



Sussex County Council Public/Media Packet

**MEETING:
December 5, 2017**

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**Sussex County Council
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Georgetown, DE 19947
(302) 855-7743**

MICHAEL H. VINCENT, PRESIDENT
GEORGE B. COLE, VICE PRESIDENT
ROBERT B. ARLETT
IRWIN G. BURTON III
SAMUEL R. WILSON JR.



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ROBIN GRIFFITH
CLERK

Sussex County Council

AGENDA

DECEMBER 5, 2017

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Presentation - DelDOT Secretary Jennifer Cohan – Route 113 Corridor Improvement Plan

Public Comments

Todd Lawson, County Administrator

1. **Sussex Sports Center Foundation Proposal Discussion and MOU (Memorandum of Understanding) Consideration**
2. **Review and Discussion of the Rules of Procedure of the County Council**
3. **Administrator's Report**

William Pfaff, Economic Development Director

1. **Economic Development Loan Fund Presentation**

Michael Costello, Government Affairs Manager

1. **Ecological Extinction Task Force Update**



Hans Medlarz, County Engineer

1. Goslee Creek Regional Pump Station, Force Main & Gravity Sewer, Project 15-09
 - A. Balancing Change Order and Substantial Completion
2. Miscellaneous Engineering Services
 - A. Approval of Base Engineering Agreement with George, Miles & Buhr, LLC
3. Transmission Facilities for Western Sussex Unified District
 - A. George, Miles & Buhr, LLC - Amendment No. 1
4. Transmission Facilities for Western Sussex Unified District – Bridgeville Portion
 - A. Davis, Bowen & Friedel – Amendment No. 2

John Ashman, Director of Utility Planning

1. Carillon Woods – Use of Existing Infrastructure Agreement

Old Business

1. Conditional Use No. 2099 filed on behalf of Richard and Dawn Jamison
2. Conditional Use No. 2104 filed on behalf of Grace-N-Mercy Ministries, Inc.
3. Conditional Use No. 2105 filed on behalf of Thomas R. Engel
4. Change of Zone No. 1831 filed on behalf of East Gate Farm, Inc.

Introduction of Proposed Zoning Ordinances

Council Members' Comments

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Change of Zone No. 1832 filed on behalf of MDI Investment Group, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS” (located on the southeast side of Shady Road, approximately 130 feet northeast of Plantations Road) (Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00) (911 Address: Not Available)

Conditional Use No. 2106 filed on behalf of MDI Investment Group, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS” (located on the southeast side of Shady Road, approximately 130 feet northeast of Plantations Road) (Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00) (911 Address: Not Available)

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on November 28, 2017 at 5:15 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 28, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 28, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 593 17
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of November 7 and 14, 2017 were approved by consent.

**Corre-
spondence**

The following letters and cards were received in appreciation of Human Service Grants received: Oak Orchard Boys & Girls Club, The Arc of Delaware, Delaware Adolescent Program, Delaware Hospice, Nanticoke Senior Center, Junior Achievement, Boys & Girls Clubs of Delaware, The YMCA of Delaware, and New Hope Center.

**Public
Comments**

Public Comments

Phoebe Cottingham, David Stevenson and Cathy Watts commented on the scheduling of the public hearing on the Right to Work / Labor Union Ordinance.

Dan Kramer questioned why the Council is considering the introduction of a new Commercial Zoning Ordinance when the old one is still outstanding and he commented on the scheduling of the Special Events Ordinance on this date.

**Public
Comments
(continued)**

Paul Reiger commented on Board of Adjustment matters.

Representative Tim Dukes commented on the Right to Work initiative.

**Public
Hearing/
Carillon
Woods
Expansion
of the
SCUSSD**

A Public Hearing was held to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Long Neck Area, to include a project known as Carillon Woods. John Ashman, Director of Utility Planning, reported that the expansion was requested by Davis Bowen & Friedel for their client, Carillon Woods, LLC. The approximate 26 acre site, located on Indian Mission Road, is to be used for the construction of 204 apartment units and a clubhouse. The project will be responsible for System Connection Charges in place at the time of connection and a Use of Existing Infrastructure Agreement will be required.

Mr. Ashman reported that no correspondence has been received regarding the proposed expansion.

There were no public comments. The Public Hearing and public record were closed.

**M 594 17
Adopt
R 033 17**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 033 17 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) LONG NECK AREA, TO INCLUDE PARCEL 234-23.00-260.00 AND A PORTION OF PARCEL 269.18 LOCATED ON THE SOUTH SIDE OF INDIAN MISSION ROAD 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” (CARILLON WOODS).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Wastewater
Agreement**

Mr. Lawson presented a wastewater agreement for the Council’s consideration.

**M 595 17
Execute
Wastewater
Agreement/
Fernmoor
Homes @
Woodlands
of Peppers
Creek DE
LLC**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 666-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fernmoor Homes @ Woodlands of Peppers Creek DE LLC for wastewater facilities to be constructed in The Woodlands of Peppers Creek – Phase 2 (Construction Record), located in the Dagsboro/Frankford Sanitary Sewer District.

Motion Adopted: 5 Yeas.

**M 595 17
(continued)**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Proposed
2018
Schedule**

Mr. Lawson presented the proposed Sussex County 2018 Schedule for Council's consideration.

**M 596 17
Approve
2018
Schedule**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Council approves the 2018 holiday schedule and the 2017 County Council meeting schedule, as amended.

HOLIDAY SCHEDULE

New Year's Day	January 1 (Monday)
Martin Luther King, Jr. Day	January 15 (Monday)
Good Friday	March 30 (Friday)
Memorial Day	May 28 (Monday)
Independence Day	July 4 (Wednesday)
Labor Day	September 3 (Monday)
Election Day	November 6 (Tuesday)
Return Day	November 8 (Thursday)
Veterans Day	November 12 (Monday)
Thanksgiving	November 22 (Thursday)
	November 23 (Friday)
Christmas	December 24 (Monday)
	December 25 (Tuesday)

(The County grants two floating holidays to eligible employees per calendar year in accordance with the Floating Holiday Policy.)

COUNCIL NO MEETING DATES

**JANUARY 16
FEBRUARY 13
MARCH 6
MARCH 27
APRIL 3
MAY 8
MAY 29
JULY 3
JULY 10
AUGUST 7
AUGUST 28
SEPTEMBER 4
OCTOBER 16
NOVEMBER 6
NOVEMBER 20
DECEMBER 18
DECEMBER 25**

**M 596 17
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Adminis-
trator's
Report**

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

1. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Monday, December 4th, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The "Pack the POD" campaign will remain in full swing until the end of December.

2. Mildred King Luncheon

Sussex County offices will close on Friday, December 1st, from 11:00 a.m. to 2:00 p.m. to allow employees to attend the annual Mildred King Luncheon. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 2:00 p.m.

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Hopkins - Pettyjohn Subdivision (aka Red Mill Pond North) – Phase 6 received Substantial Completion effective November 16th.

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

**Fourth
Quarter
Employee
Recognition
Awards**

Mrs. Jennings reported that the County recognizes employees for exceptional service and that a total of twenty-seven (27) employees received recognition for the Fourth Quarter of 2017. Mrs. Jennings announced that four employees received special recognition for the Fourth Quarter of 2017. Jordan Dattol in Emergency Medical Services was selected to receive the Fourth Quarter Customer Service Award, and three employees received Honorable Mention: Richard Jackson (Utility Engineering), Matt Murray (Utility Engineering), and Clint Whaley (Building Code).

**Draft
Ordinance/
Commercial
Districts**

Vince Robertson, Assistant County Attorney, and Janelle Cornwell, Planning and Zoning Director, presented a Draft Ordinance to address the commercial districts. Ms. Cornwell noted that public hearings were held on a similar ordinance; however, it was determined that the Proposed Ordinance required some changes/tweaks. It was decided that

Draft Ordinance/ Commercial Districts (continued)

the Proposed Ordinance be redrafted and introduced and thereafter, go through the public hearing process. It was noted that most of the tweaks pertain to a new table included in the new Draft Ordinance.

In response to a question raised by Mr. Vincent, Mr. Robertson stated that the first Proposed Ordinance is still pending and that when a new ordinance is acted upon, the first one will be denied for the purpose of removing it from the books/record.

Introduction of Proposed Commercial Districts Ordinance

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW "B-2 BUSINESS COMMUNITY" DISTRICT; "B-3 BUSINESS RESEARCH" DISTRICT; "C-2 MEDIUM COMMERCIAL" DISTRICT; "C-3 HEAVY COMMERCIAL" DISTRICT; "C-4, PLANNED COMMERCIAL" DISTRICT; "C-5, SERVICE/LIMITED MANUFACTURING" DISTRICT, AND "I-1, INSTITUTIONAL" DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND "115 ATTACHMENT 3, SUSSEX COUNTY TABLE III"; TO CREATE "115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV". The Proposed Ordinance will be advertised for Public Hearing.

General Labor & Equipment Contract/ Change Order

Hans Medlarz, County Engineer, presented Change Order No. 8 to the General Labor & Equipment Contract. This Change Order is for a scope modification at no additional expense and is due to the need for emergency work at Pump Station 54. This Change Order also includes work at the Wolfe Neck Wastewater Treatment Plant including raising structures and the electrical control cabinet due to frequent flooding. Mr. Medlarz noted that the Department proposes to give up the work in Dewey Beach on Pump Station 224 and substitute the above mentioned changes to the scope of work.

M 597 17 Approve Change Order/ General Labor & Equipment Contract

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 8 for Contract No. 17-01, FY 17 General Labor & Equipment Contract, be approved which modifies the scope of work to include emergency repairs at Pump Station 54 and elevation modifications at Pump Station 224, with no change in Contract amount.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea

Wolfe Neck Administrative Building Remediation Repairs

Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for the Wolfe Neck Administration Building Remediation and Repairs Project. Mr. Medlarz discussed the mold issues at the facility, the vacating of the building and the emergency remediation. He reported that the contract work has been completed; however, he noted that the contractor ran into a couple of minor issues including roofing/flashing, the need for a partition wall and several other unit price items. The close out change order is in the amount of \$4,992.15.

M 598 17 Approve Change Order/ Wolfe Neck Administrative Building Remediation Repairs

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract 18-11, Wolfe Neck Administration Building Remediation and Repairs, be approved increasing the contract amount by \$4,992.15 for a new total of \$60,892.15.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea

Use of Existing Infrastructure Agreement/ Salt Aire

John Ashman, Director of Utility Planning, presented a Proposed Use of Existing Infrastructure Agreement between Sussex County and Land & Marketing Corporation for the Salt Aire development. Under this arrangement, all of the development will be connected to existing infrastructure and, in return, Land & Marketing Corporation will contribute \$11,861.20 for the perpetual use of these facilities.

M 599 17 Approve Use of Infrastructure Agreement/ Salt Aire

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Land & Marketing Corporation for a capacity allocation and regional transmission system, as presented.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea

Use of Existing Infrastructure Agreement/ Middle Creek Preserve

John Ashman, Director of Utility Planning, presented a Proposed Use of Existing Infrastructure Agreement between Sussex County and Middle Creek Preserve, LLC for the Middle Creek Preserve project in the Angola Neck Area. Under this arrangement, the Development will construct an on-site pump station and gravity collection system that will connect to existing regional infrastructure and, in return, Middle Creek Preserve, LLC will contribute \$83,520.00 for the perpetual use of these transmission facilities.

M 600 17
Approve
Use of
Existing
Infra-
structure
Agreement/
Middle
Creek
Preserve

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Middle Creek Preserve, LLC for a capacity allocation and regional transmission system, as presented.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Grant
Request

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

M 601 17
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for parade expenses.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Introduction
of Proposed
Zoning
Ordinances

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE CARE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 3.9713 ACRES, MORE OR LESS" (Conditional Use No. 2121) filed on behalf of Cheryl Webster and Kenna Nethken (Tax I.D. No. 331-6.00-134.00) (911 Address: 10404 Old Furnace Road, Seaford).

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLANT, TREE, AND LAWN CARE DIAGNOSTIC CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Conditional Use No. 2122) filed on behalf of Richard Thurman Jr. (Arbor Care) (Tax I.D. No. 234-6.00-88.01) (911 Address: 20182 Robinsonville Road, Lewes).

The Proposed Ordinances will be advertised for Public Hearing.

Council
Members'
Comments

Council Members' Comments

Mr. Arlett asked Council to consider a date in December for the public hearing on the Right to Work Ordinance. Staff and Council discussed

(continued) scheduling and advertising requirements for public hearings. There was no consensus to hold a special meeting in December and it was decided that the Public Hearing will be held on January 2, 2018.

**M 602 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the
Go Into Regular Session and go into Executive Session.**

**Executive
Session**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Executive An Executive Session of the Sussex County Council was held in the
Session Basement Caucus Room for the purpose of discussing matters relating to
pending/potential litigation and land acquisition. The Executive Session
concluded at 12:50 p.m.**

**M 603 17 At 12:53 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to
Reconvene come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Absent;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 604 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to negotiate and
Land enter into a contract and proceed to closing on property identified as Land
Purchase 2017-D.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Absent;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 605 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to negotiate and
Land enter into a contract and proceed to closing on property identified as Land
Purchase 2017-E.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Absent;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 606 17 At 12:54 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to
Recess recess until 1:30 p.m.**

**M 606 17
(continued)**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Absent;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 607 17
Reconvene**

At 1:38 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

Rules

Mr. Moore reviewed the rules of procedure for public hearings on zoning matters.

**Public
Hearing/
CZ 1830**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS” (Change of Zone No. 1830) filed on behalf of H. Dale Parsons (Tax I.D. No. 135-16.00-23.00) (911 Address: Not Available).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

An Exhibit Book was previously distributed to the Council.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

Mark Davidson with Pennoni Associates was present on behalf of the application with the Applicant, H. Dale Parsons. They stated that this application is for the rezoning of a portion of land located on the south side of Lewes Georgetown Highway / Route 9; that the Parsons family has owned the property for over 20 years; that the property is currently dual zoned as Agricultural Residential and General Commercial and the Applicant is seeking to rezone the AR-1 portion to CR-1; that currently, Mr. Parsons has two storage buildings on the site for the use and extension of his existing businesses to do equipment and boat storage and repairs;

**Public
Hearing
CZ 1830
(continued)**

that he wishes to continue operating a repair business; that no Traffic Impact Study was required by DelDOT; that there are other commercial properties in the area as well as limited industrial zoned parcels; and that according to the Strategies for State Policies and Spending, the area is in an Investment Level 4 Area and immediately adjacent to Level 2 and 3 Investment Areas.

There were no public comments.

The Public Hearing and public record were closed.

**M 608 17
Adopt
Ordinance
No. 2534/
CZ 1830**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2534 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS" (Change of Zone No. 1830) filed on behalf of H. Dale Parsons.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ 1831**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS" (Change of Zone No. 1831) filed on behalf of East Gate Farm, Inc. (Tax I.D. No. 330-11.00-73.09) (911 Address: Not Available).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

An Exhibit Book was previously distributed to the Council.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

The Council found that Dennis Schrader, Attorney, was present on behalf of the application with Ken Christenbury with Axiom Engineering and D.J.

**Public
Hearing/
CZ 1831
(continued)**

Hughes with Davis, Bowen & Friedel, Inc. They discussed the proposed Concept Plan, the location of the property near the City of Milford; the adjacent Bayhealth facility, the plan to develop the property for general and/or professional offices (as a neighborhood business development; plans for water and wastewater service, stormwater management, and DelDOT's findings. They stated that the Applicant proposes no more than 75,000 square feet of space for offices; that according to the Comprehensive Plan, the area for the proposed project is identified for purposes of future land use as a Town Center Area, an area in which the proposed use is recommended; that according to the Strategies for State Policies and Spending, the site is located in an Investment Level 3 Area; that the proposed project is in character with the nature of the area and it will serve the residents in the area and the residents of the larger Milford community by creating an office center area near the soon to be completed Health Campus; that the offices will provide a necessary service to residents; that DelDOT did not require a Traffic Impact Study; that the project will be served with onsite water and an onsite wastewater system; that the site is not suitable for agriculture use or residential use long term; that the site is not contiguous to the City of Milford and there are no immediate annexation plans; that a PLUS review was not required; and that if the Change of Zone is granted, they will be required to obtain agency approvals, including approval for access to the site from Route One.

Public comments were heard.

Charles Wagner spoke in support of the application. He stated that the area will be developed, that access to the property will be a challenge for DelDOT, and that professional and medical offices will provide needed services in the area.

Bill Pfaffenhauser stated that this property will someday be developed and that he prefers controlled development. He expressed concern about the different types of commercial uses that would be allowed and he questioned if there can be a guarantee that it will be developed as professional buildings.

Kathleen Trombello, Kpakiwa, Larry Trombello, Debra Finny, Joanne Burbage, and Frank Sochak spoke in opposition to the application. They stated that the area is rural/residential, that the property could be used for residential homes which would be in character with the area; that they wish to protect the integrity of the neighborhood and their quality of life; that the proposed use would create traffic problems; that there is plenty of open space south of the medical facility on Route One that would be more suitable for a commercial use; that there is plenty of retail in the area; that no more retail shops are needed; that the County needs to preserve the eastern side of Delaware; that the proposal interferes with the Coastal Zone Act; and that approval of this application would set a precedent in the area.

There were no additional public comments.

(continued) The Public Hearing and public record were closed.

M 609 17 **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action**
Defer **for one week on Change of Zone No. 1831 filed on behalf of East Gate**
Action/ **Farm, Inc.**
CZ 1831

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
CZ 1833 **SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**
 DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR
 A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL
 HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR
 LESS” (Change of Zone No. 1833) filed on behalf of Eagles Nest Fellowship
 Church (Tax I.D. No. 235-15.00-7.01) (911 Address: 13275 Reynolds Road
 and 26381 Broadkill Road, Milton).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017 the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

An Exhibit Booklet was previously distributed to Council members.

