

AGENDA
WORCESTER COUNTY COMMISSIONERS

Worcester County Government Center, Room 1101, One West Market Street, Snow Hill, Maryland 21863

The public is invited to view this meeting live online at - <https://worcestercountymd.swagit.com/live>

October 17, 2023

	Item #
9:00 AM - Vote to Meet in Closed Session in Commissioners' Conference Room – Room 1103 Government Center, One West Market Street, Snow Hill, Maryland	
9:01 - Closed Session (Discussion on school security, discussion regarding a personnel update, requests to hire a Plant Operator Trainee, Correctional Officer, and Emergency Preparedness Manager, receiving legal advice, and performing administrative functions)	
10:30 - Call to Order, Prayer, Pledge of Allegiance	
10:31 - Report on Closed Session; Review and Approval of Minutes from October 3, 2023	
10:32 - Proclamations (1)	1
10:33 - Consent Agenda (Rural Legacy Grant Agreement, Request to Bid Comprehensive Plan, SHA Roads Salt Agreement, Request to Award Pipe Bid, Request to Purchase WWW UV Disinfection Equipment)	2-6
10:35 - Chief Administrative Officer: Administrative Matters (Buckingham Elementary, Legislative Priorities, Jail Over Expenditure, Request to Bid Construction Manager Pocomoke Library, Request to Bid Pocomoke Middle School Basketball Courts, OPEB Update, Board Appointments)	7-13
10:45 - Public Hearing Rezoning Case 444 (Originally Scheduled at 10:30am)	14
10:50 - Public Hearing Redistricting (Originally Scheduled at 10:35am)	15
12:00 PM - Questions from the Press; County Commissioner's Remarks	
Lunch	
1:00 PM - Chief Administrative Officer: Administrative Matters (if necessary)	

AGENDAS ARE SUBJECT TO CHANGE UNTIL THE TIME OF CONVENING

Hearing Assistance Units Available – see County Administration Office Please be thoughtful and considerate of others. *Turn OFF all cell phones and notification during the meeting!*
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Minutes of the County Commissioners of Worcester County, Maryland

October 3, 2023

Anthony W. Bertino, Jr., president
Madison J. Bunting, Jr., vice president
Caryn G. Abbott
Theodore J. Elder
Eric J. Fiori
Joseph M. Mitrecic
Diana Purnell

Following a motion by Commissioner Bunting, seconded by Commissioner Purnell, the commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1) and (7) of the General Provisions (GP) Article of the Annotated Code of Maryland and to perform administrative functions permitted under the provisions of Section GP 3-104. Also present at the closed session were Chief Administrative Officer Weston Young, Deputy Chief Administrative Officer Candace Savage, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, Human Resources Director Stacey Norton, and Human Resources Deputy Director Pat Walls. Topics discussed and actions taken included the following: hiring Kyle Brown as a plant operator trainee within the Water and Wastewater Division, Aaron Hooks as a landfill operator I within the Solid Waste Division, and Christopher Layton and Tyler Hunter as correctional officer trainees within the County Jail; receiving legal advice from counsel; and performing administrative functions, including discussing potential board appointments.

Following a motion by Commissioner Bunting, seconded by Commissioner Fiori, the commissioners unanimously voted to adjourn their closed session at 9:33 a.m.

After the closed session, the commissioners reconvened in open session. Commissioner Bertino called the meeting to order, and following a morning prayer by Father John Solomon of St. Mary's Star of the Sea in Ocean City and pledge of allegiance, announced the topics discussed during the morning closed session.

The commissioners reviewed and approved the open and closed session minutes of their September 19, 2023 meeting as presented.

The commissioners presented a proclamation to Life Crisis Center Executive Director Jamie Manning and others to recognize October as Domestic Violence Awareness and Prevention Month and to commend Life Crisis professionals for the array of services they provide to those impacted by domestic violence.

The commissioners joined with representatives from the Eastern Shore Chapter of the National Federation of the Blind of Maryland to proclaim October 15, 2023 as White Caine

Awareness Day in Worcester County and to encourage area residents and employers to value the white cane as a tool of independence for the blind in both public spaces and businesses.

The commissioners joined with Fire Marshal Matt Owens to proclaim October 8-14, 2023 as Worcester County Fire Prevention Week and October as Fire Prevention Month.

Upon a motion by Commissioner Abbott, the commissioners unanimously approved by consent agenda item numbers 2-10 as follows: FY24 Rural Maryland Prosperity Investment Fund Grant Agreement through the Tri-County Council awarding \$100,000 to Worcester County Tourism and Economic Development for the Skilled Trades, Agriculture, Tourism, and Technology (STATT) Summer Internship and Camps; scheduling a public hearing on a project to provide 54 equivalent dwelling units (EDUs) of water service from the Ocean Pines Sanitary Service Area to the St. Martin's by the Bay community; support letter for the Maryland Department of Housing and Community Development's application to HUD's PRO Housing grant program; support letter for approval from the Federal Energy Regulatory Commission for the Eastern Shore Natural Gas Company to construct the Worcester Resiliency Upgrade Project; concurring with a the State Highway Administration's proposal to dispose of three surplus properties on US Rt. 113 in Newark; FY23 Recycling budget over expenditure of \$26,076; waiving tipping fees for debris collected during the Maryland Coastal Bays Foundation's Coastal Cleanup Day on October 22; purchasing OneMeeting Agenda Automation software from Granicus at a one-year subscription cost of \$11,705; and over expenditures of \$15,000 for Development Review and Permitting and \$5,000 for Environmental Programs to continue development of DocuWare workflows to improve efficiencies.

CRICKET Center Executive Director Lauren Cooper and Board Treasurer Stefanie Franklin updated the commissioners on current organization programs and requested to reallocate \$190,000 in FY22 County grant funds awarded to construct a new facility to support general operating expenses associated with the development of a satellite child advocacy center in Pocomoke. In response to questions by Commissioner Bertino, Ms. Cooper advised that the CRICKET Center is an unfunded State mandate. She explained that grants, contributions from fundraising, and the support of private donors cover program services and operating expenses (including the director's salary) totaling roughly \$287,000 annually.

Commissioner Mitrecic commended the CRICKET Center staff for the good work they do in the community and recognized the need to assure these services are available to the children of Pocomoke. Commissioner Abbott concurred, noting that she is thrilled to have the new satellite office in Pocomoke.

Following some discussion and upon a motion by Commissioner Mitrecic, the commissioners unanimously authorized the reallocation of \$190,000 in FY22 County grant funds within the CRICKET Center budget to cover operating costs for the new satellite office in Pocomoke as requested.

Pursuant to the request of Chief Administrative Officer Weston Young and upon a motion by Commissioner Mitrecic, the commissioners unanimously approved a Transfer of Agreement of Grant to Choptank Fiber. Mr. Young reiterated that in 2022 the County voted to distribute certain American Rescue Plan Act (ARPA) funding to three internet service providers

(ISPs), Bay Country Communications, Choptank Fiber, and Talkie Communications, to install high-speed fiber broadband throughout the County. However, since then Choptank Fiber has begun the process of acquiring the fiber portion of Bay Country Communications and has agreed to finish the portion of the project allocated to Bay Country Communications. In response to a request by Commissioner Mitrecic for the ISPs to meet with the commissioners, Deputy Chief Administrative Officer Candace Owens stated that the three service providers will be submitting project update reports by December 31, 2023, and they could schedule to meet with the providers after that time.

Pursuant to the request of Budget Officer Kim Reynolds and upon a motion by Commissioner Mitrecic, the commissioners unanimously approved FY23 year-end budget transfers totaling \$450,232.

Pursuant to the request of Ms. Reynolds and upon a motion by Commissioner Mitrecic, the commissioners unanimously approved FY23 Reserve for Assigned Encumbrances totaling \$1,473,706.

The commissioners met with Development Review and Permitting Director Jennifer Keener to review a text amendment application drafted by staff that would prohibit on-site consumption establishments and enhance the separation distances for new licensed dispensaries to schools, certain childcare facilities, recreational facilities, and other licensed dispensaries.

Following some discussion, Commissioners Abbott, Bertino, Bunting, Elder, Fiori, Mitrecic, and Purnell introduced the aforementioned text amendment as an emergency bill - (Public Health – Cannabis establishments) and agreed to schedule a public hearing on this bill.

Commissioner Bertino stated that the commissioners were made aware this morning that the Board of Education (BOE) funds the salary, benefits, and Other Post Employment Benefits (OPEB) for the director of the Worcester County Education Foundation, a non-profit board with over \$1 million in reserves. He stated that it seems incongruent to use taxpayer dollars to fund this nonprofit position. He stated that, by comparison, the State-mandated CRICKET Center relies on grants, fundraising initiatives, and private donor contributions to cover the director's salary.

Commissioner Abbott expressed concern that the Pocomoke City Council has not yet scheduled a public hearing to receive public comment on plans to reallocate \$300,000 paid by the Royal Farms in Virginia to hook into sewer service from the Pocomoke City Wastewater Treatment Plant to cover the cost of demolishing a building on Willow Street.

The commissioners answered questions from the press, after which they adjourned to meet again on October 17, 2023.

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COMMISSIONERS
ANTHONY W. BERTINO, JR., PRESIDENT
MADISON J. BUNTING, JR., VICE PRESIDENT
CARYN G. ABBOTT
THEODORE J. ELDER
ERIC J. FIORI
JOSEPH M. MITRECIC
DIANA PURNELL

OFFICE OF THE
COUNTY COMMISSIONERS

WESTON S. YOUNG, P.E.
CHIEF ADMINISTRATIVE OFFICER
CANDACE I. SAVAGE, CGFM
DEPUTY CHIEF ADMINISTRATIVE OFFICER
ROSCOE R. LESLIE
COUNTY ATTORNEY

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET • ROOM 1103
SNOW HILL, MARYLAND
21863-1195

PROCLAMATION

WHEREAS, this Economic Development Week, October 23-27, 2023, we are showcasing the work of Worcester County Tourism and Economic Development (WCTED), the local chambers of commerce, and other local and state partners to attract new residents and businesses, spur job growth, and develop new career training opportunities that support and promote the business community; and

WHEREAS, we invite community members to participate in Economic Development Week activities, including a discussion on the local business community on Ocean 98.1 Irie Radio at 8:30 a.m., a WCTED open house on October 24, starting at 4 p.m., and business spotlight postings @MarylandsCoast that highlight the achievements of area businesses, including the long-standing Bishop’s Stock Fine Arts & Gallery in Snow Hill, the whimsical and unique Mermaid Museum in Berlin, and the newly revitalized Eastern Shore Lanes in Pocomoke City.

NOW, THEREFORE, we the County Commissioners of Worcester County, Maryland, do hereby proclaim October 23-27, 2023 as **Economic Development Week** and celebrate the WCTED partnerships with area chambers of commerce that strengthen our competitiveness and our economy.

Executed under the Seal of the County of Worcester, State of Maryland, this 17th day of October, in the Year of Our Lord Two Thousand and Twenty-Three.



Anthony W. Bertino, Jr., President

Madison J. Bunting, Jr., Vice President

Caryn G. Abbott

Eric J. Fiori

Theodore J. Elder

Joseph M. Mitrecic

Diana Purnell



Worcester County Department of Environmental Programs
Worcester County Government Center, 1 West Market Street, Rm 1306 | Snow Hill MD 21863
Tel: (410) 632-1220 | Fax: (410) 632-2012

Memorandum

To: Weston S. Young, P.E., Chief Administrative Officer

From: Robert J. Mitchell, LEHS, REHS/RS
Director, Environmental Programs

A handwritten signature in black ink, appearing to be "RJM", is written over the name and title of the sender.

Subject: Rural Legacy – FY 24 Grant Agreement
Dividing Creek Rural Legacy Area

Date: 10/6/23

Attached you will find a memorandum from Katherine Munson and agreement for funding for one of our Rural Legacy Areas. Worcester County ultimately received \$761,761 for the Dividing Creek Rural Legacy Area, which was part of the program funding granted to counties across Maryland under this program. There is no required County match to participate.

Rural Legacy pays landowners for permanent conservation easements on their properties. The program is funded through a combination of state Program Open Space and general obligation bonds from the state's capital budget. Typically, we request enough money to fund an acreage total that can be serviced by county staff and achievable in an 18 month cycle. This will be used to fund 2 to 4 conservation easements in the county with willing landowners.

This agreement was reviewed by the County Attorney. Therefore, I respectfully recommend that the County Commissioners authorize the Commission President to sign the letter where indicated. The agreement presented is for his signature. Since we share the Dividing Creek Rural Legacy Area with Somerset County, that agreement has also been executed by the Somerset County Commissioners.

If you have any questions or need any additional information please let me know. Both Ms. Munson and I will be available to discuss this request with you and the County Commissioners at your convenience.

Attachments

cc: Roscoe Leslie
Katherine Munson
Lynn Wright



DEPARTMENT OF
ENVIRONMENTAL PROGRAMS

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1306
SNOW HILL, MARYLAND 21863
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AGRICULTURAL PRESERVATION
CONSERVATION PROGRAM
WATER & SEWER PLANNING
SHORELINE CONSTRUCTION

WELL & SEPTIC
NATURAL RESOURCES
PLUMBING & GAS
COMMUNITY HYGIENE

Memorandum

TO: Robert Mitchell, Director

FROM: Katherine Munson, Planner *VM*

SUBJECT: FY24 Rural Legacy Area Grant Agreement

DATE: October 3, 2023

Attached please find the FY24 Dividing Creek Rural Legacy Area (DCRLA) grant agreements for commissioner review and signature. Also attached is a color map showing the properties protected to date and the priority properties for easement acquisition (Attachment A), general conditions (Attachment B), priority property list (Attachment C), for each grant.

The first page of the agreement will be dated by DNR following execution by the Rural Legacy Board.

The grant agreement has been reviewed by Roscoe Leslie, County Attorney.

Worcester County was awarded \$761,761, shared with Somerset County, who has already signed the grant agreement.

The grant funding will be used to purchase 2-4 conservation easements in Worcester County and Somerset County from willing landowners. The funding is provided not only for the purchase cost, but also for administrative and other costs (survey, title, etc.).

The program is funded by real estate transfer tax revenue (Maryland Program Open Space dollars).

Worcester County did not receive funding for Coastal Bays Rural Legacy Area in FY24.

Please contact me with any questions.

Attachments

**RURAL LEGACY GRANT AGREEMENT
CO-SPONSORSHIP: LAND TRUST AND LOCAL GOVERNMENT**

THIS GRANT AGREEMENT (“Agreement”) is made this ____ day of _____, 2023 by and between the STATE OF MARYLAND, acting through the RURAL LEGACY BOARD (“RLB”), Rural Legacy Program, Department of Natural Resources, 580 Taylor Avenue, Annapolis, Maryland 21401, the COMMISSIONERS FOR SOMERSET COUNTY, Post Office Box 37, Princess Anne, Maryland 21852, and THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND, 1 West Market Street, Room 1103, Snow Hill, MD, 21863, (“Local Government”), and the LOWER SHORE LAND TRUST, 100 River Road, Snow Hill, Maryland 21863, a non-profit corporation incorporated in the State of Maryland, (“Land Trust”) (hereinafter Local Government and Land Trust are sometimes referred to collectively as the “Sponsor”).

RECITALS

WHEREAS, the State of Maryland, pursuant to Natural Resources Article § 5-9A-01., et. seq., has established the Rural Legacy Program (“Program”) to enhance natural resource, agricultural, forestry, and environmental protection and the Program provides funds through grant assistance to local governments and land trusts to purchase interests in real property from willing sellers, including fee estates, easements and other interests in real property for the preservation of land in key areas of Maryland;

WHEREAS, the Sponsor is (a) a local government, meaning one of Maryland’s 23 counties or one of Maryland’s municipal governments, and (b) a land trust, meaning it is a non-profit, “qualified organization” under Section 170 (h) (3) and accompanying regulations of the Internal Revenue Code established for the purpose of land conservation, including the purchase or other acquisition of interests in real property for preservation purposes, which has entered into a cooperative agreement with the Maryland Environmental Trust;

WHEREAS, the Sponsor represents a Rural Legacy Area known as the Dividing Creek Rural Legacy Area as shown on the map set forth on Attachment A (“Rural Legacy Area”);

WHEREAS, the RLB has designated the Rural Legacy Area submitted in the Sponsor’s application as originally submitted or as amended;

WHEREAS, the RLB has agreed to award the Sponsor a grant in an amount not to exceed the Total Grant Amount pursuant to the terms and conditions of this Agreement to be used for the purchase of certain interests in real property for the preservation of land in the Rural Legacy Area, and for approved Project Costs pursuant to Project Agreements, all as more particularly described herein;

WHEREAS, the RLB’s Rural Legacy Area designation, Rural Legacy Plan acceptance, Grant award and authorization to execute this Agreement were subject to approval by the Maryland State Board of Public Works (“BPW”) and such approvals have been given by the BPW on August 23, 2023; and

WHEREAS, the Local Government and the Land Trust shall enter into Project Agreements for each of the Eligible Properties which the Local Government and the Land Trust may acquire, which Project Agreements shall specify the Project Costs that the Local Government may request, on behalf of itself and the Land Trust, for acquisition of Eligible Properties, subject to the approval of the RLB and the BPW.

NOW, THEREFORE, in consideration of mutual covenants, terms and conditions of this Agreement, the parties agree as follows:

Section 1. Definitions.

Acquisition Activities is defined in Section 4.1. of this Agreement.

Acquiring Sponsor is defined as a Local Government and the Land Trust, who are the parties to a particular Project Agreement and who buy a particular Eligible Property pursuant to that Project Agreement.

Annual Report is defined in Section 8.2. of this Agreement.

BPW is defined in the Recitals Section of this Agreement.

Contract is defined in Section 4.2.5 of this Agreement.

Easement is defined in Section 4.2.2. of this Agreement.

Easement Form is defined in Section 4.2.2. of this Agreement.

Effective Date is defined in Section 12.12. of this Agreement.

Eligible Properties is defined in Section 3.1. of this Agreement.

FSCMCO is defined in Section 4.1. of this Agreement.

Grant Period is defined in Section 2.2. of this Agreement.

Law is defined in Section 3.7. of this Agreement.

Local Government is defined as “one of Maryland’s 23 counties or one of Maryland’s municipal governments in which the Eligible Property lies.”

Mortgage(s) is defined in Section 4.2.6. of this Agreement.

Permitted Real Estate Interests is defined in Section 3.1. of this Agreement.

Program is defined in the Recitals Section of this Agreement.

Project Agreement is defined in Section 3.4. of this Agreement.

Project Costs is defined in Section 3.4. of this Agreement.

Rural Legacy Area is defined in the Recitals Section of this Agreement.

Rural Legacy Manual is defined in Section 3.7. of this Agreement.

SLCO is defined as a state land conservation organization being “the Maryland Agricultural Land Preservation Foundation , the Maryland Environmental Trust, Maryland Department of Natural Resources, or another state organization approved by the RLB.”

Subordination Agreement is defined in Section 4.2.6. of this Agreement.

Title Holders are defined in Section 4.2.3. of this Agreement.

Total Grant Amount is defined in Section 2.1. of this Agreement.

Section 2. Grant and Special Conditions.

2.1. Amount of Grant. Subject to the terms and conditions of this Agreement, the RLB hereby agrees to award a grant to the Sponsor in an amount not to exceed Seven Hundred Sixty-One Thousand Seven Hundred Sixty-One Dollars (\$761,761) (the “Total Grant Amount”) to be used solely for payment of approved Project Costs in connection with acquisition of Permitted Real Estate Interests in Eligible Properties. In accordance with the terms and conditions of this Agreement and each Project Agreement, and during the Grant Period as defined below, the RLB shall disburse to the Local Government that portion of the Total Grant Amount which equals approved Project Costs for acquisition of Eligible Properties, provided however, that such disbursements shall cease upon the earlier to occur of (a) the date on which the sum total of all disbursements hereunder equals the Total Grant Amount, or (b) the expiration of the Grant Period. The Local Government shall be responsible for disbursing that portion of the Total Grant Amount which equals approved Project Costs for acquisition of Eligible Properties to the Land Trust who is a party to a particular Project Agreement, provided such Project Costs were incurred by the Land Trust and not the Local Government.

2.2. Grant Period. The “Grant Period” shall mean that period commencing upon the Effective Date of this Agreement and ending on the date which is eighteen (18) calendar months from the Effective Date, unless the Grant Period is extended by the Rural Legacy Staff in its sole discretion. In the event the ending date falls on a legal holiday or non-business day, the ending date shall be the next immediately succeeding day which is not a legal holiday or a non-business day.

2.3. General Conditions. Any general conditions to this Agreement are set forth in Attachment B attached hereto.

2.4. Sponsor Information, Easement Form and Eligible Properties. Sponsor and other information are set forth in Attachment C attached hereto. Some of the information on Attachment C is also specified in another part of this Agreement or the other Attachments to this Agreement, and if there are any conflicts between Attachment C and any of the terms of this Agreement or the other Attachments to this Agreement, the terms of this Agreement and the other Attachments shall govern.

Section 3. Sponsor's Performance.

3.1. Property Acquisitions. The Local Government and the Land Trust may acquire Permitted Real Estate Interests in Eligible Properties. "Permitted Real Estate Interests" means fee simple estate interests or conservation easement interests, or other real estate interests allowed by the Law. "Eligible Properties" means both those properties which the Sponsor has identified and listed in Attachment C. In the event that Sponsor requests (a) additional properties to be placed on Attachment C or (b) a change of the Rural Legacy Area boundary, Sponsor shall submit a written request for approval to the Rural Legacy Program and shall not begin the acquisition process for the property until such approval has been granted.

3.2. Submission of Easement Valuation Methodology. Within thirty (30) days of execution of this Agreement, the Local Government and the Land Trust shall submit to the RLB its Easement valuation methodology. The methodology shall reflect the agricultural, forestry, and natural resource qualities the Easement is designed to protect; reflect the fair market values of properties in the Rural Legacy Area; and relate to the range of easement values paid by the Maryland Agricultural Land Preservation Foundation and other easement purchasing programs. Upon approval by the RLB, the Local Government and the Land Trust may use the approved methodology to acquire conservation easements as Permitted Real Estate Interests.

3.3. Appraisals. If the Permitted Real Estate Interest to be acquired is an Easement, the Sponsor shall use its approved easement valuation methodology to appraise the value of the Easement. If the Sponsor does not have an approved easement valuation methodology, or if the Permitted Real Estate Interest is not an Easement, the Sponsor shall obtain two independent appraisals of the value of the property interest to be acquired and shall otherwise comply with the appraisal requirements set forth in the Rural Legacy Manual. The easement valuation methodology and appraisals shall be subject to the approval of the RLB or designee. A Sponsor who has an approved Easement valuation methodology shall not use appraisals unless specifically authorized by the Rural Legacy Program.

3.4. Project Agreement. If the Local Government, the Land Trust and a property owner of an Eligible Property reach agreement on the terms of an acquisition, the Local Government and the Land Trust shall prepare a Project Agreement, substantially in the form required by the RLB (a copy can be obtained from the Rural Legacy staff) ("Project Agreement"). The Project Agreement shall include a copy of the Contract (as defined in Section 4.2.5) for the Eligible Property, and, as applicable, the proposed form of the Easement or the proposed form of the Deed and other supporting documents. The Project Agreement shall specify the amount of total permissible costs, including direct (contract) costs, incidental costs, administrative costs, and easement monitoring costs ("Project Costs") which the Local Government and the Land Trust shall receive from the Total Grant Amount following Sponsor's

satisfaction of the terms of this Agreement, however the disbursement of that portion of the total Grant Amount shall be made by the RLB to the Local Government who shall then disburse any portions thereof due to the Land Trust as provided in Section 2.1 hereof.

3.5. Rural Legacy Program Review, Approval. The Local Government and the Land Trust shall submit the Project Agreement to the Rural Legacy Program for review. The Rural Legacy Program shall review the Project Agreement for compliance with the terms of this Agreement and the Law. Project Agreements meeting all Program requirements will be submitted by the Rural Legacy Program to the BPW for approval. Upon BPW approval of the Project Agreement, the Local Government and the Land Trust shall make every effort to acquire the Eligible Property within forty-five (45) days. The "Project Period" is the time period specified in the Project Agreement for acquisition of the Permitted Real Estate Interest. The Project Period ends on or before the end of the Grant Period.

3.6. Reimbursement. When the Local Government or the Land Trust acquires an Eligible Property, the Local Government (on behalf of itself if the Local Government acquired the Eligible Property or on behalf of the Land Trust who acquired the Eligible Property), may apply to the RLB for reimbursement for Project Costs in accordance with the Project Agreement and Section 6 of this Agreement. As a result, it is not required that the Total Grant Amount be distributed equally among the Land Trust and the Local Government, and in no event will the funds disbursed under this Grant Agreement exceed the Total Grant Amount.

3.7. Compliance. Sponsor agrees to comply with the terms and conditions of this Agreement, the Rural Legacy Area, its accompanying application, and each Project Agreement. Sponsor acknowledges and agrees that this Grant Agreement is governed by the terms and provisions of Subtitle 9A of the Natural Resources Article which established the Program, the Program's Regulations, and the Rural Legacy Manual and Application Procedures dated December 2001 (the "Rural Legacy Manual"), as they may be amended from time to time, and as sometimes referred to herein collectively as the "Law."

Section 4. Conditions for Acquisition of Permitted Real Estate Interests .

4.1. Acquisition Activities. As used in this Agreement, FSCMCO shall mean a qualified federal, state, county, or municipal conservation organization (a "FSCMCO") and for purposes of this Agreement, the Local Government shall be deemed a FSCMCO. As set forth in the Law and in this Agreement, the RLB has the right to approve all activities in connection with acquisition of Permitted Real Estate Interests in Eligible Properties ("Acquisition Activities"). The RLB or its designee has the right to make comments upon, require revisions to, and approve all Acquisition Activities whether or not specifically enumerated below. In addition, in the event a "SLCO" will hold title to a Permitted Real Estate Interest, the SLCO shall have the right to make comments upon, require revisions to and approve all Acquisition Activities, whether or not specifically enumerated below. Any other Title Holders of a Permitted Real Estate Interest and any FSCMCO shall have the right to make comments upon, require revisions to and approve all Acquisition Activities, whether or not specifically enumerated below. The Acquiring Sponsor shall contact any SLCO, the FSCMCO and any other Title Holders directly for any comments, revisions or requirements that they may have.

4.2. Acquisition of a Fee Estate or a Conservation Easement.

4.2.1. Form of Deed. If the Permitted Real Estate Interest is a fee simple estate interest, the Acquiring Sponsor shall submit the form of the proposed special warranty deed (the "Deed") to the RLB or its designee, any SLCO, the FSCMCO and any Title Holders for approval. The Deed shall be drafted to provide that one hundred percent (100%) of the fee simple estate interest shall be held by the Title Holders as the Grantees in the Deed. At settlement, the Deed shall be duly executed and recorded among the land records where the Eligible Property is located.

4.2.2. Easement Form. If the Permitted Real Estate Interest is a conservation easement interest, the Acquiring Sponsor shall use either the Rural Legacy Program Sample Easement and Optional Provisions available from the Rural Legacy staff or the Acquiring Sponsor shall use the Sponsor's Easement Form as approved by the Rural Legacy staff and the Office of the Attorney General. The form of easement chosen is also indicated on Attachment C (the "Easement Form"). Any changes to the Easement Form shall be approved by the RLB or its designee, the FSCMCO, the SLCO, if any, and any Title Holder. As used herein, "Easement" shall mean the final approved Easement Form. At settlement, the Easement shall be duly executed and recorded among the land records where the Eligible Property is located.

4.2.3. Title Holders. The parties acquiring any fee simple estate interest or any Easement interests under this Grant Agreement shall be specified in the Project Agreement as the "Title Holders". If the Acquiring Sponsor is a land trust, the Acquiring Sponsor shall hold title to all Easements with a FSCMCO.

4.2.4. Property Description. All Eligible Properties proposed for acquisition under the Rural Legacy Program shall have a metes and bounds description or a reference to lots on a duly recorded plat and/or a survey with a metes and bounds description, all as approved by the RLB or its designee, the SLCO, the FSCMCO and any Title Holder. Any Title Holder, including but not limited to any SLCO or any FSCMCO, shall also have the right to approve the metes and bounds description or lot reference and/or the survey with a metes and bounds description, and, in addition to the foregoing requirements, may have requirements on the adequacy of the metes and bounds description of or lot reference for the Eligible Property and may require a survey in form and content acceptable to such Title Holder and to the title insurance company.

4.2.5. Contract The Acquiring Sponsor shall use option contract or contract of sale forms (collectively, "Contract") approved by the RLB or its designee, the FSCMCO, all Title Holders and the SLCO, if any. The Contract shall contain conditions which (a) shall permit the Title Holders to be the Grantee on the Deed or Easement in addition to the purchasers under the Contract, even if such Title Holders are not listed as purchasers under the Contract, (b) make the Contract contingent upon the approval by the RLB or its designee, the FSCMCO, any Title Holders, any SLCO, and the BPW, unless the Acquiring Sponsor is willing to run the risk that the Acquiring Sponsor may settle and the Contract might not be approved, and (c) in the case of an Easement, make the Contract contingent upon the receipt of fully executed Subordination Agreement(s). The Contract is subject to BPW approval.

4.2.6. Subordination to Easement. All mortgages, deeds of trust and any other liens or encumbrances, (except for future taxes, charges or assessments, not yet due and payable), with respect to the repayment of a debt against the Eligible Property (collectively, the "Mortgages") must be fully subordinated to the Easement. The Acquiring Sponsor shall provide a copy of each proposed subordination agreement ("Subordination Agreement") to the RLB along with the Project Agreement. The RLB or its designee, any Title Holder, the FSCMCO, and the SLCO, if any, shall have the right to approve the form of the Subordination Agreement, prior to its execution, and the recording order of the Easement and the Subordination Agreements.

4.2.7. Title Insurance. The Acquiring Sponsor shall obtain title insurance for the Eligible Property in the form of an Owner's Policy from a title insurance company licensed to do business in the State of Maryland in the amount of the purchase price of the Permitted Real Estate Interest in the Eligible Property. The title insurance policy shall not contain exceptions to title which (a) would defeat the purpose of the Program and any Easement or Deed placed upon the Eligible Property as required by the Program, (b) create a remainder, reversion, or condition which could cause forfeiture or reversion of title, (c) require the payment of money by any SLCO, unless such exception is approved by any SLCO, (d) list an unsubordinated mortgage, deed of trust, judgment, lien or other encumbrance, contract or purchase option, which would, if foreclosed or enforced, take priority over and eliminate the interest of the Acquiring Sponsor, the FSCMCO, any SLCO and any Title Holders in the Easement in the Eligible Property, (e) provide for the lien of unpaid taxes or show any taxes or any other charges or assessments as unpaid, unless such taxes, charges or assessments are not yet due and payable, (f) are the preprinted standard exceptions (unless any preprinted exception would require a survey acceptable to the title company in order to remove such exception and a decision has been made not to obtain such a survey pursuant to Section 4.2.4) or (g) any exception unacceptable to the FSCMCO, any SLCO or any Title Holder.

4.2.8. Evidence of Authority. For any Deed, Easement and Contract, executed by (a) the Acquiring Sponsor and any Title Holder with (b) any entity conveying such interest to the Acquiring Sponsor and any Title Holder, the Acquiring Sponsor shall ensure that any such entity is a validly existing legal entity, in good standing (if applicable for that particular type of entity), has the authority to enter into the transaction and into the respective documents evidencing the transaction, and the persons signing on its behalf hold the offices or positions described and are duly authorized to do so. The Sponsor and Rural Legacy Board or designee shall review any organizational documents of the entity attached as well as a Good Standing Certificate, if issued for the particular type of entity by the State Department of Assessments and Taxation.

4.2.9. Environmental Assessment. The Contract shall provide the Acquiring Sponsor, the FSCMCO, the SLCO, if any, and any Title Holder with the right to conduct an environmental site assessment of the Eligible Property. The Acquiring Sponsor, the FSCMCO, and any Title Holder shall, at a minimum, complete or cause to have completed an environmental site assessment of the Eligible Property, in form and content acceptable to the Acquiring Sponsor, the FSCMCO, any Title Holder, Rural Legacy Board or designee. The environmental site assessment form prepared as a result of such environmental site assessment shall be attached to the Project Agreement, documenting at a minimum the physical inspection of the Eligible Property and the findings from an inquiry into the historical uses of the Eligible

Property. If any environmental hazard is found or suspected, it is to be listed in the Project Agreement with a proposed plan for addressing such environmental hazards. If a SLCO is to be the Title Holder, the SLCO may have requirements on the form of the environmental site assessment and the proposal for handling any suspected or found environmental hazards.

4.2.10. Easement on Fee Simple Property. Either simultaneously with its acquisition by the Acquiring Sponsor and any Title Holders or before any reimbursement for such acquisition shall be made hereunder, an Eligible Property which is a fee simple estate interest, shall be encumbered with a conservation easement which shall be duly executed and recorded among the land records where the Eligible Property is located following the recordation of the Deed. If the Acquiring Sponsor is a land trust, the Easement shall be also held by a FSCMCO. The Easement shall be in form and content acceptable to the RLB, any Title Holder, the FSCMCO and the SLCO, if any.

4.3. Local Government as Title Holder. Notwithstanding the foregoing and unless the SLCO indicates in writing to the RLB to the contrary at the time the SLCO agrees to be a Title Holder, if a Local Government is an Easement or fee simple estate Title Holder, then the Local Government shall approve matters of title, metes and bounds description, survey and environmental assessment, and the attorney for such Local Government shall sign the Deed or Easement as prepared by or under the supervision of an attorney and as to form and legal sufficiency, and the approval of the Local Government shall be evidenced by the duly authorized signatures on the Deed or the Easement of the Local Government and the written assurance of the Local Government to the RLB that the Local Government has duly investigated matters of title, metes and bounds description, survey and environmental assessment, does not believe the information revealed in the title, metes and bounds description, survey and environmental assessment would defeat the purpose of the Program, is satisfied with and willing to assume any risks revealed therefrom.

4.4. Other Permitted Real Estate Interests. If the Permitted Real Estate Interest is not an Easement or a fee simple estate interest, the requirements for this Section 4 will be set forth in an Addendum to this Agreement.

Section 5. Disposal of Fee Simple Property.

The Acquiring Sponsor may dispose of the Acquiring Sponsor's fee simple estate interest in an Eligible Property acquired with all or a portion of the Total Grant Amount under this Agreement pursuant to the Rural Legacy Manual, subject to approval by and in accordance with conditions imposed by the RLB, including but not limited to special requirements regarding bond monies as set forth in the Rural Legacy Manual, the Law and other federal and state laws. A conservation easement approved by the RLB or its designee shall be placed on the property before transfer to another entity. Pursuant to the Rural Legacy Manual, funds derived from the disposal of an Eligible Property during the Grant Period may be used by the Acquiring Sponsor for other acquisitions of Eligible Property or Properties provided such acquisitions comply with all the requirements of this Agreement for acquisition of Eligible Properties.

Section 6. Reimbursement of Costs.

6.1. Overview. Each Project Agreement for each Eligible Property represents a separate transaction for purposes of determining the amount of the Total Grant Amount which shall be allocated as Project Costs for that particular Eligible Property. Project Costs may include direct (contract) cost, incidental costs, administrative costs, and easement monitoring costs as provided in the Law. That portion of the Total Grant Amount which is used to reimburse an Acquiring Sponsor for direct costs incurred in the acquisition of an Eligible Property shall not, when combined with all other funds used by or available to the Acquiring Sponsor for such acquisition, exceed one hundred percent (100%) of the cost of acquiring the Eligible Property.

6.2. Retroactivity. Retroactive costs prior to the Grant Period are not allowed.

6.3. Approved Project Costs. The requirements for and procedures governing payment of Approved Project Costs are set forth in the Rural Legacy Manual.

6.4. Program Compliance Costs. Depending on the fund source (i.e. whether bond funds are used to fund the Grant), a portion of the Grant, not to exceed one and one-half percent (1½ %) of each Easement purchase cost, may be used to pay for program compliance costs for monitoring Easements. To be eligible, Acquiring Sponsors must document that payments for monitoring costs will be placed in an endowment or other special account to be made available only to the Grantee for the purpose of monitoring the specific Easement acquired with Rural Legacy funds. Fees charged for program compliance for Easement monitoring will be invested in a long term, managed investment account, the principal of which may not be withdrawn or used without the approval of the RLB. Additional provisions regarding program compliance costs are set forth in the Rural Legacy Manual.

6.5. Advance Payment. The Acquiring Sponsor should, as a general rule, submit requests for reimbursement for administrative and incidental costs to the Rural Legacy Program. Under special conditions approved by the Board in this Grant Agreement, for Acquiring Sponsors that may be unable to initiate acquisition efforts without pre-payment of certain administrative or planning costs, an Acquiring Sponsor may request a portion of their allowed administrative costs in advance. This advance payment shall be deducted from the allowable three percent (3%) of the Total Grant Amount which is allowable for administrative costs. An Acquiring Sponsor may also request an advance payment of funds to cover a portion or all of the anticipated direct costs of an acquisition itemized in a Project Agreement and approved by the RLB and the BPW, to be available for payment at settlement.

6.6. Documentation of Expenditures. Each expenditure submitted for payment or reimbursement consideration shall be justified by providing the following information to the Rural Legacy Program: copy of the recorded deed, copy of the final title policy, copy of settlement sheet, copies of invoices for any costs not shown on the settlement sheet, and justification of administrative costs. The Acquiring Sponsor shall maintain satisfactory financial accounts, documents, and records, and shall make them available to staff of the RLB for auditing at reasonable times. Such accounts, documents and records shall be retained by the Acquiring Sponsor for three (3) years following project termination.

Section 7. Stewardship and Monitoring for Program Compliance.

The Local Government and the Land Trust shall establish an Easement stewardship program based upon national standards and practices and involving Easement inspections at least every three (3) years from the anniversary of the closing date. The Sponsor will submit the program to the RLB for review with the annual report required by Section 8.2.

Section 8. Reporting.

8.1. INTENTIONALLY DELETED.

8.2. Annual Report. The Local Government, in coordination with the Land Trust, shall provide an annual report of activities to the RLB in a format provided by the RLB (the "Annual Report"). The Annual Report shall be due thirty (30) days after the end of the state fiscal year.

Section 9. Indemnification. The Sponsor shall, to the fullest extent permitted by law, indemnify, save harmless and defend the State of Maryland and all of its representatives from all suits, actions, or claims of any character, brought on account of any injuries or damage sustained by any person or property as a result of the Sponsor's activities, including the activities of its employees, agents, representatives or subcontractors, in connection with its performance under this Agreement.

Section 10. Sponsor's Failure to Perform; Remedies.

If the Sponsor fails to perform its obligations under this Agreement in whole or in part, the RLB or the State of Maryland may exercise any or all of the remedies set forth below, either jointly and severally against the Local Government, and the Land Trust, or against one or more of them, at the sole discretion of the State of Maryland and the RLB:

- A. Withhold payment of funds under this Agreement until the Sponsor performs its obligations, after notice is provided to the Sponsor of the violation of this Agreement and opportunity is provided for compliance satisfactory to the Board;
- B. Perform the Sponsor's obligations, including but not limited to, maintaining, operating or repairing the Eligible Property to protect it from further damage, using funds available under this Agreement;
- C. Collect damages from the Sponsor for the costs of performing the Sponsor's obligations, after notice is provided to the Sponsor of the violation of this Agreement and opportunity is provided for compliance satisfactory to the Board;
- D. Terminate the Agreement in whole or in part;
- E. Withhold approval of any grant request submitted by the Sponsor to the RLB under this Agreement;

- F. Debar the Sponsor from applying for future Program funds; and
- G. Initiate legal action to enforce the terms of this Agreement, the Easement and/ or exercise any other right or remedy under the Law or available at law or in equity.

Section 11. Notices. Any notice provided hereunder shall be in writing and shall be deemed to have been received: (a) on the date of delivery, if given by hand delivery and signed for by the recipient party, or (b) on the next business day following delivery to an overnight delivery or other messenger service, if given by an overnight delivery or other messenger delivery service and signed for or refused by the recipient party, or (c) on the date of actual receipt of delivery or refusal of delivery or return by the United States mails as undeliverable at the address shown, if given by certified mail in the United States mails, postage prepaid, return receipt requested. Any notice provided hereunder shall be provided to the addresses shown on Page One of this Agreement or to such other address in the United States as the party changing its address may designate from time to time by notice to the other parties.

Section 12. Miscellaneous.

12.1. Assignment. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, including by way of privity of estate and contract, provided however that nothing herein shall be construed to mean that the Sponsor has the right to assign this Agreement or all or any portion of the Total Grant Amount hereunder. Nothing in this Agreement, expressed or implied, is intended to confer upon or against any other person, corporation or government unit, any right or remedy under or by reason of this Agreement.

12.2. Complete Understanding. This Agreement and all attachments incorporated herein represent the complete understanding between the parties hereto and supersede all prior negotiations, representations, statements and agreements.

12.3. Amendment. This Agreement may be amended by an agreement in writing between the Sponsor and the RLB, provided that approval of the BPW shall be required for any amendment to increase the Total Grant Amount.

12.4. Waiver. No party shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing.

12.5. Applicable Law. This Agreement shall be given effect and construed by application of Maryland law, and any action or proceeding arising hereunder shall be brought in the courts of Maryland.

12.6. Exhibits. Each writing or plat referred to herein as being attached as an attachment is hereby made a part of this Agreement.

12.7. Disclaimer of partnership status. Nothing in the provisions of this Agreement shall be deemed in any way to create between the parties hereto any relationship of

partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

12.8. Nondiscrimination. Sponsor agrees not to discriminate against any employee, applicant for employment, or other person because of sex, race, age, creed, color, religious affiliation, mental or physical handicap, national origin, ancestry or marital status and to comply with the terms, intent and provisions of Title VII of the Civil Rights Act of 1964 P.L. 88-354 (1964) and its amendments, Article 49B Sections 14 to 18 (Discrimination in Employment) of the Annotated Code of Maryland (1994 Replacement Volume and its amendments), and the Americans with Disabilities Act of 1990, P.L. 101-336 and its amendments, and with all local, state and federal laws now or hereinafter enacted to effectuate the goals of the aforesaid statutes.

12.9. Financial Disclosure. Sponsor agrees to comply with State Finance and Procurement Article, Section 13-221 of the Annotated Code of Maryland which requires that every business that enters into contracts, leases or other agreements with the State of Maryland, including its agencies; and receives in the aggregate of One Hundred Thousand Dollars (\$100,000.00) or more during a calendar year shall within thirty (30) days of the time when the One Hundred Thousand Dollars (\$100,000.00) is reached, file with the Maryland Secretary of State a list containing the names and addresses of its resident agent, each of its officers, and any individual who is a beneficial owner of five percent (5%) or more of the contracting business.

12.10. No Contingent Fees. Sponsor warrants that it has not employed or retained any person, partnership, corporation or other entity, other than a bona fide employee or agent working for them, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement.

12.11. Political Contribution Disclosure. Sponsor shall comply with the provisions of Article 33, Sections 30.1 through 30.4 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies, during a calendar year under which the person receives in the aggregate Ten Thousand Dollars (\$10,000.00) or more shall, on or before February 1 of the following year, file with the Maryland Secretary of State certain specified information to include disclosure of political contributions in excess of One Hundred Dollars (\$100.00) to a candidate for elective office in any primary or general election.

12.12. Effective Date. This Agreement shall be effective upon the execution of this Agreement by all of the parties to this Agreement (the "Effective Date").

12.13. Captions. Caption and headings in this Agreement are for ease of reference only and shall not be deemed a part of or have any meaning in the interpretation of this Agreement.

12.14. Certificate of Corporation. The Land Trust hereby certifies that it is a domestic not-for-profit corporation which is registered or qualified in accordance with the Corporations and Associations Article of the Annotated Code of Maryland and is in good

standing and has filed all its annual reports with the State of Maryland Department of Assessments and Taxation and registrations and any other requirements required pursuant to the laws of the State of Maryland regarding not-for-profit corporations.


The Land Trust further certifies that as of the date of this Agreement, the Land Trust has paid all taxes due to the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and Employment Security Administration and paid all withholding Taxes due to the State of Maryland.

12.15. Joint and Several Liability. The Sponsor shall be jointly and severally liable under this Agreement.

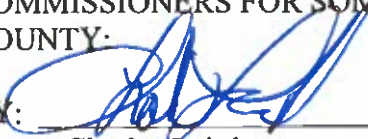
SIGNATURES BEGIN ON THE NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date entered below under their respective signatures.

WITNESS/ATTEST:


(Signature)
Ralph O Taylor
(Print Name)

COMMISSIONERS FOR SOMERSET COUNTY:

BY:  (SEAL)
Charles Laird
President

DATE: _____

WITNESS/ATTEST:

(Signature)

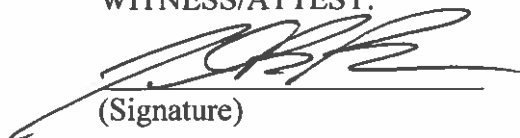
(Print Name)

COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND:


BY: _____ (SEAL)
Anthony W. Bertino, Jr.
President

DATE: _____

WITNESS/ATTEST:


(Signature)
Jared R. Parks
(Print Name)

LOWER SHORE LAND TRUST:

BY:  (SEAL)
Hugh Cropper, IV
Chairman

DATE: 9/20/23

WITNESS/ATTEST:

(Signature)

(Print Name)

STATE OF MARYLAND RURAL LEGACY BOARD:

BY: _____
Josh Kurtz
Chairman, Rural Legacy Board

DATE: _____

Approved as to form and legal sufficiency
this _____ day of _____, 2023.

Assistant Attorney General

Approved as to form and legal sufficiency
this 21st day of Sept., 2023.



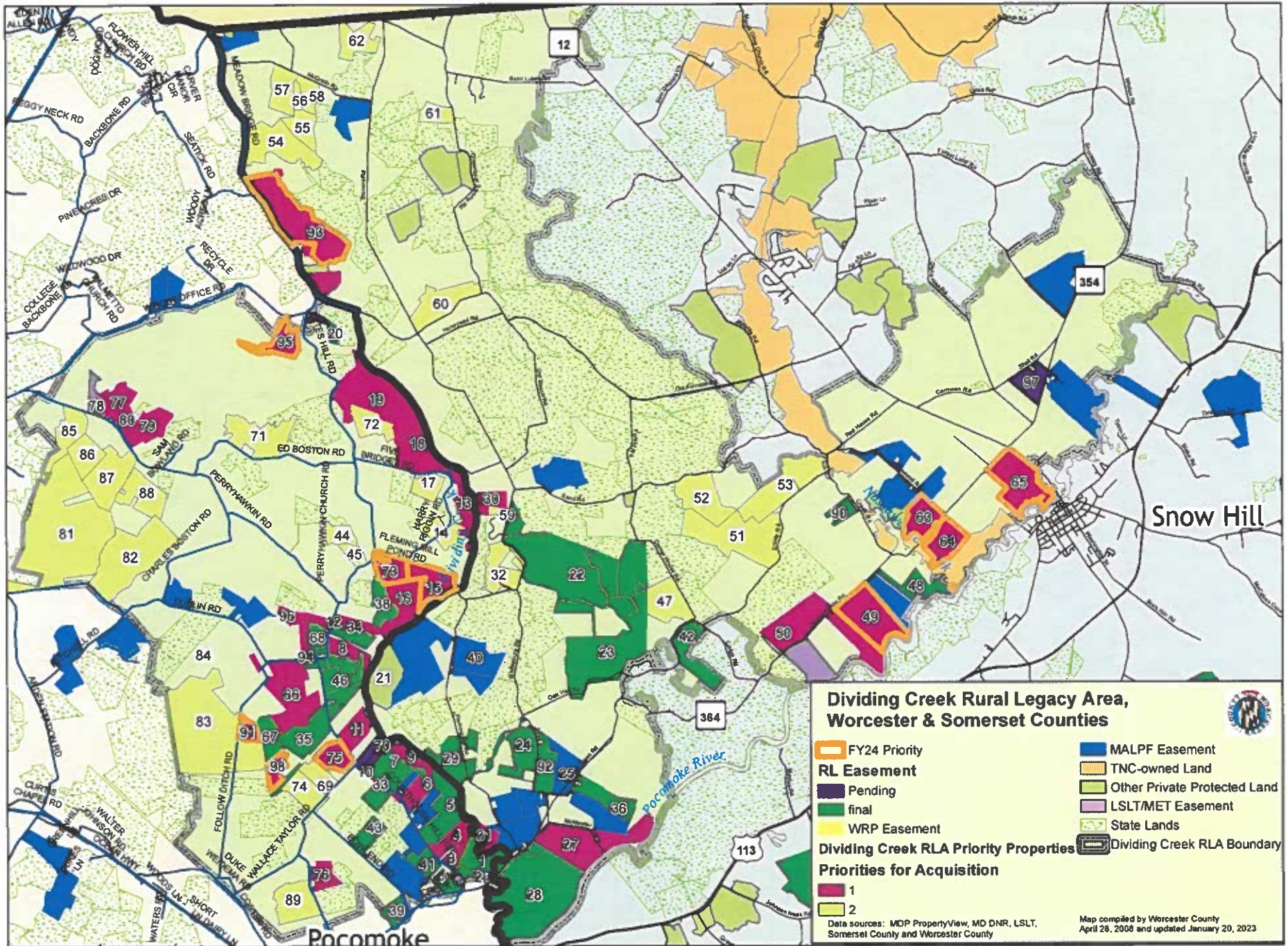
City Solicitor / County Attorney

Approved as to form and legal sufficiency
this _____ day of _____, 2023.

City Solicitor / County Attorney

**ATTACHMENT A
DIVIDING CREEK RURAL LEGACY AREA
FY 2024 RURAL LEGACY GRANT AGREEMENT**

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ATTACHMENT B
DIVIDING CREEK RURAL LEGACY AREA
FY 2024 RURAL LEGACY GRANT AGREEMENT
GENERAL CONDITION FOR RURAL LEGACY GRANT AGREEMENT
SECTION 2.3 OF THIS GRANT AGREEMENT

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The Sponsor shall comply with the following General Conditions of this Grant Agreement:

1. Point System and Ranking Any point system used by the Sponsor to rank and value easement acquisitions shall:
 - A. Incorporate natural and cultural features and water quality protection to the degree these values exist in the Rural Legacy Area and are a priority objective of the Rural Legacy Plan.
 - B. Give priority to properties that alone, or in conjunction with other properties, protect contiguous large blocks of agricultural, forestry, natural or cultural resources.
 - C. Be submitted to the Rural Legacy Program for approval prior to, or as part of the submission of easement or fee request.

2. Easement Donation
 - A. The Sponsor shall continue or initiate efforts to obtain donations of easements in addition to easement purchases by providing information on the tax and related benefits of easement donations to property owners in the Rural Legacy Plan Area and by identifying and soliciting easements in those parts of the Rural Legacy Area where landowners are more likely to donate rather than sell easements.
 - B. The Sponsor shall include an evaluation on efforts made and successes achieved in soliciting easement donations and the effect of Rural Legacy Program easement purchases on property owner willingness to donate rather than sell easements as a part of the Annual Report to the Rural Legacy Board required under Section 8.2 of this Agreement.

3. Conservation Reserve Enhancement Program
 - A. The Sponsor shall endeavor to enroll all easement sellers and donors into the Conservation Reserve Enhancement Program ("CREP"), including perpetual CREP restrictions as part of Rural Legacy Program easements.
 - B. The Sponsor shall include an evaluation of efforts made and successes achieved in incorporating CREP into easement agreements as a part of the Annual Report to the RLB required under Section 8.2 of this Agreement.

**ATTACHMENT B
DIVIDING CREEK RURAL LEGACY AREA
FY 2024 RURAL LEGACY GRANT AGREEMENT
GENERAL CONDITION FOR RURAL LEGACY GRANT AGREEMENT
SECTION 2.3 OF THIS GRANT AGREEMENT**

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4. Stewardship

A. The Sponsor shall establish or continue a stewardship program for easements that involves easement inspections on at least three-year intervals, based on national standards and practices for easement programs.

5. Supporting Activities. In the Annual Report required under section 8.2 of this Grant Agreement, Sponsor shall describe how local planning, growth management tools, land use authority, and other supporting programs will be used to prevent incompatible development of private land until it can be permanently protected, and how these tools will protect the character of the Rural Legacy area for properties that may not be permanently protected. With respect to 1) existing programs and their strengths and weaknesses; 2) new or improved programs since the last Rural Legacy submission and; 3) programs and actions under study (with an estimate of their likelihood for enactment and implementation) Sponsor shall explain concisely how each of the following, as applicable, supports Rural Legacy objectives: protective zoning, TDR programs, PDR programs, gift easements, natural resource/environmental protection measures, support for rural economic activities and any other programs that contribute to meeting the Rural Legacy Area objectives. Sponsor shall also include in the Annual Report information on any plans and commitments to focus the use of other easement acquisition funds and shall provide data (tabular data or maps as appropriate) on the quantity, location, lot sizes and general nature of subdivision activity in the Rural Legacy Area.

6. Property List. This Grant Agreement represents a grant for the acquisition of fee or easement interest for the properties identified in Attachment C of this Grant Agreement. All of the properties listed in Attachment C of this Grant Agreement shall be within the Rural Legacy Area as approved by the Rural Legacy Board. The Sponsor shall acquire these property interests based on the priority levels represented in Attachment C and every effort shall be made to acquire the property interests identified as priority one prior to initiating acquisition of property interests in other priority levels. In cases where a change in priority level is necessary for any property, Sponsor shall notify Rural Legacy Program staff in writing of the change, with a brief explanation of the reason for the change. The change shall be reflected in the quarterly and annual reports required under section 8.1 and 8.2 of this Grant Agreement.

7. Protection of Rural Legacy Area. The Sponsor shall include in the annual report to the RLB, which is required under Section 8.2 of this Grant Agreement, a section which discusses local planning, zoning, and related resource protection programs and actions to protect the Rural Legacy Area and surrounding area from development that threatens the

ATTACHMENT B
DIVIDING CREEK RURAL LEGACY AREA
FY 2024 RURAL LEGACY GRANT AGREEMENT
GENERAL CONDITION FOR RURAL LEGACY GRANT AGREEMENT
SECTION 2.3 OF THIS GRANT AGREEMENT

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values of, and undermines the investment in, the Rural Legacy Area. The section of the Annual report, Protection of Rural Legacy Area, shall summarize strengths and weaknesses of existing programs and describe any new or improved mechanisms that will protect the State and local investment in land, resources, and the resource-based economy in and around the Rural Legacy Area and contribute to the protection of land in the Rural Legacy Area. Actions and programs such as protective zoning, Transferable Development Right's and Purchased Development Rights', riparian buffer ordinances, public facility policies, and tax credits should be addressed.

8. Execution of Grant Agreement. The Grant Agreement shall be executed by Sponsor and delivered to the Department of Natural Resources for execution by the Chairman of the Rural Legacy Board within ninety (90) days of the Sponsors receipt by registered mail of the Grant Agreement.
9. Period of Grant Agreement. The period of this Grant Agreement shall commence upon execution of this Agreement by all parties, the Effective Date, and shall end on the date which is eighteen (18) calendar months from the Effective Date as specified in sections 2.2 and 12.12 of this Grant Agreement.
10. Acquisition Policies. Easement acquisitions, including but not limited to residential density, shall be consistent with policies set forth by the Rural Legacy Board. Sponsor shall submit an easement acquisition policy and attendant easement valuation system to be approved by the Rural Legacy Board prior to submission of any request for payment or project agreement.
11. Program Compliance. Sponsor shall provide evidence that an account for program compliance funds has been established as required in section 6.4 of this Grant Agreement prior to any request for such funds.
12. Progress Reports. Sponsor shall make quarterly and annual progress reports required under sections 8.1 and 8.2 of this Grant Agreement on the standard forms provided by the Rural Legacy Program. Quarterly reports shall be submitted to the Maryland Department of Natural Resources within three weeks of the end of each quarter as determined by the execution date of the Grant Agreement. The Annual Report shall be due thirty (30) days after the end of the state fiscal year.
13. Future Funding. The Board will consider the evaluations, progress reports and information required to be reported to the Rural Legacy Board, under the grant general conditions hereinabove along with the Rural Legacy criteria as set forth in the Law, in their review of any future Rural Legacy applications.

ATTACHMENT C
DIVIDING CREEK RURAL LEGACY AREA
FY 2024 RURAL LEGACY GRANT AGREEMENT

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Rural Legacy Grant Agreement
Attachment C

Rural Legacy Area Dividing Creek	FY 2024 Grant Award
Sponsor's Name Somerset and Worcester Counties; and Lower Shore Land Trust	
Contact Name Jared R. Parks, Lower Shore Land Trust, Land Programs Manager	Contact Telephone Number 443-234-5587
Contact Address 100 River Street, Snow Hill, MD 21863	
In accordance with Section 2.1, Amount of Grant Not to Exceed \$761,761.00	

Rural Legacy Model Easement being used: Yes No (If no, then attach the Alternate Model Easement to be used)

State of Maryland Department of Natural Resources Rural Legacy Program Application

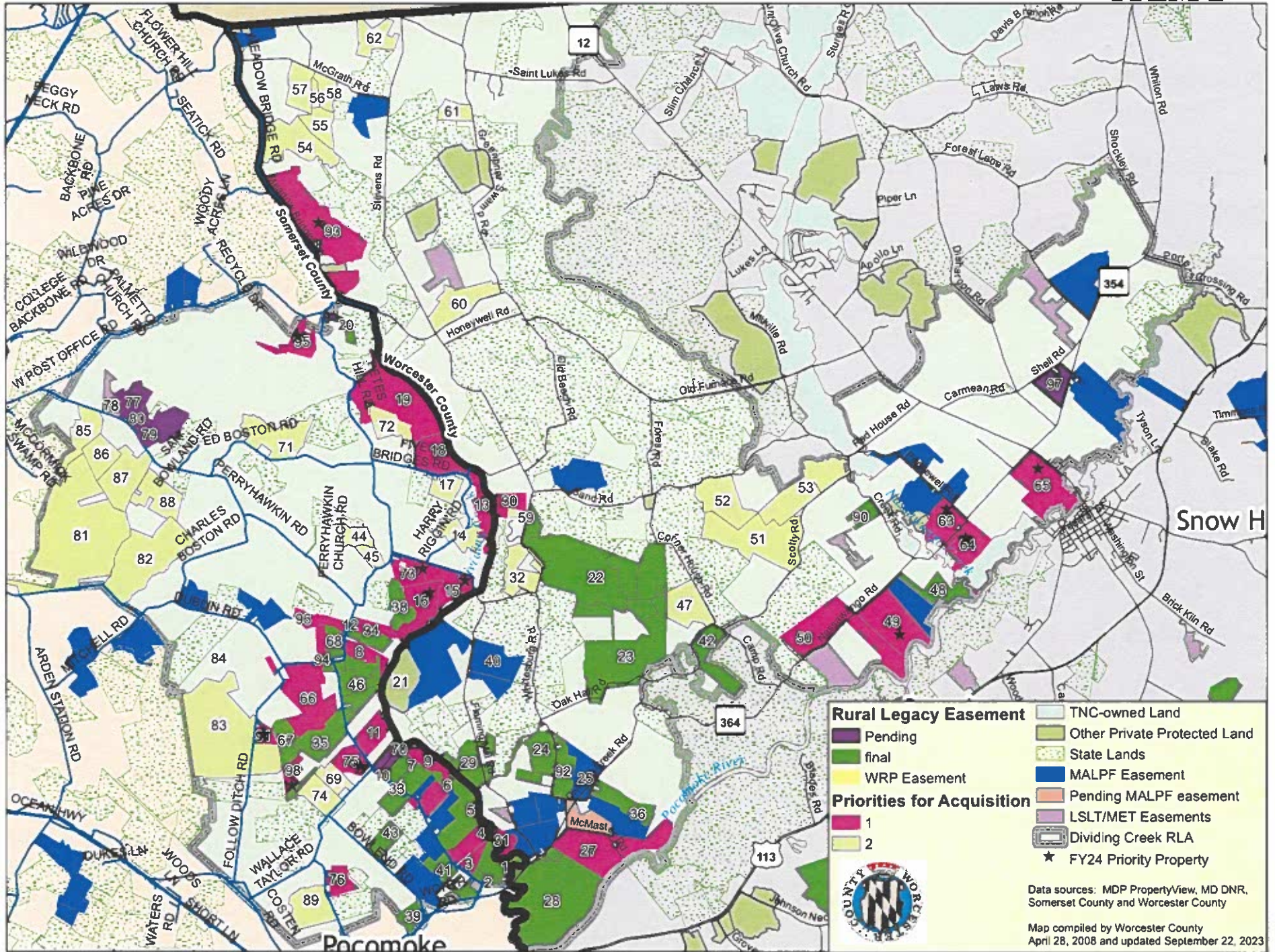
Proposed Acquisitions – Fiscal Year

Rural Legacy Area Name: 2024 Dividing Creek

PROPERTY	Owner's Name	Property Address	Estimated Cost	Acres	Tax Map Information					Easement or Fee (E or F)	Buffer Width	Public Access (Y or N)	Social Benefits
					Tax Map	Account ID #	Grid	Parcel	Lot				
1	Beauchamp, Steve (Property #91)	9237 Follow Ditch Road	\$100,000	48	34 SOM	04-060571	14	54		E	100	N	N
2	Meadows Edge Farm (Property #75)	Wallace Taylor Road	\$175,000	92	34 SOM	04-065751	22	18		E	100	N	N
3	Pulice, Tim (Property #95)	33365 West Post Office Road	\$170,000	89	17 SOM	15-007761	3	12		E	100	N	N
4	West, Lee (Property #73 and #15)	34089 Flemming Mill Pond Road, Princess Anne 21853	\$510,000	265	25 SOM	04-066987, 04-0670023	18	113, 39		E	100	N	N
5	Beauchamp, Scott (Property #98)	Follow Ditch Road	\$95,000	50	34 SOM	04-0665301	21	50		E	100	N	
6	Boyer Family LLC (Property #49)	Nassawango Rd	\$560,000	256	WO 62	07005040	24	24		E	100	N	N
7	Manufacturers and Traders Trust Co (Property #64)	Nassawango Road	\$250,000	144.48	WO 63	02007819	7	85		E	100	N	N

ITEM 2

PROPERTY	Owner's Name	Property Address	Estimated Cost	Acres	Tax Map Information					Easement or Fee (E or F)	Buffer Width	Public Access (Y or N)	Social Benefits
					Tax Map	Account ID #	Grid	Parcel	Lot				
8	Fulton, Martha and Jennie (Property #63)	4824 Pennewell Road	\$350,000	151.3	WO 63	02007371	7	83		E	100	N	N
9	Abercrombie/Truitt's Landing Farm, LLC (Property #93)	Stevens Road	\$800,000	515	WO 44	07002769	16	10		E	100	N	N
10	Jennie Fulton Owen (Property #65)	5531 Snow Hill Road	\$750,000	324.824	WO 55	02005085	21	13		E	100	N	N



Dividing Creek Rural Legacy Area,
 Worcester & Somerset Counties





Worcester County Government
One West Market Street | Room 1103 | Snow Hill MD 21863-1195
(410) 632-1194 | (410) 632-3131 (fax) | admin@co.worcester.md.us | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
FROM: Nicholas W. Rice, Procurement Officer
DATE: October 17, 2023
RE: Request to Bid – Comprehensive Plan Update

Attached for your review and approval are proposal documents for contracting with a consulting firm for the purpose of reviewing and preparing the State-mandated update to the County’s Comprehensive Plan. Once the Commissioners have had the opportunity to review these documents, it is requested that authorization be provided to solicit proposals for these services.

Funding in the amount of \$125,000 for these services was approved in the current FY24 operating budget in account 100.1008.6530.040 Consulting Services.

Should you have any questions, please feel free to contact me.

**Worcester County Administration
1 West Market Street, Room 1103
Snow Hill, Maryland 21863**



REQUEST FOR PROPOSAL

PROJECT: Comprehensive Plan Update

DEPARTMENT: Development, Review and Permitting

VENDOR:

NAME: _____

ADDRESS: _____

PROPOSAL OPENING:

DATE: _____

TIME: _____

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SECTION I: INTRODUCTION**A. PURPOSE**

1. The purpose of this Request for Proposal Document is for Worcester County (“County”) to contract with a consulting firm for the purpose of reviewing and preparing the State-mandated update to the County’s Comprehensive Plan in conformity with the requirements contained herein (“Proposal Document(s”).

B. CLARIFICATION OF TERMS

1. Firms or individuals that submit a proposal for award of a contract (“Contract”) are referred to as vendors (“Vendors”) in this document. The Vendor that is awarded the Contract is herein referred to as the (“Successful Vendor”).

C. QUESTIONS AND INQUIRES

1. Questions must be addressed in writing to the Worcester County Procurement Officer at nrice@co.worcester.md.us.
2. The last date to submit questions for clarification will be noon on.
3. Addenda are posted on the County website at <https://www.co.worcester.md.us/> under County Info: Bid Board: at <https://www.co.worcester.md.us/commissioners/bids> at least five calendar days before proposal opening.
4. It is the Vendors responsibly to make sure all addenda are acknowledged in their proposal. Failure to do so could result in the proposal being disqualified.

D. FILLING OUT PROPOSAL DOCUMENTS

1. Use only forms supplied by the County.
2. One unbound original and five bound copies of the proposal form and any required attachments must be submitted in the solicitation and can be submitted in the same envelope unless otherwise instructed.
3. Proposal Documents should be complied as follows: (1) Cover letter, (2) Form of Proposal, (3) References, (4) Exceptions Document and Signed addenda, if necessary (5) Individual Principal Document, (6) Vendor’s Affidavit of Qualification to Bid, and (7) Non-Collusive Affidavit
4. Where so indicated by the make-up of the Proposal Documents, sums will be expressed in both words and figures, and in the case of a discrepancy between the two, the amount written in words will govern. In the event there is a discrepancy between the unit price and the extended totals, the unit prices will govern.
5. Any interlineation, alteration, or erasure will be initialed by the signer of the Proposal Documents.
6. Each copy of the Proposal Documents will be signed by the person(s) legally authorized to bind the Vendor to a contract, using the legal name of the signer. Proposal Documents submitted by an agent will have a current Power of Attorney attached certifying the agent’s authority to bind the Vendor.
7. Vendor will supply all information and submittals required by the Proposal Documents to constitute a proper and responsible completed Proposal Document package.
8. Any ambiguity in the Proposal Documents as a result of omission, error, lack of clarity or non-compliance by the Vendor with specifications, instructions, and/or all conditions of bidding will be construed in the light most favorable to the County.

E. SUBMISSION OF PROPOSAL DOCUMENTS

1. All copies of the Proposal Documents and any other documents required to be submitted with the Proposal Documents will be enclosed in a sealed envelope. The envelope will be addressed to the Worcester County Commissioners and will be identified with the project name: **COUNTY COMPREHENSIVE PLAN UPDATE** and the Vendor's name and address. If the Proposal Documents are sent by mail, the sealed envelope will be enclosed in a separate mailing envelope with the notation "SEALED PROPOSAL DOCUMENTS ENCLOSED" on the face thereof.
2. Proposals must be mailed or hand carried to the **Worcester County Administration Office, 1 West Market Street, Room 1103, Snow Hill, MD 21863**, in order to be received **prior** to the announced proposal deadline. *Proposals received after said time or delivered to the wrong location will be returned to the Vendor unopened.*
3. **Proposals are due and will be opened at the time listed on the front of this Proposal Document.**
4. If you are delivering a proposal in person please keep in mind to allow time to get through security and into the Administration Office. It is fully the responsibility of the Vendor to ensure that the proposal is received on time.
5. The County will not speculate as to reasonableness of the postmark, nor comment on the apparent failure of a public carrier to have made prompt delivery of the proposal.
6. Vendors, or their authorized agents, are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting Proposal Documents; failure to do so will be at the Vendor's own risk.
7. A fully executed Affidavit of Qualification to Bid will be attached to each Proposal Document.
8. Minority vendors are encouraged to participate.
9. All Vendor submitted Proposal Documents will be valid for a minimum of sixty days from the date of Proposal Document opening.
10. Electronically mailed proposals are **not** considered sealed proposals and will **not** be accepted.

F. OPENING OF PROPOSALS

1. Proposal Documents received on time will be opened publicly and Vendor's names and total costs will be read aloud for the record.
2. The Contract will be awarded or all Proposal Documents will be rejected within sixty days from the date of the Proposal Document opening.

G. ACCEPTANCE OR REJECTION OF PROPOSALS

1. Unless otherwise specified, the Contract will be awarded to the most responsible and responsive Vendor complying with the provisions of the Proposal Documents, provided the proposal does not exceed the funds available, and it is in the best interest of the County to accept it. The County reserves the right to reject the Proposal Documents of any Vendor who has previously failed to perform properly in any way or complete on time contracts of a similar nature; or a Proposal Document from a Vendor who, investigation shows, is not in a position to perform the Contract; or Proposal Documents from any person, firm, or corporation which is in arrears or in default to the County for any debt or contract.
2. Completed Proposal Documents from Vendors debarred from doing business with the State of Maryland or the Federal Government will not be accepted.
3. In determining a Vendor's responsibility, the County may consider the following qualifications, in addition to price:

- a. Ability, capacity, and skill to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities.
 - b. Character, integrity, reputation, experience and efficiency.
 - c. Quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability.
 - d. Previous and existing compliance with laws and ordinances relating to contracts with the County and to the Vendor's employment practices.
 - e. Evidence of adequate insurance to comply with Contract terms and conditions.
 - f. Statement of current work load and capacity to perform/provide the Goods and/or Services.
 - g. Explanation of methods to be used in fulfilling the Contract.
 - h. The Vendor, if requested, will be prepared to supply evidence of its qualifications, listed above, and its capacity to provide/perform the Goods and/or Services; such evidence to be supplied within a specified time and to the satisfaction of the County.
4. In determining a Vendor's responsiveness, the County will consider whether the Proposal Document conforms in all material respects to the Proposal Documents. The County reserves the right to waive any irregularities that may be in its best interest to do so.
 5. The County will have the right to reject any and all Proposal Documents, where applicable to accept in whole or in part, to add or delete quantities, to waive any informalities or irregularities in the Proposal Document received, to reject a Proposal Document not accompanied by required Bid security or other data required by the Proposal Documents, and to accept or reject any Proposal Document which deviates from specifications when in the best interest of the County. Irrespective of any of the foregoing, the County will have the right to award the Contract in its own best interests.

H. QUALIFICATIONS

1. The Vendor must be in compliance with the laws regarding conducting business in the State of Maryland.
All Vendors shall provide a copy Certificate of Status from the Maryland Department of Assessments and Taxation, evidencing the Vendor is in good standing with the State of Maryland. See https://sdatcert1.resiusa.org/certificate_net/ for information on obtaining the Certificate of Status. *Certificates of status are not available for trade names, name reservations, government agencies, sole proprietorships, and some other accounts as these are not legal entities and thus are not required for these categories of Vendors.* For more information on the Certificate of Status please see <http://www.dat.state.md.us/sdatweb/COSinfo.html> .
2. Worcester County reserves the right, at its sole discretion, to extend the date this documentation must be provided. The Vendor's inability to provide this documentation could result in the proposal being rejected.

I. DESCRIPTIVE LITERATURE

1. The proposed descriptive literature fully describing the product bid is what is intended to be included as the price. Failure to do so may be cause for rejection of the proposal.
2. Any items, systems or devices supplied in this proposal that are proprietary in nature relative to maintenance, repair, servicing or updating must be disclosed on the proposal form.

