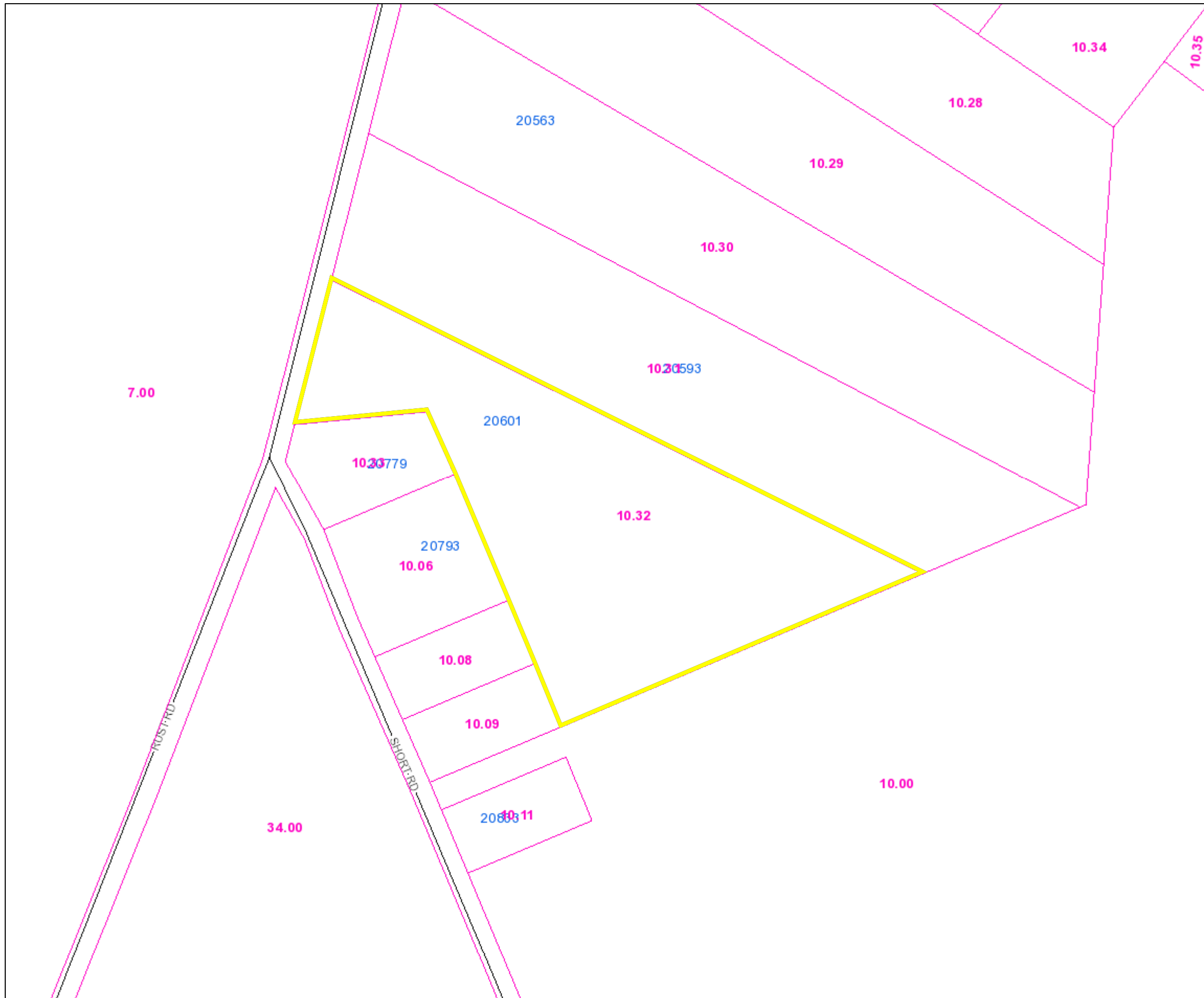
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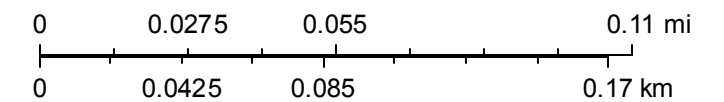
# Sussex County