The Council found that Mark Davidson with Pennoni Associates was present on behalf of the application with members of the Eagles Nest Fellowship Church. He reported on the history of the property and detailed the various past uses. He stated that DelDOT did not require a Traffic Impact Study; that the proposed rezoning is in character with the area and is directly across from commercial parcels; that the property is in a Developing Area; that according to the Strategies for State Policies and Spending Map, the site is in an Investment Level 2 Area; that the property is served by onsite wells and onsite septic systems; that the rezoning will allow for other uses / commercial activities, i.e. a recording studio, bakery, catering service, etc.; and that the rezoning of this property will allow the church to further what they are doing with their ministries.

**Public
Hearing
(continued)**

There were no public comments.

The Public Hearing and public record were closed.

**M 610 17
Adopt
Ordinance
No. 2535/
CZ 1833**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2535 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR LESS” (Change of Zone No. 1833) filed on behalf of Eagles Nest Fellowship Church.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2105**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS” (Conditional Use No. 2105) filed on behalf of Thomas R. Engel (Tax I.D. No. 235-30.00-103.09) (911 Address: 20132 Doddtown Road, Harbeson).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017 the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

An Exhibit Booklet was previously distributed to Council members.

Ms. Cornwell reported that, since the Public Hearing before the Planning and Zoning Commission, a letter has been received from Elizabeth Valezquos, Realtor with KW at the Beach, referencing the poor condition of Doddtown Road, and expressing concerns with the rezoning’s effect on property values.

**Public
Hearing/
CU 2105
(continued)**

Council found that Aaron Baker, Attorney, was present on behalf of the application along with Thomas Engel, Applicant. They discussed the subject property and the landscape business. They stated that the Applicant wishes to move the staging area for his landscaping business to this site; that employees will come to the site and pick up work vehicles and leave and afterwards, there would be very little activity; that the property has been cleaned up and improved since the previous owner left the site; that the prior Conditional Use sets a precedent; that a single family home with an attached garage and detached shed exists on the site; that the clean-up work created concerns with neighbors, however, that work will not be on-going; that he plans to use the existing pole buildings on the site; that vehicles entering the site will not have more than 2 axles; that he will limit the number of vehicles and the type of vehicles; that DeIDOT has determined that no Traffic Impact Study is required; that the Applicant provides a needed service; that the site is set back from the road; that he wishes to run the business out of 3 to 4 acres and not the entire site; that regarding the conditions of approval recommended by the Planning and Zoning Commission (Condition J), he would like to have two trash dumpsters, one for trash and one for recycling; that access would be from Doddtown Road; and that he could have 10 vehicles and 7 trailers on the site at one time.

Mr. Arlett referenced the comment that a Traffic Impact Study was not required and he read a letter into the record from DeIDOT dated September 26, 2016 in regard to a field observation of Doddtown Road. It was noted that this letter was submitted by the opposition. The Applicant stated that he is in agreement with the conclusions and recommendations in the letter; he noted that, most likely, this letter was addressing truck activity due to the clean-up of the site. It was also noted that Condition H recommended by the Planning and Zoning Commission addresses the number of axles permitted.

There were no public comments in support of the application.

Rick Berl, Attorney, was present on behalf of three families in opposition to the application. He referenced the prior use of the property and stated that this use is a proposed new use; that there are two pole buildings on the site and they cannot be used in their present configuration/condition; that the previously approved Conditional Use cannot be used as a precedent; that Doddtown Road is a narrow tar and chip road and a dangerous road; that the anticipated trips per day have been estimated at below 500 trips; that on Doddtown Road, any number of trips of 300 to 400 per day will be detrimental to that road; that according to the Comprehensive Plan, this property is considered rural low density and suggests that any business development be confined to uses addressing agricultural activities and single family dwellings; that the proposed use will not be conducive to the uses of the adjacent surrounding properties; that this area is rural and the County needs to preserve the rural areas; and that this use will adversely affect the quality of life of adjacent residents and will cause a depreciation

(continued) of their property values.

**Meeting Paused/
Power Outage** Due to a power outage at approximately 3:15 p.m., Mr. Vincent declared a pause in the meeting.

Although the power outage continued and the Council Chambers was running on a limited back-up power supply, the Council reconvened.

**M 611 17
Reconvene** A Motion was made by Mr. Cole, seconded by Mr. Arlett, to reconvene at 3:31 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea

**Public Hearing/
CU 2105
(continued)** Mr. Vincent announced that the Council would complete the Public Hearing on Conditional Use No. 2105 after which time if power was not restored, the Council would reschedule the last public hearing (on the Proposed Ordinance relating to Special Events) to another date/time.

Mr. Berl continued with his presentation. He referenced Code Section 171 relating to Conditional Uses and its requirement that a Conditional Use be reserved for essential and desirable uses for the general convenience and general welfare of the population of Sussex County and he stated that there is no evidence that the proposed use is essential or desirable for the general welfare of Sussex County.

Mr. Berl noted that the Applicant's Attorney has provided evidence of a Certificate of Occupancy for the pole buildings.

Chaz Lickman, Michael Schlitter, Diane Johnson, Zeljko Jeren, Mary Ann Hughes, and Patricia Beckley spoke in opposition to the application. They commented on the trucks/vehicles entering and leaving the subject property, including vehicles with 3 axles hauling in containers; commented on materials being delivered to the site; stated that there are other businesses in the area but they are micro-businesses; stated that they are opposed to dumpsters on the site; stated that the Applicant's road runs next to others' property lines; that landscaping will not help with noise or odors from diesel fuels; that huge tractor trailers have been seen leaving the site; that they question what the building in the back will be used for; that they question the well and the sewer system and whether or not they have been put there illegally; that they question whether or not mulch will be stored on the site; that the Applicant had let his pesticide license expire; that the proposed use will be a burden on Doddtown Road; that Council needs to stop the trend of allowing businesses and industrial uses in residential areas; that the Applicant does not live on Doddtown Road; that a complaint was made to the Planning and Zoning Department; that the use will add

**Public
Hearing/
CU 2105
(continued)**

more traffic to a small and very busy road; that the use will bring added trucks, cars, pollution, and noise; that the use will destroy the peace and safety of the neighborhood; that the use will start at 6:30 a.m.; that the use will devalue the properties in the area; that the Applicant owns various businesses; and that matters such as this one needs to be looked at collectively and how they will impact the area.

Mr. Berl and Mr. Zeljke presented video clips of what is going on at the application site and at the Applicant's other business site, i.e. trucks, equipment and materials.

In response to a question raised earlier by Council, Aaron Baker, Attorney for the Applicant, confirmed that there are no deed restrictions on the property.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 612 17
Defer
Action on
CU 2105**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action for one week.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Power
Outage**

Due to the ongoing power outage, the Council discussed rescheduling the Public Hearing on the Proposed Ordinance relating to Special Events.

**M 613 17
Reschedule
Public
Hearing/
Proposed
Ordinance
Relating
to Special
Events**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to reschedule the Public Hearing on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM "SPECIAL EVENTS" AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS".

Motion Adopted: 4 Yeas, 1 Nay.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Nay; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 614 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 4:10 p.m.

**M 614 17
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, 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

WILLIAM PFAFF
ECONOMIC DEVELOPMENT DIRECTOR
(302) 855-7700 T
(302) 854-5383 F
william.pfaff@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Robert B. Arlett
The Honorable Irwin G. Burton III
The Honorable Samuel R. Wilson Jr.

FROM: William F. Pfaff
Economic Development Director

RE: **NEW COUNTY LOAN PROGRAM (THE EXCITE SUSSEX FUND)**

DATE: December 1, 2017

During Tuesday's meeting, we will be sharing the new proposed County Loan Program for your approval. A copy of the new information sheet is attached for your information.

Please let me know if you have any questions or concerns.

Attachment



The ExciteSussex Fund

Discover Bank and The Grow America Fund (an affiliate of the National Development Council) have partnered to launch the ExciteSussex Fund. Together, we are working to help companies grow their businesses in Sussex County. With longer loan terms and below market interest rates, the ExciteSussex Fund can help businesses stretch their cash flow and save thousands of dollars with lower monthly payments.

- Who is eligible?** Qualified, existing businesses in operation for at least 2 full years with 10 to 500 full-time employees (subject to the SBA size standards by industry). Real estate investment or development projects and financing entities are not eligible.
- The business must have the following public benefits:
- Creation and retention of permanent, full-time jobs
 - Serve businesses in located in Sussex County economic development zones within the grid
- How much can be borrowed?** Loans can range from \$250,000 to \$1,000,000. However, the amount a business can borrow is subject to underwriting guidelines and availability of funds.
- How can the loan be used and what are the repayment terms?**
- Machinery & Equipment – to be paid over 10 years
 - Real Estate Acquisition and/or Renovation – to be paid of 25 years
 - Tenant improvements – to be repaid over the life of the lease
- Is there an application fee?** There is no application fee.
- Are there closing costs?**
- Once the loan is approved, the applicant pays a 1% deposit at commitment letter signing for appraisal, legal, and other costs incurred prior to closing
 - SBA guarantee of 2-3%
 - All closing costs may be financed through the loan
- What are the interest rates?**
- Effective rate: 3.94% as of 12/1/2017
- What guarantees and collateral are required?**
- Personal guarantees are required from any individual with > 20% ownership of the business
 - Security interest in all available collateral
 - For real estate: flexible loan-to-value, depending on underwriting
- What reporting is required?** Grow America Fund meets with every business annually. Financial statements and/or tax returns shall be provided at least annually.

Explore. Excite. Exceed.

COUNTY ADMINISTRATIVE OFFICES
2 The Circle | P.O. Box 589 | Georgetown, DE 19947
(302) 855-7741

excitesussex.com

ADMINISTRATION
MICHAEL J. COSTELLO
GOVERNMENT AFFAIRS MANAGER
(302) 854-5060 T
(302) 855-7749 F
michael.costello@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Robert B. Arlett
The Honorable I.G. Burton III
The Honorable Samuel R. Wilson Jr.

FROM: Michael J. Costello
Government Affairs Manager

RE: **ECOLOGICAL EXTINCTION TASK FORCE UPDATE**

DATE: December 1, 2017

During Tuesday's meeting, I will be updating Council on Senate Concurrent Resolution No. 20, otherwise known as the Statewide Ecological Extinction Task Force. I was assigned as a designee for the County Administrator by Council during the summer of 2017.

The information will include a summary of the Task Force formation and members, a description of the meetings, and the final findings and recommendations (in draft format at the time of this memo) to be submitted to the President Pro Tempore and Speaker of the House on December 1st.

The Task Force had it's last meeting on November 28th.



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

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Samuel R. Wilson, Jr.
The Honorable I.G. Burton, III
The Honorable Robert B. Arlett

FROM: Hans Medlarz, County Engineer

RE: *Goslee Creek Regional Pump Station, Force Main & Gravity Sewers
Balancing Change Order and Substantial Completion
Project No. 15-09*

DATE: December 5, 2017

The Goslee Creek planning area was significantly revised in 2013. It was originally designed to receive flow from various pump stations, which would thereafter pump to a regional facility. The design was then modified, prior to the start of construction of the project mentioned above, to bypass the pump stations and direct flow to one regional facility (IBRWF).

The design modifications downsized the pumps, decreased associated electrical work, reduced VFD requirements, and reduced the size for pipes, fittings, flow meters and appurtenances. This resulted in a change order of \$70,000.00, reducing the contract from \$4,164,825.00 to \$4,094,825.00.

In addition to the modifications to the new pump station, the proposed 21" gravity sewer was significantly reduced. Combined with the associated reduction in manholes, trench and pavement restoration, a savings of approximately \$500,000 was witnessed but not processed as a change order until this time.

The final balancing change order includes the items associated with the initial design modification and reduction of unused contingency items of another \$138,000, plus addition of approximately \$30,000 in new work, for a total change order reduction of \$632,017.59.



Combined with the original Change Order #1 reduction of \$70,000, the total contract has been reduced by \$702,017.59 for a new final contract value of \$3,462,807.41(as compared to the award value of \$4,164,825.00). Included in the final package is a time extension of sixty-one (61) calendar days associated with coordination of the final power connection and the addition of several features to enhance the final product and extend maintenance life.

Change Order No. 2 Final

Date of Issuance: November 21st, 2017 Effective Date: December 5th, 2017

Project: Goslee Creek	Owner: Sussex County	Owner's Contract No.: 15-09
Contract: Regional Pump Station, Force Main and Gravity Sewers	Date of Contract: <u>June 6th, 2016</u>	
Contractor: PACT One, LLC (PACT)	Engineer's Project No.: 14256-011	

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Includes cost increases and/or cost credits associated with P.S. Site - Fence Gate Modifications (Line Item 1 - Cost), providing S.S. Lifting Bales for (2) new Pumps (Line Item 2 - Cost), Non-Compensatory, Contract Time Extension (Line Item 3 - No Cost), Balancing of Used/Unused Contract Bid Item Quantities (Line Item 4 - Cost Credit), Elimination of (3) M.J. Force Main Fittings (Line Item 5 - Cost Credit) and added installation of P.S. Site - Secondary Electric Service Feeder Cables (Line Item 6 - Cost) to the Contract work scope.

Attachments: Cost Summary Sheet and Line Item 1, Line Item 2, Line Item 3, Line Item 4, Line Item 5 and Line Item 6 documents which provide details for all cost credits and/or cost increases.

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price: <u>\$ 4,164,825.00</u> Changed from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : <u>\$ -70,000.00</u> Contract Price prior to this Change Order: <u>\$ 4,094,825.00</u> Decrease on this Change Order: <u>\$ (632,017.59)</u> Contract Price incorporating this Change Order: <u>\$ 3,462,807.41</u>	Original Contract Times: 300 Calendar Days Substantial Completion (days or date): <u>300 days</u> Ready for final payment (days or date): _____ Unchanged from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : Substantial Completion (days): <u>0 days</u> Ready for final payment (days): _____ Contract Times prior to this Change Order: Substantial Completion (days or date): <u>300 days</u> Ready for final payment (days or date): _____ Changed/Increased on this Change Order: <u>61 days</u> Substantial Completion (days or date): <u>361 days</u> Ready for final payment (days or date): _____ Contract Times with all approved Change Orders: Substantial Completion (days or date): <u>361 days</u> Ready for final payment (days or date): _____
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RECOMMENDED:
 By: Michael J. Gilbert
 Engineer (Whitman, Requardt & Assoc.)
 Date: 11/29/17

ACCEPTED:
 By: _____
 Owner (Sussex County)
 Date: _____

ACCEPTED:
 By: [Signature]
 Contractor (PACT One, LLC)
 Date: 1/28/17

Contract 15-09

<p>Goslee Creek Regional Pump Station Force Main and Gravity Sewer Change Order No. 2 - Final / Cost Summary Sheet (Addition and/or Substitution of Various Items)</p>

Change Order Cost Summary Sheet with Proposed Line Item Costs and/or Credits							
Line Item No.	Description of Individual PCO Line Items	Proposed			Actual		Contract
		Quantity	Unit	Unit Price	Quantity	Added Cost	Credit
1	Fence Gate Modifications	1	LS	\$ 1,233.75	1	\$ 1,233.75	\$ -
2	Stainless Steel Pump Lifting Bales (2)	1	LS	\$ 2,127.50	1	\$ 2,127.50	\$ -
3	Non-Compensatory Contract Time Extension - 61 Calendar Days	1	LS	\$ -	1	\$ -	
4	Balancing of Final Used/Unused Contract 15-09 Bid Item Quantities - (Credit)	1	LS	\$ (657,824.78)	1	\$ -	\$ (657,824.78)
5	Elimination of three (3) M.J. Fittings / Bends - (Credit)	1	LS	\$ (2,492.80)	1	\$ -	\$ (2,492.80)
6	Secondary Electric Service Feeder Cables/Wires	1	LS	\$ 24,938.74	1	\$ 24,938.74	\$ -

Sub-Totals for Costs and Credits	\$ 28,299.99	\$ (660,317.58)
Total Change Order No. 2 - Final (Credit)		\$ (632,017.59)

Summary of Contract Change Orders - Contract 15-09

Original Contract Amount	\$ 4,164,825.00
Amount of Previous Change Orders: No. 1 through No. 1	<u>\$ (70,000.00)</u>
Contract Total Including Previous Change Order No. 1	\$ 4,094,825.00
+	
Total of Change Order No. 2 - Final	Decrease \$ (632,017.59)
=	
Revised Contract No. 15-09 Total (Including Change Order No. 2 - Final)	\$ 3,462,807.41

Line Item No. 1

P.S. Site – Fence Gate Modifications

Contract 15-09 Cost Increase = \$1,233.75

CONTRACT: Goslee Creek Regional Pump Station, Force Main and Gravity Sewer

Change Order Request #4 - Fence and Gate Modifications

DESCRIPTION: As documented in the submittal process

LABOR COSTS	Quantity	Unit	Rate	Total
Project Executive		HR	\$ 90.00	\$ -
General Superintendent		HR	\$ 90.00	\$ -
Project Manager		HR	\$ 70.00	\$ -
Project Administration		HR	\$ 45.00	\$ -
Foreman		HR	\$ 83.78	\$ -
Backhoe Operator		HR	\$ 73.40	\$ -
Pipelayer		HR	\$ 61.23	\$ -
Carpenter		HR	\$ 77.92	\$ -
H & H Laborers/Flaggers		HR	\$ 61.63	\$ -
			Subtotal	\$ -
			46% Insurance & Taxes	\$ -