J. NOTICE TO VENDORS

1. Before a Vendor submits the Proposal Documents it will need to become fully informed as to the extent and character of the Goods and/or Services required and are expected to completely familiarize themselves with the requirements of this Proposal Document's specifications. Failure to do so will not relieve the Vendor of the responsibility to fully perform in accordance therewith. No consideration will be granted for any alleged misunderstanding of the material to be furnished or the Services to be performed, it being understood that the submission of a Proposal Document is an agreement with all of the items and conditions referred to herein.

K. PIGGYBACKING

1. Worcester County may authorize, upon request, any governmental entity (hereafter Authorized User) within the County to purchase items under the contract awarded pursuant to this proposal solicitation.
2. All purchase orders issued against the contract by an authorized User shall be honored by the Successful Vendor in accordance with all terms and conditions of this contract.
3. The issuance of a purchase order by an Authorized User pursuant to this provision shall constitute an express assumption of all contractual obligations, covenants, conditions and terms of the contract. A breach of the contract by any particular Authorized User shall neither constitute nor be deemed a breach of the contract as a whole which shall remain in full force and effect, and shall not affect the validity of the contract nor the obligations of the Successful Vendor thereunder respecting the County.
4. The County specifically and expressly disclaims any and all liability for any breach by an Authorized User other than the County and each such Authorized User and Successful Vendor guarantee to save the County, its officers, agents and employees harmless from any liability that may be or is imposed by the Authorized User's failure to perform in accordance with its obligations under the contract.

END OF SECTION

SECTION II: GENERAL INFORMATION**A. ECONOMY OF PROPOSAL**

1. Proposal Documents will be prepared simply and economically, providing straightforward and concise description of the Vendor's capabilities to satisfy the requirements of the Proposal Documents. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective Proposal Document are neither required nor desired.

B. PUBLIC INFORMATION ACT (PIA)

1. Worcester County is subject to the Maryland Public Information Act and may be required to release proposal submissions in accordance with the Act.
2. Any materials the Vendor deems to be proprietary or copyrighted must be marked as such; however, the material may still be subject to analysis under the Maryland Public Information Act.
 - a. The Vendor may invoke proprietary information or trade secret protection for submission of any data/material by (1) identifying the data/material in a written description, (2) clearly marking the data/material as proprietary, and (3) providing a written statement detailing the reasons why protection is necessary. The County reserves the right to ask for additional clarification prior to establishing protection.

C. CONTRACT AWARD

1. A written award by the County to the Successful Vendor in the form of a Purchase Order or other contract document will result in a binding Contract without further action by either party. If the Successful Vendor fails or refuses to sign and deliver the Contract and the required insurance documentation, the County will have the right to award to the next responsible and responsive Vendor. Contract will be executed by the Successful Vendor within fourteen calendar days of receipt of the Contract.
2. Proposal Documents and Contracts issued by the County will bind the Vendor to applicable conditions and requirements herein set forth, unless otherwise specified in the Proposal Documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.
3. County personal property taxes ("Taxes") must be on a current basis; if any such Taxes are delinquent, they must be paid before award of Contract. Failure to pay will result in the award of Contract to another Vendor.
4. The County reserves the right to engage in individual discussions and interviews with those Vendors deemed fully qualified, responsible, suitable and professionally competent to provide the required Goods and/or Services should the project size warrant it. Vendors will be encouraged to elaborate on their qualifications, performance data, and staff expertise.

D. AUDIT

1. The Successful Vendor agrees to retain all books, records, and other documents relative to the awarded Contract for five years after final payment, or until audited. The County, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period.

E. NONPERFORMANCE

1. The County reserves the right to inspect all operations and to withhold payment for any goods not performed or not performed in accordance with the specifications in this Proposal Document.

Errors, omissions or mistakes in performance will be corrected at no cost to the County. Failure to do so will be cause for withholding of payment for that Goods and/or Services. In addition, if deficiencies are not corrected in a timely manner, the County may characterize the Successful Vendor as uncooperative, which may jeopardize future project order solicitations.

F. MODIFICATION OR WITHDRAWAL OF PROPOSAL

1. A Proposal Document may not be modified, withdrawn, or cancelled by the Vendor during the stipulated time period following the time and date designated for the receipt of Proposal Documents, and each Vendor so agrees in submitting Proposal Documents.

G. DEFAULT

1. The Contract may be cancelled or annulled by the County in whole or in part by written notice of default to the Successful Vendor upon non-performance, violation of Contract terms, delivery failure, bankruptcy or insolvency, any violation of state or local laws, or the making of an assignment for the benefit of creditors. An award may then be made to the next most highly rated Vendor, or when time is of the essence, similar commodities and/or service may be purchased on the open market. In either event, the defaulting Vendor (or his surety) will be liable to the County for cost to the County in excess of the defaulted Contract price.
2. If a representative or warranty of either Party to the Contract is false or misleading in any material respect, or if either Party breaches a material provision of the Contract (“Cause”), the non-breaching Party will give the other Party written notice of such cause. If such Cause is not remedied within fifteen calendar days (“Cure Period”) after receipt of such notice, (unless, with respect to those Causes which cannot be reasonably corrected or remedied within the Cure Period, the breaching Party will have commenced to correct or remedy the same within such Cure Period and thereafter will proceed with all due diligence to correct or remedy the same), the Party giving notice will have the right to terminate this Contract upon the expiration of the Cure Period.

H. COLLUSION/FINANCIAL BENEFIT

1. The Vendor certifies that his/her Proposal is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a Proposal Document for the same project; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.
2. Upon signing the Proposal Document, Vendor certifies that no member of the governing body of the County, or members of his/her immediate family, including spouse, parents or children, or any other officer or employee of the County, or any member or employee of a Commission, Board, or Corporation controlled or appointed by the County Commissioners has received or has been promised, directly or indirectly, any financial benefit, related to this Proposal Document and subsequent Contract.

I. TAX EXEMPTION

1. In buying products directly from a Vendor, Worcester County is exempt from being *directly* charged Federal excise and Maryland sales tax. A copy of an exemption certificate shall be furnished upon request.
2. According to the Office of the Comptroller of Maryland, a *Contractor is responsible for paying sales tax* on his/her purchases relating to any projects or services and should incorporate it into their proposal.
3. Successful Vendors **cannot** use the County tax exemption to buy materials or products used on County projects.

J. **CONTRACT CHANGES**

1. No claims may be made by anyone that the scope of the project or that the Vendor's Goods and/or Services have been changed (requiring changes to the amount of compensation to the Vendor or other adjustments to the Contract) unless such changes or adjustments have been made by an approved written amendment (Change Order) to the Contract signed by the Chief Administrative Officer (and the County Commissioners, if required), prior to additional Goods and/or Services being initiated. Extra Goods and/or Services performed without prior, approved, written authority will be considered as unauthorized and at the expense of the Vendor. Payment will not be made by the County.
2. No oral conversations, agreements, discussions, or suggestions, which involve changes to the scope of the Contract, made by anyone including any County employee, will be honored or valid. No written agreements or changes to the scope of the Contract made by anyone other than the Procurement Officer (with the Chief Administrative Officer and/or County Commissioners approval, if required) will be honored or valid.
3. If any Change Order in the Goods and/or Services results in a reduction in the Goods and/or Services, the Vendor will neither have, nor assert any claim for, nor be entitled to any additional compensation for damages or for loss of anticipated profits on Goods and/or Services that are eliminated.

K. **ADDENDUM**

1. No oral statements of any person will modify or otherwise affect or interpret the meaning of the Contract specifications, or the terms, conditions, or other portions of the Contract. All modifications and every request for any interpretation must be addressed to Worcester County's Procurement Officer and to be given consideration, must be received no later than the last day for questions listed in Section I, Subsection C.2.
2. Any and all interpretations, corrections, revisions, and amendments will be issued by the Procurement Officer to all holders of Proposal Documents in the form of written addenda. Vendors are cautioned that any oral statements made by any County employee that materially change any portion of the Proposal Documents cannot be relied upon unless subsequently ratified by a formal written amendment to the Proposal Document.
3. All addenda will be issued so as to be received at least five days prior to the time set for receipt of Proposal Documents, and will become part of the Contract and will be acknowledged in the Proposal Document form. Failure of any Vendor to receive any such addenda will not relieve said Vendor from any obligation under the Proposal Document as submitted.
4. Vendors are cautioned to refrain from including in their Proposal Document any substitutions which are not confirmed by written addenda. To find out whether the County intends to issue an amendment reflecting an oral statement made by any employee, contact Worcester County's Procurement Officer during normal business hours.
5. The Worcester County Procurement Officer reserves the right to postpone the Proposal Document opening for any major changes occurring in the five-day interim which would otherwise necessitate an Addendum.

L. **EXCEPTIONS/ SUBSTITUTIONS**

1. Any exceptions or substitutions to the specifications requested should be marked on the proposal form and listed on a separate sheet of paper attached to the proposal.

2. An exception to the specifications may disqualify the proposal. The County will determine if the exception is an essential deviation or a minor item.
3. In the case of a minor deviation, the County maintains the option to award to that Vendor if it determines the performance is not adversely affected by the exception.

M. APPROVED EQUALS

1. In all specifications where a material or article is defined by describing a proprietary product or by using the name of a Vendor or manufacturer, it can be assumed that an approved equal can be substituted.
2. The use of a named product is an attempt to set a particular standard of quality and type that is familiar to the County. Such references are not intended to be restrictive.
3. However, the County shall decide if a product does in fact meet or exceed the quality of the specifications listed in the solicitation. It shall be the responsibility of the Vendor that claims his product is an equal to provide documentation to support such a claim.

N. DELIVERY

1. All items shall be delivered F.O.B. destination and delivery costs and charges included in the proposal unless otherwise stated in the specifications or proposal form.

O. INSURANCE

1. If required by the General Conditions or Terms and Conditions, the Successful Vendor shall provide the County with Certificates of Insurance within ten calendar days of proposal award notification evidencing the required coverage.
2. Successful Vendor must provide Certificates of Insurance before commencing work in connection with the Contract.

P. PROPOSAL EVALUATION

1. Proposal tabulations will be posted on the County website at <https://www.co.worcester.md.us/commissioners/bids>. Click on the Expired Bids & Results tab and find the proposal tabulation for the proposal you are interested in. Proposal tabulations will be posted as soon as reasonably possible after the Proposal opening.

END OF SECTION

SECTION III: GENERAL CONDITIONS**A. DRAWINGS AND SPECIFICATIONS**

1. Should any detail be omitted from the drawings or specifications, or should any errors appear in either, it shall be the duty of the Successful Vendor to notify the County's designated construction inspector.
2. In no case shall the Successful Vendor proceed with the work without notifying and receiving definite instructions from the County. Work wrongly constructed without such notification shall be corrected by the Successful Vendor at his own cost.

B. MATERIALS, SERVICES AND FACILITIES

1. It is understood that, except as otherwise specifically stated in the Proposal Documents, the Successful Vendor will provide and pay for all materials, labor, tools, equipment, water, light, power and transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.
2. Materials and equipment will be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work will be located so as to facilitate prompt inspection.
3. Manufactured articles, materials, and equipment will be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
4. Materials, supplies and equipment will be in accordance with samples submitted by the Successful Vendor and approved by the County.

C. INSPECTION AND TESTING

1. All materials and equipment used in the construction of the Work will be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Proposal Documents.
2. The County or its representatives may, at any time, enter upon the work and the premises used by the Successful Vendor, and the Successful Vendor shall provide proper and safe facilities to secure convenient access to all parts of the work, and all other facilities necessary for inspection, as may be required.
3. The County will appoint such persons as deemed necessary to properly inspect the materials furnished or to be furnished, and the work done under the contract and to see that the same strictly corresponds with the drawings and specifications. All such materials and workmanship shall be subject to approval of the County. Approval or acceptance of payment shall not be misconstrued as approval of items or work not in conformance with specifications and drawings nor shall it prevent the rejection of said work or materials at any time thereafter during the existence of the contract, should said work or materials be found to be defective, or not in accordance with the requirements of the contract.
4. Work and material will be inspected promptly, but if for any reason should a delay occur, the Successful Vendor shall have no claim for damages or extra compensation.
5. The Successful Vendor shall pay for all inspection costs necessary to complete the work which may be incurred to comply with the requirements of any agency other than the County, such as a railroad, public service utility company, or any other governmental agency or any other agency whose jurisdiction affects the work in any manner unless otherwise specified herein.

D. APPROVAL OF SUBSTITUTION OF MATERIALS

1. Samples of materials shall be submitted by the Successful Vendor for approval before such materials are ordered from the manufacturers or distributors and shall be approved by the County before actual work is begun.
2. It is the intention of these specifications to permit all vendors bidding on this work to secure the fullest amount of competition on the various materials and specialties names herein. Wherever a material or article is defined by describing a proprietary product or by using the name of a vendor or manufacturer, the term or approved equal shall be presumed to be implied unless otherwise stated.

E. PROTECTION OF WORK, PROPERTY AND PERSONS

1. Successful Vendor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to, all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
2. Successful Vendor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. Successful Vendor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Successful Vendor will notify owners of adjacent utilities when progress of the Work may affect them. The Successful Vendor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by Successful Vendor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable.
3. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Successful Vendor, without special instruction or authorization from the County, will act to prevent threatened damage, injury or loss. Successful Vendor will give the County prompt Written Notice of any significant changes in the Work or deviations from the Proposal Documents caused thereby, and a Change Order will thereupon be issued covering the changes and deviations involved.

F. BARRICADES, DANGER, WARNING AND DETOUR SIGNS

1. The Successful Vendor shall provide, erect and maintain all necessary barricades, sufficient red lights, flares, danger signals and signs, provide a sufficient number of watchmen and take all necessary precautions for the protection of the work and safety of the public.

G. LICENSES AND PERMITS

1. The Successful Vendor shall have all necessary licenses required to do the work and give all notices and obtain and pay all necessary permits required by local laws and regulations for building.
2. State and Federal permits (if applicable) to undertake work have been obtained by the County and accompany these specifications.

H. SUPERVISION

1. The Successful Vendor shall maintain, at all times during the progress of work, a competent and experienced supervisor who shall represent the Successful Vendor, and all directions given to him shall be binding. Important decisions regarding directions, if requested by the supervisor, shall be confirmed in writing.
2. Supervision by the County or its representative does not relieve the Successful Vendor of responsibility for defective work executed under the direct control of the Successful Vendor. Responsibility for defective work rests upon the Successful Vendor, whether discovered by the County prior to final payment or subsequent thereto.

I. CLEAN UP

1. Upon completion of the items within a given location as specified and before monthly estimates will be paid, the construction area and all other areas occupied by the Successful Vendor during the construction of said Contract shall be cleaned of all surplus and discarded materials, bracing, forms, rubbish and temporary structures that were placed there by the Successful Vendor.
2. Disposal of the aforementioned shall be the responsibility of the Successful Vendor.

J. CHANGES IN WORK

1. The County, without invalidating the contract, may order extra work or make changes by altering, adding or deducting from the work with the contract sum being adjusted accordingly.
2. All such work shall be executed under the conditions of the original contract, except that any claim for the extension of time caused thereby shall be adjusted at the time of ordering such change.
3. The value of any such extra work or change shall be determined in one or more of the following ways:
 - a. By estimate and acceptance of lump sum.
 - b. By unit prices named in the contract or subsequently agreed upon.

K. TIME FOR COMPLETION

1. The Work contemplated under this Contract shall be considered as continuous and be completed within the timeframe(s) stated in Section IV of this Proposal Document.
2. The Successful Vendor will be allowed to work eight hours per day, Monday through Friday, except for holidays, fifty-two weeks per year.
3. The Successful Vendor will not be permitted to work on holidays observed by Worcester County or the State of Maryland or on Sundays unless otherwise authorized in writing.
4. In case of an emergency which may require that work be done on Saturdays, Sundays, and Holidays, the Successful Vendor shall request permission of the County to do so. If, in the opinion of the County, the emergency is bonafide, permission may be granted to the Successful Vendor to work such hours as may be determined are necessary by the County. Also, if in the opinion of the County a bonafide emergency exists, the Successful Vendor may be directed to work such hours as may be necessary whether or not the Successful Vendor requests permission to do so.
5. The Successful Vendor shall pay the County for all costs incurred for inspection services required for work permitted during holidays, weekends or in excess of eight hours per day.

L. LIQUIDATED DAMAGES

- 1. If the Successful Vendor shall fail to start and complete the project within the time frame stated above, the County shall assess liquidated damages in the amounts listed below per calendar day for each and every day the Successful Vendor fails to complete the contract.

<u>Amount of Contract</u>	<u>Liquidated Damages per Day</u>
Less than \$10,000	\$100.00
\$10,000 or less than \$100,000	\$250.00
\$100,000 or less than \$500,000	\$750.00
\$500,000 or more	\$1,000.00
Or will be based on actual cost to the County, whichever is greater.	

- 2. The designated County project manager reserves the option to extend the scheduled completion date or waive the liquidated damages clause in its entirety if he is of the opinion that extenuating circumstances deemed such action appropriate.

M. CORRECTION OF WORK

- 1. The Successful Vendor will promptly remove from the premises all Work rejected by the County for failure to comply with the Proposal Documents, whether incorporated in the construction or not, and the Successful Vendor will promptly replace and re-execute the Work in accordance with the Proposal Documents and without expense to the County and will bear the expense of making good all Work of other Vendors destroyed or damaged by such removal or replacement.
- 2. All removal and replacement Work will be done at the Successful Vendor’s expense. If the Successful Vendor does not act to remove such rejected Work within ten days after receipt of Written Notice, the County may remove such Work and store the materials at the expense of the Successful Vendor.

N. CONSTRUCTION SAFETY AND HEALTH STANDARDS

- 1. It is a condition of this contract, and shall be made a condition of each sub-contract entered into pursuant to this contract, that the Successful Vendor and any sub-contractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time, promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standard Act.) (83 Stat. 96).
- 2. Failure of Worcester County to inform the Successful Vendor of safety violations will not release the Successful Vendor of his responsibilities.

O. PERFORMANCE AND PAYMENT BONDS

- 1. The Successful Vendor will be required to provide the County with a Performance Bond and Payment Bond if the total Contract amount exceeds \$100,000, each in the amount of one hundred percent of the Contract Price, with a corporate surety approved by the County for the faithful performance of the Contract.
- 2. The Successful Vendor will within fourteen calendar days after the receipt of the Contract furnish the County with a Performance Bond and Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Successful Vendor of all undertakings,

covenants, terms, conditions and agreements of the Proposal Documents, and upon the prompt payment by the Successful Vendor to all persons supplying labor and materials in the prosecution of the Work provided by the Proposal Document. Such Bonds will be executed by the Successful Vendor and corporate bonding company licensed to transact such business in the state in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Circular Number 570. The expense of these Bonds will be borne by the Successful Vendor. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State of Maryland or is removed from the list of surety companies accepted on federal bonds, Successful Vendor will within ten calendar days after notice from the County to do so, substitute an acceptable Bond(s) in such form and sum and signed by such other surety or sureties as may be satisfactory to the County.

P. GUARANTEE

1. The Successful Vendor shall furnish the County with a one-year guarantee of workmanship and materials, dating from time of acceptance of the project and shall make good any defects which may occur during that period.
2. If any special guarantees in excess of the one-year period are specified by the manufacturer, these guarantees shall take precedence over the one-year period guarantee.
3. Upon completion of work, and before final payment or release of retainage, the Successful Vendor shall submit, and obtain from each subcontractor, material supplier and equipment manufacture general warranties and a notarized asbestos free guarantee.

END OF SECTION

SECTION IV: PROPOSAL SPECIFICATIONS

A. SCOPE

1. The County is seeking proposals from qualified Vendors for the purpose of reviewing and preparing the State-mandated update to the County's Comprehensive Plan in accordance with the terms and conditions and specifications set forth in this solicitation.
2. The Plan will reassess and update as necessary the existing vision, policy statements, goals, objectives, guidelines, recommendations, graphics and maps in order to guide future growth and development in the County to the year 2040 to meet the requirements of the Land Use Article of the Maryland Annotated Code and the 12 Planning Visions.
3. The Successful Vendor shall utilize all relevant planning documents, as well as the data provided in the Final Report of the Public Engagement Program (pending) which identifies the community's needs and wants, priorities, expectations for future development, as well as the proposed recommendations and action items.

B. CONTRACT PRICING

1. Pricing must include all labor, materials, tools, and equipment to perform Work.
2. Pricing will not change during the Contract Period.

C. OVERVIEW AND BACKGROUND

1. Worcester County, Maryland (the County) is marketed as "Maryland's Coast", the only county in Maryland that borders the Atlantic Ocean. The County consists of 695 square miles, of which 468 square miles are land and 227 square miles are water. Agriculture and forestry are the dominant land uses in the county. Hospitality, health care, retail and construction trades are the County's largest employment industries.
2. Worcester County has a year-round population of 52,607 people according to the 2020 Census, an increase of 6,064 persons over the last twenty-year planning period. The incorporated towns of Ocean City, Berlin, Snow Hill and Pocomoke City are located in the County. Although each jurisdiction has its own governing body and planning authority, each of these towns contribute to the County's development patterns, attraction of visitors, and represent the County's growth centers. In addition, the unincorporated residential waterfront community of Ocean Pines is a high growth area, located in the County's north end near Ocean City and has an estimated year-round population of over 12,000 residents.
3. The County's tourism industry is thriving, and efforts to build upon this industry include the expansion of events into the spring and fall seasons, as well as promoting destinations beyond the beach, recognizing the various opportunities that each town in Worcester County has to offer.
4. The County's population growth continues to be dominated by in-migration and second home demand. The County has a high level of home ownership (76%), but a high vacancy rate (60%) indicating that much of the existing housing stock is comprised of second homes. As acknowledged in the current Comprehensive Plan, it is common for a second homeowner to become a full-time resident upon retirement. In-migration has also occurred by persons in the active labor force to fill the demand for jobs in services, such as the health care industry. This trend is expected to continue in the future.
5. Housing affordability has become a growing issue in Worcester County, with 32% of homeowners and 53% of renters considered housing burdened, which is defined as housing costs exceeding 30% of the household income. Worcester County has also experienced a higher-than-average share of residential units becoming a part of the short-

term rental market each year. This factor also impacts the local workforce, as many seasonal employees in the hospitality industry are now struggling to find housing that is affordable.

6. These trends and others will influence the County's future development goals and objectives to the Comprehensive Plan.
7. The County's existing Comprehensive Plan was adopted in March 2006, with amendments in 2010 and 2011. Under state law, each jurisdiction must review and, if necessary, update its comprehensive plan every ten years. While the County did not achieve the anticipated population increase specified in that plan, there have been significant changes to the designated Growth Areas since the last update that will impact where future growth is located. Additionally, the County will be required to update the Housing Element to address issues such as affordable, low-income and workforce housing, and include an assessment of fair housing.
8. In 2023, the County initiated a Public Engagement Program as part of the initial review efforts to identify the community's needs and wants, priorities, expectations for future development and perspectives on tradeoffs between different policy options that may guide revisions to the goals, objectives, and policy recommendations within each chapter of the Comprehensive Plan. The final report shall be incorporated into the revised Plan.

D. SUMMARY

1. General Approach to the Project – The role of the Successful Vendor is to prepare the update to the Worcester County Comprehensive Plan. The Department of Development, Review and Permitting (Department) will be the point of contact. The document shall be developed and submitted to the County in topical sections for review and comment, including public work sessions with the Planning Commission.
2. **Task 1: Development of a detailed scope of work**
 - a. Timetable and Project Coordination
 - i. The Vendor shall include in their proposal a project timetable for completing the Comprehensive Plan Update.
 - ii. The Department will provide all relevant project files, ordinances, resource documents, and development activity information to the best extent possible.
 - iii. The Successful Vendor is expected to review pertinent background documents and data, including the Comprehensive Plans and Maps for Ocean City, Berlin, Snow Hill and Pocomoke City, and request such resources from the Planning Staff as necessary. Planning Staff will provide the Successful Vendor with available digital and hard copy mapped data for review and analysis.
 - iv. The Department utilizes ESRI software for GIS (Geographic Information Systems). All maps and GIS data created for this project will be provided to the Department in an editable and reproducible format and will become the property of the Department.
 - b. Meetings – Successful Vendor, Department, and Planning Commission
 - i. The Department will maintain overall responsibility for the project. Staff will attend all meetings with the Successful Vendor and will act as a liaison between the Successful Vendor and the Planning Commission, County Administration, County Commissioners, County and State Agencies, and the public.

- ii. Successful Vendor shall be responsible for drafting all elements of the plan and associated figures/maps. Reviews shall be coordinated, and comments gathered throughout the process from the Planning Commission and the Department.
 - iii. The Planning Commission and Department shall review all materials produced by the Successful Vendor prior to being presented at public meetings, public hearings, or work sessions.
 - iv. The Department shall be responsible for providing logistics to include scheduling, meeting locations, advertising, and mailings.
 - v. The Successful Vendor will participate in public meetings and will advise the Planning Commission and Department on the key points in the process when meetings are recommended. Work sessions with the Planning Commission, Department and vendor will be open to the public for observation.
 - vi. The Successful Vendor will work with the Planning Commission and Department to set up an appropriate process to receive public comment during the development of the Comprehensive Plan.
- c. Comprehensive Plan Elements
- i. Plan Vision – Evaluate the existing Comprehensive Plan vision statement for Worcester County to ensure that it continues to serve as the focal point for goals, policies, and strategy decisions.
 - ii. Plan Elements – The Comprehensive Plan will serve as the primary policy guide for short- and long-range planning and land use decisions within the county. The Comprehensive Plan should seek to build consensus on appropriate future growth and development patterns within Worcester County through the year 2040. As per the Annotated Code of Maryland, Land Use Article, Title 3, Comprehensive Plan, Subtitle 1. Requirement and Elements, § 3-101-3-114, the Planning Commission for a local jurisdiction shall include in the Comprehensive Plan the following elements:
 - a. A community facilities element;
 - b. An area of critical State concern element;
 - c. A goals and objectives element;
 - d. A housing element;
 - e. A land use element;
 - f. A development regulations element;
 - g. A sensitive areas element;
 - h. A transportation element;
 - i. A water resources element;
 - j. A mineral resources element;
 - k. A fisheries element;
 - iii. In addition to the required elements, the existing Comprehensive Plan has an Economy chapter, which should be updated and incorporated into the revised Comprehensive Plan.
 - iv. Each element shall clearly identify actionable goals and strategies, with thought given to the prioritization of strategies into short- and long-term implementation.

- d. Trends and Projections
 - i. Community Assessment - Successful Vendor shall conduct historic trend analysis to produce narrative and graphics, as well as projections, for:
 - a. Population
 - b. Demographics
 - c. Housing
 - d. Employment
 - e. Land use
 - f. Economy
 - ii. Development Capacity Analysis - The Comprehensive Plan shall include a residential and commercial land use capacity analysis that will assist the county in directing growth and redevelopment within the County. The analysis shall include a description of the interrelationship between existing and probable local land use patterns and the identification of means to mitigate negative impacts of potentially incompatible land uses. The consultant shall outline their GIS-related capabilities to prepare the land use capacity analysis and explain what assistance would be needed from the Department.
- 3. **Task 2: Draft Comprehensive Plan Review/ Planning Commission Work Sessions**
 - a. Successful Vendor shall attend all necessary meetings with the Planning Commission and Department to draft the Comprehensive Plan, as well as all public meetings and hearings associated with the Comprehensive Plan review and approval process. A monthly work session meeting schedule is anticipated, with a total number of meetings likely ranging from 10-15.
 - b. Successful Vendor shall attend the required Planning Commission public hearing and all meetings or hearings with the Worcester County Commissioners.
 - c. The Department should work with the Successful Vendor to prepare for and facilitate the discussion of the draft Comprehensive Plan with the Planning Commission. The Successful Vendor shall present the draft Comprehensive Plan in topical sections for review and comment. These work sessions will be open to the public. Successful Vendor to participate in the presentation/ discussion before the Planning Commission and recommend changes to the draft Comprehensive Plan.
 - d. Successful Vendor to provide a revised draft to the Planning Commission and Department.
 - e. Further necessary review, by State agencies, including State Clearinghouse 60-day review, or additional stakeholders, should be coordinated collaboratively, as needed.
 - f. The Successful Vendor shall be responsible for working with the Planning Commission and Department to incorporate any pertinent comments received by Clearinghouse, public comment, or other sources into the draft Comprehensive Plan.
 - g. After receiving comments from the State Clearinghouse, the Planning Commission shall conduct a public hearing on the Planning Commission's draft Comprehensive Plan. The Successful Vendor and the Department shall consider all oral and written public comments given at the public hearing.

- h. The Planning Commission will forward a recommendation of adoption of the draft Comprehensive Plan to the County Commissioners upon completion of the updates.

4. **Task 3: Comprehensive Plan Adoption**

- a. Public comments will be gathered on the Planning Commission-recommended draft Comprehensive Plan by the County Commissioners who must hold a public meeting (and may elect to hold a public hearing), facilitated by the Department with input and participation from the Successful Vendor.
- b. Following the public comment period after the County Commissioners public meeting or hearing, final edits to the draft Comprehensive Plan shall be timely executed by the Successful Vendor with concurrence from the Department.
- c. The County Commissioners shall receive an amended final version of the draft Comprehensive Plan from the Successful Vendor for adoption within 15 business days of the end of the public comment period.
- d. The Successful Vendor is responsible for final adopted document preparation. The Successful Vendor shall provide 25 paper copies and an electronic PDF version. One unbound, reproducible original copy of the final, updated Comprehensive Plan, to include all appendices and maps shall be provided to the Department. All further reproduction is the responsibility of the County.
- e. All datasets included in the final plan shall be submitted in an unprotected format that can be revised and/or updated by the County in ESRI ArcGIS software.

E. **SCHEDULE AND PROJECT TIMELINE**

- 1. The anticipated RFP Schedule and Project Timeline are as follows (please note that the dates for the tasks listed after the Proposal Due Date may be revised if necessary):
 - a. RFP Release: Tuesday, October 17, 2023
 - b. Proposals Due: *Month/Day/2023*
 - c. Review Committee Evaluation Complete: *Month/Day/2023*
 - d. Selection by County Commissioners: *Week of Month/Day/2023*
 - e. Execute Contract: *Week of Month/Day/2023*
 - f. Project Completion: Eighteen (18) months after contract execution (Tentative)
Vendors shall submit a project schedule showing key task target dates, including public meetings and hearings, and estimated task duration.

F. **SUBMITTAL REQUIREMENTS**

- 1. Vendors are required to provide the following within their proposal:
 - a. Letter of Interest – Introduce the team and demonstrate the team’s understanding of the nature of the proposal.
 - b. Personnel - Provide a resume for each of your current key professional staff that may be involved in this project.
 - c. Experience - State the number of years your organization has provided this type of service. List similar projects your organization has completed. Include project description, completion date, and jurisdiction.
 - d. Project Approach – Describe how you would approach this project, given your experience and the scope as presented. Identify key tasks, who will be responsible for completing them, and what is needed from the client or other sources to ensure successful completion. Include timeline expectations that reflect your experience in what is practical.

- e. Estimated Effort and Proposed Budget – Demonstrate how you can complete the desired work in the timeline presented in this RFP. Provide a statement that clearly conveys the ability of the proposed project personnel to complete the project in view of the firm’s current workload. Provide a detailed budget breakdown, including costs for each component of the project.
- f. Client References – Please provide three references for those who are familiar with your company’s ability to undertake and complete comparable projects. Include contact names, titles, and contact information.

G. EVALUATION PROCEDURES

1. Submittals will be evaluated by the Department of Development, Review and Permitting based upon the following criteria:
 - a. The scope and quality of services proposed, and the demonstrated relevant professional and technical qualifications, experience and availability of the vendor and the key personnel assigned to this project in performing the work and meeting the objectives outlined in the RFP in a timely manner.
 - b. The vendor’s demonstrated experience and professional competence in developing comprehensive plans, plan amendments, land use ordinances, or other similar documents of high quality that are user-friendly and grammatically correct. Preference is given to plans and documents prepared for local county or municipal governments.
 - c. A demonstrated understanding of the County’s overall objectives in the comprehensive plan update process, with the ability to be flexible and implement ideas or concepts.
 - d. Familiarity and knowledge of Worcester County; and
 - e. Proposal cost.
2. Once all proposals have been evaluated, a recommendation will be forwarded to the Worcester County Commissioners for their consideration and selection of the Successful Vendor at a public meeting. In awarding the proposal, the County Commissioners reserve the right to reject any and all proposals, waive formalities, informalities and technicalities therein, and to take whatever proposal they determine to be in the best interest of the County considering cost, proposal content, qualifications of the vendor, quality of project approach, time of delivery or completion, responsibility of vendors being considered, previous experience of vendors with County contracts, or any other factors they deem appropriate.

H. GENERAL REQUIREMENTS

1. The Successful Vendor must be licensed to perform Work in the state of Maryland.

I. PAYMENT

1. The County will make payment(s) to the Successful Vendor within thirty calendar days from the receipt of a proper invoice for approved and accepted work performed.
2. Unless otherwise noted, **all additional charges shall be included in the price quoted.**
 - a. This includes delivery, shipping, and any other materials (proofs, paper, etc.) needed to successfully complete the project according to the terms described.
 - b. The County will not be responsible for any costs incurred by any vendor in preparing and submitting a proposal.
3. Successful Vendor agrees to complete any necessary vendor paperwork as required by the County.

J. QUESTIONS

1. The last day for questions is listed under Section I, Subsection C.2.

K. AWARD

1. The County intends to award to the Vendor whose Completed Proposal Documents represents the best value to the County.

END OF SECTION

SECTION V: EVALUATION AND SELECTION PROCESS

A. EVALUATION

1. All Vendors are advised that in the event of a receipt of adequate number of Proposal Documents which, in the opinion of the County, require no clarification and/or supplementary information, such Proposal Documents may be evaluated without discussion. Hence, Proposal Documents should be initially submitted on the most complete and favorable terms which Vendors are capable of offering the County. Proposal Documents will be evaluated using the following criteria:

Weighting Factor	Criterion
20%	Qualifications of the Organization
20%	Vendor’s knowledge, experience and availability to perform the specified work (based on previous jobs of a similar nature)
20%	Vendor’s understanding of the purpose and objectives of the specified work, with the ability to be flexible and implement ideas or concepts
10%	Familiarity and knowledge of Worcester County, Maryland
30%	Proposal Cost

2. Each Vendor will be rated for each criterion on a scale of zero to four as described below.

Unacceptable	0
Poor	1
Fair	2
Good	3
Superior	4

- a. A Vendor’s final grade will be the sum of each criterion’s rating multiplied by the weighting factor listed above.
3. After identifying the short list of the most qualified Vendor(s) based on the evaluation criteria, representative(s) may be required to clarify their Proposals by making individual presentations to the evaluation committee.
4. The County may enter into negotiations with Vendors and invite best and final offers as deemed to be in the best interest of the County. Negotiations may be in the form of face-to-face, telephone, facsimile, e-mail or written communications, or any combination thereof, at the County’s sole discretion.
5. Vendors are strongly advised not to prepare their Proposal submissions based on any assumption or understanding that negotiations will take place. Vendors are advised to respond to this Request for Proposals fully and with forth-rightness at the time of Proposal submission.
6. Vendors are strongly cautioned not to contact elected officials or members of the evaluation committee. All questions and comments should be directed through the Purchasing Department. Inappropriate efforts to lobby or influence individuals involved in this selection may result in dismissal from further consideration, at the County’s sole discretion.

END OF SECTION

THIS AND PREVIOUS SECTIONS, OTHER THAN THE COVER PAGE, DO NOT NEED TO BE RETURNED WITH SUBMITTAL

FORM OF PROPOSAL

To whom it may concern:

We hereby submit our Proposal Documents for “COMPREHENSIVE PLAN UPDATE” as indicated in the Proposal Documents. Having carefully examined the Proposal Documents and having received clarification on all items of conflict or upon which any doubt arose, the undersigned hereby requests consideration of our Vendor for award of the referenced Proposal.

ITEM	DESCRIPTION	EXTENDED PRICE
1	Comprehensive Plan Update as stated in the Proposal Specifications. (*Attach a proposed project timeline for completion and a proposed meeting schedule for this project.)	

We hereby agree to attend any additional meeting(s) in Worcester County and at the request of the County which is not specifically included in the RFP for the following additional cost:

\$ _____ lump sum per additional meeting

The Vendor agrees that the proposal will be good for at least sixty (60) days unless otherwise indicated in the proposal specifications.

Is your company currently involved in any active litigation? (Yes)____ (No) _____ CHECK One.

Have you included your certificate of good standing with the State of Maryland? (See Section I, Subsection H.1 for more information.) (Yes)____ (No) _____ CHECK One.

Is your company currently involved in any mergers or acquisitions? (Yes)____ (No) _____ CHECK One.

Has your organization compiled your Completed Proposal Document as per Section I, subsection D.3 and in accordance with the Proposal Specifications Section of this Proposal Document? (Yes)____ (No) _____ CHECK One

NOTE: THIS PROPOSAL FORM MUST BE SIGNED BY AN OFFICER OF YOUR COMPANY OR AN AUTHORIZED AGENT FOR THIS PROPOSAL TO BE CONSIDERED VALID BY THE COUNTY.

Sign for Identification

Printed Name

Title

Email

REFERENCES

List three references for which the Vendor has provided Goods/Services similar to those requested in the Proposal Document within the last 12-36 months. Include contact name, address, telephone number, email address and services provided.

Company Name:		Company Name:	
Type of Project:		Type of Project:	
Address:		Address:	
Town, State, Zip Code:		Town, State, Zip Code:	
Contact Person:		Contact Person:	
Telephone Number:		Telephone Number:	
Email:		Email:	
Date of Service:		Date of Service:	
Company Name:			
Type of Project:			
Address:			
Town, State, Zip Code:			
Contact Person:			
Telephone Number:			
Email:			
Date of Service:			

Sign for Identification

Printed Name

EXCEPTIONS

The undersigned hereby certifies that, except as listed below, or on separate sheets attached hereto, the enclosed Completed Proposal Document covers all items as specified.

EXCEPTIONS:

(If none, write none) _____

How did you hear about this solicitation?

- Worcester County's Website
- eMaryland Marketplace Advantage (eMMA)
- Newspaper Advertisement
- Direct email
- Other _____

The vendor hereby acknowledges receipt of the following addenda.

<u>Number</u>	<u>Date</u>	<u>Initials</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sign for Identification

Printed Name

INDIVIDUAL PRINCIPAL

Vendor Name: _____

Signed By: _____ In the presence of: _____

Address of Vendor: _____ Town, State, Zip _____

Telephone No.: _____ Fax: _____ Email: _____

CO-PARTNERSHIP PRINCIPAL

Name of Co-Partnership: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax: _____

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

CORPORATE PRINCIPAL

Name of Corporation: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax:

Signed By: _____ In the presence of: _____

President

Witness

Attest: _____

Corporate Secretary

Affix Corporate Seal

VENDOR’S AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT:

I, _____ am the _____
(Printed Name) (title)
and the duly authorized representative of the Vendor of
_____ whose address is
(name of corporation)

_____ and that I possess the legal authority to make this affidavit on behalf of myself and the Vendor for which I am acting.

Except as described in paragraph 3 below, neither I nor the above Vendor, nor to the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute, bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State “none” or, as appropriate, list any conviction, plea or admission described in paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the Vendor, and the sentence or disposition, if any.)

I acknowledge that this affidavit is to be furnished to the County, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the County may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Sign for Identification

Printed Name

NON-COLLUSIVE AFFIDAVIT

_____ being first duly sworn,
deposes and says that:

1. He/she is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Vendor that has submitted the attached Proposal Documents;
2. He/she is fully informed respecting the preparation and contents of the attached Proposal Document and of all pertinent circumstances respecting such Proposal Documents;
3. Such Proposal Document is genuine and is not a collusive or sham Proposal Document;
4. Neither the said Vendor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Vendor, firm, or person to submit a collusive or sham Proposal Document in connection with the Work for which the attached Proposal Document has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Vendor, firm, or person to fix the price or prices in the attached Proposal Document or of any other Vendor, or to fix any overhead, profit, or cost elements on the Proposal Document price or the Proposal Document price of any other Vendor, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Work;
5. The price or prices quoted in the attached Proposal Document are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Vendor or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

Witness

By: _____
Signature

Witness

Printed Name

Title

EXHIBIT A

WORCESTER COUNTY MARYLAND
STANDARD TERMS AND CONDITIONS

The provisions below are applicable to all Worcester County (“County”) contracts. These provisions are not a complete agreement. These provisions must be attached to an executed document that identifies the work to be performed, compensation, term, incorporated attachments, and any special conditions (“Contract”). If the Standard Terms and any other part of the Contract conflict, then the Standard Terms will prevail.

1. **Amendment.** Amendments to the Contract must be in writing and signed by the parties.
2. **Bankruptcy.** If a bankruptcy proceeding by or against the Contractor is filed, then:
 - a. The Contractor must notify the County immediately; and
 - b. The County may cancel the Contract or affirm the Contract and hold the Contractor responsible for damages.
3. **Compliance with Law.** Contractor must comply with all applicable federal, state, and local law. Contractor is qualified to do business in the State of Maryland. Contractor must obtain, at its expense, all licenses, permits, insurance, and governmental approvals needed to perform its obligations under the Contract.
4. **Contingent Fee Prohibition.** The Contractor has not directed anyone, other than its employee or agent, to solicit the Contract and it has not promised to pay anyone a commission, percentage, brokerage fee, contingent fee, or other consideration contingent on the making of the Contract.
5. **Counterparts and Signature.** The Contract may be executed in several counterparts, each of which may be an original and all of which will be the same instrument. The Contract may be signed in writing or by electronic signature, including by email. An electronic signature, a facsimile copy, or computer image of the Contract will have the same effect as an original signed copy.
6. **Exclusive Jurisdiction.** All legal proceedings related to this Contract must be exclusively filed, tried, and maintained in either the District Court of Maryland for Worcester County, Maryland or the Circuit Court of Worcester County, Maryland. The parties expressly waive any right to remove the matter to any other state or federal venue and waive any right to a jury trial.
7. **Force Majeure.** The parties are not responsible for delay or default caused by fire, riot, acts of God, County-declaration-of-emergency, or war beyond their reasonable control. The parties must make all reasonable efforts to eliminate a cause of delay or default and must, upon cessation, diligently pursue their obligations under the Contract.
8. **Governing Law.** The Contract is governed by the laws of Maryland and the County.
9. **Indemnification.** The Contractor must indemnify the County and its agents from all liability, penalties, costs, damages, or claims (including attorney’s fees) resulting from personal injury, death, or damage to property that arises from or is connected to the performance of the work or failure to perform its obligations under the Contract. All indemnification provisions will survive the expiration or termination of the Contract.

10. Independent Contractor.

- a. Contractor is an “Independent Contractor”, not an employee. Although the County may determine the delivery schedule for the work and evaluate the quality of the work, the County will not control the means or manner of the Contractor’s performance.
- b. Contractor is responsible for all applicable taxes on any compensation paid under the Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers’ compensation benefits under the Contract.
- c. Contractor must immediately provide the County notice of any claim made against Contractor by any third party.

11. Insurance Requirements.

- a. Contractor must have Commercial General Liability Insurance in the amounts listed below. The insurance must include coverage for personal injury, discrimination, and civil rights violation claims. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”. A copy of the certificate of insurance must be filed with the County before the Contract is executed, providing coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$500,000 for property damage.
- b. Contractor must have automobile insurance on all vehicles used in the Contract to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations in connection with the Contract. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”.
- c. Contractor must provide the County with a certification of Workers’ Compensation Insurance, with employer’s liability in the minimum amount required by Maryland law in effect for each year of the Contract.
- d. All insurance policies must have a minimum 30 days’ notice of cancellation. The County must be notified immediately upon cancellation.
- e. When insurance coverage is renewed, Contractor must provide new certificates of insurance prior to expiration of current policies.

12. Nondiscrimination. Contractor must not discriminate against any worker, employee, or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. This provision must be incorporated in all subcontracts related to the Contract.

13. Ownership of Documents; Intellectual Property.

- a. All documents prepared under the Contract must be available to the County upon request and will become the exclusive property of the County upon termination or completion of the services. The County may use the documents without restriction or without additional compensation to the Contractor. The County will be the owner of the documents for the purposes of copyright, patent, or trademark registration.
- b. If the Contractor obtains, uses, or subcontracts for any intellectual property, then it must provide an assignment to the County of ownership or use of the property.
- c. The Contractor must indemnify the County from all claims of infringement related to

the use of any patented design, device, materials, or process, or any trademark or copyright, and must indemnify the County, its officers, agents, and employees with respect to any claim, action, costs, or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment, or services covered by the Contract.

14. **Payments.** Payments to the Contractor under the Contract will be within 30 days of the County's receipt of a proper invoice from the Contractor. If an invoice remains unpaid 45 days after the invoice was received, interest will accrue at 6% per year.
15. **Records.** Contractor must maintain fiscal records relating to the Contract in accordance with generally accepted accounting principles. All other relevant records must be retained by Contractor and kept accessible for at least three years after final payment, termination of the Contract, or until the conclusion of any audit, controversy, or litigation related to the Contract. All subcontracts must comply with these provisions. County may access all records of the Contractor related to the Contract.
16. **Remedies.**
- a. **Corrections of errors and omissions.** Contractor must perform work necessary to correct errors and omissions in the services required under the Contract, without undue delays and cost to the County. The County's acceptance will not relieve the Contractor of the responsibility of subsequent corrections of errors.
 - b. **Set-off.** The County may deduct from any amounts payable to the Contractor any back-charges, penalties, or damages sustained by the County, its agents, or employees caused by Contractor's breach. Contractor will not be relieved of liability for any costs caused by a failure to satisfactorily perform the services.
 - c. **Cumulative.** These remedies are cumulative and without waiver of any others.
17. **Responsibility of Contractor.**
- a. The Contractor must perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services.
 - b. Notwithstanding any review, approval, acceptance, or payment for the services by the County, the Contractor will be responsible for the accuracy of any work, design, drawings, specifications, and materials furnished by the Contractor under the Contract.
 - c. If the Contractor fails to conform with subparagraph (a) above, then it must, if required by the County, perform at its own expense any service necessary for the correction of any deficiencies or damages resulting from the Contractor's failure. This obligation is in addition to any other remedy available to the County.
18. **Severability/Waiver.** If a court finds any term of the Contract to be invalid, the validity of the remaining terms will not be affected. The failure of either party to enforce any term of the Contract is not a waiver by that party.
19. **Subcontracting or Assignment.** The Contractor may not subcontract or assign any part of the Contract without the prior written consent of the County. The County may withhold consent for any reason the County deems appropriate.

20. **Termination.** If the Contractor violates any provision of the Contract, the County may terminate the Contract by written notice. All finished or unfinished work provided by the Contractor will, at the County's option, become the County's property. The County will pay the Contractor fair compensation for satisfactory performance that occurred before termination less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages.
21. **Termination of Contract for Convenience.** Upon written notice, the County may terminate the Contract when the County determines termination is in the County's best interest. Termination for convenience is effective on the date specified in the County's written notice. The County will pay for reasonable costs allocable to the Contract for costs incurred by the Contractor up to the date of termination. But the Contractor will not be reimbursed for any anticipatory profits that have not been earned before termination.
22. **Termination of Multi-year Contract.** If funds are not available for any fiscal period of the Contract after the first fiscal period, then the Contract will be terminated automatically as of the beginning of unfunded fiscal period. Termination will discharge the Contractor and the County from future performance of the Contract, but not from their rights and obligations existing at the time of termination.
23. **Third Party Beneficiaries.** The County and Contractor are the only parties to the Contract and are the only parties entitled to enforce its terms. Nothing in the Contract gives any benefit or right to third persons unless individually identified by name and expressly described as intended beneficiaries of the Contract.
24. **Use of County Facilities.** Contractor may only County facilities that are needed to perform the Contract. County has no responsibility for the loss or damage to Contractor's personal property which may be stored on County property.
25. **Whole Contract.** The Contract, the Standard Terms, and attachments are the complete agreement between the parties and supersede all earlier agreements, proposals, or other communications between the parties relating to the subject matter of the Contract.

TEL: 410-632-5623
FAX: 410-632-1753
WEB: co.worcester.md.us



Worcester County
DEPARTMENT OF PUBLIC WORKS
6113 TIMMONS ROAD
SNOW HILL, MD 21863

DALLAS BAKER JR., P.E.
DIRECTOR

CHRISTOPHER CLASING, P.E.
DEPUTY DIRECTOR

MEMORANDUM

TO: Weston Young P.E., Chief Administrative Officer
Candace Savage, CGFM, Deputy Chief Administrative Officer
FROM: Dallas Baker Jr., P.E., Director *Dallas Baker Jr*
DATE: October 10, 2023
SUBJECT: SHA – Roads Salt Agreement

Public Works is requesting Commissioner approval of the attached salt agreement with MDOT – SHA. This is a 3-year agreement whereby the County gets salt from SHA to make brine during winter storm events. The County’s previous 3-year agreement with SHA expired in September and SHA has provided this updated agreement. SHA competitively bids out its salt purchase contracts and the County has historically taken advantage of that process by obtaining our salt from SHA. The agreement has been reviewed by the County Attorney with no exceptions noted.

Please let me know if there are any questions.

Attachments

CC: Roscoe Leslie
Nick Rice
Chris Clasing
Kevin Lynch

THREE (3) YEAR SALT UTILIZATION AGREEMENT

by and between

State Highway Administration
of the Maryland Department of Transportation

and

Worcester County, Maryland

This AGREEMENT (“**Agreement**”) is made as of the 1st day of September 2023, executed in duplicate, by and between the State Highway Administration of the Maryland Department of Transportation (“**SHA**”) acting for, and on the behalf of the State of Maryland and Worcester County, Maryland, a political subdivision of the State of Maryland and a body politic and corporate (“**COUNTY**”), sometimes collectively referred to as “the **Parties**”.

WHEREAS, during certain winter snow emergency operations (“**Snow Event**”) the COUNTY may have a need to obtain additional salt (“**Salt**”) to effectively complete their winter snow operations; and

WHEREAS, the COUNTY has requested, and SHA has agreed, to allow the COUNTY to obtain Salt from SHA stockpiles during a Snow Event in accordance with the terms and conditions contained herein; and

WHEREAS the COUNTY shall reimburse SHA for the cost of Salt plus other related expenses; and

WHEREAS SHA and the COUNTY agree that this Agreement will benefit both parties of this Agreement and will promote the safety, health and general welfare of the citizens of the State.

NOW, THEREFORE, in consideration of the premises and of the mutual promises between SHA and the COUNTY, as set forth herein, the adequacy of which is hereby acknowledged, the Parties hereby agree to the following:

I. TERM & BUDGET

The term of this Agreement is three (3) years, beginning the first (1st) day of September 2023 and ending on the thirty first (31st) day of August 2026, both dates inclusive, unless sooner terminated as set forth herein (the “**Term**”). For budgeting and planning purposes only, during the Term of this Agreement the total cost for Salt shall not exceed Twenty Five Thousand Dollars (\$25,000). The COUNTY shall be responsible for actual costs incurred at the time of delivery.

II. SALT COSTS

- A. The cost of Salt, at the execution of this Agreement is One Hundred Six Dollars and Six Cents (\$106.06) per ton, which includes the price of the Salt, a delivery charge and an overhead charge.
- B. The Salt price listed herein is subject to change.
- C. The “**Delivery Charge**” includes the cost of fuel and mileage to transport the Salt to a SHA Salt dome. The “**Overhead Charge**” is determined by the federally approved Overhead Rate that may be adjusted on October 1st of each year. The current Overhead Rate is eight and twenty two hundredths percent (8.22%).
- D. The cost of the Salt may be adjusted weekly to account for Delivery Charge variances.

III. CHARGE NUMBER

SHA has established a charge number for the COUNTY which will be used to document Salt withdrawals from SHA’s inventory system. The current charge number for the COUNTY is BY **BY319M84**.

IV. PROCEDURES

- A. Salt Loading
 - 1. SHA Shop Locations: For purposes of this Agreement, the SHA shops to be used for Salt for the COUNTY, as determined by SHA, are:
 - Snow Hill Shop
 - 2. Prior to a Snow Event: The COUNTY will contact Tony Turner SHA’s Resident Maintenance Engineer (RME), or designee, of the Snow Hill Shop at 410-632-0511 to arrange for the COUNTY’s trucks to be loaded with the Salt at the designated location the day before a local forecasted snow if time permits; otherwise SHA and the COUNTY will determine which SHA salt storage site is appropriate to use to load the Salt onto the trucks and SHA will provide an operator to facilitate the loading of the Salt.
 - 3. During the Snow Event: The COUNTY will contact the appropriate SHA Shop nearest to that truck and request to be loaded at an approximate preferred time of arrival. SHA will then arrange for an operator to meet the COUNTY truck at that location as close to the preferred time as possible without negatively affecting SHA operations. In addition, if a COUNTY truck is in the vicinity of a specific dome during a Snow Event and a SHA operator is present, the COUNTY truck may then be topped off, if desired. In situations where the SHA Snow Event operations are

already active when the COUNTY operations begin, the COUNTY can notify SHA as far in advance as possible and SHA will make every effort to provide an operator at all the locations requested to begin loading COUNTY trucks with Salt.

4. Post Snow Event: The COUNTY can contact the appropriate SHA shop to request re-loading after a Snow Event, and SHA will schedule the re-loading at the Parties' convenience.
5. The COUNTY shall not return any unused Salt to any SHA shop.

B. Load Records

1. The COUNTY shall ensure all vehicles picking up Salt on their behalf are identified by a sticker or placard indicating the COUNTY's name.
2. Only a SHA authorized loader operator shall load the COUNTY trucks.
3. SHA shall create a written loading record that must be signed by the COUNTY driver. A copy shall be given to the COUNTY driver to account for every load of Salt that the COUNTY receives from SHA. Each load record shall contain the following information:
 - a. truck number or license tag number,
 - b. the number of scoops/ buckets loaded,
 - c. the number of tons loaded based on the scoops / bucket size value multiplied by the number of scoops /buckets.

V. PAYMENT

- A. SHA shall provide a detailed invoice to the COUNTY by May 31st of each year for all actual costs incurred to provide Salt to the COUNTY. The invoice shall be accompanied by normal documentation from SHA to evidence actual costs incurred.
- B. Upon request by the COUNTY, SHA may provide information to include the number of buckets and estimated tonnage provided to the COUNTY for each date of delivery.
- C. The estimated cost of the Salt is based on the average amount of Salt used during the previous three (3) years at the prevailing rate at the time of execution of this Agreement and will be subject to future adjustments during the Term according to costs for Salt, delivery and overhead in effect at that time.
- D. Reimbursement to SHA for the Salt during the Term, including SHA overhead, is estimated to be Twenty Five Thousand Dollars (\$25,000) and is based on quantities from the previous term, however, actual costs and tonnage may vary and the COUNTY shall reimburse SHA for all actual tonnage (which includes the delivery charge) and overhead costs.

- E. In the event of extremely heavy Salt usage, SHA reserves the right to submit progress billings to the COUNTY in lieu of an annual invoice.
- F. Invoices for Salt are due within thirty (30) days of receipt.
- G. In the event SHA does not receive payment of an invoice within thirty (30) days of the COUNTY's receipt, SHA will notify the COUNTY of the overdue payment and provide the COUNTY the opportunity to pay such overdue amounts. If payment of the overdue amount is not received within thirty (30) days following notification, SHA will then notify the COUNTY in writing, and the parties hereby agree that SHA may make a deduction from the COUNTY's share of Highway User Revenue equal to the overdue invoice amount(s) or SHA may refer the overdue amount to the Central Collection Unit, at 300 West Preston Street, Room 500, Baltimore MD 21201-2365 for collection of any overdue amount.

VI. GENERAL

- A. SHA does not supply brine, a pretreatment salt-based mixture.
- B. Title VI Assurances. All parties to this Agreement shall comply with the requirements of **APPENDIX A** (2 pages) and **APPENDIX E** (1 page) of SHA's Standard Title VI/Non-Discrimination Assurances DOT Order No. 1050.2A which generally set forth non-discrimination regulations and other civil rights related regulations. **APPENDIX A** and **APPENDIX E** are attached hereto and incorporated herein as substantive parts of this Agreement. The term "Acts" in Appendix A refers to 49 C.F.R. Part 21 and 28 C.F.R. Section 50.3. The term "Recipient" in Appendix refers to MDOT SHA.
- C. SHA and the COUNTY agree to cooperate with each other to accomplish the terms and conditions of this Agreement.
- D. The provisions contained in this Agreement shall be binding upon the parties until the earlier to occur of; (i) three (3) years from the date first written above, (ii) thirty (30) days after written notice has been given by either party to the other that they elect to no longer be bound by the terms and conditions of this Agreement, or (iii) August 31, 2026. However, termination of this Agreement, and any Amendments thereto, is contingent on all outstanding invoices being paid by the COUNTY.
- E. The COUNTY shall indemnify, hold harmless and defend, at SHA's option, the State of Maryland, SHA and the Maryland Department of Transportation, from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, incurred in connection with the loss of life, personal injury and/or property damage arising from or in connection with the activities performed pursuant to this Agreement by the COUNTY or its contractors, agents or assigns.

- F. SHA reserves the right to limit or deny Salt to the COUNTY to avoid jeopardizing SHA's snow remediation operations.
- G. This Agreement shall inure to and be binding upon the Parties, their agents, successors and assigns.
- H. This Agreement and the rights and liabilities of the parties hereto shall be determined in accordance with Maryland law and in Maryland courts.
- I. The recitals (WHEREAS clauses) at the beginning of this Agreement are incorporated as substantive provisions of this Agreement.
- J. All notices and/or invoices, if to the COUNTY, shall be addressed to:
 - Dallas Baker Jr., P.E.
 - Director, Worcester County Department of Public Works
 - 6113 Timmons Road,
 - Snow Hill, MD 21863
 - Phone: 410-632-5623
 - E-mail: dbaker@co.worcester.md.us

And if to SHA:

- Tony Turner
- Resident Maintenance Engineer, D-1
- Maryland State Highway Administration
- 5603 Market Street
- Snow Hill, MD 21863
- Phone: 410-632-0511
- E-mail: tturner2@mdot.maryland.gov

With copies to:

- Mark Crampton
- District Engineer, D-1
- State Highway Administration
- 660 West Road
- Salisbury, MD 21801
- Phone: 410-677-4006
- Email: mcrampton1@mdot.maryland.gov

And,

SHA Agreements Team
Office of Procurement and Contract Management
State Highway Administration
707 N. Calvert Street
Mailstop C-405
Baltimore, MD 21202
Phone: (410) 545-5547
E-mail: shaagreementsteam@mdot.maryland.gov

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers on the day, month and year first above written.

**MARYLAND DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ADMINISTRATION**

WITNESS

By: _____ (SEAL)

Andre Futrell
Deputy Administrator for
District Operations

Date

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

RECOMMENDED FOR APPROVAL:

Assistant Attorney General

Tony Turner
Resident Maintenance Engineer, D-1

William J. Bertrand
Director
Office of Finance

WORCESTER COUNTY, MARYLAND
a body corporate and politic

WITNESS

BY: _____ (Seal)
Anthony W. Bertino, Jr.
President
County Commissioner of Worcester County

Date

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

County Attorney

APPENDIX A OF THE TITLE VI ASSURANCES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient

ITEM 4

or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction; the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 741 00);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Worcester County Government
 One West Market Street | Room 1103 | Snow Hill MD 21863-1195
 (410) 632-1194 | (410) 632-3131 (fax) | admin@co.worcester.md.us | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
 FROM: Nicholas W. Rice, Procurement Officer
 DATE: October 17, 2023
 RE: Request to Award – FY24 Corrugated Metal and Plastic Pipe

Please see the attached bid tabulation for the purchase of corrugated metal and plastic pipe for the Roads Division of Public Works. Public Works is requesting the Commissioner’s review and approval to award to the lowest responsive and responsible vendor, Lane Enterprises Inc.

Bids were due and opened on Thursday, September 28, 2023 at 2:30pm. Three bids were received. With the low bid being significantly lower than the budgeted amount the department is requesting to increase the quantities requested in the bid documents. The low bidder’s total bid was \$82,365.29. After the additional increase in quantities, the actual award amount being requested is \$112,200.30.

Funding in the amount of \$120,000 for this purchase was approved in the current FY24 operating budget under account 100.1202.6140.040, Public Works Roads Division Road Maintenance Materials Pipe.

Should you have any questions, please feel free to contact me.

FY24 Corrugated Metal and Plastic Pipe	
September 28, 2023 @ 2:30pm	
Bid Tabulation	
<u>Vendor Name</u>	<u>Base Bid</u>
Ferguson Waterworks	\$118,365.60
Chemung Supply Corp.	\$104,517.00
Lane Enterprises, Inc.*	\$82, 365.29

*apparent low bidder

County Administration Office
 1 West Market Street, Room 1103
 Snow Hill, MD 21863
 Phone: 410-632-1194



TEL: 410-632-5623
 FAX: 410-632-1753
 WEB: co.worcester.md.us



Worcester County
 DEPARTMENT OF PUBLIC WORKS
 6113 TIMMONS ROAD
 SNOW HILL, MD 21863

DALLAS BAKER JR., P.E.
 DIRECTOR

CHRISTOPHER CLASING, P.E.
 DEPUTY DIRECTOR

MEMORANDUM

TO: Weston Young P.E., Chief Administrative Officer
 Candace Savage, CGFM, Deputy Chief Administrative Officer
FROM: Dallas Baker Jr., P.E., Director *Dallas Baker Jr*
DATE: October 10, 2023
SUBJECT: Ocean Pines WWTP Request to Purchase UV Disinfection Equipment

Public Works is requesting Commissioner approval to purchase replacement ultraviolet (UV) disinfection equipment at the Ocean Pines Wastewater Treatment Plant (WWTP). This item was included in the approved FY 24 budget for \$230,000. The quote from the equipment manufacturer is \$209,530. Funds are available in the Ocean Pines Treatment Plant Capital Equipment Account 555.8003.9010.090.

The proposed purchase is to replace the existing UV disinfection lamps and equipment. Wastewater disinfection is required by the Maryland Department of the Environment (MDE) to treat wastewater before it can be discharged and is included in the WWTP permit for the plant to meet its effluent water quality limits. The current system is 20-30 years old, and the hardware is obsolete. Replacement parts and components are no longer being made. The Trojan System UV3000B equipment is to be considered a sole source item as it will minimize the impact of modifications to the existing facility and allow for optimal integration to the treatment process. In doing so, it will have minimal downtime and not create additional concrete work to be added to the scope of the project. If the disinfection system is not replaced, the WWTP will not be able to meet its permit limits and the service area will be subject to fines and enforcement actions.

Please let me know if there are any questions.

Attachments

CC: Chris Clasing, P.E., Deputy Director
 Tony Fascelli, Water & Wastewater Superintendent

UV3000™ B PROPOSAL

September 6, 2023

Heyward Inc.
10146 West Broad Street
Glen Allen, VA
23060

Attention: Ed Presnell
Reference: Ocean Pines Upgrade, MD
Quote No: 241825

In response to your request, we are pleased to provide the following **Trojan System UV3000™ B** proposal for the **Ocean Pines Upgrade** project. Since Trojan introduced the open channel approach to disinfection in 1982, many municipalities have selected ultraviolet as the preferred method pathogen destruction at their facilities.

The **Trojan System UV3000™ B** utilizes low pressure low intensity lamp technology. All of Trojan's UV systems are modular in design, with each design specific to the effluent criteria. The lamps are oriented in a horizontal configuration parallel to the flow.

Please review our design criteria for peak flow rate, total suspended solids, disinfection limit, and UV transmittance to ensure that the criteria used match actual project parameters. When detailed project design commences, please contact our office for a review of all design parameters, including dimensions and equipment requirements. In addition, Trojan is able to provide analytical services to quantify effluent quality and confirm design criteria as required.

Trojan's price for the attached design is **209,530** (in US\$). This quoted price includes the equipment as described, freight to site and start-up by qualified personnel. This quote **excludes** any taxes that may be applicable. The above information is to be used for budget estimates and is valid for 90 days from this day.

Please do not hesitate to call us if you have any questions or would like additional information. Thank you for the opportunity to quote the **Trojan System UV3000™ B** on this project.

With best regards,
Trojan Technologies

John Faber

John Faber
Regional Sales Manager
Encl.



DESIGN CRITERIA

Current Peak Design Flow:	3.2 MGD
UV Transmission:	65% (minimum)
Total Suspended Solids:	10 mg/l (30-Day Average)
Max Average Particle Size:	30 microns
Disinfection Limit:	14 fecal coliform per 100 ml (30-Day Geometric Mean)
Design Dose:	>60,000 µWs/cm² (by independent field bioassay validation)

DESIGN SUMMARY

Based on the above design criteria, the Trojan System UV3000™B proposed consists of:

Number of Channels:	1
Total Number of Banks:	2
Number of Modules per Bank:	12
Number of Lamps per Module:	8
Total Number of Lamps:	192
Number of Power Distribution Centers:	2
Number of System Control Centers:	1
Type of System Control Centers:	Touch Smart Controller
Number of Level Controllers:	1
Type of Level Controller:	ALC – Counter-weighted Gate

EFFLUENT CHANNEL DIMENSIONS

L =	Minimum length required for flow equalization:	26 ft
W =	Channel width based on number of UV modules:	36 in
D =	Maximum depth required for UV Modules access:	48 in

Dimensions are given for reference only. Consult Trojan Technologies for overall system detailed dimensions.

ELECTRICAL REQUIREMENTS

1. The UV System Control Center requires an electrical service of one (1) 120 Volts, 1 phase, 2 wire (plus ground), 12.5 Amps.
2. Each Power Distribution Center requires an electrical service of one (1) 208 Volts, 3 phase, 4 wires (plus ground), 9.2 kVA.

NOTES

- UV Disinfection Equipment specification is available upon request.
- If there are site-specific hydraulic constrains that must be applied, please consult the manufacturer's representative to ensure compatibility with the proposed system.
- Standard spare parts and safety equipment are included with this proposal.
- Existing UV Module bank support racks are to be re-used.
- The counterweighted gate (ALC) is not designed to handle periods of very low or no flow.
- Electrical disconnects required as per local state code are not included in this proposal.
- Trojan Technologies Inc. warrants all components of the system (excluding UV lamps) against faulty workmanship and materials for a period of 12 months from date of start-up or 18 months after shipment, whichever occurs first.
- Payment Terms: 10% after approved submittal, 85% upon delivery of equipment to site, 5% after equipment acceptance.



Worcester County Administration

One West Market St. Room 1103 | Snow Hill MD 21863 | (410) 632-1194 | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
FROM: Candace Savage, Deputy Chief Administrative Officer *CS*
DATE: October 10, 2023
SUBJECT: Buckingham Elementary

On October 5, 2023 the County learned that the State's Interagency Commission on School Construction (IAC) withdrew funding for Buckingham Elementary in February. The County currently has approximately \$1,480,000 remaining in assigned funds allocated to the design of this project. The State's portion of the estimated \$3,200,000 design was going to be \$1,494,000.

Staff is requesting to move the County's remaining Buckingham design funding from assigned funds to an unrestricted reserve fund until a plan to move forward is determined. In addition, we are requesting approval to support the Board of Education in their appeal with the IAC.

Attachment:
Letter sent to BOE following a October 6, 2023 meeting - Pages 2-3



Worcester County Administration
One West Market St. Room 1103 | Snow Hill MD 21863 | (410) 632-1194 | www.co.worcester.md.us

October 11, 2023

Mr. Todd Ferrante
President
Worcester County Board of Education
6270 Worcester Highway
Newark, MD 21841

Dear Mr. Ferrante:

I am writing in follow up to the October 6, 2023 meeting between Superintendent Taylor and Commissioners Bertino and Bunting. Also present at the meeting were Weston Young, Candace Savage, and Nicholas Rice for the County and Vince Tolbert and Joe Price for the Board of Education (BOE).

After a County staff inquiry of irregularities in the BOE's CIP, Mr. Taylor confirmed for the first time that the State's Interagency Commission on School Construction (IAC) had determined in February 2023 that the State was withdrawing funding for design and construction of the Buckingham Elementary School replacement based on excess capacity at adjacent BOE schools.

As State funding was an integral part of the Commissioners' budgeting for this project, no one at the meeting objected to the suggestion that the most prudent course of action is to pause all future expenditures for the Buckingham project while a path forward is formulated. According to Mr. Price, no contract for schematic design and development has yet been entered. Because of this, now is an opportune time for such a pause that will cause no prejudice to the Commissioners or BOE.

The County, however, is willing to help the BOE resolve this issue and will collaborate with you to restore State funding so that the Buckingham project will be successful in the near future.

Sincerely,



Roscoe R. Leslie

County Attorney

cc: Worcester County Board of Education
County Commissioners of Worcester County
Louis H. Taylor, Superintendent
Vincent Tolbert, Chief Financial Officer
Joe Price, Facilities Planner
Heather Stansbury, Esq.



Worcester County Administration

One West Market St. Room 1103 | Snow Hill MD 21863 | (410) 632-1194 | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
FROM: Candace Savage, Deputy Chief Administrative Officer *CS*
DATE: October 11, 2023
SUBJECT: Work Session on Legislative Priorities

The next Maryland legislative session will convene in Annapolis January 10 – April 8, 2024. Paul Ellington from State and Local Advisors would like to discuss priorities for the upcoming session.



FULTON W. HOLLAND JR
WARDEN

Worcester County
Jail

SHYTINA M. DRUMMOND
ASSISTANT WARDEN

P.O. BOX 189
SNOW HILL, MARYLAND
21863

TEL: 410-632-1300
FAX: 410-632-3002

MEMORANDUM

TO: Weston Young P.E., Chief Administrative Officer
Candace Savage, CGFM, Deputy Chief Administrative Officer

FROM: Fulton W. Holland, Jr., Warden

DATE: September 25, 2023

SUBJECT: Fuel Oil Over Expenditure Request

Worcester County Jail is requesting Commissioner approval for an over expenditure in the FY23 Building Site Expenses for Heating Fuel Oil costs and an anticipated over expenditure for FY24 Heating Fuel Oil. The FY23 Building Site Expenses for Heating Fuel Oil was over budget by \$74,127.84, \$29,556.80 was able to offset using other line items which were underspent, leaving an over expenditure of \$44,571.04. The original FY23 Heating Fuel Oil budget was estimated by using historical rising costs of fuel; however, the estimate did not sufficiently predict the rising costs of fuel. Using this data, we anticipate that in FY24 there will be an over expenditure of \$59,128 in Heating Fuel Oil as indicated below.

100.1103.6550.110 Heating Fuel Oil
FY23 Actual Expense \$259,127.84
FY24 Budget \$200,000.00
FY24 REVISED OVER EXPENDITURE ESTIMATE \$59,128

If you have any questions, please let me know.

cc: Kim Reynolds



Worcester County Government
One West Market Street | Room 1103 | Snow Hill MD 21863-1195
(410) 632-1194 | (410) 632-3131 (fax) | admin@co.worcester.md.us | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
FROM: Nicholas W. Rice, Procurement Officer
DATE: October 17, 2023
RE: Request to Bid – Pocomoke Library Construction Manager at Risk Services

Attached for your review and approval are proposal documents for the Construction Manager at Risk services for the new Pocomoke Library. Once the Commissioners have had the opportunity to review these documents, it is requested that authorization be provided to solicit proposals for these services.