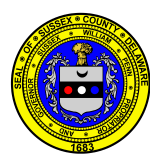


<b>PIN:</b>	234-4.00-10.32	
<b>Owner Name</b>	SMITH RENEE	MARSELL
<b>Book</b>	5019	
<b>Mailing Address</b>	20601 RUST RD	
<b>City</b>	HARBESON	
<b>State</b>	DE	
<b>Description</b>	N S/RT 5	
<b>Description 2</b>	E/RT 296A	
<b>Description 3</b>	LOT 8	
<b>Land Code</b>		

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- Tax Parcels
- 911 Address
- Streets
- County Boundaries

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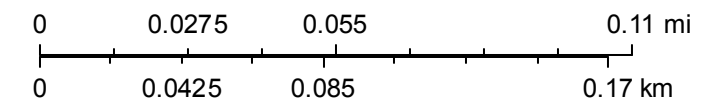
# Sussex County



<b>PIN:</b>	234-4.00-10.32	
<b>Owner Name</b>	SMITH RENEE	MARSELL
<b>Book</b>	5019	
<b>Mailing Address</b>	20601 RUST RD	
<b>City</b>	HARBESON	
<b>State</b>	DE	
<b>Description</b>	N S/RT 5	
<b>Description 2</b>	E/RT 296A	
<b>Description 3</b>	LOT 8	
<b>Land Code</b>		

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

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**Introduced 07/16/19**

**Council District No. 3 – Burton  
Tax I.D. No. 234-4.00-10.32  
911 Address: 20601 Rust Road, Harbeson**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FURNITURE MAKING AND REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS**

**WHEREAS, on the 21st day of June 2019, a conditional use application, denominated Conditional Use No. 2194, was filed on behalf of Imagination-Renovation, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2019, 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. 2194 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, 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. 2194 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the east side of Rust Road, approximately 0.25 mile south of Harbeson Road (Route 5), and being more particularly described in the attached legal description prepared by Hudson Jones Jaywork & Fisher, said parcel containing 5.0 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.**

JANELLE M. CORNWELL, AICP  
PLANNING & ZONING DIRECTOR  
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**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 15, 2019

RE: County Council Report for CZ 1893 Lisa Horsey

---

The Planning and Zoning Department received an application (C Z 1893 Lisa Horsey) for a Change of Zone for parcel 132-12.00-113.00 to allow for a change in zone from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District to be located at 28537 Sussex Hwy. The Planning and Zoning Commission held a public hearing on October 17, 2019. The following are the draft minutes for the Change of Zone from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, the results from the DelDOT Service Level Evaluation, comments from the Sussex Conservation District, and comments from the Sussex County Engineering Department - Utility Planning Division.

Mr. Sharp recused himself for this item.

The Commission found that Mr. Kevin Smith with The Kercher Group, Mr. Sam Connors, a partner with LBG Homes, LLC were present on behalf of the application; that Mr. Smith stated the building was used as the old Bayside seafood building and it was Commercial in nature; that the property is less than ½ acre in area; that the property does have an existing well and septic system; that the Applicant would like to leave the parcel as it is and would not be providing any improvements; that the Applicant would like to get the zoning to match the current use; that the Applicant would like to bring the zoning into compliance with what the occupier had been doing in the past; that Ms. Wingate asked if there is any plan to improve the site other than just the zoning; that Mr. Smith stated the application is to bring the zoning from AR-1 (“Agricultural Residential District”) to a commercial zoning; that Ms. Cornwell asked if the request for the C-2 (“Medium Commercial District”) is keeping with the Comprehensive Future Land Use Map of Commercial for the area; that Mr. Smith stated the he believed the Future Land Use Plan stated the property to be in the low-density area; that Ms. Cornwell pointed out that the Future Land Use Map shows it as being in the Commercial area, and



whether Mr. Smith would agree that the request for C-2 zoning is therefore in keeping with area designation of Commercial; to which Mr. Smith agreed.