TOTAL LABOR COSTS \$ -

EQUIPMENT COSTS	Quantity	Unit	Rate	Total
Caterpillar 330CL Excavator		HR	\$ 164.97	\$ -
Stanley Rock Hammer		HR	\$ 67.82	\$ -
Case CX135 Excavator w/ hoepack		HR	\$ 68.35	\$ -
Komatsu PC76MR-6		HR	\$ 43.62	\$ -
Case 149 Excavator		HR	\$ 124.00	\$ -
Caterpillar Model 322CL Excavator w/o hoepack		HR	\$ 105.75	\$ -
Caterpillar Model 312BL Excavator with hoepack		HR	\$ 61.20	\$ -
Kato Model 450 Crawler Excavator with hoepack		HR	\$ 59.43	\$ -
Kato Model 1250 Excavator		HR	\$ 114.87	\$ -
Caterpillar 938H Wheel Loader		HR	\$ 66.60	\$ -
Caterpillar Model IT2BF Loader		HR	\$ 50.47	\$ -
Caterpillar 938 Wheel Loader		HR	\$ 57.23	\$ -
Caterpillar 903 Track Loader		HR	\$ 132.91	\$ -
Komatsu WA200 Rubber Tire Loader		HR	\$ 48.40	\$ -
Daewoo Skid Steer Loader		HR	\$ 30.21	\$ -
Case Model 580 Backhoe with Hoepack		HR	\$ 37.01	\$ -
Caterpillar D3C Dozer		HR	\$ 53.37	\$ -
Asphalt Zipper Model AZ460		HR	\$ 87.32	\$ -
Ingersoll Rand ECM370 Drill and Compressor		HR	\$ 112.67	\$ -
Navistar Water Tank Truck		HR	\$ 60.84	\$ -
Four Ford F250 Pickup Truck w/ Tools		HR	\$ 20.55	\$ -
Four Ford F150 Pickup Truck w/ Tools		HR	\$ 23.13	\$ -
International Dump Truck		HR	\$ 58.85	\$ -
22' Tool Trailer with contents		HR	\$ 1.92	\$ -
35' Tool Trailer with contents		HR	\$ 2.58	\$ -
I-R D1855Q Portable Air Compressor		HR	\$ 65.76	\$ -
Laynor Broome/John Deere Tractor Model 850 Sweeper		HR	\$ 74.68	\$ -
Dynapac Rollers		HR	\$ 79.33	\$ -
Case 252 Roller		HR	\$ 29.58	\$ -
Trench Box #1 Box 20x8		HR	\$ 7.03	\$ -
Trench Box #2 Box 10x24		HR	\$ 10.00	\$ -
Manhole Box		HR	\$ 6.07	\$ -
Generator		HR	\$ 36.16	\$ -
Wacker		HR	\$ 10.00	\$ -
Blasting Truck with Mats, Seismograph		HR	\$ 35.00	\$ -
Joy 175 Compressor w/Jack Hammer		HR	\$ 19.88	\$ -
6" Pumps (Self Priming Trash Pumps)		HR	\$ 18.00	\$ -
Operated Trucks		HR	\$ 100.00	\$ -

TOTAL EQUIPMENT COSTS \$ -

MATERIAL/OTHER COSTS	Quantity	Unit	Price	Total
Seagull Fence & Concrete - CO #1	1	LS	\$ 1,175.00	\$ 1,175.00

TOTAL MATERIAL COSTS

PACT Cost	\$ -
Overhead and Profit (15%)	\$ -
PACT Cost	\$ -
Subcontractor Cost	\$ 1,175.00
Profit (5%)	\$ 58.75
Subcontractor Cost	\$ 1,233.75
TOTAL	\$ 1,233.75

APPROVED
 PENDING
 COUNCIL REVIEW
 SUSSEX COUNTY UTILITY
 CONSTRUCTION DIVISION



Feb 08, 2017

200 S RAILROAD AVE
BRIDGEVILLE DE 19933
OFFICE #: 302-956-0417
FAX #: 302-337-8196
chris@seagullfence.com
www.seagullfence.com

Pact One Construction
Goslee Creek Regional Pump Station

Change Order

Credit for installing line post at 10' ft centers V/S 8' centers \$ -275.00

Cost difference between 18' aluminum slide gate V/S 24' ft \$1,450.00

Total additional cost ***\$ 1,175.00***

Total contract \$ 18,975.00

EXCLUDED UNLESS IS MENTIONED IN ABOVE JOB DESCRIPTION Private Utilities, Irrigation lines, Permits, Engineering, PE Stamps, Prevailing Wages, Surveys, Stakeout, Clearing, Grading, Spoil remove, Cord Drilling, Restoring finish grade, All Seeding, Setting of Anchor Bolts, Concrete other than Fence Posts, Bond, As built Drawings .

*** SCHEDULING WILL BEGIN AFTER SEAGULL FENCE & CONCRETE RECEIVES APPROVED AND SIGNED DOCUMENTS BY CUSTOMER. ALL CREDIT CARD PAYMENTS ARE SUBJECT TO A 3.75% PROCESSING FEE. ANY BALANCE DUE PAST 30 DAYS ARE SUBJECT TO A 2% MONTHLY FINANCE CHARGE

Line Item No. 2

Provide (2) S.S. Pump Lifting Bales

Contract 15-09 Cost Increase = \$2,127.50

Master Cost Sheet

FACT CONSTRUCTION INC.
 PO Box 74, Ringoes, NJ 08551
 Phone: (908) 788-1985 Fax: (908) 788-5780

CONTRACT: Goslee Creek Regional Pump Station, Force Main and Gravity Sewer

Change Order Request #8 - Secondary - SS Lifting Assemblies

DESCRIPTION: Requested By Owner

LABOR COSTS	Quantity	Unit	Rate	Total
Project Executive		HR	\$ 90.00	\$ -
General Superintendent		HR	\$ 90.00	\$ -
Project Manager		HR	\$ 70.00	\$ -
Project Administration		HR	\$ 45.00	\$ -
Foreman		HR	\$ 63.78	\$ -
Backhoe Operator		HR	\$ 73.40	\$ -
Pipelayer		HR	\$ 61.23	\$ -
Carpenter		HR	\$ 77.92	\$ -
H & H Laborers/Flaggers		HR	\$ 61.63	\$ -
			Subtotal	\$ -
			46% Insurance & Taxes	\$ -

TOTAL LABOR COSTS \$ -

EQUIPMENT COSTS	Quantity	Unit	Rate	Total
Caterpillar 330DL Excavator		HR	\$ 164.97	\$ -
Stanley Rock Hammer		HR	\$ 67.82	\$ -
Case CX1135 Excavator w/ hoepack		HR	\$ 68.35	\$ -
Komatsu PC78MR-6		HR	\$ 43.62	\$ -
Case 149 Excavator		HR	\$ 124.00	\$ -
Caterpillar Model 322CL Excavator w/o hoepack		HR	\$ 105.75	\$ -
Caterpillar Model 312BL Excavator with hoepack		HR	\$ 61.20	\$ -
Kato Model 450 Crawler Excavator with hoepack		HR	\$ 59.43	\$ -
Kato Model 1250 Excavator		HR	\$ 114.87	\$ -
Caterpillar 938H Wheel Loader		HR	\$ 66.60	\$ -
Caterpillar Model IT28F Loader		HR	\$ 50.47	\$ -
Caterpillar 930 Wheel Loader		HR	\$ 57.23	\$ -
Caterpillar 903 Track Loader		HR	\$ 132.91	\$ -
Komatsu WA200 Rubber Tire Loader		HR	\$ 48.40	\$ -
Daewoo Skid Steer Loader		HR	\$ 30.21	\$ -
Case Model 580 Backhoe with Hoepack		HR	\$ 37.01	\$ -
Caterpillar D3C Dozer		HR	\$ 53.37	\$ -
Asphalt Zipper Model AZ480		HR	\$ 97.32	\$ -
Ingersoll Rand ECM370 Drill and Compressor		HR	\$ 112.62	\$ -
Navistar Water Tank Truck		HR	\$ 60.84	\$ -
Four Ford F250 Pickup Truck w/ Tools		HR	\$ 29.55	\$ -
Four Ford F150 Pickup Truck w/ Tools		HR	\$ 23.13	\$ -
International Dump Truck		HR	\$ 56.95	\$ -
22' Tool Trailer with contents		HR	\$ 1.92	\$ -
35' Tool Trailer with contents		HR	\$ 2.58	\$ -
I-R D1655G Portable Air Compressor		HR	\$ 65.76	\$ -
Laymor Brooms/John Deere Tractor Model 850 Sweeper		HR	\$ 74.68	\$ -
Dynapac Rollers		HR	\$ 79.33	\$ -
Case 252 Roller		HR	\$ 29.58	\$ -
Trench Box #1 Box 20x8		HR	\$ 7.03	\$ -
Trench Box #2 Box 10x24		HR	\$ 10.00	\$ -
Manhole Box		HR	\$ 6.07	\$ -
Generator		HR	\$ 36.18	\$ -
Wacker		HR	\$ 16.00	\$ -
Blasting Truck with Mats, Seismograph		HR	\$ 35.00	\$ -
Joy 175 Compressor w/Jack Hammer		HR	\$ 19.66	\$ -
6" Pumps (Self Priming Trash Pumps)		HR	\$ 18.09	\$ -
Operated Trucks		HR	\$ 100.00	\$ -

TOTAL EQUIPMENT COSTS \$ -

MATERIAL/OTHER COSTS	Quantity	Unit	Price	Total
PennFab Quote	1	LS	\$ 1,850.00	\$ 1,850.00

TOTAL MATERIAL COSTS \$ 1,850.00

PACT Cost \$ 1,850.00
 Overhead and Profit (15%) \$ 277.50
PACT Cost \$ 2,127.50

Subcontractor Cost \$ -
 Profit (5%) \$ -
Subcontractor Cost \$ -

TOTAL \$ 2,127.50

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 COUNCIL REVIEW
 SUSSEX COUNTY UTILITY
 CONSTRUCTION DIVISION

Bygones



QuoteSummary Sheet

PennFab, Inc.
 1431 Ford Road
 Bensalem PA 19020
 (215)245 1477
 Fax (215) 245-1868
 www.PennFab.com

Customer Pact Construction
Buyer: Duncan Gordon
OUR # Q051217.05

Original Date 5/12/2017
Revised Date
Prepared by: MJM Jr

DESCRIPTION: Lifting Handle Assembly w/ Threaded rod, T-304

ITEM	QTY	Description	Dwg #	Weight	PRICE EA	TOTAL
1	2	Lifting Handle Assembly w/ Threaded rod, T-304	16-345	176	\$925.00	\$1,850.00
				176		\$1,850.00

TOTAL \$1,850.00
DELIVERY 1 - 2 Weeks ARO
TERMS Subject to Review
FOB Our Shop

NOTES:

- 1 All Material to be T-304
- 2 Material is not Domestic
- 3 Welding in accordance w/AWS D1.6 and to be either GMAW, GMAW-P, FCAW, FCAW-P
- 4 Fabrications will be supplied in accordance with general AISC Standards and Practices, UON
- 5 We will provide Shop Detail Dwg's for approval prior to fabrication.
- 6 Our Shop Detailing will be done from Dwg's which you will provide. Any Shop Detail Dwg changes required, not related to our detailing, due to design changes, field changes or other reasons will be done on an hourly basis.
- 7 Weights are Approx., Actual Weights will be per Shop Dwg's.
- 8 Pricing is per Units Quoted and as described. Any modification to Quantity, Weight or Specifications will be subject to revision when necessary.
- 9 Any Items not Specifically called out are NOT Included
- 10 Fabrications will be shipped via Full Capacity, Open Top Trailers, Unless Otherwise Noted. FOB Point will be as per Quote.....Delivered during Normal day time Hours, Monday through Friday, except Holidays, unless specifically agreed in writing prior to shipment.
- 11 Projects or Orders with open Request for Change Orders will not ship until open RCO's are resolved.
- 12 Projected Deliveries are based on Backlog at time of Quote and are subject to change, with out notice, prior to our acceptance of an Order
- 13 Payment Terms, when given are based on customers account being in good standing and is subject to change on Accounts that are not current
- 14 Pricing is Based on receiving one order for all Items Quoted Unless Alternate is offered.
- 15 Price and Delivery is fixed and firm for 30 Days after which it is Subject to Change without Notice prior to our acceptance of an order
- 16 Subject to PennFab Std. Terms and Conditions, Pricing Does Not include any applicable Taxes

Thank you for the Opportunity to provide our pricing, Please don't hesitate to contact us if you have any questions or comments

Line Item No. 3

P.C.O. No. 7

61 Calendar Day

Non-Compensatory Contract Time Extension

April 3rd to May 7th, 2017: 35 CD's PACT's March 29th, 2017
Weather Delays and DelDOT Time Restriction Claim.

May 8th to June 2nd, 2017: 26 CD's PACT's Sept. 15th, 2017
P.S. Site - Secondary Electrical Service Feeder Claim

Contract 15-09 Cost Increase = \$0.00



October 4th, 2017

Duncan A. H. Gordon
PACT One, LLC
P.O. Box 74
Ringoës, New Jersey 08551

APPROVED
PENDING
COUNCIL REVIEW
SUSSEX COUNTY UTILITY
CONSTRUCTION DIVISION
By John

Re: Sussex County Contract 15-09 – PACT Contract 2nd Time Extension Request Review

Dear Mr. Gordon:

WRA has received PACT One, LLC's (PACT) September 20th, 2017 letter requesting a (26) Contract calendar day, "Non-Compensatory" time extension on the Goslee Creek Regional Pump Station, Force Main and Gravity Sewers project (Contract 15-09). The purpose of this correspondence is to provide WRA's assessment of PACT's request and formally state our recommendation to Sussex County Engineering Department (SCED).

Site Electric Service Power Related Items: PACT's 9/20/17 letter references a PACT "work delay" as a direct result of Delaware Electric Cooperative (DEC) not providing/installing the new electric service, secondary feeder cables from the DEC installed transformer (new) to the pump station site Control Building (as referenced on Contract Drawing E-02, Specific Note 2). Regarding any Contract time extension consideration for delays in Contractor's progress, specification section 00700-4.05C(3) states that the Contractor shall be entitled to an "equitable adjustment" in Contract Times caused by "failure to act by utility owners".

In accordance with the Contract documents, the lost work day period, totaling 26 contract calendar days, could be considered as a change to the 15-09 Contract work scope and eligible for a non-compensatory contract time extension.

In summary, it is WRA's understanding that Sussex County Engineering Department (SCED) is willing to consider a non-compensatory time extension of (26) Contract calendar days associated with the addition of the above referenced, new electric service, secondary feeder cable installation work to the 15-09 Contract work scope. This (26) Contract calendar day time extension will be accounted for as part of the anticipated Change Order No. 2 – Final documents and will be included with WRA's previously recommended (35) Contract calendar day extension to May 7th, 2017 (in WRA's letter dated April 4th, 2017 for various weather and DelDOT related delays). If approved, this latest (26) Contract calendar day time extension will extend the 15-09 Contract deadline to June 2nd, 2017.

In closing, regardless of SCED's "approval", PACT One, LLC is to make every effort to schedule and fully complete all remaining work items as referenced on the "Start-Up/Walk-Through" Inspection – "Punch List dated June 21st, 2017.