The Construction Manager at Risk (CMAR) is a delivery method which entails a commitment by the Construction Manager (CM) to deliver the project within a Guaranteed Maximum Price (GMP) which is based on the construction documents and specifications at the time of the GMP. The CMAR provides professional services and acts as a consultant to the owner in the design development and construction phases. In addition to acting in the owner's interest, the CMAR must manage and control construction costs to not exceed the GMP because contractually any costs exceeding the GMP that are not change orders are the financial liability of the CMAR.

The CMAR will work with the project team to finalize design and establish bid documents that will be issued to sub-contractors. These bid documents will be brought before the commissioners for approval to solicit bids and recommendation to award after the bid openings. The benefit of hiring the CMAR at this point in design is providing constructibility reviews and cost estimates. This will ensure the project is being designed within the allotted budget established by the commissioners.

Should you have any questions, please feel free to contact me.

**Worcester County Administration
1 West Market Street, Room 1103
Snow Hill, Maryland 21863**



REQUEST FOR PROPOSAL

PROJECT:	Construction Manager at Risk Services Pocomoke Library
DEPARTMENT:	_____

VENDOR:

NAME:	_____
ADDRESS:	_____ _____

PROPOSAL OPENING:

DATE:	_____
TIME:	_____

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SECTION I: INTRODUCTION

A. PURPOSE

1. The purpose of this Request for Proposal Document is for Worcester County (“County”) to contract for Construction Manager at Risk (CMAR) services for the proposed construction of a new library to be located in Pocomoke City, Maryland in conformity with the requirements contained herein (“Proposal Document(s”).

B. CLARIFICATION OF TERMS

1. Firms or individuals that submit a proposal for award of a contract (“Contract”) are referred to as vendors (“Vendors”) in this document. The Vendor that is awarded the Contract is herein referred to as the (“Successful Vendor”).

C. QUESTIONS AND INQUIRES

1. Questions must be addressed in writing to the Worcester County Procurement Officer at nrice@co.worcester.md.us.
2. The last date to submit questions for clarification will be noon on.
3. Addenda are posted on the County website at <https://www.co.worcester.md.us/> under County Info: Bid Board: at <https://www.co.worcester.md.us/commissioners/bids> at least five calendar days before proposal opening.
4. It is the Vendors responsibly to make sure all addenda are acknowledged in their proposal. Failure to do so could result in the proposal being disqualified.

D. FILLING OUT PROPOSAL DOCUMENTS

1. Use only forms supplied by the County.
2. One unbound original and five bound copies of the proposal form and any required attachments must be submitted in the solicitation and can be submitted in the same envelope unless otherwise instructed.
3. Proposal Documents should be complied as follows: (1) Cover letter, (2) Form of Proposal, (3) References, (4) Exceptions Document and Signed addenda, if necessary (5) Individual Principal Document, (6) Vendor’s Affidavit of Qualification to Bid, and (7) Non-Collusive Affidavit
4. Where so indicated by the make-up of the Proposal Documents, sums will be expressed in both words and figures, and in the case of a discrepancy between the two, the amount written in words will govern. In the event there is a discrepancy between the unit price and the extended totals, the unit prices will govern.
5. Any interlineation, alteration, or erasure will be initialed by the signer of the Proposal Documents.
6. Each copy of the Proposal Documents will be signed by the person(s) legally authorized to bind the Vendor to a contract, using the legal name of the signer. Proposal Documents submitted by an agent will have a current Power of Attorney attached certifying the agent’s authority to bind the Vendor.
7. Vendor will supply all information and submittals required by the Proposal Documents to constitute a proper and responsible completed Proposal Document package.
8. Any ambiguity in the Proposal Documents as a result of omission, error, lack of clarity or non-compliance by the Vendor with specifications, instructions, and/or all conditions of bidding will be construed in the light most favorable to the County.

E. SUBMISSION OF PROPOSAL DOCUMENTS

1. All copies of the Proposal Documents and any other documents required to be submitted with the Proposal Documents will be enclosed in a sealed envelope. The envelope will be addressed to the Worcester County Commissioners and will be identified with the project name: **CONSTRUCTION MANAGER AT RISK SERVICES – POCOMOKE LIBRARY** and the Vendor's name and address. If the Proposal Documents are sent by mail, the sealed envelope will be enclosed in a separate mailing envelope with the notation "SEALED PROPOSAL DOCUMENTS ENCLOSED" on the face thereof.
2. Proposals must be mailed or hand carried to the **Worcester County Administration Office, 1 West Market Street, Room 1103, Snow Hill, MD 21863**, in order to be received **prior** to the announced proposal deadline. *Proposals received after said time or delivered to the wrong location will be returned to the Vendor unopened.*
3. **Proposals are due and will be opened at the time listed on the front of this Proposal Document.**
4. If you are delivering a proposal in person please keep in mind to allow time to get through security and into the Administration Office. It is fully the responsibility of the Vendor to ensure that the proposal is received on time.
5. The County will not speculate as to reasonableness of the postmark, nor comment on the apparent failure of a public carrier to have made prompt delivery of the proposal.
6. Vendors, or their authorized agents, are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting Proposal Documents; failure to do so will be at the Vendor's own risk.
7. A fully executed Affidavit of Qualification to Bid will be attached to each Proposal Document.
8. Minority vendors are encouraged to participate.
9. All Vendor submitted Proposal Documents will be valid for a minimum of sixty days from the date of Proposal Document opening.
10. Electronically mailed proposals are **not** considered sealed proposals and will **not** be accepted.

F. **OPENING OF PROPOSALS**

1. Proposal Documents received on time will be opened publicly and Vendor's names and total costs will be read aloud for the record.
2. The Contract will be awarded or all Proposal Documents will be rejected within sixty days from the date of the Proposal Document opening.

G. **ACCEPTANCE OR REJECTION OF PROPOSALS**

1. Unless otherwise specified, the Contract will be awarded to the most responsible and responsive Vendor complying with the provisions of the Proposal Documents, provided the proposal does not exceed the funds available, and it is in the best interest of the County to accept it. The County reserves the right to reject the Proposal Documents of any Vendor who has previously failed to perform properly in any way or complete on time contracts of a similar nature; or a Proposal Document from a Vendor who, investigation shows, is not in a position to perform the Contract; or Proposal Documents from any person, firm, or corporation which is in arrears or in default to the County for any debt or contract.
2. Completed Proposal Documents from Vendors debarred from doing business with the State of Maryland or the Federal Government will not be accepted.
3. In determining a Vendor's responsibility, the County may consider the following qualifications, in addition to price:

- a. Ability, capacity, and skill to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities.
 - b. Character, integrity, reputation, experience and efficiency.
 - c. Quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability.
 - d. Previous and existing compliance with laws and ordinances relating to contracts with the County and to the Vendor's employment practices.
 - e. Evidence of adequate insurance to comply with Contract terms and conditions.
 - f. Statement of current work load and capacity to perform/provide the Goods and/or Services.
 - g. Explanation of methods to be used in fulfilling the Contract.
 - h. The Vendor, if requested, will be prepared to supply evidence of its qualifications, listed above, and its capacity to provide/perform the Goods and/or Services; such evidence to be supplied within a specified time and to the satisfaction of the County.
4. In determining a Vendor's responsiveness, the County will consider whether the Proposal Document conforms in all material respects to the Proposal Documents. The County reserves the right to waive any irregularities that may be in its best interest to do so.
 5. The County will have the right to reject any and all Proposal Documents, where applicable to accept in whole or in part, to add or delete quantities, to waive any informalities or irregularities in the Proposal Document received, to reject a Proposal Document not accompanied by required Bid security or other data required by the Proposal Documents, and to accept or reject any Proposal Document which deviates from specifications when in the best interest of the County. Irrespective of any of the foregoing, the County will have the right to award the Contract in its own best interests.

H. QUALIFICATIONS

1. The Vendor must be in compliance with the laws regarding conducting business in the State of Maryland.
All Vendors shall provide a copy Certificate of Status from the Maryland Department of Assessments and Taxation, evidencing the Vendor is in good standing with the State of Maryland. See https://sdatcert1.resiusa.org/certificate_net/ for information on obtaining the Certificate of Status. *Certificates of status are not available for trade names, name reservations, government agencies, sole proprietorships, and some other accounts as these are not legal entities and thus are not required for these categories of Vendors.* For more information on the Certificate of Status please see <http://www.dat.state.md.us/sdatweb/COSinfo.html> .
2. Worcester County reserves the right, at its sole discretion, to extend the date this documentation must be provided. The Vendor's inability to provide this documentation could result in the proposal being rejected.

I. DESCRIPTIVE LITERATURE

1. The proposed descriptive literature fully describing the product bid is what is intended to be included as the price. Failure to do so may be cause for rejection of the proposal.
2. Any items, systems or devices supplied in this proposal that are proprietary in nature relative to maintenance, repair, servicing or updating must be disclosed on the proposal form.

J. NOTICE TO VENDORS

1. Before a Vendor submits the Proposal Documents it will need to become fully informed as to the extent and character of the Goods and/or Services required and are expected to completely familiarize themselves with the requirements of this Proposal Document's specifications. Failure to do so will not relieve the Vendor of the responsibility to fully perform in accordance therewith. No consideration will be granted for any alleged misunderstanding of the material to be furnished or the Services to be performed, it being understood that the submission of a Proposal Document is an agreement with all of the items and conditions referred to herein.

K. PIGGYBACKING

1. Worcester County may authorize, upon request, any governmental entity (hereafter Authorized User) within the County to purchase items under the contract awarded pursuant to this proposal solicitation.
2. All purchase orders issued against the contract by an authorized User shall be honored by the Successful Vendor in accordance with all terms and conditions of this contract.
3. The issuance of a purchase order by an Authorized User pursuant to this provision shall constitute an express assumption of all contractual obligations, covenants, conditions and terms of the contract. A breach of the contract by any particular Authorized User shall neither constitute nor be deemed a breach of the contract as a whole which shall remain in full force and effect, and shall not affect the validity of the contract nor the obligations of the Successful Vendor thereunder respecting the County.
4. The County specifically and expressly disclaims any and all liability for any breach by an Authorized User other than the County and each such Authorized User and Successful Vendor guarantee to save the County, its officers, agents and employees harmless from any liability that may be or is imposed by the Authorized User's failure to perform in accordance with its obligations under the contract.

END OF SECTION

SECTION II: GENERAL INFORMATION**A. ECONOMY OF PROPOSAL**

1. Proposal Documents will be prepared simply and economically, providing straightforward and concise description of the Vendor's capabilities to satisfy the requirements of the Proposal Documents. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective Proposal Document are neither required nor desired.

B. PUBLIC INFORMATION ACT (PIA)

1. Worcester County is subject to the Maryland Public Information Act and may be required to release proposal submissions in accordance with the Act.
2. Any materials the Vendor deems to be proprietary or copyrighted must be marked as such; however, the material may still be subject to analysis under the Maryland Public Information Act.
 - a. The Vendor may invoke proprietary information or trade secret protection for submission of any data/material by (1) identifying the data/material in a written description, (2) clearly marking the data/material as proprietary, and (3) providing a written statement detailing the reasons why protection is necessary. The County reserves the right to ask for additional clarification prior to establishing protection.

C. CONTRACT AWARD

1. A written award by the County to the Successful Vendor in the form of a Purchase Order or other contract document will result in a binding Contract without further action by either party. If the Successful Vendor fails or refuses to sign and deliver the Contract and the required insurance documentation, the County will have the right to award to the next responsible and responsive Vendor. Contract will be executed by the Successful Vendor within fourteen calendar days of receipt of the Contract.
2. Proposal Documents and Contracts issued by the County will bind the Vendor to applicable conditions and requirements herein set forth, unless otherwise specified in the Proposal Documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.
3. County personal property taxes ("Taxes") must be on a current basis; if any such Taxes are delinquent, they must be paid before award of Contract. Failure to pay will result in the award of Contract to another Vendor.
4. The County reserves the right to engage in individual discussions and interviews with those Vendors deemed fully qualified, responsible, suitable and professionally competent to provide the required Goods and/or Services should the project size warrant it. Vendors will be encouraged to elaborate on their qualifications, performance data, and staff expertise.

D. AUDIT

1. The Successful Vendor agrees to retain all books, records, and other documents relative to the awarded Contract for five years after final payment, or until audited. The County, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period.

E. NONPERFORMANCE

1. The County reserves the right to inspect all operations and to withhold payment for any goods not performed or not performed in accordance with the specifications in this Proposal Document.

Errors, omissions or mistakes in performance will be corrected at no cost to the County. Failure to do so will be cause for withholding of payment for that Goods and/or Services. In addition, if deficiencies are not corrected in a timely manner, the County may characterize the Successful Vendor as uncooperative, which may jeopardize future project order solicitations.

F. MODIFICATION OR WITHDRAWAL OF PROPOSAL

1. A Proposal Document may not be modified, withdrawn, or cancelled by the Vendor during the stipulated time period following the time and date designated for the receipt of Proposal Documents, and each Vendor so agrees in submitting Proposal Documents.

G. DEFAULT

1. The Contract may be cancelled or annulled by the County in whole or in part by written notice of default to the Successful Vendor upon non-performance, violation of Contract terms, delivery failure, bankruptcy or insolvency, any violation of state or local laws, or the making of an assignment for the benefit of creditors. An award may then be made to the next most highly rated Vendor, or when time is of the essence, similar commodities and/or service may be purchased on the open market. In either event, the defaulting Vendor (or his surety) will be liable to the County for cost to the County in excess of the defaulted Contract price.
2. If a representative or warranty of either Party to the Contract is false or misleading in any material respect, or if either Party breaches a material provision of the Contract (“Cause”), the non-breaching Party will give the other Party written notice of such cause. If such Cause is not remedied within fifteen calendar days (“Cure Period”) after receipt of such notice, (unless, with respect to those Causes which cannot be reasonably corrected or remedied within the Cure Period, the breaching Party will have commenced to correct or remedy the same within such Cure Period and thereafter will proceed with all due diligence to correct or remedy the same), the Party giving notice will have the right to terminate this Contract upon the expiration of the Cure Period.

H. COLLUSION/FINANCIAL BENEFIT

1. The Vendor certifies that his/her Proposal is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a Proposal Document for the same project; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.
2. Upon signing the Proposal Document, Vendor certifies that no member of the governing body of the County, or members of his/her immediate family, including spouse, parents or children, or any other officer or employee of the County, or any member or employee of a Commission, Board, or Corporation controlled or appointed by the County Commissioners has received or has been promised, directly or indirectly, any financial benefit, related to this Proposal Document and subsequent Contract.

I. TAX EXEMPTION

1. In buying products directly from a Vendor, Worcester County is exempt from being *directly* charged Federal excise and Maryland sales tax. A copy of an exemption certificate shall be furnished upon request.
2. According to the Office of the Comptroller of Maryland, a *Contractor is responsible for paying sales tax* on his/her purchases relating to any projects or services and should incorporate it into their proposal.
3. Successful Vendors **cannot** use the County tax exemption to buy materials or products used on County projects.

J. CONTRACT CHANGES

1. No claims may be made by anyone that the scope of the project or that the Vendor's Goods and/or Services have been changed (requiring changes to the amount of compensation to the Vendor or other adjustments to the Contract) unless such changes or adjustments have been made by an approved written amendment (Change Order) to the Contract signed by the Chief Administrative Officer (and the County Commissioners, if required), prior to additional Goods and/or Services being initiated. Extra Goods and/or Services performed without prior, approved, written authority will be considered as unauthorized and at the expense of the Vendor. Payment will not be made by the County.
2. No oral conversations, agreements, discussions, or suggestions, which involve changes to the scope of the Contract, made by anyone including any County employee, will be honored or valid. No written agreements or changes to the scope of the Contract made by anyone other than the Procurement Officer (with the Chief Administrative Officer and/or County Commissioners approval, if required) will be honored or valid.
3. If any Change Order in the Goods and/or Services results in a reduction in the Goods and/or Services, the Vendor will neither have, nor assert any claim for, nor be entitled to any additional compensation for damages or for loss of anticipated profits on Goods and/or Services that are eliminated.

K. ADDENDUM

1. No oral statements of any person will modify or otherwise affect or interpret the meaning of the Contract specifications, or the terms, conditions, or other portions of the Contract. All modifications and every request for any interpretation must be addressed to Worcester County's Procurement Officer and to be given consideration, must be received no later than the last day for questions listed in Section I, Subsection C.2.
2. Any and all interpretations, corrections, revisions, and amendments will be issued by the Procurement Officer to all holders of Proposal Documents in the form of written addenda. Vendors are cautioned that any oral statements made by any County employee that materially change any portion of the Proposal Documents cannot be relied upon unless subsequently ratified by a formal written amendment to the Proposal Document.
3. All addenda will be issued so as to be received at least five days prior to the time set for receipt of Proposal Documents, and will become part of the Contract and will be acknowledged in the Proposal Document form. Failure of any Vendor to receive any such addenda will not relieve said Vendor from any obligation under the Proposal Document as submitted.
4. Vendors are cautioned to refrain from including in their Proposal Document any substitutions which are not confirmed by written addenda. To find out whether the County intends to issue an amendment reflecting an oral statement made by any employee, contact Worcester County's Procurement Officer during normal business hours.
5. The Worcester County Procurement Officer reserves the right to postpone the Proposal Document opening for any major changes occurring in the five-day interim which would otherwise necessitate an Addendum.

L. EXCEPTIONS/ SUBSTITUTIONS

1. Any exceptions or substitutions to the specifications requested should be marked on the proposal form and listed on a separate sheet of paper attached to the proposal.

2. An exception to the specifications may disqualify the proposal. The County will determine if the exception is an essential deviation or a minor item.
3. In the case of a minor deviation, the County maintains the option to award to that Vendor if it determines the performance is not adversely affected by the exception.

M. APPROVED EQUALS

1. In all specifications where a material or article is defined by describing a proprietary product or by using the name of a Vendor or manufacturer, it can be assumed that an approved equal can be substituted.
2. The use of a named product is an attempt to set a particular standard of quality and type that is familiar to the County. Such references are not intended to be restrictive.
3. However, the County shall decide if a product does in fact meet or exceed the quality of the specifications listed in the solicitation. It shall be the responsibility of the Vendor that claims his product is an equal to provide documentation to support such a claim.

N. DELIVERY

1. All items shall be delivered F.O.B. destination and delivery costs and charges included in the proposal unless otherwise stated in the specifications or proposal form.

O. INSURANCE

1. If required by the General Conditions or Terms and Conditions, the Successful Vendor shall provide the County with Certificates of Insurance within ten calendar days of proposal award notification evidencing the required coverage.
2. Successful Vendor must provide Certificates of Insurance before commencing work in connection with the Contract.

P. PROPOSAL EVALUATION

1. Proposal tabulations will be posted on the County website at <https://www.co.worcester.md.us/commissioners/bids>. Click on the Expired Bids & Results tab and find the proposal tabulation for the proposal you are interested in. Proposal tabulations will be posted as soon as reasonably possible after the Proposal opening.

END OF SECTION

SECTION III: GENERAL CONDITIONS

A. DRAWINGS AND SPECIFICATIONS

1. Should any detail be omitted from the drawings or specifications, or should any errors appear in either, it shall be the duty of the Successful Vendor to notify the County's designated construction inspector.
2. In no case shall the Successful Vendor proceed with the work without notifying and receiving definite instructions from the County. Work wrongly constructed without such notification shall be corrected by the Successful Vendor at his own cost.

B. MATERIALS, SERVICES AND FACILITIES

1. It is understood that, except as otherwise specifically stated in the Proposal Documents, the Successful Vendor will provide and pay for all materials, labor, tools, equipment, water, light, power and transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.
2. Materials and equipment will be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work will be located so as to facilitate prompt inspection.
3. Manufactured articles, materials, and equipment will be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
4. Materials, supplies and equipment will be in accordance with samples submitted by the Successful Vendor and approved by the County.

C. INSPECTION AND TESTING

1. All materials and equipment used in the construction of the Work will be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Proposal Documents.
2. The County or its representatives may, at any time, enter upon the work and the premises used by the Successful Vendor, and the Successful Vendor shall provide proper and safe facilities to secure convenient access to all parts of the work, and all other facilities necessary for inspection, as may be required.
3. The County will appoint such persons as deemed necessary to properly inspect the materials furnished or to be furnished, and the work done under the contract and to see that the same strictly corresponds with the drawings and specifications. All such materials and workmanship shall be subject to approval of the County. Approval or acceptance of payment shall not be misconstrued as approval of items or work not in conformance with specifications and drawings nor shall it prevent the rejection of said work or materials at any time thereafter during the existence of the contract, should said work or materials be found to be defective, or not in accordance with the requirements of the contract.
4. Work and material will be inspected promptly, but if for any reason should a delay occur, the Successful Vendor shall have no claim for damages or extra compensation.
5. The Successful Vendor shall pay for all inspection costs necessary to complete the work which may be incurred to comply with the requirements of any agency other than the County, such as a

railroad, public service utility company, or any other governmental agency or any other agency whose jurisdiction affects the work in any manner unless otherwise specified herein.

D. APPROVAL OF SUBSTITUTION OF MATERIALS

1. Samples of materials shall be submitted by the Successful Vendor for approval before such materials are ordered from the manufacturers or distributors and shall be approved by the County before actual work is begun.
2. It is the intention of these specifications to permit all vendors bidding on this work to secure the fullest amount of competition on the various materials and specialties names herein. Wherever a material or article is defined by describing a proprietary product or by using the name of a vendor or manufacturer, the term or approved equal shall be presumed to be implied unless otherwise stated.

E. PROTECTION OF WORK, PROPERTY AND PERSONS

1. Successful Vendor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to, all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
2. Successful Vendor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. Successful Vendor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Successful Vendor will notify owners of adjacent utilities when progress of the Work may affect them. The Successful Vendor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by Successful Vendor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable.
3. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Successful Vendor, without special instruction or authorization from the County, will act to prevent threatened damage, injury or loss. Successful Vendor will give the County prompt Written Notice of any significant changes in the Work or deviations from the Proposal Documents caused thereby, and a Change Order will thereupon be issued covering the changes and deviations involved.

F. BARRICADES, DANGER, WARNING AND DETOUR SIGNS

1. The Successful Vendor shall provide, erect and maintain all necessary barricades, sufficient red lights, flares, danger signals and signs, provide a sufficient number of watchmen and take all necessary precautions for the protection of the work and safety of the public.

G. LICENSES AND PERMITS

1. The Successful Vendor shall have all necessary licenses required to do the work and give all notices and obtain and pay all necessary permits required by local laws and regulations for building.
2. State and Federal permits (if applicable) to undertake work have been obtained by the County and accompany these specifications.

H. SUPERVISION

1. The Successful Vendor shall maintain, at all times during the progress of work, a competent and experienced supervisor who shall represent the Successful Vendor, and all directions given to him shall be binding. Important decisions regarding directions, if requested by the supervisor, shall be confirmed in writing.
2. Supervision by the County or its representative does not relieve the Successful Vendor of responsibility for defective work executed under the direct control of the Successful Vendor. Responsibility for defective work rests upon the Successful Vendor, whether discovered by the County prior to final payment or subsequent thereto.

I. CLEAN UP

1. Upon completion of the items within a given location as specified and before monthly estimates will be paid, the construction area and all other areas occupied by the Successful Vendor during the construction of said Contract shall be cleaned of all surplus and discarded materials, bracing, forms, rubbish and temporary structures that were placed there by the Successful Vendor.
2. Disposal of the aforementioned shall be the responsibility of the Successful Vendor.

J. CHANGES IN WORK

1. The County, without invalidating the contract, may order extra work or make changes by altering, adding or deducting from the work with the contract sum being adjusted accordingly.
2. All such work shall be executed under the conditions of the original contract, except that any claim for the extension of time caused thereby shall be adjusted at the time of ordering such change.
3. The value of any such extra work or change shall be determined in one or more of the following ways:
 - a. By estimate and acceptance of lump sum.
 - b. By unit prices named in the contract or subsequently agreed upon.

K. TIME FOR COMPLETION

1. The Work contemplated under this Contract shall be considered as continuous and be completed within the timeframe(s) stated in Section IV of this Proposal Document.
2. The Successful Vendor will be allowed to work eight hours per day, Monday through Friday, except for holidays, fifty-two weeks per year.
3. The Successful Vendor will not be permitted to work on holidays observed by Worcester County or the State of Maryland or on Sundays unless otherwise authorized in writing.
4. In case of an emergency which may require that work be done on Saturdays, Sundays, and Holidays, the Successful Vendor shall request permission of the County to do so. If, in the opinion of the County, the emergency is bonafide, permission may be granted to the Successful Vendor to work such hours as may be determined are necessary by the County. Also, if in the opinion of the County a bonafide emergency exists, the Successful Vendor may be directed to work such hours as may be necessary whether or not the Successful Vendor requests permission to do so.
5. The Successful Vendor shall pay the County for all costs incurred for inspection services required for work permitted during holidays, weekends or in excess of eight hours per day.

L. LIQUIDATED DAMAGES

1. If the Successful Vendor shall fail to start and complete the project within the time frame stated above, the County shall assess liquidated damages in the amounts listed below per calendar day for each and every day the Successful Vendor fails to complete the contract.

<u>Amount of Contract</u>	<u>Liquidated Damages per Day</u>
Less than \$10,000	\$100.00
\$10,000 or less than \$100,000	\$250.00
\$100,000 or less than \$500,000	\$750.00
\$500,000 or more	\$1,000.00
Or will be based on actual cost to the County, whichever is greater.	

2. The designated County project manager reserves the option to extend the scheduled completion date or waive the liquidated damages clause in its entirety if he is of the opinion that extenuating circumstances deemed such action appropriate.

M. CORRECTION OF WORK

1. The Successful Vendor will promptly remove from the premises all Work rejected by the County for failure to comply with the Proposal Documents, whether incorporated in the construction or not, and the Successful Vendor will promptly replace and re-execute the Work in accordance with the Proposal Documents and without expense to the County and will bear the expense of making good all Work of other Vendors destroyed or damaged by such removal or replacement.
2. All removal and replacement Work will be done at the Successful Vendor's expense. If the Successful Vendor does not act to remove such rejected Work within ten days after receipt of Written Notice, the County may remove such Work and store the materials at the expense of the Successful Vendor.

N. CONSTRUCTION SAFETY AND HEALTH STANDARDS

1. It is a condition of this contract, and shall be made a condition of each sub-contract entered into pursuant to this contract, that the Successful Vendor and any sub-contractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time, promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standard Act.) (83 Stat. 96).
2. Failure of Worcester County to inform the Successful Vendor of safety violations will not release the Successful Vendor of his responsibilities.

O. PERFORMANCE AND PAYMENT BONDS

1. The Successful Vendor will be required to provide the County with a Performance Bond and Payment Bond if the total Contract amount exceeds \$100,000, each in the amount of one hundred percent of the Contract Price, with a corporate surety approved by the County for the faithful performance of the Contract.
2. The Successful Vendor will within fourteen calendar days after the receipt of the Contract furnish the County with a Performance Bond and Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Successful Vendor of all undertakings, covenants, terms, conditions and agreements of the Proposal Documents, and upon the prompt

payment by the Successful Vendor to all persons supplying labor and materials in the prosecution of the Work provided by the Proposal Document. Such Bonds will be executed by the Successful Vendor and corporate bonding company licensed to transact such business in the state in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Circular Number 570. The expense of these Bonds will be borne by the Successful Vendor. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State of Maryland or is removed from the list of surety companies accepted on federal bonds, Successful Vendor will within ten calendar days after notice from the County to do so, substitute an acceptable Bond(s) in such form and sum and signed by such other surety or sureties as may be satisfactory to the County.

P. GUARANTEE

1. The Successful Vendor shall furnish the County with a one-year guarantee of workmanship and materials, dating from time of acceptance of the project and shall make good any defects which may occur during that period.
2. If any special guarantees in excess of the one-year period are specified by the manufacturer, these guarantees shall take precedence over the one-year period guarantee.
3. Upon completion of work, and before final payment or release of retainage, the Successful Vendor shall submit, and obtain from each subcontractor, material supplier and equipment manufacture general warranties and a notarized asbestos free guarantee.

END OF SECTION

SECTION IV: PROPOSAL SPECIFICATIONS

A. SCOPE

1. The County is seeking proposals from qualified Vendors to contract for Construction Manager at Risk (CMAR) services for the proposed construction of a new library to be located in Pocomoke City, Maryland in accordance with the terms and conditions and specifications set forth in this solicitation.

B. CONTRACT PRICING

1. Pricing must include all labor, materials, tools, and equipment to perform Work.
2. Pricing will not change during the Contract Period.

C. SUMMARY

1. The Successful Vendor shall provide services for integrated design development, cost estimating, project management, permitting and construction. Construction phase services will require a guaranteed maximum price (GMP) and approved schedule.
2. The project is currently designed at the existing library location of 301 Market Street and includes demolition of the existing structure and construction of a new 12,500 square foot single story public library on the same site.
 - a. Based on schematic design documents, the current estimated value of the Pocomoke library is \$7,426,254 for construction, \$592.54 / GSF.
3. The project shall be developed generally per the schematic design to date by Jeff Schoellkopf / The Design Group dated 10/5/2023.
4. Under the terms of agreement of the standard AIA A133-2019, a CMc with GMP agreement, the Successful Vendor (CM) will participate in the design and process, including the selection of building systems and methods, constructability review, and the development and refinement of cost estimates. The CM will also assist with the competitive bidding process for all subcontractors and materials for this project.
5. Fee shall be provided under this proposal include;
 - a. CM Construction phase management fees
 - b. Labor rates
 - c. Insurance Costs
 - d. General Conditions, including project management and field supervision
6. The County will require the Successful Vendor to provide a Guaranteed Maximum Price (GMP) and schedule for the complete construction of the site and building when construction documents are developed to 85%, subcontractor bidding is complete and a GMP can be set. A separate construction contract shall be executed by the County and Successful Vendor. The County will be under no obligation to accept the GMP or proposed project schedule. The County may elect to continue or not to continue work with the Successful Vendor based on or in part, but not limited to, performance during the preconstruction phase and the ability of the Successful Vendor to provide an acceptable GMP.
7. The County reserves the right to installation of furniture, fixtures and landscaping (not including required landscaping for Stormwater requirements) into the project at substantial completion by its own forces. Both of these activities will be done in a manner that does not interfere with work being performed by Successful Vendor.

D. CONSTRUCTION MANAGEMENT SCOPE OF SERVICES

1. The scope of services for the project shall include, but not be limited to:
 - a. **Perform Constructability Reviews**

b. Bidding Phase

- i. Develop bid packages for public/open solicitation of all subcontractors and material suppliers' proposals required to complete the project. The Successful Vendor shall be primarily responsible for development of divisions zero and one of the specifications. The Architect will be responsible for development of technical specifications and plan notes
- ii. Encourage sub-contractor and supplier interest
- iii. Complete the assembly of bid packages
- iv. Assist County's Procurement Officer in presenting bid specifications for bidding to the County Commissioners for approval in open regularly scheduled meeting
- v. Advertise bidding
- vi. Attend pre-bid conference
- vii. Assist County in the bidding and subcontractor selection process. Evaluate bids and determine recommended sub-contractors to the County. Solicited bids shall be available for the County to review. Public bid openings will be conducted at Worcester County Commissioners office at the Worcester County Government Center Room 1103 – One West Market Street – Snow Hill, MD 21863-1195
- viii. Update project schedule incorporating bid results
- ix. Prepare final project budget, schedule and subcontractor summary/recommendation and submit GMP and schedule for County approval and construction contract development. Recommend final sub-contractor selection to County for Commissioner Approval.

c. Construction Phase (Requires County Commissioners Approval of GMP & Schedule and separate Construction Phase Contract – No construction or material commitments will be made without written direction from the County)

- i. Conduct pre-construction conferences
- ii. Provide open book financial reviews and budget updates reviewed monthly or as requested
- iii. Conduct pre-Installation conferences
- iv. Maintain on-site staff
- v. Process shop drawings and other submittals
- vi. Manage Construction per plans and specifications
- vii. Develop and periodically update detailed project schedule
- viii. Monitor and manage project process
- ix. Control project quality
- x. Conduct project meetings
- xi. Conduct project superintendent meetings
- xii. Prepare and maintain field reports and meeting notes
- xiii. Process change orders
- xiv. Coordinate inspections and testing
- xv. Develop and manage safety management program.
- xvi. Develop and administer implement security plan

d. Post Construction Services

- i. Complete Punch List

- ii. Complete Closeout Documentation
- e. **Other Terms**
 - i. In order for the project to progress to construction, budget constraints must be considered during design by all parties.
 - ii. The owner will require a 5% retainage at each application for payment.
 - iii. No labor or cost for the CMAR shall be included in the subcontractor or material supplier’s bid packages.
 - iv. Within the GMP, the CMAR will pay for all required permits and fees, including inspections and third-party testing and verification, as necessary.
 - v. A date of Substantial Completion will be established by the CMAR and County prior to the start of construction.
 - vi. Payment shall be governed by the approved pre-construction award amount and completion of services. Invoices may be submitted based on completed work and paid based on approval by the Architect, County, and Library Board of Trustees net 60 days. Application for payment shall be submitted on AIA form G702 and follow associated instructions. Two (2) copies are required to be submitted to the Contract Coordinator.
 - vii. Change orders – Change orders shall be submitted to the contract coordinator – 3 copies are required. Change orders must include a full itemization of material and labor necessary to complete the work and include a written description of the change. It is preferable to execute change orders by lump sum price. All change orders must be approved by the County. Adequate time must be allowed for change order submission, review and approval by the County. (approximately 4-week cycle depending on quality of submission).
 - viii. A work initiating meeting shall be held with the CMAR and County representatives after award to review the contract documents, schedule, work plan and any other issues pertinent to the completion of the project. Prior to beginning work on the project, the Successful Vendor shall be provided “Notice to Proceed” letter from the County.
 - ix. Prior to bidding of subcontractors, the CMAR and County shall review proposed funding grant requirements and determine special bidding requirements to fulfill any funding stipulations such as, but not limited to, minimum wage rates, minority contractor requirements, etc.

E. PROPOSAL REQUIREMENTS

- 1. The following items shall be included in the Proposal. The proposal should be organized by the same heading title sections as follows:
 - a. Transmittal Letter
 - i. Each proposal shall include a binding transmittal letter signed by a party authorized to obligate the vendor (and respective team members) to perform the commitments included in the proposal.
 - ii. If a team of firms is submitting the proposal, then the proposal must clearly identify the lead or prime member of the team as the contractor.
 - iii. The letter must also identify the contact person for future communications and the person responsible for future negotiations with the County if selected.

- iv. The letter should commit the vendor's to meeting the RFP goals and objectives, as well as a statement agreeing to comply with all relevant governing bodies' rules and regulations if awarded the contract.
- b. Summary of Offer must include
 - i. Name of Firm
 - ii. Location of Principal branch office serving the project
 - iii. Length of Time in business
 - iv. Firm ownership structure
 - v. Annual revenues and annual construction dollar amount over the past 3 years
 - vi. General business approach
- c. Past-Project Experience and Team
 - i. Proposals shall include a brief description of recent past projects/programs that are similar in nature as those expected to result from this RFP for the vendor and the Project Team and included Construction Management at Risk delivery methods. Please limit the list to 5 projects. The description for each project/program should include:
 - a. The project name
 - b. Location
 - c. Project size
 - d. Project type
 - e. Year completed
 - f. Delivery method
 - g. GMP cost and project final cost including all change orders
 - h. Name of vendor's Project Manager
 - i. Name of client contact, address and direct email & phone number
 - j. Brief physical description of the project
 - k. List and briefly describe a maximum of 5 projects with the following attributes:
 - i. High performance energy efficient
 - ii. LEED or other efficiency metric certified
 - iii. Projects delivered through an IPD (Integrated project delivery) or ID (Integrated Design) process.
- d. Qualifications (Prime)
 - i. Proposals must provide information that clearly demonstrates the ability of the vendor and the proposed team to fully deliver the Scope of Services called for in this RFP.
 - ii. Describe how the vendor will propose to approach the project from a management standpoint.
 - iii. Explain the process and procedures you would recommend for subcontractor pre-qualification and bidding.
 - iv. Provide details of scope of services to be provided during pre-construction.
- e. Resumes and Staffing (Prime)
 - i. Proposals shall include resumes for the Prime contractor's key personnel who would be involved with the County throughout the project.

- a. President/Owner Representative
- b. Senior Manager
- c. Project Manager
- d. Alternate Project Manager
- e. Identify vendor's proposed management staff for the project.
Provide an Organizational Chart identifying key individuals who will be assigned to the project, and included brief resumes of key personnel
- f. Price Proposal
 - i. The vendors submitting to this RFP/Solicitation shall include the following:
 - a. A completed Form of Bid
 - ii. Basis of compensation: describe in detail the basis of your construction management fee, bid general conditions, and estimated reimbursable expenses. List all personnel that will be required to complete the CM Services.
 - iii. On the Attached Bid Form – Provide the following Construction Management Fee pricing:
 - a. Pre-construction fee inclusive of all costs that will be charged to the County including reimbursables included in this RFP and per AIA 133-2019.
 - b. Construction CM Fee (as flat fee).
 - c. Construction Insurance (as a percentage).
 - d. General Conditions (indicate number of months included) Including;
 - i. Management
 - ii. Field Supervision
 - iii. All normal division 1 expenses (list by item)
 - iv. Bonding Statement describing financial ability to be bonded by a surety company.

F. GENERAL REQUIREMENTS

- 1. The Successful Vendor must be licensed to perform Work in the state of Maryland.

G. ATTACHMENTS

- 1. Proposed Site Plan – Dated 10/3/23
- 2. Site Permit Plans – Dated 10/5/23
- 3. Schematic Design Estimate – 8/11/23
- 4. Boundary Topographic Survey – Dated 8/25/23
- 5. AIA B133-2019 Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- 6. AIA A133-2019 CMc with Guaranteed Maximum Price Agreement
- 7. AIA A201-2017 General Conditions of the Contract for Construction

H. PAYMENT

- 1. The County will make payment(s) to the Successful Vendor within thirty calendar days from the receipt of a proper invoice for approved and accepted work performed.
- 2. Unless otherwise noted, **all additional charges shall be included in the price quoted.**
 - a. This includes delivery, shipping, and any other materials (proofs, paper, etc.) needed to successfully complete the project according to the terms described.

- b. The County will not be responsible for any costs incurred by any vendor in preparing and submitting a proposal.
- 3. Successful Vendor agrees to complete any necessary vendor paperwork as required by the County.

I. QUESTIONS

- 1. The last day for questions is listed under Section I, Subsection C.2.

J. AWARD

- 1. The County intends to award to the Vendor whose Completed Proposal Documents represents the best value to the County.

END OF SECTION

SECTION V: EVALUATION AND SELECTION PROCESS

A. EVALUATION

1. All Vendors are advised that in the event of a receipt of adequate number of Proposal Documents which, in the opinion of the County, require no clarification and/or supplementary information, such Proposal Documents may be evaluated without discussion. Hence, Proposal Documents should be initially submitted on the most complete and favorable terms which Vendors are capable of offering the County. Proposal Documents will be evaluated using the following criteria:

Weighting Factor	Criterion
30%	Expertise, experience, and qualifications of the Vendor as related to the Scope of Work, including successful related past experience and relevant project references
20%	Proposed key personnel to be assigned, especially the PM and Field Supervision
10%	General Approach to address project goals
10%	Approach to project cost control and problem solving
30%	Fee Proposal

2. Each Vendor will be rated for each criterion on a scale of zero to four as described below.

Unacceptable	0
Poor	1
Fair	2
Good	3
Superior	4

- a. A Vendor’s final grade will be the sum of each criterion’s rating multiplied by the weighting factor listed above.
3. After identifying the short list of the most qualified Vendor(s) based on the evaluation criteria, representative(s) may be required to clarify their Proposals by making individual presentations to the evaluation committee.
4. The County may enter into negotiations with Vendors and invite best and final offers as deemed to be in the best interest of the County. Negotiations may be in the form of face-to-face, telephone, facsimile, e-mail or written communications, or any combination thereof, at the County’s sole discretion.
5. Vendors are strongly advised not to prepare their Proposal submissions based on any assumption or understanding that negotiations will take place. Vendors are advised to respond to this Request for Proposals fully and with forth-rightness at the time of Proposal submission.
6. Vendors are strongly cautioned not to contact elected officials or members of the evaluation committee. All questions and comments should be directed through the Purchasing Department. Inappropriate efforts to lobby or influence individuals involved in this selection may result in dismissal from further consideration, at the County’s sole discretion.

END OF SECTION

THIS AND PREVIOUS SECTIONS, OTHER THAN THE COVER PAGE, DO NOT NEED TO BE RETURNED WITH SUBMITTAL

FORM OF PROPOSAL

To whom it may concern:

We hereby submit our Proposal Documents for “CONSTRUCTION MANAGER AT RISK SERVICES – POCOMOKE LIBRARY” as indicated in the Proposal Documents. Having carefully examined the Proposal Documents and having received clarification on all items of conflict or upon which any doubt arose, the undersigned hereby requests consideration of our Vendor for award of the referenced Proposal.

ITEM	DESCRIPTION	PRICE
1	Construction Management Fee	
2	Construction Insurance (%)	
3	General Conditions / # of months	

The Vendor agrees that the proposal will be good for at least sixty (60) days unless otherwise indicated in the proposal specifications.

Is your company currently involved in any active litigation? (Yes)____ (No) _____ CHECK One.

Have you included your certificate of good standing with the State of Maryland? (See Section I, Subsection H.1 for more information.) (Yes)____ (No) _____ CHECK One.

Is your company currently involved in any mergers or acquisitions? (Yes)____ (No) _____ CHECK One.

Has your organization compiled your Completed Proposal Document as per Section I, subsection D.3 and in accordance with the Proposal Specifications Section of this Proposal Document?
(Yes)____ (No) _____ CHECK One

NOTE: THIS PROPOSAL FORM MUST BE SIGNED BY AN OFFICER OF YOUR COMPANY OR AN AUTHORIZED AGENT FOR THIS PROPOSAL TO BE CONSIDERED VALID BY THE COUNTY.

Sign for Identification

Printed Name

Title

Email

REFERENCES

List three references for which the Vendor has provided Goods/Services similar to those requested in the Proposal Document within the last 12-36 months. Include contact name, address, telephone number, email address and services provided.

Company Name:		Company Name:	
Type of Project:		Type of Project:	
Address:		Address:	
Town, State, Zip Code:		Town, State, Zip Code:	
Contact Person:		Contact Person:	
Telephone Number:		Telephone Number:	
Email:		Email:	
Date of Service:		Date of Service:	
Company Name:			
Type of Project:			
Address:			
Town, State, Zip Code:			
Contact Person:			
Telephone Number:			
Email:			
Date of Service:			

Sign for Identification

Printed Name

EXCEPTIONS

The undersigned hereby certifies that, except as listed below, or on separate sheets attached hereto, the enclosed Completed Proposal Document covers all items as specified.

EXCEPTIONS:

(If none, write none) _____

How did you hear about this solicitation?

- Worcester County's Website
- eMaryland Marketplace Advantage (eMMA)
- Newspaper Advertisement
- Direct email
- Other _____

The vendor hereby acknowledges receipt of the following addenda.

<u>Number</u>	<u>Date</u>	<u>Initials</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sign for Identification

Printed Name

INDIVIDUAL PRINCIPAL

Vendor Name: _____

Signed By: _____ In the presence of: _____

Address of Vendor: _____ Town, State, Zip _____

Telephone No.: _____ Fax: _____ Email: _____

CO-PARTNERSHIP PRINCIPAL

Name of Co-Partnership: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax: _____

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

CORPORATE PRINCIPAL

Name of Corporation: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax: _____

Signed By: _____ In the presence of: _____

President

Witness

Attest: _____

Corporate Secretary

Affix Corporate Seal

VENDOR’S AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT:

I, _____ am the _____
(Printed Name) (title)
and the duly authorized representative of the Vendor of
_____ whose address is
(name of corporation)

_____ and that I possess the legal authority to make this affidavit on behalf of myself and the Vendor for which I am acting.

Except as described in paragraph 3 below, neither I nor the above Vendor, nor to the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute, bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State “none” or, as appropriate, list any conviction, plea or admission described in paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the Vendor, and the sentence or disposition, if any.)

I acknowledge that this affidavit is to be furnished to the County, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the County may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Sign for Identification

Printed Name

NON-COLLUSIVE AFFIDAVIT

_____ being first duly sworn,
deposes and says that:

1. He/she is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Vendor that has submitted the attached Proposal Documents;
2. He/she is fully informed respecting the preparation and contents of the attached Proposal Document and of all pertinent circumstances respecting such Proposal Documents;
3. Such Proposal Document is genuine and is not a collusive or sham Proposal Document;
4. Neither the said Vendor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Vendor, firm, or person to submit a collusive or sham Proposal Document in connection with the Work for which the attached Proposal Document has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Vendor, firm, or person to fix the price or prices in the attached Proposal Document or of any other Vendor, or to fix any overhead, profit, or cost elements on the Proposal Document price or the Proposal Document price of any other Vendor, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Work;
5. The price or prices quoted in the attached Proposal Document are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Vendor or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

Witness

Witness

By: _____
Signature

Printed Name

Title

EXHIBIT A

WORCESTER COUNTY MARYLAND
STANDARD TERMS AND CONDITIONS

The provisions below are applicable to all Worcester County (“County”) contracts. These provisions are not a complete agreement. These provisions must be attached to an executed document that identifies the work to be performed, compensation, term, incorporated attachments, and any special conditions (“Contract”). If the Standard Terms and any other part of the Contract conflict, then the Standard Terms will prevail.

1. **Amendment.** Amendments to the Contract must be in writing and signed by the parties.
2. **Bankruptcy.** If a bankruptcy proceeding by or against the Contractor is filed, then:
 - a. The Contractor must notify the County immediately; and
 - b. The County may cancel the Contract or affirm the Contract and hold the Contractor responsible for damages.
3. **Compliance with Law.** Contractor must comply with all applicable federal, state, and local law. Contractor is qualified to do business in the State of Maryland. Contractor must obtain, at its expense, all licenses, permits, insurance, and governmental approvals needed to perform its obligations under the Contract.
4. **Contingent Fee Prohibition.** The Contractor has not directed anyone, other than its employee or agent, to solicit the Contract and it has not promised to pay anyone a commission, percentage, brokerage fee, contingent fee, or other consideration contingent on the making of the Contract.
5. **Counterparts and Signature.** The Contract may be executed in several counterparts, each of which may be an original and all of which will be the same instrument. The Contract may be signed in writing or by electronic signature, including by email. An electronic signature, a facsimile copy, or computer image of the Contract will have the same effect as an original signed copy.
6. **Exclusive Jurisdiction.** All legal proceedings related to this Contract must be exclusively filed, tried, and maintained in either the District Court of Maryland for Worcester County, Maryland or the Circuit Court of Worcester County, Maryland. The parties expressly waive any right to remove the matter to any other state or federal venue and waive any right to a jury trial.
7. **Force Majeure.** The parties are not responsible for delay or default caused by fire, riot, acts of God, County-declaration-of-emergency, or war beyond their reasonable control. The parties must make all reasonable efforts to eliminate a cause of delay or default and must, upon cessation, diligently pursue their obligations under the Contract.
8. **Governing Law.** The Contract is governed by the laws of Maryland and the County.
9. **Indemnification.** The Contractor must indemnify the County and its agents from all liability, penalties, costs, damages, or claims (including attorney’s fees) resulting from personal injury, death, or damage to property that arises from or is connected to the performance of the work or failure to perform its obligations under the Contract. All indemnification provisions will survive the expiration or termination of the Contract.

10. Independent Contractor.

- a. Contractor is an “Independent Contractor”, not an employee. Although the County may determine the delivery schedule for the work and evaluate the quality of the work, the County will not control the means or manner of the Contractor’s performance.
- b. Contractor is responsible for all applicable taxes on any compensation paid under the Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers’ compensation benefits under the Contract.
- c. Contractor must immediately provide the County notice of any claim made against Contractor by any third party.

11. Insurance Requirements.

- a. Contractor must have Commercial General Liability Insurance in the amounts listed below. The insurance must include coverage for personal injury, discrimination, and civil rights violation claims. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”. A copy of the certificate of insurance must be filed with the County before the Contract is executed, providing coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$500,000 for property damage.
- b. Contractor must have automobile insurance on all vehicles used in the Contract to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations in connection with the Contract. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”.
- c. Contractor must provide the County with a certification of Workers’ Compensation Insurance, with employer’s liability in the minimum amount required by Maryland law in effect for each year of the Contract.
- d. All insurance policies must have a minimum 30 days’ notice of cancellation. The County must be notified immediately upon cancellation.
- e. When insurance coverage is renewed, Contractor must provide new certificates of insurance prior to expiration of current policies.

12. **Nondiscrimination.** Contractor must not discriminate against any worker, employee, or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. This provision must be incorporated in all subcontracts related to the Contract.

13. Ownership of Documents; Intellectual Property.

- a. All documents prepared under the Contract must be available to the County upon request and will become the exclusive property of the County upon termination or completion of the services. The County may use the documents without restriction or without additional compensation to the Contractor. The County will be the owner of the documents for the purposes of copyright, patent, or trademark registration.
- b. If the Contractor obtains, uses, or subcontracts for any intellectual property, then it must provide an assignment to the County of ownership or use of the property.
- c. The Contractor must indemnify the County from all claims of infringement related to

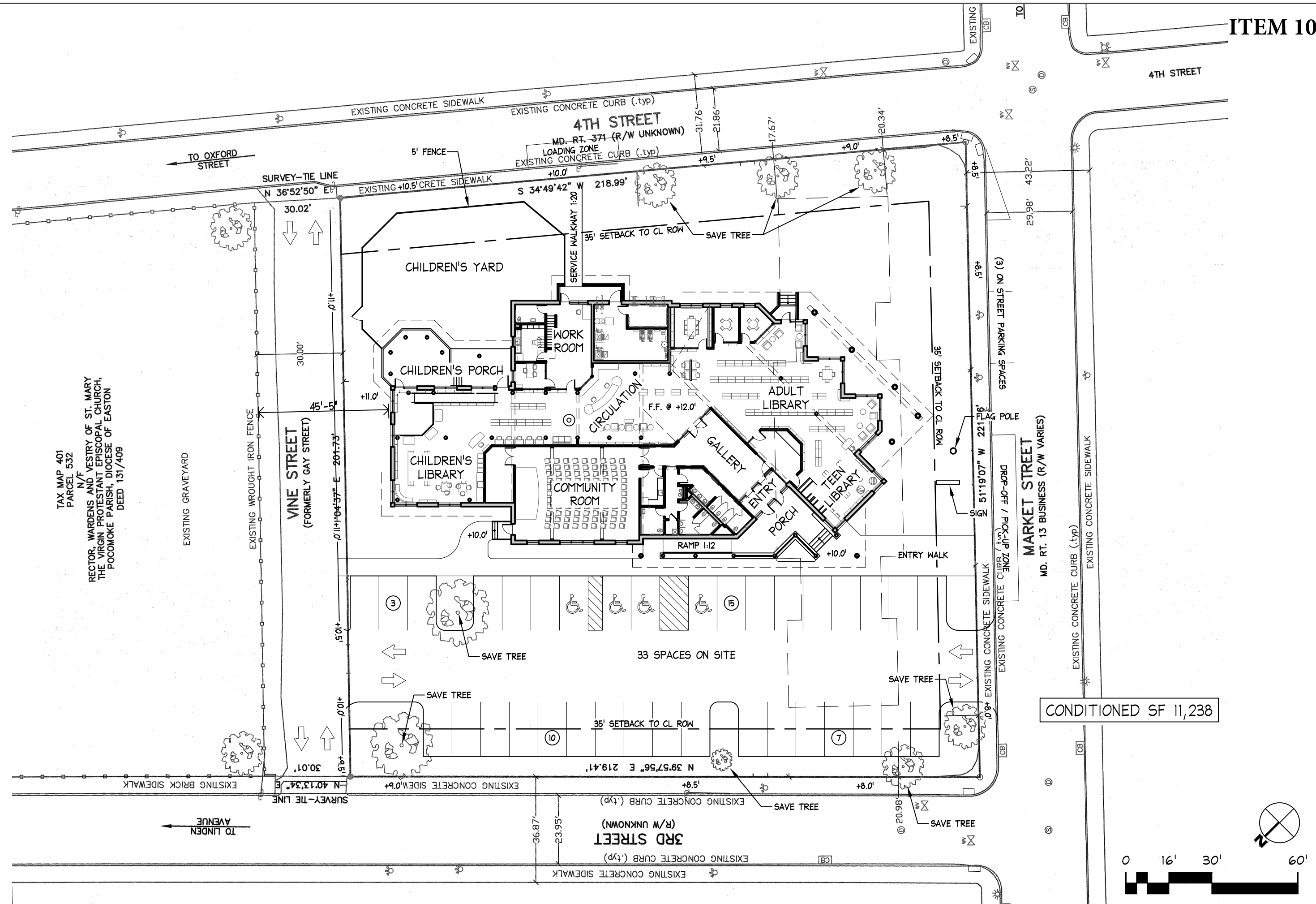
the use of any patented design, device, materials, or process, or any trademark or copyright, and must indemnify the County, its officers, agents, and employees with respect to any claim, action, costs, or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment, or services covered by the Contract.

14. **Payments.** Payments to the Contractor under the Contract will be within 30 days of the County's receipt of a proper invoice from the Contractor. If an invoice remains unpaid 45 days after the invoice was received, interest will accrue at 6% per year.
15. **Records.** Contractor must maintain fiscal records relating to the Contract in accordance with generally accepted accounting principles. All other relevant records must be retained by Contractor and kept accessible for at least three years after final payment, termination of the Contract, or until the conclusion of any audit, controversy, or litigation related to the Contract. All subcontracts must comply with these provisions. County may access all records of the Contractor related to the Contract.
16. **Remedies.**
- a. **Corrections of errors and omissions.** Contractor must perform work necessary to correct errors and omissions in the services required under the Contract, without undue delays and cost to the County. The County's acceptance will not relieve the Contractor of the responsibility of subsequent corrections of errors.
 - b. **Set-off.** The County may deduct from any amounts payable to the Contractor any back-charges, penalties, or damages sustained by the County, its agents, or employees caused by Contractor's breach. Contractor will not be relieved of liability for any costs caused by a failure to satisfactorily perform the services.
 - c. **Cumulative.** These remedies are cumulative and without waiver of any others.
17. **Responsibility of Contractor.**
- a. The Contractor must perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services.
 - b. Notwithstanding any review, approval, acceptance, or payment for the services by the County, the Contractor will be responsible for the accuracy of any work, design, drawings, specifications, and materials furnished by the Contractor under the Contract.
 - c. If the Contractor fails to conform with subparagraph (a) above, then it must, if required by the County, perform at its own expense any service necessary for the correction of any deficiencies or damages resulting from the Contractor's failure. This obligation is in addition to any other remedy available to the County.
18. **Severability/Waiver.** If a court finds any term of the Contract to be invalid, the validity of the remaining terms will not be affected. The failure of either party to enforce any term of the Contract is not a waiver by that party.
19. **Subcontracting or Assignment.** The Contractor may not subcontract or assign any part of the Contract without the prior written consent of the County. The County may withhold consent for any reason the County deems appropriate.

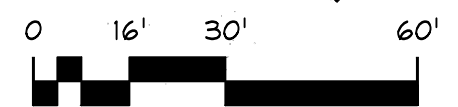
20. **Termination.** If the Contractor violates any provision of the Contract, the County may terminate the Contract by written notice. All finished or unfinished work provided by the Contractor will, at the County's option, become the County's property. The County will pay the Contractor fair compensation for satisfactory performance that occurred before termination less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages.
21. **Termination of Contract for Convenience.** Upon written notice, the County may terminate the Contract when the County determines termination is in the County's best interest. Termination for convenience is effective on the date specified in the County's written notice. The County will pay for reasonable costs allocable to the Contract for costs incurred by the Contractor up to the date of termination. But the Contractor will not be reimbursed for any anticipatory profits that have not been earned before termination.
22. **Termination of Multi-year Contract.** If funds are not available for any fiscal period of the Contract after the first fiscal period, then the Contract will be terminated automatically as of the beginning of unfunded fiscal period. Termination will discharge the Contractor and the County from future performance of the Contract, but not from their rights and obligations existing at the time of termination.
23. **Third Party Beneficiaries.** The County and Contractor are the only parties to the Contract and are the only parties entitled to enforce its terms. Nothing in the Contract gives any benefit or right to third persons unless individually identified by name and expressly described as intended beneficiaries of the Contract.
24. **Use of County Facilities.** Contractor may only County facilities that are needed to perform the Contract. County has no responsibility for the loss or damage to Contractor's personal property which may be stored on County property.
25. **Whole Contract.** The Contract, the Standard Terms, and attachments are the complete agreement between the parties and supersede all earlier agreements, proposals, or other communications between the parties relating to the subject matter of the Contract.

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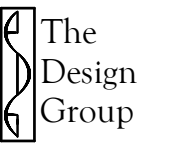
TAX MAP 401
PARCEL 532
N/F
RECTOR, WARDENS AND VESTRY OF ST. MARY
THE VIRGIN PROTESTANT EPISCOPAL CHURCH,
POCOMOKE PARISH, DIOCESE OF EASTON
DEED 131/409



CONDITIONED SF 11,238



ITEM 10



Architect
Jeff Schoellkopf, AIA
PO Box 237
Warren VT 05674
tel 802-496-2166
www.thedesigngroupvt.com

WORCESTER COUNTY LIBRARY POCOMOKE BRANCH

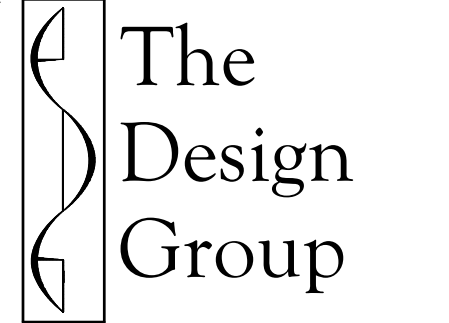
301 MARKET STREET
POCOMOKE CITY, MD 21851

10.03.2023

Scale: 1"=30'

Proposed
Site Plan

A1.1



Architecture Planning & Interior Design

Architect
Jeff Schoellkopf, AIA
PO Box 237
Warren VT 05674
tel 802-496-2166
fax 802-329-2311
www.tdgv.com

These plans are for DESIGN PURPOSES ONLY. They are NOT FOR CONSTRUCTION and are subject to structural engineering, permitting, and final selection of materials and details.

Site Permit Plans

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Worcester County Library
Pocomoke Branch

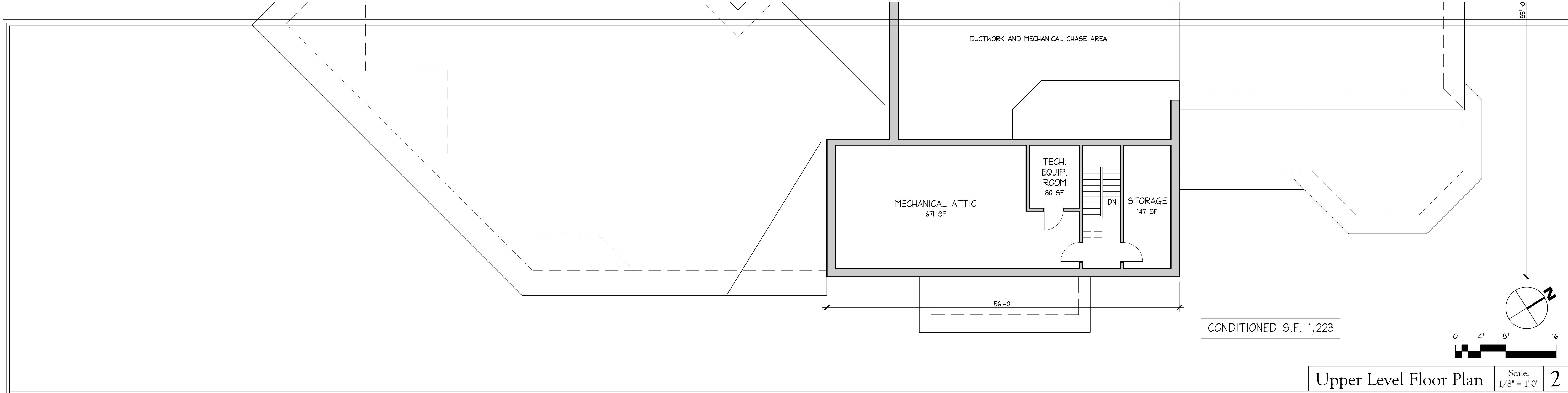
301 Market Street
Pocomoke City, Maryland 21851

REVISIONS

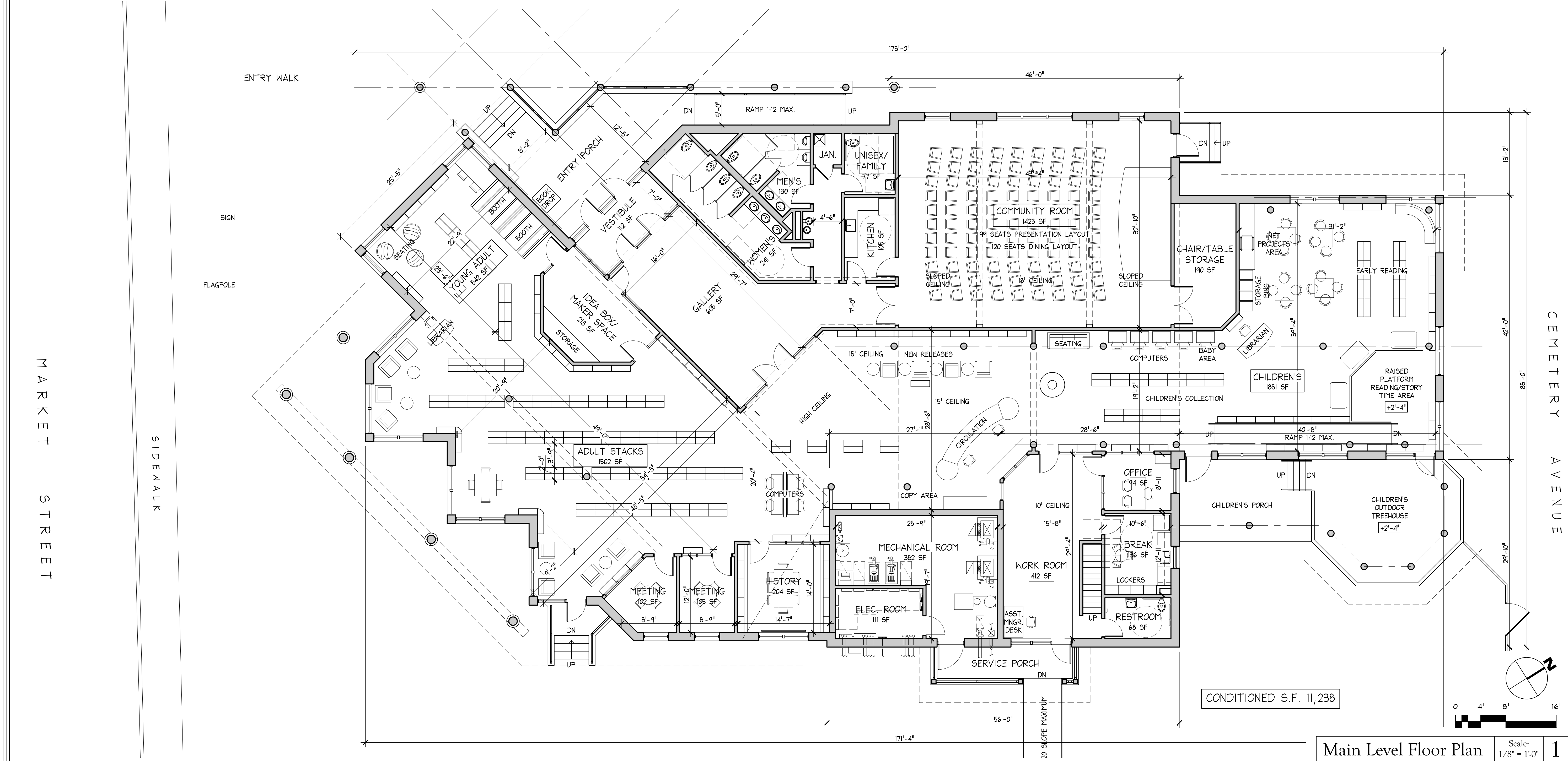
DATE : 10.05.2023

Floor Plans

A2.1

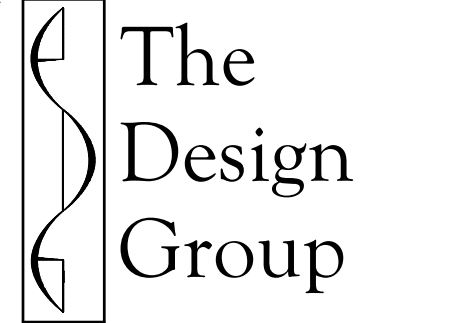


Upper Level Floor Plan Scale: 1/8" = 1'-0" 2



Main Level Floor Plan Scale: 1/8" = 1'-0" 1

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Site Permit Plans

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Worcester County Library
Pocomoke Branch

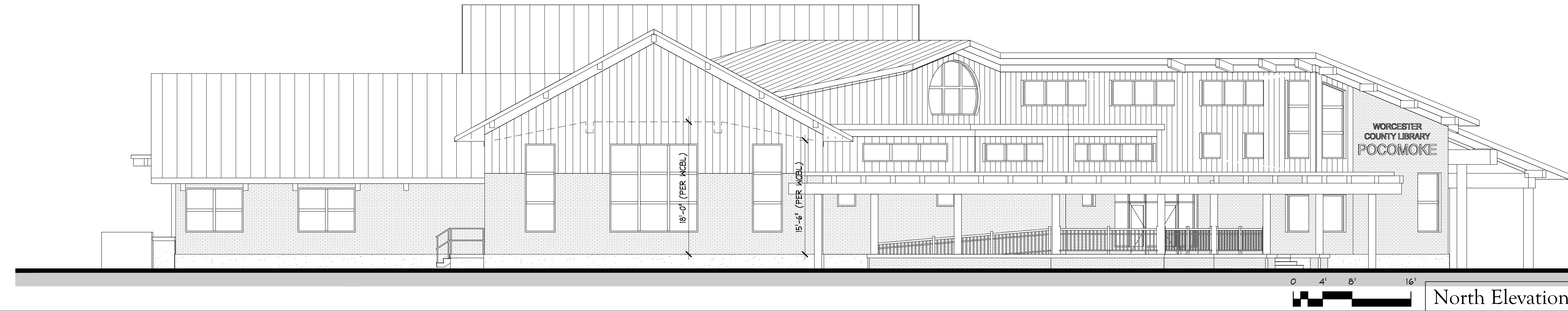
301 Market Street
Pocomoke City, Maryland 21851

REVISIONS

DATE : 10.05.2023

Exterior Elevations

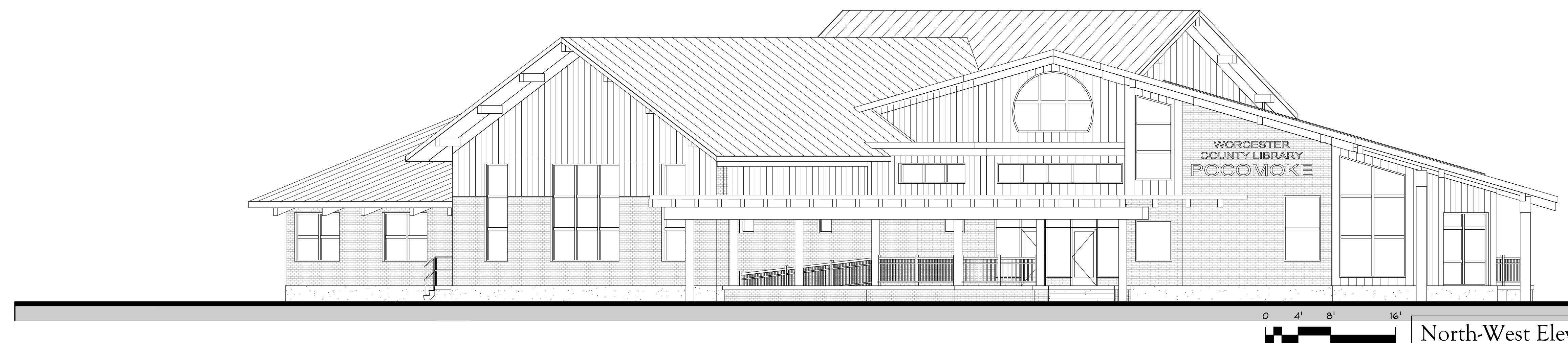
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North Elevation

Scale: 1/8" = 1'-0"

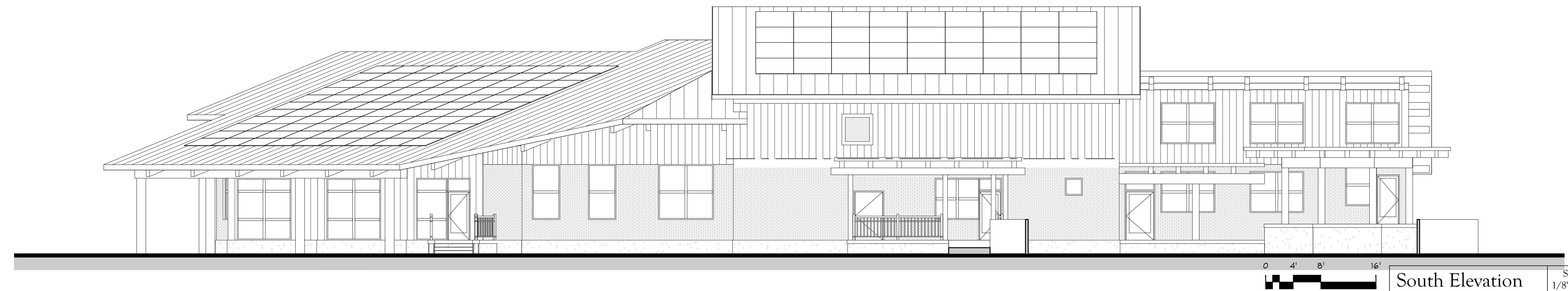
5



North-West Elevation

Scale: 1/8" = 1'-0"

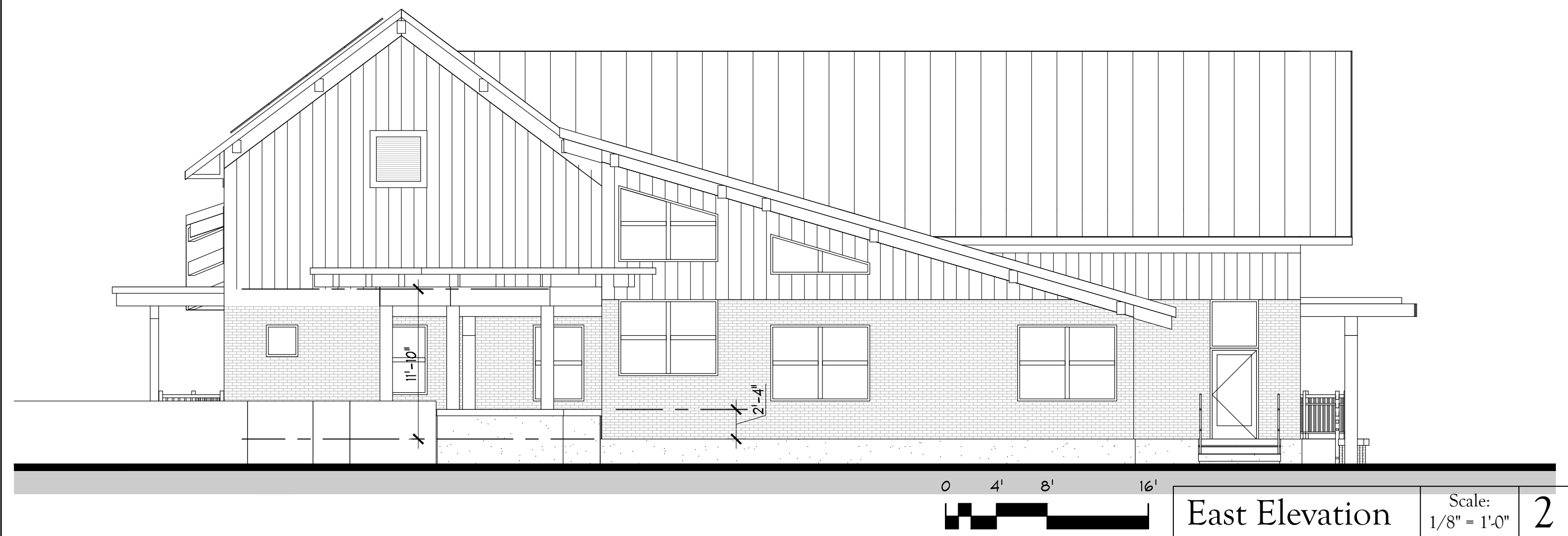
4



South Elevation

Scale: 1/8" = 1'-0"

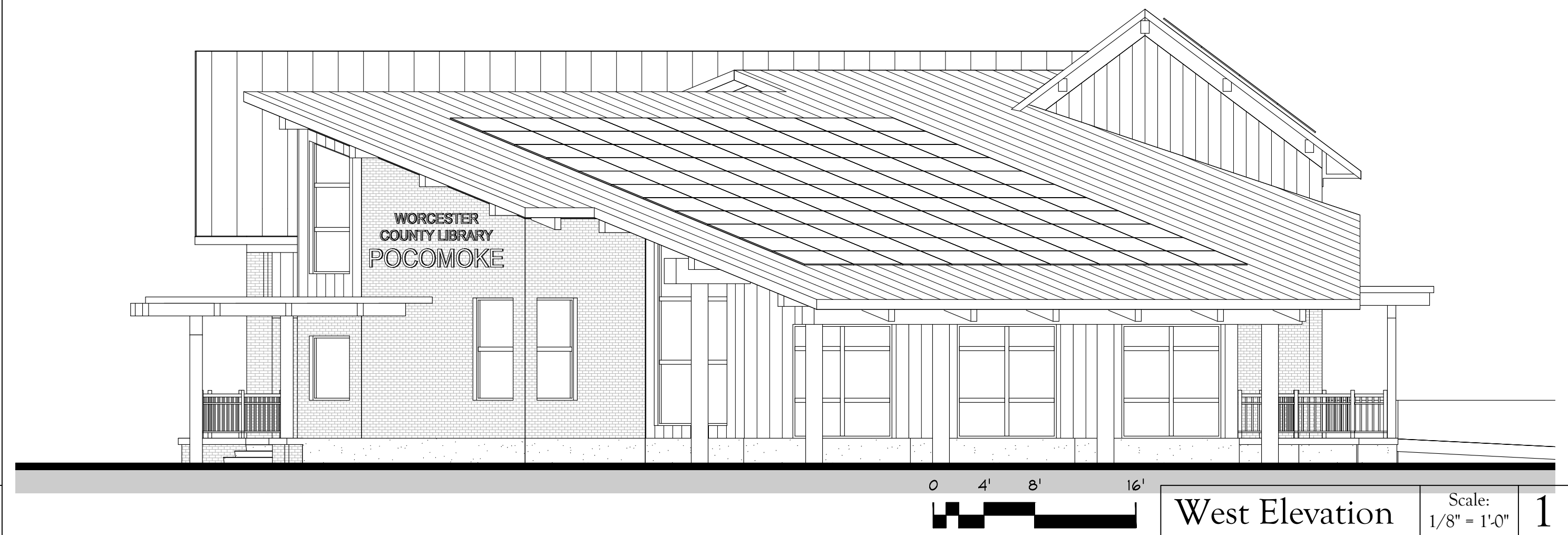
3



East Elevation

Scale: 1/8" = 1'-0"

2



West Elevation

Scale: 1/8" = 1'-0"

1

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	<p>The Whiting-Turner Contracting Company 100 West Main Street Salisbury, MD 21804 410-677-3253 www.whiting-turner.com</p>	
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Project Name: Worcester County Pocomoke Branch Library

Type of Estimate: Schematic Design Estimate (*Existing Site*)

Estimate Date: August 11, 2023

Project Location: 301 Market Street, Pocomoke City, MD 21851

Owner: Worcester County Government - County Commissioners

Whiting-Turner Contact: Adam Leonard

Whiting-Turner VP: Scott Saxman

Architect/Engineer: The Design Group

Document Set: Schematic Design Documents - dated 05.17.2023
(*Existing Site*)

Project Description: Demolition of the existing building followed by the construction of a new 12,500 square foot single story public library located on the current library site on Market Street. Scope includes existing site and utility upgrades, along with a high performance building envelope for increased energy efficiency and end user comfort.