That the Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to defer action for further consideration. Motion carried 5-0.

The Planning Commission has not made a recommendation regarding the application.

## PLANNING & ZONING

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# Sussex County

DELAWARE  
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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: September 13, 2019  
RE: Staff Analysis for CZ 1893 Lisa Horsey

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1893 Lisa Horsey to be reviewed during the October 17, 2019 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 Change of Zone for parcel 132-12.00-113.00 to facilitate a change from the Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) District to be located at 28537 Sussex Highway in Laurel, Delaware. The size of the property is 0.474 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 property has the land use designation of Commercial Areas.

The surrounding land uses to the north and east (across from Boyce Road) are designated on the Future Land Use Map as "Commercial Areas." The adjacent parcels to the west and south of the subject parcel are designated "Commercial Areas" and "Low Density Areas." Low Density Areas primarily recognize businesses that support agricultural activities and the development of single-family homes. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents.

Commercial Areas include concentrations of retail and service uses, commercial corridors, shopping centers, hotels, motels, car washes and auto dealers. This includes other medium and larger scale commercial uses as well as mixed-use buildings.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan states that the Medium Commercial District (C-2) may be appropriate in "Low Density" Areas. Additionally, the Medium Commercial District (C-2) Zoning is appropriate in Commercial Areas.

The property is zoned AR-1 (Agricultural Residential District.) The property directly to the north of the subject parcel is zoned General Commercial (C-1). Properties to the east along Boyce Road are also zoned General Commercial (C-1). The properties across Route 13 (Sussex Highway) to the west are largely zoned Agricultural Residential (AR-1) with one parcel being zoned Commercial Residential (CR-1).

There are two Change of Zone applications in the vicinity. To the west, C/Z 1847 which was approved for a change from Agricultural Residential (AR-1) Zoning to Commercial Residential (CR-1) Zoning