Very truly yours,

Whitman, Requardt & Associates, LLP



Michael J. Gilbert

cc: Joe Wright, P.E. (Sussex County)
Brad Hawkes (Sussex County)
Carlos Costa (PACT One, LLC)
Will F. Hinz, P.E. (WRA)
File No: 14256-011



Line Item No. 4

Balancing of Used/Unused Quantities
(Part A through Part D - Contract Bid Items)

Contract 15-09 Cost Credit = (\$657,824.78)

Part A: Utilities Bid Items

Part B: Pump Station Bid Item

Part C: Stipulated Contingent Bid Items

Part D: Non-Stipulated Contingent Bid Items

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PEN DWG
COUNCIL REVIEW

SUSSEX COUNTY UTILITY
CONSTRUCTION DIVISION

Byline

Contract 15-09

Goslee Creek Regional Pump Station Force Main and Gravity Sewers
C.O. No. 2 - Final Estimated Credit
(Includes Balancing of Quantities Change Order Cost Summary Sheet with WRA Verified Quantities)

Final Adjustment and Balancing (Overrun/Underrun) of Unit Price Items and Change Orders

Item No.	Description	Bid			Actual		
		Quantity	Unit	Unit Price	Quantity	ADD	DEDUCT
Part A - Utilities							
A-1	Mobilization	1	LS	\$ 150,000.00	1	\$ -	\$ -
A-2	Furnish and Install Precast Manholes - 5' Diameter	149	EA	\$ 425.00	83.91	\$ -	\$ (27,663.25)
A-3	Furnish and Install Precast Manholes - 6' Diameter	22	EA	\$ 600.00	14.09	\$ -	\$ (4,746.00)
A-4	Furnish and Install Terminal Clean-Outs - 8"	2	EA	\$ 1,200.00	0	\$ -	\$ (2,400.00)
A-5	Furnish & Install Frames and Covers	21	EA	\$ 300.00	13	\$ -	\$ (2,400.00)
A-6	Furnish & Install PVC Laterals - 6"	250	LF	\$ 60.00	44.00	\$ -	\$ (12,360.00)
A-7	Furnish & Install PVC Lateral Clean-Outs - 6"	9	EA	\$ 300.00	1	\$ -	\$ (2,400.00)
A-8	Furnish & Install PVC Wye Branches - 21" x 6"	9	EA	\$ 1,600.00	1	\$ -	\$ (12,800.00)
A-9	Furnish & Install PVC Gravity Sewer - 8"	50	LF	\$ 120.00	0	\$ -	\$ (6,000.00)
A-10	Furnish & Install PVC Gravity Sewer - 10"	60	LF	\$ 125.00	60	\$ -	\$ -
A-11	Furnish & Install PVC Gravity Sewer - 21"	5500	LF	\$ 150.00	3219	\$ -	\$ (342,150.00)
A-12	Furnish & Install PVC Gravity Sewer - 24"	210	LF	\$ 155.00	211	\$ 155.00	\$ -
A-13	Furnish & Install PVC Force Main - 16"	4400	LF	\$ 130.00	4393	\$ -	\$ (910.00)
A-14	Furnish & Install Combination ARV and Manhole - 2"	1	EA	\$ 8,000.00	1	\$ -	\$ -
A-15	Furnish and Install Type "C Hot Mix Overlay - 1.75"	9500	SY	\$ 13.00	1636.79	\$ -	\$ (102,221.73)
A-16	Record Drawings	1	LS	\$ 2,000.00	1	\$ -	\$ -
A-17	Isolation Valve - 16"	1	EA	\$ 12,000.00	0	\$ -	\$ (12,000.00)

Subtotals for Parts A: \$ 155.00 \$ (528,050.98)

Item No.	Description	Bid			Actual		
		Quantity	Unit	Unit Price	Quantity	ADD	DEDUCT
Part B - Pump Station							
B-1	Goslee Creek Regional P.S.	1	EA	\$ 2,120,000.00	1	\$ -	\$ -

Subtotals for Parts B: \$ - \$ -

Item No.	Description	Bid			Actual		
		Quantity	Unit	Unit Price	Quantity	ADD	DEDUCT
Part C - Stipulated Contingent Bid Items							
C-1	Contingent Unclassified Excavation	400	CY	\$11.00	300.00	\$ -	\$ (1,100.00)
C-2	Contingent Aggregate - Graded Type "B" Crusher Run	200	Ton	\$27.00	183.00	\$ -	\$ (459.00)
C-3	Contingent Poured Fill - No. 57 Stone	500	Ton	\$30.00	232.00	\$ -	\$ (8,040.00)
C-4	Contractor Down Time	30	HR	\$300.00	10.00	\$ -	\$ (6,000.00)
C-5	Furnish and Place 5,000 PSI Concrete	100	CY	\$150.00	0.00	\$ -	\$ (15,000.00)
C-6	Contingent Borrow Material - Type "C" Borrow	2,000	CY	\$16.00	1318.45	\$ -	\$ (10,904.80)
C-7	Replacement of Ex. Storm Drain Pipes < 18"	30	LF	\$30.00	0.00	\$ -	\$ (900.00)
C-8	Contingent Hot Mix	150	Ton	\$75.00	263.00	\$ 8,475.00	\$ -

Subtotals for Part C: \$ 8,475.00 \$ (42,403.80)

Note: Includes SCED approved quantities for Bid items C-1 (Excavation), C-2 (CR-6), C-3 (#57 Stone) and C-8 (Hot Mix) for Bypass Lanes.
Note: Includes SCED approved quantities for Bid items C-4 (Down Time) and C-6 (Borrow) for DelDOT swale work and Treatment Plant dirt work

Line Item No. 5

Elimination of (3) M.J. Force Main Fittings
11.25 Degree Bends
(Station 6+05, Station 5+02 and Station 3+64)

Contract 15-09 Cost Credit = (\$2,492.80)

CONTRACT: Goslee Creek Regional Pump Station, Force Main and Gravity Sewer

Change Order Request #3 - Deletion of the 11.25°.

DESCRIPTION: Deletion of the 11.25° Bends at STA 3+64, STA 5+02 & STA 6+05.
 Deletion of the restraints between STA 3+74 and ST 3+26
 The labor and restocking fee is a wash.

LABOR COSTS	Quantity	Unit	Rate	Total
Project Executive		HR	\$ 90.00	\$ -
General Superintendent		HR	\$ 90.00	\$ -
Project Manager		HR	\$ 70.00	\$ -
Project Administration		HR	\$ 45.00	\$ -
Foreman		HR	\$ 63.78	\$ -
Backhoe Operator		HR	\$ 73.40	\$ -
Pipelay		HR	\$ 61.23	\$ -
Carpenter		HR	\$ 77.92	\$ -
H & H Laborers/Flaggers		HR	\$ 61.63	\$ -
			Subtotal	\$ -
			46% Insurance & Taxes	\$ -

TOTAL LABOR COSTS \$ -

EQUIPMENT COSTS:	Quantity	Unit	Rate	Total
Caterpillar 330DL Excavator		HR	\$ 164.97	\$ -
Stanley Rock Hammer		HR	\$ 67.82	\$ -
Case CX135 Excavator w/ hoepack		HR	\$ 68.35	\$ -
Komatsu PC78MR-6		HR	\$ 43.82	\$ -
Case 149 Excavator		HR	\$ 124.00	\$ -
Caterpillar Model 322CL Excavator w/o hoepack		HR	\$ 105.75	\$ -
Caterpillar Model 312BL Excavator with hoepack		HR	\$ 61.20	\$ -
Kato Model 450 Crawler Excavator with hoepack		HR	\$ 59.43	\$ -
Kato Model 1250 Excavator		HR	\$ 114.87	\$ -
Caterpillar 938H Wheel Loader		HR	\$ 86.60	\$ -
Caterpillar Model IT28F Loader		HR	\$ 50.47	\$ -
Caterpillar 938 Wheel Loader		HR	\$ 57.23	\$ -
Caterpillar 983 Track Loader		HR	\$ 132.91	\$ -
Komatsu WA200 Rubber Tire Loader		HR	\$ 48.40	\$ -
Daewoo Stud Steer Loader		HR	\$ 30.21	\$ -
Case Model 590 Backhoe with Hoepack		HR	\$ 37.01	\$ -
Caterpillar D3C Dozer		HR	\$ 53.37	\$ -
Asphalt Zipper Model AZ480		HR	\$ 87.32	\$ -
Ingersoll Rand ECM370 Drill and Compressor		HR	\$ 112.82	\$ -
Navistar Water Tank Truck		HR	\$ 60.84	\$ -
Four Ford F250 Pickup Truck w/ Tools		HR	\$ 29.56	\$ -
Four Ford F150 Pickup Truck w/ Tools		HR	\$ 23.13	\$ -
International Dump Truck		HR	\$ 56.96	\$ -
22' Tool Trailer with contents		HR	\$ 1.92	\$ -
35' Tool Trailer with contents		HR	\$ 2.58	\$ -
I-R D185SQ Portable Air Compressor		HR	\$ 65.76	\$ -
Laymor Brooms/John Deere Tractor Model 850 Sweeper		HR	\$ 74.66	\$ -
Dynapac Rollers		HR	\$ 79.33	\$ -
Case 252 Roller		HR	\$ 29.58	\$ -
Trench Box #1 Box 20x8		HR	\$ 7.03	\$ -
Trench Box #2 Box 10x24		HR	\$ 10.00	\$ -
Manhole Box		HR	\$ 6.07	\$ -
Generator		HR	\$ 36.18	\$ -
Wacker		HR	\$ 16.00	\$ -
Blasting Truck with Mats, Seismograph		HR	\$ 35.00	\$ -
Joy 175 Compressor w/Jack Hammer		HR	\$ 19.66	\$ -
6" Pumps (Self Priming Trash Pumps)		HR	\$ 18.00	\$ -
Operated Trucks		HR	\$ 100.00	\$ -

TOTAL EQUIPMENT COSTS \$ -

MATERIAL/OTHER COSTS:	Quantity	Unit	Price	Total
12 MJ 11.25°BEND (I) DI C153 P401	3	EA	\$ 363.29	\$ (1,089.87)
UFR1500-CA-12-J RETAINER W/ACC	6	EA	\$ 112.56	\$ (675.36)
1600 12 WEDGE ACTION HARNESS	3	EA	\$ 134.14	\$ (402.42)

TOTAL MATERIAL COSTS \$ (2,167.65)

PACT Cost \$ (2,167.65)
 Overhead and Profit (15%) \$ (325.15)
 PACT Cost \$ (2,492.80)

Subcontractor Cost \$ -
 Profit (5%) \$ -
 Subcontractor Cost \$ -
 TOTAL \$ (2,492.80)

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 SUSSEX COUNTY UTILITY
 CONSTRUCTION DIVISION

PACT ONE, LLC

554 Route 31 North, PO Box 74, Ringoes, NJ 08551

Phone: (908) 788-1985 Fax: (908) 788-5780

To: HD Supply Waterworks
400 South Gravers Road
Plymouth Meeting
PA 19462

Attn: Jack McGlinchey
Phone: 484-354-3344
Fax 610-275-8835

Ship To: Goslee Creek Regional Pump Station, FM and GS
Sussex County, DE
Contract #15-09

Attn: Duncan A. H. Gordon
Phone: 267-566-1660

8 Copies of Shop Drawings required for Engineer's approval.

8 Copies of O&M Manuals required for Engineer's approval.

All deliveries are to be scheduled through main office and freight carrier is to contact PACT Two, LLC. at least 48 hours prior to shipment.

No Equipment or Material is to be fabricated/delivered prior to receipt of approved shop drawings from Engineer.

All Material must be in accordance with Project Specifications

Date Req.	Job No.	Terms	Purchase Order Number	Purchase Order Date	FOB
See Below	230	See Below	230-13	9/16/2016	Jobsite

Item	Description					Net Price
PART A,BID ITEM A-11						
	Item	Quantity	Units	Description	\$/Unit	
	4213514	3430	FT	21X14' PVC SWR PIPE (G) F679	\$ 25.31	\$ 86,813.30
	67T03S	6	EA	3X1000' DET TAPE GREEN SEWER	\$ 35.00	\$ 210.00
PART A,BID ITEM A-12						
	Item	Quantity	Units	Description	\$/Unit	
	4243514	210	EA	24X14' PVC SWR PIPE (G) F679	\$ 32.30	\$ 6,783.00
PART A,BID ITEM A-13						
	Item	Quantity	Units	Description	\$/Unit	
	021618W	4400	FT	12 C905 DR18 PVC PIPE (G)	\$ 15.43	\$ 67,892.00
	67T03FM	5	EA	3X1000' DET TAPE BROWN FM	\$ 35.00	\$ 175.00
	9612TWGR	4500	FT	12GA SOLID THHN WIRE GREEN	\$ 0.23	\$ 1,035.00
	211169M401	1	EA	12 MJ 90 BEND(I) DI C153 P401	\$ 443.92	\$ 443.92
	211161M401	3	EA	12 MJ 11-1/4 BEND(I) C153 P401	\$ 363.29	\$ 1,089.87
	2116R12MSAA	1	EA	16X12 MJ REDUCER C153 P401	\$ 527.66	\$ 527.66
	21AMF7161500CAI	11	EA	UFR1500-CA-12-I RETAINER W/ACC	\$ 112.56	\$ 1,238.16
	21AMF7161500CAI	1	EA	UFR1500-CA-16-I RETAINER W/ACC	\$ 112.56	\$ 112.56
	NS	29	EA	1600 12 WEDGE ACTION HARNESS "	\$ 134.14	\$ 3,890.06
	59V562S	3	EA	S62-S VLV BOX W/LID M/WATER	\$ 103.00	\$ 309.00

Continued

Line Item No. 6

P.S. Site – Secondary Electric Service Feeder Cables

(DEC Site Power Transformer to Control Building)

Contract 15-09 Cost Increase = \$24,938.74

Master Cost Sheet

FACT CONSTRUCTION INC.
 PO Box 74, Ringoes, NJ 08551
 Phone: (908) 788-1985 Fax: (908) 788-5780

CONTRACT: Goslee Creek Regional Pump Station, Force Main and Gravity Sewer

Change Order Request #6 - Secondary - Power Feeders - Transformer to Control Building

DESCRIPTION: Not being Provided by DEC as per the Contract Documents

LABOR COSTS	Quantity	Unit	Rate	Total
Projed Executive		HR	\$ 90.00	\$ -
General Superintendent		HR	\$ 90.00	\$ -
Project Manager		HR	\$ 70.00	\$ -
Project Administration		HR	\$ 45.00	\$ -
Foreman		HR	\$ 63.78	\$ -
Backhoe Operator		HR	\$ 73.40	\$ -
Pipelayer		HR	\$ 61.23	\$ -
Carpenter		HR	\$ 77.92	\$ -
H & H Laborers/Flaggers		HR	\$ 01.63	\$ -
			Subtotal	\$ -
			46% Insurance & Taxes	\$ -

TOTAL LABOR COSTS \$ -

EQUIPMENT COSTS	Quantity	Unit	Rate	Total
Caterpillar 330DL Excavator		HR	\$ 164.97	\$ -
Stanley Rock Hammer		HR	\$ 07.82	\$ -
Case CX135 Excavator w/ hoepack		HR	\$ 68.35	\$ -
Komatsu PC78MR-6		HR	\$ 43.62	\$ -
Case 149 Excavator		HR	\$ 124.00	\$ -
Caterpillar Model 322CL Excavator w/o hoepack		HR	\$ 105.75	\$ -
Caterpillar Model 312BL Excavator with hoepack		HR	\$ 61.20	\$ -
Kato Model 450 Crawler Excavator with hoepack		HR	\$ 59.43	\$ -
Kato Model 1250 Excavator		HR	\$ 114.87	\$ -
Caterpillar 938H Wheel Loader		HR	\$ 66.60	\$ -
Caterpillar Model IT28F Loader		HR	\$ 50.47	\$ -
Caterpillar 938 Wheel Loader		HR	\$ 57.23	\$ -
Caterpillar 963 Track Loader		HR	\$ 132.91	\$ -
Komatsu WA200 Rubber Tire Loader		HR	\$ 48.40	\$ -
Daewoo Skid Steer Loader		HR	\$ 30.21	\$ -
Case Model 580 Backhoe with Hoepack		HR	\$ 37.01	\$ -
Caterpillar D3G Dozer		HR	\$ 53.37	\$ -
Asphalt Zipper Model AZ480		HR	\$ 87.32	\$ -
Ingersoll Rand ECM370 Drill and Compressor		HR	\$ 112.62	\$ -
Navistar Water Tank Truck		HR	\$ 60.84	\$ -
Four Ford F250 Pickup Truck w/ Tools		HR	\$ 29.55	\$ -
Four Ford F150 Pickup Truck w/ Tools		HR	\$ 23.13	\$ -
International Dump Truck		HR	\$ 56.95	\$ -
22' Tool Trailer with contents		HR	\$ 1.92	\$ -
35' Tool Trailer with contents		HR	\$ 2.58	\$ -
I-R D185SQ Portable Air Compressor		HR	\$ 65.76	\$ -
Laymor Bimoms/John Deere Tractor Model 850 Sweeper		HR	\$ 74.68	\$ -
Dynapac Roller		HR	\$ 79.33	\$ -
Case 252 Roller		HR	\$ 29.58	\$ -
Trench Box #1 Box 20x8		HR	\$ 7.03	\$ -
Trench Box #2 Box 10x24		HR	\$ 10.00	\$ -
Manhole Box		HR	\$ 6.07	\$ -
Generator		HR	\$ 36.18	\$ -
Wacker		HR	\$ 16.00	\$ -
Blasting Truck with Mats, Seismograph		HR	\$ 35.00	\$ -
Joy 175 Compressor w/Jack Hammer		HR	\$ 19.66	\$ -
8" Pumps (Self Priming Trash Pumps)		HR	\$ 18.09	\$ -
Operated Trucks		HR	\$ 100.00	\$ -

TOTAL EQUIPMENT COSTS \$ -

MATERIAL/OTHER COSTS	Quantity	Unit	Price	Total
Electrical Subcontractor - Proposal dated 5/16/17	1	LS	\$ 23,751.18	\$ 23,751.18

TOTAL MATERIAL COSTS

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 COUNCIL REVIEW
 SUSSEX COUNTY UTILITY
 CONSTRUCTION DIVISION

Byler

PACT Cost	\$ -
Overhead and Profit (15%)	\$ -
PACT Cost	\$ -
Subcontractor Cost	\$ 23,751.18 ✓
Profit (5%)	\$ 1,187.56
Subcontractor Cost	\$ 24,938.74
TOTAL	\$ 24,938.74



PROPOSED CHANGE ORDER
 CONTRACT NO. 1509
 05/16/2017

CHANGE ORDER
 ADDITIONAL WORK

Pact Construction
 P.O. Box 74
 Ringoes, NJ. 05403

(908) 788 1985 05/16/2017

Goslee Creek Regional Pump Station
 33012 Cedar Grove Rd.
 Lewes, DE. 19958

1509 (267) 566-1660

PROPOSED CHANGE ORDER - SECONDARY ELECTRICAL CONDUCTORS FROM DEC TRANSFORMER TO THE CONTROL BUILDING. GOSLEE CREEK REGIONAL PUMPING STATION

Furnish and install 3 sets of (3) each of #600MCM THHN Copper Conductors with (1) #3/0 Ground each. Transportation, supervision set-up, tear-down, and clean-up relating to this work

REVISED PRICE IS BASED ON A CAREFUL RE-MEASURE PERFORMED BY KEITH BILBROUGH ON SITE 05/16/17. LENGTH OF RUNS IS BEING FIGURED AT 140', WHICH ALLOWS FOR THE DEPTH OF THE BURIED CONDUITS AND TURNING UP ON EACH END OF THE WIRE RUNS

We Agree to the proposed change order and its amount.		\$23,751.18 ✓
 CONTRACTOR	PREVIOUS CONTRACT AMOUNT	
	REVISED CONTRACT TOTAL	

Accepted _____

GOSLEE CREEK REGIONAL PUMPING STATION
 SECONDARY FEEDERS
 PROPOSED CHANGE ORDER ESTIMATE

Date: 18-May-17		ITEMS OF WORK (CF)	QTY	UNIT	MATERIAL	LABOR	EQ	MOVEMENT	TOTAL
Contract Code:		Contract			Unit Cost	Total Cost	Unit Cost	Total Cost	
Contractor: Silbrey's Electric, Inc.		400 1000 Three Phase	1750	ft	11.90	20825.00	2.42	4235.00	25060.00
PCO #		700 Three Phase	400	ft	2.55	1020.00	2.25	900.00	2145.00
Description: PA1 SECONDARY FEEDERS 3PHAS - BUILDING		Residential	1	sq	-	-	5,360.00	5,360.00	10855.00
CONTRACTOR'S WORK									
1)	Direct Material	\$	15,099.00						
2)	Direct Labor	\$	5,554.20						
3)	Direct Supervision (Fairman Conv)								
4)	Rental Equipment Costs	\$							
5)	Owned Equip Costs	\$							
6)	Station	\$	20,453.20						
7)	station's O&M & Maint 1%	\$	2,045.32						
8)	TOTAL								32,721.18
9)									
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Time Estimate:
 Justification: NOT IN CONTRACT
 Preparer: Keith Silbrey
 (w/ Name & Title)

Date: 18-May-17

silbrey@silbrey.com



March 30th, 2017

Duncan A. H. Gordon
PACT One, LLC
P.O. Box 74
Ringoos, New Jersey 08551

Re: Sussex County Contract 15-09 – PACT Contract Time Extension Request Review

Dear Mr. Gordon:

WRA has received PACT One, LLC's (PACT) March 29th, 2017 letter requesting a 52 calendar day, "Non-Compensatory" time extension on the Goslee Creek Regional Pump Station, Force Main and Gravity Sewers project (Contract 15-09). The purpose of this correspondence is to provide WRA's assessment of PACT's request and formally state our recommendation to Sussex County Engineering Department (SCED).