ITEM 10

col1 col2 Description GSF Floor Ht (FT) Perimeter (LF) Skin SF Spaces Site SF Acres

PROJECT ATTRIBUTES

BUILDING

GSF Analysis by Floor

LOCATION	GSF	FLOOR HT (FT)	PERIMETER (LF)	SKIN SF
Level 1	11,367	25.00	522	13,050
Level 2	1,166	Inc.	Inc.	Inc.
BUILDING - GBSF TOTAL	12,533	25.00	522	13,050

SITE DEVELOPMENT

LOCATION	SPACES	SITE SF	ACRES
Site Development - LOD		53,600	1.23
SITE DEVELOPMENT - GBSF TOTAL	-	53,600	1.2



Worcester County Pocomoke Branch Library
Schematic Design Estimate (Existing Site) - 08/11/2023

Cost Summary

DIVISION	BUILDING			SITE DEVELOPMENT			PROJECT TOTAL		
	12,533	GSF	BLDG	1.2	ACRE	SITE	12,533	GSF	
	COST	\$/SF	% COW	COST	\$/ACRE	% COW	COST	\$/SF	% COW
1 General Requirements	\$ 197,803	\$ 15.78	4.00%	\$ 22,000	\$ 17,879.10	4.35%	\$ 219,803	\$ 17.54	4.03%
2 Existing Conditions	\$ 274,500	\$ 21.90	5.55%	\$ 36,500	\$ 29,663.06	7.22%	\$ 311,000	\$ 24.81	5.70%
3 Concrete	\$ 356,022	\$ 28.41	7.20%	\$ -	\$ -	0.00%	\$ 356,022	\$ 28.41	6.53%
4 Masonry	\$ 174,000	\$ 13.88	3.52%	\$ -	\$ -	0.00%	\$ 174,000	\$ 13.88	3.19%
5 Metals	\$ 97,660	\$ 7.79	1.97%	\$ -	\$ -	0.00%	\$ 97,660	\$ 7.79	1.79%
6 Wood, Plastics, and Composites	\$ 193,664	\$ 15.45	3.91%	\$ -	\$ -	0.00%	\$ 193,664	\$ 15.45	3.55%
7 Thermal & Moisture Protection	\$ 783,010	\$ 62.48	15.83%	\$ -	\$ -	0.00%	\$ 783,010	\$ 62.48	14.36%
8 Openings	\$ 196,160	\$ 15.65	3.96%	\$ -	\$ -	0.00%	\$ 196,160	\$ 15.65	3.60%
9 Finishes	\$ 672,032	\$ 53.62	13.58%	\$ -	\$ -	0.00%	\$ 672,032	\$ 53.62	12.32%
10 Specialties	\$ 45,985	\$ 3.67	0.93%	\$ 10,000	\$ 8,126.87	1.98%	\$ 55,985	\$ 4.47	1.03%
11 Equipment	\$ 13,750	\$ 1.10	0.28%	\$ -	\$ -	0.00%	\$ 13,750	\$ 1.10	0.25%
12 Furnishings	\$ 124,968	\$ 9.97	2.53%	\$ -	\$ -	0.00%	\$ 124,968	\$ 9.97	2.29%
13 Special Construction	\$ -	\$ -	0.00%	\$ -	\$ -	0.00%	\$ -	\$ -	0.00%
14 Conveying Systems	\$ -	\$ -	0.00%	\$ -	\$ -	0.00%	\$ -	\$ -	0.00%
21 Fire Suppression	\$ 68,932	\$ 5.50	1.39%	\$ -	\$ -	0.00%	\$ 68,932	\$ 5.50	1.26%
22 Plumbing	\$ 125,330	\$ 10.00	2.53%	\$ -	\$ -	0.00%	\$ 125,330	\$ 10.00	2.30%
23 HVAC	\$ 755,730	\$ 60.30	15.28%	\$ -	\$ -	0.00%	\$ 755,730	\$ 60.30	13.86%
25 Integrated Automation	\$ 43,866	\$ 3.50	0.89%	\$ -	\$ -	0.00%	\$ 43,866	\$ 3.50	0.80%
26 Electrical	\$ 654,999	\$ 52.26	13.24%	\$ 15,500	\$ 12,596.64	3.06%	\$ 670,499	\$ 53.50	12.30%
27 Communications	\$ 106,631	\$ 8.51	2.16%	\$ -	\$ -	0.00%	\$ 106,631	\$ 8.51	1.96%
28 Electronic Safety & Security	\$ 62,350	\$ 4.97	1.26%	\$ -	\$ -	0.00%	\$ 62,350	\$ 4.97	1.14%
31 Earthwork	\$ -	\$ -	0.00%	\$ 129,726	\$ 105,426.93	25.65%	\$ 129,726	\$ 10.35	2.38%
32 Exterior Improvements	\$ -	\$ -	0.00%	\$ 162,817	\$ 132,319.49	32.19%	\$ 162,817	\$ 12.99	2.99%
33 Site Utilities	\$ -	\$ -	0.00%	\$ 129,205	\$ 105,003.17	25.55%	\$ 129,205	\$ 10.31	2.37%
SUBTOTAL - COST OF WORK	\$ 4,947,391	\$ 394.75	100.00%	\$ 505,749	\$ 411,015.26	100.00%	\$ 5,453,140	\$ 435.10	100.00%
Preconstruction Services (Separate Funding)	\$ -	\$ -	#N/A	\$ -	\$ -	#N/A	\$ -	\$ -	
Design and Estimating Contingency	\$ 163,594	\$ 13.05	3.00%	\$ 15,172	\$ 12,330.46	3.00%	\$ 178,767	\$ 14.26	
Construction/CM Contingency	\$ 164,172	\$ 13.10	3.00%	\$ 15,172	\$ 12,330.46	3.00%	\$ 179,344	\$ 14.31	
General Conditions	\$ 577,118	\$ 46.05	Fixed	\$ -	\$ -	Fixed	\$ 577,118	\$ 46.05	
Liability Insurance	\$ 59,551	\$ 4.75	0.90%	\$ 5,024	\$ 4,082.57	0.90%	\$ 64,574	\$ 5.15	
Whiting-Turner Bond	\$ 58,057	\$ 4.63	1.00%	\$ 5,365	\$ 4,360.46	1.00%	\$ 63,422	\$ 5.06	
Whiting-Turner Fee	\$ 175,911	\$ 14.04	3.00%	\$ 16,257	\$ 13,212.20	3.00%	\$ 192,169	\$ 15.33	
Builder's Risk Insurance	\$ 7,319	\$ 0.58	0.12%	\$ 676	\$ 549.24	0.12%	\$ 7,995	\$ 0.64	
CONSTRUCTION TOTALS	\$ 6,153,113	\$ 490.95 / GSF		\$ 563,416	\$ 457,880.64 / ACRE		\$ 6,716,529	\$ 535.91 / GSF	
FF&E, Artwork, and AV	\$ 500,000	\$ 39.89	Fixed	\$ -	\$ -	Fixed	\$ 500,000	\$ 39.89	
Permitting Fees	\$ 25,000	\$ 1.99	Fixed	\$ -	\$ -	Fixed	\$ 25,000	\$ 1.99	
Escalation Contingency	\$ 169,097	\$ 13.49	3.00%	\$ 15,628	\$ 12,700.37	3.00%	\$ 184,725	\$ 14.74	
CONSTRUCTION PROJECT TOTALS	\$ 6,847,210	\$ 546.33 / GSF		\$ 579,044	\$ 470,581.01 / ACRE		\$ 7,426,254	\$ 592.54 / GSF	
Owner's Costs									
Architectural / Engineering Fees (Separate Funding)	\$ -	\$ -	Fixed	\$ -	\$ -		\$ -	\$ -	
Owner Contingency	\$ 109,063	\$ 8.70	2.00%	\$ -	\$ -		\$ 109,063	\$ 8.70	
FF&E Design	\$ 25,000	\$ 1.99	Fixed	\$ -	\$ -		\$ 25,000	\$ 1.99	
Testing & Inspection Costs	\$ 50,000	\$ 3.99	Fixed	\$ -	\$ -		\$ 50,000	\$ 3.99	
GRAND TOTAL PROJECT COST	\$ 7,031,273	\$ 561.02 / GSF		\$ 579,044	\$ 470,581.01 / ACRE		\$ 7,610,317	\$ 607.22 / GSF	
County contribution after \$2.2M State Funding							\$ 5,410,317	\$ 431.69 / GSF	

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
01 GENERAL REQUIREMENTS					
01 50 00 Temporary Facilities and Controls					
General Requirements	1	ls	\$ 197,803.00	\$ 197,803	See GR tab for breakdown and more detail
01 70 00 Execution and Closeout Requirements					
TOTAL - DIV 1				\$ 197,803	
02 EXISTING CONDITIONS					
02 40 00 Demolition and Structure Moving					
Demo Existing Library	9,150	gsf	\$ 30.00	\$ 274,500	Demo of exiting building and footings
TOTAL - DIV 2				\$ 274,500	
03 CONCRETE					
03 30 00 Cast in Place Concrete					
<u>Standard Foundations</u>					
Concrete Foundations	1	ls	\$ 126,355.00	\$ 126,355	
Rebar	1	ls	\$ 27,500.00	\$ 27,500	
Foundation Wall- Building Perimeter	85	cy	\$ 700.00	\$ 59,630	
<u>Slab on Grade</u>					
Slab on Grade - 4"	11,367	sf	\$ 11.00	\$ 125,037	Incl concrete, stone base, vapor barrier
Broom Finish Concrete	-	ls	\$ -	\$ -	See division 31
<u>Walls and Columns</u>					
Mock-Up of Site & Foundation wall	1	ls	\$ 7,500.00	\$ 7,500	Concrete only
<u>Miscellaneous</u>					
Housekeeping Pads	500	sf	\$ 20.00	\$ 10,000	
03 40 00 Precast Concrete					
Precast Concrete - Architectural					
TOTAL - DIV 3				\$ 356,022	
04 MASONRY					
04 20 00 Unit Masonry					
CMU Foundation Walls - Building Shell	-	sf	\$ 46.00	\$ -	
Brick Veneer	4,350	sf	\$ 40.00	\$ 174,000	
04 40 00 Stone Assemblies					
Stone Cladding		sf	\$ -	\$ -	
TOTAL - DIV 4				\$ 174,000	
05 METALS					
05 10 00 Structural Metal Framing					
Structural Steel Material	10	ton	\$ 4,200.00	\$ 42,000	
Structural Steel Decking and Joist Material	1,344	sf	\$ 15.00	\$ 20,160	1.5" B roof deck(22 ga) Galvanized G60 decking on bar joists
Fabrication	1	ls	\$ -	inc.	
Erection	1	ls	\$ -	inc.	
Detailing and Engineering	1	ls	\$ 5,000.00	\$ 5,000	
05 40 00 Cold Formed Metal Framing					
See Division 9 - Structural Studs included in wall systems costs					

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
05 50 00 Metal Fabrications					
<u>Miscellaneous Metals</u>					
Allowance for Miscellaneous Metals	1	allow	\$ 7,500.00	\$ 7,500	
Metal Roof Ladders	-	vlf	\$ -	\$ -	
Ships Ladder	-	ea	\$ 6,500.00	\$ -	
Overhead Support Steel - Toilet Partitions	50	lf	\$ 100.00	\$ 5,000	
Overhead Support Steel - Projection Screens	50	lf	\$ 100.00	\$ 5,000	
Overhead Support Steel - Projector Mounts	25	lf	\$ 100.00	\$ 2,500	
Pipe Railings Type	-	lf	\$ 150.00	\$ -	
<u>Canopies</u>					
Canopy Framing	-	sf	\$ -	\$ -	Canopy framing included in structural metal framing and division 06.
<u>Egress Stairs and Railings</u>					
Metal Pan Stairs / Landings	18	rsr	\$ 400.00	\$ 7,200	Includes concrete infill
Center Stair Railings - steel handrail, 1/2" pickets, typ.	-	lf	\$ 100.00	\$ -	
Hand Railings, Wall Mounted - Type 3	44	lf	\$ 75.00	\$ 3,300	
TOTAL - DIV 5				\$ 97,660	
06 WOOD, PLASTICS, AND COMPOSITES					
06 10 00 Rough Carpentry					
Rough Carpentry (In wall Strapping / Blocking)	12,533	sf	\$ 1.50	\$ 18,800	
Roof Blocking	2,088	lf	\$ 13.00	\$ 27,144	Includes blocking for gutters, perimeter 3 rows of 2"x8"
PT Exterior Blocking	2,610	lf	\$ 15.00	\$ 39,150	1 row of 2"x8" at window, curtain wall, and storefront locations. Continuous blocking at soffit
Soffit Infill Framing	3,027	sf	\$ 10.00	\$ 30,270	Supplemental Soffit Infill Framing
2x12 exterior exposed wood joists - soffit system	400	sf	\$ 24.00	\$ 9,600	2x12 joists #1 or better S4S Douglas Fir
2x12 interior exposed wood joists - high ceilings	1,800	sf	\$ 24.00	\$ 43,200	At high ceiling of Adult Stacks
Plywood decking at exterior entrance canopies / low slope roofs	3,501	sf	\$ 6.70	\$ 23,457	
Plywood @ Elec or Mech Rm Com Rm for mounting 4x8 sheet	2	ea	\$ 500.00	\$ 1,000	presumed 8' Height, two walls
06 40 00 Architectural Woodwork					
Wood Base - Paint Grade	522	lf	\$ 2.00	\$ 1,044	
Wood Base - Clear Finish	-	lf	\$ -	\$ -	
Wood Veneer Wall Paneling	-	lf	\$ -	\$ -	
Casework, Cabinets, Countertops, Etc. - see Div 12					
TOTAL - DIV 6				\$ 193,664	

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
07 THERMAL & MOISTURE PROTECTION					
07 10 00 Damp proofing & Waterproofing					
Damp proofing at Foundation Wall	2,610	sf	\$ 1.25	\$ 3,263	
Waterproofing - Fluid Applied Membrane	4,758	sf	\$ 2.00	\$ 9,516	
Vertical Wall Drainage Board	2,610	sf	\$ 1.75	\$ 4,568	
07 20 00 Thermal Protection/Weather Barriers					
Below grade Sips	-	sf	\$ 14.00	\$ -	
Exterior Wall Rigid Insulation - Foundation Wall	2,610	sf	\$ 2.00	\$ 5,220	
Air/Vapor Barrier - SPF	11,650	sf	\$ 5.25	\$ 61,163	Assumed Henry Air-Bloc 31MR and Blueskin SA - Includes lifts
Air Barrier Testing	-	sf	\$ -	\$ -	See general requirement for Envelope consultant
07 40 00 Roofing and Siding Panels					
Standing Seam Metal Roofing	13,925	sf	\$ 28.00	\$ 389,900	Reduced from \$30 / SF on 3/27/23
Metal Wall Panel System - Exterior	4,122	sf	\$ 32.00	\$ 131,904	Reduced from \$35 / SF on 3/27/23
Metal Panel Wall System Testing	-	ls	\$ -	\$ -	See general requirement for Envelope consultant
Metal Panel Wall System Mock-up	1	ls	\$ 1,500.00	\$ 1,500	
Building Envelope Performance Testing	-	allow	\$ -	\$ -	See general requirement for Envelope consultant
Fiber Cement Panel	3,309	sf	\$ 10.00	\$ 33,090	Fascia & Soffit System
07 50 00 Membrane Roofing					
TPO Membrane	3,501	sf	\$ 20.00	\$ 70,020	
07 60 00 Flashing and Sheet Metal					
Flashing/Penetrations	1	Allow	\$ 5,000.00	\$ 5,000	
07 70 00 Roof and Wall Specialties and Accessories					
Coping - typ. bent metal	339	lf	\$ 20.00	\$ 6,780	
Walkway Pads (Precast 2' x 2')	-	ea	\$ 80.00	\$ -	
Scuppers	-	ea	\$ -	\$ -	Included in gutter and downspout
Collection Boxes	-	ea	\$ -	\$ -	Included in gutter and downspout
Gutters	339	lf	\$ 26.00	\$ 8,814	
Downspouts	270	lf	\$ 32.00	\$ 8,640	18 locations assuming 15 height
Fall Arrest Anchorage Devices	-	ea	\$ -	\$ -	None assumed
Roof Hatches	-	ea	\$ 3,000.00	\$ -	None assumed
Roof - Expansion Joints	-	lf	\$ 45.00	\$ -	None assumed
Roof Curbs - Mechanical Eqpt	-	lf	\$ 48.00	\$ -	None assumed
07 80 00 Fire and Smoke Protection					
<u>Penetration Fire Stopping</u>					
Fire Sealants	1	allow	\$ 5,000.00	\$ 5,000	Based on Building SF
<u>Spray Applied Fireproofing & Intumescent Paint</u>					
Spray Applied Fireproofing	-	sf	\$ -	\$ -	None assumed
Intumescent Fireproofing	-	sf	\$ -	\$ -	None assumed

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
07 90 00 Joint Protection					
Interior Architectural Caulking	12,533	sf	\$ 1.00	\$ 12,533	Based on Building SF
Exterior Caulking	13,050	sf	\$ 2.00	\$ 26,100	Based on SF of envelope
Expansion Joints - Vertical Building Façade		lf	\$ -	\$ -	None assumed
Expansion Joints - Interior Floors, Walls, Ceilings		lf	\$ -	\$ -	None assumed
TOTAL - DIV 7				\$ 783,010	

08 OPENINGS

08 10 00 Doors and Frames

Exterior Doors

Exterior HM/HM - Single - 3' 0" x 7' 0"		ea	\$ 1,900.00	\$ -	Furnish Only
Exterior HM/HM - Single - 4' 0" x 8' 0"	1	ea	\$ 1,900.00	\$ 1,900	Furnish Only
Exterior HM/HM - Double - 6' 0" x 7' 0"		ea	\$ 2,430.00	\$ -	Furnish Only
Exterior HM/HM - Double - 6' 0" x 7' 2"	1	ea	\$ 2,430.00	\$ 2,430	Furnish Only
Exterior HM/HM - Single - 4' 0" x 8' 0" - Non electrified	1	ea	\$ 550.00	\$ 550	Install Only
Exterior HM/HM - Double - 6' 0" x 7' 0" - Non electrified	1	ea	\$ 700.00	\$ 700	Install Only
Exterior HM/HM - Single - 3' 0" x 7' 0" - Electrified		ea	\$ 500.00	\$ -	Install Only
Exterior HM/HM - Double - 6' 0" x 7' 0" - Electrified	4	ea	\$ 800.00	\$ 3,200	Install Only

Interior Doors

Interior HM/HM - Single - 3' 6" x 7' 0"		ea	\$ 1,000.00	\$ -	Furnish Only
Interior HM/HM - Single - 3' 0" x 7' 2"	2	ea	\$ 1,000.00	\$ 2,000	Furnish Only
HM/HM - Double - 6' 0" x 7' 0"		ea	\$ 2,100.00	\$ -	Furnish Only
Sliding Rite Slide Doors SCWD - Single - 3' 4" x 8' 0"	1	ea	\$ 2,500.00	\$ 2,500	Furnish Only
Sliding Rite Slide Doors SCWD - Double - 6' 0" x 8' 0"	2	ea	\$ 2,500.00	\$ 5,000	Furnish Only,
Interior SCWD/HM - Single - 3' 0" x 7' 0"		ea	\$ 1,220.00	\$ -	Plastic laminate (std laminate) at LPDL doors + Prefinished Red Oak at SCWD doors Finish Hardware for above and cylinders only for alum doors - Furnish Only
Interior LPDL/HM - Single - 3' 0" x 7' 10"	14	ea	\$ 1,220.00	\$ 17,080	Furnish Only
Interior SCWD/HM - Single - 3' 4" x 7' 2"	1	ea	\$ 1,220.00	\$ 1,220	Furnish Only
Interior SCWD/HM - Single - 3' 6" x 7' 10" Vision Glass	1	ea	\$ 1,220.00	\$ 1,220	
Interior SCWD/HM - Single - 3' 0" x 7' 0" Full Glass	1	ea	\$ 1,220.00	\$ 1,220	
Interior SCWD/HM - Double - 6' 0" x 7' 0"	1	ea	\$ 2,150.00	\$ 2,150	Furnish Only
Interior SCWD/HM - Double - 6' 0" x 7' 0" Vision Glass		ea	\$ -	\$ -	
Interior SCWD/HM - Single - 4' 0" x 7' 10"	24	ea	\$ 550.00	\$ 13,200	Install only
Premium for Fire Rating (per leaf)	4	ea	\$ 50.00	\$ 200	
Premium for Card Readers		ea	\$ 560.00	\$ -	Division 28

08 30 00 Specialty Doors and Frames

Exterior Overhead Doors - 8' x 8'		ea	\$ -	\$ -	none assumed
Access Panels	25	ea	\$ 150.00	\$ 3,750	
Vertical Fire and Smoke Curtain		sf	\$ -	\$ -	none assumed

08 40 00 Entrances, Storefronts, and Curtainwalls

Exterior Storefront Curtainwall/Doors

Interior Glass Doors

Interior Storefront Door - Single 3' 0" x 7' 0"		ea	\$ -	\$ -	
Interior Storefront Door - Double 6' 0" x 7' 0"		pr	\$ -	\$ -	
Interior Frameless Glass Door - Single 3' 0" x 8' 0"	2	ea	\$ 3,950.00	\$ 7,900	
Interior Frameless Glass Door - Single 3' 3" x 8' 0"	1	ea	\$ 3,950.00	\$ 3,950	
Interior Frameless Glass Door - Double 6' 0" x 8' 0"	1	pr	\$ 5,950.00	\$ 5,950	
Interior Frameless Glass Door - Single 4' 0" x 8' 0"	4	ea	\$ 3,950.00	\$ 15,800	
Premium for Full Glass Fire-Rated Doors		ea	\$ -	\$ -	
Auto Operators Single - Interior - just operator	1	ea	\$ 2,800.00	\$ 2,800	
Auto Operators Double - Interior	1	ea	\$ 4,000.00	\$ 4,000	
Auto Operators Single - Exterior	2	ea	\$ 2,800.00	\$ 5,600	
Auto Operators Double - Exterior	1	ea	\$ 4,000.00	\$ 4,000	
Card Readers		ea	\$ -	\$ -	See security

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
<u>Exterior Curtainwall / Storefront Systems</u>					
Curtainwall - CW-1	250	sf	\$ 120.00	\$ 30,000	
Storefront - SF-1	250	sf	\$ 82.00	\$ 20,500	
<u>Interior Glass Walls</u>					
Interior Storefront - GW-1	10	sf	\$ 419.00	\$ 4,190	
08 50 00 Windows and Glass					
<u>Exterior Windows</u>					
Aluminum Windows	250	sf	\$ 110.00	\$ 27,500	
<u>Interior Glass and Glazing</u>					
Interior Glazing - Premium for Fire Rated Glass		sf	-	-	none assumed
Mirrors - Frameless	25	sf	\$ 50.00	\$ 1,250	none assumed
08 90 00 Louvers and Vents					
Louvers - Prefinished Aluminum to Match Metal Panels	40	sf	\$ 110.00	\$ 4,400	none assumed
TOTAL - DIV 8				\$ 196,160	

09 FINISHES

09 20 00 Plaster and Gypsum Board

Structural Stud Wall Assemblies

Wood Framing System - Exterior Back-up, Building Shell & Core. 12,533 sf \$ 38.00 \$ 476,254 Wood Framing, insulated sheathing, inwall insulation, drywall and finishing

Exterior Soffit System 3,027 sf \$ 5.00 \$ 15,135

Interior GWB Wall Assemblies

Included in Wood Framing System

Premium for STC Rating 12,533 sf \$ 0.50 \$ 6,267

Premium for Level 5 Finish sf \$ - - none assumed

Premium for Abuse Resistant 12,533 sf \$ 1.00 \$ 12,533

Premium for Impact Resistant sf \$ - - none assumed

Interior GWB Ceiling Assemblies

GWB Ceilings - Metal framing - sf \$ 15.00 \$ - - Included in Wood Framing System

GWB Ceilings - Moisture Resistant sf \$ - - - Included in Wood Framing System

Acoustical Ceiling Panels - Moisture Resistant sf \$ - - - Included in Wood Framing System

GWB Bulkheads - lf \$ 60.00 \$ - - Included in Wood Framing System

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
09 30 00 Tiling (See finish matrix)					
<u>Tile/Stone Flooring</u>					
Porcelain Tile - Floor		sf	\$ 13.50	\$ -	None assumed
Porcelain Tile - Base		lf	\$ 20.00	\$ -	None assumed
Ceramic Tile - Floor	411	sf	\$ 9.25	\$ 3,802	
Ceramic Tile - Base		lf	\$ 7.75	\$ -	None assumed
Quarry Tile Floor		sf	\$ -	\$ -	None assumed
Quarry Tile Base		lf	\$ -	\$ -	None assumed
Natural Stone Floor		sf	\$ -	\$ -	None assumed
Natural Stone Base		lf	\$ -	\$ -	None assumed
Schluter Strip Threshold	7	ea	\$ 25.00	\$ 175	
<u>Tile/Stone Wall Finish</u>					
Porcelain Tile - Wall		sf	\$ 13.50	\$ -	None assumed
Ceramic Tile - Wall	2,250	sf	\$ 9.25	\$ 20,813	
<u>Misc. Tile Supplementary Components</u>					
Waterproofing Membrane - fleece polyethylene grid (under tile floors)		sf	\$ 3.00	\$ -	
Anti-Fracture Membrane		sf	\$ 3.00	\$ -	None assumed
Sealer for Natural Stone Tile		sf	\$ -	\$ -	None assumed
Epoxy grout		sf	\$ 2.50	\$ -	None assumed
09 50 00 Ceilings					
<u>Acoustical Panel Ceilings</u>					
ACT Ceilings	2,955	sf	\$ 5.00	\$ 14,775	
Wood Veneer Acoustic Panels	142	sf	\$ 12.00	\$ 1,704	
09 60 00 Flooring (See finish matrix)					
<u>Resilient Flooring, Base and Accessories</u>					
VCT- Vinyl Tile	-	sf	\$ 2.00	\$ -	
Resilient Sheet Flooring		sf	\$ -	\$ -	
LVT	1,139	sf	\$ 5.00	\$ 5,695	
Sealed Concrete	493	sf	\$ 2.00	\$ 986	
Rubber Base	2,509	lf	\$ 2.50	\$ 6,273	
<u>Carpet</u>					
Carpet Tile - moderate price	1,033	sy	\$ 40.00	\$ 41,333	
Carpet Tile - high end price	-	sy	\$ 50.00	\$ -	
Walk Off Mat	101	sy	\$ 7.50	\$ 758	
Floor prep	568	sf	\$ 3.50	\$ 1,989	
Moisture Mitigation	10,540	sf	\$ 1.00	\$ 10,540	
09 70 00 Wall Finishes					
Natural Stone Veneer		sf	\$ -	\$ -	
Vinyl Wall Coverings		sy	\$ -	\$ -	
09 80 00 Acoustic Treatment					
Acoustic Wall Panels	285	lf	\$ 40.00	\$ 11,400	
09 90 00 Painting and Coating					
<u>Exterior Façade Painting</u>					
Exterior Painting	1	ls	\$ 3,500.00	\$ 3,500	
<u>Interior Painting</u>					
Painted GWB Walls	27,225	sf	\$ 0.90	\$ 24,503	Spray work
Painted CMU Walls	100	sf	\$ 1.00	\$ 100	
Painted GWB Ceilings	550	sf	\$ 0.50	\$ 275	Spray work
Painted Exposed MEP and bar joists in Ceilings	6,372	sf	\$ 0.40	\$ 2,549	Flat dryfall
Paint - GWB bulkhead	24	sf	\$ 0.65	\$ 16	
Paint Frames	18	ea	\$ 65.00	\$ 1,170	
Paint Doors	18	ea	\$ 55.00	\$ 990	
Paint Stairs / Stair Railings	-	fts	\$ 300.00	\$ -	
Misc. Painted Finishes	1	allow	\$ 8,500.00	\$ 8,500	
TOTAL - DIV 9				\$ 672,032	

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
10 SPECIALTIES					
10 10 00 Information Specialties					
<u>Visual Display Units</u>					
Whiteboards - 4' x 3'	2	ea	\$ 195.00	\$ 390	Polyvision
Whiteboards - 4' x 6'	2	ea	\$ 235.00	\$ 470	Polyvision
Tack boards 4'x4'	-	ea	\$ 185.00	\$ -	Polyvision
 <u>Display Cases</u>					
Glass Display Case, in wall / flush	-	ea	\$ 2,150.00	\$ -	
Glass Display Case, wall mounted	-	ea	\$ 1,750.00	\$ -	
 <u>Directories</u>					
Directory, wall mounted	-	ea	\$ -	\$ -	None Assumed
 <u>Signage</u>					
Code Required Signs (ADA, Fire, Address, etc.)	4	allow	\$ 115.00	\$ 460	Life Safety
Exterior Signage on Building	1	ea	\$ 15,000.00	\$ 15,000	
Interior Signage, Room ID Plaque	25	ea	\$ 115.00	\$ 2,875	
Interior Signage, 12" Metal Pin Letters Cast Aluminum	10	ea	\$ 180.00	\$ 1,800	
 10 20 00 Interior Specialties					
<u>Operable Partition</u>					
Operable Panel Partition	-	sf	\$ 85.75	\$ -	
 <u>Wall and Door Protection</u>					
Corner Guards - Resilient, Plastic Type	24	ea	\$ 90.00	\$ 2,160	Include corner guards in book sorting
Fiberglass Reinforced Panels	-	sf	\$ -	\$ -	None assumed
 <u>Toilet, Bath, and Laundry Accessories</u>					
18" Grab Bar	7	ea	\$ 75.00	\$ 525	Bobrick
24" Grab Bar	7	ea	\$ 79.00	\$ 553	Bobrick
36" Grab Bar	7	ea	\$ 86.00	\$ 602	Bobrick
Changing Table	2	ea	\$ 350.00	\$ 700	Koala Kare
Single Coat Hook	11	ea	\$ 75.00	\$ 825	Bobrick
Paper Towel Dispenser	6	ea	\$ 250.00	\$ 1,500	Bobrick electrified unit
Paper Towel Dispenser with trash receptical	7	ea	\$ 450.00	\$ 3,150	Bobrick - Combo unit - Electrified per meeting on 7/21/21
Sanitary Napkin Disposal	7	ea	\$ 85.00	\$ 595	Bobrick
Soap Dispenser	13	ea	\$ 95.00	\$ 1,235	Bobrick
Toilet Seat Cover Dispenser	7	ea	\$ 65.00	\$ 455	Bobrick
Toilet Tissue Dispenser	7	ea	\$ 65.00	\$ 455	Bobrick
Bathroom Mirrors - Framed	7	ea	\$ 225.00	\$ 1,575	Bobrick
Janitor's Closet Accessories - Mop rack	1	ea	\$ 300.00	\$ 300	per janitor's closet
 10 40 00 Safety Specialties					
<u>Fire Extinguishers and Cabinets</u>					
Fire Extinguishers and cabinets (non rated)	5	ea	\$ 315.00	\$ 1,575	
 10 50 00 Storage Specialties					
<u>Lockers</u>					
Exterior Lockers - Metal	-	ea	\$ -	\$ -	None assumed
	-	ea	\$ -	\$ -	None assumed
 <u>Janitor Closet Wire Shelving</u>					
Shelving, High Volume, Vertical or Horizontal	1	ea	\$ 285.00	\$ 285	Assumed in janitors closet
	-	sf	\$ -	\$ -	See Division 12
 10 70 00 Exterior Specialties					
Flagpole	1	ea	\$ 8,500.00	\$ 8,500	
TOTAL - DIV 10				\$ 45,985	
11 EQUIPMENT					
11 30 00 Residential Equipment					
Refrigerator	1	ea	\$ 2,000.00	\$ 2,000	Furnish and install
Microwave - Counter top	1	ea	\$ 150.00	\$ 150	Furnish and install
Dishwasher	1	ea	\$ 1,400.00	\$ 1,400	Furnish and install
Vending Machines	-	ea	\$ -	\$ -	Assumed provided by library's existing vender/lease so none included

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
11 50 00 Educational and Scientific Equipment					
TV Monitors - 55" TV	4	ea	\$ 800.00	\$ 3,200	
Electrically Operated Projection Screen and Controls	1	ea	\$ 5,000.00	\$ 5,000	
AV Eqpt - Projectors	1	ea	\$ 2,000.00	\$ 2,000	
TOTAL - DIV 11				\$ 13,750	
12 FURNISHINGS					
12 20 00 Window Treatments					
Window Treatment - Manual shades	336	sf	\$ 14.00	\$ 4,704	Chain driven with valence, below the ceiling.
Window Treatment - Motorized Shades	500	sf	\$ 40.00	\$ 20,000	Power and control wiring by others, intelligent motor middle of the road.
12 30 00 Casework					
Interior casework & millwork	12,533	sf	\$ 8.00	\$ 100,264	
12 50 00 Furniture					
All non-fixed furniture	-	sf	\$ 55.00	-	
Artwork	-	ls	-	-	See FF&E, Artwork, and AV
Security Mirrors	-	lf	-	-	Assume in furniture budget
TOTAL - DIV 12				\$ 124,968	
13 SPECIAL CONSTRUCTION					
13 10 00 Special Facility Components					
Fountains		ea	\$ -	-	None assumed
TOTAL - DIV 13				\$ -	
14 CONVEYING SYSTEMS					
TOTAL - DIV 14				\$ -	

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
21 FIRE SUPPRESSION					
21 10 00 Water Based Fire Suppression Systems					
Sprinklers	12,533	sf	\$ 5.50	\$ 68,932	Seismic not assumed
21 30 00 Fire Pumps					
Fire Pumps	-	ea	\$ -	-	Not assumed, if needed add \$35,000
TOTAL - DIV 21				\$ 68,932	
22 PLUMBING					
22 00 00 Plumbing Insulation					
Plumbing Insulation	1	sf	\$ -	-	Included with plumbing and piping number
22 10 00 Plumbing Piping					
Plumbing System	12,533	sf	\$ 10.00	\$ 125,330	Included with plumbing and piping number
Sanitary Piping	1	sf	\$ -	-	Included with plumbing and piping number
Gas Piping	1	sf	\$ -	-	Included with plumbing and piping number
22 30 00 Plumbing Equipment					
Plumbing Equipment	1	ea	\$ -	-	Included with plumbing and piping number
22 40 00 Plumbing Fixtures					
Plumbing Fixtures, WH, Drains, Permit, ETC	1	ls	\$ -	-	Included with plumbing and piping number
TOTAL - DIV 22				\$ 125,330	
23 HVAC					
23 10 00 Facility Fuel Systems					
Natural Gas Piping	50	lf	\$ 75.00	\$ 3,750	
23 00 00 HVAC					
Rough Material for piping, ductwork, and plumbing	1	ls	\$ 50,000.00	-	Inc.
Geothermal wellfield and distribution system	-	lf	\$ 40.00	-	12 wells @ 350' Depth (Total 4,200LF)
23 30 00 HVAC					
Heating & A/C Equipment	12,533	sf	\$ 60.00	\$ 751,980	
Air Outlets and Inlets	-	sf	\$ -	-	
Testing and balancing	-	sf	\$ -	-	
23 40 00 HVAC Air Cleaning Devices					
Air Filtration System	-	gsf	\$ -	-	None assumed
TOTAL - DIV 23				\$ 755,730	
25 INTEGRATED AUTOMATION					
25 50 00 Integrated Automation Facility Controls					
Automated Building Controls	12,533	sf	\$ 3.50	\$ 43,866	Assumed packaged control system
TOTAL - DIV 25				\$ 43,866	
26 ELECTRICAL					
26 10 00 Medium Voltage Electrical Distribution					
Site power tie in	1	ea	\$ 10,000.00	\$ 10,000	
Site power	1	ls	\$ 25,000.00	\$ 25,000	
Electrical Labor	5,040	hrs	\$ 60.00	\$ 302,400	
Temporary Power & Lighting	1	ls	\$ 5,000.00	\$ 5,000	
Electrical permits and inspections	1	ls	\$ 5,000.00	\$ 5,000	
Independent testing & studies	1	ls	\$ 10,000.00	\$ 10,000	
Mobilization and equipment	1	ls	\$ 10,000.00	\$ 10,000	

BUILDING

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
26 20 00 Low Voltage Electrical Distribution					
Lighting Controls	12,533	sf	\$ 1.71	\$ 21,431	
Branch Power	12,533	sf	\$ 4.23	\$ 53,015	
Switchgear & Panels	12,533	sf	\$ 2.00	\$ 25,066	
Feeders	-	sf	\$ -	-	
Mechanical Connections	12,533	sf	\$ 3.49	\$ 43,740	
Raceways for other trades	90	ea	\$ 100.00	\$ 9,000	
Power for paper towel dispensers and faucets	10	ea	\$ 275.00	\$ 2,750	
26 30 00 Facility Power Generating and Storing Equipment					
Emergency Generators	-	sf	\$ -	-	none assumed
Battery Equipment	-	sf	\$ -	-	none assumed
Power Filtering and Conditioning	-	sf	\$ -	-	none assumed
Transfer Switches	-	sf	\$ -	-	none assumed
26 40 00 Electrical Protection					
Grounding	12,533	sf	\$ 0.90	\$ 11,280	
Lightning Protection	12,533	sf	\$ 1.10	\$ 13,786	
26 50 00 Lighting					
Lighting	12,533	sf	\$ 6.25	\$ 78,331	for fixtures
Site Lighting	4	ea	\$ 6,300.00	\$ 25,200	
Electronic Message Board	1	ea	\$ 4,000.00	\$ 4,000	
26 90 00 Photovoltaic					
Roof mounted solar arrays	-	W	\$ 2.00	-	Removed on 3/27/23
TOTAL - DIV 26				\$ 654,999	
27 COMMUNICATIONS					
27 10 00 Structured Cabling					
Structured Cabling	12,533	sf	\$ 7.00	\$ 87,731	
27 20 00 Data Communications					
Data Cabling and wall and floor boxes	1	ls	\$ 10,000.00	\$ 10,000	
Wireless Access Points(WAPS)	1	ls	\$ 8,900.00	\$ 8,900	
27 40 00 Audio-Video Communications					
Audio-Video Communications	-	sf	\$ -	-	Included \$10,000 with the FF&E, Artwork, and AV line item.
27 60 00 Computer Equipment					
Computers and accessories	-	sf	\$ -	-	By ESRL, none assumed.
TVs	-	sf	\$ -	-	See division 11
Cabling - HDMI	-	sf	\$ -	-	By ESRL, none assumed.
Mobile TV station	-	ls	\$ -	-	Included in AV
Printers	-	sf	\$ -	-	By ESRL, none assumed.
TOTAL - DIV 27				\$ 106,631	
28 ELECTRONIC SAFETY & SECURITY					
28 10 00 Access Control					
Access Control - Single Door	7	ea	\$ 3,000.00	\$ 21,000	Included card readers, per door schedule. Per 6/24/21 meeting add a card reader to room 111/1 so all reading rooms have a card reader
Access Control - Double Door	1	ea	\$ 5,000.00	\$ 5,000	Included card readers, door 100/1
Access Control - Intercom	1	ea	\$ 1,200.00	\$ 1,200	Included card readers, door 139/2
28 20 00 Video Surveillance					
Video Surveillance - CCTV cabling	1	ls	\$ 3,450.00	\$ 3,450	Assumed 15 camera locations to wire to.
CCTV Equipment - Outdoor Camera	5	ea	\$ 1,800.00	\$ 9,000	Assumed 5 camera locations
CCTV Equipment - Indoor Camera	10	ea	\$ 1,500.00	\$ 15,000	Assumed 10 camera locations
28 40 00 Life Safety					
Fire Detection and Alarm	14,000	sf	\$ 0.55	\$ 7,700	
TOTAL - DIV 28				\$ 62,350	
TOTAL BUILDING				\$ 4,947,391	

SITE DEVELOPMENT

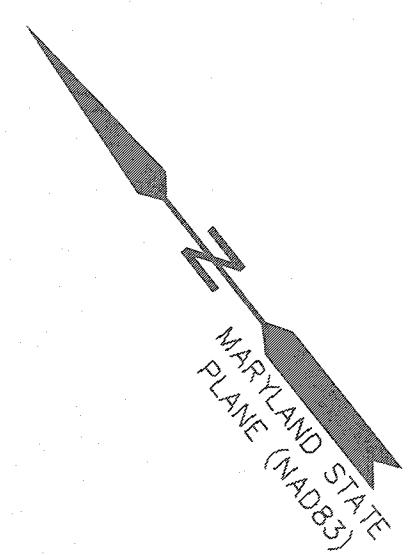
DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
01 GENERAL REQUIREMENTS					
01 50 00 Temporary Facilities and Controls					
Perimeter Fencing & Barricades - Chain link	1,500	lf	\$ 4.00	\$ 6,000	Temp Chain link Fence
Perimeter Fencing & Barricades - Gates	3	sets	\$ 5,000	\$ 15,000	Temp Chain link Fence Type
01 70 00 Execution and Closeout Requirements					
Final Cleaning	1	allow	\$ 1,000	\$ 1,000	Site Cleaning/Road Wash down
TOTAL - DIV 1				\$ 22,000	
02 EXISTING CONDITIONS					
02 40 00 Demolition and Structure Moving					
<u>Site Demolition</u>					
Existing Sitework Demolition	53,000	sf	\$ 0.50	\$ 26,500	
<u>Site Utility Demolition</u>					
Demo Geothermal	-	ea	\$ -	\$ -	
<u>Building Demolition</u>					
Building Demolition		cf	\$ -	\$ -	See 'Building Tab'
<u>Site Remediation</u>					
Hazardous Materials Remediation	-	allow	\$ -	\$ -	None included.
TOTAL - DIV 2				\$ 26,500	
10 SPECIALTIES					
10 10 00 Information Specialties					
Site Signage	1	ea	\$ -	\$ -	Included with building
10 70 00 Exterior Specialties					
Ground Set Flag Poles	1	ea	\$ -	\$ -	See Division 10 70 00
Exterior Garden Shed	1	allow	\$ 10,000.00	\$ 10,000	
TOTAL - DIV 10				\$ 10,000	
26 ELECTRICAL					
26 50 00 Lighting					
Site Lighting - Parking Lot	1	allow	\$ 10,000.00	\$ 10,000	
Entrance Sign power	1	ls	\$ 5,500.00	\$ 5,500	
TOTAL - DIV 26				\$ 15,500	
31 EARTHWORK					
31 10 00 Site Clearing					
Clear and Grub	1	acres	\$ 1,100.00	\$ 1,354	
Remove Large Tree	0	ea	\$ 500.00	\$ -	
31 20 00 Earth Moving					
<u>Excavation - Mass Site Operation</u>					
Bulk Earthwork	1	ls	\$ 66,394.00	\$ 66,394	
Fine Grade Site	1	acres	\$ 1,500.00	\$ 1,846	
Unforeseen Conditions or Hazardous Materials Allowance		cy	\$ -	\$ -	None included.
Utility Locating - Test pits / Potholing	1	allow	\$ 10,000.00	\$ 10,000	
<u>Dewatering</u>					
Dewatering (Rainwater Only)		allow	\$ -	\$ -	None included.
<u>Sediment and Erosion Control</u>					
Silt Fence	-	ls	\$ -	\$ -	
Construction Entrance - Fabric and Stone	1	ea	\$ 10,000.00	\$ 10,000	
Dust Control/Street Cleaning	13	mths	\$ 1,000.00	\$ 13,000	
Temporary Seeding	5,956	sy	\$ 3.00	\$ 17,867	
SEC Maintenance	13	mths	\$ 1,000.00	\$ 13,000	

SITE DEVELOPMENT

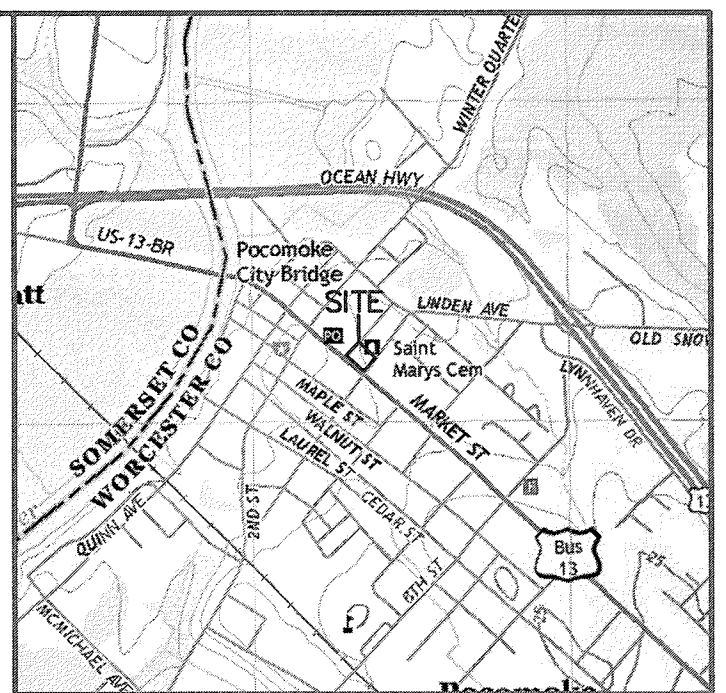
DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
31 30 00 Earthwork Methods					
Termite Control Soil Treatment	12,533	sf	\$ 0.50	\$ 6,267	Bldg. Footprint one application only
TOTAL - DIV 31				\$ 139,726	
32 EXTERIOR IMPROVEMENTS					
31 10 00 Bases, Ballasts, and Paving					
<u>Asphalt Paving</u>					
Asphalt Pavement - Light Duty (Parking Lots)	604	sy	\$ 45.00	\$ 27,167	
<u>Concrete Paving</u>					
Concrete curb, gutter, and sidewalk	1	ls	\$ 25,000.00	\$ 25,000	Includes broom finish sidewalks
Stamped concrete sidewalks	-	sf	\$ 15.75	\$ -	
<u>Paving Specialties</u>					
Parking Bumpers	-	ea	\$ 75.00	\$ -	
Pavement Markings & Signage	604	sy	\$ 1.00	\$ 604	Included in asphalt paving
Bollards	-	ea	\$ -	\$ -	None included.
32 30 00 Site Improvements					
<u>Chain Link Fences and Gates - Permanent</u>					
Steel and picket site fence	62	lf	\$ 170.00	\$ 10,540	
Steel and picket fence gates	3	ea	\$ 1,500.00	\$ 4,500	
Cedar Site Fence	-	lf	\$ 112.69	\$ -	
<u>Site Concrete</u>					
Transformer Pad	1	allow	\$ 2,500.00	\$ 2,500	
<u>Site Retaining / Screen Walls</u>					
Site Walls - Concrete	-	ls	\$ 82,000.00	\$ -	
Site Wall - Children's Area Projection Wall Steel Support	-	ls	\$ 5,000.00	\$ -	
Site Wall - Children's Area Projection Wall	-	sf	\$ 53.00	\$ -	
Exterior Benches and Monument Sign	1	ls	\$ 18,507.00	\$ 18,507	
Concrete Base for Lockers	-	ea	\$ 300.00	\$ -	
Raised Planters / Concrete Retaining Wall	1	ea	\$ 17,500.00	\$ 17,500	
<u>Site Furnishings</u>					
Bicycle Racks	4	ea	\$ 1,500.00	\$ 6,000	
Benches	-	ea	\$ -	\$ -	Included with concrete
Trash Receptacles	1	allow	\$ 500.00	\$ 500	
Table and Chairs	-	allow	\$ -	\$ -	See Division 14
32 80 00 Irrigation					
<u>Landscape Irrigation</u>					
Sprinkler Irrigation including power feed	1	sf	\$ -	\$ -	None assumed
32 90 00 Planting					
<u>Turf and Grasses</u>					
Seed Disturbed Areas	-	sy	\$ -	\$ -	Included with Earth work
<u>Plants</u>					
Landscaping	1	allow	\$ 50,000.00	\$ 50,000	
TOTAL - DIV 32				\$ 162,817	

SITE DEVELOPMENT

DESCRIPTION	QTY	UNIT	UNIT \$	TOTAL	COMMENTS
33 UTILITIES					
33 10 00 Water Utilities					
Domestic Water					
Water Utilities	1	ls	\$ 20,000.00	\$ 20,000	
33 30 00 Sanitary Sewerage					
Sanitary Sewerage, piping, and manholes	1	ls	\$ 19,205.00	\$ 19,205	
33 40 00 Stormwater Utilities					
Storm utility / infiltrations system	1	ls	\$ 90,000.00	\$ 90,000	
33 70 00 Electrical Utilities					
Electric - Power Tie Into Main Utilities	1	ea	\$	-	Included with building
33 80 00 Communications Utilities					
Communication - Telecomm Tie in to Main Utilities	1	ea	\$	-	Included with building
TOTAL - DIV 33				\$ 129,205	
TOTAL SITE DEVELOPMENT				\$ 505,749	

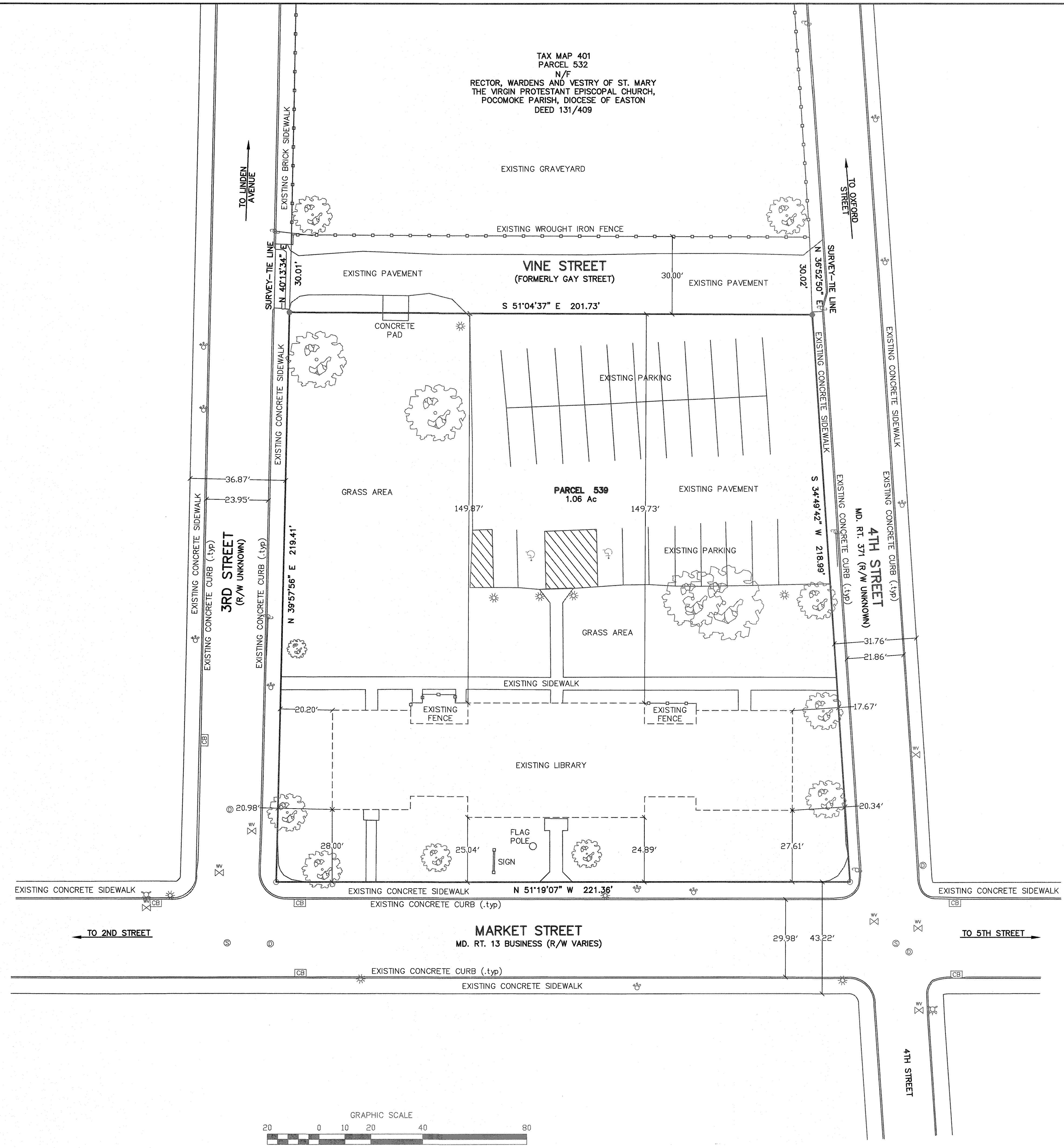


TAX MAP 401
PARCEL 532
N/F
RECTOR, WARDENS AND VESTRY OF ST. MARY
THE VIRGIN PROTESTANT EPISCOPAL CHURCH,
POCOMOKE PARISH, DIOCESE OF EASTON
DEED 131/409



VICINITY MAP
1" = 2000'

- SITE NOTES:**
OWNER: COUNTY COMMISSIONERS OF WORCESTER COUNTY
1 WEST MARKET STREET
SNOW HILL, MD 21863
- TAX MAP NO. 401, GRID 12, PARCEL 539
 - ACCOUNT NO.: 01-019376
 - DEED REF.: 301/139
 - PLAT REF.: NONE
 - SITE ADDRESS: 301 MARKET STREET
POCOMOKE CITY, MD 21851
 - CURRENT USE: EXEMPT COMMERCIAL
 - ZONING: R-2 (RESIDENTIAL DISTRICT)
SETBACKS: FRONT = 35'
SIDE = 25'
REAR = 40'
* REPLACEMENT BUILDINGS SHOULD HAVE THE SAME FRONT YARD SETBACKS AS THE EXISTING ADJOINING BUILDINGS.
 - AREA = AS NOTED
 - AN ABSTRACT TITLE WAS NOT PROVIDED PRIOR TO THIS SURVEY.
 - THIS SURVEY WAS BASED ON PHYSICAL EVIDENCE AND THE CURRENT PLAT OF RECORD.
 - ALL UTILITIES ARE UNDERGROUND OR AS SHOWN ON THIS SURVEY.
 - WATER AND SEWER IS PROVIDED BY THE CITY OF POCOMOKE.
 - BASED UPON THE FEDERAL EMERGENCY MANAGEMENT AGENCY MAP 24047C0329H, DATED 7/16/2015, THE LOT SHOWN IS LOCATED IN ZONE ZONE X.
 - HORIZONTAL DATUM IS MARYLAND STATE PLANE (NAD83).
 - VERTICAL DATUM IS NAVD88 (USFEET).



LEGEND

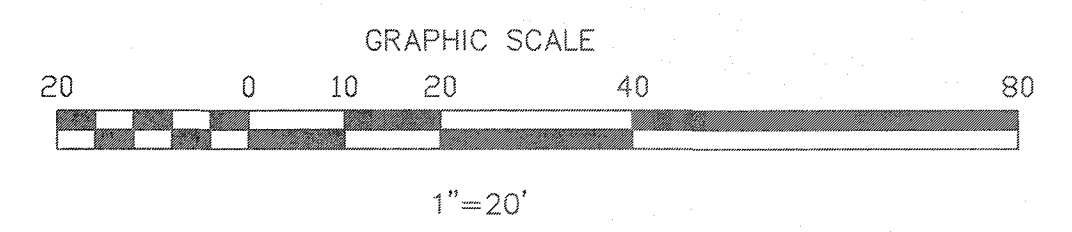
- - IRON ROD w/CAP SET
- - PROPERTY CORNER
- ⊙ - SEWER MANHOLE
- ⊕ - DRAINAGE MANHOLE
- ⊕ - WATER SHUT-OFF/WATER METER
- ⊕ - WATER VALVE
- ⊕ - FIRE HYDRANT
- ⊕ - CATCH BASIN
- ⊕ - POWER POLE/UTILITY POLE
- ⊕ - LIGHT POLE
- ⊕ - TREE

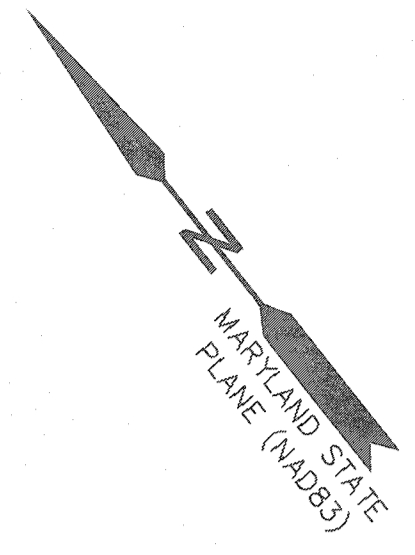
SURVEYOR'S CERTIFICATION

I, Evan C. Young, a Registered Land Surveyor of the State of Maryland, do hereby certify the land shown hereon has been laid out and plat thereof prepared in accordance with the provisions of real property article 3-108 of the annotated code of Maryland.

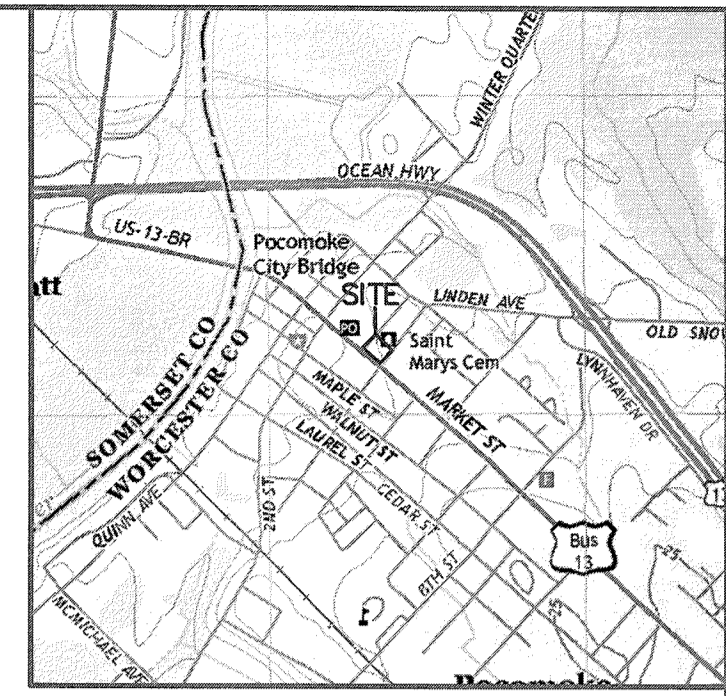
Evan C. Young 8/25/2023
Evan C. Young Date
Professional Land Surveyor, MD No. 22027
Expiration Date: 04/20/2024

<p>BOUNDARY SURVEY FOR COUNTY COMMISSIONERS OF WORCESTER COUNTY Tax Map 401 Grid 12 Parcel 539 Tax ID 01-019376 Deed 301/139, 508/251 First Election District Worcester County, Maryland</p>	<p>REVISIONS:</p>	<p>SCALE: 1"=20'</p> <p>DRAWN BY: ECV</p> <p>DATE DRAWN: 8/10/2023</p> <p>DESIGNED BY: N/A</p> <p>CHECKED BY: GEY</p> <p>CADD DWG. NAME: SM23050.DWG</p>
	<p>PROJECT NUMBER</p> <p>SM23050</p> <p>SHEET OF</p> <p>1 1</p>	
<p>George E. Young, III P.C.; Engineers & Surveyors dba: Hampshire, Hampshire, & Andrews 720 East College Avenue - Unit D, Salisbury, Maryland 21804 Phone: 410-742-4673 Email: hhains@comcast.net</p>		





TAX MAP 401
PARCEL 532
N/F
RECTOR, WARDENS AND VESTRY OF ST. MARY
THE VIRGIN PROTESTANT EPISCOPAL CHURCH,
POCOMOKE PARISH, DIOCESE OF EASTON
DEED 131/409

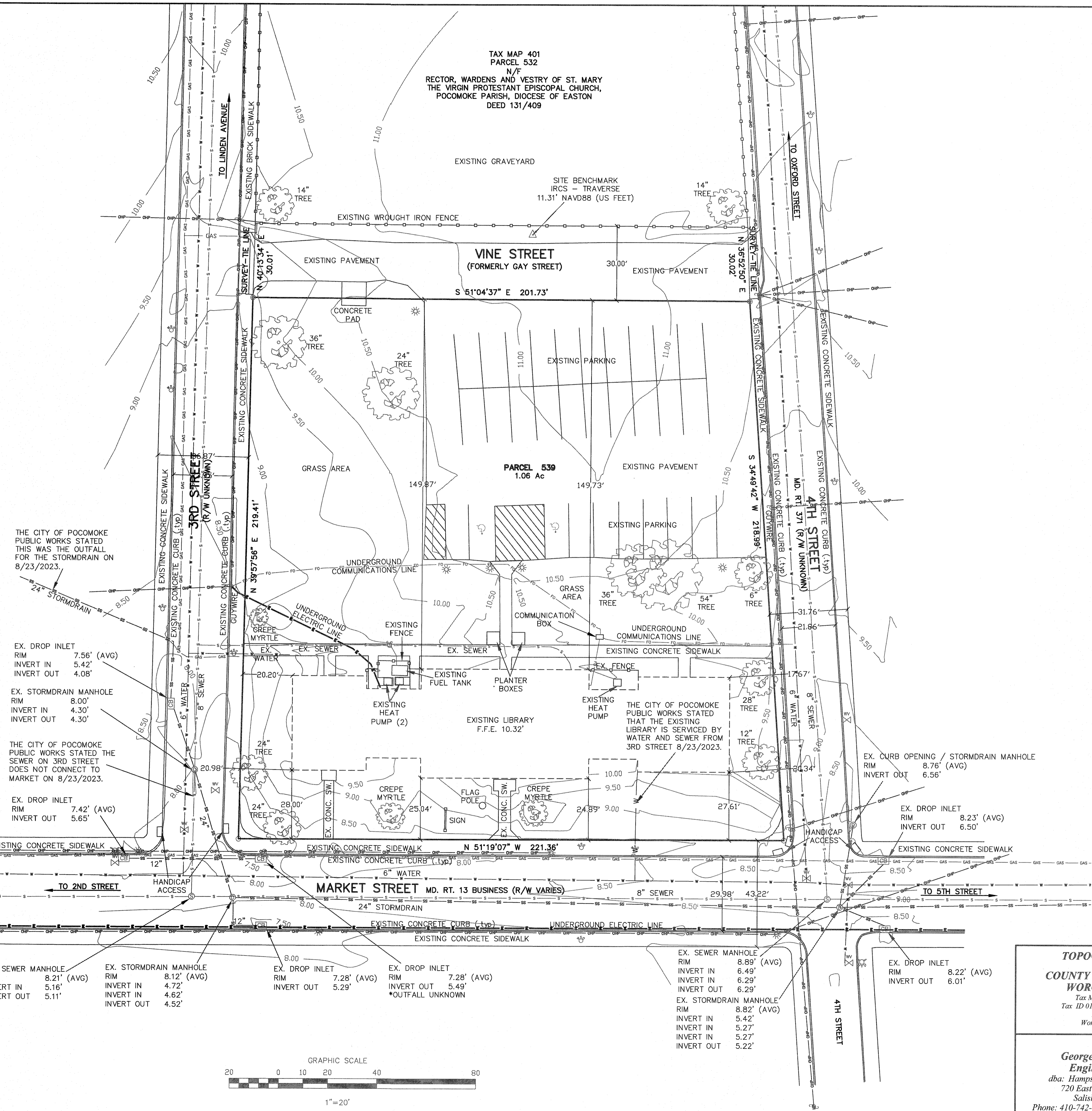


VICINITY MAP
1" = 2000'

LEGEND

- - IRON ROD FOUND
- - PROPERTY CORNER
- ⊙ - SEWER MANHOLE
- ⊕ - DRAINAGE MANHOLE
- ⊗ - WATER SHUT-OFF/WATER METER
- ⊘ - SEWER CLEANOUT
- ⊚ - WATER VALVE
- ⊛ - FIRE HYDRANT
- ⊜ - CATCH BASIN
- ⊝ - POWER POLE/UTILITY POLE
- ⊞ - LIGHT POLE
- ⊟ - TREE
- ⊠ - BENCHMARK
- GAS — - EXISTING GAS LINE
- E — - EXISTING UNDERGROUND ELECTRIC LINE
- OHP — - EXISTING OVERHEAD LINE
- FO — - EXISTING COMMUNICATIONS LINE
- W — - EXISTING WATER LINE
- SS — - EXISTING SANITARY SEWER LINE
- S — - EXISTING SEWER LINE

- SITE NOTES:
- OWNER: COUNTY COMMISSIONERS OF WORCESTER COUNTY
1 WEST MARKET STREET
SNOW HILL, MD 21863
 - TAX MAP NO. 401, GRID 12, PARCEL 539
 - ACCOUNT NO.: 01-019376
 - DEED REF.: 301/139
 - PLAT REF.: NONE
 - SITE ADDRESS: 301 MARKET STREET
POCOMOKE CITY, MD 21851
 - CURRENT USE: EXEMPT COMMERCIAL
 - ZONING: R-2 (RESIDENTIAL DISTRICT)
SETBACKS: FRONT = 35'
SIDE = 25'
REAR = 40'
* REPLACEMENT BUILDINGS SHOULD HAVE THE SAME FRONT YARD SETBACKS AS THE EXISTING ADJOINING BUILDINGS.
 - AREA = AS NOTED
 - AN ABSTRACT TITLE WAS NOT PROVIDED PRIOR TO THIS SURVEY.
 - THIS SURVEY WAS BASED ON PHYSICAL EVIDENCE AND THE CURRENT PLAT OF RECORD.
 - ALL UTILITIES ARE UNDERGROUND OR AS SHOWN ON THIS SURVEY.
 - WATER AND SEWER IS PROVIDED BY THE CITY OF POCOMOKE.
 - BASED UPON THE FEDERAL EMERGENCY MANAGEMENT AGENCY MAP 240470329H, DATED 7/16/2015, THE LOT SHOWN IS LOCATED IN ZONE X.
 - HORIZONTAL DATUM IS MARYLAND STATE PLANE (NAD83).
 - VERTICAL DATUM IS NAVD88 (US FEET).
 - EXISTING PARKING: 27 REGULAR & 2 HANDICAP.



THE CITY OF POCOMOKE PUBLIC WORKS STATED THIS WAS THE OUTFALL FOR THE STORMDRAIN ON 8/23/2023.