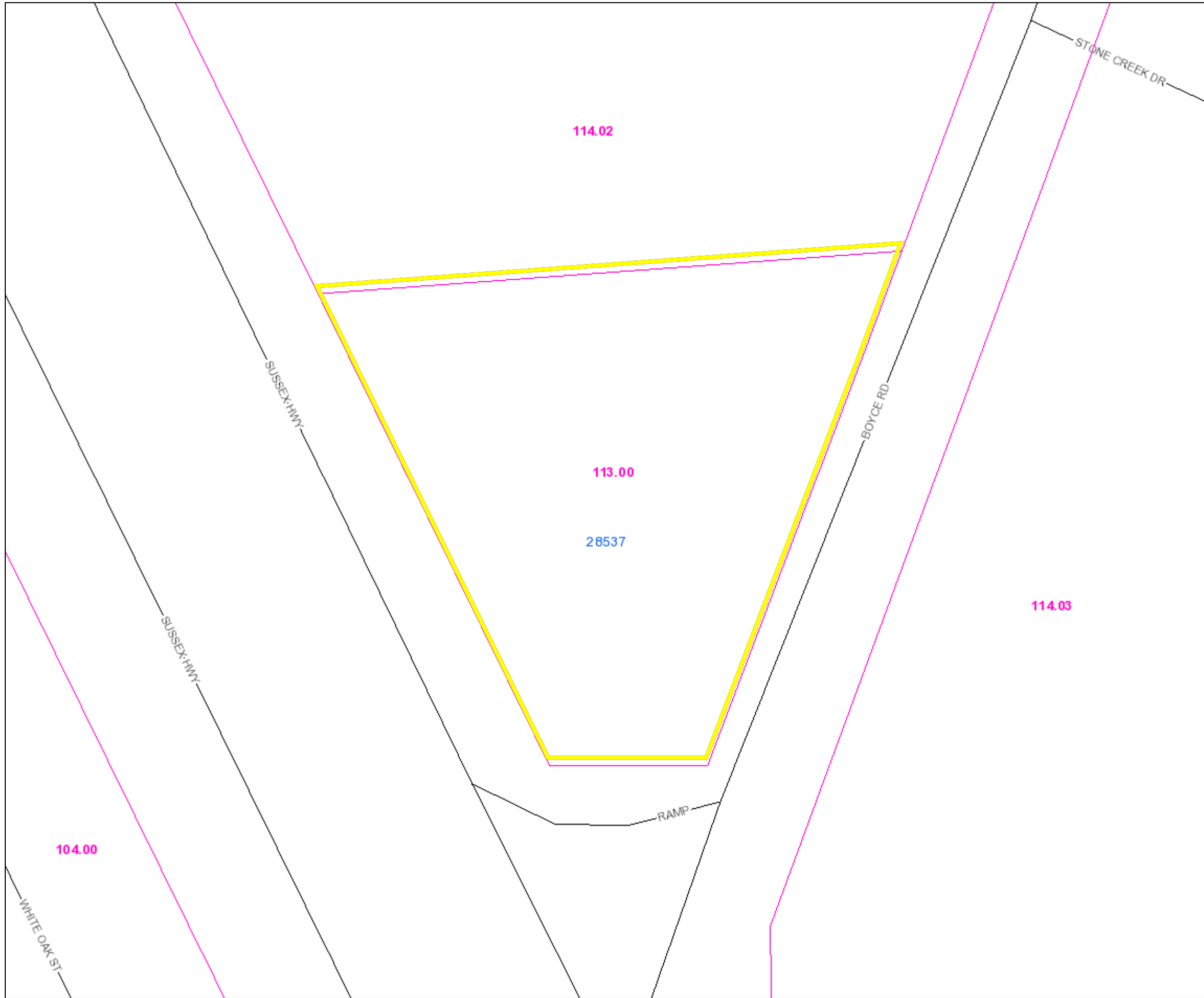


on April 17, 2018, and to the south, C/Z 1772 to was approved for a change from Agricultural Residential (AR-1) Zoning to Commercial Residential (CR-1) Zoning on June 30, 2015.

Based on the analysis of the land use, surrounding zoning and uses, the change of zone to allow for a property zoned Medium Commercial (C-2) in this location could be considered consistent with the surrounding land use, area zoning, and uses.



# Sussex County



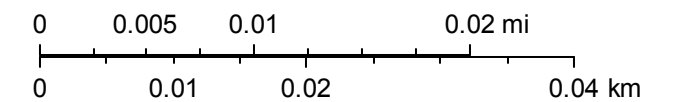
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<b>Owner Name</b>	LBG HOMES LLC
<b>Book</b>	5047
<b>Mailing Address</b>	14819 SYCAMORE RD
<b>City</b>	LAUREL
<b>State</b>	DE
<b>Description</b>	E/S RT 13
<b>Description 2</b>	W/S RD 482
<b>Description 3</b>	N/A
<b>Land Code</b>	

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- 911 Address
- Streets
- County Boundaries

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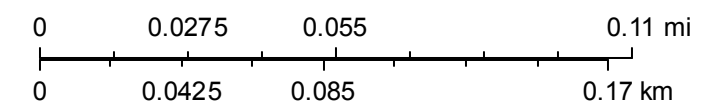
# Sussex County



<b>PIN:</b>	132-12.00-113.00
<b>Owner Name</b>	LBG HOMES LLC
<b>Book</b>	5047
<b>Mailing Address</b>	14819 SYCAMORE RD
<b>City</b>	LAUREL
<b>State</b>	DE
<b>Description</b>	E/S RT 13
<b>Description 2</b>	W/S RD 482
<b>Description 3</b>	N/A
<b>Land Code</b>	