Weather Related Items: PACT's letter references several weather events where PACT claims "lost work days" as a direct result of significant inclement weather events. Regarding any Contract time extension consideration for inclement weather dates, specification section 00700-4.05C(2) states that the Contractor shall be entitled to an "equitable adjustment" in Contract Times if "abnormal weather" conditions are encountered.

Of the dates claimed, five (5) such events merit consideration based upon WRA's review of on-site RPR field observation and National Weather Service records. These five (5) events include (1) September 28th through October 7th, 2017 (10 calendar days) associated with significant rainfall just prior to and as a the direct result of Hurricane Matthew (documented 12 to 14-inches of rainfall) flooding at the site, corresponding adjacent site areas and the DelDOT issued work zone restrictions throughout the Sussex County region, (2) October 8th through October 11th, 2017 (4 calendar days) where the significant rainfall events of October 8th and October 9th, 2017 continued site flooding and high groundwater levels at the site, (3) the heavy snowfall event (12" to 15") of January 7th, 2017 where no pipe installation work could be performed along Cedar Grove and Ward Roads or significant pumping station site work for the entire week (7 calendar days) from January 9th to January 15th, 2017 (due to plowed snow piled along the road shoulder areas and snow piled/muddy pumping station site conditions after melting), (4) the "Nor-Easter" heavy wind and rainfall event of Monday, January 23rd, 2017 (1 calendar day) where forecasted severe weather warnings resulted in advanced cancellation of scheduled work activities and (5) the "Nor-Easter" heavy wind and significant rainfall event of March 14th, 2017 (6 calendar days) where site flooding resulted in lost work for the entire rest of the work week.

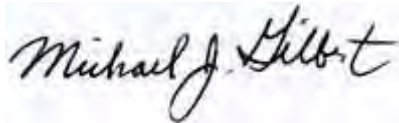
In accordance with the Contract documents, these lost work day periods, totaling 28 contract calendar days, could be considered as an unavoidable natural catastrophe and eligible for a non-compensatory contract time extension.

DelDOT Directed Delays: WRA has confirmed a total delay of 7 calendar days that resulted from DelDOT directed work site shutdowns associated with Contract scheduled holidays (extended) and/or potential unsafe, vehicular traffic conditions at the site caused by various weather related events. These DelDOT direct shutdowns occurred on December 13th, 2016, December 23rd, 2016, December 26th through December 28th, 2016, January 2nd, 2017 and January 18th, 2017.

In summary, although not necessarily contractually required, Sussex County Engineering Department is willing to consider a non-compensatory time extension of 35 Contract calendar days for the items associated with the aforementioned, weather related delays to date (28 days) and DeIDOT directed delays (7 days). The additional PACT requested days for other "more normal" weather related events are not recognized as being eligible for an extension of Contract time.

Very truly yours,

Whitman, Requardt & Associates, LLP



Michael J. Gilbert

cc: Joe Wright, P.E. (Sussex County)
Brad Hawkes (Sussex County)
Carlos Costa (PACT One, LLC)
Henrik Maxian, P.E. (PACT One, LLC)
Will F. Hinz, P.E. (WRA)
File No: 14256-011



PACT ONE, LLC

P.O. BOX 74, RINGOES, NJ 08551

PHONE 908-788-1985

FAX 908-788-5780

March 29, 2017

Mr. Will Hinz, P.E. (via email only whiz@rallp.com)

Whitman, Requardt, & Associates, LLP

801 South Carline Street

Baltimore, MD 21231

RE: Contract No.15-09: Goslee Creek Regional Pump Station, Force Main and Gravity Sewers
Customer ID: 0003279861 / Work Order Number: 0004496441

Subject: Non-Compensatory Time Extension.

Dear Mr. Hinz,

PACT ONE, LLC agreed to perform all work for the construction of the Goslee Creek Regional Pump Station within the time set forth in the Contract Documents. PACT ONE, LLC received the Notice to Proceed on the June 6th, 2016 after which PACT ONE, LLC had 300 days in which to fully complete the project and finish no later than the April 2nd, 2017.

During the contract time the project experienced multiple abnormal weather events that impacted the performance and/or progress of the work that was schedule to be performed at that time. When conditions allowed, the work continued however a number of these abnormal weather events brought heavy sustained saturating down pours that resulted in time being lost due to non-productive work such as; repairing erosion and sediment controls, re-work due to washouts, there were also back-to-back abnormal weather events during which the water table rose significantly which resulted in additional and extended dewatering operations to lower the water table that would allow the work to continue. The abnormal weather events impacted the project on the on the following dates:

- Severe Thunderstorms (Flood): July 28th, 2016 thru to August 1st, 2016: 5 days.
- Sustained Rainfall (Flood): August 15th, 2016 thru to August 21st, 2016: 7 days.
- Sustained Rainfall (Flood): September 19th, 2016 thru to September 25th, 2016: 7 days.
- Hurricane Matthew (Cat 5): September 28th, 2016 thru to October 11th, 2016: 14 days.
- Snowstorm (12"+): January 9th, 2017 thru to January 16th, 2017: 7 days.
- Nor'Easter (Wind 60mph +): January 23rd, 2017: 1 day.
- Winter Storm (6"+ Rain/Wind): March 14th, 2017 thru to March 19th, 2017: 6 days.

In total PACT ONE, LLC lost forty seven (47) days of contract time due to abnormal weather conditions that were unanticipated and out with the control of PACT ONE, LLC.

The installation of the gravity sewer and force main was performed within the DeIDOT ROW, this work was subject to DeIDOT's approval. As discussed during our construction progress meetings there were a number holidays that no work would be allowed anywhere within the DeIDOT ROW's; PACT ONE, LLC did make a request and were permitted to work on two of these holidays. In addition, DeIDOT did stop planned work on occasion which resulted in planned work not being able to be performed and having to be rescheduled. The DeIDOT's restrictions impacted the project on the on the following dates:

- Work Stopped: December 13th, 2016: 1 day.
- DeIDOT Holiday: December 23rd, 2016: 1 day.
- DeIDOT Holiday: December 26th, 2016 thru to December 28th, 2016: 3 days.
- DeIDOT Holiday: January 2nd, 2017: 1 day.
- Work Stopped: January 18th, 2017: 1 day.

In total PACT ONE, LLC lost seven (7) days of contract time due to DeIDOT that were unanticipated and out with the control of PACT ONE, LLC.

PACT ONE, LLC formally requests that the contract time be adjusted by fifty two (52) calendar days which will allow the remaining work to be complete. If granted this would extend the overall contract duration to 352 days and the project completion date would be May 24th, 2017.

Please do not hesitate to contact me if you need any further information or have any questions.

Sincerely,

Duncan A. H. Gordon, Project Manager
 DAHG/sy
 Enclosure(s)

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

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Samuel R. Wilson, Jr.
The Honorable I.G. Burton, III
The Honorable Robert B. Arlett

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

RE: ***Western Sussex Area of the Unified District
Transmission Facilities Design Contract Approvals for
--George, Miles & Buhr, LLC - Amendment No. 1
--Davis, Bowen & Friedel – Amendment No. 2***

DATE: December 5, 2017

The Town of Bridgeville still owns and operates a sanitary sewer system for the Bridgeville/Greenwood service area. In February 2017, the municipal councils of Bridgeville and Greenwood requested investigation of an alternate County Sewer District based scenario.

Sussex County Engineering Department, in conjunction with the respective municipal engineering consultants, developed said alternate scenario for a Western Sussex County Sewer District connecting to the City of Seaford, estimated at a project cost of \$12.68 million. The alternate scenario, if submitted to DNREC for funding, would rank very high based on Clean Water State Revolving Fund (CWSRF) project evaluation criteria and USDA/RD (Federal) and CWSRF (State) funding has been pledged towards the alternate solution in an equal or better grant/loan ratio than the stand-alone solution resulting in an estimated annual household cost of \$561/year per EDU.

Both municipal Councils requested formation of a County sewer district pursuant to Title 9 Del. Code § 6501, and on August 22, 2017, County Council adopted a resolution establishing the Western Sussex Area of the Unified Sewer District.

The City of Seaford's Council has agreed in principle to the outlined arrangement including a full buy-in for the existing municipal systems as they exist today, including any remaining legacy obligations conditioned upon the nutrient load allocation transfer under the Chesapeake TMDL. The City and the County in a joint effort have initiated the load transfer request, and it is supported by the State and EPA.



The Engineering Department is now working with the City on an updated agreement between Sussex County and the City of Seaford on behalf of the Blades as well as the Western Sussex Sewer District Areas, allowing for capacity set asides and additional capacity purchases/sales based on need.

Upon the request of the Town of Bridgeville Sussex County is now providing interim operational assistance for the treatment plant on a reimbursement basis until all municipal sewer related assets, liabilities and legacy obligations can be transferred after discontinuation of the point discharge into the Bridgeville Branch.

Based on County Council authorization, the Engineering Department submitted a funding request to the State CWSRF for a \$50,000 matching Planning Grant which was approved by the State. The funding will be used towards the preliminary design of system and the identification of expansion possibilities in the currently unserved areas.

On June 3, 2014, County Council awarded five (5) year on-call contracts for miscellaneous consultant services to Davis, Bowen and Friedel, Inc (DBF), George Milles and Buhr, Inc. (GMB) and five other consultants. Since then, Council utilized the services of DBF for the Concord Road Expansion project design under a EJCDC contract format. GMB recently provided services for the Sussex Shores project, as part of the Chapter 96 program.

The Engineering Department now requests approval of the GMB base contract in conjunction with Amendment No.1 in the amount of \$ 1,302,178.00 for engineering planning, design and construction phase services in conjunction with transmission facilities to convey collected wastewater from the Towns of Bridgeville and Greenwood to the City of Seaford for treatment and disposal.

Furthermore, the Engineering Department also requests approval of the EJCDC format Amendment No. 2 to the base contract with DBF in the amount of \$266,000.00 for engineering planning, design and construction phase services in conjunction with the conversion of the Bridgeville wastewater treatment plant into a regional pump station and the re-naturalization of the affected stream section of Bridgeville Branch.

This is **EXHIBIT K**, consisting of Two (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. 1

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Project Order: November 28, 2017

Owner: Sussex County

Engineer: George, Miles & Buhr, LLC

Project: Transmission Facilities for Western Sussex Unified 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 attached Project Order

Project Order Summary:

Original Project Order amount:	\$ <u> 0 </u>
Net change for prior amendments:	\$ <u> 0 </u>
This amendment amount:	\$ <u> 1,302,178.00 </u>
Adjusted Project Order amount:	\$ <u> 1,302,178.00 </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:

ENGINEER:

Sussex County Council

George, Miles & Buhr, LLC

By: _____

By: _____

Print

Print

name: Michael H. Vincent

name: James H. Willey, Jr.

Title: President, Sussex County Council

Title: Managing Member/President

Date Signed: _____

Date Signed: _____

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Robin Griffith
Clerk of the County

EXHIBIT A-1: PROJECT ORDER
CONSULTANT'S SCOPE OF SERVICES AND FEES
TRANSMISSION FACILITIES FOR
WESTERN SUSSEX UNIFIED DISTRICT

This attachment outlines the Scope of Services for engineering planning, design and construction phase services for transmission facilities to convey collected wastewater from the Towns of Bridgeville and Greenwood to the City of Seaford for treatment and disposal.

DESCRIPTION OF PROPOSED PROJECT

The following transmission facilities are proposed for conveyance of wastewater from Bridgeville to Seaford:

1. Coordination with other Consultant regarding incoming force main flow from Bridgeville WWTF Pump Station
2. Pump Station Modifications and Flow Equalization at Heritage Shores PS
3. New Transmission Force Main extending along Route 13 from the Heritage Shores PS to the Seaford City Limits, a distance of approximately 15,000 lf
4. New Pump Station 16 located at the northernmost limits of Seaford annexed lands
5. New Transmission Force Main extending from PS 16 to the existing North Ross Lift Station, a distance of approximately 12,600 lf
6. Pump Station Modifications and Flow Equalization at North Ross LS
7. New Parallel Transmission Force Main extending from North Ross LS to existing gravity sewer on Market Street, a distance of approximately 5,300 lf
8. Upsizing of gravity sewer on Market Street between Virginia Avenue and Stein Highway, a distance of approximately 2,600 lf
9. Further Analysis of Existing Interceptor Sewer (18" and 24") to include Infiltration/Inflow Study, Flow Monitoring and Smoke Testing

SCOPE OF WORK

The engineering services and phases proposed for this project are described as follows:

1. PLANNING AND STUDY PHASE

- a. Meet with the County to clarify expectations and obtain information relevant to the evaluations.
- b. Collect and analyze the as-built sewer collection and conveyance systems from the two communities.
- c. Prepare Preliminary Engineering Report (PER) in accordance with USDA requirements RUS Bulletin 1780-3 for sewer.
- d. Conduct environmental assessment and prepare Environmental Report (ER) in accordance with USDA requirements RUS Bulletin 1794A-602. As part of the ER, we will submit information about the proposed project to the appropriate State and Federal agencies and seek their response.
- e. Facilitate the Waste Load Allocation transfer from the Town of Bridgeville to the City of Seaford, working in collaboration with the City of Seaford. Attend meetings with DNREC and City of Seaford regarding proposed modifications to NPDES permit and provide relevant feedback to the County.
- f. I/I Study-Coordinate smoke testing and flow monitoring (to be performed under subcontract to GMB) within the contributory drainage area of the existing Seaford Interceptor Sewer. Study the testing and monitoring results and identify possible infiltration and inflow reduction projects in an effort to optimize the capacity of the existing interceptor sewer, and possibly avoid a replacement project in the short term. The analysis will also consider control and sequencing of pumping operations to optimize flow equalization within existing PS facilities.

2. PRELIMINARY DESIGN PHASE

- a. Conduct field survey and prepare base mapping required for plan development.
- b. Coordinate geotechnical investigations to be performed under subcontract to GMB.
- c. Develop recommendations for placement of the new pump station and alignment

- of new force mains in coordination with the County, City of Seaford and DeIDOT.
- d. Develop design criteria for pumping and flow equalization modeling.
 - e. Prepare 30% design documents suitable for supplementing State/Federal funding applications, to include preliminary plans and pump/system curves.
 - f. Identify private easements and assist County in the easement acquisition process with surveys and plats.
 - g. Update project budgets and cost estimates.

3. FINAL DESIGN PHASE

- a. Prepare 95% plans for County review.
- b. Prepare 95% specifications and bidding documents for County review.
- c. Incorporate County review comments into final plans, specifications and bidding documents.
- d. Update project budgets and cost estimates.
- e. Exclusion: Electrical engineering and Control/SCADA design will be performed by County engineering staff. GMB will coordinate with County and provide base CAD drawings for use by County in design and preparation of sealed drawings for insertion in bid and construction documents.

4. PERMITTING

- a. Interact with regulatory agencies to review the permit requirements
- b. Prepare permit applications for submission by County to agencies listed below and assist in acquiring permits:
 - i. DNREC Construction Permit
 - ii. DeIDOT Construction Permit
 - iii. Sediment and Erosion Control Permit
 - iv. Stormwater Management (SWM)
 - v. DNREC Notice of Intent (NOI) for Stormwater Discharges

5. BIDDING PHASE

- a. Provide copies of plans and specifications for bidding with reproduction costs recouped through the sale of the documents.
- b. Maintain the List of Planholders.
- c. Attend pre-bid meeting and prepare addenda based upon questions from bidders.
- d. Review bids and make a bid award recommendation to County.