EX. DROP INLET
RIM 7.56' (AVG)
INVERT IN 5.42'
INVERT OUT 4.08'

EX. STORMDRAIN MANHOLE
RIM 8.00'
INVERT IN 4.30'
INVERT OUT 4.30'

THE CITY OF POCOMOKE PUBLIC WORKS STATED THE SEWER ON 3RD STREET DOES NOT CONNECT TO MARKET ON 8/23/2023.

EX. DROP INLET
RIM 7.42' (AVG)
INVERT OUT 5.65'

EX. SEWER MANHOLE
RIM 8.21' (AVG)
INVERT IN 5.16'
INVERT OUT 5.11'

EX. STORMDRAIN MANHOLE
RIM 8.12' (AVG)
INVERT IN 4.72'
INVERT OUT 4.52'

EX. DROP INLET
RIM 7.28' (AVG)
INVERT OUT 5.29'

EX. DROP INLET
RIM 7.28' (AVG)
INVERT OUT 5.49'
*OUTFALL UNKNOWN

EX. SEWER MANHOLE
RIM 8.89' (AVG)
INVERT IN 6.49'
INVERT IN 6.29'
INVERT OUT 6.29'

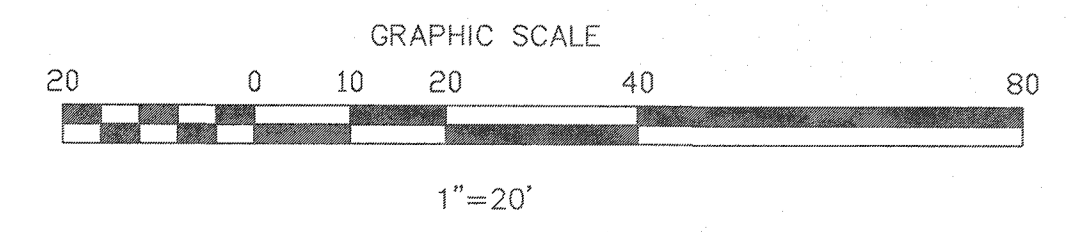
EX. DROP INLET
RIM 8.22' (AVG)
INVERT OUT 6.01'

SURVEYOR'S CERTIFICATION

I hereby certify that I have made a Topographic Survey of the property shown for the purpose of establishing improvements thereon only as they are shown. This plat is not intended for use in establishing the property lines

Evan C. Young
Evan C. Young
Professional Land Surveyor, MD No. 22027
Expiration Date: 04/20/2024
8/25/2023
Date

<p>TOPOGRAPHIC SURVEY FOR COUNTY COMMISSIONERS OF WORCESTER COUNTY Tax Map 401 Grid 12 Parcel 539 Tax ID 01-019376 Deed 301/139, 508/251 First Election District Worcester County, Maryland</p>	<p>REVISIONS:</p>	<p>SCALE: 1"=20' DRAWN BY: EGY DATE DRAWN: 8/18/2023 DESIGNED BY: N/A CHECKED BY: GEY CADD DWG. NAME: SM23050.DWG</p>
	<p>PROJECT NUMBER SM23050</p>	<p>SHEET OF 1 1</p>
<p>George E. Young, III P.C.; Engineers & Surveyors dba: Hampshire, Hampshire, & Andrews 720 East College Avenue - Unit D, Salisbury, Maryland 21804 Phone: 410-742-4673 Email: hhaic@gcomcast.net</p>		




AIA® Document B133® – 2019
Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the 28 day of June in the year 2023
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address, and other information)

County Commissioners of Worcester County, MD
1 West Market St., Room 1103
Snow Hill, MD
21863

and the Architect:
(Name, legal status, address, and other information)

JSD, Inc
PO Box 237
Warren, VT
05674

for the following Project:
(Name, location, and detailed description)

Worcester County Pocomoke Library
Pocomoke, MD **12,500** *sq*
New construction of building of ~~13,000~~sf including stacks, offices, community spaces,
children's library, and reading spaces.

The Construction Manager (if known):
(Name, legal status, address, and other information)

TBD

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(895703617)

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

1. Pre design report by JSD dated 1.28.23
2. Subconsultant proposals
 - a. MEP FP Gipe 6/2/23
 - b. Civil EA Associates 6/1/2023
 - c. Structural GMB 6/10/2022 verified 6/1/2023

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

see program dated 5.31.23 attached

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Full block to be cleared except for trees identified to be preserved and protected. Bounded by Market, 3rd, and 4th streets and Cemetery alley. All public utilities available.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

approximately \$9,300,000

Init.

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Schematic Design	August 2023
Design Development	September-November
Construction Documents	December- January
Permit	February- March
Bid	April- May 2024

.2 Construction commencement date:

June 2024

.3 Substantial Completion date or dates:

July 2025

.4 Other milestone dates:

Construction Manager RFP	July 2023
Construction Manager retained by	September 2023

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:

(Indicate agreement type.)

- AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.
- AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

n/a

(Paragraphs deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:

(List name, address, and other contact information.)

Bill Bradshaw
County Engineer

Init.

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User Notes:

(895703617)

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address, and other contact information.)

Jennifer Ranck
Director, Worcester County Libraries

§ 1.1.10 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

- .1 Construction Manager:
(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1)

TBD

- .2 Land Surveyor:
n/a

- .3 Geotechnical Engineer:

Paul Till
Hardin Kite

- .4 Civil Engineer:

n/a

- .5 Other consultants and contractors:

(List any other consultants and contractors retained by the Owner.)

n/a

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:

(List name, address, and other contact information.)

Jeff Schoellkopf, AIA, LEED AP
President, JSD, Inc

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:

Init.

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User Notes:

(895703617)

4

.1 Structural Engineer:

George , Miles, and Buhr (GMB)
Salisbury MD

Reggie Mariner, PE, Senior Vice President

.2 Mechanical Engineer:

Gipe Associates, Inc
Easton, MD

David Hoffman, PE, President

.3 Electrical Engineer:

Gipe Associates, Inc
Easton, MD

David Hoffman, PE, President

§ 1.1.12.2 Consultants retained under Supplemental Services:

EA Associates, civil engineering and survey Steven Lemasters, PE. Project manager

§ 1.1.13 Other Initial Information on which the Agreement is based:

n/a

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.6 **Insurance.** The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.6.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000) for each occurrence and one million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than three hundred thousand (\$ 300,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000) each accident, one million (\$ 1,000,000) each employee, and one million (\$ 1,000,000) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million (\$ 1,000,000) per claim and two million (\$ 2,000,000) in the aggregate.

§ 2.6.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6.

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ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made or given without the Architect's written approval.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.2 Review of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

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§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager's review and the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building

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systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Construction Manager's review and the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be

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responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

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§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

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§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Assistance with Selection of Construction Manager	Owner primary with Arch support
§ 4.1.1.2 Programming	complete
§ 4.1.1.3 Multiple Preliminary Designs	complete
§ 4.1.1.4 Measured drawings	n/a
§ 4.1.1.5 Existing facilities surveys	n/a
§ 4.1.1.6 Site evaluation and planning	Architect- see EA proposal
§ 4.1.1.7 Building Information Model management responsibilities	Not required
§ 4.1.1.8 Development of Building Information Models for post construction use	Not required
§ 4.1.1.9 Civil engineering	Architect- see EA proposal
§ 4.1.1.10 Landscape design	Architect
§ 4.1.1.11 Architectural interior design	Architect- beyond basic finishes
§ 4.1.1.12 Value analysis	Not offered
§ 4.1.1.13 Cost estimating	Construction Manager
§ 4.1.1.14 On-site project representation	Not required
§ 4.1.1.15 Conformed documents for construction	MEP – see Gipe proposal
§ 4.1.1.16 As-designed record drawings	Architect if requested as additional
§ 4.1.1.17 As-constructed record drawings	Architect if requested as additional
§ 4.1.1.18 Post-occupancy evaluation	Not offered
§ 4.1.1.19 Facility support services	Not required
§ 4.1.1.20 Tenant-related services	n/a
§ 4.1.1.21 Architect’s coordination of the Owner’s consultants	Architect
§ 4.1.1.22 Telecommunications/data design	Owner- see Gipe proposal
§ 4.1.1.23 Security evaluation and planning	Owner- see Gipe proposal
§ 4.1.1.24 Commissioning	Owner
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	Not required
§ 4.1.1.26 Historic preservation	n/a
§ 4.1.1.27 Furniture, furnishings, and equipment design	Owner w Architect support
§ 4.1.1.28 Other services provided by specialty Consultants	As requested as additional
§ 4.1.1.29 Other Supplemental Services	As requested as additional

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

See EA and Gipe proposals as noted above

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

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Owner shall provide rfp, run the bid process, and make the final selection of the CM with the architects review and support, and attendance at interviews. Owner shall provide commissioning, possibly from Gipe as per the Berlin Librry project, all cost estimating is to be by the CM, employed by the owner Owner shall select all furniture, with support and review by the architect.

(Paragraph deleted)

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service that occur after the Construction commencement date;
- .4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect;
- .12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .13 Services necessitated by the Owner's delay in engaging the Construction Manager;
- .14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and
- .15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

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- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 fifteen (15) visits to the site by the Architect during construction
- .3 two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 two (2) inspections for any portion of the Work to determine final completion

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty four (24) months of the milestones described in § 1.1.4, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services if the Architect has incurred actual costs because of the delay.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

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§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The Owner shall coordinate the Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

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ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's general conditions costs, overhead, and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

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§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due, pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise within the period specified by applicable law.

(Paragraph deleted)

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of

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performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

n/a

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

n/a

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

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§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)
\$468,301 – per attached fee summary

.2
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§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

hourly plus reimbursables

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

hourly plus reimbursables per the attached rate sheet and subconsultant agreements

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect
(Paragraphs deleted)
 if approved by Owner.

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	\$30,621	percent (6.5	%)
Design Development Phase	\$97,112	percent (20.7	%)
Construction Documents Phase	\$176,246	percent (37.6	%)
Construction Phase	\$109,276	percent (23.3	%)
Bid and Permit	\$33,189		7.1	
MDOT permitting	\$8,626		1.8	
Conformed MEP	\$5,513		1.2	
DPL incentive modelling	\$7,718		1.7	
Total Basic Compensation		one hundred percent (100	%)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services, as appropriate.

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

see The Design Group rate and service sheet, and subconsultant proposals

Employee or Category	Rate (\$0.00)
----------------------	---------------

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§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Authorized transportation and authorized out-of-town travel and subsistence;
- (Paragraph deleted)
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- (Paragraph deleted)
- .9 All taxes levied on professional services and on reimbursable expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
- .12 Other similar Project-related expenditures.

(Paragraph deleted)

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

n/a

§ 11.10 Payments to the Architect**§ 11.10.1 Initial Payments**

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

(Paragraph deleted)

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

one percent per month % 1%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:
(Insert the date of the E203-2013 incorporated into this agreement.)

n/a

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.
(Insert the date of the E234-2019 incorporated into this agreement.)

n/a


Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

n/a

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

MEP Agreement- Gipe Associates
Structural Agreement- GMB, Inc
Civil Proposal- EA Associates

This Agreement entered into as of the day and year first written above.


OWNER *(Signature)*
Anthony W. Bertino, Jr., President
(Printed name and title)

Jeff Schoellkopf
ARCHITECT *(Signature)*
Jeff Schoellkopf, President JSD, Inc 6/30/23
(Printed name, title, and license number, if required)

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THE DESIGN GROUP

ARCHITECTURE PLANNING INTERIOR DESIGN

JIM EDGCOMB, ARCHITECT

Airport Road Warren VT 05674 tel 802-496-5255

JEFF SCHOELLKOPF, ARCHITECT

2023 RATE SHEET

JSD/ THE DESIGN GROUP offers the following design services: Architecture, Landscape Architecture, Land, Site, and Master Planning, Sustainable Design, and Interior Design. Engineering Services may be provided by subconsultants. Rates for Design services are described below.

Design Services
Hourly Rate

• Principal	\$ 165.00
• Project Architect / Sr. Planner	\$ 115-145.00
• Designer / Project Manager / Planner	\$ 95-105.00
• Draftsperson / Technician / Asst. Project Manager	\$ 85-95.00
• Administration	\$ 55.00

All design services can be provided on a fixed fee basis with a clearly defined Scope of Services. Billing occurs monthly and is due upon receipt. Interest on unpaid balances accrues at a rate of 1 1/2% / mo. Other services, including pre-design, permitting, model making, rendering, project management, cost estimating, and product research, are available as requested.

Reimbursable Expenses

Travel, transportation, lodging, and meals are charged on jobs more than a half an hour from our offices.

Transportation Costs

Auto at \$0.70 per mile
 Air travel tickets billed at cost
 Travel time billed at ½ hourly billable rate

Lodging and meals

At cost up to allowed IRS per diem

Printing/Plots	30 x 42	\$3.50
	24 x 36	\$2.50
	18 x 24	\$2.00
	12 x 18	\$1.50
	11 x 17	\$1.00

Color Copies 11x17 \$1.00 each

All other direct job expenses including consultants, engineering, telephone, postage, photography, and video recording is billed at cost plus 5% overhead.

Visit our website at www.tdgv.com

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Additions and Deletions Report for AIA® Document B133® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:58:47 ET on 07/11/2023.

PAGE 1

AGREEMENT made as of the 28 day of June in the year 2023

...

County Commissioners of Worcester County, MD
1 West Market St., Room 1103
Snow Hill, MD
21863

...

JSD, Inc
PO Box 237
Warren, VT
05674

...

Worcester County Pocomoke Library
Pocomoke, MD
New construction of building of 13,000sf including stacks, offices, community spaces, children's library, and reading spaces.

...

TBD
PAGE 2

1. Pre design report by JSD dated 1.28.23
2. Subconsultant proposals
 - a. MEP FP Gipe 6/2/23
 - b. Civil EA Associates 6/1/2023
 - c. Structural GMB 6/10/2022 verified 6/1/2023

...

see program dated 5.31.23 attached

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...

Full block to be cleared except for trees identified to be preserved and protected. Bounded by Market, 3rd, and 4th streets and Cemetery alley. All public utilities available.

...

approximately \$9,300,000

PAGE 3

<u>Schematic Design</u>	<u>August 2023</u>
<u>Design Development</u>	<u>September-November</u>
<u>Construction Documents</u>	<u>December- January</u>
<u>Permit</u>	<u>February- March</u>
<u>Bid</u>	<u>April- May 2024</u>

...

June 2024

...

July 2025

...

<u>Construction Manager RFP</u>	<u>July 2023</u>
<u>Construction Manager retained by</u>	<u>September 2023</u>

...

- AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

...

n/a

§ 1.1.7 ~~The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)~~

~~§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.~~

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...

Bill Bradshaw
County Engineer
PAGE 4

Jennifer Ranck
Director, Worcester County Libraries

...

TBD

...

n/a

...

Paul Till
Hardin Kite

...

n/a

...

n/a

...

Jeff Schoellkopf, AIA, LEED AP
President, JSD, Inc
PAGE 5

George , Miles, and Buhr (GMB)
Salisbury MD

...

Reggie Mariner, PE, Senior Vice President

...

Gipe Associates, Inc
Easton, MD

...

David Hoffman, PE, President

...

Gipe Associates, Inc
Easton, MD

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...

David Hoffman, PE, President

...

EA Associates, civil engineering and survey Steven Lemasters, PE, Project manager

...

n/a

PAGE 6

§ 2.6.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000) for each occurrence and one million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than three hundred thousand (\$ 300,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 2.6.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000) each accident, one million (\$ 1,000,000) each employee, and one million (\$ 1,000,000) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than one million (\$ 1,000,000) per claim and two million (\$ 2,000,000) in the aggregate.

PAGE 13

§ 4.1.1.1	Assistance with Selection of Construction Manager	<u>Owner primary with Arch support</u>
§ 4.1.1.2	Programming	<u>complete</u>
§ 4.1.1.3	Multiple Preliminary Designs	<u>complete</u>
§ 4.1.1.4	Measured drawings	<u>n/a</u>
§ 4.1.1.5	Existing facilities surveys	<u>n/a</u>
§ 4.1.1.6	Site evaluation and planning	<u>Architect- see EA proposal</u>
§ 4.1.1.7	Building Information Model management responsibilities	<u>Not required</u>
§ 4.1.1.8	Development of Building Information Models for post construction use	<u>Not required</u>
§ 4.1.1.9	Civil engineering	<u>Architect- see EA proposal</u>
§ 4.1.1.10	Landscape design	<u>Architect</u>
§ 4.1.1.11	Architectural interior design	<u>Architect- beyond basic finishes</u>
§ 4.1.1.12	Value analysis	<u>Not offered</u>
§ 4.1.1.13	Cost estimating	<u>Construction Manager</u>
§ 4.1.1.14	On-site project representation	<u>Not required</u>
§ 4.1.1.15	Conformed documents for construction	<u>MEP – see Gipe proposal</u>
§ 4.1.1.16	As-designed record drawings	<u>Architect if requested as additional</u>
§ 4.1.1.17	As-constructed record drawings	<u>Architect if requested as additional</u>
§ 4.1.1.18	Post-occupancy evaluation	<u>Not offered</u>
§ 4.1.1.19	Facility support services	<u>Not required</u>
§ 4.1.1.20	Tenant-related services	<u>n/a</u>
§ 4.1.1.21	Architect’s coordination of the Owner’s consultants	<u>Architect</u>
§ 4.1.1.22	Telecommunications data design	<u>Owner- see Gipe proposal</u>
§ 4.1.1.23	Security evaluation and planning	<u>Owner- see Gipe proposal</u>
§ 4.1.1.24	Commissioning	<u>Owner</u>
§ 4.1.1.25	Sustainable Project Services pursuant to Section 4.1.3	<u>Not required</u>
§ 4.1.1.26	Historic preservation	<u>n/a</u>
§ 4.1.1.27	Furniture, furnishings, and equipment design	<u>Owner w Architect support</u>
§ 4.1.1.28	Other services provided by specialty Consultants	<u>As requested as additional</u>
§ 4.1.1.29	Other Supplemental Services	<u>As requested as additional</u>

...

See EA and Gipe proposals as noted above
PAGE 14

Owner shall provide rfp, run the bid process, and make the final selection of the CM with the architects review and support, and attendance at interviews. Owner shall provide commissioning, possibly from Gipe as per the Berlin Librry project, all cost estimating is to be by the CM, employed by the owner Owner shall select all furniture, with support and review by the architect.

~~§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.~~

...

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- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service; Service that occur after the Construction commencement date;

PAGE 15

- .1 two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
 .2 fifteen (15) visits to the site by the Architect during construction
 .3 two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
 .4 two (2) inspections for any portion of the Work to determine final completion

...

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty four (24) months of the ~~date of this Agreement,~~ milestones described in § 1.1.4, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as ~~Additional Services.~~ Services if the Architect has incurred actual costs because of the delay.

PAGE 18

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or ~~otherwise,~~ in accordance with the requirements of the binding dispute resolution method selected in this Agreement and otherwise within the period specified by applicable law, ~~but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.law.~~

~~§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~

...

~~§ 8.2 Mediation~~

~~§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

~~§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

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~~§ 8.2.3~~ The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 8.2.4~~ If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

— Arbitration pursuant to Section 8.3 of this Agreement

— Litigation in a court of competent jurisdiction

— Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

~~§ 8.3 Arbitration~~

~~§ 8.3.1~~ If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

~~§ 8.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

~~§ 8.3.4 Consolidation or Joinder~~

~~§ 8.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

~~§ 8.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 8.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

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~~§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.~~

PAGE 19

n/a

...

n/a

PAGE 20

\$468,301 – per attached fee summary

~~.2 Percentage Basis~~

~~— (Insert percentage value)~~

~~() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

~~.3 Other~~

~~— (Describe the method of compensation)~~

PAGE 21

hourly plus reimbursables

...

hourly plus reimbursables per the attached rate sheet and subconsultant agreements

~~§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ()%, or as follows: (Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services)~~

if approved by Owner.

...

Schematic Design Phase	<u>\$30,621</u>	percent (<u>6.5</u>)	%)
Design Development Phase	<u>\$97,112</u>	percent (<u>20.7</u>)	%)
Construction Documents Phase	<u>\$176,246</u>	percent (<u>37.6</u>)	%)
Construction Phase	<u>\$109,276</u>	percent (<u>23.3</u>)	%)
<u>Bid and Permit</u>	<u>\$33,189</u>		<u>7.1</u>)
<u>MDOT permitting</u>	<u>\$8,626</u>		<u>1.8</u>		
<u>Conformed MEP</u>	<u>\$5,513</u>		<u>1.2</u>		
<u>DPL incentive modelling</u>	<u>\$7,718</u>		<u>1.7</u>		

...

see The Design Group rate and service sheet, and subconsultant proposals

PAGE 22

~~.1 Transportation Authorized transportation and authorized out-of-town travel and subsistence;~~

~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~

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...

~~.6 Postage, handling, and delivery;~~

...

.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the ~~Owner or required for the Project;~~ Owner;

~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~

.9 All taxes levied on professional services and on reimbursable expenses;

~~.10 Site office expenses;~~

...

~~§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus — percent (—%) of the expenses incurred.~~

...

n/a

...

§ 11.10.1.1 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

~~§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ —) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

...

one percent per month % 1%

PAGE 23

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MEP Agreement- Gipe Associates
Structural Agreement- GMB, Inc
Civil Proposal- EA Associates

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Jeff Schoellkopf

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Jeff Schoellkopf, President JSD, Inc 6/30/23

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THE DESIGN GROUP

ARCHITECTURE PLANNING INTERIOR DESIGN

JIM EDGCOMB, ARCHITECT

Airport Road Warren VT 05674 tel 802-496-5255

JEFF SCHOELLKOPF, ARCHITECT

2023 RATE SHEET

ISD/ THE DESIGN GROUP offers the following design services: Architecture, Landscape Architecture, Land, Site, and Master Planning, Sustainable Design, and Interior Design. Engineering Services may be provided by subconsultants. Rates for Design services are described below.

<u>Design Services</u>	<u>Hourly Rate</u>
• Principal	\$ 165.00
• Project Architect / Sr. Planner	\$ 115-145.00
• Designer / Project Manager / Planner	\$ 95-105.00
• Draftsperson / Technician / Asst. Project Manager	\$ 85-95.00
• Administration	\$ 55.00

All design services can be provided on a fixed fee basis with a clearly defined Scope of Services. Billing occurs monthly and is due upon receipt. Interest on unpaid balances accrues at a rate of 1 1/2% / mo. Other services, including pre-design, permitting, model making, rendering, project management, cost estimating, and product research, are available as requested.

Reimbursable Expenses

Travel, transportation, lodging, and meals are charged on jobs more than a half an hour from our offices.

<u>Transportation Costs</u>	<u>Auto at \$0.70 per mile</u>
	<u>Air travel tickets billed at cost</u>
	<u>Travel time billed at ½ hourly billable rate</u>

<u>Lodging and meals</u>	<u>At cost up to allowed IRS per diem</u>
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<u>Printing/Plots</u>	<u>30 x 42</u>	<u>\$3.50</u>
	<u>24 x 36</u>	<u>\$2.50</u>
	<u>18 x 24</u>	<u>\$2.00</u>
	<u>12 x 18</u>	<u>\$1.50</u>
	<u>11 x 17</u>	<u>\$1.00</u>

<u>Color Copies</u>	<u>11x17</u>	<u>\$1.00 each</u>
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All other direct job expenses including consultants, engineering, telephone, postage, photography, and video recording is billed at cost plus 5% overhead.

Visit our website at www.tdgv.com

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Jeff Schoellkopf, AIA, LEED AP, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:58:47 ET on 07/11/2023 under Order No. 2114385612 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B133™ – 2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

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AIA® Document A133™ – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

and the Construction Manager:
(Name, legal status, address, and other information)

for the following Project:
(Name, location, and detailed description)

The Architect:
(Name, legal status, address, and other information)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Construction Manager agree as follows.

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EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
- .4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

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§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

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ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase**§ 3.1.1 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the

cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

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(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position	Rate
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§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within _____ (___) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid _____ (___) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

_____ % _____

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager’s performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager’s Fee.

§ 6.1.2 The Construction Manager’s Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager’s Fee.)

§ 6.1.3 The method of adjustment of the Construction Manager’s Fee for changes in the Work:

§ 6.1.4 Limitations, if any, on a Subcontractor’s overhead and profit for increases in the cost of its portion of the Work:

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed _____ percent (_____ %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

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§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8,

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shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

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§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

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§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the _____ day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the _____ day of the _____ month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than _____ (____) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;

- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner’s receipt of the Construction Manager’s final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors’ findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect’s reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 11.2.2.3 If the Owner’s auditors’ report concludes that the Cost of the Work, as substantiated by the Construction Manager’s final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager’s receipt of a copy of the Architect’s final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner’s auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect’s final Certificate for Payment.

§ 11.2.3 The Owner’s final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 11.2.4 If, subsequent to final payment, and at the Owner’s request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager’s Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

_____ % _____

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the

Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;

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- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than _____ (\$ ___) for each occurrence and _____ (\$ ___) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than _____ (\$ ___) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than _____ (\$ ___) each accident, _____ (\$ ___) each employee, and _____ (\$ ___) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than _____ (\$ ___) per claim and _____ (\$ ___) in the aggregate

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

Init.

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5 Other provisions:

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)
- .6 Other Exhibits:
(Check all boxes that apply.)

- [] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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.7 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

(Printed name and title)

(Printed name and title)

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AIA[®] Document A201[™] – 2017
General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

THE OWNER:
(Name, legal status and address)

THE ARCHITECT:
(Name, legal status and address)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™], Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS**§ 1.1 Basic Definitions****§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining

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provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building

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information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the

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site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's

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capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes

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remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

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- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

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§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the

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time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

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ARTICLE 4 ARCHITECT**§ 4.1 General**

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under

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Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the

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Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate

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Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

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- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The

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Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable

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by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The

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foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers

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to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not

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constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS**§ 11.1 Contractor's Insurance and Bonds**

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the

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endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The

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Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the

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Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

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§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**§ 14.1 Termination by the Contractor**

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES**§ 15.1 Claims****§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section

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15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

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§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly

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consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Worcester County Government
One West Market Street | Room 1103 | Snow Hill MD 21863-1195
(410) 632-1194 | (410) 632-3131 (fax) | admin@co.worcester.md.us | www.co.worcester.md.us

MEMORANDUM

TO: Worcester County Commissioners
FROM: Nicholas W. Rice, Procurement Officer
DATE: October 17, 2023
RE: Request to Bid – Pocomoke Middle Basketball Courts

Attached for your review and approval are bid documents for the renovation of a basketball court at Pocomoke Middle School. Once the Commissioners have had the opportunity to review these documents, it is requested that authorization be provided to solicit bids for these services.

Funding for this project was approved by Program Open Space in the amount of \$320,000. There is currently \$374,824.07 available under account 100.1602.500.6160.241, Grant Programs New Park Development. Project Open Space funding is 90% reimbursable. The county would be responsible for 10%, \$32,000.

Should you have any questions, please feel free to contact me.

Worcester County Administration
1 West Market Street, Room 1103
Snow Hill, Maryland 21863



INVITATION FOR BID

PROJECT: Basketball Court Renovation at Pocomoke Middle

DEPARTMENT: Recreation and Parks

VENDOR:

NAME: _____

ADDRESS: _____

BID OPENING:

DATE: _____

TIME: _____

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SECTION I: INTRODUCTION

A. PURPOSE

1. The purpose of this Invitation for Bid Document is for Worcester County (“County”) to contract for the renovation of a basketball court at Pocomoke Middle School in conformity with the requirements contained herein (“Bid Document(s”).

B. CLARIFICATION OF TERMS

1. Firms or individuals that submit a bid for award of a contract (“Contract”) are referred to as vendors (“Vendors”) in this document. The Vendor that is awarded the Contract is herein referred to as the (“Successful Vendor”).

C. QUESTIONS AND INQUIRES

1. Questions must be addressed in writing to the Worcester County Procurement Officer at nrice@co.worcester.md.us.
2. The last date to submit questions for clarification will be noon on.
3. Addenda are posted on the County website at <https://www.co.worcester.md.us/> under County Info: Bid Board: at <https://www.co.worcester.md.us/commissioners/bids> at least five calendar days before bid opening.
4. It is the Vendors responsibly to make sure all addenda are acknowledged in their bid. Failure to do so could result in the bid being disqualified.

D. FILLING OUT BID DOCUMENTS

1. Use only forms supplied by the County.
2. One unbound original and two bound copies of the bid form and any required attachments must be submitted in the solicitation and can be submitted in the same envelope unless otherwise instructed.
3. Bid Documents should be complied as follows: (1) Cover letter, (2) Form of Bid, (3) References, (4) Exceptions Document and Signed addenda, if necessary (5) Individual Principal Document, (6) Vendor’s Affidavit of Qualification to Bid, and (7) Non-Collusive Affidavit
4. Where so indicated by the make-up of the Bid Documents, sums will be expressed in both words and figures, and in the case of a discrepancy between the two, the amount written in words will govern. In the event there is a discrepancy between the unit price and the extended totals, the unit prices will govern.
5. Any interlineation, alteration, or erasure will be initialed by the signer of the Bid Documents.
6. Each copy of the Bid Documents will be signed by the person(s) legally authorized to bind the Vendor to a contract, using the legal name of the signer. Bid Documents submitted by an agent will have a current Power of Attorney attached certifying the agent’s authority to bind the Vendor.
7. Vendor will supply all information and submittals required by the Bid Documents to constitute a proper and responsible completed Bid Document package.
8. Any ambiguity in the Bid Documents as a result of omission, error, lack of clarity or non-compliance by the Vendor with specifications, instructions, and/or all conditions of bidding will be construed in the light most favorable to the County.

E. SUBMISSION OF BID DOCUMENTS

1. All copies of the Bid Documents and any other documents required to be submitted with the Bid Documents will be enclosed in a sealed envelope. The envelope will be addressed to the

Worcester County Commissioners and will be identified with the project name: **BASKETBALL COURT RENOVATION AT POCOMOKE MIDDLE** and the Vendor's name and address. If the Bid Documents are sent by mail, the sealed envelope will be enclosed in a separate mailing envelope with the notation "SEALED BID DOCUMENTS ENCLOSED" on the face thereof.

2. Bids must be mailed or hand carried to the **Worcester County Administration Office, 1 West Market Street, Room 1103, Snow Hill, MD 21863**, in order to be received **prior** to the announced bid deadline. *Bids received after said time or delivered to the wrong location will be returned to the Vendor unopened.*
3. **Bids are due and will be opened at the time listed on the front of this Bid Document.**
4. If you are delivering a bid in person please keep in mind to allow time to get through security and into the Administration Office. It is fully the responsibility of the Vendor to ensure that the bid is received on time.
5. The County will not speculate as to reasonableness of the postmark, nor comment on the apparent failure of a public carrier to have made prompt delivery of the bid.
6. Vendors, or their authorized agents, are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting Bid Documents; failure to do so will be at the Vendor's own risk.
7. A fully executed Affidavit of Qualification to Bid will be attached to each Bid Document.
8. Minority vendors are encouraged to participate.
9. All Vendor submitted Bid Documents will be valid for a minimum of sixty days from the date of Bid Document opening.
10. Electronically mailed bids are **not** considered sealed bids and will **not** be accepted.

F. **OPENING OF BIDS**

1. Bid Documents received on time will be opened publicly and Vendor's names and total costs will be read aloud for the record.
2. The Contract will be awarded or all Bid Documents will be rejected within sixty days from the date of the Bid Document opening.

G. **ACCEPTANCE OR REJECTION OF BIDS**

1. Unless otherwise specified, the Contract will be awarded to the most responsible and responsive Vendor complying with the provisions of the Bid Documents, provided the bid does not exceed the funds available, and it is in the best interest of the County to accept it. The County reserves the right to reject the Bid Documents of any Vendor who has previously failed to perform properly in any way or complete on time contracts of a similar nature; or a Bid Document from a Vendor who, investigation shows, is not in a position to perform the Contract; or Bid Documents from any person, firm, or corporation which is in arrears or in default to the County for any debt or contract.
2. Completed Bid Documents from Vendors debarred from doing business with the State of Maryland or the Federal Government will not be accepted.
3. In determining a Vendor's responsibility, the County may consider the following qualifications, in addition to price:
 - a. Ability, capacity, and skill to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities.
 - b. Character, integrity, reputation, experience and efficiency.

- c. Quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability.
 - d. Previous and existing compliance with laws and ordinances relating to contracts with the County and to the Vendor's employment practices.
 - e. Evidence of adequate insurance to comply with Contract terms and conditions.
 - f. Statement of current work load and capacity to perform/provide the Goods and/or Services.
 - g. Explanation of methods to be used in fulfilling the Contract.
 - h. The Vendor, if requested, will be prepared to supply evidence of its qualifications, listed above, and its capacity to provide/perform the Goods and/or Services; such evidence to be supplied within a specified time and to the satisfaction of the County.
- 4. In determining a Vendor's responsiveness, the County will consider whether the Bid Document conforms in all material respects to the Bid Documents. The County reserves the right to waive any irregularities that may be in its best interest to do so.
 - 5. The County will have the right to reject any and all Bid Documents, where applicable to accept in whole or in part, to add or delete quantities, to waive any informalities or irregularities in the Bid Document received, to reject a Bid Document not accompanied by required Bid security or other data required by the Bid Documents, and to accept or reject any Bid Document which deviates from specifications when in the best interest of the County. Irrespective of any of the foregoing, the County will have the right to award the Contract in its own best interests.

H. QUALIFICATIONS

- 1. The Vendor must be in compliance with the laws regarding conducting business in the State of Maryland.
All Vendors shall provide a copy Certificate of Status from the Maryland Department of Assessments and Taxation, evidencing the Vendor is in good standing with the State of Maryland. See https://sdatcert1.resiusa.org/certificate_net/ for information on obtaining the Certificate of Status. *Certificates of status are not available for trade names, name reservations, government agencies, sole proprietorships, and some other accounts as these are not legal entities and thus are not required for these categories of Vendors.* For more information on the Certificate of Status please see <http://www.dat.state.md.us/sdatweb/COSinfo.html> .
- 2. Worcester County reserves the right, at its sole discretion, to extend the date this documentation must be provided. The Vendor's inability to provide this documentation could result in the bid being rejected.

I. DESCRIPTIVE LITERATURE

- 1. The proposed descriptive literature fully describing the product bid is what is intended to be included as the price. Failure to do so may be cause for rejection of the bid.
- 2. Any items, systems or devices supplied in this bid that are proprietary in nature relative to maintenance, repair, servicing or updating must be disclosed on the bid form.

J. NOTICE TO VENDORS

- 1. Before a Vendor submits the Bid Documents it will need to become fully informed as to the extent and character of the Goods and/or Services required and are expected to completely familiarize themselves with the requirements of this Bid Document's specifications. Failure to do so will not relieve the Vendor of the responsibility to fully perform in accordance therewith. No consideration will be granted for any alleged misunderstanding of the material to be furnished or

the Services to be performed, it being understood that the submission of a Bid Document is an agreement with all of the items and conditions referred to herein.

K. PIGGYBACKING

1. Worcester County may authorize, upon request, any governmental entity (hereafter Authorized User) within the County to purchase items under the contract awarded pursuant to this bid solicitation.
2. All purchase orders issued against the contract by an authorized User shall be honored by the Successful Vendor in accordance with all terms and conditions of this contract.
3. The issuance of a purchase order by an Authorized User pursuant to this provision shall constitute an express assumption of all contractual obligations, covenants, conditions and terms of the contract. A breach of the contract by any particular Authorized User shall neither constitute nor be deemed a breach of the contract as a whole which shall remain in full force and effect, and shall not affect the validity of the contract nor the obligations of the Successful Vendor thereunder respecting the County.
4. The County specifically and expressly disclaims any and all liability for any breach by an Authorized User other than the County and each such Authorized User and Successful Vendor guarantee to save the County, its officers, agents and employees harmless from any liability that may be or is imposed by the Authorized User's failure to perform in accordance with its obligations under the contract.

END OF SECTION

SECTION II: GENERAL INFORMATION

A. ECONOMY OF BID

1. Bid Documents will be prepared simply and economically, providing straightforward and concise description of the Vendor’s capabilities to satisfy the requirements of the Bid Documents. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective Bid Document are neither required nor desired.

B. PUBLIC INFORMATION ACT (PIA)

1. Worcester County is subject to the Maryland Public Information Act and may be required to release bid submissions in accordance with the Act.
2. Any materials the Vendor deems to be proprietary or copyrighted must be marked as such; however, the material may still be subject to analysis under the Maryland Public Information Act.
 - a. The Vendor may invoke proprietary information or trade secret protection for submission of any data/material by (1) identifying the data/material in a written description, (2) clearly marking the data/material as proprietary, and (3) providing a written statement detailing the reasons why protection is necessary. The County reserves the right to ask for additional clarification prior to establishing protection.

C. CONTRACT AWARD

1. A written award by the County to the Successful Vendor in the form of a Purchase Order or other contract document will result in a binding Contract without further action by either party. If the Successful Vendor fails or refuses to sign and deliver the Contract and the required insurance documentation, the County will have the right to award to the next responsible and responsive Vendor. Contract will be executed by the Successful Vendor within fourteen calendar days of receipt of the Contract.
2. Bid Documents and Contracts issued by the County will bind the Vendor to applicable conditions and requirements herein set forth, unless otherwise specified in the Bid Documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.
3. County personal property taxes (“Taxes”) must be on a current basis; if any such Taxes are delinquent, they must be paid before award of Contract. Failure to pay will result in the award of Contract to another Vendor.
4. The County reserves the right to engage in individual discussions and interviews with those Vendors deemed fully qualified, responsible, suitable and professionally competent to provide the required Goods and/or Services should the project size warrant it. Vendors will be encouraged to elaborate on their qualifications, performance data, and staff expertise.

D. AUDIT

1. The Successful Vendor agrees to retain all books, records, and other documents relative to the awarded Contract for five years after final payment, or until audited. The County, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period.

E. NONPERFORMANCE

1. The County reserves the right to inspect all operations and to withhold payment for any goods not performed or not performed in accordance with the specifications in this Bid Document. Errors, omissions or mistakes in performance will be corrected at no cost to the County. Failure to do so

will be cause for withholding of payment for that Goods and/or Services. In addition, if deficiencies are not corrected in a timely manner, the County may characterize the Successful Vendor as uncooperative, which may jeopardize future project order solicitations.

F. MODIFICATION OR WITHDRAWAL OF BID

1. A Bid Document may not be modified, withdrawn, or cancelled by the Vendor during the stipulated time period following the time and date designated for the receipt of Bid Documents, and each Vendor so agrees in submitting Bid Documents.

G. DEFAULT

1. The Contract may be cancelled or annulled by the County in whole or in part by written notice of default to the Successful Vendor upon non-performance, violation of Contract terms, delivery failure, bankruptcy or insolvency, any violation of state or local laws, or the making of an assignment for the benefit of creditors. An award may then be made to the next most highly rated Vendor, or when time is of the essence, similar commodities and/or service may be purchased on the open market. In either event, the defaulting Vendor (or his surety) will be liable to the County for cost to the County in excess of the defaulted Contract price.
2. If a representative or warranty of either Party to the Contract is false or misleading in any material respect, or if either Party breaches a material provision of the Contract (“Cause”), the non-breaching Party will give the other Party written notice of such cause. If such Cause is not remedied within fifteen calendar days (“Cure Period”) after receipt of such notice, (unless, with respect to those Causes which cannot be reasonably corrected or remedied within the Cure Period, the breaching Party will have commenced to correct or remedy the same within such Cure Period and thereafter will proceed with all due diligence to correct or remedy the same), the Party giving notice will have the right to terminate this Contract upon the expiration of the Cure Period.

H. COLLUSION/FINANCIAL BENEFIT

1. The Vendor certifies that his/her Bid is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a Bid Document for the same project; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.
2. Upon signing the Bid Document, Vendor certifies that no member of the governing body of the County, or members of his/her immediate family, including spouse, parents or children, or any other officer or employee of the County, or any member or employee of a Commission, Board, or Corporation controlled or appointed by the County Commissioners has received or has been promised, directly or indirectly, any financial benefit, related to this Bid Document and subsequent Contract.

I. TAX EXEMPTION

1. In buying products directly from a Vendor, Worcester County is exempt from being *directly* charged Federal excise and Maryland sales tax. A copy of an exemption certificate shall be furnished upon request.
2. According to the Office of the Comptroller of Maryland, a *Contractor is responsible for paying sales tax* on his/her purchases relating to any projects or services and should incorporate it into their bid.
3. Successful Vendors **cannot** use the County tax exemption to buy materials or products used on County projects.

J. CONTRACT CHANGES

1. No claims may be made by anyone that the scope of the project or that the Vendor's Goods and/or Services have been changed (requiring changes to the amount of compensation to the Vendor or other adjustments to the Contract) unless such changes or adjustments have been made by an approved written amendment (Change Order) to the Contract signed by the Chief Administrative Officer (and the County Commissioners, if required), prior to additional Goods and/or Services being initiated. Extra Goods and/or Services performed without prior, approved, written authority will be considered as unauthorized and at the expense of the Vendor. Payment will not be made by the County.
2. No oral conversations, agreements, discussions, or suggestions, which involve changes to the scope of the Contract, made by anyone including any County employee, will be honored or valid. No written agreements or changes to the scope of the Contract made by anyone other than the Procurement Officer (with the Chief Administrative Officer and/or County Commissioners approval, if required) will be honored or valid.
3. If any Change Order in the Goods and/or Services results in a reduction in the Goods and/or Services, the Vendor will neither have, nor assert any claim for, nor be entitled to any additional compensation for damages or for loss of anticipated profits on Goods and/or Services that are eliminated.

K. ADDENDUM

1. No oral statements of any person will modify or otherwise affect or interpret the meaning of the Contract specifications, or the terms, conditions, or other portions of the Contract. All modifications and every request for any interpretation must be addressed to Worcester County's Procurement Officer and to be given consideration, must be received no later than the last day for questions listed in Section I, Subsection C.2.
2. Any and all interpretations, corrections, revisions, and amendments will be issued by the Procurement Officer to all holders of Bid Documents in the form of written addenda. Vendors are cautioned that any oral statements made by any County employee that materially change any portion of the Bid Documents cannot be relied upon unless subsequently ratified by a formal written amendment to the Bid Document.
3. All addenda will be issued so as to be received at least five days prior to the time set for receipt of Bid Documents, and will become part of the Contract and will be acknowledged in the Bid Document form. Failure of any Vendor to receive any such addenda will not relieve said Vendor from any obligation under the Bid Document as submitted.
4. Vendors are cautioned to refrain from including in their Bid Document any substitutions which are not confirmed by written addenda. To find out whether the County intends to issue an amendment reflecting an oral statement made by any employee, contact Worcester County's Procurement Officer during normal business hours.
5. The Worcester County Procurement Officer reserves the right to postpone the Bid Document opening for any major changes occurring in the five-day interim which would otherwise necessitate an Addendum.

L. EXCEPTIONS/ SUBSTITUTIONS

1. Any exceptions or substitutions to the specifications requested should be marked on the bid form and listed on a separate sheet of paper attached to the bid.
2. An exception to the specifications may disqualify the bid. The County will determine if the exception is an essential deviation or a minor item.

3. In the case of a minor deviation, the County maintains the option to award to that Vendor if it determines the performance is not adversely affected by the exception.

M. APPROVED EQUALS

1. In all specifications where a material or article is defined by describing a proprietary product or by using the name of a Vendor or manufacturer, it can be assumed that an approved equal can be substituted.
2. The use of a named product is an attempt to set a particular standard of quality and type that is familiar to the County. Such references are not intended to be restrictive.
3. However, the County shall decide if a product does in fact meet or exceed the quality of the specifications listed in the solicitation. It shall be the responsibility of the Vendor that claims his product is an equal to provide documentation to support such a claim.

N. DELIVERY

1. All items shall be delivered F.O.B. destination and delivery costs and charges included in the bid unless otherwise stated in the specifications or bid form.

O. INSURANCE

1. If required by the General Conditions or Terms and Conditions, the Successful Vendor shall provide the County with Certificates of Insurance within ten calendar days of bid award notification evidencing the required coverage.
2. Successful Vendor must provide Certificates of Insurance before commencing work in connection with the Contract.

P. BID EVALUATION

1. Bid tabulations will be posted on the County website at <https://www.co.worcester.md.us/commissioners/bids>. Click on the Expired Bids & Results tab and find the bid tabulation for the bid you are interested in. Bid tabulations will be posted as soon as reasonably possible after the Bid opening.

END OF SECTION

SECTION III: GENERAL CONDITIONS**A. DRAWINGS AND SPECIFICATIONS**

1. Should any detail be omitted from the drawings or specifications, or should any errors appear in either, it shall be the duty of the Successful Vendor to notify the County's designated construction inspector.
2. In no case shall the Successful Vendor proceed with the work without notifying and receiving definite instructions from the County. Work wrongly constructed without such notification shall be corrected by the Successful Vendor at his own cost.

B. MATERIALS, SERVICES AND FACILITIES

1. It is understood that, except as otherwise specifically stated in the Bid Documents, the Successful Vendor will provide and pay for all materials, labor, tools, equipment, water, light, power and transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.
2. Materials and equipment will be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work will be located so as to facilitate prompt inspection.
3. Manufactured articles, materials, and equipment will be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
4. Materials, supplies and equipment will be in accordance with samples submitted by the Successful Vendor and approved by the County.

C. INSPECTION AND TESTING

1. All materials and equipment used in the construction of the Work will be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the Bid Documents.
2. The County or its representatives may, at any time, enter upon the work and the premises used by the Successful Vendor, and the Successful Vendor shall provide proper and safe facilities to secure convenient access to all parts of the work, and all other facilities necessary for inspection, as may be required.
3. The County will appoint such persons as deemed necessary to properly inspect the materials furnished or to be furnished, and the work done under the contract and to see that the same strictly corresponds with the drawings and specifications. All such materials and workmanship shall be subject to approval of the County. Approval or acceptance of payment shall not be misconstrued as approval of items or work not in conformance with specifications and drawings nor shall it prevent the rejection of said work or materials at any time thereafter during the existence of the contract, should said work or materials be found to be defective, or not in accordance with the requirements of the contract.
4. Work and material will be inspected promptly, but if for any reason should a delay occur, the Successful Vendor shall have no claim for damages or extra compensation.
5. The Successful Vendor shall pay for all inspection costs necessary to complete the work which may be incurred to comply with the requirements of any agency other than the County, such as a railroad, public service utility company, or any other governmental agency or any other agency whose jurisdiction affects the work in any manner unless otherwise specified herein.

D. APPROVAL OF SUBSTITUTION OF MATERIALS

1. Samples of materials shall be submitted by the Successful Vendor for approval before such materials are ordered from the manufacturers or distributors and shall be approved by the County before actual work is begun.
2. It is the intention of these specifications to permit all vendors bidding on this work to secure the fullest amount of competition on the various materials and specialties names herein. Wherever a material or article is defined by describing a proprietary product or by using the name of a vendor or manufacturer, the term or approved equal shall be presumed to be implied unless otherwise stated.

E. PROTECTION OF WORK, PROPERTY AND PERSONS

1. Successful Vendor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions and programs in connection with the Work. Successful Vendor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to, all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
2. Successful Vendor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. Successful Vendor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Successful Vendor will notify owners of adjacent utilities when progress of the Work may affect them. The Successful Vendor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by Successful Vendor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable.
3. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Successful Vendor, without special instruction or authorization from the County, will act to prevent threatened damage, injury or loss. Successful Vendor will give the County prompt Written Notice of any significant changes in the Work or deviations from the Bid Documents caused thereby, and a Change Order will thereupon be issued covering the changes and deviations involved.

F. BARRICADES, DANGER, WARNING AND DETOUR SIGNS

1. The Successful Vendor shall provide, erect and maintain all necessary barricades, sufficient red lights, flares, danger signals and signs, provide a sufficient number of watchmen and take all necessary precautions for the protection of the work and safety of the public.

G. LICENSES AND PERMITS

1. The Successful Vendor shall have all necessary licenses required to do the work and give all notices and obtain and pay all necessary permits required by local laws and regulations for building.
2. State and Federal permits (if applicable) to undertake work have been obtained by the County and accompany these specifications.

H. SUPERVISION

1. The Successful Vendor shall maintain, at all times during the progress of work, a competent and experienced supervisor who shall represent the Successful Vendor, and all directions given to him shall be binding. Important decisions regarding directions, if requested by the supervisor, shall be confirmed in writing.
2. Supervision by the County or its representative does not relieve the Successful Vendor of responsibility for defective work executed under the direct control of the Successful Vendor. Responsibility for defective work rests upon the Successful Vendor, whether discovered by the County prior to final payment or subsequent thereto.

I. CLEAN UP

1. Upon completion of the items within a given location as specified and before monthly estimates will be paid, the construction area and all other areas occupied by the Successful Vendor during the construction of said Contract shall be cleaned of all surplus and discarded materials, bracing, forms, rubbish and temporary structures that were placed there by the Successful Vendor.
2. Disposal of the aforementioned shall be the responsibility of the Successful Vendor.

J. CHANGES IN WORK

1. The County, without invalidating the contract, may order extra work or make changes by altering, adding or deducting from the work with the contract sum being adjusted accordingly.
2. All such work shall be executed under the conditions of the original contract, except that any claim for the extension of time caused thereby shall be adjusted at the time of ordering such change.
3. The value of any such extra work or change shall be determined in one or more of the following ways:
 - a. By estimate and acceptance of lump sum.
 - b. By unit prices named in the contract or subsequently agreed upon.

K. TIME FOR COMPLETION

1. The Work contemplated under this Contract shall be considered as continuous and be completed within the timeframe(s) stated in Section IV of this Bid Document.
2. The Successful Vendor will be allowed to work eight hours per day, Monday through Friday, except for holidays, fifty-two weeks per year.
3. The Successful Vendor will not be permitted to work on holidays observed by Worcester County or the State of Maryland or on Sundays unless otherwise authorized in writing.
4. In case of an emergency which may require that work be done on Saturdays, Sundays, and Holidays, the Successful Vendor shall request permission of the County to do so. If, in the opinion of the County, the emergency is bonafide, permission may be granted to the Successful Vendor to work such hours as may be determined are necessary by the County. Also, if in the opinion of the County a bonafide emergency exists, the Successful Vendor may be directed to work such hours as may be necessary whether or not the Successful Vendor requests permission to do so.
5. The Successful Vendor shall pay the County for all costs incurred for inspection services required for work permitted during holidays, weekends or in excess of eight hours per day.

L. LIQUIDATED DAMAGES

1. If the Successful Vendor shall fail to start and complete the project within the time frame stated above, the County shall assess liquidated damages in the amounts listed below per calendar day for each and every day the Successful Vendor fails to complete the contract.

<u>Amount of Contract</u>	<u>Liquidated Damages per Day</u>
Less than \$10,000	\$100.00
\$10,000 or less than \$100,000	\$250.00
\$100,000 or less than \$500,000	\$750.00
\$500,000 or more	\$1,000.00
Or will be based on actual cost to the County, whichever is greater.	

2. The designated County project manager reserves the option to extend the scheduled completion date or waive the liquidated damages clause in its entirety if he is of the opinion that extenuating circumstances deemed such action appropriate.

M. CORRECTION OF WORK

1. The Successful Vendor will promptly remove from the premises all Work rejected by the County for failure to comply with the Bid Documents, whether incorporated in the construction or not, and the Successful Vendor will promptly replace and re-execute the Work in accordance with the Bid Documents and without expense to the County and will bear the expense of making good all Work of other Vendors destroyed or damaged by such removal or replacement.
2. All removal and replacement Work will be done at the Successful Vendor's expense. If the Successful Vendor does not act to remove such rejected Work within ten days after receipt of Written Notice, the County may remove such Work and store the materials at the expense of the Successful Vendor.

N. CONSTRUCTION SAFETY AND HEALTH STANDARDS

1. It is a condition of this contract, and shall be made a condition of each sub-contract entered into pursuant to this contract, that the Successful Vendor and any sub-contractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time, promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standard Act.) (83 Stat. 96).
2. Failure of Worcester County to inform the Successful Vendor of safety violations will not release the Successful Vendor of his responsibilities.

O. BID BOND

1. Bid Documents must be accompanied by a Bid Bond if the Vendor's total Bid amount exceeds \$100,000, payable to the County for five percent of the total amount of the bid. After the analysis of the Bid Documents the County will return Bid Bonds to all Vendors except the three lowest Responsive and Responsible Vendors. After execution of the Contract, and receipt, execution, and approval of the Successful Vendor's Payment and Performance bond, the Bid Bonds will be returned. A certified check may be used in lieu of a Bid Bond.
2. The County, at its discretion, may consider a Vendor in default if the Vendor fails to execute the Contract, in which the County will retain said Bid Bond.

P. PERFORMANCE AND PAYMENT BONDS

1. The Successful Vendor will be required to provide the County with a Performance Bond and Payment Bond if the total Contract amount exceeds \$100,000, each in the amount of one hundred

percent of the Contract Price, with a corporate surety approved by the County for the faithful performance of the Contract.

2. The Successful Vendor will within fourteen calendar days after the receipt of the Contract furnish the County with a Performance Bond and Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Successful Vendor of all undertakings, covenants, terms, conditions and agreements of the Bid Documents, and upon the prompt payment by the Successful Vendor to all persons supplying labor and materials in the prosecution of the Work provided by the Bid Document. Such Bonds will be executed by the Successful Vendor and corporate bonding company licensed to transact such business in the state in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Circular Number 570. The expense of these Bonds will be borne by the Successful Vendor. If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State of Maryland or is removed from the list of surety companies accepted on federal bonds, Successful Vendor will within ten calendar days after notice from the County to do so, substitute an acceptable Bond(s) in such form and sum and signed by such other surety or sureties as may be satisfactory to the County.

Q. GUARANTEE

1. The Successful Vendor shall furnish the County with a one-year guarantee of workmanship and materials, dating from time of acceptance of the project and shall make good any defects which may occur during that period.
2. If any special guarantees in excess of the one-year period are specified by the manufacturer, these guarantees shall take precedence over the one-year period guarantee.
3. Upon completion of work, and before final payment or release of retainage, the Successful Vendor shall submit, and obtain from each subcontractor, material supplier and equipment manufacture general warranties and a notarized asbestos free guarantee.

END OF SECTION

SECTION IV: BID SPECIFICATIONS

A. SCOPE

1. The County is seeking bids from qualified Vendors for a basketball court renovation at Pocomoke Middle School in accordance with the terms and conditions and specifications set forth in this solicitation.

B. CONTRACT PRICING

1. Pricing must include all labor, materials, tools, and equipment to perform Work.
2. Pricing will not change during the Contract Period.

C. SUMMARY

1. Recreation and Parks wants to renovate the basketball court at Pocomoke Middle School.
2. The project consists of milling existing basketball court then repave, seal and stripe and add new baskets and poles.

D. DEMOLITION

1. Remove existing Basketball Goal Posts & footers.
2. Remove existing Tennis Net Post & footers.
3. Clean surface and haul debris to disposal off site.
4. Backfill holes with CR6 Compacted in 6" Lifts.
5. Install 3" 19.5mm Base Asphalt level with existing court.

E. ASPHALT OVERLAY

1. Clean Surface prior to paving.
2. Apply Tack Coat as needed.
3. Machine lay and roll 2.0 inches of 9.5MM hot mix asphalt surface.
4. Plate compact where machine rolling is not feasible.

F. NEW COURT EQUIPMENT

1. Furnish and install (2) Bison 4 ½" OD PR52 Post & Goals per Manufacturers specifications.
2. Excavate for footers per specs or Manufacturers specifications.
3. Pour footers after post are set with 3000 psi concrete.

G. COURT COLOR COATING SYSTEM

1. To be applied after new asphalt has cured for 30 days.
2. Pressure wash courts.
3. Furnish and install 1 coats of California Products Acrylic Asphalt Resurfacer.
4. Furnish and install 2 coats of California Products Forest Green Court Color.
5. Layout and stripe 1 Basketball Court.

H. GENERAL REQUIREMENTS

1. The Successful Vendor must be licensed to perform Work in the state of Maryland.

I. ATTACHMENTS

1. Aerial photo of current basketball courts.

J. PRE-BID CONFERENCE

1. A pre-bid conference is scheduled for _____ on-site at the basketball courts at Pocomoke Middle School.

K. PAYMENT

1. The County will make payment(s) to the Successful Vendor within thirty (30) calendar days from the receipt of a proper invoice for approved and accepted work performed.

L. QUESTIONS

1. The last day for questions is listed under Section I, Subsection C.2.

M. AWARD

1. The County intends to award to the lowest Responsive and Responsible Vendor meeting the specifications.

END OF SECTION

**THIS AND PREVIOUS SECTIONS, OTHER THAN THE COVER PAGE, DO NOT NEED TO BE
RETURNED WITH SUBMITTAL**

FORM OF BID

To whom it may concern:

We hereby submit our Bid Documents for “BASKETBALL COURT RENOVATION AT POCOMOKE MIDDLE SCHOOL” as indicated in the Bid Documents. Having carefully examined the Bid Documents and having received clarification on all items of conflict or upon which any doubt arose, the undersigned hereby requests consideration of our Vendor for award of the referenced Bid.

ITEM	DESCRIPTION	EXTENDED PRICE
1	Provide labor, materials and equipment for the basketball court renovation as stated in the Bid Specifications.	

Vendor agrees to have the Work completed within _____ calendar days of Notice to Proceed.
(Yes)____ (No) _____ Check One.

Have you included your certificate of good standing with the State of Maryland? (See Section I, Subsection H.1 for more information.) (Yes)____ (No) _____ Check One.

Is your company currently involved in any active litigation? (Yes)____ (No) _____ Check One.

Is your company currently involved in any mergers or acquisitions? (Yes)____ (No) _____ Check One.

The Vendor agrees that their bid will be good for at least sixty days unless otherwise indicated in the bid specifications.

Note: This bid form must be signed by an officer of your company or an authorized agent for this bid to be considered valid by the county.

Sign for Identification

Printed Name

Title

Email

REFERENCES

List three references for which the Vendor has provided Goods/Services similar to those requested in the Bid Document within the last 12-36 months. Include contact name, address, telephone number, email address and services provided.

Company Name:		Company Name:	
Type of Project:		Type of Project:	
Address:		Address:	
Town, State, Zip Code:		Town, State, Zip Code:	
Contact Person:		Contact Person:	
Telephone Number:		Telephone Number:	
Email:		Email:	
Date of Service:		Date of Service:	
Company Name:			
Type of Project:			
Address:			
Town, State, Zip Code:			
Contact Person:			
Telephone Number:			
Email:			
Date of Service:			

Sign for Identification

Printed Name

EXCEPTIONS

The undersigned hereby certifies that, except as listed below, or on separate sheets attached hereto, the enclosed Completed Bid Document covers all items as specified.

EXCEPTIONS:

(If none, write none) _____

How did you hear about this solicitation?

- Worcester County's Website
- eMaryland Marketplace Advantage (eMMA)
- Newspaper Advertisement
- Direct email
- Other _____

The vendor hereby acknowledges receipt of the following addenda.

<u>Number</u>	<u>Date</u>	<u>Initials</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sign for Identification

Printed Name

INDIVIDUAL PRINCIPAL

Vendor Name: _____

Signed By: _____ In the presence of: _____

Address of Vendor: _____ Town, State, Zip _____

Telephone No.: _____ Fax: _____ Email: _____

CO-PARTNERSHIP PRINCIPAL

Name of Co-Partnership: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax: _____

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

Signed By: _____ In the presence of: _____

Partner

Witness

CORPORATE PRINCIPAL

Name of Corporation: _____

Address: _____ Town, State, Zip

Telephone No.: _____ Fax: _____

Signed By: _____ In the presence of: _____

President

Witness

Attest: _____

Corporate Secretary

Affix Corporate Seal

VENDOR’S AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT:

I, _____ am the _____
(Printed Name) (title)
and the duly authorized representative of the Vendor of
_____ whose address is
(name of corporation)

_____ and that I possess the legal authority to make this affidavit on behalf of myself and the Vendor for which I am acting.

Except as described in paragraph 3 below, neither I nor the above Vendor, nor to the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute, bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State “none” or, as appropriate, list any conviction, plea or admission described in paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the Vendor, and the sentence or disposition, if any.)

I acknowledge that this affidavit is to be furnished to the County, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the County may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Sign for Identification

Printed Name

NON-COLLUSIVE AFFIDAVIT

_____ being first duly sworn,
deposes and says that:

- 1. He/she is the _____, (Owner, Partner, Officer, Representative or Agent) of _____, the Vendor that has submitted the attached Bid Documents;
2. He/she is fully informed respecting the preparation and contents of the attached Bid Document and of all pertinent circumstances respecting such Bid Documents;
3. Such Bid Document is genuine and is not a collusive or sham Bid Document;
4. Neither the said Vendor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Vendor, firm, or person to submit a collusive or sham Bid Document in connection with the Work for which the attached Bid Document has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Vendor, firm, or person to fix the price or prices in the attached Bid Document or of any other Vendor, or to fix any overhead, profit, or cost elements on the Bid Document price or the Bid Document price of any other Vendor, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Work;
5. The price or prices quoted in the attached Bid Document are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Vendor or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

Witness

Witness

By: _____
Signature

Printed Name

Title

EXHIBIT A

WORCESTER COUNTY MARYLAND
STANDARD TERMS AND CONDITIONS

The provisions below are applicable to all Worcester County (“County”) contracts. These provisions are not a complete agreement. These provisions must be attached to an executed document that identifies the work to be performed, compensation, term, incorporated attachments, and any special conditions (“Contract”). If the Standard Terms and any other part of the Contract conflict, then the Standard Terms will prevail.

1. **Amendment.** Amendments to the Contract must be in writing and signed by the parties.
2. **Bankruptcy.** If a bankruptcy proceeding by or against the Contractor is filed, then:
 - a. The Contractor must notify the County immediately; and
 - b. The County may cancel the Contract or affirm the Contract and hold the Contractor responsible for damages.
3. **Compliance with Law.** Contractor must comply with all applicable federal, state, and local law. Contractor is qualified to do business in the State of Maryland. Contractor must obtain, at its expense, all licenses, permits, insurance, and governmental approvals needed to perform its obligations under the Contract.
4. **Contingent Fee Prohibition.** The Contractor has not directed anyone, other than its employee or agent, to solicit the Contract and it has not promised to pay anyone a commission, percentage, brokerage fee, contingent fee, or other consideration contingent on the making of the Contract.
5. **Counterparts and Signature.** The Contract may be executed in several counterparts, each of which may be an original and all of which will be the same instrument. The Contract may be signed in writing or by electronic signature, including by email. An electronic signature, a facsimile copy, or computer image of the Contract will have the same effect as an original signed copy.
6. **Exclusive Jurisdiction.** All legal proceedings related to this Contract must be exclusively filed, tried, and maintained in either the District Court of Maryland for Worcester County, Maryland or the Circuit Court of Worcester County, Maryland. The parties expressly waive any right to remove the matter to any other state or federal venue and waive any right to a jury trial.
7. **Force Majeure.** The parties are not responsible for delay or default caused by fire, riot, acts of God, County-declaration-of-emergency, or war beyond their reasonable control. The parties must make all reasonable efforts to eliminate a cause of delay or default and must, upon cessation, diligently pursue their obligations under the Contract.
8. **Governing Law.** The Contract is governed by the laws of Maryland and the County.
9. **Indemnification.** The Contractor must indemnify the County and its agents from all liability, penalties, costs, damages, or claims (including attorney’s fees) resulting from personal injury, death, or damage to property that arises from or is connected to the performance of the work or failure to perform its obligations under the Contract. All indemnification provisions will survive the expiration or termination of the Contract.

10. Independent Contractor.

- a. Contractor is an “Independent Contractor”, not an employee. Although the County may determine the delivery schedule for the work and evaluate the quality of the work, the County will not control the means or manner of the Contractor’s performance.
- b. Contractor is responsible for all applicable taxes on any compensation paid under the Contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers’ compensation benefits under the Contract.
- c. Contractor must immediately provide the County notice of any claim made against Contractor by any third party.

11. Insurance Requirements.

- a. Contractor must have Commercial General Liability Insurance in the amounts listed below. The insurance must include coverage for personal injury, discrimination, and civil rights violation claims. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”. A copy of the certificate of insurance must be filed with the County before the Contract is executed, providing coverage in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$500,000 for property damage.
- b. Contractor must have automobile insurance on all vehicles used in the Contract to protect Contractor against claims for damages resulting from bodily injury, including wrongful death, and property damage that may arise from the operations in connection with the Contract. All insurance must name County, its employees, and agents as “ADDITIONAL INSURED”.
- c. Contractor must provide the County with a certification of Workers’ Compensation Insurance, with employer’s liability in the minimum amount required by Maryland law in effect for each year of the Contract.
- d. All insurance policies must have a minimum 30 days’ notice of cancellation. The County must be notified immediately upon cancellation.
- e. When insurance coverage is renewed, Contractor must provide new certificates of insurance prior to expiration of current policies.

12. Nondiscrimination. Contractor must not discriminate against any worker, employee, or applicant because of religion, race, sex, age, sexual orientation, physical or mental disability, or perceived disability. This provision must be incorporated in all subcontracts related to the Contract.

13. Ownership of Documents; Intellectual Property.

- a. All documents prepared under the Contract must be available to the County upon request and will become the exclusive property of the County upon termination or completion of the services. The County may use the documents without restriction or without additional compensation to the Contractor. The County will be the owner of the documents for the purposes of copyright, patent, or trademark registration.
- b. If the Contractor obtains, uses, or subcontracts for any intellectual property, then it must provide an assignment to the County of ownership or use of the property.
- c. The Contractor must indemnify the County from all claims of infringement related to

- the use of any patented design, device, materials, or process, or any trademark or copyright, and must indemnify the County, its officers, agents, and employees with respect to any claim, action, costs, or infringement, for royalties or user fees, arising out of purchase or use of materials, construction, supplies, equipment, or services covered by the Contract.
14. **Payments.** Payments to the Contractor under the Contract will be within 30 days of the County's receipt of a proper invoice from the Contractor. If an invoice remains unpaid 45 days after the invoice was received, interest will accrue at 6% per year.
15. **Records.** Contractor must maintain fiscal records relating to the Contract in accordance with generally accepted accounting principles. All other relevant records must be retained by Contractor and kept accessible for at least three years after final payment, termination of the Contract, or until the conclusion of any audit, controversy, or litigation related to the Contract. All subcontracts must comply with these provisions. County may access all records of the Contractor related to the Contract.
16. **Remedies.**
- a. **Corrections of errors and omissions.** Contractor must perform work necessary to correct errors and omissions in the services required under the Contract, without undue delays and cost to the County. The County's acceptance will not relieve the Contractor of the responsibility of subsequent corrections of errors.
 - b. **Set-off.** The County may deduct from any amounts payable to the Contractor any back-charges, penalties, or damages sustained by the County, its agents, or employees caused by Contractor's breach. Contractor will not be relieved of liability for any costs caused by a failure to satisfactorily perform the services.
 - c. **Cumulative.** These remedies are cumulative and without waiver of any others.
17. **Responsibility of Contractor.**
- a. The Contractor must perform the services with the standard of care, skill, and diligence normally provided by a Contractor in the performance of services similar the services.
 - b. Notwithstanding any review, approval, acceptance, or payment for the services by the County, the Contractor will be responsible for the accuracy of any work, design, drawings, specifications, and materials furnished by the Contractor under the Contract.
 - c. If the Contractor fails to conform with subparagraph (a) above, then it must, if required by the County, perform at its own expense any service necessary for the correction of any deficiencies or damages resulting from the Contractor's failure. This obligation is in addition to any other remedy available to the County.
18. **Severability/Waiver.** If a court finds any term of the Contract to be invalid, the validity of the remaining terms will not be affected. The failure of either party to enforce any term of the Contract is not a waiver by that party.
19. **Subcontracting or Assignment.** The Contractor may not subcontract or assign any part of the Contract without the prior written consent of the County. The County may withhold consent for any reason the County deems appropriate.

20. **Termination.** If the Contractor violates any provision of the Contract, the County may terminate the Contract by written notice. All finished or unfinished work provided by the Contractor will, at the County's option, become the County's property. The County will pay the Contractor fair compensation for satisfactory performance that occurred before termination less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the County can affirmatively collect damages.
21. **Termination of Contract for Convenience.** Upon written notice, the County may terminate the Contract when the County determines termination is in the County's best interest. Termination for convenience is effective on the date specified in the County's written notice. The County will pay for reasonable costs allocable to the Contract for costs incurred by the Contractor up to the date of termination. But the Contractor will not be reimbursed for any anticipatory profits that have not been earned before termination.
22. **Termination of Multi-year Contract.** If funds are not available for any fiscal period of the Contract after the first fiscal period, then the Contract will be terminated automatically as of the beginning of unfunded fiscal period. Termination will discharge the Contractor and the County from future performance of the Contract, but not from their rights and obligations existing at the time of termination.
23. **Third Party Beneficiaries.** The County and Contractor are the only parties to the Contract and are the only parties entitled to enforce its terms. Nothing in the Contract gives any benefit or right to third persons unless individually identified by name and expressly described as intended beneficiaries of the Contract.
24. **Use of County Facilities.** Contractor may only County facilities that are needed to perform the Contract. County has no responsibility for the loss or damage to Contractor's personal property which may be stored on County property.
25. **Whole Contract.** The Contract, the Standard Terms, and attachments are the complete agreement between the parties and supersede all earlier agreements, proposals, or other communications between the parties relating to the subject matter of the Contract.





OFFICE OF THE TREASURER

Worcester County

GOVERNMENT CENTER

ONE WEST MARKET STREET, ROOM 1105

P.O. Box 248

SNOW HILL, MARYLAND

21863

TEL: 410-632-0686
FAX: 410-632-3003

PHILLIP G. THOMPSON, CPA
FINANCE OFFICER

JESSICA R. WILSON, CPA
DEPUTY FINANCE OFFICER

TO: Weston S. Young, Chief Administrative Officer
FROM: Phillip G. Thompson, Finance Officer *P&T*
DATE: October 7, 2023
SUBJECT: OPEB – FY23 Valuation

As you are aware, each year we engage an outside actuary to provide an updated study related to our Other Post Employment Benefits (OPEB) liability. In recent years there have been numerous changes to the benefits and related funding model with the intention of controlling costs while maintaining high quality benefits and minimizing disruption to our employees. I have attached the FY23 Valuation updates received from John Ritchie, with Menard Consulting, Inc., who has worked on our account for more than 10 years.

The FY23 Valuation results in an overall net OPEB liability decrease of \$13.74M or 10% from the prior June 30, 2022 Valuation for the combined General Government and Board of Education entities. This decrease is primarily attributable to the aforementioned changes that have been made to the plan and their related phase-in.

As you can see, this represents a milestone in our OPEB funding efforts which began almost 20 years ago. I would encourage the Commissioners to continue the OPEB funding as we have planned, however, we will likely be discussing future funding strategy in the upcoming FY25 Budget Work-sessions.

Menard Consulting, Inc.
 211 E. Lake Street, Suite 11
 Addison, IL 60101
 Tel: (630) 228-0676
 www.MenardConsult.com



August 4, 2023

Mr. Phil Thompson
 Finance Officer
 Worcester County Government
 Treasurer's Office
 1 W. Market St., Room 1105
 Snow Hill, MD 21863

**RE: Worcester County Government
 GASB 75 Roll Forward Results for the July 1, 2022 to June 30, 2023 Fiscal Year**

Dear Phil:

As represented to me, there have been no significant changes to the Postretirement Health Plan since the last full valuation for Fiscal Year 2022, so a roll-forward calculation for Fiscal Year 2023 can be used. As such, this letter provides amounts required for financial reporting requirements under GASB Statement No. 75 for Fiscal Year 2023. Unless otherwise noted, all assumptions, methods, and results are based on the Fiscal Year 2022 GASB 75 Actuarial Report dated October 4, 2022.