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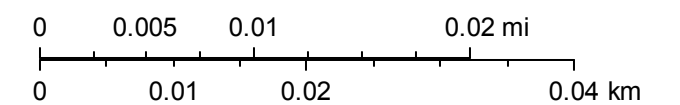
# Sussex County



<b>PIN:</b>	132-12.00-113.00
<b>Owner Name</b>	LBG HOMES LLC
<b>Book</b>	5047
<b>Mailing Address</b>	14819 SYCAMORE RD
<b>City</b>	LAUREL
<b>State</b>	DE
<b>Description</b>	E/S RT 13
<b>Description 2</b>	W/S RD 482
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

1:564



**Introduced 07/23/19**

**Council District No. 1 - Vincent  
Tax I.D. No. 132-12.00-113.00  
911 Address: 28537 Sussex Highway, Laurel**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.474 ACRE, MORE OR LESS**

**WHEREAS, on the 21st day of June 2019, a zoning application, denominated Change of Zone No. 1893, was filed on behalf of Lisa Horsey; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1893 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-2 Medium Commercial District as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and lying at the northeast corner of Sussex Highway (Route 13) and Boyce Road, and being more particularly described in the attached legal description prepared by Moore & Rutt, P.A., said parcel containing 0.474 acre, more or less.**

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

JANELLE M. CORNWELL, AICP  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
janelle.cornwell@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Irwin G. Burton III, Vice President  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 15, 2019

RE: County Council Report for CZ 1894 Howard Pepper, Jr

---

The Planning and Zoning Department received an application (CZ 1894 Howard Pepper, Jr) for a Change of Zone for parcel 533-4.00-61.00 to allow for a change in zone from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District to be located at 35029 DuPont Blvd. The Planning and Zoning Commission held a public hearing on October 17, 2019. The following are the draft minutes for the Change of Zone from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, results from the DelDOT Service Elevation, comments from the Sussex Conservation District, and comments from the Sussex County Engineering Department - Utility Planning Division.

That the Commission found that Mr. Howard Pepper, Jr., representing the Pepper Family Farm, LLC, and Mr. Ron Pepper were present on behalf of the application; that Mr. Howard Pepper stated the parcel is part of 500-acres of family farm and is in Delaware Agricultural Preservation; that the parcel had been used as a sales lot for years; that his son wanted to use the lot for his landscaping business and to use the mobile home as an office; that he is trying to get the zoning correct; that Chairman Wheatley asked Ms. Cornwell if the property is in an Agricultural Preservation District; that Ms. Cornwell stated that the parcel is in not in an Agricultural Preservation District but the adjoining parcels, which were part of the farm, were designated as such; that this particular parcel was part of the 500-acres of the family farm and has been cut out; that Mr. Mears asked if the property going to be used for sales for the landscaping business; that Mr. Ron Pepper stated they would use the office building and have a display with a sign; that Chairman Wheatley reminded the Commission Members that the application is for a Change in Zone and anything that is permitted in a C-3 ("Heavy Commercial District") could potentially take place on the parcel if the change of zone were approved; that Ms. Cornwell asked about the future Land Use Map designation and whether the parcel is designated as *commercial*. Mr. Cornwell asked whether the Applicant thinks that C-3 zoning district is appropriate in the Commercial Land Use classification; to which Mr. Pepper replied yes.



That the Commission found that no spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

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

The Planning Commission has not made a recommendation regarding the application.

## PLANNING & ZONING

JANELLE M. CORNWELL, AICP  
DIRECTOR

(302) 855-7878 T  
(302) 854-5079 F



# Sussex County

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Lauren DeVore, Planner III  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 9, 2019  
RE: Staff Analysis for CZ 1894 Howard Pepper Jr.

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1894 Howard Pepper Jr. to be reviewed during the October 17, 2019 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 Change of Zone for parcel 533-4.00-61.00 to facilitate a change from the Agricultural Residential (AR-1) Zoning District to a Heavy Commercial (C-3) District to be located at 35029 DuPont Boulevard in Frankford, Delaware. The size of the property is 2.368 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 property has the land use designation of Commercial Areas.