6. CONSTRUCTION PHASE

- a. **General Construction Administration.** Consult with the County and act as the County's representative during the duration of the construction project. This effort involves day to day coordination of in-house and field personnel during the construction phase.
- b. **Preconstruction and Monthly Progress Meetings.** Prepare meeting agendas, conduct monthly progress meetings and issue minutes. A 15-month construction duration was assumed for fee estimate purposes.
- c. **Construction Schedule Review.** Review the Contractor's preliminary Construction Schedule, monthly Construction Schedule, and Schedule of Values and issue written comments to the Contractor and County.
- d. **Specialized Site Visits.** Make visits to the site by specialized trades (structural, etc.). These specialized visits will be to assist site personnel with resolution of contractual issues, discrepancies, coordination items, witness equipment start-up and testing, and/or review general progress of the work. Such visits and observations are not intended to be exhaustive or to extend to every aspect of the Work in Progress, but rather are to be limited to spot-checking and general observation of the Work.
- e. **Request for Information (Clarifications).** When requested by the County, respond to Request for Information (RFIs) relating to the Contract Documents. Provide copies of the responses to the County.
- f. **Change Orders and Work Change Directives.** Upon request of the County,

- review Contractor change order requests and document findings to the County regarding the applicability of the claim, the proposed method of resolution to the issue, and the proposed cost.
- g. **Shop Drawings.** Review and approve or take other appropriate action with respect to Shop Drawings, Samples, Survey Stake-outs, and other data which the Contractor is required to submit for conformance with the the Contract Documents including compatibility with the design concept of the completed project functioning 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.
- h. **Applications for Payment.** Based on observations and on a review of the Contractor's Monthly Applications for Payment and accompanying supporting documentation, make recommendations for payment to the Contractor. Such observations and reviews, mean that, to the best of GMB'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's being entitled to such payment appears to have been fulfilled insofar as it is GMB's responsibility to observe the Contractor's Work. In the case of unit price work, 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).
- i. **Operation and Maintenance Manuals.** GMB will review Contractor's submitted draft and final O&M manuals for required equipment, and issue written review comments to the Contractor.
- j. **Contractor's Completion Documents.** At the completion of the Construction Phase, GMB will transfer all recorded changes from the Contractor's Record Drawings and produce a set of reproducible record drawings in AutoCAD Version

2012 format and provide two (2) paper hard copies of all record drawings.

k. Substantial Completion and Final Notice of Acceptability of the Work. At the request of the County, GMB will assist the County in conducting a walk through inspection to determine if the Work is Substantially Complete and to assist with the development of a punchlist for work items. GMB will also assist the County in conducting a final inspection to determine if the completed Work of the Contractor is acceptable for release of final payment to the Contractor including repair and documentation.

l. Resident Project Representation. GMB shall furnish one Resident Project Representative (RPR) for the project's duration. The RPR will observe the work done by the Contractor and promptly inform the County of any deviations from the Contract Documents. The RPR will serve as the County's representative in the field, providing information on the daily progress of the job to technical personnel. It is assumed that the RPR will be full-time and will work an average of 40 hours per week for the approximate 450 consecutive calendar day (64 weeks) duration, with forty (40) additional hours for project closeout.

7. POST CONSTRUCTION PHASE

- a. Assist City and County personnel with testing and adjustment of PLC and SCADA settings for optimization of pumping and flow equalization operations.
- b. Together with the County, visit the project to observe any apparent defects in the work, assist in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement of defective work, if present.
- c. At the end of the one-year warranty period, perform a final inspection of the entire work to determine the status of equipment, structures, systems and other work in regard to warranty provisions. If necessary, prepare a listing of deficiencies and other requirements to the Contractor.
- d. Post Construction phase services may commence during the Construction Phase and will terminate at the end of the correction period.

FEE AND SCHEDULE

We propose to charge for our services on a lump sum and hourly rate basis, plus reimbursables, consistent with the EJCDC agreement and in accordance with the attached Schedule of Hourly Rates and Expenses. A breakdown of the estimated fees is presented following:

A/E Fee Estimate Spreadsheet		
	<i>GMB Proposal</i>	Fee Type
Planning/Study	\$ 57,680.00	HR
<i>Flow Monitoring</i>	<i>\$ 37,500.00</i>	<i>RE</i>
<i>Smoke Testing</i>	<i>\$ 17,500.00</i>	<i>RE</i>
Preliminary Design (30% CD's)	\$ 200,000.00	HR
<i>Geotech Testing</i>	<i>\$ 12,500.00</i>	<i>RE</i>
Final Design	\$ 334,200.00	HR
Bidding Phase	\$ 25,000.00	HR
Construction Contract Administration (CA)	\$ 304,000.00	HR
<i>QA/QC Testing</i>	<i>\$ 30,000.00</i>	<i>RE</i>
Resident Project Representative (RPR)	\$ 221,000.00	HR
Post- Construction	\$ 25,210.00	HR
<i>Equipment, Materials, Supplies</i>	<i>\$ 37,588.00</i>	<i>RE</i>
Total	\$ 1,302,178.00	

HR: Hourly Rate
RE: Reimbursable Cost

In the absence of specific critical deadlines or milestone dates, we anticipate a timeframe of twelve (12) months to accomplish the Planning and Design phases of the work.

ACCEPTED FOR:

FOR THE CONSULTANT:

GEORGE, MILES & BUHR, LLC

James H. Willey, Jr. P.E.
Managing Member/President

FOR SUSSEX COUNTY:

President
Sussex County Council

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 EJCDC BASE AGREEMENT

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Project Order:

Owner: Sussex County

Engineer: Davis, Bowen & Friedel, Inc.

Project: Bridgeville WWTP Conversion and Stream Improvements

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:

Project Order Summary:

Original Project Order amount:	\$ <u>0</u>
Net change for prior amendments:	\$ <u>0</u>
This amendment amount:	<u>\$266,000.00</u>
Adjusted Project Order amount:	<u>\$266,000.00</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.

Exhibit K – Amendment to Owner-Engineer Agreement.
EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

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

ENGINEER:
Davis, Bowen & Friedel, Inc.

By: _____
Print
name: _____

By: _____
Print
name: JASON P. LOAR, P.E.

Title: President, Sussex County Council

Title: Principal

Date Signed: _____

Date Signed: 11-30-17

(SEAL)

PREVIOUSLY APPROVED FORM

ATTEST:

Ms. Robin Griffith
Clerk of the County

November 30, 2017

*Michael R. Wigley, AIA, LEED AP
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA
Jason P. Loar, P.E.
Ring W. Lardner, P.E.*

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

Attn: Mr. Hans Medlarz
County Engineer

RE: Proposal for Professional Engineering Services
Western Sussex County Sanitary District
Town of Bridgeville WWTP Conversion and Stream Improvements
Town of Bridgeville
Sussex County, Delaware
DBF #P1897B17.021

Dear Mr. Medlarz:

Davis, Bowen & Friedel, Inc., (DBF) is pleased to submit this proposal for providing Survey, Design, Permitting, Bidding, and Construction Administration Phase services for the above-referenced project. We understand this project is based on the path forward as determined by the Western Sussex County Consortium which included but not limited to Sussex County, Town of Bridgeville, Town of Greenwood, City of Seaford, and the Delaware Department of Natural Resources and Environmental Control (DNREC). The path chosen is to create a Western Sussex County Sanitary District that would serve the Towns of Bridgeville and Greenwood of whose wastewater will be conveyed to the City of Seaford and treated at the City's wastewater treatment facility. This proposal is strictly based on required improvements within the Town of Bridgeville.

The project shall consist of work to be completed at the Town of Bridgeville's wastewater treatment plant and Heritage Shores Pump Station. The work at the wastewater treatment plant shall consist of a new submersible sewage pump station per County Standards, pigging station for forcemain cleaning, connection to existing on site gravity sewer and Heritage Shores forcemain, associated modifications to the existing control building for conversion into a County office, addition of a two-bay pole barn style garage for storage of a vac truck and accessories, demolition of all wastewater treatment plant structures/equipment, relocation of the Town's water SCADA system, and stream improvements/bank stabilization along Bridgeville Branch in the immediate area of the wastewater treatment plant. The work at the Heritage Shores pump station will include modifications to the forcemain and gravity collection system to accommodate the new reversal of flow from the new pump station located at the wastewater treatment plant site and our assistance to the County in regards to the hydraulic/flow calculations as a result of the new flow regime to/from the Heritage Shores pump station.

A description of our proposed scope of services and associated fees for each portion of the work is as follows.

A. SURVEY SERVICES

Our office will perform necessary topographic and utility location survey for the immediate area of the improvements at the wastewater treatment plant and Heritage Shores pump station including Bridgeville Branch. We will locate all existing surface features within the proposed project area, as are visible from the surface, including roadway, swales, drainage structures, utilities, manholes, cleanouts, valves, fences, landscaping, mailboxes, signs, exposed property corners and other natural and man-made features pertinent to the design of the project. We will determine the elevations of all storm drain piping and inverts of sewer mains that might be affected within the project area.

Estimated Fee: \$5,500.00

B. DESIGN AND PERMITTING

Utilizing the survey information identified above along with completion of a geotechnical investigations and available plans from past projects, our office will prepare the project construction documents and obtain construction permits for the project as described in the introductory section of this proposal. This work shall include:

- Preparation of plans and details for the proposed submersible pump station located at the wastewater treatment plant, upgraded Heritage Shores pump station, two-bay pole barn style garage, and administration building modifications along with applicable demolition. Work includes but not limited to new pumps, wet well, valve vault, emergency bypass connection, pumps, guiderails, piping and valving, flow meter and meter vault, pigging station, electrical service and controls, emergency generator, forcemain and gravity sewer connections, two-bay garage, site work, demolition work, and stream restoration work. All work will be in accordance with the latest Sussex County and/or State standards.
- Preparation of pre-final design documents consisting of construction drawings, contract documents and specifications, including a meeting with the County and Town to review prior to sending out for construction permitting.
- Preparation of submittals to Sussex County, Sussex Conservation District, Delaware Department of Natural Resources and Environmental Control (DNREC) and other agencies as necessary to obtain construction permits. *(Please note the County will be responsible for any fees associated with agency submittals.)*
- Address agency comments and resubmit for obtaining final plan approval and approval.

Estimated Fee: \$170,500.00

C. BID PROCUREMENT SERVICES

After receiving the necessary approvals, we shall assist the County with solicitation for bids, including production and distribution of construction specifications and drawings, schedule and oversee a pre-bid meeting and site visit for the contract. We will also answer contractor questions during the advertisement period, issue addenda as required, attend the bid opening, review bids received, prepare a bid tabulation, and recommend approval of the lowest, responsible bidder to the County for award of the construction contract.

Estimated Fee: \$10,000.00

D. CONSTRUCTION ADMINISTRATION SERVICES

Construction Administration Services will be provided throughout the project construction and will include the following:

- Coordinate between Sussex County, Town of Bridgeville, and the Contractor when appropriate.
- Conducting the Pre-Construction Conference and progress meetings for the project on behalf of Sussex County including preparation and distribution of meeting minutes.
- Review of submittals by the Contractor on materials proposed for use in the construction project.
- Answer Contractor, Sussex County, and Town of Bridgeville questions regarding project materials, equipment, and construction processes.
- Coordination with the Resident Project Representative (RPR) as provided by Sussex County.
- Evaluate and track the construction schedule with notice provided to Sussex County as scheduling issues arise.
- Coordinate any necessary quality control on behalf of Sussex County as required by the Contract Documents.
- Review and distribute results of materials testing that are required.
- Confirm that testing has been performed on required portions of the underground utilities and that results conform to project requirements.
- Review Contractor progress payment applications, make recommendations, and submit to Sussex County.
- Communication with the Contractor pertaining to conflict resolution and any other issues relevant to construction activity.
- Review and recommend any Contractor Change Order requests; draft and process same.
- Negotiate with Contractor on behalf of Sussex County on any issue affecting such constructed improvements. Technical assistance will be provided by the Project Design Team.
- Schedule and participate in the substantial completion inspection of the completed work

- and preparation of a punch-list.
- Verification through the County inspector that punch-list items have been completed and recommendations regarding acceptance to Sussex County.
- Completion of record drawings utilizing information as provided by the Contractor and County inspector.
- Construction Administration fees are based on 200-day construction period.

Estimated Fee: \$80,000

E. EXCLUDED SERVICES

Excluded from our above scope of services is work associated with the following services. If required, this work can be performed on a unit price basis or under a separate proposal to the County.

- Wetlands Delineation and Permitting
- Archaeological Surveys and Permitting
- Phase 1 or 2 Environmental Assessments or Permitting
- Easement Acquisition Services and Coordination and Preparation of Easement Plats
- Construction Survey Services
- Construction Inspection Services
- As-Built Surveys
- Application and Permit Fees
- Financial Administration Services
- Reimbursable Expenses

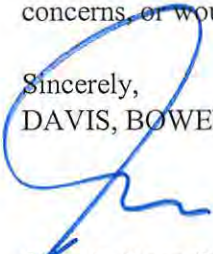
We propose to complete the proposed scope of services as described above for the fees identified above. Billing of lump sum fees will be based upon percentage of work completed during the previous month. Hourly or estimated fees, additional services, and direct or reimbursable expenses will be provided on an hourly and unit price basis and invoiced for work completed during the previous month in accordance with the enclosed Schedule of Rates No. 46. We will not exceed the estimated fees without first notifying you and receiving written authorization to continue. Please refer to the attached schedule of rates for other terms and conditions.

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

Mr. Hans Medlarz
Town of Bridgeville WWTP Conversion
and Stream Improvements Proposal
November 30, 2017
Page 5

On behalf of Davis, Bowen & Friedel, Inc., we are fully committed to provide a product that will meet or exceed your expectations. We look forward to completing this project with you and appreciate the opportunity to be of continued service to Sussex County. Should you have any questions, comments, concerns, or would like to discuss this further please give me a call at your convenience.

Sincerely,
DAVIS, BOWEN & FRIEDEL, INC.



Jason P. Loar, P.E.
Principal

Enclosures

M:\PROPOSAL\Kent-Sussex-NC Co Proposals\Sussex\Sussex County\2017\P1897B17.021-Bridgeville WWTP Conversion.docx

ACCEPTED BY:

Signature

Date

Printed Name

DAVIS, BOWEN & FRIEDEL, INC. ("DBF")
SCHEDULE OF RATES AND GENERAL CONDITIONS
 SCHEDULE NO. 46
 Effective June 1, 2015

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$170.00
Senior Architect	\$150.00
Architect	\$120.00
Senior Landscape Architect	\$150.00
Landscape Architect	\$120.00
Senior Engineer	\$150.00
Engineer	\$120.00
Construction Administrator	\$120.00
Senior Traffic Engineer	\$150.00
Traffic Engineer	\$120.00
Geologist	\$120.00
GIS Specialist	\$110.00
Senior Surveyor	\$150.00
Associate Surveyor	\$120.00
Surveyor	\$115.00
Senior Designer	\$115.00
Computer Graphics Designer	\$100.00
Designer	\$105.00
CADD I	\$95.00
CADD II	\$85.00
Computer Administrator	\$100.00
2 Man Field Crew	\$140.00
3 Man Field Crew	\$175.00
GPS Unit (1 man)	\$110.00
GPS Unit (2 man Crew)	\$150.00
GPS Unit (3 man Crew)	\$200.00
Resident Project Representative	\$80.00
Water/Wastewater Operator	\$120.00
Clerical	\$60.00
Travel	\$0.50
Direct Expense	Cost + 10%
Prints (In-house Reproduction)	\$2.50/sheet

GENERAL CONDITIONS

INVOICES & PAYMENT

Invoices are sent monthly or sooner if project is complete. Payment Terms: Net 30 days of invoice date. Any invoice not paid within 30 days shall bear interest at 1.0% per month (12% annually). If required to engage legal counsel to collect an overdue invoice, DBF shall be entitled to recover also its costs of collection, including counsel fees and expenses. DBF reserves the right to adjust its schedule of rates annually. Any such adjustments will be effective within 30 days after written notification to the client.

TERMINATION OF CONTRACT

Client may terminate this agreement upon seven days' prior written notice to DBF for convenience or cause. DBF may terminate this Agreement for cause upon seven days' prior written notice to client. Failure of client to pay invoices when due shall be cause for immediate suspension and ultimate termination of services, at DBF's sole discretion. This agreement may be terminated by either party for any reason with 30 days advance notice.

LIMITATION OF LIABILITY

Client agrees to limit DBF's liability related to any errors or omissions to a sum that shall not exceed the total professional fee for the project.

INDEMNIFICATION

Client and DBF each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorney's fees caused by the other's negligence. To the extent such claims, losses, damages or expenses are caused by the joint or concurrent negligence of client and DBF, the same shall be borne by each party in proportion to its negligence. This shall in no way affect the limitation of DBF's liability expressed in the preceding paragraph.

FORCE MAJEURE

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

CONSTRUCTION PHASE SERVICES

If this Agreement provides for any construction phase services by DBF, it is understood that the contractor, not DBF, is solely responsible for the construction of the project, and that DBF shall not be responsible for the acts or omissions of any contractor, subcontractor or material supplier; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the contractor, its subcontractors or suppliers.

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by DBF pursuant to this Agreement, including electronic media, are instruments of DBF's professional service, and DBF shall retain an ownership and property interest therein. DBF grants client, during the period of DBF's service, a license to use such documents for the purpose of constructing, occupying and maintaining the project. Reuse or modification of any such documents by client or client's agents, without DBF's written permission, shall be at client's sole risk; and client agrees to indemnify and hold DBF harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by client or by others acting through or with the consent of client.

USE OF ELECTRONIC MEDIA

Copies of documents that may be relied upon by client are limited to the printed copies (also known as hard copies) that are signed or sealed by DBF. Files in electronic media format or text, data, graphic or other types that are furnished by DBF to client are only for convenience of client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, DBF makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, computer hardware or of a protocol differing from those in use by DBF during the period of this agreement.

SUCCESSORS & ASSIGNS

The client and DBF bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

MISCELLANEOUS PROVISIONS

Unless otherwise specified, this Agreement shall be governed by laws of the State in which the work is performed, and the courts of such State shall have exclusive jurisdiction over any disputes hereunder. Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. If this schedule is incorporated or referenced in an agreement with client, the terms of this schedule shall prevail in the event of any conflict with the terms of such agreement.