Results

	<u>Fiscal Year 2023</u>	<u>Fiscal Year 2022</u>
Total OPEB Liability	\$59,385,147	\$56,922,130
Plan Fiduciary Net Position	<u>74,935,469</u>	<u>70,268,180</u>
Net OPEB Liability	(\$15,550,322)	(\$13,346,050)
OPEB Expense	\$1,835,098	\$3,712,589

Mr. Phil Thompson
 August 4, 2023
 Page 2

OPEB Expense		
	<u>Fiscal Year 2023</u>	<u>Fiscal Year 2022</u>
Service Cost	\$1,567,344	\$1,505,241
Interest on Service Cost	<u>109,714</u>	<u>105,367</u>
Total	\$1,677,058	\$1,610,608
Interest Cost	3,876,384	5,905,286
Difference Between Expected & Actual Experience	(3,979,357)	(4,064,317)
Changes of Assumptions and Other Inputs	<u>261,013</u>	<u>261,013</u>
Total	\$1,835,098	\$3,712,589

Approach

The amortization for the net difference between projected and actual earnings on OPEB plan investments is shown below.

Actual Earnings	\$4,698,362
Projected Earnings	<u>5,082,128</u>
Difference	(\$383,766)
Amortization Period	5.00 years
<u>Amortization Schedule</u>	
FY 2023 - 2027:	\$76,753

The change above is included in the Fiscal Year 2023 OPEB Expense calculation.

The OPEB Plan's Fiduciary Net Position is projected to be sufficient to make projected benefit payments for the lifetime of every individual in the census. As such, the discount rate used to measure the Total OPEB Liability remains at 7.00%, which is the long-term expected rate of return on OPEB plan investments.

Mr. Phil Thompson
 August 4, 2023
 Page 3

The resulting Deferred Outflows/Inflows of Resources is shown below.

	Deferred Outflows of Resources	Deferred Inflows of Resources
Difference Between Expected & Actual Experience	\$0	\$27,134,753
Changes of Assumptions and Other Inputs	2,689,765	1,250,470
Net Difference Between Projected & Actual Earnings on OPEB Plan Investments	<u>9,746,447</u>	<u>3,651,551</u>
Total	\$12,436,212	\$32,036,774

Future Deferred Outflows/Inflows of Resources is shown below.

Fiscal Year Ending:	<u>Outflows</u>	<u>Inflows</u>
June 30, 2024	\$4,386,302	\$8,259,025
June 30, 2025	3,591,201	8,023,093
June 30, 2026	3,522,232	5,449,685
June 30, 2027	512,974	5,228,705
June 30, 2028	423,503	5,076,266

Sensitivity Testing of the Net OPEB Liability

Discount Rate			
	<u>1% Increase</u>	<u>Valuation Rate</u>	<u>1% Decrease</u>
Net OPEB Liability	(\$21,793,399)	(\$15,550,322)	(\$7,958,470)
Change	(40.15%)		48.82%

Health Care Trend			
	<u>1% Increase</u>	<u>Valuation Rate</u>	<u>1% Decrease</u>
Net OPEB Liability	(\$6,926,050)	(\$15,550,322)	(\$22,523,971)
Change	55.46%		(44.85%)

Mr. Phil Thompson
 August 4, 2023
 Page 4

MC, Inc.

Change in Liability

	Total OPEB Liability	Plan Fiduciary Net Position	Net OPEB Liability
Balances as of 6/30/2022	\$56,922,130	\$70,268,180	(\$13,346,050)
Changes for the year:			
Service Cost	\$1,677,058	\$0	\$1,677,058
Interest on Total OPEB Liability	3,876,384	0	3,876,384
Changes of Benefit Terms	0	0	0
Difference Between Expected & Actual Experience	0	(383,766)	383,766
Changes of Assumptions and Other Inputs	0	0	0
Contributions – Employer	0	2,246,219	(2,246,219)
Contributions - Active & Inactive Employees	0	84,645	(84,645)
Net Investment Income	0	4,698,362	(4,698,362)
Benefit Payments	(3,090,425)	(2,357,937)	(732,488)
Administrative Expenses	0	(4,000)	4,000
Other Changes	0	383,766	(383,766)
Net Changes	\$2,463,017	\$4,667,289	(\$2,204,272)
Balances as of 6/30/2023	\$59,385,147	\$74,935,469	(\$15,550,322)

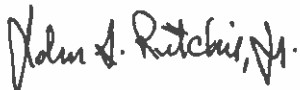
Net OPEB Liability as a Percentage of Covered Payroll: (55.77%)

Funded Ratio: 126.19%

Please contact me if any questions arise.

Sincerely,

Menard Consulting, Inc.



John Ritchie, ASA, MAAA

Menard Consulting, Inc.
 211 E. Lake Street, Suite 11
 Addison, IL 60101
 Tel: (630) 228-0676
 www.MenardConsult.com



August 7, 2023

Mr. Phil Thompson
 Finance Officer
 Worcester County Government
 Treasurer's Office
 1 W. Market St., Room 1105
 Snow Hill, MD 21863

**RE: Worcester County Board of Education
 GASB 75 Roll Forward Results for the July 1, 2022 to June 30, 2023 Fiscal Year**

Dear Phil:

As represented to me, there have been no significant changes to the Postretirement Health Plan since the last full valuation for Fiscal Year 2022, so a roll-forward calculation for Fiscal Year 2023 can be used. As such, this letter provides amounts required for financial reporting requirements under GASB Statement No. 75 for Fiscal Year 2023. Unless otherwise noted, all assumptions, methods, and results are based on the Fiscal Year 2022 GASB 75 Actuarial Report dated September 28, 2022.

Results

	<u>Fiscal Year 2023</u>	<u>Fiscal Year 2022</u>
Total OPEB Liability	\$174,950,595	\$176,995,976
Plan Fiduciary Net Position	<u>35,323,034</u>	<u>25,833,970</u>
Net OPEB Liability	\$139,627,561	\$151,162,005
OPEB Expense	(\$17,719,121)	(\$6,392,201)

Mr. Phil Thompson
 August 7, 2023
 Page 2

OPEB Expense		
	<u>Fiscal Year 2023</u>	<u>Fiscal Year 2022</u>
Service Cost	\$9,235,381	\$16,654,341
Interest on Service Cost	429,063	372,188
Total	\$9,664,444	\$17,026,529
Interest Cost	8,076,558	10,084,799
Difference Between Expected & Actual Experience	(36,104,381)	(36,175,185)
Changes of Assumptions and Other Inputs	644,259	2,671,656
Total	(\$17,719,121)	(\$6,392,201)

Approach

The amortization for the net difference between projected and actual earnings on OPEB plan investments is shown below.

Actual Earnings	\$1,815,121
Projected Earnings	<u>2,140,495</u>
Difference	(\$325,374)
Amortization Period	5.00 years
<u>Amortization Schedule</u>	
Fiscal Years 2023 - 2027:	\$65,075

The Discount Rate was changed from 4.646% to 5.172%. The discount rate is calculated as the single equivalent discount rate using a long-term rate of return of 7.00% and the S&P Municipal Bond 20-Year High-Grade Rate Index as of June 30, 2023 of 4.13%. The resulting amortization for this change is shown below.

<u>Change in Discount Rate</u>	
Difference	(\$13,482,824)
Average Expected Remaining Service Lives	6.65 years
<u>Amortization Schedule</u>	
Fiscal Years 2023 - 2028:	(\$2,027,397)
Fiscal Year 2029:	(\$1,318,443)

The changes above are included in the Fiscal Year 2023 OPEB Expense calculation.

Mr. Phil Thompson
 August 7, 2023
 Page 3

The resulting Deferred Outflows/Inflows of Resources is shown below.

	Deferred Outflows of Resources	Deferred Inflows of Resources
Difference Between Expected & Actual Experience	\$0	\$168,281,175
Changes of Assumptions and Other Inputs	42,755,641	74,262,294
Net Difference Between Projected & Actual Earnings on OPEB Plan Investments	<u>3,801,770</u>	<u>1,365,751</u>
Total	\$46,557,411	\$243,909,220

Future Deferred Outflows/Inflows of Resources is shown below.

Fiscal Year Ending:	Outflows	Inflows
June 30, 2024	\$17,972,320	\$52,714,798
June 30, 2025	16,078,125	50,373,192
June 30, 2026	8,713,825	46,578,792
June 30, 2027	1,931,291	46,514,042
June 30, 2028	1,861,850	46,409,953
June 30, 2029	0	1,318,443

Sensitivity Testing of the Net OPEB Liability

Discount Rate			
	<u>1% Increase</u>	<u>Valuation Rate</u>	<u>1% Decrease</u>
Net OPEB Liability	\$117,843,538	\$139,627,561	\$166,701,493
Change	(15.60%)		19.39%

Health Care Trend			
	<u>1% Increase</u>	<u>Valuation Rate</u>	<u>1% Decrease</u>
Net OPEB Liability	\$172,022,622	\$139,627,561	\$114,367,129
Change	23.20%		(18.09%)

Mr. Phil Thompson
 August 7, 2023
 Page 4

MC, Inc.

Change in Liability

	Total OPEB Liability	Plan Fiduciary Net Position	Net OPEB Liability
Balances as of 6/30/2022	\$176,995,976	\$25,833,970	\$151,162,005
Changes for the year:			
Service Cost	\$9,664,444	\$0	\$9,664,444
Interest on Total OPEB Liability	8,076,558	0	8,076,558
Changes of Benefit Terms	0	0	0
Difference Between Expected & Actual Experience	0	(325,374)	325,374
Changes of Assumptions and Other Inputs	(13,482,824)	0	(13,482,824)
Contributions – Employer	0	12,133,139	(12,133,139)
Contributions - Active & Inactive Employees	0	0	0
Net Investment Income	0	1,815,121	(1,815,121)
Benefit Payments	(6,303,559)	(4,455,198)	(1,848,361)
Administrative Expenses	0	(4,000)	4,000
Other Changes	0	325,374	(325,374)
Net Changes	(\$2,045,381)	\$9,489,063	(\$11,534,444)
Balances as of 6/30/2023	\$174,950,595	\$35,323,034	\$139,627,561

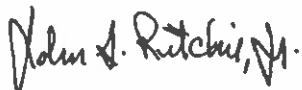
Net OPEB Liability as a Percentage of Covered Payroll: 226.96%

Funded Ratio: 20.19%

Please contact me if any questions arise.

Sincerely,

Menard Consulting, Inc.



John Ritchie, ASA, MAAA



COMMISSIONERS
 Anthony W. Bertino, Jr., PRESIDENT
 Madison J. Bunting, Jr. Vice PRESIDENT
 Caryn Abbott
 Theodore Elder
 Eric J. Fiori
 Joseph M. Mitrecic
 Diana Purnell

OFFICE OF THE
 COUNTY COMMISSIONERS
Worcester County
 GOVERNMENT CENTER
 ONE WEST MARKET STREET • ROOM 1103
 SNOW HILL, MARYLAND
 21863-1195

WESTONS. YOUNG, P.E.
 CHIEF ADMINISTRATIVE OFFICER
 CANDACE I. SAVAGE
 DEPUTY ADMINISTRATIVE OFFICER
 ROSCOE R. LESLIE
 COUNTY ATTORNEY

October 9, 2023

TO: Worcester County Commissioners
 FROM: Karen Hammer, Administrative Assistant V
 SUBJECT: Upcoming Board Appointments - Terms Beginning January 1, 2023

Attached, please find copies of the Board Summary sheets for all County Boards or Commissions (11), which have current or upcoming vacancies (24).

President Bertino – You have Three (3) positions open:

- George Solyak – Term Ending – Agricultural Reconciliation Bd.
- Judith Giffin – Term Ending in Dec. 23- Comm. For Women- Available for Reappointed
- Joseph Green, Jr. – Resigned – Board of Zoning Appeals

Commissioner Purnell – You have fulfilled all board positions, Thank you!

Commissioner Bunting – You have Two (2) positions open:

- David Deutsch - Term Ending - Dec. 21- Ethics Board.
- Susan Childs – Resigned – April, 2022 – Commission For Women

Commissioner Abbott – You have Two (2) positions open:

- Laura Morrison – Term Ends Dec. 31, 2023 – Available for Reappointment- Commission For Women
- Tamara White – Tenure Ends Dec. 31, 2023 – Not Available for Reappointment- Commission For Women

Commissioner Mitrecic – You have One (1) position open:

- Jake Mitrecic – Resigned – Housing Review Bd.

Commissioner Elder – You have Two (2) positions open:

- George Dix – Term Ending – Solid Waste Advisory Bd.
- Hope Carmean – Tenure Expires – Commission For Women - Not a Reappointment

Commissioner Fiori – You have Seven (7) positions open:

- Martin Kwesko - **Resigned** - Dec. 21- Water & Sewer Advisory Council, Mystic Harbour
- Matthew Kraeuter - Term Ended; **Available for Reappointment** - Dec. 21- WWW Advisory, Mystic Harbour
- Joseph Weitzell – passed - Water & Sewer Advisory Council, Mystic Harbour
- Richard Jendrek- passed- Water & Sewer Advisory Council, Mystic Harbour
- Bruce Bums -passed- Water & Sewer Advisory Council, Mystic Harbour
- Keith Swanton -Term Ended- Dec. 21- Water & Sewer Advisory Council, West Ocean City
- Elizabeth Rodier -Term Ending- Dec. 21- Commission for Women- Not a Reappointment

All Commissioners:

- **(1)-Adult Public Guardianship Board-**

(1) Term Expired - Ms. Wessels, (Roberta Baldwin will potentially help search for a viable replacement, if necessary).

(1) -Drug and Alcohol Abuse Council - 4 Positions – (1) (Passing of Dr. Cragway, Jr),

- **(2) -Local Development Council For the Ocean Downs Casino-4 yr.-**

Mark Wittmyer At-Large, David Massey (At-Large-Business O.P.),

(5) -Water and Sewer Advisory Council - Mystic Harbour (3) (Passing of Richard Jendrek, Bruce Burns and Joseph Weitzell) **(2)-Term Ended-Martin Kwesko and Matthew Kraeuter**

- **(1)- Water and Sewer Advisory Council- West Ocean City-(1)** Term Ended-Dec. 21 -
Keith Swanton

(9 - Total):

Commission for Women- (4) Resigned -Elizabeth Rodier, (Fiori); Hope Carmean (Elder), Susan Childs (Bunting) and the resignation of Kris Heiser.
Please appoint Jeanine Jerscheid, WCSO, as the Public Safety Liaison.

(2) Tenure Ending: Not Available to be Reappointed

Tamara White (Abbott)
Terri Shockley (At-Large)

(3) Term Ends Dec. 31, 2023 Available for Reappointed

Laura Morrison – At-Large-Pocomoke
Crystal Bell – At-Large-Health & Mental Hygiene
Judith Giffin – D-5; O.P. - Bertino

Pending Board Appointments - By Commissioner

District 1 – Abbott p. 15 Laura Morrison – Term Ends Dec. 31, 2023 – Avail. for Reapp. - Comm. For Women
p. 15 Tamara White – Tenure Ends Dec. 31, 2023 – **Not** Avail. for Reapp./Comm. For Women

District 2 -Purnell Thank You, all of your boards are complete.

District 3 – Fiori

p.13 Martin Kwesko - Term Ending - Dec. 21-Water & Sewer Adv. Mystic Harbor
p.13 Matthew Kraeuter - Term Ending - Dec. 21-Water & Sewer Adv. Mystic Harbor
p.13 Joseph Weitzell – passed - Water & Sewer Advisory Council, Mystic Harbor
p. 13 Richard Jendrek- passed- Water & Sewer Advisory Council, Mystic Harbor
p. 13 Bruce Bums -passed- Water & Sewer Advisory Council, Mystic Harbor
p. 14 Keith Swanton -Term Ended- Water & Sewer Adv., West Ocean City
p. 15 Elizabeth Rodier -Term Ended- Commission for Women

District 4 -Elder

p.12 George Dix – Term Ended – Solid Waste Adv. Bd.
p.15 Hope Carmean – Term Ended – Comm. For Women

District 5 – Bertino

p.6 George Solyak – Term Ending – Ag. Reconciliation Bd.
p. 15 Judith Giffin – Term Ending Dec. 23 – Comm for Women – Avail. for Reappt.
p. 18 Joseph Green, Jr. – Resigned – Board of Zoning Appeals

District 6- Bunting

p. 9 David Deutsch– Ethics Board
p. 15 Susan Childs - resigned– Commission For Women

District 7-Mitrecic

p.10 Jake Mitrecic – Resigned – Housing Review Bd.

All Commissioners:

- p. 4- (1)-**Adult Public Guardianship Board**- Term Expired - Ms. Wessels.
- p. 7 - (1) -**Drug and Alcohol Abuse Council** – (1) (Passing of Dr. Cragway, Jr),
- p. 11 - (2) - **Local Development Council For the Ocean Downs Casino**-4 yr.-
Mark Wittmyer At-Large, David Massey (At-Large-Business O.P.)
- p. 13 - (5) - **Water and Sewer Advisory Council - Mystic Harbour** (Passing of Richard Jendrek, Bruce Burns and Joseph Weitzell) (1)-Term Endings - Martin Kwesko and Matthew Kraeuter.
- p. 14- (1)- **Water and Sewer Advisory Council-West Ocean City**- -Keith Swanton
- p. 15 (9 Total) **Commission for Women**- (4) **Resigned** -Elizabeth Rodier, (Fiori); Hope Carmean (Elder), Susan Childs (Bunting) and the resignation of Kris Heiser.
Please appoint Jeanine Jerscheid, WCSO, as the Public Safety Liaison.
- (2) **Tenure Ending: Not Available to be Reappointed** – Tamara White (Abbott)
And Terri Shockley (At-Large)
- (3) **Term Ends Dec. 31, 2023 - Available for Reappointed**
Laura Morrison – At-Large-Pocomoke
Crystal Bell – At-Large-Health & Mental Hygiene
Judith Giffin – D-5; O.P. - Bertino

ADULT PUBLIC GUARDIANSHIP BOARD

Reference: PGL Family Law 14-402, Annotated Code of Maryland

Appointed by: County Commissioners

Function: Advisory
Perform 6-month reviews of all guardianships held by a public agency.
Recommend that the guardianship be continued, modified or terminated.

Number/Term: 11/3 year terms
Terms expire December 31st

Compensation: None, travel expenses (under Standard State Travel Regulations)

Meetings: Semi-annually

Special Provisions: 1 member must be a professional representative of the local department
1 member must be a physician
1 member must be a psychiatrist from the local department of health
1 member must be a representative of a local commission on aging
1 member must be a representative of a local nonprofit social services organization
1 member must be a lawyer
2 members must be lay individuals
1 member must be a public health nurse
1 member must be a professional in the field of disabilities
1 member must be a person with a physical disability

Staff Contact: Department of Social Services - Roberta Baldwin (410-677-6872)

Current Members:

<u>Member's Name</u>	<u>Representing</u>	<u>Years of Term(s)</u>
Connie Wessels	Lay Person	*15-16-19, 19-22 (Term Expired)
Brandy Trader	Non-profit Soc. Service Rep.	*15-17, 17-20, 20-23
LuAnn Siler	Commission on Aging Rep.	17-20, 20-23
Jack Ferry	Professional in field of disabilities	*14-14-17-20, 20-23
Thomas Donoway	Person with physical disability	17-20, 20-23
Roberta Baldwin	Local Dept. Rep. - Social Services	03-06-09-12-15-18-21-24
Melissa Banks	Public Health Nurse	*02-03-06-09-12-15-18-21-24
Dr. Ovais Khalid	Psychiatrist	23-26
Dr. William Greer	Physician	07-10-13-16-19-22-25
Richard Collins	Lawyer	95-16-19-22-25
Nancy Howard	Lay Person	*17-19, 19-22-25

* = Appointed to fill an unexpired term

ADULT PUBLIC GUARDIANSHIP BOARD

(Continued)

Prior Members:

Dr. Donald Harting
 Maude Love
 Thomas Wall
 Dr. Dorothy Holzworth
 B. Randall Coates
 Kevin Douglas
 Sheldon Chandler
 Martha Duncan
 Dr. Francis Townsend
 Luther Schultz
 Mark Bainum
 Thomas Mulligan
 Dr. Paul Flory
 Barbara Duerr
 Craig Horseman
 Faye Thornes
 Mary Leister
 Joyce Bell
 Rannolph Barr
 Elsie Briddell
 John Sauer
 Dr. Timothy Bainum
 Ernestine Bailey
 Terri Selby (92-95)
 Pauline Robbins (92-95)
 Darryl Hagey
 Dr. Ritchie Shoemaker (92-95)
 Barry Johansson (93-96)
 Albert Straw (91-97)
 Nate Pearson (95-98)
 Dr. William Greer, III (95-98)
 Rev. Arthur L. George (95-99)
 Irvin Greene (96-99)
 Mary Leister (93-99)
 Otho Aydelotte, Jr. (93-99)
 Shirley D'Aprix (98-00)
 Theresa Bruner (91-02)
 Tony Devereaux (93-02)
 Dr. William Krone (98-02)
 David Hatfield (99-03)
 Dr. Kimberly Richardson (02-03)
 Ina Hiller (91-03)
 Dr. David Pytlewski (91-06)
 Jerry Halter (99-06)
 Dr. Glenn Arzadon (04-07)
 Madeline Waters (99-08)
 Mimi Peuser (03-08)
 Dr. Gergana Dimitrova
 (07-08)
 Carolyn Cordial (08-13)
 June Walker (02-13)
 Bruce Broman (00-14)
 Lori Carson (13-14)

Since 1972

Pattie Tingle (15-16)
 The Rev. Guy H. Butler
 (99-17)
 Debbie Ritter (07-17)
 Dean Perdue (08-17)
 Dr. Dia Arpon *(10-18)
 Dr. Kenneth Widra (18-21)

* = Appointed to fill an unexpired term

Reference: Public Local Law § ZS 1-346 (Right to Farm Law)

Appointed by: County Commissioners

Function: Regulatory
 Mediate and arbitrate disputes involving agricultural or forestry operations conducted on agricultural lands and issue opinions on whether such agricultural or forestry operations are conducted in a manner consistent with generally accepted agricultural or forestry practices and to issue orders and resolve disputes and complaints brought under the Worcester County Right to Farm Law.

Number/Term: 5 Members/4-Year Terms - Terms expire December 31st

Compensation: None - Expense Reimbursement as provided by County Commissioners

Meetings: At least one time per year, more frequently as necessary

Special Provisions: - All members must be County residents
 - Two Members chosen from nominees of Worcester County Farm Bureau
 - One Member chosen from nominees of Worcester County Forestry Board
 - Not less than 2 but not more than 3 members shall be engaged in the agricultural or forestry industries (**At-Large members - non-ag/forestry**)

Staff Contact: Dept. of Development Review & Permitting
 - Jennifer Keener (410-632-1200)
 County Agricultural Extension Agent - As Consultant to the Board
 - Doug Jones, District Manager, Resource Conservation District - (632-3109, x112)

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Ag/Forest Industry</u>	<u>Resides</u>	<u>Years of Term(s)</u>
George Solyak	At-Large	No	Ocean Pines	18-22
Stacey Esham	Forestry Bd.	Yes	Berlin	12-16-20, 20-24
Brooks Clayville	Farm Bureau	Yes	Snow Hill	00-04-08-12-16-20, 20-24
Dean Ennis	Farm Bureau	Yes	Pocomoke	06-10-14-18-22-26
Tom Babcock	At-Large	No	Whaleyville	14-18-22-26

Prior Members: Since 2000

- Michael Beauchamp (00-06)
- Phyllis Davis (00-09)
- Richard G. Holland, Sr. (00-12)
- Rosalie Smith (00-14)
- Betty McDermott *(09-17)

* = Initial terms staggered

Reference: PGL Health-General, Section 8-1001

Appointed by: County Commissioners

Functions: Advisory
Develop and implement a plan for meeting the needs of the general public and the criminal justice system for alcohol and drug abuse evaluation, prevention and treatment services.

Number/Term: At least 18 - At least 7 At-Large, and 11 ex-officio (also several non-voting members)
At-Large members serve 4-year terms; Terms expire December 31

Compensation: None

Meetings: As Necessary

Special Provisions: Former Alcohol and Other Drugs Task Force was converted to Drug and Alcohol Abuse Council on October 5, 2004.

Staff Contact: Regina Mason, Council Secretary, Health Department (410-632-1100)
Doug Dods, Council Chair, Sheriff's Office (410-632-1111)

Current Members:

<u>Name</u>	<u>Representing</u>	<u>Years of Term(s)</u>
<u>At-Large Members</u>		
Jaclyn Sturgis	Knowledgeable on Substance Abuse Issues	*22-23
Jim Freeman, Jr.	Knowledgeable on Substance Abuse Issues	04-11-15, 15-19, 19-23
Mimi Dean	Substance Abuse Prevention Provider	*18-19, 19-23
Kim Moses	Knowledgeable on Substance Abuse Issues	08-12-16-20, 20-24
Dr. Roy W. Cragway, Jr.	Knowledgeable on Substance Abuse Issues	*17-20, 20-24
Rev. James Jones	Knowledge of Substance Abuse Issues	*21-25
Tina Simmons	Knowledge of Substance Abuse Treatment	21-25
Eric Gray (Christina Purcell)	Substance Abuse Treatment Provider	*15-18-22-26
Sue Abell-Rodden	Recipient of Addictions Treatment Services	10-14-18-22-26
Colonel Doug Dods	Knowledgeable on Substance Abuse Issues	04-10 (adv)-14-18-22-26

<u>Ex-Officio Members</u>		
Rebecca Jones	Health Officer	Ex-Officio, Indefinite
Roberta Baldwin	Social Services Director	Ex-Officio, Indefinite
Spencer Lee Tracy, Jr.	Juvenile Services, Regional Director	Ex-Officio, Indefinite
Trudy Brown	Parole & Probation, Regional Director	Ex-Officio, Indefinite
Kris Heiser	State's Attorney	Ex-Officio, Indefinite
Burton Anderson	District Public Defender	Ex-Officio, Indefinite
Sheriff Matt Crisafulli	County Sheriff	Ex-Officio, Indefinite
William Gordy (Eloise Henry Gordy)	Board of Education President	Ex-Officio, Indefinite
Diana Purnell	County Commissioners	Ex-Officio, Indefinite
Judge Brian Shockley (Jen Bauman)	Circuit Court Administrative Judge	Ex-Officio, Indefinite
Judge Gerald Purnell (Tracy Simpson)	District Court Administrative Judge	Ex-Officio, Indefinite
Donna Bounds	Warden, Worcester County Jail	Ex-Officio, Indefinite

* Appointed to a partial term for proper staggering, or to fill a vacant term

Advisory Members

Lt. Earl W. Starner	Maryland State Police	Since 2004
Charles "Buddy" Jenkins	Business Community - Jolly Roger Amusements	
Chief Ross Buzzuro (Lt. Rick Moreck)	Ocean City Police Dept.	
Leslie Brown	Hudson Health Services, Inc.	
James Mcquire, P.D.	Health Care Professional - Pharmacist	Since 2018
Shane Ferguson	Wor-Wic Community College Rep.	Since 2018
Jessica Sexauer, Director	Local Behavioral Health Authority	Since 2018

Prior Members:

Since 2004

Vince Gisriel	Peter Buesgens
Michael McDermott	Aaron Dale
Marion Butler, Jr.	Garry Mumford
Judge Richard Bloxom	Sharon Smith
Paula Erdie	Jennifer Standish
Tom Cetola	Karen Johnson (14-17)
Gary James (04-08)	Rev. Bill Sterling (13-17)
Vickie Wrenn	Kat Gunby (16-18)
Deborah Winder	William McDermott
Garry Mumford	Sheriff Reggie Mason
Judge Theodore Eschenburg	Colleen Wareing (*06-19)
Andrea Hamilton	Rev. Matthew D'Amario(*18-21)
Fannie Birkhead	Donna Nordstron *(19-21)
Sharon DeMar Reilly	Jennifer LaMade (*12-22)
Lisa Gebhardt	
Jenna Miller	
Dick Stegmaier	
Paul Ford	
Megan Griffiths	
Ed Barber	
Eloise Henry-Gordy	
Lt. Lee Brumley	
Ptl. Noal Waters	
Ptl. Vicki Fisher	
Chief John Groncki	
Chief Arnold Downing	
Frank Pappas	
Captain William Harden	
Linda Busick (06-10)	
Sheriff Chuck Martin	
Joel Todd	
Diane Anderson (07-10)	
Joyce Baum (04-10)	
James Yost (08-10)	
Ira "Buck" Shockley (04-13)	
Teresa Fields (08-13)	
Frederick Grant (04-13)	
Doris Moxley (04-14)	
Commissioner Merrill Lockfaw	
Kelly Green (08-14)	
Sheila Warner - Juvenile Services	
Chief Bernadette DiPino - OCPD	
Chief Kirk Daugherty -SHPD	
Mike Shamburek - Hudson Health	
Shirleen Church - BOE	
Tracy Tilghman (14-15)	
Marty Pusey (04-15)	
Debbie Goeller	

* Appointed to a partial term for proper staggering, or to fill a vacant term

ETHICS BOARD

Reference: Public Local Law, Section CG 5-103

Appointed by: County Commissioners

Function: Advisory
 Maintain all Ethics forms; develop procedures and policies for advisory opinions to persons subject to the Ethics Law and for processing complaints alleging violations of the Ethics Law; conduct a public information program regarding the purpose and application of the Ethics Law; annually certify compliance to the State; and recommend any changes to the Commissioners in order to comply with State Ethics Law.

Number/Term: 7/4 years
 Terms expire December 31st

Compensation: \$100 per meeting

Meetings: As Necessary

Special Provisions:

Staff Contact: Roscoe Leslie, County Attorney (410-632-1194)

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
David Deutsch	D-6, Bunting	Ocean Pines	17-21
Frank Knight	D-7, Mitrecic	Ocean City	*14-19, 19-23
Judy Giffin	D-5, Bertino	Ocean Pines	*21-24
Joseph Stigler	D-4, Elder	Berlin	16-20, 20-24
Bruce Spangler	D-3, Fiori	Berlin	*02-05-09-13-17-21-25
Iola Tariq	D-2, Purnell	Berlin	*22-26
Mickey Ashby	D-1, Abbott	Pocomoke	14-18-22-26

Prior Members: (Since 1972)

- | | |
|-----------------------------|-------------------------------|
| J.D. Quillin, III | Walter Kissel (05-09) |
| Charles Nelson | Marion Chambers (07-11) |
| Garbriel Purnell | Jay Knerr (11-14) |
| Barbara Derrickson | Robert I. Givens, Jr. (98-14) |
| Henry P. Walters | Diana Purnell (09-14) |
| William Long | Kevin Douglas (08-16) |
| L. Richard Phillips (93-98) | Lee W. Baker (08-16) |
| Marigold Henry (94-98) | Richard Passwater (09-17) |
| Louis Granados (94-99) | Jeff Knepper (16-21) |
| Kathy Philips (90-00) | Faith Mumford (14-22) |
| Mary Yenney (98-05) | |
| Bill Ochse (99-07) | |
| Randall Mariner (00-08) | |
| Wallace D. Stein (02-08) | |
| William Kuhn (90-09) | |

* = Appointed to fill an unexpired term

HOUSING REVIEW BOARD

Reference: Public Local Law §BR 3-104

Appointed by: County Commissioners

Function: Regulatory/Advisory
To decide on appeals of code official’s actions regarding the Rental Housing Code. Decide on variances to the Rental Housing Code. Review Housing Assistance Programs.

Number/Term 7/3-year terms
Terms expire December 31st

Compensation: \$100 per meeting (policy)

Meetings: As Needed

Special Provisions: Immediate removal by Commissioners for failure to attend meetings.

Staff Support: Development Review & Permitting Department
Davida Washington, Housing Program Administrator - 410-632-1200
Ext: 1171

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Terms(s)</u>
Scott Tingle	D-4, Elder	Snow Hill	14-17-20, 20-23
Maria Campione-Lawrence	D-5, Bertino	Ocean Pines	*22-23
Felicia Green	D-2, Purnell	Ocean Pines	*21-24
Jake Mitrecic	D-7, Mitrecic	Ocean City	15-18-21, 21-24(resigning)
Keri-Ann F. Byrd	D-1, Abbott	Pocomoke	22-25
Debbie Hileman	D-6, Bunting	Ocean Pines	10-13-16-19-22-25
Don Furbay	D-3, Fiori	Ocean Pines	23-26

Prior Members:

Phyllis Mitchell	Wardie Jarvis, Jr. (96-03)	C.D. Hall 10-22
William Lynch	Albert Bogdon (02-06)	Chase Church (*19-22)
Art Rutter	Jamie Rice (03-07)	
William Buchanan	Howard Martin (08)	
Christina Alphonsi	Marlene Ott (02-08)	
Elsie Purnell	Mark Frostrom, Jr. (01-10)	
William Freeman	Joseph McDonald (08-10)	
Jack Dill	Sherwood Brooks (03-12)	
Elbert Davis	Otho Mariner (95-13)	
J. D. Quillin, III (90-96)	Becky Flater (13-14)	
Ted Ward (94-00)	Ruth Waters (12-15)	
Larry Duffy (90-00)	John Glorioso (*06-19)	
Patricia McMullen (00-02)	Sharon Teagle (00- 20)	
William Merrill (90-01)	Davida Washington (*21-21)	
Debbie Rogers (92-02)	Donna Dillion (08-22)	

* = Appointed to fill an unexpired term

**LOCAL DEVELOPMENT COUNCIL
FOR THE OCEAN DOWNS CASINO**

ITEM 13

Reference: Subsection 9-1A-31(c) - State Government Article, Annotated Code of Maryland

Appointed by: County Commissioners

Function: Advisory
Review and comment on the multi-year plan for the expenditure of the local impact grant funds from video lottery facility proceeds for specified public services and improvements; Advise the County on the impact of the video lottery facility on the communities and the needs and priorities of the communities in the immediate proximity to the facility.

Number/Term: 15/4-year terms; Terms Expire December 31

Compensation: None

Meetings: At least semi-annually

Special Provisions: Membership to include State Delegation (or their designee); one representative of the Ocean Downs Video Lottery Facility, seven residents of communities in immediate proximity to Ocean Downs, and four business or institution representatives located in immediate proximity to Ocean Downs.

Staff Contacts: Kim Moses, Public Information Officer, 410-632-1194
Roscoe Leslie, County Attorney, 410-632-1194

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Represents/Resides</u>	<u>Years of Term(s)</u>
Mark Wittmyer	At-Large	Business - Ocean Pines	15-19
David Massey ^c	At-Large	Business - Ocean Pines	09-13-17, 17-21
Bobbi Sample	Ocean Downs Casino	Ocean Downs Casino	17-indefinite
Mary Beth Carozza	Indefinite	Maryland Senator	14-indefinite
Wayne A. Hartman	Indefinite	Maryland Delegate	18-indefinite
Charles Otto	Indefinite	Maryland Delegate	14-indefinite
Roxane Rounds	Dist. 2 - Purnell	Resident - Berlin	*14-15-19, 19-23
Michael Donnelly	Dist. 7 - Mitrecic	Resident - Ocean City	*16-19, 19-23
Steve Ashcraft	Dist. 6 - Bunting	Resident - Ocean Pines	*19-20, 20-24
Kerrie Bunting	Dist. 4 - Elder	Resident - Snow Hill	*22-24
Mayor Rick Meehan ^c	At-Large	Business - Ocean City	*09-12-16-20-24
Bob Gilmore	Dist. 5 - Bertino	Resident - Ocean Pines	*19-21, 21-25
Matt Gordon	Dist. 1 – Abbott	Resident - Pocomoke	19-22, 22-26
Ivy Wells	Dist. 3 - Church	Resident - Berlin	22-26
Cam Bunting ^c	At-Large	Business - Berlin	*09-10-14-18-22-26

Prior Members:

J. Lowell Stoltzfus^c (09-10)
 Mark Wittmyer^c (09-11)
 John Salm^c (09-12)
 Mike Pruitt^c (09-12)
 Norman H. Conway^c (09-14)
 Michael McDermott (10-14)
 Diana Purnell^c (09-14)
 Linda Dearing (11-15)
 Todd Ferrante^c (09-16)

Since 2009

Joe Cavilla (12-17)
 James N. Mathias, Jr.^c (09-18)
 Ron Taylor^c (09-14)
 James Rosenberg (09-19)
 Rod Murray^c (*09-19)
 Gary Weber (*19-21)

Charlie Dorman (12-19)
 Gee Williams (09-21)

* = Appointed to fill an unexpired term/initial terms staggered
^c = Charter Member

Reference: County Commissioners' Resolution 5/17/94 and 03-6 on 2/18/03

Appointed by: County Commissioners

Function: Advisory
Review and comment on Solid Waste Management Plan, Recycling Plan, plans for solid waste disposal sites/facilities, plans for closeout of landfills, and to make recommendations on tipping fees.

Number/Term: 11/4-year terms; Terms expire December 31st.

Compensation: \$100 per meeting expense allowance, subject to annual appropriation

Meetings: At least quarterly

Special Provisions: One member nominated by each County Commissioner; and one member appointed by County Commissioners upon nomination from each of the four incorporated towns.

Staff Support: Solid Waste - Solid Waste Superintendent – David Candy - (410-632-3177)
Solid Waste - Recycling Coordinator - Mike McClung - (410-632-3177)
Department of Public Works - Dallas Baker- (410-632-5623)

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
George Dix	D-4, Elder	Snow Hill	*10-10-14-18, 18-22
John O'Brien	D-6, Bunting	Bishopville	*22-23
Granville Jones	D-7, Mitrecic	Berlin	*15-16-20, 20-24
Michelle Beckett-El Soloh	Town of Pocomoke City		*19-20, 20-24
Michael Pruitt	Town of Snow Hill		*22-24
Don Furbay	D-3, Fiori	Berlin	20-24
James Charles	Town of Berlin		21-25
Brain Scarborough	Town of Ocean City		21-25
Vaughn White	D-2, Purnell	Berlin	*19-21, 21-25
Bob Gilmore	D-5, Bertino	Ocean Pines	*21-22, 22-26
George Linvill	D-1, Abbott	Pocomoke	14-18-22-26

Prior Members: (Since 1994)

Ron Cascio (94-96)	Hugh McFadden (98-05)	Bob Donnelly (11-15)
Roger Vacovsky, Jr. (94-96)	Dale Pruitt (97-05)	Howard Sribnick (10-16)
Lila Hackim (95-97)	Frederick Stiehl (05-06)	Dave Wheaton (14-16)
Raymond Jackson (94-97)	Eric Mullins (03-07)	Wendell Purnell (97-18)
William Turner (94-97)	Mayor Tom Cardinale (05-08)	George Tasker (*15-20)
Vernon "Corey" Davis, Jr. (96-98)	William Breedlove (02-09)	Rodney Bailey *19
Robert Mangum (94-98)	Lester D Shockley (03-10)	Steve Brown *10-19
Richard Rau (94-96)	Woody Shockley (01-10)	Bob Augustine 16-19
Jim Doughty (96-99)	John C Dorman (07-10)	Michael Pruitt *15-19
Jack Peacock (94-00)	Robert Hawkins (94-11)	James Rosenberg (*06-19)
Hale Harrison (94-00)	Victor Beard (97-11)	Jamey Latchum *17-19
Richard Malone (94-01)	Mike Gibbons (09-14)	Hal Adkins (*20-21)
William McDermott (98-03)	Hank Westfall (00-14)	Mike Poole (11-22)
Fred Joyner (99-03)	Marion Butler, Sr (00-14)	
	Robert Clarke (11-15)	

* = Appointed to fill an unexpired term

WATER AND SEWER ADVISORY COUNCIL MYSTIC HARBOUR SERVICE AREA

Reference: County Commissioners' Resolutions of 11/19/93 and 2/1/05

Appointed by: County Commissioners

Function: Advisory
Advise Commissioners on water and sewer needs of the Service Area; review amendments to Water and Sewer Plan; make recommendations on policies and procedures; review and recommend charges and fees; review annual budget for the service area.

Number/Term: 7/4-year terms
Terms Expire December 31

Compensation: \$100.00/meeting

Meetings: Monthly or As-Needed

Special Provisions: Must be residents of Mystic Harbour Service Area

Staff Support: Department of Public Works - Water and Wastewater Division
Chris Clasing - (410-641-5251)

Current Members:

<u>Member's Name</u>	<u>Resides</u>	<u>Years of Term(s)</u>
Martin Kwesko	Mystic Harbour	13-17, 17-21 (Resigned)
Richard Jendrek ^C	Bay Vista I	05-10-14-18, 18-22 (deceased)
Matthew Kraeuter	Ocean Reef	*19-22 Available for Re-app.
Joseph Weitzell ^C	Mystic Harbour	05-11-15-19, 19-23 (deceased)
Bruce Burns	Deer Point	19-23 (deceased)
David Dypsky	Teal Marsh Center	*10-12-16, 16-20, 20-24
Stan Cygam	Whispering Woods	*18-20, 20-24

Prior Members: (Since 2005)

John Pinnero ^C (05-06)	Carol Ann Beres (14-18)
Brandon Phillips ^C (05-06)	Bob Hunt (*06-19)
William Bradshaw ^C (05-08)	
Buddy Jones (06-08)	
Lee Trice ^C (05-10)	
W. Charles Friesen ^C (05-13)	
Alma Seidel (08-14)	
Gerri Moler (08-16)	
Mary Martinez (16-18)	

^C = Charter member - Initial Terms Staggered in 2005
* = Appointed to fill an unexpired term

**WATER AND SEWER ADVISORY COUNCIL
WEST OCEAN CITY SERVICE AREA**

Reference: County Commissioners' Resolution of November 19, 1993

Appointed by: County Commissioners

Function: Advisory
Advise Commissioners on water and sewer needs of the Service Area; review amendments to Water and Sewer Plan; make recommendations on policies and procedures; review and recommend charges and fees; review annual budget for the service area.

Number/Term: 5/4-year terms
Terms Expire December 31

Compensation: \$100.00/Meeting

Meetings: Monthly

Special Provisions: Must be residents/ratepayers of West Ocean City Service Area

Staff Support: Department of Public Works - Water and Wastewater Division
Chris Clasing - (410-641-5251)

Current Members:

<u>Member's Name</u>	<u>Resides/Ratepayer of</u>	<u>Terms (Years)</u>
Keith Swanton	West Ocean City	13-17, 17-21
Deborah Maphis	West Ocean City	95-99-03-07-11-15-19, 19-23
Gail Fowler	West Ocean City	99-03-07-11-15-19,19-23
Blake Haley	West Ocean City	*19-20, 20-24
Todd Ferrante	West Ocean City	13-17-21-25

Prior Members: (Since 1993)

Eleanor Kelly^c (93-96) Andrew Delcorro (*14-19)

John Mick^c (93-95)

Frank Gunion^c (93-96)

Carolyn Cummins (95-99)

Roger Horth (96-04)

Whaley Brittingham^c (93-13)

Ralph Giove^c (93-14)

Chris Smack (04-14)

COMMISSION FOR WOMEN

Reference: Public Local Law CG 6-101

Appointed by: County Commissioners

Function: Advisory

Number/Term: 11/3-year terms; Terms Expire December 31

Compensation: None

Meetings: At least monthly (3rd Tuesday at 5:30 PM - alternating between Berlin and Snow Hill)

Special Provisions: 7 district members, one from each Commissioner District
 4 At-large members, nominations from women’s organizations & citizens
 4 Ex-Officio members, one each from the following departments: Social Services, Health & Mental Hygiene, Board of Education, Public Safety
 No member shall serve more than six consecutive years

Contact: Tamara White and Coleen Colson, Co-Chair
 Worcester County Commission for Women - P.O. Box 1712, Berlin, MD 21811

Current Members:

<u>Member’s Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
Elizabeth Rodier	D-3, Fiori	Bishopville	18-21(Resigned)
Hope Carmean	D-4, Elder	Snow Hill	*15-16-19, 19-22
Tamara White	D-1, Nordstrom	Pocomoke City	17-20, 20-23
Kris Heiser	Public Safety – State Attorney Office		21-24 (Resigned)
Susan Childs	D-6, Bunting	Berlin	21-24(Resigned)
Terri Shockley	At-Large	Snow Hill	17-20, 20-23
Laura Morrison	At-Large	Pocomoke	*19-20, 20-23
Crystal Bell, MPA	Health Department		*22-23
Judith Giffin	D-5, Bertino	Ocean Pines	*22-23
Dr. Darlene Jackson- Bowen	D-2, Purnell	Pocomoke	*19-21, 21-24
Kimberly List	D-7, Mitrecic	Ocean City	18- 21, 21-24
Gwendolyn Lehman	At-Large	OP, Berlin	*19-21, 21-24
Jocelyn Briddell	At-Large	Berlin	23-26
Coleen Colson	Dept of Social Services		19-22-25
Windy Phillips	Board of Education		19-22-25

Prior Members: Since 1995

- | | | |
|---|-------------------------------------|------------------------------|
| Ellen Pilchard ^c (95-97) | Patricia Ilczuk-Lavanceau (98-99) | Catherine W. Stevens (02-04) |
| Helen Henson ^c (95-97) | Lil Wilkinson (00-01) | Hattie Beckwith (00-04) |
| Barbara Beaubien ^c (95-97) | Diana Purnell ^c (95-01) | Mary Ann Bennett (98-04) |
| Sandy Wilkinson ^c (95-97) | Colleen McGuire (99-01) | Rita Vaeth (03-04) |
| Helen Fisher ^c (95-98) | Wendy Boggs McGill (00-02) | Sharyn O’Hare (97-04) |
| Bernard Bond ^c (95-98) | Lynne Boyd (98-01) | Patricia Layman (04-05) |
| Jo Campbell ^c (95-98) | Barbara Trader ^c (95-02) | Mary M. Walker (03-05) |
| Karen Holck ^c (95-98) | Heather Cook (01-02) | Norma Polk Miles (03-05) |
| Judy Boggs ^c (95-98) | Vyoletus Ayres (98-03) | Roseann Bridgman (03-06) |
| Mary Elizabeth Fears ^c (95-98) | Terri Taylor (01-03) | Sharon Landis (03-06) |
| Pamela McCabe ^c (95-98) | Christine Selzer (03) | Vanessa Alban (17-22) |
| Teresa Hammerbacher ^c (95-98) | Linda C. Busick (00-03) | |
| Bonnie Platter (98-00) | Gloria Bassich (98-03) | |
| Marie Velong ^c (95-99) | Carolyn Porter (01-04) | |
| Carole P. Voss (98-00) | Martha Pusey (97-03) | |
| Martha Bennett (97-00) | Teole Brittingham (97-04) | |

* = Appointed to fill an unexpired term
^c = Charter member

Prior Members: Since 1995 (continued)

Dr. Mary Dale Craig (02-06)	Michelle Bankert *(14-18)
Dee Shorts (04-07)	Nancy Fortney (12-18)
Ellen Payne (01-07)	Cristi Graham (17-18)
Mary Beth Quillen (05-08)	Alice Jean Ennis (14-17)
Marge SeBour (06-08)	Lauren Mathias Williams *(16-18)
Meg Gerety (04-07)	Teola Brittingham *(16-18)
Linda Dearing (02-08)	Jeannine Jerscheid *(18-19)
Angela Hayes (08)	Shannon Chapman (*17-19)
Susan Schwarten (04-08)	Julie Phillips (13-19)
Marilyn James (06-08)	Bess Cropper (15-19)
Merilee Horvat (06-09)	Kelly Riwniak *(19-20)
Jody Falter (06-09)	Kelly O'Keane (17-22)
Kathy Muncy (08-09)	Mary Mumford (*16-22)
Germaine Smith Garner (03-09)	
Nancy Howard (09-10)	
Barbara Witherow (07-10)	
Doris Moxley (04-10)	
Evelyne Tyndall (07-10)	
Sharone Grant (03-10)	
Lorraine Fasciocco (07-10)	
Kay Cardinale (08-10)	
Rita Lawson (05-11)	
Cindi McQuay (10-11)	
Linda Skidmore (05-11)	
Kutresa Lankford-Purnell (10-11)	
Monna Van Ess (08-11)	
Barbara Passwater (09-12)	
Cassandra Rox (11-12)	
Diane McGraw (08-12)	
Dawn Jones (09-12)	
Cheryl K. Jacobs (11)	
Doris Moxley (10-13)	
Kutresa Lankford-Purnell (10-12)	
Terry Edwards (10-13)	
Dr. Donna Main (10-13)	
Beverly Thomas (10-13)	
Caroline Bloxom (14)	
Tracy Tilghman (11-14)	
Joan Gentile (12-14)	
Carolyn Dorman (13-16)	
Arlene Page (12-15)	
Shirley Dale (12-16)	
Dawn Cordrey Hodge (13-16)	
Carol Rose (14-16)	
Mary Beth Quillen (13-16)	
Debbie Farlow (13-17)	
Corporal Lisa Maurer (13-17)	
Laura McDermott (11-16)	
Charlotte Cathell (09-17)	
Eloise Henry-Gordy (08-17)	

* = Appointed to fill an unexpired term

c = Charter member

WORCESTER COUNTY COMMISSION FOR WOMEN

P.O. BOX 211, SNOW HILL, MD 21863

September 20, 2023

Anthony W. Bertino, Jr., President
Worcester County Office of the Commissioners
Worcester County Government Center
One West Market Street – Room #1103
Snow Hill, MD 21863

RE: Worcester County Commission for Women Appointments

Dear Mr. Bertino:

As you may be aware, the Worcester County Commission for Women have a few vacancies that need to be filled. They are as follows:

D-3 – (Rodier) - Fiori

D-4 – (Carmean) - Elder

D-6 – (Childs) - Bunting

Public Safety (Heiser) – The Board has a viable candidate for nomination for the Public Safety Liaison:

Please Appoint Jeanine Jerscheid, WCSO.

In addition to those 4 current vacancies, we would like to **proactively** seek members to fill **two Tenure Ending positions**, Dec. 2023:

D-1 - Abbott – Tamara White

At-Large Snow Hill – Terri Shockley

In addition to these six vacancies, we have **three** Commission for Women members whose terms will expire on December 31, 2023, **(each member listed below would like to be reappointed)**. In an effort of being **proactive for replacements**, we respectfully request **reappointments** for the following territories:

At-Large-Pocomoke - Laura Morrison

At-Large-Health & Mental Hygiene - Crystal Bell

D-5 – O. P. - Bertino – Judith Giffin

We look forward to welcoming our new/reappointed members so we may continue with a full active Commission.

Please feel free to contact me at 443-614-3004. Thank you for your assistance.

Respectfully,
Tamara White
Chair, Worcester County Commission for Women

BOARD OF ZONING APPEALS

Reference: Public Local Law - ZS §1-116

Appointed by: County Commissioners

Function: Regulatory
Hear and decide on applications for special exceptions, variances from the setback or area provisions of the Zoning Ordinance, and on appeals where there is an alleged error in the application of the Zoning Ordinance; grant expansions of nonconforming uses.

Number/Term: 7 members (as of 1-31-97 per Bill 96-14)/3 years
Terms expire December 31st

Compensation: \$100 per meeting, plus mileage for site inspections (policy)

Meetings: 2 per month

Special Provisions: None

Staff Contact: Department of Development Review & Permitting
Jennifer Keener -Deputy Director, DRP (410-632-1200, ext. 1123)

Current Members:

<u>Member's Name</u>	<u>Nominated By</u>	<u>Resides</u>	<u>Years of Term(s)</u>
David Dypsky	D-3, Church	Ocean City	*11-14-17-20, 20-23
Joseph W. Green, Jr.	D-5, Bertino	Ocean Pines Resigned	*05-08-11-14-17-20-23
Jake Mitreic	D-7, Mitreic	Ocean City	20-23
Thomas Babcock	D-4, Elder	Whaleyville	15-18-21, 21-24
Robert M. Purcell	D-6, Bunting	Bishopville	*11-12-15-18-21, 21-24
Larry Fykes	D-1, Abbott	Pocomoke	*16-19-22-25
Lisa Bowen	D-2, Purnell	Berlin	* 22, 22-25

Prior Members: (Since 1972)

Robert B. Jackson	Doris Glover (91-95)	Lou Taylor (05-08)
Ruth Spinak	Marion Marshall (90-96)	Jerre F. Clauss (98-10)
Merrill Lockfaw	Madison Bunting (90-96)	Mike Diffendal (08-10)
Winnie Williams	Howard "Buzz" Taylor (97-98)	James E. Clubb, Jr. (06-11)
Randolph F. Wilkerson	Edward Bounds (90-99)	Joe Fehrer, Jr. (06-12)
Cashar J. Hickman	Marion Butler, Sr. (96-99)	Beth Gismondi (96-14)
E. Paige Boston	Dwight Campbell (95-00)	Bill Bruning (12-15)
Elbridge Murray	Larry Widgeon (94-00)	Robert L. Cowger, Jr. (10-16)
Gary McCabe	Robert Ewell (95-01)	Rodney C. Belmont (07-17)
Harley Day	Lester Shockley (99-02)	Larry Duffy (*17-19)
Charles Lynch	Robert Mitchell (02-05)	Glen Irwin (14-20)
Dwight E. Campbell	Janice Foley (99-05)	James Purnell (19-22)
T. Clay Groton	Richard Outten (00-06)	
Albert Berger	Doug Parks (00-06)	
Clifford Dypsky	Brian Roberts (06)	
Donald Jones	Dale Smack (01-06)	
George Ward, Jr. (92-95)		

* = Appointed to fill an unexpired term



TO: *The Salisbury Daily Times and The Ocean City Today Group*
FROM: Candace Savage, Deputy Chief Administrative Officer
DATE: September 14, 2023
SUBJECT: Public Hearing Rezoning Case 444

.....
Please publish the notice below in *The Salisbury Daily Times* and *Ocean City Digest/Ocean City Today* on September 28, 2023 and October 5, 2023.

NOTICE
OF
PROPOSED CHANGE IN ZONING

EAST SIDE OF MARKET STREET
NORTH OF MOAT ROAD

SECOND TAX DISTRICT
WORCESTER COUNTY, MARYLAND

Pursuant to Section 1-113 of the Worcester County Zoning Ordinance, Rezoning Case No. 444 has been filed by Hugh Cropper, IV on behalf of Black Water Relics, LLC, property owner, for an amendment to the Official Zoning Maps to change approximately 1.79 acres of land located on the east side of Market Street, approximately 0.25 miles north of Moat Road, in the Second Tax District of Worcester County, Maryland, from A-1 Agricultural District to C-2 General Commercial District. The Planning Commission has given a favorable recommendation to the rezoning application as amended.

Pursuant to Sections 1-113 and 1-114 of the Worcester County Zoning Ordinance, the County Commissioners will hold a

PUBLIC HEARING
on
TUESDAY, OCTOBER 17, 2023
at 10:30 a.m.
IN THE COUNTY COMMISSIONERS' MEETING ROOM
WORCESTER COUNTY GOVERNMENT CENTER – ROOM 1101
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863

At said public hearing the County Commissioners will consider the rezoning application, the staff file on Rezoning Case No. 444 and the recommendation of the Planning Commission, any proposed restrictions on the rezoning, other appropriate restrictions, conditions or limitations as may be deemed by them to be appropriate to preserve, improve, or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements, and the advisability of reserving the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of applicable State laws and regulations and the County Zoning Ordinance.

ITEM 14

Maps of the petitioned area, the staff file on Rezoning Case No. 444 and the Planning Commission's recommendation, which will be entered into record at the public hearing, are on file and available to view electronically by contacting the Department of Development, Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863 Monday through Friday from 8:00 A.M. and 4:30 P.M. (except holidays), at (410) 632-1200 as well as at www.co.worcester.md.us.

THE WORCESTER COUNTY COMMISSIONERS



APPROVED

WSY 09/05/23

DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410.632.1200 / FAX: 410.632.3008

<http://www.co.worcester.md.us/departments/drp>

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICES DIVISION

MEMORANDUM

To: Weston S. Young, Chief Administrative Officer
From: Jennifer K. Keener, AICP, Director
Date: August 28, 2023
Re: Rezoning Case No. 444 – Black Water Relics, LLC, applicant, Hugh Cropper, IV, Esquire attorney for the applicants

.....

I am requesting that the Worcester County Commissioners schedule the required public hearing associated with Rezoning Case No. 444. A draft public hearing notice is attached.

Mr. Cropper, on behalf of his client, has filed Rezoning Case No. 444, seeking to rezone approximately 0.78 acres of land located on the east side of Market Street, approximately 0.25 miles north of Moat Road, from A-1 Agricultural District to C-2 General Commercial District. The case was reviewed by the Planning Commission at its meeting on August 3, 2023, and was given a favorable recommendation. In addition, the Planning Commission also recommended that the adjacent Parcel 89 (1.01 acres) also owned by Black Water Relics, LLC, which is also currently zoned A-1 District, be considered for a C-2 District zoning designation, since it would serve as the land area needed for septic replacement, and potential parking area for a commercial use. Mr. Cropper has confirmed that his clients wish to include this parcel in their amended request.

Attached you will also find the Planning Commission's written Findings of Fact and Recommendation as prepared by Matthew Laick, Deputy Director. Please advise our department at your earliest convenience as to the public hearing date so that our department can ensure that the mandatory public notice of 15 days is met via posting on the site and mailings to adjoining property owners.

Thank you for your attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

**NOTICE
OF
PROPOSED CHANGE IN ZONING**

**EAST SIDE OF MARKET STREET
NORTH OF MOAT ROAD**

**SECOND TAX DISTRICT
WORCESTER COUNTY, MARYLAND**

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PUBLIC HEARING

on

TUESDAY,

AT

**IN THE COUNTY COMMISSIONERS' MEETING ROOM
WORCESTER COUNTY GOVERNMENT CENTER – ROOM 1101
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863**

At said public hearing the County Commissioners will consider the rezoning application, the staff file on Rezoning Case No. 444 and the recommendation of the Planning Commission, any proposed restrictions on the rezoning, other appropriate restrictions, conditions or limitations as may be deemed by them to be appropriate to preserve, improve, or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements, and the advisability of reserving the power and authority to approve or disapprove the design of buildings, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purpose of applicable State laws and regulations and the County Zoning Ordinance.

Maps of the petitioned area, the staff file on Rezoning Case No. 444 and the Planning Commission's recommendation, which will be entered into record at the public hearing, are on file and available to view electronically by contacting the Department of Development, Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863 Monday through Friday from 8:00 A.M. and 4:30 P.M. (except holidays), at (410) 632-1200 as well as at www.co.worcester.md.us.

THE WORCESTER COUNTY COMMISSIONERS

**PLANNING COMMISSION
FINDINGS OF FACT
AND
RECOMMENDATION**

REZONING CASE NO. 444

APPLICANTS:

**Black Water Relics LLC
537 Old Westminster Road
Hanover, MD 17331**

ATTORNEY FOR THE APPLICANTS:

**Hugh Cropper, IV
9927 Stephen Decatur Highway, F-12
Ocean City, Maryland 21842**

August 3, 2023

WORCESTER COUNTY PLANNING COMMISSION

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	A. Copy of Written Staff Report	Pages 11 - 15
	B. Attachments to the Staff Report:	
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I. INTRODUCTORY DATA

- A. **CASE NUMBER:** Rezoning Case No. 444, filed on May 25, 2023.
- B. **APPLICANT:** Black Water Relics LLC
537 Old Westminster Road
Hanover, MD 17331
- APPLICANT’S ATTORNEY:** Hugh Cropper, IV
9923 Stephen Decatur Highway, F-12
Ocean City, Maryland 21842
- C. **TAX MAP/PARCEL INFO:** Tax Map 63, Parcels 89 &106, Tax District 02
- D. **SIZE:** The petitioned area is Approximately 1.79 acres in size.
- E. **LOCATION:** 4432 Market St Snow Hill, MD (Approximately 0.25 Miles north of Moat Rd)
- F. **CURRENT USE OF PETITIONED AREA:** The property is currently improved with an 11,200 square foot storage warehouse with a concrete pad.
- G. **CURRENT ZONING CLASSIFICATION:** A-1 Agricultural District.
- H. **REQUESTED ZONING CLASSIFICATION:** C-2 General Commercial District.
- I. **APPLICANT’S BASIS FOR REZONING:** The application indicates that a mistake was made in zoning the property A-1. This property was not considered for rezoning in 2009 but this was a mistake in the 1992 Rezoning.
- J. **ZONING HISTORY:** At the time zoning was first established in 1964, the petitioned area was given a B-2 General Business District classification, and the B-2 zoning was retained in comprehensive rezoning held in 1978. In the 1992 rezoning the property was given a zoning of A-1 Agricultural District. In 2006 the property was annexed by the Town of Snow Hill as part of the Summerfield Annexation and remained in the town until 2019. When this property was de-annexed in 2019 it reverted to the same zoning classification as which it left. This property was not rezoned in the 2009 rezoning because it was part of the Town of Snow Hill. Attached are the memos which discuss this topic in more detail.
- K. **SURROUNDING ZONING:** Adjoining properties on the East side of Market St are zoned A-1 Agricultural District. Properties on the West side of Market St are zoned R-1 Rural Residential District and 1,300 ft to the South is zoned R-2

Suburban Residential District. The Town of Snow Hill is approximately 3,700 feet to the North.

- L. **COMPREHENSIVE PLAN:** According to the 2006 Comprehensive Plan and associated land use map, the petitioned area lies within the Growth Area Category.
- M. **WATER AND WASTEWATER:** According to the response from Mr. Mitchell, the property is not currently connected to public sewer and/or water at this time. The subject property has a designation of a Sewer and Water Service Category of S-1/W-1 (Immediate to 2 years) in the Master Water and Sewerage Plan.
- N. **EMERGENCY SERVICES:** Fire and ambulance service will be available from the Snow Hill Volunteer Fire Company approximately four minutes from the subject property. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately twenty-four minutes away, and the Worcester County Sheriff's Office in Snow Hill, approximately four minutes away.
- O. **ROADWAYS AND TRANSPORTATION:** The petitioned area has frontage on US Business Route 113 (West Market Street), The Maryland Department of Transportation State Highway Administration (MDOT SHA) has no objection to the request.
- P. **SCHOOLS:** The petitioned area is within Zone 4 of the Worcester County Public School Zones
- Q. **CHESAPEAKE/ATLANTIC COASTAL BAYS CRITICAL AREAS:** The petitioned area is located outside of the Chesapeake Bay Critical Area (CBCA). And is not subject to the Forest Conservation Law, Per NR 1-403(a).
- R. **FLOOD ZONE:** The FIRM map (24047C0242H, effective July 16, 2015) indicates that this property is located outside of the floodplain in Zone X (Area of Minimal Flood Hazard).
- S. **PRIORITY FUNDING AREAS:** The petitioned area is not within a designated Priority Funding Area (PFA).
- T. **INCORPORATED TOWNS:** This property is within 3,500 feet of the incorporated town of Snow Hill.

II. APPLICANT'S TESTIMONY BEFORE THE PLANNING COMMISSION

- A. Hugh Cropper, IV, applicant's attorney, and Howard and Amy Kelly (Black Water Relics LLC), were present for the review. Mr. Cropper reviewed the zoning history of the property including the annexation into the Town of Snow Hill. When it was annexed into Snow Hill, the former property owner petitioned to the County Commissioners that it be rezoned to a Residential designation which was granted. When it was de-annexed, it was requested by Mr. Cropper that it retain a residential zoning classification, as described in a letter submitted as Applicant's Exhibit #1. However, it reverted to the same zoning classification as which it left – A-1 Agricultural District. Mr. Cropper then stated that this property was not considered during the 2009 comprehensive rezoning, as it was annexed into the town at the time. Therefore, he is arguing that there was a mistake in the March 10, 1992 rezoning that changed the designation from B-2 General Business District to A-1 Agricultural District, and that the property should go back to C-2 General Commercial District.

Mr. Gregory Wilkins, land surveyor, and Mr. Cropper presented Applicant's Exhibit #2 which is the plat of the property. Mr. Wilkinson then described the property as containing asphalt from the building up to the road. The building is large with doors on the front facade and the property has a small rear yard with a septic tank that is on the property by less than 8 inches. The septic lines were unable to be located.

The petitioned property is identified as within a Growth Area on the Land Use Map as described in the comprehensive plan. Mr. Cropper therefore claimed that the existing zoning was a mistake because it is in a growth area and is now directly across from 200 acres that are zoned residential. This parcel, because of its size, cannot be used for agricultural purposes, making it unusable under the current zoning designation. Mr. Cropper described how this road was an extension of Business 113 and any commercial development would be used by residents of Snow Hill.

Mrs. Wimbrow raised concerns about traffic flow, parking requirements for commercial uses and septic capacity. Mr. Cropper explained that Black Water Relics, LLC also owned parcel 89 which is adjacent to the petitioned area, and consists of 1.01 acres. Mr. Mitchell stated that adequate septic replacement area was found on adjoining parcel 89. Mr. Church noted that he was originally concerned about the rezoning, but in reviewing the site and surrounding area, he thought commercial would be a good use for the property. The Planning Commission also found that the use of the adjoining parcel 89 for services such as septic replacement and parking for the large commercial building on the petitioned area would be appropriate, and should also be considered as part of the rezoning request.

III. PLANNING COMMISSION'S FINDINGS AND CONCLUSIONS

- A. Regarding the definition of the neighborhood: The Planning Commission noted that this was not applicable since Mr. Cropper's testimony was based solely on a mistake in the current zoning classification.
- B. Regarding population change: The Planning Commission concluded that population change in the immediate area has been minimal since the last comprehensive rezoning that occurred on November 3, 2009, nor would this application contribute to an increase in population.
- C. Regarding availability of public facilities: The Planning Commission found that there would be no impact upon public facilities as it pertains to wastewater disposal and the provision of potable water, since this property would be served by private sewer and a private well. Mr. Mitchell's memo stated that the subject property has a designation of a Sewer Service Category of S-1 (Immediate to 2 years) in the Master Water and Sewerage Plan. Additionally, fire and ambulance service will be available from the Snow Hill Fire Company, approximately four minutes away. No comments were received from the fire company with regard to this review. Police protection will be available from the State Police Barracks in Berlin, approximately twenty-four minutes away, and the Worcester County Sheriff's Office in Snow Hill, approximately four minutes away. No comments were received from either the Maryland State Police or the Worcester County Sheriff's Department. The petitioned area is served by the following schools: Snow Hill Elementary School, Snow Hill Middle School, and Snow Hill High School. As a commercial use, there will be no impact on the school system. In consideration of its review, the Planning Commission found that there will be no negative impacts to public facilities and services resulting from the proposed rezoning.
- D. Regarding present and future transportation patterns: The Planning Commission found that the petitioned area has access to West Market St, a state-maintained road. The Maryland Department of Transportation State Highway Administration (MDOT SHA) District 1 stated that they have no objection to the rezoning and that development would require review and approval from District 1 Access Management and obtain any permits as needed.
- E. Regarding compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact to waters included on the State's impaired waters list or having an established total maximum daily load requirement: The Planning Commission found that a rezoning of the subject property to C-2 would be compatible with existing and proposed development. The Planning Commission also found that the proposed rezoning would not have an impact on environmental regulations as the property is already paved. As for any future sewer expansion the property owners also own parcel 89 and could be used for obtaining additional sewer flow.

- F. Regarding compatibility with the Comprehensive Plan: The Planning Commission found that according to the Comprehensive Plan and associated land use map, the petitioned area lies within the Growth Area (GA) Land Use Category. This category designates areas outside incorporated areas that are suitable and desirable for future planned growth. The Planning Commission found that the proposed rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District is compatible with the Comprehensive Plan and in keeping with its goals and objectives.

IV. PLANNING COMMISSION RECOMMENDATION

- A. In consideration of its findings and testimony provided to the Commission, the Planning Commission concluded that there was a mistake in the existing zoning of the petitioned area. The Commission found that the 1992 comprehensive rezoning from B-2 General Business District to A-1 Agricultural District created an unsuitable lot for agricultural uses. The Planning Commission acknowledged that the petitioned area was not considered as part of the 2009 comprehensive rezoning as it was annexed into the Town of Snow Hill at the time. Based upon its review, the Planning Commission concluded that the C-2 zoning would be more desirable in terms of the Comprehensive Plan and gave a favorable recommendation to Rezoning Case No. 444, seeking a rezoning of the petitioned area from A-1 Agricultural District to C-2 General Commercial District. In addition, the Planning Commission recommended that the adjoining Parcel 89 also be included for rezoning to C-2 General Commercial District.

V. RELATED MATERIALS AND ATTACHMENTS

- A. Exhibit 1
- B. Exhibit 2

LAW OFFICES

CURTIS H. BOOTH
 BRYNJA MCDIVITT BOOTH
 HUGH CROPPER IV
 THOMAS C. MARRINER*
 ELIZABETH ANN EVINS
 LYNDESEY J. RYAN

*ADMITTED IN MD & DC

**BOOTH BOOTH
 CROPPER & MARRINER P.C.**

9923 STEPHEN DECATUR HIGHWAY, #D-2
 OCEAN CITY, MARYLAND 21842
 (410) 213-2681
 EMAIL: hcropper@bbcmlaw.com

EASTON OFFICE

130 NORTH WASHINGTON ST.
 EASTON, MD 21601
 (410) 822-2929
 FAX (410) 820-6586

WEBSITE

www.bbcmlaw.com

January 30, 2019

Ms. Jennifer K. Keener
 Zoning Administrator
 Worcester County Department of
 Development, Review & Permitting
 One West Market Street, Room 1201
 Snow Hill, Maryland 21863

Dear Jennifer:

I represent Matthew J. Odachowski and Denise Odachowski, his wife, owners of several parcels on the west side of Market Street, currently in the town limits of Snow Hill. The properties are designated on Worcester County Tax Map 63, Parcels 88, 183, 5, 90, and 25, and comprise approximately 305.06 acres.

I also represent the Powell Family and Holland Family, owners of several parcels on the east side of Market Street.

These property owners have proposed a de-annexation of their property out of the Town of Snow Hill limits. Preliminarily, the Town of Snow Hill has agreed to de-annex these properties. The Town of Snow Hill is represented by Kevin Karpinski, and he is working on a proposed Charter Amendment for the Town of Snow Hill.

These properties were originally zoned agricultural (for the most part) by Worcester County. At the time they were annexed, they were brought into the Town of Snow Hill in a residential zone.

As you know, the law with respect to annexation states that if a property is rezoned as a result of an annexation within five years, it requires the concurrence of the County Commissioners. In this case, the Worcester County Commissioners did agree to the reclassification of these properties from agricultural to residential as part of the annexation process.

January 30, 2019

Page Two

Many of the properties appear as a Growth Area in the Worcester County Comprehensive Land Use Map.

The Odachowski Family would like to retain the residential zoning when the properties are de-annexed. I think this is appropriate, since the Worcester County Commissioners voted affirmatively (and unanimously, if I remember correctly) to agree to the residential zoning.

The purpose of this letter is two-fold. First, I wanted to give you a heads up with respect to the de-annexation process. I do not have anything right now, except the affirmative vote of the Town of Snow Hill. As soon as I see any draft documents, I will forward them to you and Maureen Howarth for further review and comment. Second, I would like to address the residential zoning issue, sooner as opposed to later. It seems to be clear that the properties should come back to Worcester County in a residential zone, because the Worcester County Commissioners voted affirmatively to agree to the rezoning of these properties. If there is some disagreement, I need to know that now, because that may impact my clients' decision to cooperate with the de-annexation.

Thank you, and have a great day.