The surrounding land use to the north is designated on the Future Land Use Map as "Commercial Areas." The adjacent parcels to the east and south of the subject parcel are designated "Developing Areas." The parcels to the west, on the opposite side of Route 13 (DuPont Boulevard,) are designated "Developing Areas." Developing Areas recognize a range of housing types, including single family homes, townhomes and multi-family units. A variety of office uses would also be appropriate in many areas as would mixed-use development or a careful mixture of homes with light commercial and institutional uses.

Commercial Areas include concentrations of retail and service uses, commercial corridors, shopping centers, hotels, motels, car washes and auto dealers. This includes other medium and larger scale commercial uses as well as mixed-use buildings.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan states that Heavy Commercial (C-3) Zoning District may be appropriate within the Developing Area land use designation. Additionally, the Heavy-Commercial (C-3) Zoning is appropriate in Commercial Areas.

The property is zoned AR-1 (Agricultural Residential District.) The property directly to the north of the subject parcel is zoned General Commercial (C-1). Properties to the east and south are zoned Agricultural Residential (AR-1) with some General Residential (GR) Zoning to the east. Existing properties across Route 13 (DuPont Boulevard) are zoned General Commercial (C-1) and Agricultural Residential (AR-1) Zoning District.

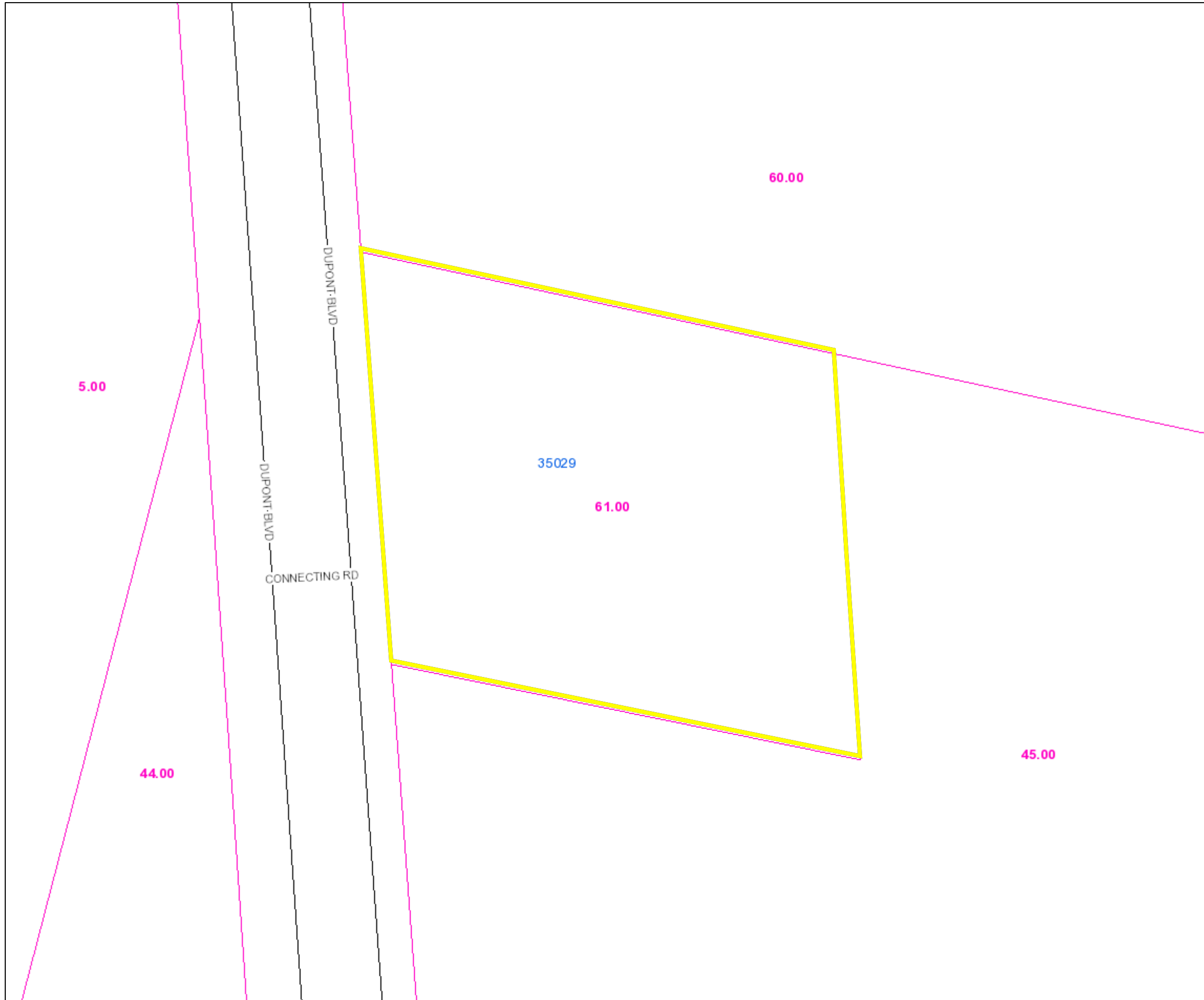
Since 2011, there have not been any other Change of Zone applications considered within a 1 mile radius of the application side.



Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a property zoned Heavy Commercial (C-3) in this location could be considered as being consistent with the surrounding land use, area zoning, and uses.



# Sussex County



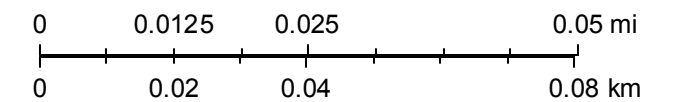
<b>PIN:</b>	533-4.00-61.00	
<b>Owner Name</b>	PEPPER FARM LLC	FAMILY
<b>Book</b>	3993	
<b>Mailing Address</b>	PO BOX 102	
<b>City</b>	SELBYVILLE	
<b>State</b>	DE	
<b>Description</b>	E/RT 113	
<b>Description 2</b>	W/PENN CENTRAL	
<b>Description 3</b>	OUTLOT 1	
<b>Land Code</b>		

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- polygonLayer**

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

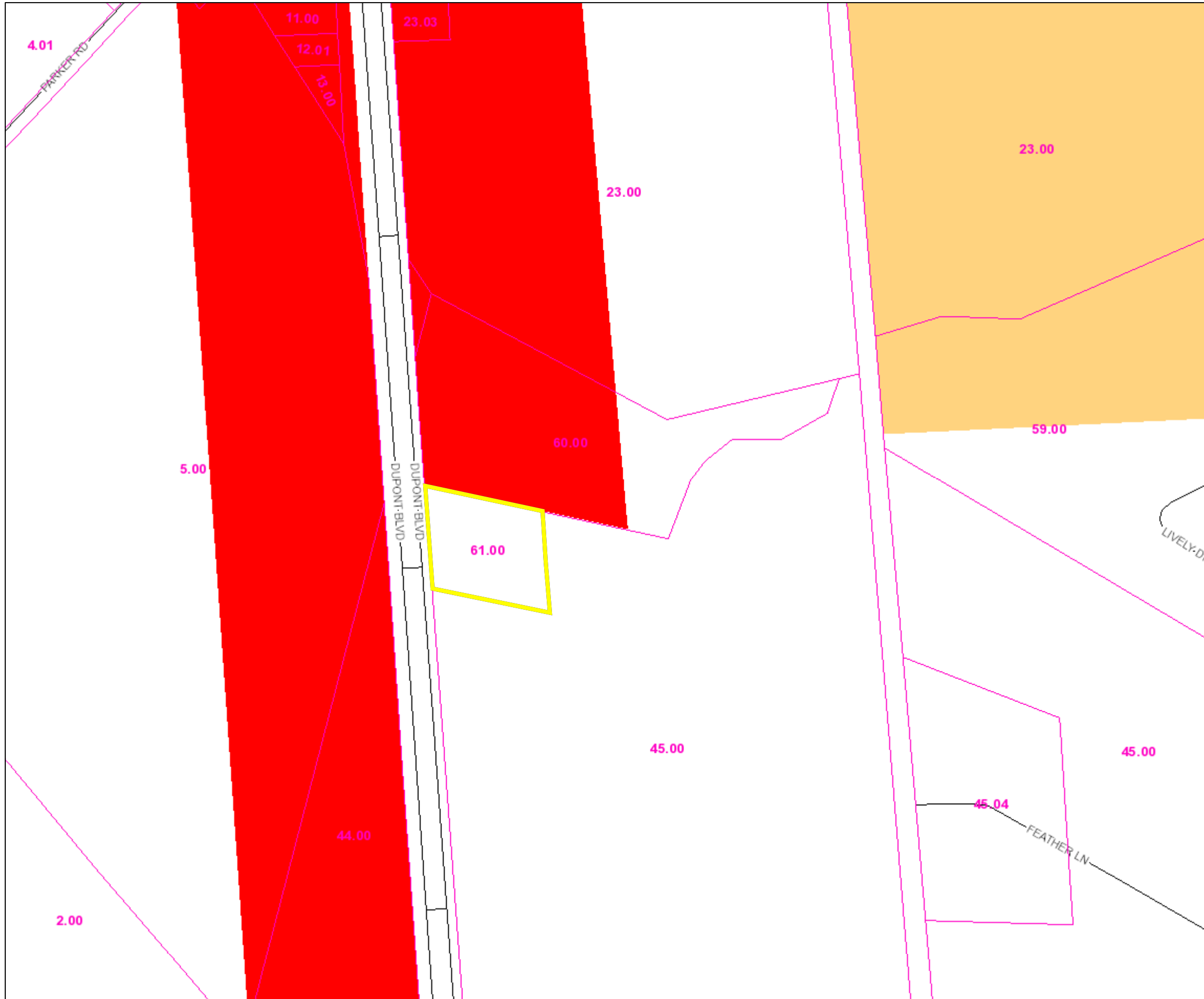
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# Sussex County



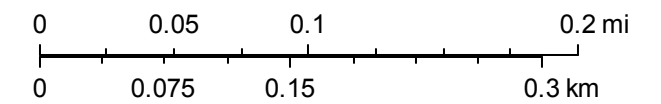
<b>PIN:</b>	533-4.00-61.00	
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<b>Book</b>	3993	
<b>Mailing Address</b>	PO BOX 102	
<b>City</b>	SELBYVILLE	
<b>State</b>	DE	
<b>Description</b>	E/RT 113	
<b>Description 2</b>	W/PENN CENTRAL	
<b>Description 3</b>	OUTLOT 1	
<b>Land Code</b>		

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  - Override 1
- Tax Parcels
- Streets

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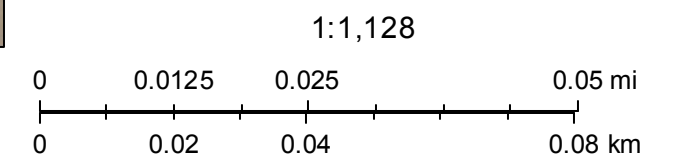


# Sussex County



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**Introduced 07/23/19**

**Council District No. 5 - Rieley  
Tax I.D. No. 533-4.00-61.00  
911 Address: 35029 DuPont Boulevard, Frankford**

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.368 ACRES, MORE OR LESS**

**WHEREAS, on the 26th day of June 2019, a zoning application, denominated Change of Zone No. 1894, was filed on behalf of Howard Pepper, Jr.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1894 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.**

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

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of DuPont Boulevard (Route 113), approximately 0.38 mile south of Lazy Lagoon Road, and being more particularly described in the attached legal description prepared by Ellis & Szabo, LLP, said parcel containing 2.368 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.**