REIMBURSABLE EXPENSES

Other expenses known as direct expenses incurred in the interest of the project (including travel, toll communications, postage, delivery, photographs, subcontract engineering, testing or other consultants, renderings, models, etc.) will be billed monthly at DBF's actual cost plus ten percent.

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

JOSEPH WRIGHT, P.E.
ASSISTANT COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Samuel R. Wilson, Jr.
The Honorable Robert B. Arlett
The Honorable Irwin G. Burton III

FROM: John Ashman 
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement
Carillon Woods, LLC*

DATE: November 30, 2017

On July 19, 2016, the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The planning effort identified infrastructure needs and matched them to transmission and treatment capacity upgrades respectively. This arrangement collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Department requests approval of an agreement for the Use of Existing Infrastructure with **Carillon Woods, LLC** for the **Carillon Woods** project in the Long Neck Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project as well as off-site equivalent dwelling units to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, Carillon Woods development will construct an on-site pumpstation and gravity collection system that will connect to existing regional infrastructure. In return for utilization of said infrastructure Carillon Woods, LLC will contribute **\$31,780.00** for the perpetual use of these transmission facilities to serve **209** Equivalent Dwelling Units.



USE OF EXISTING INFRASTRUCTURE AGREEMENT

CARILLON WOODS

THIS AGREEMENT ("Agreement"), made this _____ day of _____ 2017, by and between:

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

CARILLON WOODS, LLC, a Delaware Limited Liability Company and developer of a project known as Carillon Woods, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 234-23.00-260.00 to be known as Carillon Woods ("Project") and;

WHEREAS, the Project has requested annexation into the Sussex County Unified Sanitary Sewer District (Long Neck Area) and;

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

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

- (1) Developer is proposing to utilize County's existing transmission capacity by connecting to an existing regional pipeline used by multiple pump stations, therefore avoiding off-site facilities construction.
- (2) In exchange for permission to connect up to 209 equivalent dwelling units (which includes capacity for the project and adjacent parcels needed for contiguity) to County's existing transmission system and to utilize the existing capacity in said system, Developer agrees to contribute **\$31,780.00** for the perpetual use of said transmission facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to receiving substantial completion of Phase 1.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires upgrades or replacement.
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of Sections 110-90 and 110-91 of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of Section 110-84 of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is 18949 Coastal Highway, Suite 301, Rehoboth Beach DE 19971.

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

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)
_____ (DATE)

ATTEST:

Robin A. Griffith
Clerk of the County Council

FOR CARILLON WOODS, LLC

By: Pc. _____ (Seal)
Preston Schell, Managing Member
11/28/17 (DATE)

WITNESS: 

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 Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 30, 2017

RE: County Council Old Business Report for CU 2099 Lands of Richard and Dawn Jamison

The County Council held a public hearing on October 3, 2017. The County Council deferred action for further consideration.

The following are the minutes and motion for the Conditional Use from the September 14, 2017 and September 28, 2017 Planning and Zoning Commission meetings.

The Planning and Zoning Department received an application (CU 2099 Lands of Richard and Dawn Jamison) to allow for a wedding venue. The Planning and Zoning Commission held a public hearing on September 14, 2017. The following are the minutes and motion for the Change of Zone from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, and site plan.

The Commission found that Mr. Richard Jamison was present on behalf of the application; that he would like to have a wedding venue with reception on the site; that the maximum number of people would be approximately 100 people; that the existing barn would be used as the venue; that there is parking in the area of the barn; that he and his wife would be on site during the events to keep an eye on the event; that a caterer would be able to come onto the site; that he wants to keep it as an agricultural venue with a focus on agriculture; that he is ok with a ending time; that he may want to hold anniversary and birthday parties on the site; and that they are looking at putting in a bathroom in the barn or barn area.

The Commission found no one in support of the application.

The Commission found that Jane Walter Dempsey spoke in opposition to the application; that she had concern with noise from the events, noise from music, hours of operation; possibility of it being more than a wedding venue; and that it could impact the quite community.

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



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

At their meeting on September 28, 2017, the Commission discussed this application which has been deferred since September 14, 2017.

Mr. Wheatley moved that the Commission recommend approval of CU 2099 Richard and Dawn Jamison for wedding venue and based upon the record made during the public hearing and for the following reasons:

1. The site is a 49.12 acre parcel of land owned by the applicants. The applicants intend to use a 1930s barn for the wedding events. This is an appropriate location for a wedding venue.
2. The use is an innovative re-use of the large historic barn on the property, and it promotes Sussex County's agricultural heritage.
3. The use will be limited in scope, and will not require any significant additional permanent structures on the property.
4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
5. The parking area proposed by the Applicant is approximately 24,000 acres in size, which is adequate for this use.
6. The Applicants will reside on the property and maintain close control over the use and the site at all times.
 - A. All events shall no later than 10:00 p.m.
 - B. Food and beverage service and music or similar entertainment is permitted.
 - C. No noise from the use shall be audible from the State Road right of way.
 - D. Portable toilet facilities may be permitted during any event as needed.
 - E. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - F. The interior drive and parking area shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
 - G. All entrance locations shall be subject to the review and approval of DelDOT.
 - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried 5-0 to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5-0.

Introduced 06/06/17

**Council District No. 1 – Vincent
Tax I.D. No. 531-12.00-92.00 (portion of)
911 Address: 4647 Woodpecker Road, Seaford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WEDDING VENUE WITHIN AN EXISTING BARN ON APPROXIMATELY 2 ACRES AROUND THE BARN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 49.12 ACRES, MORE OR LESS

WHEREAS, on the 25th day of April 2017, a conditional use application, denominated Conditional Use No. 2099, was filed on behalf of Richard and Dawn Jamison; and

WHEREAS, on the ____ day of _____ 2017, 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. 2099 be _____; and

WHEREAS, on the ____ day of _____ 2017, 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. 2099 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Seaford Hundred, Sussex County, Delaware, and lying on the north side of Woodpecker Road, approximately 600 feet east of Green Briar Road and being more particularly described in attached deed prepared by Haller & Hudson, said parcel containing 49.12 acres, more or less.

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

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 Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 30, 2017

RE: County Council Old Business Report for CU 2104 Grace-n-Mercy Ministries Inc.

The County Council held a public hearing on October 3, 2017. The County Council left the record open for the determination of the size of the tax ditch right-of-way (50ft).

The following are the minutes and motion for the Conditional Use from the August 24, 2017 and September 14, 2017 Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record as part of the application were the staff analysis, comments from the Sussex County Utility Planning Division, results from the Service Level Evaluation from DelDOT, and a survey.

The Commission found that Mr. Brian Tinley was present on behalf of the application; that the area will be fenced; that the Pastor was unable to attend the meeting and she had additional information regarding the proposed cemetery; that it is intended for members of the church; that the plots would be for sale to the members of the church; that the pastor knew of the exact size and location of the proposed cemetery and that he was not certain of the details; and that the area would be approximately 0.5 ac. on the site.

The Commission found that no one spoke in favor of the application.

The Commission found that Jim Slushuar, John Orsinger, Leslie Omstader and Donald Guidly spoke in opposition to the application and had concerns about a decrease in property value, potential groundwater contamination, maintenance of the cemetery; that where would the cemetery be located on the site; that they have concern that there is no church on the site; the size being larger than 0.5 ac.; concerns with traffic along Woodyard Rd.; concern with flooding in the area; and they would like it as far away from their property lines as possible.

At the conclusion of the public hearings, the Commission discussed this application, and stated concerns about the lack of detail in the record.

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



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

At their meeting on September 14, 2017, the Commission discussed this application which has been deferred since August 24, 2017.

Ms. Stevenson moved that the Commission recommend denial of Conditional Use # 2104 for GRACE-N-MERCY MINISTRIES, INC., based on the lack of a record made during the public hearing.

While I am not opposed to a cemetery being located on this property owned by the applicant-church, there was not enough information provided for the Commission to make an informed recommendation of approval. For example, no details were provided about the size, location, number of gravesites, access, or other factors that must be considered. Also, there was no detail about the proximity of the proposed cemetery to surrounding properties, the church building and parking proposed on the property, or the tax ditches and their easements that surround most of the property. Under these circumstances, there is not enough of a record to act favorably on this application.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried 4-1 to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4-1. Mr. Ross voted against the motion.

To Be Introduced 06/20/17

**Council District No. 2 – Wilson
Tax I.D. No. 530-5.00-40.05
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY ON A HALF ACRE OF THE 9.8 ACRES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.98 ACRES, MORE OR LESS

WHEREAS, on the 17th day of May 2017, a conditional use application, denominated Conditional Use No. 2104, was filed on behalf of Grace-N-Mercy Ministries, Inc.; and

WHEREAS, on the ____ day of _____ 2017, 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. 2104 be _____; and

WHEREAS, on the ____ day of _____ 2017, 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. 2104 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 Northwest Fork Hundred, Sussex County, Delaware, and lying at the southeast corner of Woodyard Road and Sussex Highway (Route 13), and being more particularly described per the attached deed prepared by Brady, Richardson, Beauregard & Chasanov, said parcel containing 9.98 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.

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Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 30, 2017

RE: County Council Old Business Report for CU 2105 Thomas Engel

The County Council held a public hearing on November 28, 2017. The County Council deferred action for further consideration.

The following are the minutes and motion for the Conditional Use from the October 26, 2017 and November 16, 2017 Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, comments from Sussex Conservation District and results from the DelDOT Service Level Evaluation stating a TIS is not required.

The Commission found that Aaron Baker, Attorney with Baird Mandalas Brockstedt, LLC and Thomas Engel were present on behalf of the application; that Mr. Baker stated that applicant purchased the property in June of 2016 and has spent money and time cleaning up the site; that trucks have entered the site to bring and take dumpsters to clean up the site; that the applicant owns Double E Lawn Care and it is currently operated out of Lewes; that the applicant is looking to use part of the two of the existing buildings for storage of vehicles and materials for the business; that the employees will pick up the vehicles and materials in the morning on week days and return in the late afternoon; that they occasionally work on Saturdays with a three to four man crew that will collect and return vehicles and equipment; that there is no operation on Sundays; that the vehicles do not require a CDL licenses; that only eight employee vehicles and 12 commercial vehicles will be on the property at any one time; that none of the proposed uses will be visible from the property; that there will be no in-person business; that they will not use the site to store yard waste and debris; that they will no use the site to chip or grind any material as part of the business; that the proposed use is to store vehicles, equipment, and some related materials on the property to be retrieved by employees in the morning and return in the evening; that this use is similar to other uses in AR-1 and the Comprehensive Plan; that a Conditional Use was approved in the area; that in 2011 the County adopted Ordinance 2246 which granted a Conditional Use of approval for a nearby property owner to use their property for a manufactured home placement business as a place for trucks, equipment, to be stored, collected by employees in the morning and returned in the evening; that the County approved a nearly identical use in a nearly identical location; that this property is a ¼ mile off of the road; that it is a less intense use than that use already approved by the County; that



DelDOT did not warrant a TIS; that they submitted a list of proposed conditions to limit the number of business vehicles and employees permitted on the property and restrict the hours of operation; that the hours of operation are Monday through Saturday 6:30 am to 5:00 pm; that on rainy days they may be back early to the site; that they are not proposing a sign; that the site is purely for storage of material and equipment; that there will occasionally be deliveries to the site; that they go to other location to get the mulch and any leftovers may be stored on the site; that mulch is not delivered to the site; that if a truck has to deliver to the site is a place for the truck to turn around; that they do sharpen the blades inside the building and it takes about 15 minutes to sharpen the blades; that there are no further plans of clearing the property; that sometime in the future he may sell his land on New Road; and that the location of the property is nice to live there and near the business they currently use.

The Commission found that Tom Colucci spoke in support of this application; that he has worked with Tom and he is a man of his word; and that he would like to see him get the opportunity to do this.

The Commission found that Michael Schlitter, Vincent Lickman, Diane Johnson, Zeljko Jaron, Patricia Beckley, and Mary Ann Hughes spoke in opposition to the application; that Mr. Schlitter stated that he has concerns with noise and diesel fumes; that there has been a lot of storage containers in and out of the property; that he was in violation with the Department of Agricultural in May 10, 2017 for improper use of pesticides; that he let his pesticides license expire in December 31, 2003; that there are concerns with storage of pesticides; that they have concerns with traffic; that they are afraid Doddtown Road will become an industrial area; that Mr. Lickman stated that DelDOT said no trucks over two axels are permitted on the road; that he spoke with Kyle Banks from DelDOT and Mr. Banks stated that no tractor trailers are permitted on Doddtown Road; that Ms. Johnson stated that the previous owner built the buildings for migrant workers and the neighbors opposed it; that the bins filled with all kinds of things; that there is another business on the property; that the business is to only help himself; that she is not sure he lives on the site; that there were other business trucks on the property during the summer; that Mr. Engel stated that he would like a dumpster on the site; that there are no tri axels or containers on-site; that Mr. Jaron submitted videos of the site; that Ms. Beckley stated that she has concerns with speeding traffic; that she can't be outside due the speeding cars; that the road is a narrow road; that Ms. Hughes spoke that the use does not belong on Doddtown Road; that Mr. Engel stated that a friend with large trucks were in and out on the property along with his own dumpsters to clean up the site and he is OK with a fence to screen the dumpster; that he is willing to install a landscape buffer along the road; that his driveway is 20 feet wide and it is paved; and that only non CDL vehicles will travel Doddtown Road.

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

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

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.

Ms. Stevenson, moved that the Commission recommend approval of Conditional Use # 2105 for Thomas Engel for a landscape business with vehicle and equipment storage based upon the record made during the public hearing and for the following reasons:

1. The property is a 25-acre parcel located on Doddtown Road approximately 1/3 of a mile from Route 5 and 2/3s of a mile from the Route 5/Route 9 intersection. Only a portion of the property will be used for the Conditional Use.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.
3. The activities of the conditional use will be confined to the area around two existing 7,000 square foot pole buildings that are located approximately 1,400 feet back from the front property line. They are not visible from Doddtown Road.
4. The applicant has stated that he intends to reside on the property.
5. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site.
6. There will be no retail sales from the property, and the use is limited in nature. With the conditions and limitations placed upon it, the use will not adversely affect neighboring properties, roadways or traffic.
7. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
8. The property is served by a well and septic system.
9. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a landscaping business with vehicle and equipment storage. No other businesses shall be conducted on the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.
 - B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.
 - C. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
 - D. As stated by the applicant, no sign shall be permitted.
 - E. The hours of operation shall be limited to 6:30 am through 5:00 pm, Monday through Saturday.
 - F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - G. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - H. No trucks with more than two axles shall be permitted on the site for any use. This includes business vehicles, employee vehicles, and deliveries.
 - I. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.

- J. As stated by the applicant, there shall be no dumping on the site, and the single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.
- K. No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- L. All equipment and vehicle maintenance and repair shall occur indoors.
- M. Visual screening in the form of fencing or landscaping shall be installed in any place where the roadway providing access to the conditional use area is within 20 feet of a neighboring property. These areas, along with the method of screening, shall be shown on the Final Site Plan.
- N. This conditional use is not permitted on the entire 25-acre parcel. It shall be limited to the cleared area immediately adjacent to the existing pole buildings and the roadway providing access to this area. The Final Site Plan shall contain boundaries clearly depicting the Conditional Use area for the review and approval of the Commission.
- O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.

Introduced 07/18/17

Council District No. 3 – Burton

Tax I.D. No. 235-30.00-103.09

911 Address: 20132 Doddtown Road, Harbeson

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS

WHEREAS, on the 12th day of June 2017, a conditional use application, denominated Conditional Use No. 2105, was filed on behalf of Thomas R. Engel; and

WHEREAS, on the ____ day of _____ 2017, 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. 2105 be _____; and

WHEREAS, on the ____ day of _____ 2017, 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. 2105 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the northwest side of Doddtown Road, approximately 1,600 feet southwest of Harbeson Road (Route 5), and being more particularly described per the attached deed prepared by Baird Mandalas Brockstedt, LLC, said parcel containing 25.156 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.

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Sussex County
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Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 30, 2017

RE: County Council Old Business Report for CZ 1831 East Gate Farm, Inc.

The County Council held a public hearing on November 28, 2017. The County Council deferred action for further consideration.

The following are the minutes and motion for the Change of Zone from the October 26, 2017 and November 16, 2017 Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation that stated a TIS is not required, a site plan, and an exhibit book.

The Commission found that Dennis Schrader, Esquire of Morris James Wilson Halbrook and Bayard, LLP, Anthony Concurso, principal owner of East Gate Farm, Inc., Ken Christenbury, with Axiom Engineering, and D. J. Hughes, with Davis, Bowen, & Freidel Inc. were present on behalf of the application; that Mr. Schrader stated that the 16.7 acre parcel is near Milford; that the property is unique in size; that the property is located across from the new Bayhealth Medical Campus; that the property is currently zoned AR-1 and the applicant would like to rezone the property to B-1; that the development of this property is for professional or general offices; that it is in State Strategy Level 3; that the Comprehensive Plan identifies the property as a Town Center land use; that Mr. Christenbury stated that the property is different than it is today with the interchange; that other properties are zoned Highway Commercial by the City of Milford; that the property is not eligible for annexation and are not able to get their utilities; that there are no wetlands on the property and it is suitable for on-site septic; that any use will be limited to low water users; that restaurants are not suitable for this property but professional offices with low water usage are suitable; that in the future the property could be annexed into the City of Milford; that Mr. Hughes spoke that the property is located near the access bridge and do not have access to Route 1; that if the rezoning is approved, a site plan will be submitted to DelDOT for approval of the entrance; that Mr. Concurso stated that he has owned the property since 2002; that he lost less than one acre to DelDOT; that he has been growing shrubs and some trees which are located in the back corner of the property; that he found another property sufficient to have a nursery; that he agrees with the proposed uses; that the staff analysis concluded that this application, if granted would be consistent with the Comprehensive



Plan; that the project did not require PLUS review; that they cannot go above 50,000 square feet on this site; and that a proposed Findings of Facts were submitted in the exhibit book.