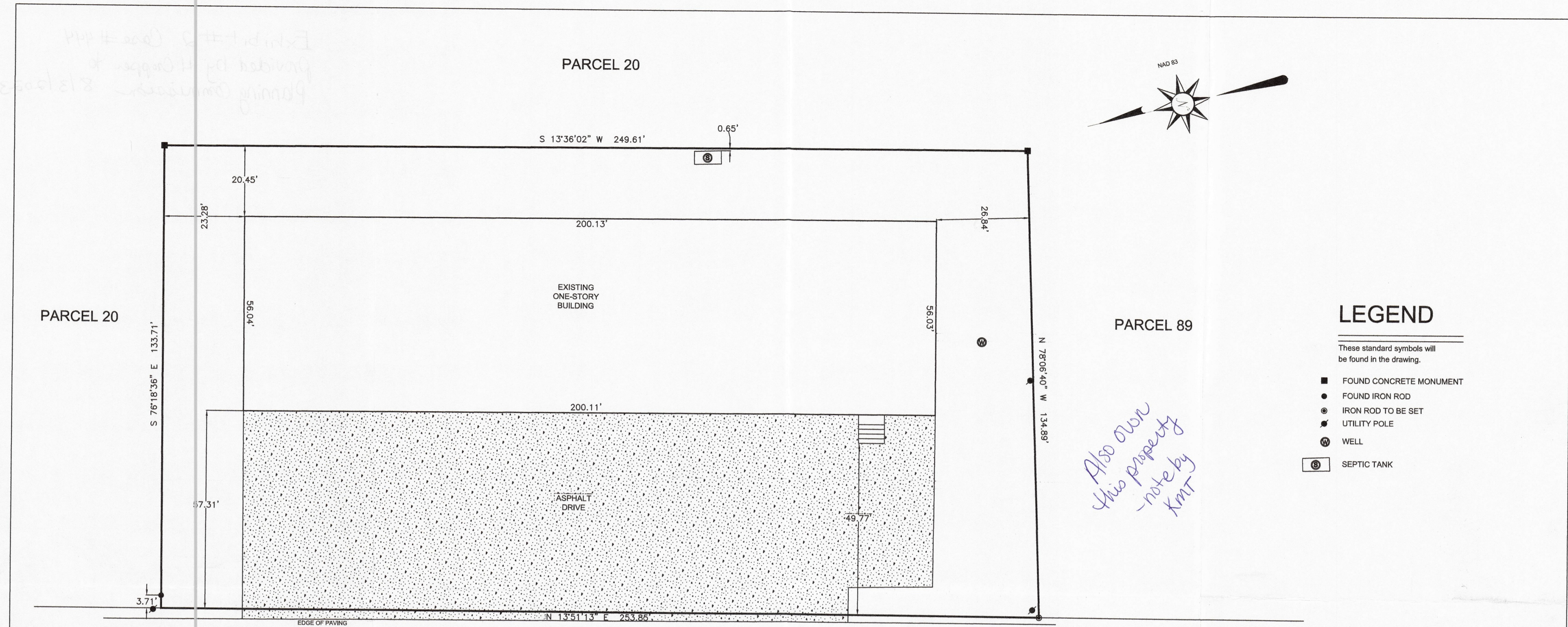
Very truly yours,



Hugh Cropper IV

HC/tgb

CC: Maureen F.L. Howarth, Esquire
Ed Tudor
Phyllis Wimbrow
Harold Higgins
Kelly Shannanhan
Matthew J. Odachowski
Annette Powell
James Holland



**BOUNDARY SURVEY
WITH
LOCATION OF IMPROVEMENTS**

NO. 4432
LANDS OF BLACK WATER RELICS, LLC
SECOND TAX DISTRICT
WORCESTER COUNTY, MARYLAND
TAX MAP 63, P/O PARCEL 106
LOT AREA = 33,798 SQ. FT.± (AS COMPUTED)
CURRENTLY ZONED: A-1
FLOOD ZONE X
DEED REFERENCE: 8534/184

I CERTIFY THE BOUNDARY SURVEY WITH LOCATION OF IMPROVEMENTS AS SHOWN HEREON IS A TRUE REPRESENTATION OF THE EXISTING VISIBLE IMPROVEMENTS AT THE DATE OF THIS SURVEY. NO TITLE SEARCH PROVIDED OR STIPULATED.

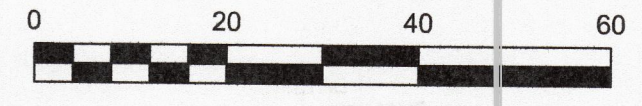
PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 21523, EXPIRATION DATE 07-13-2023.



GREGORY P. WILKINS - PRESIDENT
GREGORY P. WILKINS SURVEYOR, INC.

**GREGORY P. WILKINS
SURVEYOR, INC.**
12626 OLD BRIDGE ROAD
OCEAN CITY, MD 21842
(410)213-0222

SCALE:	1" = 20'	DATE:	06/27/2023
DRAWN BY:	GPW8	JOB NO.:	9030



STAFF REPORT**REZONING CASE NO. 444**

PROPERTY OWNER: Black Water Relics LLC
537 Old Westminster Toad
Hanover, MD 17331

ATTORNEY: Hugh Cropper, IV
9927 Stephen Decatur Highway, F-12
Ocean City, Maryland 21842

TAX MAP/PARCEL INFO: Tax Map 63, Parcel 106, Tax District 02

SIZE: The petitioned area is Approximately 0.78 acres in size.

LOCATION: 4432 Market St Snow Hill, MD (Approximately 0.25 Miles north of Moat Rd)

CURRENT USE OF PETITIONED AREA: The property is currently improved with an 11,200 square foot storage warehouse with a concrete pad. Historically the structure is thought to have been an agricultural storage building. Most recently a stop work order was placed on the building for work not being done with a permit. We also believe that the building is being used on weekends as an indoor yard sale, which is not allowed under its current zoning. This use was confirmed in the applicants' reason for rezoning.

CURRENT ZONING CLASSIFICATION: A-1 Agricultural District.

As defined in the Zoning Code, the intent of this district is to preserve, encourage and protect the County's farms and forestry operations and their economic productivity and to ensure that agricultural and forestry enterprises will continue to have the necessary flexibility to adjust their production as economic conditions change. The Code also states, in part, that this district is also intended to protect the land base resources for the County's agricultural and forestry industries from the disruptive effects of major subdivision or nonagricultural commercialization.

REQUESTED ZONING CLASSIFICATION: C-2 General Commercial District.

As defined in the Zoning Code, the intent of this district is to provide for more intense commercial development serving populations of three thousand or more within an approximate ten- to twenty-minute travel time. These commercial centers generally have higher parking demand and greater visibility. The Code also states, in part, that site layout and design features within this district shall be compatible with the community and the County's character.

APPLICANT'S BASIS FOR REZONING: The application indicates that a mistake was made in zoning the property A-1 on November 3, 2009.

ZONING HISTORY: At the time zoning was first established in 1964, the petitioned area was given a B-2 General Business District classification, and the B-2 zoning was retained in comprehensive rezoning held in 1978. In the 1992 rezoning the property was given a zoning of A-1 Agricultural District. In 2006 the property was annexed by the Town of Snow Hill as part of the Summerfield Annexation and remained in the town until 2019. When this property was de-annexation in 2019 it went back to the same zoning classification as which it left. This property was not rezoned in the 2009 rezoning because it was part of the Town of Snow Hill. Attached are the memos which discuss this topic in more detail.

SURROUNDING ZONING: Adjoining properties on the East side of Market St are zoned A-1 Agricultural District. Properties on the West side of Market St are zoned R-1 Rural Residential District and 1,300 ft to the South is zoned R-2 Suburban Residential District. The Town of Snow Hill is approximately 3,700 feet to the North.

COMPREHENSIVE PLAN:

The County's Comprehensive Plan was adopted by the County Commissioners on March 7, 2006, and is intended to be a general guide for future development in the County. Whether a proposed rezoning is compatible with the recommendations of the Comprehensive Plan is one of the criteria that is considered in all rezoning requests, as listed in § ZS 1-113(c)(3) and as summarized at the end of this Staff Report.

According to Chapter 2 – Land Use of the Comprehensive Plan and the associated land use map, the petitioned area lies within the Growth Area (GA) Land Use Category. With regard to the Growth Area Land Use Category, the Comprehensive Plan states the following:

“This category designates areas outside incorporated areas that are suitable and desirable for future planned growth.” (Page 14)

Pertinent objectives cited in Chapter 2 – Land Use state the following:

2. Continue the dominance of agriculture and forestry uses throughout the county's less developed regions.
3. Maintain the character of the county's existing population centers.
4. Provide for appropriate residential, commercial, institutional, and industrial uses.
9. Minimize conflicts among land uses due to noise, smoke, dust, odors, lighting, and heavy traffic.
10. Locate employment centers close to the potential labor force.
15. Balance the supply of commercially zoned land with anticipated demand of year-round residents and seasonal visitors.
19. Limit rural development to uses compatible with agriculture and forestry.

(Pages 12 & 13)

In Chapter 4, Economy, pertinent objectives under the heading Commercial Services state the following:

1. Locate commercial and service centers in major communities; existing towns should serve as commercial and service centers.
2. Provide for suitable locations for commercial centers able to meet the retailing and services needs of population centers.
3. Encourage mixed-use commercial, office and residential development.
4. Bring into balance the amount of zoned commercial locations with the anticipated need, with sufficient surplus to prevent undue land price escalation.
5. Locate commercial uses so they have arterial roadway access and are designed to be visually and functionally integrated into the community.

(Page 60)

WATER AND WASTEWATER: According to the attached response memo from Mr. Mitchell, the property is not currently connected to public sewer and/or water at this time. The subject property has a designation of a Sewer and Water Service Category of S-1/W-1 (Immediate to 2 years) in the Master Water and Sewerage Plan. Mr. Mitchell's well and septic records indicate a septic tank serves the existing building for the property with a very old driven well. A survey would be needed to confirm if the septic system were on the property and the well will need to be replaced for any future uses. The property was included in the proposed Summerfield development area that was not built. It has been annexed and de-annexed by the Town of Snow Hill. There are no current plans we are aware of that would re-annex this property back into the corporate boundaries of Snow Hill which would provide eligibility to connect to public water and sewer.

The primary soil types on the petitioned area according to the Worcester County Soil Survey are as follows:

FmB - Fort Mott loamy sand (56.1% of site), moderate limitations to on-site wastewater disposal
HbB - Hambrook sandy loam (35.7% of site), severe limitations to on-site wastewater disposal
SadA - Sassafras sandy loam (8.2% of site), severe limitations to on-site wastewater disposal

EMERGENCY SERVICES: Fire and ambulance service will be available from the Snow Hill Volunteer Fire Company approximately four minutes from the subject property. No comments were received from the fire companies with regard to this review. Police protection will be available from the Maryland State Police Barracks in Berlin, approximately twenty-four minutes away, and the Worcester County Sheriff's Office in Snow Hill, approximately four minutes away. No comments were received from the Maryland State Police Barracks or from the Sheriff's Office.

ROADWAYS AND TRANSPORTATION: The petitioned area has frontage on US Business Route 113 (West Market Street), a State-owned and maintained road. It is considered a two-lane secondary highway. This location is 3,200 feet south of Coulbourne Lane. The Maryland Department of Transportation State Highway Administration (MDOT SHA) has no objection to the request. They note in their comments that any future development proposal will require review and approval from District 1 Access Management and any permitting as needed. As this parcel is not located on a county owned and maintained road, no comments were received from the County Roads Division of the Department of Public Works.

SCHOOLS: The petitioned area is within Zone 4 of the Worcester County Public School Zones and is served by the following schools: Snow Hill Elementary, Middle and High Schools. No comments were received from the Worcester County Board of Education (WCBOE).

CHESAPEAKE/ATLANTIC COASTAL BAYS CRITICAL AREAS: Mr. Mitchell also notes in his memorandum that the petitioned area is located outside of the Chesapeake Bay Critical Area (CBCA). This property is not subject to the Forest Conservation Law, Per NR 1-403(a), as the property is less than 40,000 square feet in size. No comments were received from the State Critical Area Commission relative to this request.

FLOOD ZONE: The FIRM map (24047C0242H, effective July 16, 2015) indicates that this property is located outside of the floodplain in Zone X (Area of Minimal Flood Hazard).

PRIORITY FUNDING AREAS: The petitioned area is not within a designated Priority Funding Area (PFA). The closest PFA is Snow Hill (including several parcels that were subject to the de-annexation of the Summerfield development that was never built) about 1,000 feet away

INCORPORATED TOWNS: This property is within 3,500 feet of the incorporated town of Snow Hill.

ADDITIONAL COMMENTS RECEIVED: N/A

!!IMPORTANT!!

THE PLANNING COMMISSION MUST MAKE FINDINGS OF FACT IN EACH SPECIFIC CASE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING MATTERS:

1. What is the applicant’s definition of the neighborhood in which the subject property is located? (Not applicable if request is based solely on a claim of mistake in existing zoning.)
2. Does the Planning Commission concur with the applicant’s definition of the neighborhood? If not, how does the Planning Commission define the neighborhood?
3. Relating to population change.
4. Relating to availability of public facilities.
5. Relating to present and future transportation patterns.
6. Relating to compatibility with existing and proposed development and existing environmental conditions in the area, including having no adverse impact on waters included on the State’s impaired waters list or having an established total maximum daily load requirement.
7. Relating to compatibility with the Comprehensive Plan.
8. Has there been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property (November 3, 2009) or is there a mistake in the existing zoning of the property?
9. Would a change in zoning be more desirable in terms of the objectives of the Comprehensive Plan?



Worcester County Commissioners
Worcester County Government Center
One W. Market Street, Room 1103
Snow Hill, Maryland 21863

APPLICATION FOR AMENDMENT OF THE OFFICIAL ZONING MAP

(For Office Use Only – Please Do Not Write in this Space)

Rezoning Case No. 444

Date Received by Office of the County Commissioners 5/25/23

Date Received by Development Review and Permitting _____

Date Reviewed by the Planning Commission _____

I. Application: Proposals for amendments to the Official Zoning Maps may be made only by the property owner, contract purchaser, option holder, lease, or their attorney or agent of the property to be directly affected by the proposed amendment. Check applicable status below:

- A. Governmental Agency: _____
- B. Property Owner: _____
- C. Contract Purchaser: _____
- D. Option Holder: _____
- E. Leasee: _____
- F. Attorney for X (insert A, B, C, D or E) B
- G. Agent for _____ (insert A, B, C, D or E) _____

II. Legal Description of Property

- A. Tax Map/Zoning Map Number(s): 63
- B. Parcel Number(s): 106
- C. Lot Number(s), if applicable: N/A
- D. Tax District Number: 02

III. Physical Description of Property

- A. Located on east side of Market Street, approximately ±1300 feet (0.25 miles) to the north side of Moat Road.
- B. Consisting of a total of 0.78 acres of land.
- C. Other descriptive physical features or characteristics necessary to accurately locate the petitioned area: currently improved by an 11,200 square foot structure as a storage warehouse with a concrete pad. The property is surrounded by farmland.
- D. Petitions for map amendments shall be accompanied by a plat drawn to scale showing property lines, the existing and proposed district boundaries and other such information as the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Maps.

IV. Requested Change to Zoning Classification(s)

- A. Existing zoning classification(s): A-1, Agricultural District
(name and zoning district)
- B. Acreage of zoning classification(s) in "A" above: 0.78
- C. Requested zoning classification(s): C-2, General Commercial District
(name and zoning district)
- D. Acreage of zoning classification(s) in "C" above: 0.78

V. Reasons for Requested Change

The County Commissioners may grant a map amendment based upon a finding that there: (a) has been a substantial change in the character of the neighborhood where the property is located since the last zoning of the property, or (b) is a mistake in the existing zoning classification and a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

- A. Please list reasons or other information as to why the zoning change is requested, including whether the request is based upon a claim of change in the character of the neighborhood or a mistake in existing zoning:


This rezoning is based upon a mistake in the original November 3, 2009, Comprehensive Rezoning, per the attached.

VI. Filing Information and Required Signatures

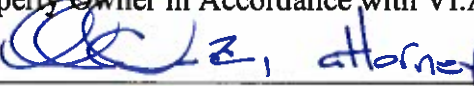
A. Every application shall contain the following information:

1. If the application is made by a person other than the property owner, the application shall be co-signed by the property owner or the property owner's attorney.
2. If the applicant is a corporation, the names and mailing addresses for the officers, directors and all stockholders owning more than 20 percent of the capital stock of the corporation.
3. If the applicant is a partnership, whether a general or limited partnership, the names and mailing addresses of all partners who own more than 20 percent of the interest in the partnership.
4. If the applicant is an individual, his/her name and mailing address.
5. If the applicant is a joint venture, unincorporated association, real estate investment trust or other business trust, the names and mailing addresses of all persons holding an interest of more than 20 percent in the joint venture, unincorporated association, real estate investment trust or other business trust.


B. Signature of Applicants in Accordance with VI.A. above.

Signature(s): 
 Printed Name(s): Hugh Cropper IV and Kristina L. Watkowski
 Mailing Address: 9927 Stephen Decatur Hwy, F-12, Ocean City, MD 21842
 Phone Number: 410-213-2681 Email: hcropper@bbcmlaw.com
 Date: May 24, 2023

C. Signature of Property Owner in Accordance with VI.A. above.

Signature(s): 
 Printed Name(s): Black Water Relics LLC
 Mailing Address: 537 Old Westminster Road, Hanover, Maryland 17331
 Phone Number: 410-259-3652 Email: akelly537@gmail.com
 Date: May 24, 2023

D. Signature of Attorney in Accordance with VI.A. above.

Signature(s): 
 Printed Name(s): Hugh Cropper IV and Kristina L. Watkowski
 Mailing Address: 9927 Stephen Decatur Hwy, F-12, Ocean City, MD 21842
 Phone Number: 410-213-2681 Email: hcropper@bbcmlaw.com
 Date: May 24, 2023

(Please use additional pages and attach to the application if more space is required.)

VII. General Information Relating to the Rezoning Process

- A. Applications shall only be accepted from January 1st to January 31st, May 1st to May 31st, and September 1st to September 30th of any calendar year.
- B. Applications for Map Amendments shall be addressed to and filed with the Office of the County Commissioners. The required filing fee must accompany the application.
- C. Any officially filed amendment or other change shall first be referred by the County Commissioners to the Planning Commission for an investigation and recommendation. The Planning Commission may make such investigations as it deems appropriate or necessary and for the purpose may require the submission of pertinent information by any person concerned and may hold such public hearings as are appropriate in its judgment.

The Planning Commission shall formulate its recommendation on said amendment or change and shall submit its recommendation and pertinent supporting information to the County Commissioners within 90 days after the Planning Commission's decision of recommendation, unless an extension of time is granted by the County Commissioners.

After receiving the recommendation of the Planning Commission concerning any such amendment, and before adopting or denying same, the County Commissioners shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The County Commissioners shall give public notice of such hearing.

- D. Where the purpose and effect of the proposed amendment is to change the zoning classification of property, the County Commissioners shall make findings of fact in each specific case, including but not limited to the following matters: population change; availability of public facilities; present and future transportation patterns; compatibility with existing and proposed development and existing environmental conditions for the area including having no adverse impact on waters included on the State's Impaired Waters List or having an established total maximum daily load requirement; the recommendation of the Planning Commission; and compatibility with the County's Comprehensive Plan. The County Commissioners may grant the map amendment based upon a finding that (a) there was a substantial change in the character of the neighborhood where the property is located since the last zoning of the property or (b) there is a mistake in the existing zoning classification and a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

The fact that an application for a map amendment complies with all of the specific requirements and purposes set forth above shall not be deemed to create a presumption that the proposed reclassification and resulting development would in fact be compatible with the surrounding land uses and is not, in itself, sufficient to require the granting of the application.

- E. No application for a map amendment shall be accepted for filing by the office of the County Commissioners if the application is for the reclassification of the whole or any part of the land for which the County Commissioners have denied reclassification within the previous 12 months as measured from the date of the County Commissioners' vote of denial. However, the County Commissioners may grant reasonable continuance for good cause or may allow the applicant to withdraw an application for map amendment at any time, provided that if the request for withdrawal is made after publication of notice of public hearing, no application for reclassification of all or any part of the land which is the subject of the application shall be allowed within 12 months following the date of such withdrawal, unless the County Commissioners specify by formal resolution that the time limitation shall not apply.

REZONING FINDINGS OF FACT FORM

Applicant shall provide information with regard to the following items:

- A. Is the request for rezoning based upon a claim that there has been a change in the character of the neighborhood where the property is located since the last zoning of the property or upon a claim that there is a mistake in the existing zoning and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

The request for the rezoning is based upon a mistake in the existing zoning.

- B. What is the definition of the neighborhood in which the subject property is located, as determined by the applicant.

In terms of the neighborhood, the property is located on the east side of Market Street just outside of the Town of Snow Hill. To the west are properties zoned R-1, Rural Residential. To the north, east and south are large parcels of farmland zoned A-1, Agricultural. The Snow Hill municipality is less than a mile north on Market Street. The subject property, as well as the R-1 zoned parcels across the street, were once annexed into the Town of Snow Hill. The properties were subsequently de-annexed. Less than a mile to the north there are various commercial properties zoned B-2, General Commercial, by the Town of Snow Hill. These properties include a medical office building, governmental offices, a convenience store, and a gas station.

- C. Findings of Fact as to Section 1-113(c)(3) of the Zoning Code:

1. Relating to population change: A rezoning from A-1, Agricultural District, to C-2, General Commercial District, of the property less than 1 acre by itself is not expected to change the year-round population in the surrounding community.
2. Relating to the availability of public facilities: A rezoning of the property from A-1, Agricultural District to C-2, General Commercial District will not limit or affect the availability of public facilities.
3. Relating to present and future transportation patterns: It is anticipated that a rezoning of the property from A-1, Agricultural District, to C-2, General Commercial District, will not adversely impact present or future transportation patterns. Market Street has been an outlet to Route 113 that serves the population and community well as it currently exists.

4. Relating to the compatibility with existing and proposed development and existing environmental conditions for the area: A rezoning of the property from A-1, Agricultural District, to C-2, General Commercial District, will be compatible with the existing development, as well as the environmental conditions. Whether Agricultural, Residential, or Commercial, the surrounding community would not be adversely affected either way.

5. Relating to compatibility with the Comprehensive Plan: A rezoning of the property from A-1, Agricultural District, to C-2, General Commercial District, is compatible with the Comprehensive Plan. The rezoning allows the property to contribute to the expansion of the local economy with respect to employment, business and tourism. The rezoning would do so without compromising the county's rural character and its sustainability. A commercial use on this property has close access to an arterial roadway and could be designed to be visually and functionally integrated into the community. The Comprehensive Plan acknowledges that activities like antiquing broaden the county's allure with respect to the tourism industry.

Attachment in Support of Rezoning Application

This is a request to rezone Worcester County Tax Map 63, Parcel 106, 0.78 acres, from A-1, Agricultural District to C-2, General Commercial District, based upon a mistake in the November 3, 2009, Comprehensive Rezoning.

The property is located on the east side of Market Street just outside of the Town of Snow Hill. To the west are properties zoned R-1, Rural Residential District. To the north, east and south are large parcels of farmland zoned A-1, Agricultural District. The Snow Hill municipality is less than a mile north on Market Street.

The property is currently improved with an 11,200 square foot storage warehouse with a concrete pad. Historically the structure is thought to have been built as a potato storage building. At some point the property was believed to have been an icehouse for distribution, a grocery outlet, a t-shirt factory, and even a storage for airplane parts. Most recently the property was used as an "indoor yard sale" location on weekends. According to SDAT, the property is assessed as Commercial.

Considering the size of the parcel, 0.78 acres, it is not suitable for the A-1, Agricultural District. Many of the permitted principal uses and structures enumerated in the Code under A-1, Agricultural District have lot requirements that far exceed the 0.78 acres of this parcel. It is not suitable for agriculture, poultry operations, or aquaculture as the lot does not meet the minimum requirements of five (5) acres. Also, the property does not meet the 40,000 square foot minimum requirement for a single-family dwelling, or manufactured home.


The subject property, as well as the R-1, Rural Residential zoned parcels across the street, were once annexed into the Town of Snow Hill. The properties were subsequently de-annexed. Less than a mile to the north there are various commercial properties zoned B-2, General Commercial, by the Town of Snow Hill. These properties include a medical office building, governmental offices, a convenience store, and a gas station.

The Comprehensive Plan recognizes Snow Hill's transition from "Main Street" to an antiquing center with restaurants and other services. As C-2, General Commercial District, this small property would enhance the community, while being consistent with the Plan. The Land Use Plan Map indicates this property is located within a designated Growth Area in Worcester County.

Due to the small size of the parcel, less than 1 acre, and the fact that the existing structure of approximately 11,200 square feet with a history of commercial use, the property is more suited as C-2, General Commercial District. Improvements to the property and its use would be compatible with the community and the County's character. An antique shop, or other small retail, would blend visually into the surrounding community. Market Street is a common ingress and egress out of town; thus, a commercial use offers convenience to the surrounding community. Again, given the size of the parcel and the existing structure, a retail store such as an antique shop really would be the best use of this property and would require C-2, General Commercial zoning.

The rezoning of the property to C-2, General Commercial District, would be consistent with the Land Use Plan Map, as well as the written Comprehensive Plan. The property owner and applicant respectfully request the rezoning be granted.

Respectfully submitted,


Kristina L. Watkowski, Attorney for Owners
Black Water Relics, LLC

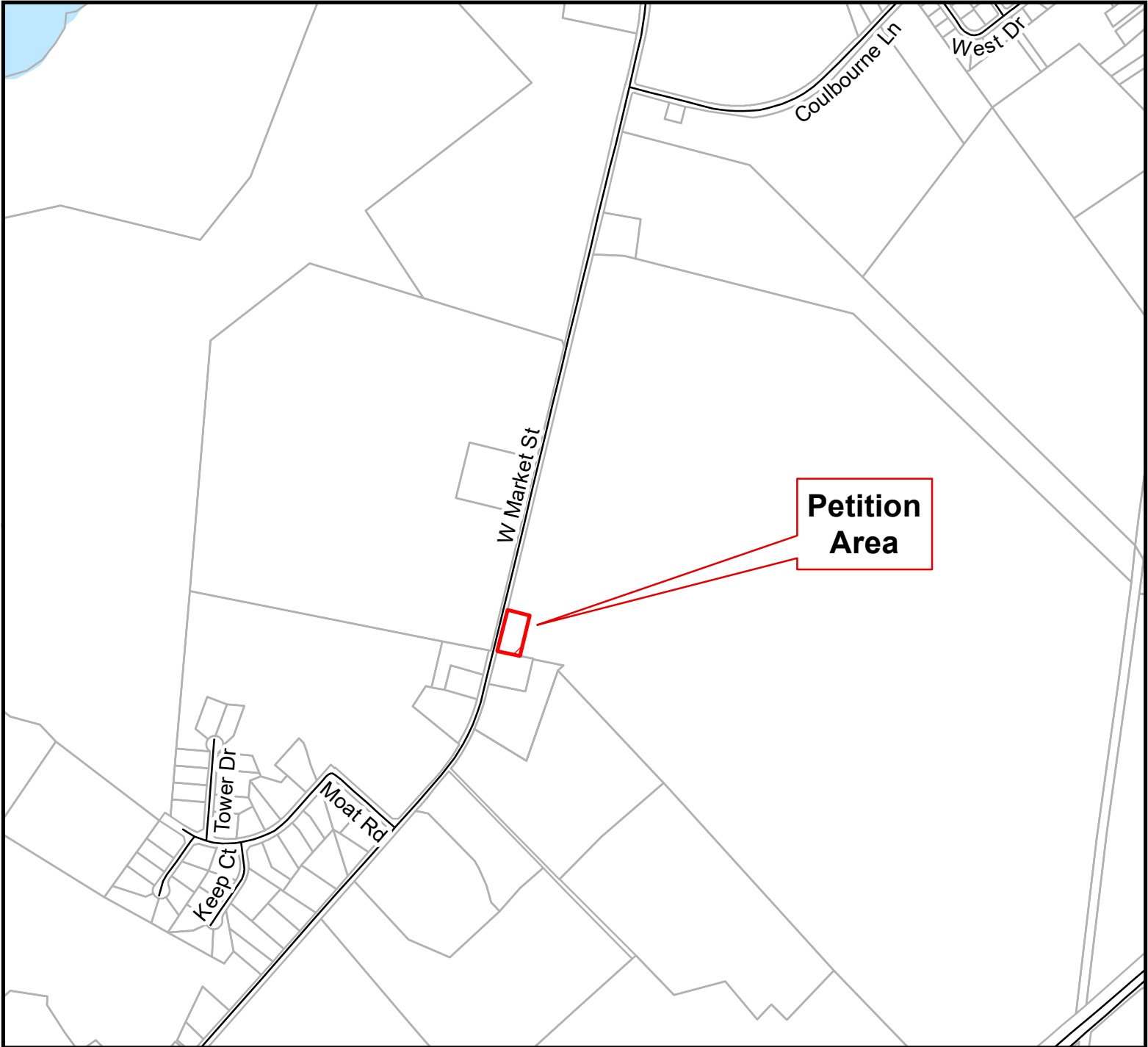
WORCESTER COUNTY, MARYLAND



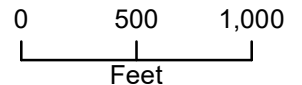
REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



LOCATION MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



Source: GIS Data Layers
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: ML

WORCESTER COUNTY, MARYLAND



REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



AERIAL IMAGERY



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



Source: 2022 Aerial Imagery
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: ML

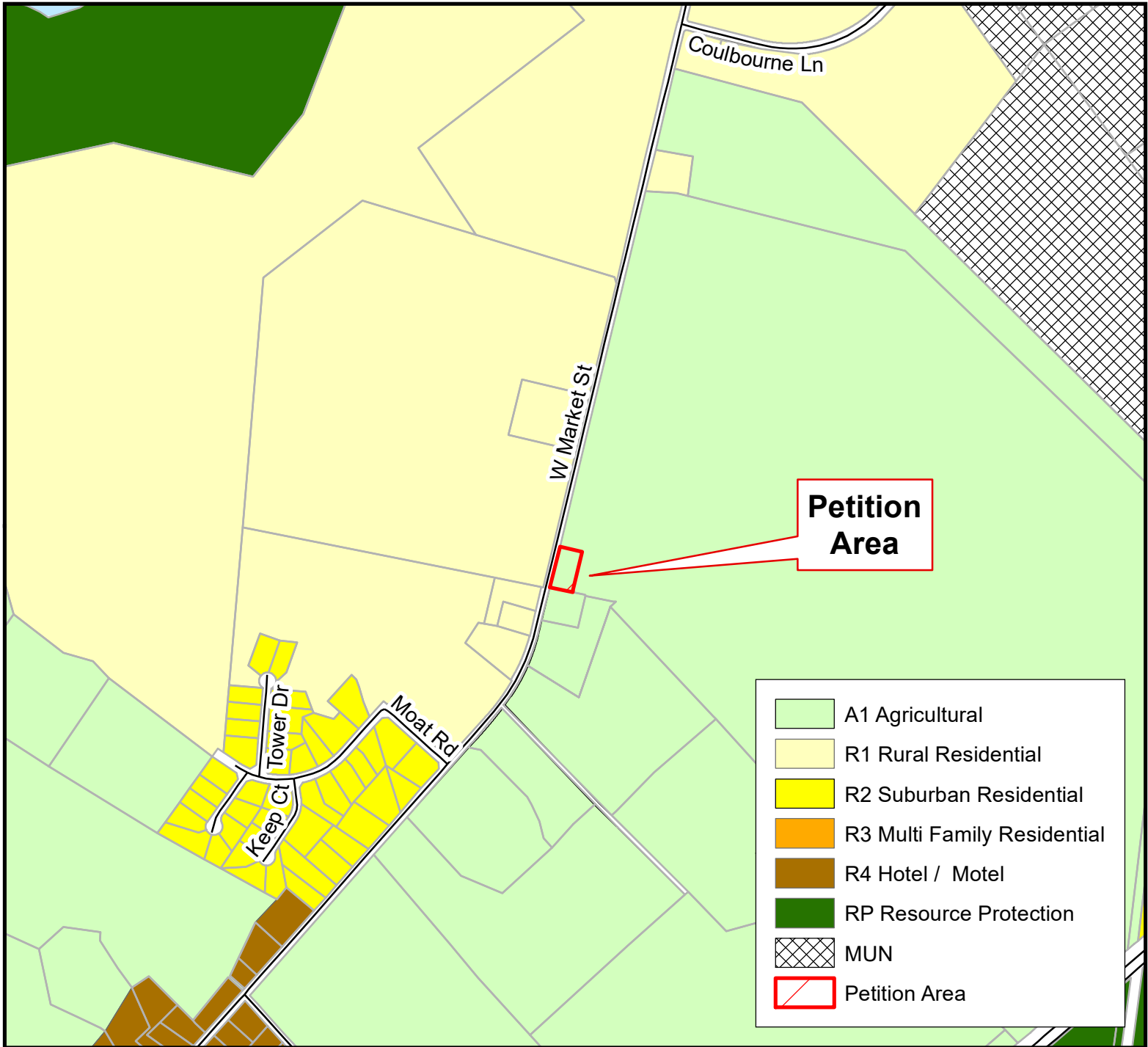
WORCESTER COUNTY, MARYLAND



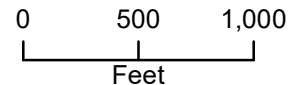
REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



ZONING MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



Source: 2009 Official Zoning Map

This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: ML

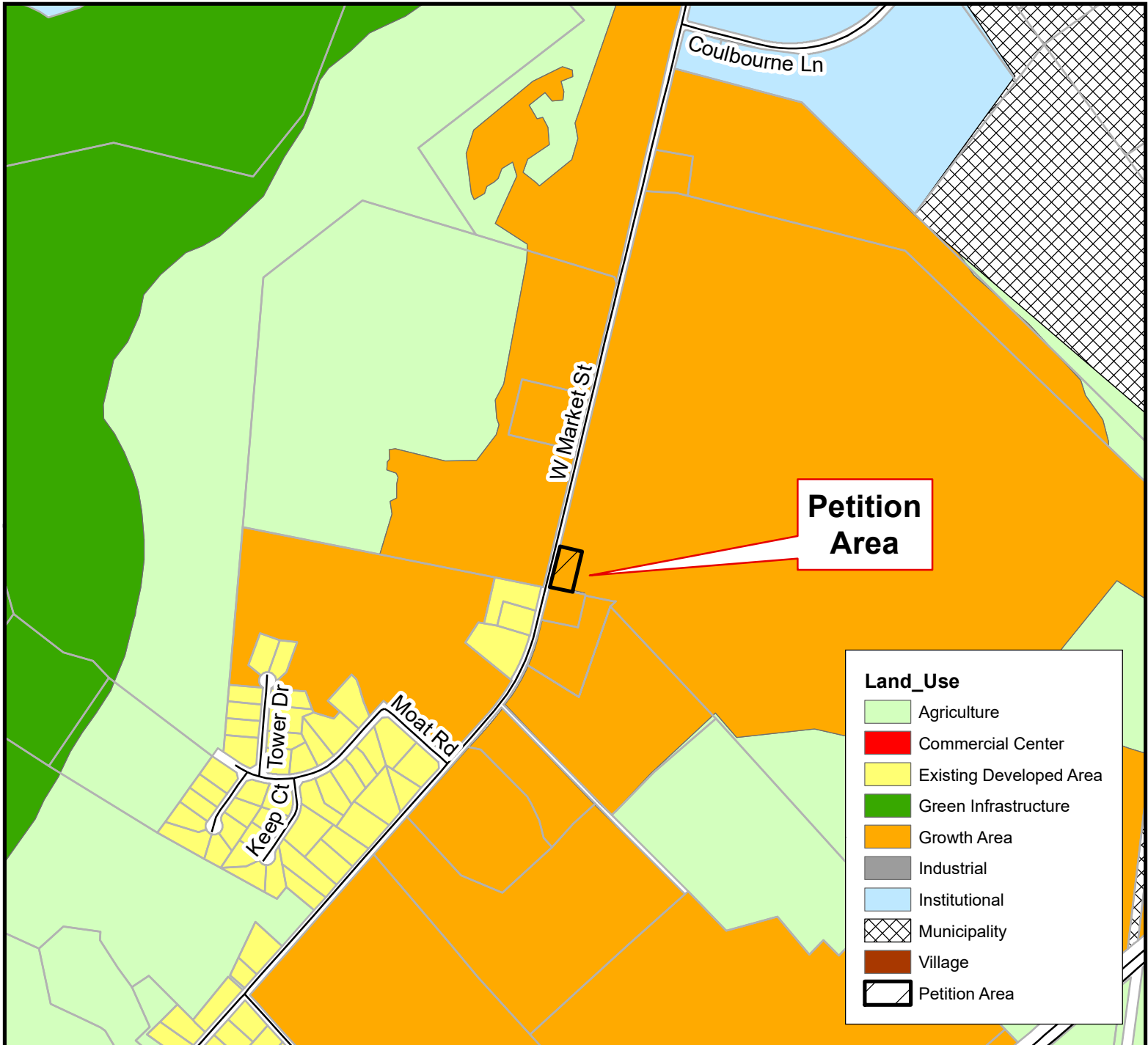
WORCESTER COUNTY, MARYLAND



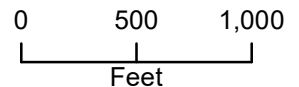
REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



LAND USE MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



Source: 2006 Land Use Map

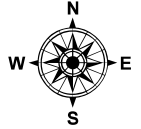
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: ML

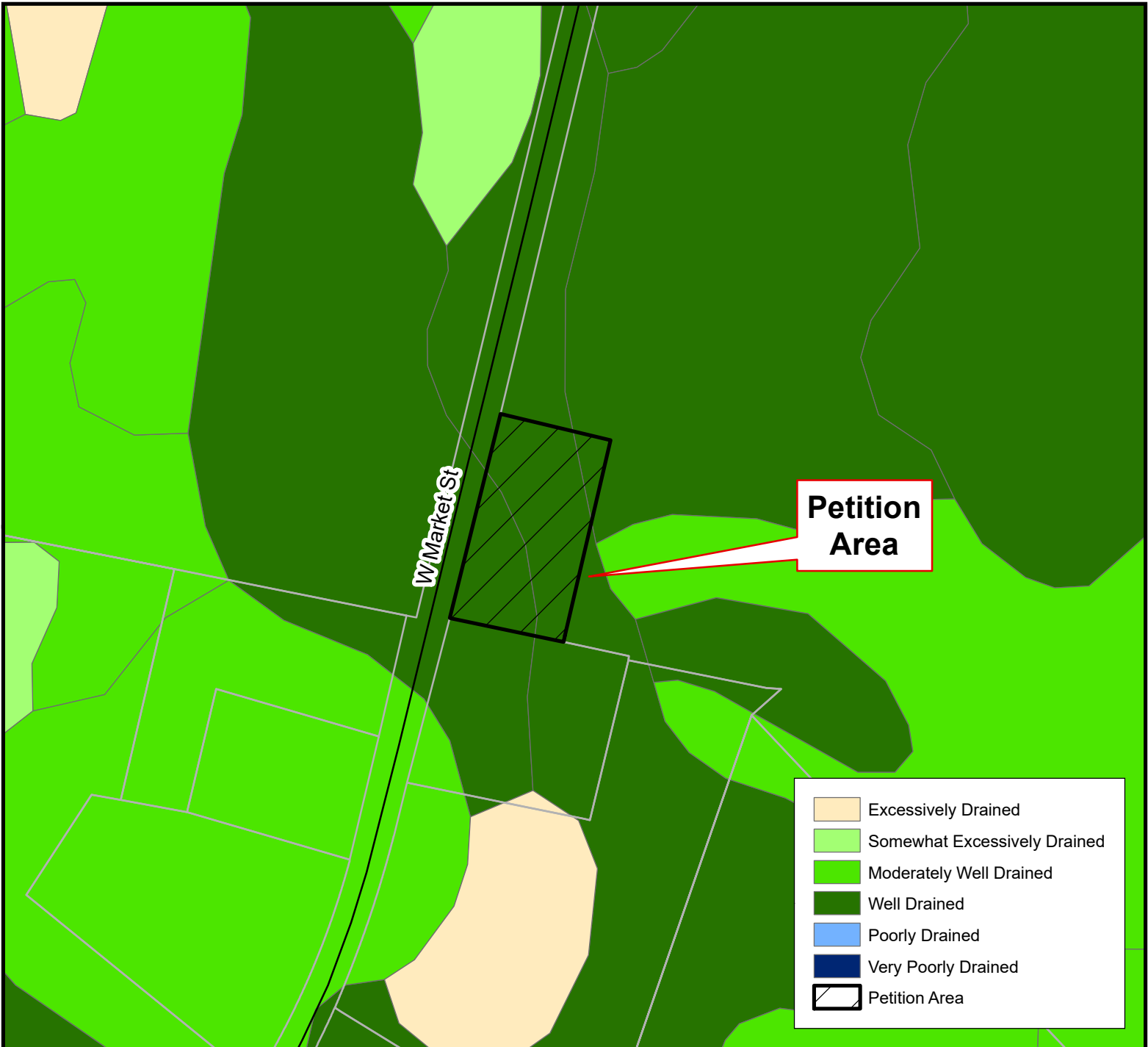
WORCESTER COUNTY, MARYLAND



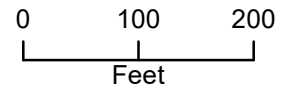
REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



SOILS MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



Source: 2007 Soil Survey

Drawn By: KLH Reviewed By: ML

This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

WORCESTER COUNTY, MARYLAND



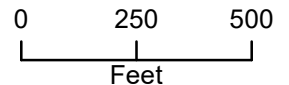
REZONING CASE NO. 444
A-1 Agricultural to C-2 General Commercial
Tax Map: 63, Parcel 106



HYDRIC SOILS MAP



DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING
Technical Services Division - Prepared June 2023



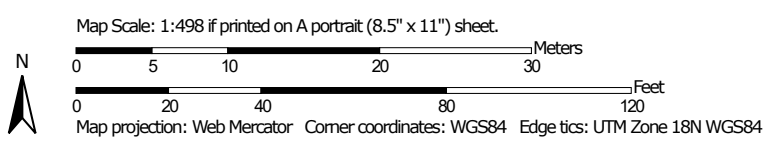
Source: 2007 Soil Survey
This map is intended to be used for illustrative purposes only and is not to be used for regulatory action.

Drawn By: KLH Reviewed By: ML

Soil Map—Worcester County, Maryland




Soil Map may not be valid at this scale.





MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)




















Soils







 Soil Map Unit Polygons

 Soil Map Unit Lines


 Soil Map Unit Points

Special Point Features






-  Blowout
-  Borrow Pit
-  Clay Spot
-  Closed Depression
-  Gravel Pit
-  Gravelly Spot
-  Landfill
-  Lava Flow
-  Marsh or swamp
-  Mine or Quarry
-  Miscellaneous Water
-  Perennial Water
-  Rock Outcrop
-  Saline Spot
-  Sandy Spot
-  Severely Eroded Spot
-  Sinkhole
-  Slide or Slip
-  Sodic Spot

-  Spoil Area
-  Stony Spot
-  Very Stony Spot
-  Wet Spot
-  Other
-  Special Line Features


Water Features

 Streams and Canals

Transportation

-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads
-  Local Roads

Background

 Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL:
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Worcester County, Maryland
 Survey Area Data: Version 20, Sep 14, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 30, 2022—Jul 4, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
FmB	Fort Mott loamy sand, 2 to 5 percent slopes	0.5	56.1%
HbB	Hambrook sandy loam, 2 to 5 percent slopes	0.3	35.7%
SadA	Sassafras sandy loam, 0 to 2 percent slopes, Northern Tidewater Area	0.1	8.2%
Totals for Area of Interest		0.9	100.0%



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410-632-1200 / FAX: 410-632-3008
www.co.worcester.md.us/drp/drpindex.htm

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

February 13, 2019

Booth, Booth, Cropper & Marriner, P.C.
c/o Hugh Cropper, IV, Esquire
9923 Stephen Decatur Hwy, #D-2
Ocean City, MD 21842

Re: Town of Snow Hill de-annexation request for zoning classification

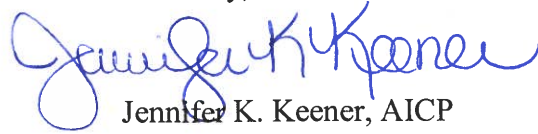
Dear Hugh:

I have reviewed your letter dated January 30, 2019 regarding the potential de-annexation of certain properties in the southerly portion of the town limits of Snow Hill. In discussion of this matter with Ed Tudor, Director, and Maureen Howarth, County Attorney, we are of the opinion that if there is a de-annexation of land, any property so included shall be received into the county with the county zoning designation that they had at the time of annexation.

As you should be aware, the properties were annexed prior to the most recent Comprehensive Rezoning and updated Zoning ordinance. Therefore, the applicable zoning designations are as shown on the official 1992 Zoning Maps (Map No. 63 and 71). Market Street is the boundary for the two main zoning classifications. Those properties on the easterly side of Market Street, including those owned by the Powell Family and the Holland Family, were zoned A-1 Agricultural District. Those properties on the westerly side of Market Street, including those now owned by Mr. and Mrs. Odachowski, were zoned R-1 Rural Residential District. In addition, there are small portions of land that were in the former C-1 Conservation District, which is the equivalent to the reclassified RP Resource Protection District, therefore those segments of land would be assigned to the RP District. I have attached copies of the 1992 zoning maps with the identified properties outlined and their associated zoning district for your reference.

While I appreciate your offer to forward any draft documents to me relative to the de-annexation process, these would best be addressed directly to my director, Ed Tudor. If you have any questions relative to this information or the attached zoning maps, please do not hesitate to contact me at (410) 632-1200, extension 1123.

Sincerely,



Jennifer K. Keener, AICP
Zoning Administrator

Enclosure

cc: Ed Tudor, Director
Phyllis Wimbrow, Deputy Director
Maureen Howarth, County Attorney
Harold Higgins, CAO
Kelly Shannahan, Asst. CAO
file



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

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ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICE DIVISION

MEMORANDUM

To: Harold Higgins, Chief Administrative Officer
From: Edward A. Tudor, Director, DRP *EAT*
Date: July 11, 2019
Re: Town of Snow Hill – Summerfield Deannexation, aka detachment

I am in receipt of the attached resolution of the Mayor and Council of Snow Hill whereby they have officially detached from the Town limits all of the lands that were annexed by the Town in the 2006 Summerfield Annexation. This action returns all the lands to the County’s jurisdiction for planning and zoning purposes, etc. I have confirmed with the County Attorney that these lands come back to the County’s jurisdiction in the same zoning categories in which they left. This is also consistent with the zoning of all the surrounding properties. I believe the Town will be taking future action to ask for revision to the County Water and Sewer Plan to remove their planned service for the detached area. No action is required by the County Commissioners at this time.

If you have any questions please let me know.

Attachment

cc: Maureen Howarth, County Attorney
Phyllis Wimbrow, Deputy Director
Jennifer Keener, Zoning Administrator
Bob Mitchell, Director, Department of Environmental Programs



MAYOR AND COUNCIL OF SNOW HILL

**RESOLUTION NO. 2019- 01
CHARTER AMENDMENT**

**FOR THE PURPOSE OF AMENDING THE DESCRIPTION OF THE CORPORATE
BOUNDARIES OF THE TOWN OF SNOW HILL BY DELETING §3(e)
TO DETACH CERTAIN PROPERTIES
FROM THE CORPORATE BOUNDARIES**

A RESOLUTION BY THE MAYOR AND COUNCIL OF SNOW HILL, a municipal corporation in the State of Maryland (hereinafter "the Town of Snow Hill"), which Resolution is adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and Subtitle 3, Title 4 of the Local Government Article of the Annotated Code of Maryland for the purpose of amending §3 of the Charter of the Town of Snow Hill (hereinafter "the Town Charter").

WHEREAS, pursuant to Maryland Code Annotated, Local Government Article § 4-103(b)(3), the Council of the Town of Snow Hill (hereinafter "the Town Council") has been granted the authority to enact and adopt ordinances, resolutions or bylaws necessary to exercise the authority of the municipality; and

WHEREAS, the Town has received a request for deannexation, also known as detachment (hereinafter "detachment"), of certain parcels of property (hereinafter "the Detached Property," more particularly described below) lying within the property currently described within the Town's corporate boundaries by description set forth in §3(e) of the Town Charter, known as "the Summerfield Annexation;" and

WHEREAS, the Attorney General of Maryland has stated that Maryland municipalities are authorized by Article XIE of the Maryland Constitution to revise their boundaries in order to detach real property lying within municipal boundaries, See 72 Opinion of the Attorney General 200 (1987); 41 Opinion of the Attorney General 133; and

WHEREAS, neither Town water nor Town sewer services have been extended to the Detached Property; and

WHEREAS, the Town Council has determined that the passage of this Resolution will benefit the general welfare of the Town of Snow Hill;

WHEREAS, the Town Council gave at least twenty-one (21) days advance notice of the public hearing held on adoption of this Resolution and the amendment to the Charter contained herein;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council, in regular session assembled:

SECTION I: That §3(e), be repealed and reenacted as follows (with the capitalized and underlined language inserted as amended language and the boldened and struck-through language deleted through this amendment):

~~On December 13, 2005, a resolution of the Mayor and Council of Snow Hill was passed which annexed a certain area of land situated contiguous to and binding upon the southerly corporate limits of the Town of Snow Hill. The effective date of the resolution is January 27, 2006. This land known as the "Summerfield Annexation" is described as follows: [Added 12-13-2005 by Res. No. 2005-5]~~

ON *May 14*, 2019, A RESOLUTION OF THE MAYOR AND COUNCIL OF SNOW HILL WAS PASSED WHICH DETACHED A CERTAIN AREA OF LAND SITUATED CONTIGUOUS TO AND BINDING UPON THE SOUTHERLY CORPORATE LIMITS OF THE TOWN OF SNOW HILL. THE EFFECTIVE DATE OF THE RESOLUTION IS *May 14*, 2019. THIS LAND KNOWN AS THE "SUMMERFIELD ANNEXATION" IS DESCRIBED AS FOLLOWS: [ADDED 12-13-2005 BY RES. NO. 2005-5; WHICH RESOLUTION WAS SUPERSEDED AND WHICH PARCEL WAS DETACHED BY RES. NO. 2019-]

Beginning for this description at a point on the southeasterly shoreline of the Pocomoke River, said point being the northwesterly corner of lands now or formerly of Mark R. Odachowski, deed reference: Liber S. V. H. 4269, Folio 25 et. seq.; thence along the lands now or formerly of Mark R. Odachowski, the following sixteen courses: 1) S 31° 53' 17" E - 851.13' to a point; thence 2) N 80° 21' 43" E - 1430.88' to a point; thence 3) S 71° 00' 17" E - 706.86' to a found concrete monument; thence 4) N 26° 51' 54" E - 643.50' to a point; thence 5) N 22° 36' 54" E - 937.20' to a point; thence 6) N 16° 23' 27" E - 791.35' to a found concrete monument; thence 7) N 81° 23' 27" E - 453.75' to a point; thence 8) N 36° 06' 31" E - 135.34' to the center of a branch and the present Snow Hill corporate limit line; thence 9) S 35° 22' 46" E - 21.69' to a point; thence 10) N 73° 55' 17" E - 30.52' to a point; thence 11) S 47° 48' 54" E - 38.61' to a point; thence 12) S 71° 28' 27" E - 39.41' to a point; thence 13) S 89° 11' 09" E - 48.09' to a point; thence 14) S 31° 21' 48" E - 55.83' to a point; thence 15) S 54° 44' 25" E - 57.81' to a point; thence 16) S 10° 14' 42" E - 45.76' to a point; thence by with lands now or formerly of Mark R. Odachowski, deed reference Liber S. V. H. 4044, Folio 484, the following twelve courses: 1) N 45° 32' 36" E - 96.47' to a twin maple tree; thence 2) S 17° 42' 11" E - 296.27' to an iron axle found, passing through an iron pipe found a distance of 106.22' from said twin maple tree; thence 3) S 41° 42' 19" E - 271.50' to a found concrete monument, passing through an iron rod found a distance of 194.58' from said iron axle; thence 4) N 81° 02' 30" E - 346.21' to a found concrete monument at or near the northwesterly line of Maryland Route 394; thence 5) along said Maryland Route 394, with a curve to the right, having a radius of 1870.00', with an arc length of 21.26' to a point, thence 6) S 01° 12' 06" W - 13.80' to a point; thence 7) S 81° 00' 56" W - 265.50' to a point; thence 8) S 16° 27' 36" W - 170.30' to a point; thence 9) S 46° 00' 56" W - 104.50' to a point; thence 10) S 05° 24' 56" W - 173.00' to a point; thence 11) S 23° 33' 56" W - 25.00' to a point; thence 12) S 73° 12' 44" E - 417.30' to a found concrete monument; thence along the northwesterly line of Maryland Route 394, N 01° 12' 06" E - 561.18' to a point; thence across said Maryland Route 394 along the present Snow Hill corporate limit line the following three courses: 1) S 32° 27' 31" E - 77.33' to a point; thence 2) N 84° 09' 29" E - 41.30' to a point; thence 3) S 68° 35' 31" E - 1522.77' to a point; thence by with lands of the Board of Education of Worcester County, Maryland, deed reference Liber F. W. H. 466, Folio 516 et. seq., the following two courses: 1) S 35° 27' 52" E - 742.10' to a point; thence 2) S 37° 19' 14" W - 988.81' to a found concrete monument; thence along the lands now or formerly of Mark Reid Odachowski., deed reference Liber S. V. H. 3918, Folio 428 et. seq., S 45° 24' 44" E - 2260.26' to a found concrete monument; thence along the lands now or formerly of Edwin M. and Gail M. Shockley, deed reference Liber 2080, Folio 495; thence S. 82° 23' 30" E - 3.00' to a point; thence along the lands now or formerly of Mark Reid Odachowski, deed reference Liber S. V. H. 3918, Folio 428, S. 07° 36' 30" W. - 2785.22' to a point on the northwesterly line of U. S. Route 113; thence along the northwesterly line of U.S. Route 113 the following nineteen courses: 1) S. 49° 38' 53" W - 529.96 to a point; thence 2) S 45° 04' 27" W - 150.48' to a point; thence 3) S 52° 10' 01" W - 156.31' to a point; thence 4) N 43° 32' 02" W - 122.56' to an iron bar found; thence 5) S 48° 01' 58" W - 510.18' to a point; thence 6) S 03° 13' 02" E - 103.47' to a point; thence 7) S 52° 09' 59" W - 128.13' to a point; thence 8) S 52° 03' 28" W - 132.73' to a point; thence 9) S 47° 48' 55" W - 292.89' to a point;

thence 10) S 55° 45' 26" W - 683.83' to a point; thence 11) S 68° 51' 27" W - 366.42' to a point; thence 12) S 68° 51' 28" W - 74.38' to a point; thence 13) S 50° 14' 33" W - 152.16' to a point; thence 14) S 73° 11' 33" W - 683.46' to a point; thence 15) S 73° 58' 44" W - 146.00' to a point; thence 16) N 69° 44' 25" W - 70.56' to a point; thence 17) N 68° 24' 09" W - 50.30' to a point; thence 18) N 42° 27' 55" W - 98.00' to a point; thence 19) N 53° 25' 39" W - 57.89' to the northeasterly line of Castle Hill Drive; thence along the northeasterly line of Castle Hill Drive, the following four courses: 1) N 42° 06' 32" W - 485.89' to a point; thence 2) N 42° 00' 21" W - 634.96' to a point; thence 3) N 42° 29' 03" W - 922.95' to a point; thence 4) N 42° 13' 14" W - 274.33' to a point; thence across Maryland Route 394 to the northwesterly line of Maryland Route 394, N 42° 13' 14" W - 40.25' to a point; thence along the northwesterly line of Maryland Route 394, the three following courses: 1) N 41° 25' 03" E - 919.28' to a point; thence 2) N 41° 31' 54" E - 882.66' to a point; thence 3) N 41° 21' 39" E - 60.90' to a point; thence along the lands now or formerly of Summerfield Farms, L.L.C., deed reference Liber S. V. H. 4352, Folio 418 et. seq., and along the northerly line of Castle Way, the five following courses: 1) S 86° 32' 15" W - 44.80' to a point; thence 2) N 48° 27' 45" W - 455.00' to a point; thence 3) S 41° 32' 15" W - 5.00' to a point; thence 4) N 48° 27' 45" W - 29.96' to a point; thence 5) S 41° 35' 27" W - 125.17' to a point; thence continuing along the lands of said Summerfield Farms, L.L.C. and Castle Hill Estates Subdivision the following ten courses: 1) N 21° 49' 28" W - 96.79' to a point; thence 2) N 17° 00' 02" W - 89.87' to a point; thence 3) N 21° 02' 57" W - 47.58' to a point; thence 4) N 43° 40' 28" W - 39.27' to an iron rod found; thence 5) S 41° 35' 27" W - 210.81' to a point; thence 6) S 48° 24' 33" E - 94.65' to a point; thence 7) S 41° 35' 27" W - 55.00' to an iron rod found; thence 8) N 72° 25' 33" W - 123.03 to an iron rod found; thence 9) N 21° 33' 30" W - 132.34' to a point; thence 10) N 85° 20' 18" W - 203.47' to an iron rod found on the easterly line of Tower Drive; thence along the easterly line of Tower Drive, N 04° 39' 53" E - 1.93' to a point; thence along the line of Tower Drive, with a curve to the left, with a radius of 50.00' and an arc of 52.70' to an iron rod found; thence along the lands now or formerly of Thomas W. Stevenson, Jr., deed reference Liber S.V.H. 2949, Folio 6 et. seq., the following three courses: 1) N 48° 11' 04" E - 81.71' to an iron rod found; thence 2) N 19° 33' 44" E - 189.87' to an iron rod found; thence 3) N 85° 22' 59" W - 103.61' to an iron rod found; thence along the lands now or formerly of Robert Rider and William Farlow, deed reference Liber F.W.H. 438, folio 334, the three following courses: 1) N 70° 18' 58" W - 124.37' to a found concrete monument; thence 2) S 19° 39' 38" W - 199.69' to an iron rod found; thence 3) S 50° 51' 56" E - 95.76' to a point; thence along the northwesterly line of Tower Drive with a curve to the right, having a radius of 50.00' and an arc distance of 82.12' to a point; thence along the said Castle Hill Estates Subdivision, N 85° 23' 30" W - 200.00' to a point; thence along the lands now or formerly of Mark R. Odachowski, deed reference Liber S.V.H. 4269, Folio 25 et. seq., the eleven following courses: 1) S 04° 36' 30" W - 400.00' to a found concrete monument; thence 2) N 56° 14' 17" W - 571.29' to a point; thence 3) N 47° 06' 17" W - 231.00' to a point; thence 4) N 72° 06' 17" W - 195.52' to a point; thence 5) N 49° 36' 17" W - 320.10' to a point; thence 6) N 28° 28' 17" W - 165.00' to a point; thence 7) N 33° 46' 17" W - 330.00' to a point; thence 8) N 37° 31' 17" W - 198.00' to a point; thence 9) N 48° 01' 17" W - 80.86' to an iron pipe found; thence 10) N 87° 56' 17" W - 1223.64' to a point; thence 11) N 59° 06' 17" W - 481.73' to the easterly shoreline of the Pocomoke River; thence along the easterly shoreline of the Pocomoke River in a northeasterly direction to the place of beginning, said point of beginning bearing N 23° 28' 38" E - 2669.73' From the last point.
Containing 966.66 acres more or less.

BE IT FURTHER RESOLVED that the aforementioned and described land being detached from the corporate boundaries of the Town of Snow Hill shall be zoned by Worcester County.

BE IT FURTHER RESOLVED that the aforementioned and described land shall upon the effective date of this resolution no longer receive any services from the Town of Snow Hill.

SECTION II: That the date of the adoption of this Resolution is May 14, 2019 and that the amendment to the Town Charter of the Town of Snow Hill hereby proposed by this enactment, shall be and

become effective on May 19, 2019 or, forty (40) days from the date of adoption, unless a petition for a referendum satisfying the requirements of Maryland Code Annotated, Local Government Article § 4-304(d) shall be filed by May 19, 2019 or, within forty (40) days from the date of adoption. An exact copy the Amendment shall be posted in the Town offices for forty (40) days following adoption of this Resolution and a fair summary of this Resolution shall be published in a newspaper having general circulation in the Town not less than four (4) times at weekly intervals within forty (40) days of the date of adoption.

SECTION III: That, within ten (10) days after the Charter Amendment hereby enacted becomes effective, either as herein provided or following a referendum, the Clerk shall send separately to the Department of Legislative Services, the following information concerning the Charter Amendment: (1) the complete text of this Resolution; (2) the date of referendum election, if any, held with respect thereto; (3) the number of votes cast for and against this Resolution by the Town Council or in a referendum; and (4) the effective date of the Charter Amendment.

SECTION IV: That the Clerk be, and he/she is specifically enjoined and instructed to carry out the provisions of Sections II and III, and as evidence of compliance herewith, the said Clerk shall cause to be affixed to the Minutes of this meeting: 1) an appropriate certificate of publication of the newspaper in which the fair summary of the Amendment shall have been published; and, 2) records of mailing referred to in Section 3 and shall further complete and execute a Certificate of Compliance.

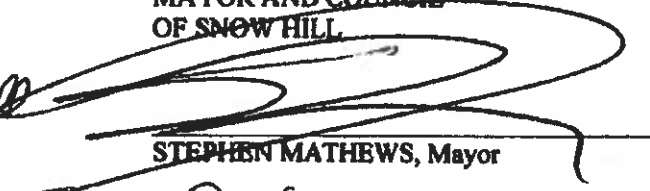
INTRODUCED by the Town Council, at a Regular Meeting on May 14, 2019, at which meeting copies were available to the public for inspection.

ADOPTED by the Town Council, at a Regular Meeting on May 14, 2019, at which meeting copies were available to the public for inspection.

ATTEST:


Patricia Goodsell
Asst Town Manager

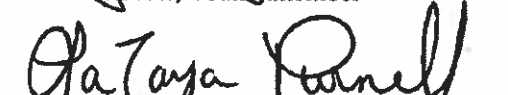
MAYOR AND COUNCIL
OF SNOW HILL



STEPHEN MATHEWS, Mayor


ALISON GADOUA, Councilmember


JENNY HALL, Councilmember


LATOYA PURWELL, Councilmember



Worcester County Department of Environmental Programs
 Worcester County Government Center, 1 West Market Street, Rm 1306 | Snow Hill MD 21863
 Tel: (410) 632-1220 | Fax: (410) 632-2012

Memorandum

To: Matt Laick, Deputy Director, DDRP

From: Robert J. Mitchell
 Director, Environmental Programs

Subject: **EP Staff Comments on Rezoning Case No. 444**
 Worcester County Tax Map 63, Parcels 106
 Reclassify approximately 0.78 Acres of A-1 Agricultural District to
 C-2 General Commercial District

Date: 7/21/23

This response to your request for comments is prepared for the map amendment application associated with the above referenced property. The Worcester County *Zoning and Subdivision Control Article*, Section §ZS 1-113(c)(3), states that the applicant must affirmatively demonstrate that there has been a substantial change in the character of the neighborhood since the last zoning of the property or that a mistake has been made in the existing zoning classification. The application argues that there was a mistake in the last Comprehensive Rezoning that was approved by the County Commissioners on November 3, 2009. The Code requires that the Commissioners find that the proposed “change in zoning” would be more desirable in terms of the objectives of the *Comprehensive Plan*.

The Department of Environmental Programs has the following comments:

1. This property has a Growth Area land use designation in the Land Use Map in the Worcester County Comprehensive Plan (*Comprehensive Plan*), as do properties to the west and south. This category designates areas outside incorporated areas that are suitable and desirable for future planned growth. The properties in these areas were situated to be cost-effectively served with adequate public sanitary and other services.
2. The existing property is not connected to public sewer and/or water at this time. The subject property has a designation for a Sewer Service Planning Category of S-1/W-1 (Immediate to 2 years) in the *Master Water and Sewerage Plan*. Our well and septic records indicate a septic tank serves the existing building for the property with a very old driven well. A survey would be needed to confirm if the septic system were on the property and the well will need to be replaced for any future uses. The property was included in the proposed Summerfield development area that was not built. It has been annexed and de-annexed by the Town of Snow Hill. There are no current plans we are aware of that would re-annex this property back into the corporate boundaries of Snow Hill which would provide eligibility to connect to public water and sewer.
3. This proposed rezoning is located outside of the Chesapeake Bay Critical Area (CBCA). This property is not subject to the Forest Conservation Law, Per NR 1-403(a), as the property is less than 40,000 square feet in size.

If you have any questions on these comments, please do not hesitate to contact me.

From: Aws Ezzat <AEzzat@mdot.maryland.gov>
Sent: Wednesday, June 21, 2023 8:11 AM
To: April Mariner <amariner@co.worcester.md.us>
Cc: Jeffrey Fritts <JFritts@mdot.maryland.gov>
Subject: Re: Rezoning Case #444

Hello April,

After a review of Rezoning Case #444, MDOT SHA has no objection to the rezoning as proposed. If this parcel is proposed to be developed in the future, the proposed development will require review and approval from District 1 Access Management and need to obtain permitting, as necessary.

As reflected in our aforementioned comments, MDOT SHA has no objections to the proposed rezoning as determined by Worcester County. I would highly appreciate if you can copy/inform me in the future for any rezoning submissions.

Thank you,



Aws Ezzat, P.E.
Regional Engineer, Access Management
District 1
660 West Road
Salisbury, MD 21801
AEzzat@mdot.maryland.gov
(410) 677-4048 (office)

MEMORANDUM

TO: Robert Mitchell, Director, Worcester County Environmental Programs
 Billy Birch, Director, Worcester County Emergency Services
 Matthew Crisafulli, Sheriff, Worcester County Sheriff’s Office
 Dallas Baker, P.E., Director, Worcester County Public Works Department
 Chris Classing, P.E., Deputy Director, Worcester County Public Works Department
 Kevin Lynch, Roads Superintendent, Worcester County Public Works Department
 Matt Owens, Fire Marshal, Worcester County Fire Marshal’s Office
 Melanie Pursel, Director of Tourism & Economic Development
 Louis H. Taylor, Superintendent, Worcester County Board of Education
 Aws Ezzat, Regional Engineer, Access Management, Maryland State Highway Administration
 Daniel Wilson, Assistant District Engineer - Traffic, Maryland State Highway Administration
 Lt. Earl W. Starner, Commander, Barracks V, Maryland State Police
 Rebecca L. Jones, Health Officer, Worcester County Health Department
 Luke Marcek, Project Manager, Maryland Forest Service
 Garth McCabe, District Conservationist, Worcester County NRCS

FROM: Matthew Laick, Deputy Director

DATE: June 13, 2023

RE: Rezoning Case No. 444 – Black Water Relics LLC, Property Owners and Hugh Cropper, IV,
 Attorney – 4432 Market St Snow Hill, MD (Approximately 0.25 Miles north of Moat Rd)

This application seeks to rezone approximately 0.78 Acres acres of land shown on Tax Map 63, Parcel 106 from A-1 Agricultural District to C-2 General Commercial District.

For your reference I have attached a copy of the rezoning application package, location and zoning maps showing the property requested to be rezoned.

The applicant is alleging a **mistake was made** as the justification for the proposed rezoning from A-1 Agricultural District to C-2 General Commercial District. The Planning Commission must consider if: There was a mistake made in assigning the property a A-1 Agricultural District zoning classification .

By Friday, July 21, 2023, the Planning Commission is requesting any comments, thoughts or insights that you or your designee might offer with regard to past and present conditions in the delineated neighborhood, as well as the effect that this application and potential subsequent development of the site under the proposed zoning classification may have on plans, facilities, or services for which your

agency is responsible. Your response is requested even if you determine that the proposed rezoning will have no effect on your agency, that the application is compatible with your agency's plans, and that your agency has or will have adequate facilities and resources to serve the property and its potential land uses. ***If no comments are received, we will document such and assume that you have no objection to the Planning Commission stating this information in its report to the Worcester County Commissioners.***

General Zoning Information:

The purpose and intent of the A-1 Agricultural District is "is intended to preserve, encourage and protect the County's farms and forestry operations and their economic productivity and to ensure that agricultural and forestry enterprises will continue to have the necessary flexibility to adjust their production as economic conditions change."

The A-1 District allows uses such as Agriculture, including feeding lots, dairy barns, stables, agricultural lagoons, hog houses, and noncommercial grain dryers. Roadside stands offering for sale fresh agricultural products, fresh seafood and processed dairy products from locally raised livestock, operated by the property owner or tenant of the premises upon which such stand is located. For a complete list, please use the following link: <https://ecode360.com/14019225>

The purpose and intent of the C-2 General Commercial District is to provide for more intense commercial development serving populations of three thousand or more within an approximate ten- to twenty-minute travel time. These commercial centers generally have higher parking demand and greater visibility. Consequently, design standards and careful attention to signage, landscaping, perimeter buffers, site layout and architectural design are imperative. Commercial structures and uses must be compatible with the community and the County's character. Strip commercial forms of development are strongly discouraged. For a complete list, please use the following link: <https://ecode360.com/14019708>

If you have any questions or require further information, please do not hesitate to reach me by phone at (410) 632-1200, ext. 1613 or via email at miaick@co.worcester.md.us. On behalf of the Planning Commission, thank you for your attention to this matter.

Attachments



TO: *The Salisbury Daily Times and The Ocean City Today Group*
FROM: Candace Savage, Deputy Chief Administrative Officer
DATE: September 14, 2023
SUBJECT: Public Hearing Revisions to the County Commissioner Districts

.....
Please publish the notice below in *The Salisbury Daily Times* and *Ocean City Digest/Ocean City Today* on September 28, 2023 and October 5, 2023.

**NOTICE OF
PUBLIC HEARING FOR
REVISIONS TO THE
COUNTY COMMISSIONER DISTRICTS
WORCESTER COUNTY, MARYLAND**

The Worcester County Commissioners will hold a public hearing to receive public input on the proposed revisions to the County Commissioner Election Districts pursuant to Section 2-102 of the Worcester County Government Article. The County Commissioners will hold a

PUBLIC HEARING
on
TUESDAY, OCTOBER 17, 2023
at 10:35 a.m.
IN THE COUNTY COMMISSIONERS’ MEETING ROOM
WORCESTER COUNTY GOVERNMENT CENTER – ROOM 1101
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863

Maps are available to view electronically by visiting www.co.worcester.md.us or by contacting the Department of Development, Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863 Monday through Friday from 8:00 A.M. and 4:30 P.M. (except holidays), at (410) 632-1200.

THE WORCESTER COUNTY COMMISSIONERS



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410.632.1200 / FAX: 410.632.3008

<http://www.co.worcester.md.us/departments/drp>

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICES DIVISION

MEMORANDUM

TO: Weston S. Young, Chief Administrative Officer
FROM: Jennifer K. Keener, AICP, Director
DATE: August 28, 2023
RE: Worcester County Redistricting

As we have discussed in prior County Commissioner's meetings, DRP has utilized redistricting software to prepare five draft election district maps. Currently, I am requesting that the Commissioners schedule a public hearing to obtain public input. I would also recommend establishing a public comment window following the hearing in which to receive additional written comments.