The Commission found that there was no one in support of or in opposition to the application.

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

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

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.

Ms. Stevenson, moved that the Commission recommend approval of Change in Zone # 1831 for East Gate Farm, Inc. for a change in zone from AR-1 to B-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located near the boundary of the City of Milford along Cedar Neck Road close to the intersection with Route 1, which is a principal arterial highway. This is a new grade-separated intersection that provides direct access to the new Bayhealth Campus.
2. According to the County's Comprehensive Land Use Plan, the site is identified as being part of a Town Center Area. B-1 Zoning is appropriate within the Town Center Area.
3. The site is basically surrounded by the City of Milford, but because of roads and other factors is not contiguous to the City. This makes it an appropriate location for B-1 zoning.
4. According to the Zoning Code, B-1 Zoning is appropriate "to provide retail shopping and personal service uses, ... to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods." This application satisfies this purpose of B-1 Zoning.
5. The B-1 District is the most limited commercial zoning district in the County. It is appropriate in this location since it will limit the type and size of the uses that may occur at the site.
6. The rezoning to B-1 will be in character with the developing nature of the area in that it will serve the residents of the greater Milford community by creating an office center in the area of the soon-to-be-completed Health Campus. New medical and general offices on this site will be integrated in this area that is developing with residential and healthcare uses.
7. No parties appeared in opposition to the proposed rezoning.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.

Introduced 07/25/17

**Council District No. 3 – Burton
Tax I.D. No. 330-11.00-73.09
911 Address: Not Available**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS

WHEREAS, on the 6th day of June 2017, a zoning application, denominated Change of Zone No. 1831, was filed on behalf of East Gate Farm, Inc.; and

WHEREAS, on the ____ day of _____ 2017, 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. 1831 be _____; and

WHEREAS, on the ____ day of _____ 2017, 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 B-1 Neighborhood Business 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the south side of Cedar Neck Road, approximately 900 feet east of Coastal Highway (Route 1), and being more particularly described per the attached deed prepared by Delaware Department of Transportation, said parcel containing 16.669 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.

MARTIN L. ROSS, CHAIRMAN
KIM HOEY STEVENSON, VICE CHAIRMAN
R. KELLER HOPKINS
DOUGLAS B HUDSON
ROBERT C. WHEATLEY



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Sussex County Planning & Zoning Commission

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date November 16, 2017

Application: CZ 1832 & CU 2106 MDI Investment Group, LLC KH

Applicant/Owner: MDI Investment Group, LLC
P.O. Box 201
Lewisville, PA 19351

Site Location: South side of Shady Rd. approximately 126 ft. east of Plantations Rd.

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: MR (Medium Density Residential District)

Proposed Use: 52 multi-family units

Comprehensive Land
Use Plan Reference: Environmentally Sensitive Developing Areas, Mixed Residential Areas
and Highway Commercial

Councilmatic
District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Lewes Fire District

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 6.86 ac. +/-

Tax Map ID.: 334-6.00-511.00 and 512.0



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Sussex County

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Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 30, 2017

RE: County Council Report for CZ 1832 and CU 2106 MDI Investment Group, LLC

The Planning and Zoning Department received an application (CZ 1830 H. Dale Parsons) to allow for a change in zone from AR-1 (Agricultural Residential District) to CR-1 (General Residential District). The Planning and Zoning Commission held a public hearing on October 26, 2017. The following are the minutes and motion for the Conditional Use from the Planning and Zoning Commission meeting.

There was a consensus of the Commission to a combined public hearing on C/Z #1832 and C/U #2106, that application of MDI Investment Group, LLC and that each application would be voted on separately.

The applications were consolidated into a single public hearing.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Engineering Department Utility Planning Department, results from the DelDOT Service Level Evaluation that stated a TIS is not required, and exhibit book.

The Commission found that Harold Dukes, Esquire of Tunnell & Raysor, P.A., Doug Compher, with MDI Investment Group Inc. and John Murry with Kercher Engineering were present on behalf of the application; that Mr. Compher recently acquired the parcels that are zoned AR-1; that the parcels are surrounded by Eagles Point subdivision, the Arbors at Cottagedale, Summerset Green and other residential developments; that they are asking to rezone the parcels to MR and allow for 52 townhome units; that there is MR zoning in the area; that the parcels are located in Level 1 in the State Strategies; that the site is across from the new transit center and near the Lowe's; that the site is 6.86 ac.; that they are requesting a density of 7.58 for the site; that the Arbors at Cottagedale has a density of 9.29 which is adjacent to the site; that the Arbors at Cottagedale went through a similar process with Change of Zone and Conditional Use applications; that the site went through the PLUS process and they have responded to the PLUS comments; that the Comp Plan identifies that the land use is Environmentally Sensitive Developing Area, Mixed Residential and Highway Commercial; that 60.6% of the land will be open space; that they will have central sewer provided by Sussex County; that water will be provided by Tidewater Utilities; that they are waiting on a Letter of No Objection from DelDOT; that there will interconnectivity to the wellness center



to the west; that the wellness centers entrance will be removed and combined with this sites entrance; that Summerset Green is a townhouse development in the area which is similar to the character of the proposed development; that it is near the new transit center; that it tie into the sidewalk with the wellness center and extend the sidewalk along the road frontage; that the site has good soils for infiltration for stormwater management; that the stormwater management area will be located in the panhandle area of the site; that the site complies with Section 115-194.3 for a development in the ESDDOZ; that they have submitted proposed findings in the exhibit book; that there is a history of other Conditional Uses and Change of Zone applications in the area; that the use is in keeping with the character of the area; that there is infrastructure and transit available; that a TIS is not required; that the maximum number of units is 52; that the wellness center will get more parking with the new interconnectivity and the closing of that entrance; that there are several other potential interconnectivity opportunities on the site; that the one to the Arbors at Cottagedale would go through their existing stormwater management pond and the others into the back of lots that could develop in the future; that the developer is required to construct road improvements along Shady Rd. per DelDOT; that the intent is for housing for the middle class with a price range in the \$200,000 range; that there are amenities in the area for residents to use instead of them providing amenities on the site; and that there are complexities with trying to connect to the Arbors at Cottagedale as it is a brownfield site.

The Planning Commission found that no one spoke in favor of the application.

The Planning Commission found Marc Collard spoke in opposition to the application; that he had concerns with the number of units for this site and the Summerset Green development; that the townhomes are close to Eagle Point; that it is too much on the site; and that the road is too narrow.

At the conclusion of the public hearings, the Commission discussed this application regarding the interconnectivity to the Arbors at Cottagedale and potential issues sharing the stormwater management area as it is a brownfield site; and discussed the cost of the units.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration for CZ 1832. Motion carried 4-0.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration for CU 2106. Motion carried 4-0.

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Sussex County
DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 8, 2017
RE: Staff Analysis for CZ 1832 MDI Investment Group, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1832 MDI Investment Group, LLC to be reviewed during the November 16, 2017 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 parcels 334-6.00-511.00 and 512.0 to change the zoning from AR-1 (Agricultural Residential District) to MR (Medium Density Residential District) The size of the property is 6.86 ac. +/- . The property is zoned AR-1 (Agricultural Residential District).

The 2008 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 indicates that the properties have the land use designation Environmentally Sensitive Developing Areas, Mixed Residential Areas and Highway Commercial.

The surrounding land use to the north and east are Environmentally Sensitive Developing Areas, Mixed Residential Areas and Highway Commercial. The surrounding land use to the south and west are Environmentally Sensitive Developing Areas and Mixed Residential Areas. The Environmentally Sensitive Developing Areas land use designations recognizes that a range of housing types should be permitted including single-family homes, townhouses and multi-family units. Retail and office uses are appropriate; however, larger retail and office uses should be located along arterial roads. Institutional uses can be appropriate to provide for convenient services and allow people to work from home. The Mixed Residential Areas land use designation recognizes that the full range of housing types are appropriate including single family, townhouses and multi-family with non-residential development not encouraged. The Highway Commercial Areas land use designations recognizes that these areas include highway commercial corridors, shopping centers, and other large commercial areas geared toward vehicular traffic and would be appropriate for hotels, motels, car washes, auto dealerships, etc. The MR zoning district is a zoning classification that can be considered within the Environmentally Sensitive Developing Areas and Mixed Residential Areas.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north are zoned C-1 (General Commercial District). The properties to the south are zoned MR (Medium Density Residential District) and AR-1 (Agricultural Residential District). The properties to the east



are zoned AR-1 (Agricultural Residential District and C-1 (General Commercial District). The properties to the west are zoned AR-1 (Agricultural Residential District and MR (Medium Density Residential District). There are multiple Conditional Uses (CU 1434, CU 1489, CU 1490 and CU 1845) in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone request change the zoning from AR-1 (Agricultural Residential District) to MR (Medium Density Residential District) could be considered consistent with the land use, surrounding zoning and uses.

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PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
janelle.cornwell@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Janelle Cornwell, AICP, Planning & Zoning Director
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 8, 2017
RE: Staff Analysis for CU 2106 MDI Investment Group, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2106 MDI Investment Group, LLC to be reviewed during the November 16, 2017 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcels 334-6.00-511.00 and 512.0 to allow for the construction of 52 multi-family dwelling units. The size of the property is 6.86 ac. +/- . There is a concurrent Change of Zone application (CZ 1832) to request the change in zone from AR-1 (Agricultural Residential District) to MR (Medium Density Residential District).

The 2008 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 indicates that the properties have the land use designation Environmentally Sensitive Developing Areas, Mixed Residential Areas and Highway Commercial.

The surrounding land use to the north and east are Environmentally Sensitive Developing Areas, Mixed Residential Areas and Highway Commercial. The surrounding land use to the south and west are Environmentally Sensitive Developing Areas and Mixed Residential Areas. The Environmentally Sensitive Developing Areas land use designations recognizes that a range of housing types should be permitted including single-family homes, townhouses and multi-family units. Retail and office uses are appropriate; however, larger retail and office uses should be located along arterial roads. Institutional uses can be appropriate to provide for convenient services and allow people to work from home. The Mixed Residential Areas land use designation recognizes that the full range of housing types are appropriate including single family, townhouses and multi-family with non-residential development not encouraged. The Highway Commercial Areas land use designations recognizes that these areas include highway commercial corridors, shopping centers, and other large commercial areas geared toward vehicular traffic and would be appropriate for hotels, motels, car washes, auto dealerships, etc. The MR zoning district is a zoning classification that can be considered within the Environmentally Sensitive Developing Areas and Mixed Residential Areas.

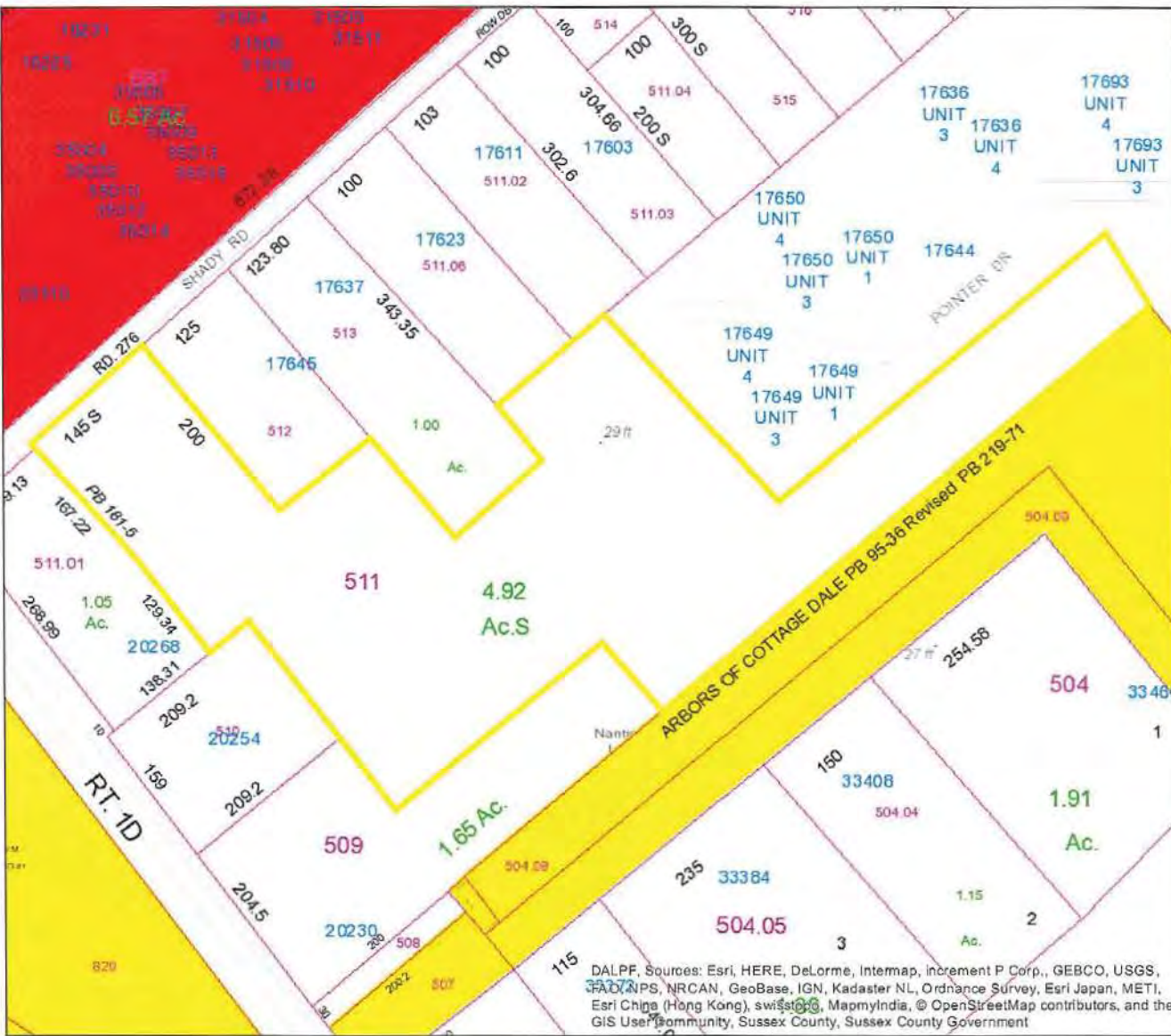
The property is zoned AR-1 (Agricultural Residential District). The properties to the north are zoned C-1 (General Commercial District). The properties to the south are zoned MR (Medium



Density Residential District) and AR-1 (Agricultural Residential District). The properties to the east are zoned AR-1 (Agricultural Residential District) and C-1 (General Commercial District). The properties to the west are zoned AR-1 (Agricultural Residential District) and MR (Medium Density Residential District). There are multiple Conditional Uses (CU 1434, CU 1489, CU 1490 and CU 1845) in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use request to allow for the construction of 52 multi-family dwelling units could be considered consistent with the land use, surrounding zoning and uses.

There is a concurrent Change of Zone application (CZ 1832) to request the change in zone from AR-1 (Agricultural Residential District) to MR (Medium Density Residential District).

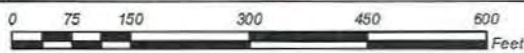


- Addresses / Parcels**
- TaxParcels
- Council Districts**
- Fire Districts
 - County District 01
 - County District 02
 - County District 03
 - County District 04
 - County District 05
 - County Boundaries
- Schools/Libraries**
- School Buildings (Various)
 - School Library
 - Public Library
 - Special Library
 - DOE School Districts
 - DOE VoTech School Districts
- Hydrology**
- Streams / Rivers
 - Lakes, Ponds, Bays
- Flood Zones**
- 0.2% Annual Chance Flood Hazard
 - A
 - AE
 - AO
 - Open Water
 - VE
- Public Protected Lands
- Municipalities
- Communities
- Boundaries State County

DALPF, Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community, Sussex County, Sussex County Government



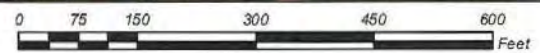
Sussex County Map





- Addresses / Parcels**
- Tax Parcels
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 - County District 02
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 - County District 04
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- 0.2% Annual Chance Flood Hazard
 - A
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 - AO
 - Open Water
 - VE
 - Public Protected Lands
 - Municipalities
 - Communities
 - Boundaries State County

Sussex County Map



DAIRY, Sussex County, Sussex County Government, GIS: East Digital Map, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Introduced 07/25/17

Council District No. 3 – Burton
Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00
911 Address: Not Available

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS

WHEREAS, on the 6th day of June 2017, a zoning application, denominated Change of Zone No. 1832, was filed on behalf of MDI Investment Group, LLC; and

WHEREAS, on the ____ day of _____ 2017, 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. 1832 be _____; and

WHEREAS, on the ____ day of _____ 2017, 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 MR Medium Density Residential 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Shady Road, approximately 130 feet northeast of Plantations Road, and being more particularly described per the attached deeds, said parcels containing 6.86 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.

Introduced 07/25/17

Council District No. 3 – Burton
Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00
911 Address: Not Available

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS

WHEREAS, on the 6th day of June 2017, a conditional use application, denominated Conditional Use No. 2106, was filed on behalf of MDI Investment Group, LLC; and

WHEREAS, on the ____ day of _____ 2017, 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. 2106 be _____; and

WHEREAS, on the ____ day of _____ 2017, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2106 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Shady Road, approximately 130 feet northeast of Plantations Road, and being more particularly described per the attached deeds, said parcels containing 6.86 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.