All draft versions utilized the following parameters for redistricting:

- Data used is based on the 2020 Census population figures. The population of Worcester County grew by 1,059 residents (2%) since the 2010 Census to 52,607 residents total.
- Boundaries are established at the census block level, and not the individual parcel level.
- Districts should be of nearly equal population (7,515), with minimal deviation between the highest and lowest total population by district to ensure equal representation (no more than 10%).
- A majority minority district must be maintained (currently Central District – No. 2).
- Contiguity must be maintained; districts should also be compact where possible.
- Minimize modifications to the existing district boundaries to the extent possible.

The maps are ready to be made public on the County website in an interactive format where constituents can view each map individually, or in a side-by-side comparison view of the current map and each respective draft. They will be able to search for their property address to see how the various drafts affect their placement in an election district. Alternatively, they can schedule an appointment with DRP staff during regular business hours to obtain assistance in reviewing their particular property or to obtain a copy of the maps for their property.

Following the public hearing and comment window, all public comments received will be submitted for Commissioner consideration at a work session to select and finalize a draft map. A legislative bill will then be prepared for introduction that will formally describe the district boundaries in detail and adopt the map in accordance with § CG 2-102 at another public hearing.

As always, if you or the County Commissioners have any questions, I will be available to discuss this matter at your convenience.

**NOTICE OF
PUBLIC HEARING FOR
REVISIONS TO THE
COUNTY COMMISSIONER DISTRICTS
WORCESTER COUNTY, MARYLAND**

The Worcester County Commissioners will hold a public hearing to receive public input on the proposed revisions to the County Commissioner Election Districts pursuant to Section 2-102 of the Worcester County Government Article. The County Commissioners will hold a

PUBLIC HEARING

on

TUESDAY, _____

AT _____

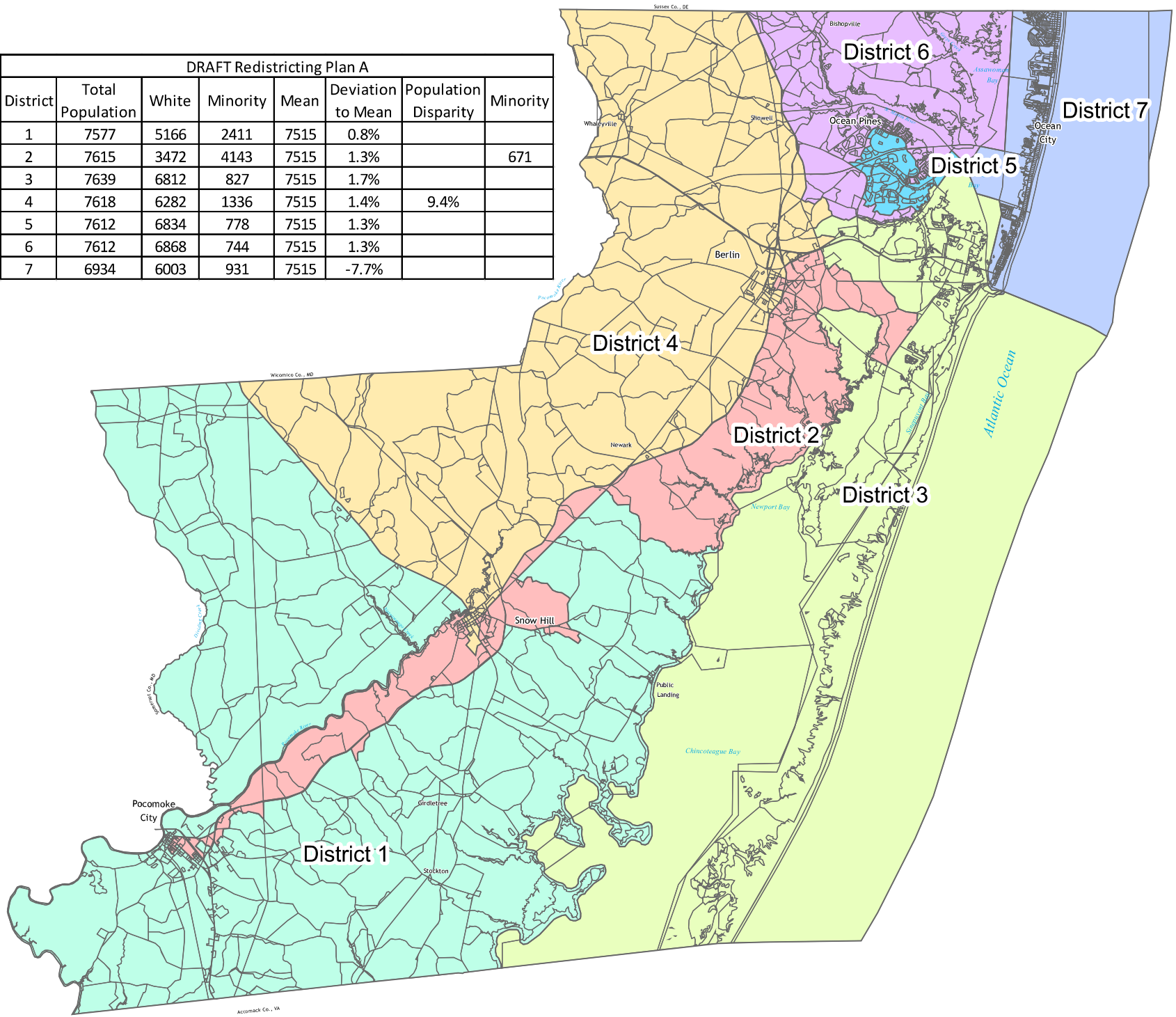
**IN THE COUNTY COMMISSIONERS' MEETING ROOM
WORCESTER COUNTY GOVERNMENT CENTER – ROOM 1101
ONE WEST MARKET STREET
SNOW HILL, MARYLAND 21863**

Maps are available to view electronically by visiting www.co.worcester.md.us or contacting the Department of Development, Review and Permitting, Worcester County Government Center, One West Market Street, Room 1201, Snow Hill, Maryland 21863 Monday through Friday from 8:00 A.M. and 4:30 P.M. (except holidays), at (410) 632-1200.

THE WORCESTER COUNTY COMMISSIONERS



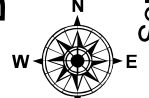
DRAFT Redistricting Plan A							
District	Total Population	White	Minority	Mean	Deviation to Mean	Population Disparity	Minority
1	7577	5166	2411	7515	0.8%		
2	7615	3472	4143	7515	1.3%		671
3	7639	6812	827	7515	1.7%		
4	7618	6282	1336	7515	1.4%	9.4%	
5	7612	6834	778	7515	1.3%		
6	7612	6868	744	7515	1.3%		
7	6934	6003	931	7515	-7.7%		



DRAFT Worcester County Redistricting Project - Plan A

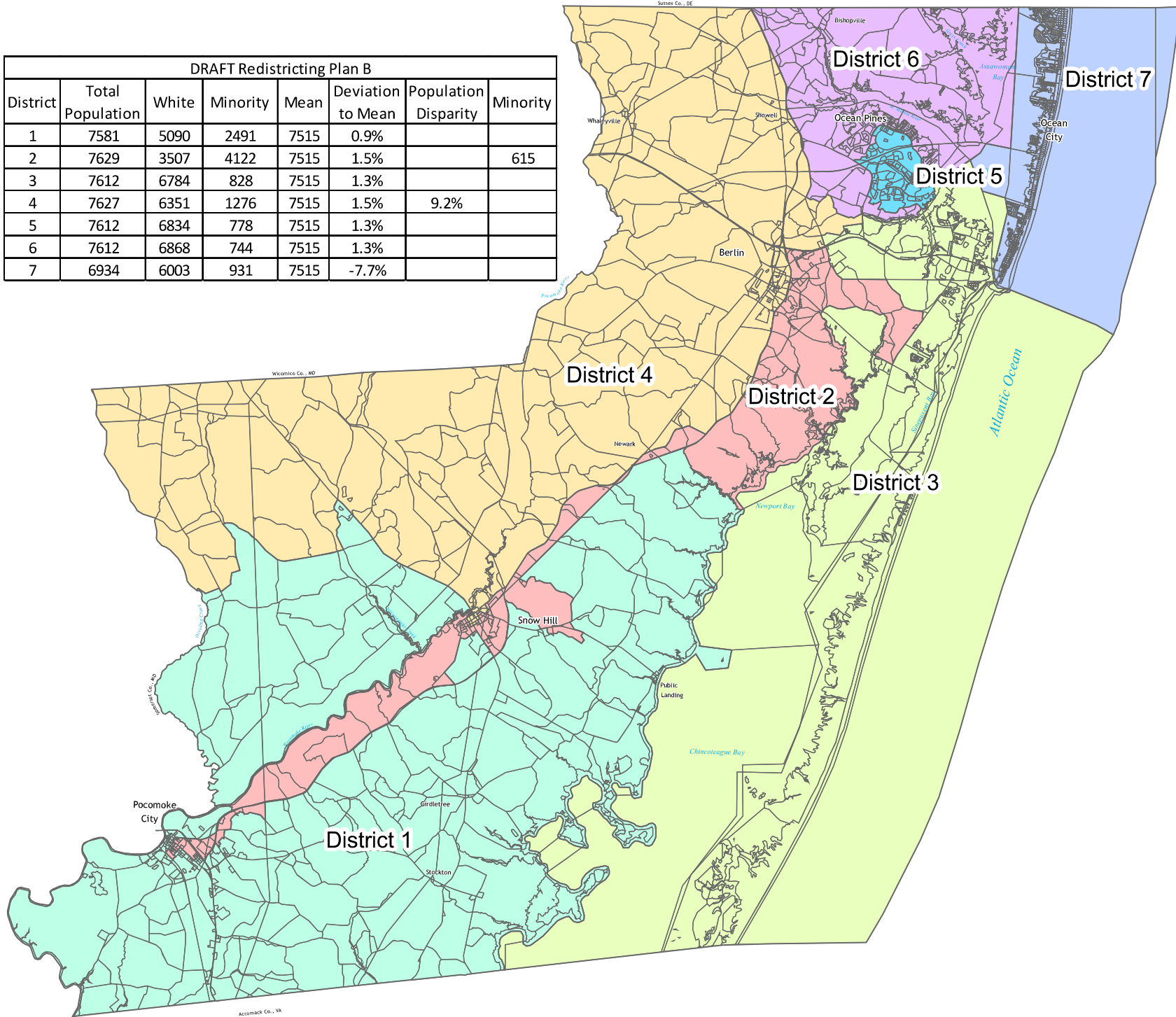
Development Review & Permitting - Technical Services Division - 2023

Source: US Census Bureau - 2020 Census Population & Maryland's 2020 Adjusted Population





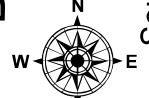
DRAFT Redistricting Plan B							
District	Total Population	White	Minority	Mean	Deviation to Mean	Population Disparity	Minority
1	7581	5090	2491	7515	0.9%		
2	7629	3507	4122	7515	1.5%		615
3	7612	6784	828	7515	1.3%		
4	7627	6351	1276	7515	1.5%	9.2%	
5	7612	6834	778	7515	1.3%		
6	7612	6868	744	7515	1.3%		
7	6934	6003	931	7515	-7.7%		



DRAFT Worcester County Redistricting Project - Plan B

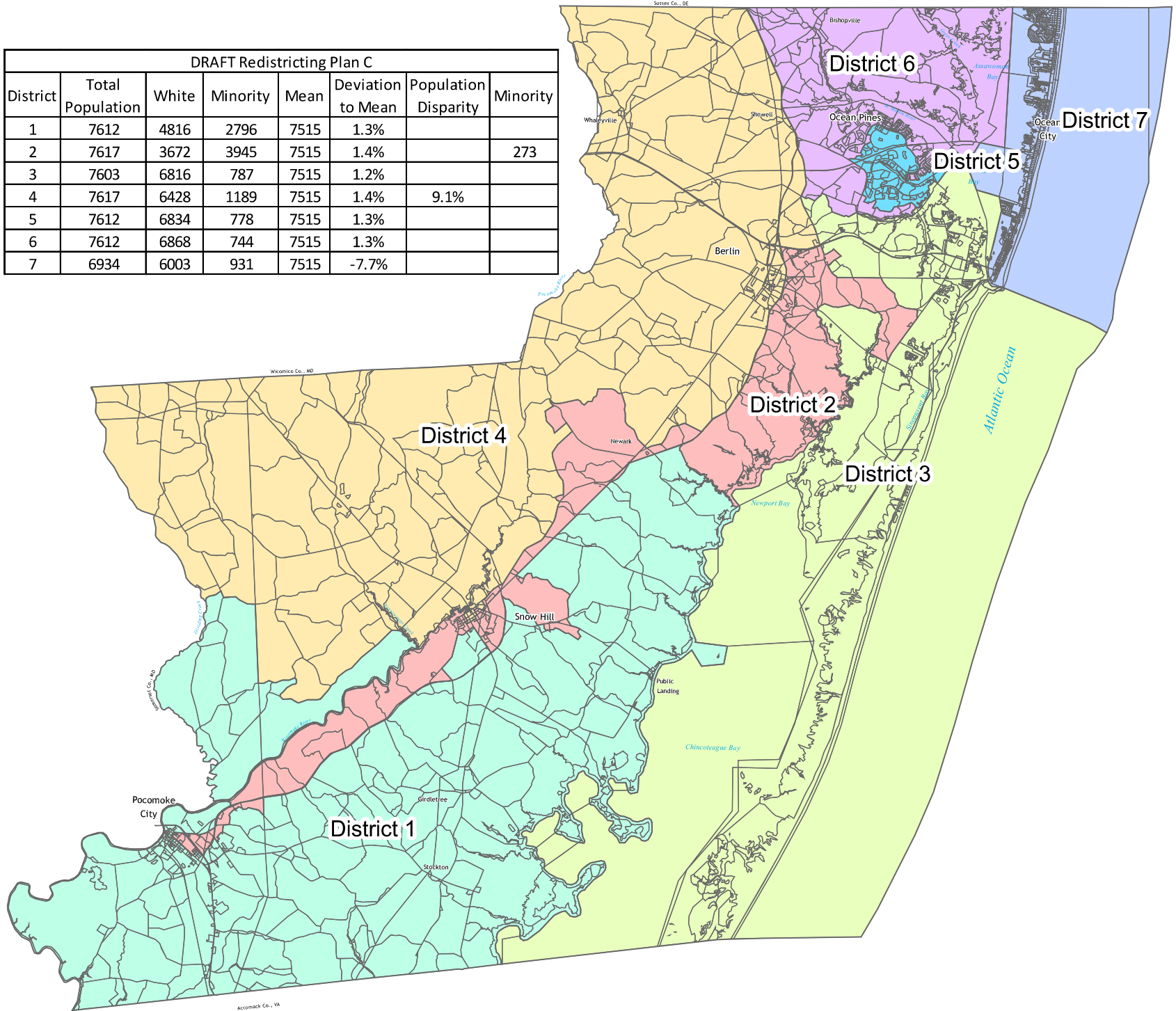
Development Review & Permitting - Technical Services Division - 2023

Source: US Census Bureau - 2020 Census Population & Maryland's 2020 Adjusted Population





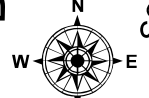
DRAFT Redistricting Plan C							
District	Total Population	White	Minority	Mean	Deviation to Mean	Population Disparity	Minority
1	7612	4816	2796	7515	1.3%		
2	7617	3672	3945	7515	1.4%		273
3	7603	6816	787	7515	1.2%		
4	7617	6428	1189	7515	1.4%	9.1%	
5	7612	6834	778	7515	1.3%		
6	7612	6868	744	7515	1.3%		
7	6934	6003	931	7515	-7.7%		



DRAFT Worcester County Redistricting Project - Plan C

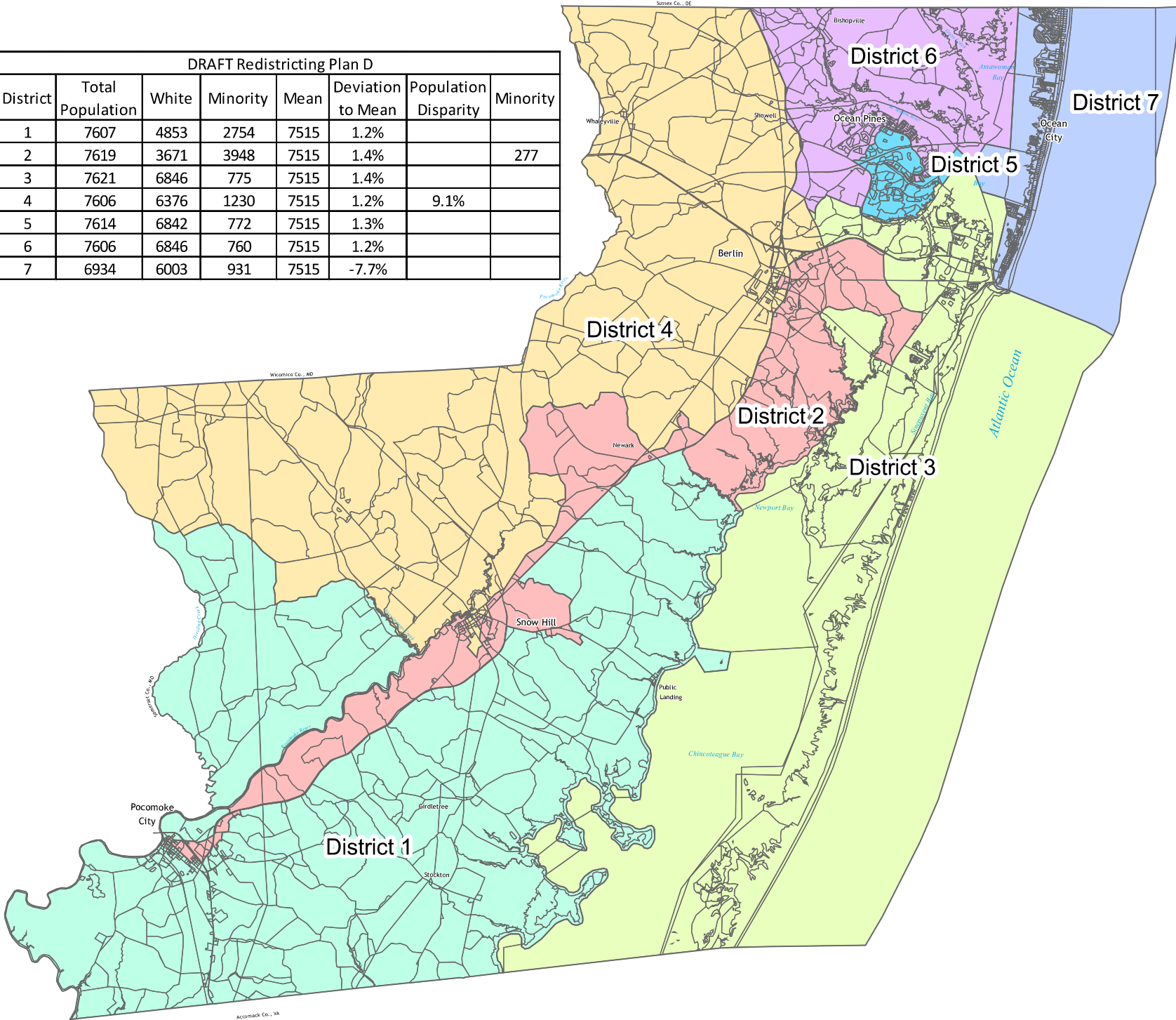
Development Review & Permitting - Technical Services Division - 2023

Source: US Census Bureau - 2020 Census Population & Maryland's 2020 Adjusted Population





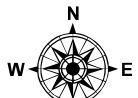
DRAFT Redistricting Plan D							
District	Total Population	White	Minority	Mean	Deviation to Mean	Population Disparity	Minority
1	7607	4853	2754	7515	1.2%		
2	7619	3671	3948	7515	1.4%		277
3	7621	6846	775	7515	1.4%		
4	7606	6376	1230	7515	1.2%	9.1%	
5	7614	6842	772	7515	1.3%		
6	7606	6846	760	7515	1.2%		
7	6934	6003	931	7515	-7.7%		



DRAFT Worcester County Redistricting Project - Plan D

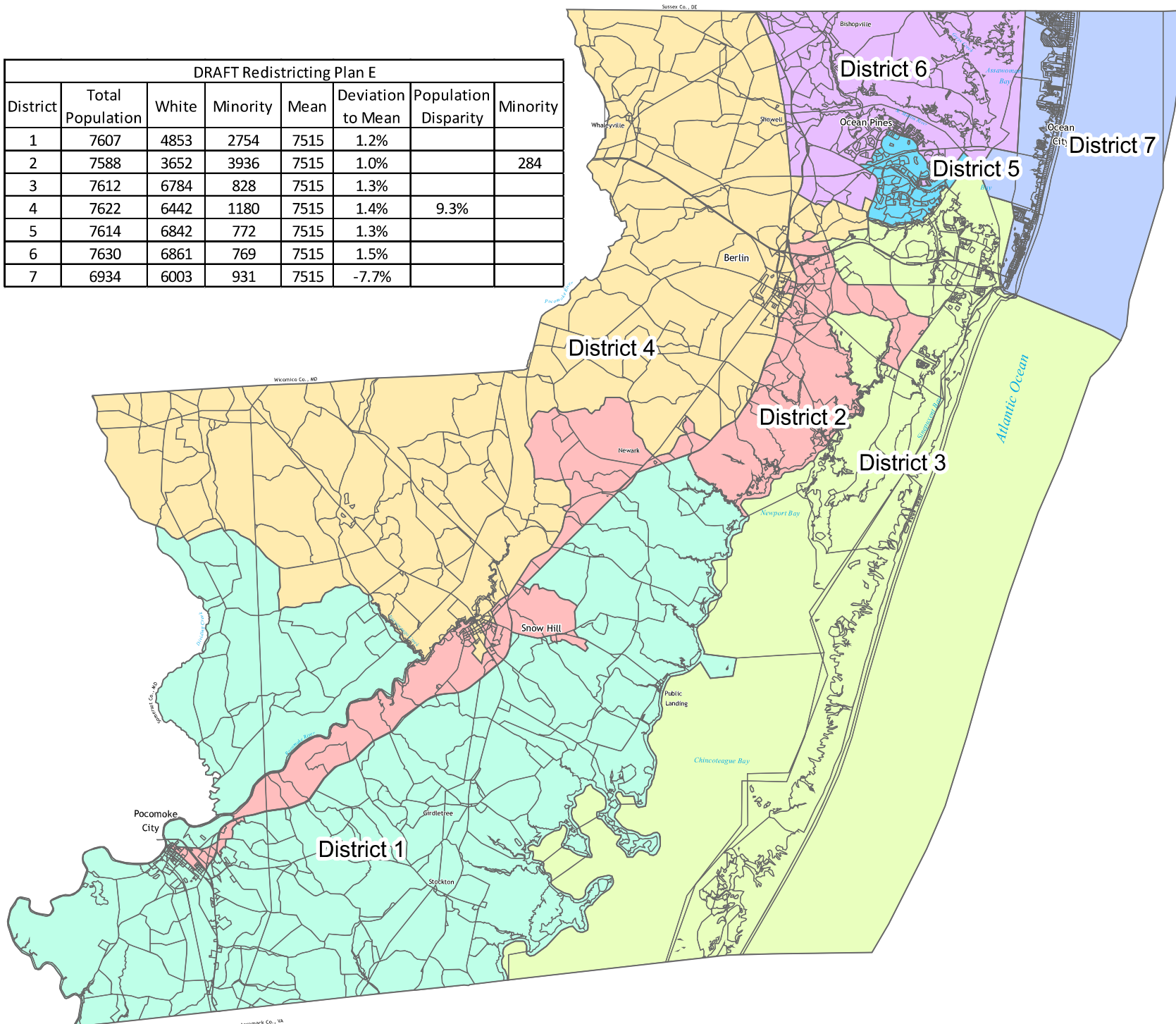
Development Review & Permitting - Technical Services Division - 2023

Source: US Census Bureau - 2020 Census Population & Maryland's 2020 Adjusted Population





DRAFT Redistricting Plan E							
District	Total Population	White	Minority	Mean	Deviation to Mean	Population Disparity	Minority
1	7607	4853	2754	7515	1.2%		
2	7588	3652	3936	7515	1.0%		284
3	7612	6784	828	7515	1.3%		
4	7622	6442	1180	7515	1.4%	9.3%	
5	7614	6842	772	7515	1.3%		
6	7630	6861	769	7515	1.5%		
7	6934	6003	931	7515	-7.7%		



DRAFT Worcester County Redistricting Project - Plan E

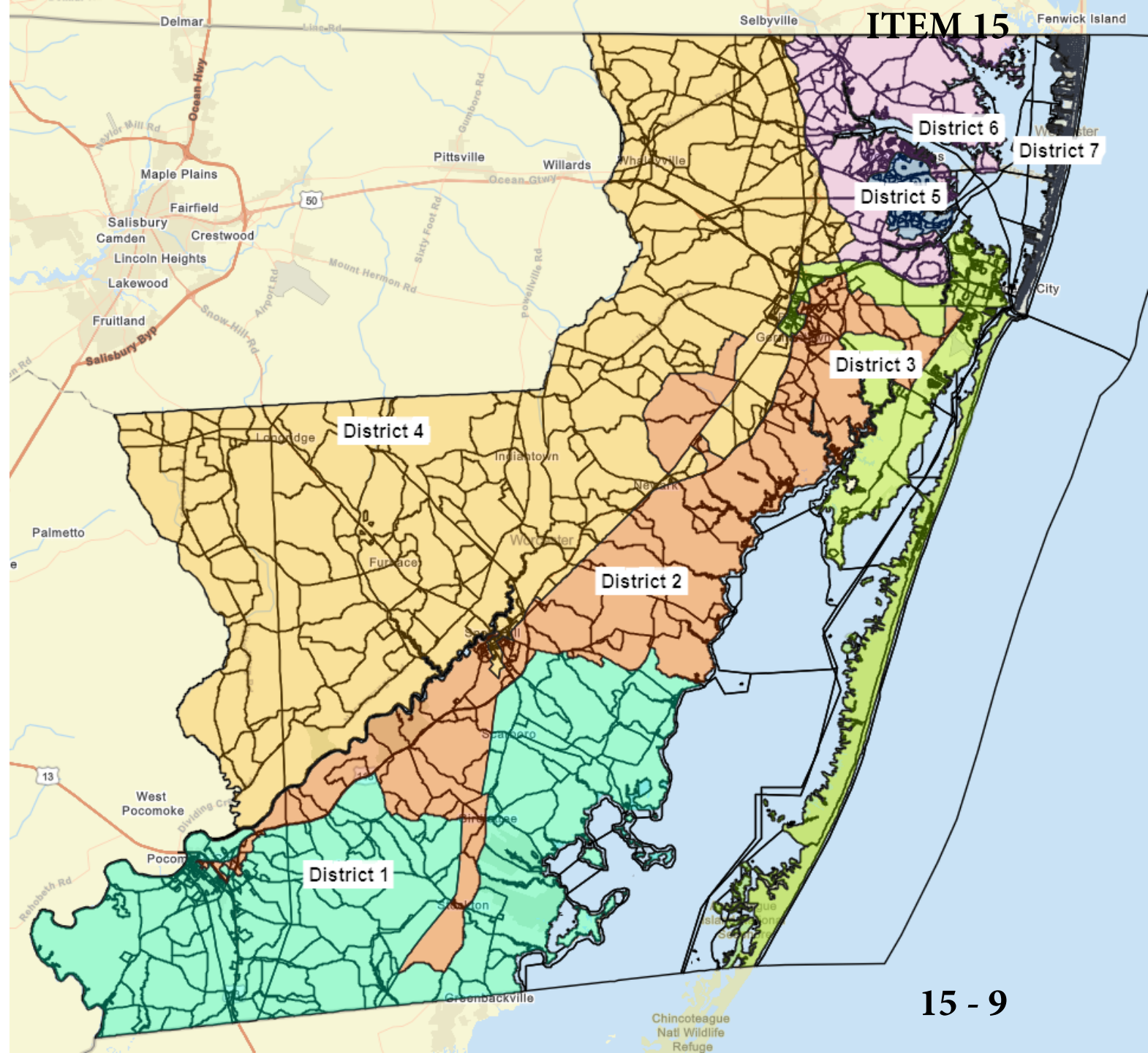
Development Review & Permitting - Technical Services Division - 2023

Source: US Census Bureau - 2020 Census Population & Maryland's 2020 Adjusted Population

WORCESTER COUNTY REDISTRICTING

PUBLIC HEARING

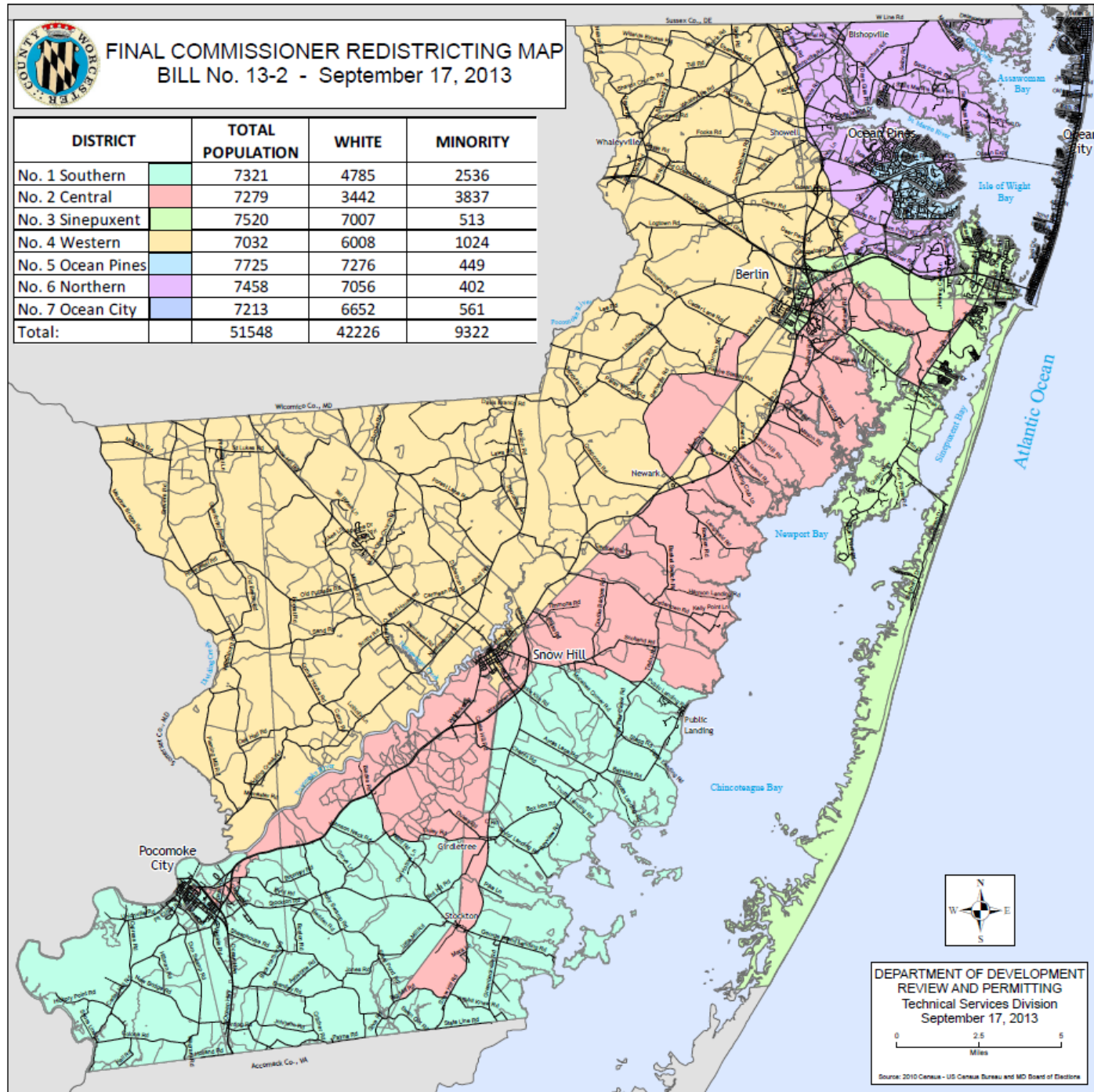
OCTOBER 17, 2023





FINAL COMMISSIONER REDISTRICTING MAP
BILL No. 13-2 - September 17, 2013

DISTRICT	TOTAL POPULATION	WHITE	MINORITY
No. 1 Southern	7321	4785	2536
No. 2 Central	7279	3442	3837
No. 3 Sinepuxent	7520	7007	513
No. 4 Western	7032	6008	1024
No. 5 Ocean Pines	7725	7276	449
No. 6 Northern	7458	7056	402
No. 7 Ocean City	7213	6652	561
Total:	51548	42226	9322



DEPARTMENT OF DEVELOPMENT
 REVIEW AND PERMITTING
 Technical Services Division
 September 17, 2013

0 2.5 5
 Miles

Source: 2010 Census - US Census Bureau and MD Board of Elections

*EFFECTS OF
THE 2020
CENSUS
ON THE
CURRENT
DISTRICTS*

District No.	District Name	Population 2010 Census	Population 2020 Census	Total Change in Population
1	Southern	7,321	7,224	-97
2	Central	7,279	7,197	-82
3	Sinepuxent	7,520	8,009	489
4	Western	7,032	6,981	-51
5	Ocean Pines	7,725	8,179	454
6	Northern	7,458	8,083	625
7	Ocean City	7,213	6,934	-279
	Total:	51,548	52,607	1,059

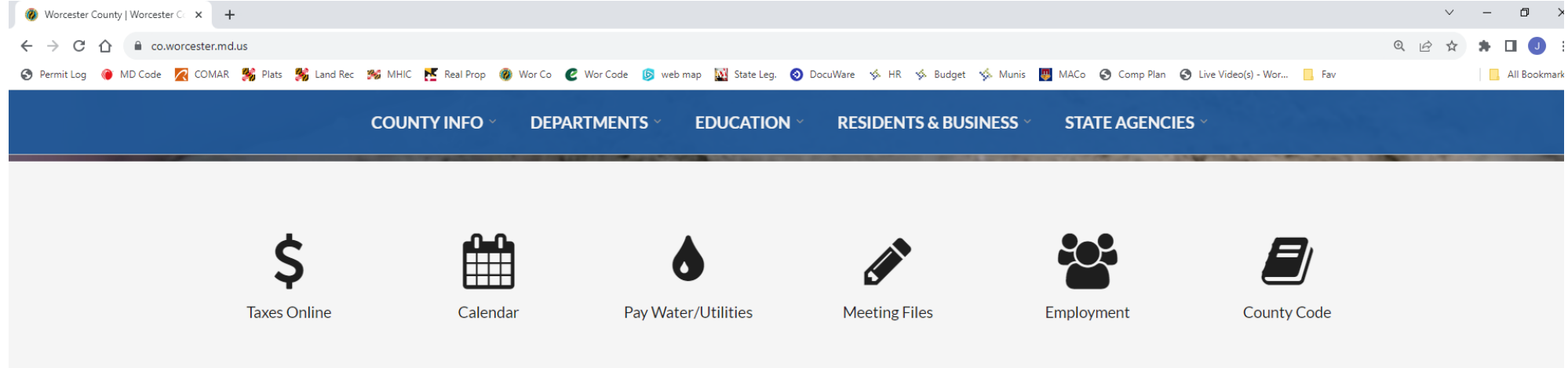
*EFFECTS OF
THE 2020
CENSUS
ON THE
CURRENT
DISTRICTS*

DISTRICT NO.	DISTRICT NAME	POPULATION 2020 CENSUS	MEAN OR "IDEAL" POPULATION PER DISTRICT	EXISTING POPULATION DEVIATION TO MEAN (± 5%)	POPULATION DISPARITY (MAX 10%)
1	Southern	7,224	7,515	-3.9%	
2	Central	7,197	7,515	-4.2%	
3	Sinepuxent	8,009	7,515	6.6%	
4	Western	6,981	7,515	-7.1%	16.6%
5	Ocean Pines	8,179	7,515	8.8%	
6	Northern	8,083	7,515	7.6%	
7	Ocean City	6,934	7,515	-7.7%	

*MINORITY POPULATION
BY CURRENT DISTRICT*

District No.	District Name	Population 2020 Census	White Population	Minority Population
1	Southern	7,224	4,283	2,941
2	Central	7,197	3,598	3,599
3	Sinepuxent	8,009	7,100	909
4	Western	6,981	5,800	1,181
5	Ocean Pines	8,179	7,343	836
6	Northern	8,083	7,310	773
7	Ocean City	6,934	6,003	931
	Total:	52,607	41,437	11,170

REDISTRICTING WEBSITE



LATEST NEWS & ANNOUNCEMENTS

Waterline flushing schedule for Mystic Harbour and other area water systems

September 25, 2023, 10:13 am

The Water and Wastewater Division of Public Works will begin its semi-annual program for flushing waterlines in Assateague Pointe, Edgewater Acres, Nantucket Point, Deer Point, Landings, Mystic Harbour, Newark, Ocean Reef, Riddle Farm and West Ocean City Service Areas between the hour... [Read more](#)

Waterline flushing schedule for Ocean Pines and surrounding area water systems

September 25, 2023, 10:11 am

The Water and Wastewater Division of Public Works will begin its semi-annual program for flushing waterlines in the Ocean Pines Service Area between the hours of 7:30 a.m. and 4 p.m. The following proposed fall 2023 dates for the flushing of the water... [Read more](#)

Public urged to be #StormReady ahead of severe weather

September 21, 2023, 7:43 pm

Snow Hill, Maryland (September 21, 2023) - With a tropical storm warning in effect for the Lower Eastern

IMPORTANT LINKS

[Boards and Commissions](#)

[Worcester County Redistricting](#)

[Environmental Programs Notices](#)

[FY2024 Adopted Operating Budget](#)

[How to Pay Real Property Taxes Online](#)

[Interactive Election Map](#)

[Know Your Zone - Evacuation Map](#)

[Police Accountability Board](#)

[Public Hearings and Notices](#)

[Worcester County Comprehensive Plan Updates](#)



REDISTRICTING WEBSITE



Worcester County Redistricting Options

This is the platform for Worcester County Redistricting Map Review.

Redistricting is a process that uses population counts obtained by the U.S. Census Bureau to redraw election district boundaries. During the 2020 census, Worcester County had 52,607 residents.

The population data is provided in census blocks, which are areas bounded by roads, waterbodies, municipal boundaries, or other features of various sizes, both physically and statistically. A census block usually represents multiple houses or parcels of land; they don't follow individual property lines, and a district boundary cannot divide a census block.

The links below will allow you to view each draft plan individually or compare each draft to the current district boundaries. You may also enter your property address in the search bar to find out what changes may be proposed for your district.

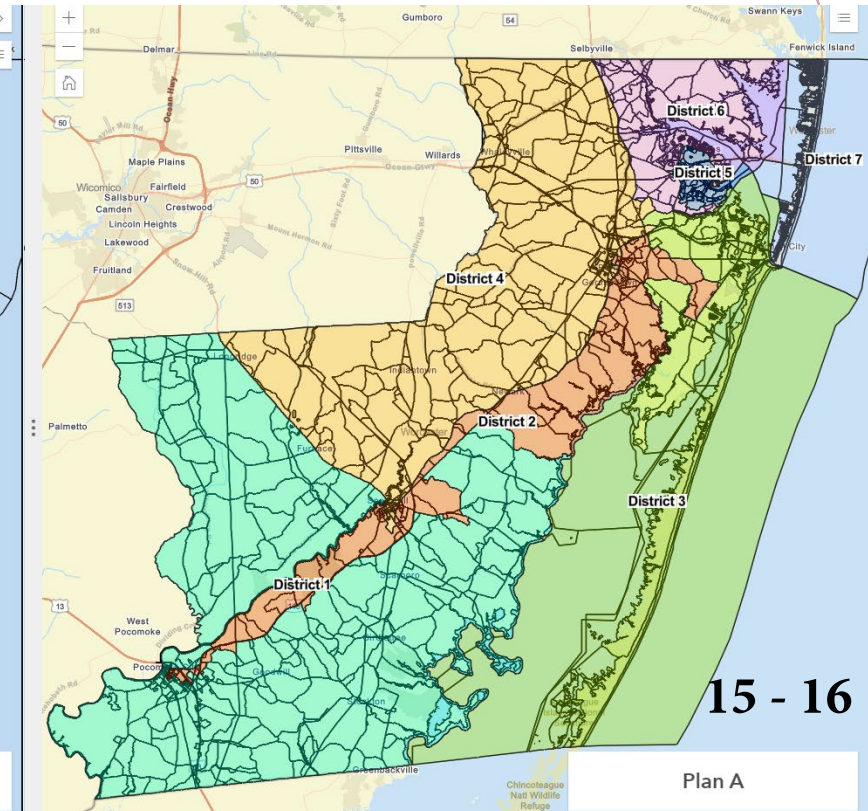
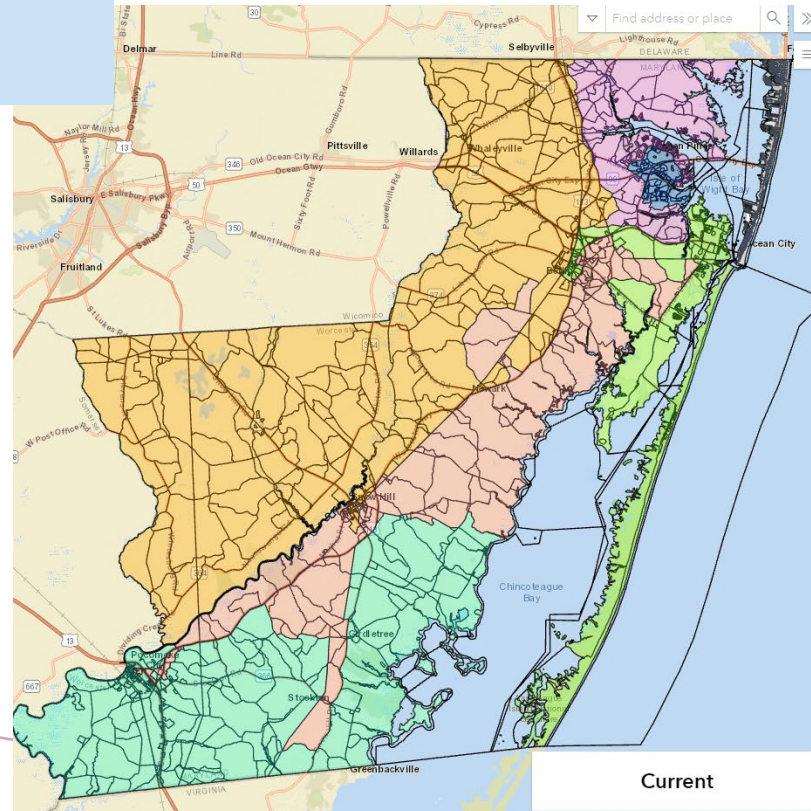
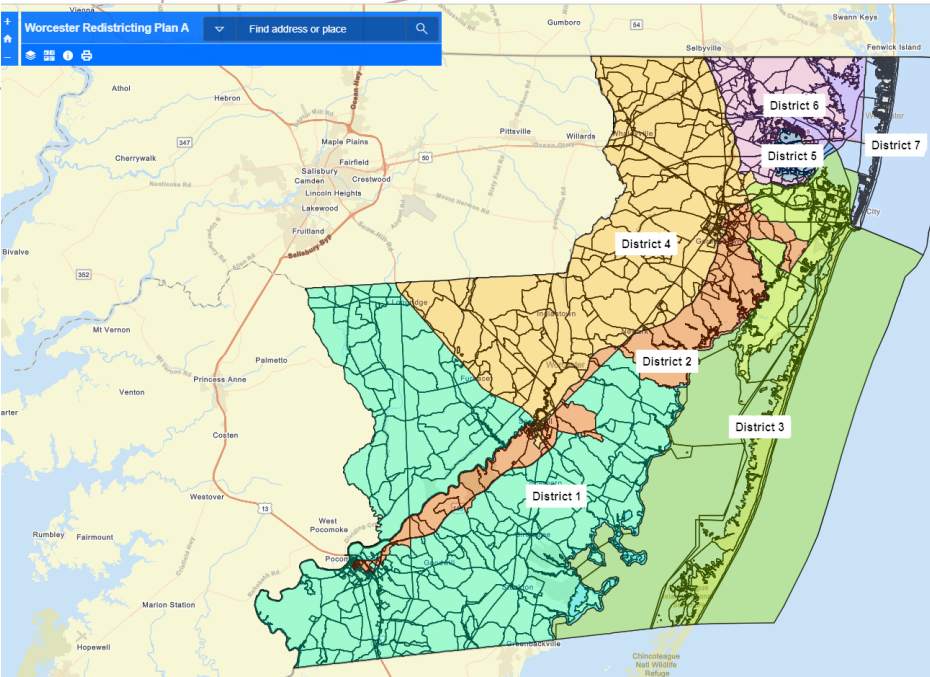


Redistricting Options

<p>Plan A</p> <p>View</p> <p>Compare with Current Districts</p>	<p>Plan B</p> <p>View</p> <p>Compare with Current Districts</p>
<p>Plan C</p> <p>View</p> <p>Compare with Current Districts</p>	<p>Plan D</p> <p>View</p> <p>Compare with Current Districts</p>
<p>Plan E</p> <p>View</p> <p>Compare with Current Districts</p>	

<https://wcg-gisweb.co.worcester.md.us/portal/apps/sites/#/worcester-redistricting-1>

REDISTRICTING WEBSITE

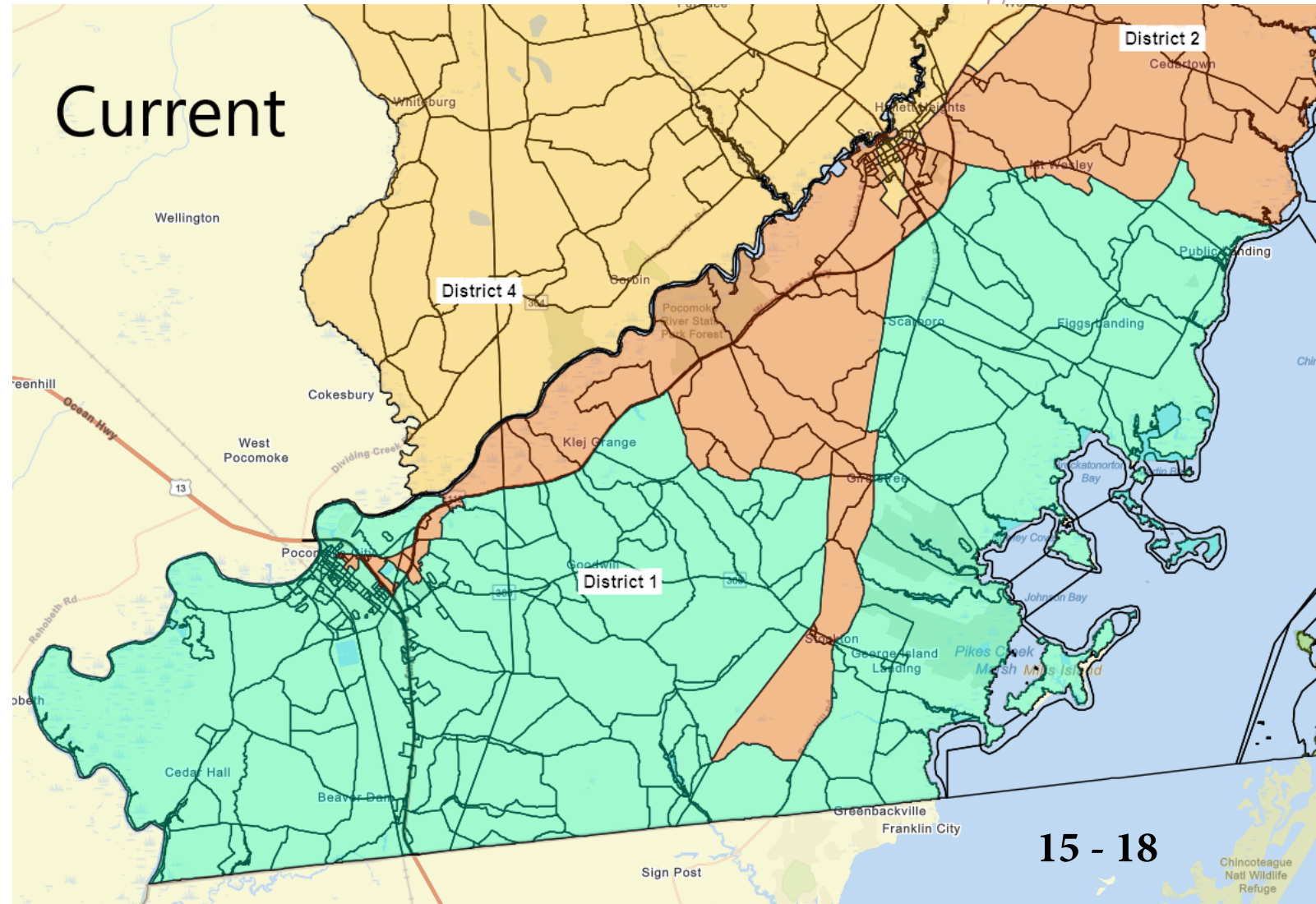


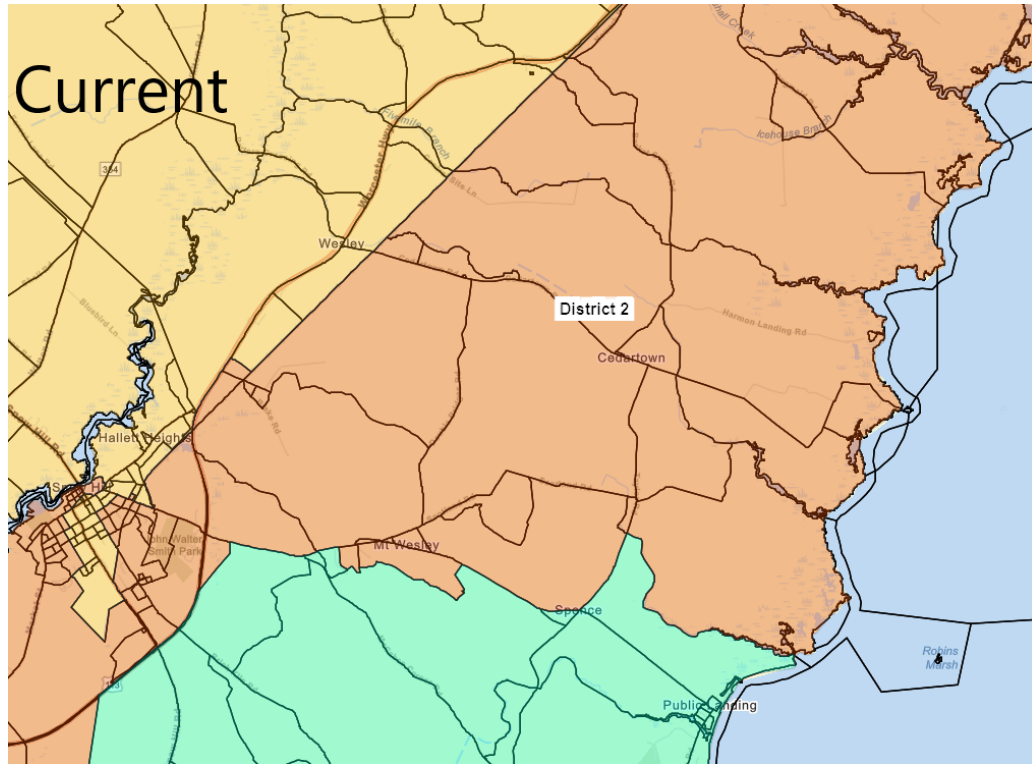
*DRAFT REDISTRICTING
MAP COMPARISONS*

DISTRICT 1 - SOUTHERN

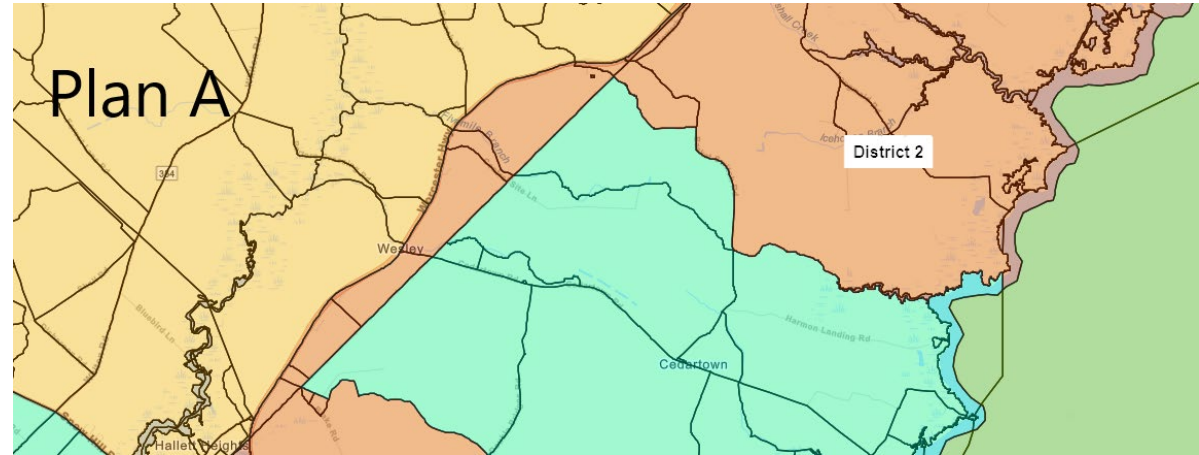
Summary:

- All drafts incorporate census blocks southeast of Snow Hill at Route 113, including Girdletree and Stockton, into District 1.
- All drafts transfer census blocks in downtown Pocomoke to District 2.
- This district must expand to the opposite side of the Pocomoke River due to the generally larger census tracts with smaller populations and the need to increase the population in this district.
- The main differences that are proposed in the five draft plans include:
 - The extent to which the district extends north to Newark on the east side of Route 113;
 - The use of Route 113 as a district boundary south of Snow Hill; and
 - The extent to which the district extends on the northwest side of the Pocomoke River.

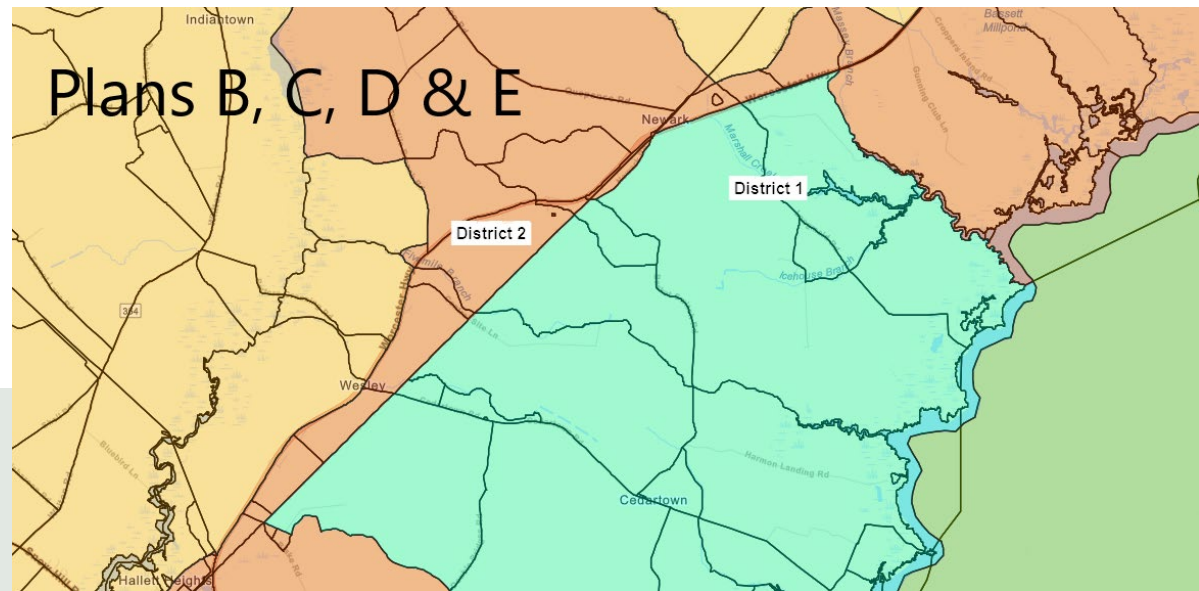




Northerly boundary: Public Landing Road

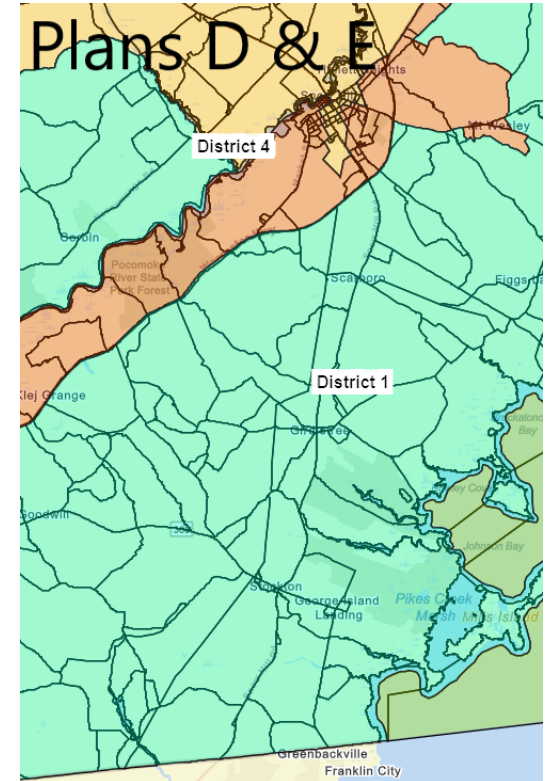
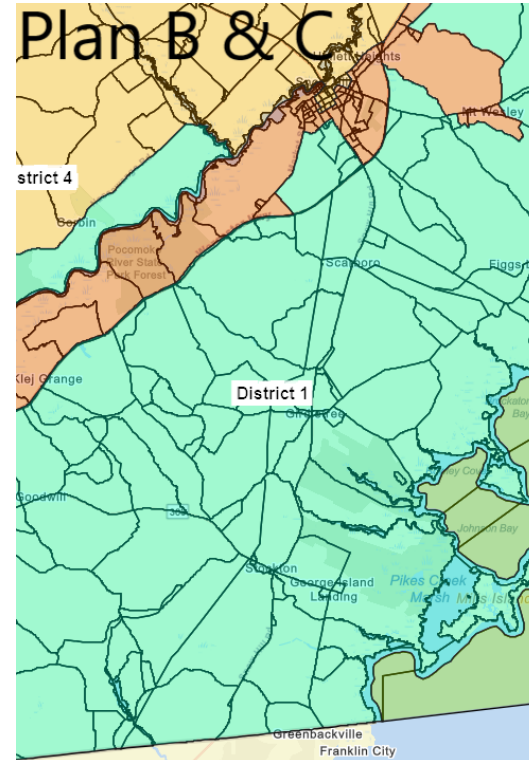
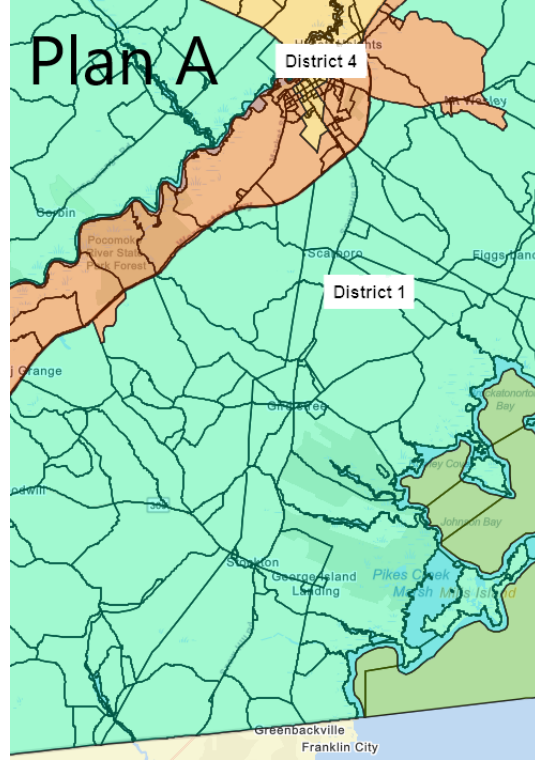
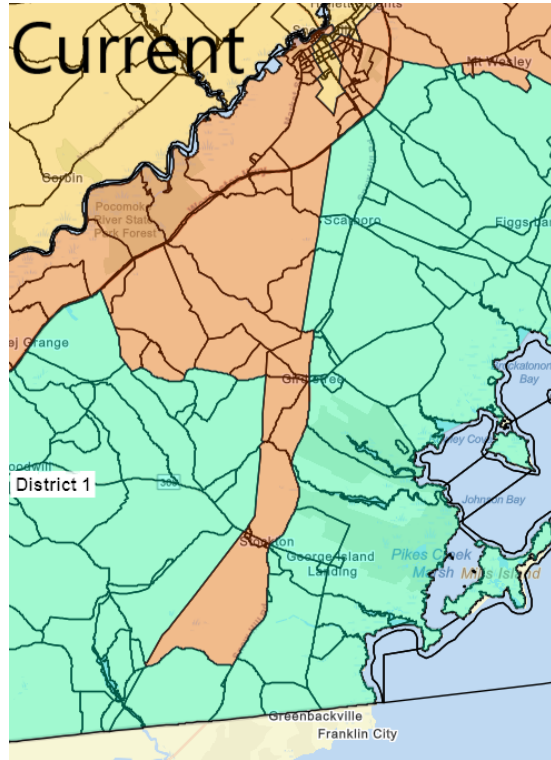


Northerly boundary: Basket Switch Road



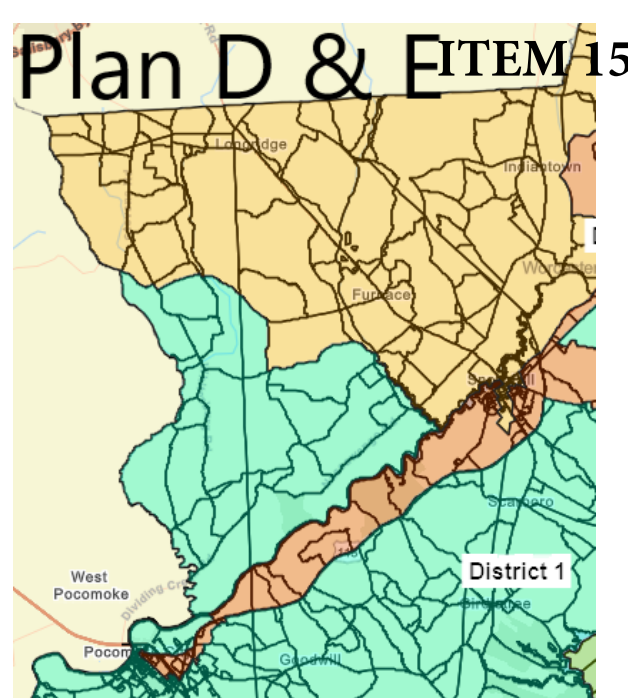
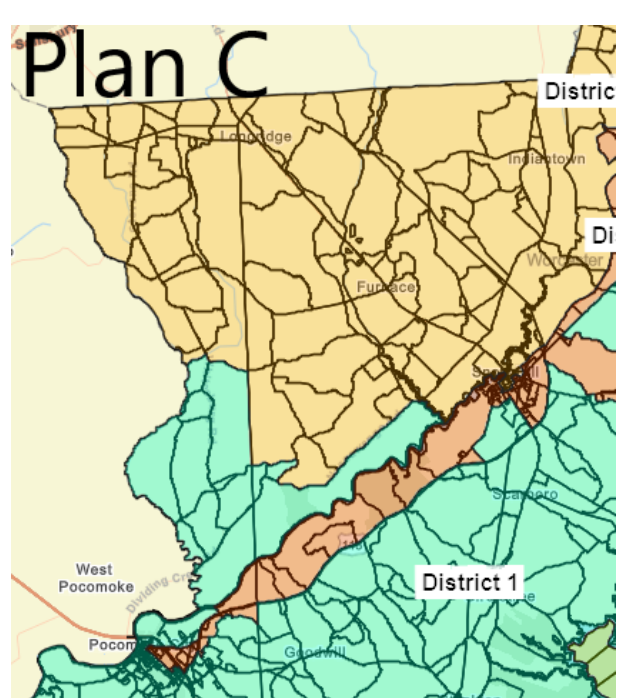
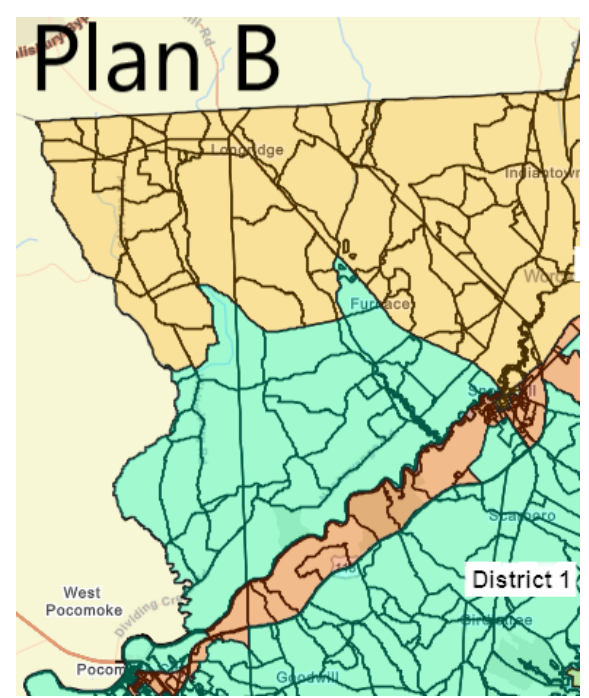
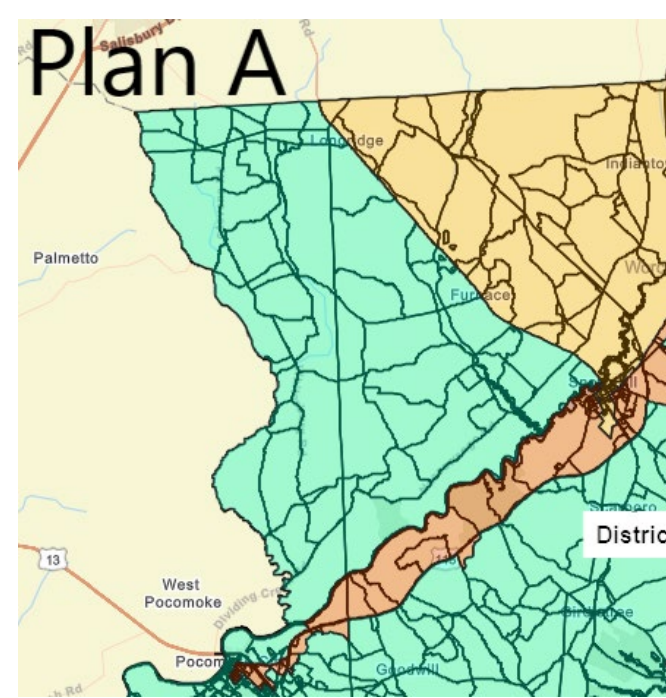
Northerly boundary: Massey Branch/ Marshall Creek Road

DISTRICTS 1 & 2



Snow Hill, Girdletree and Stockton

DISTRICTS 1 & 2

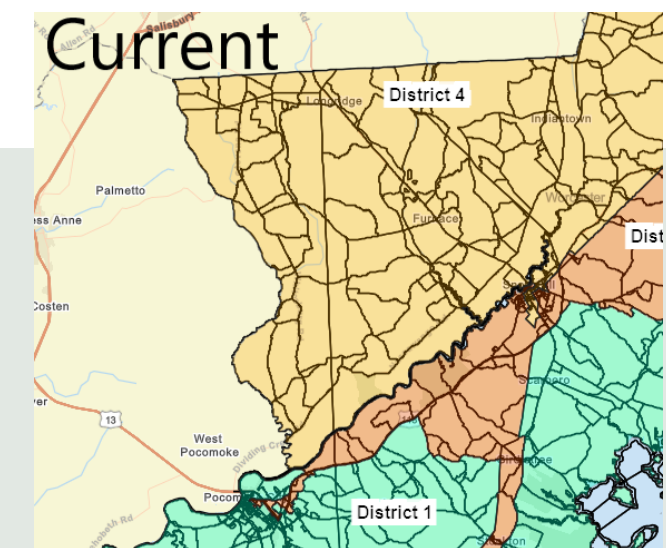


Boundary: Route 12 (Snow Hill Road)

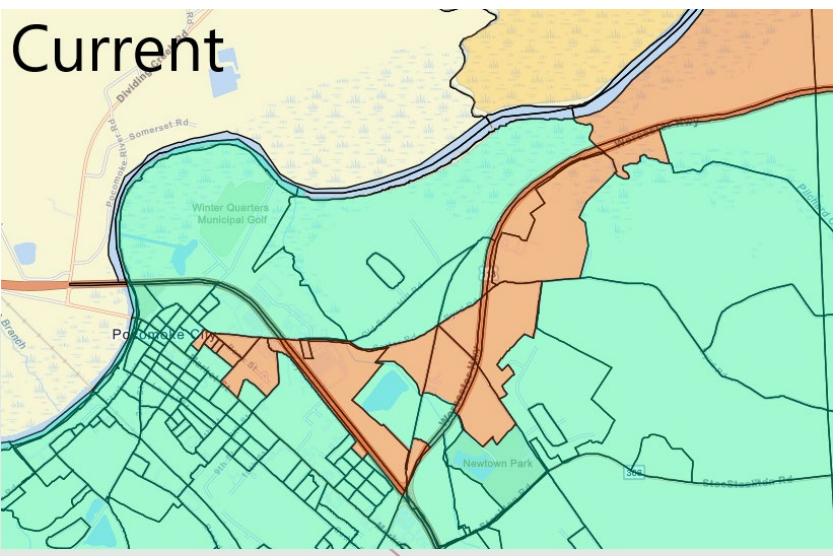
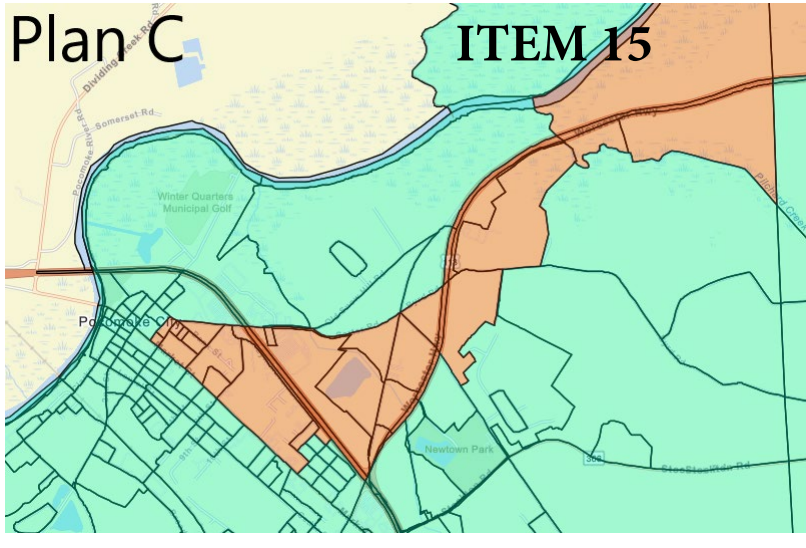
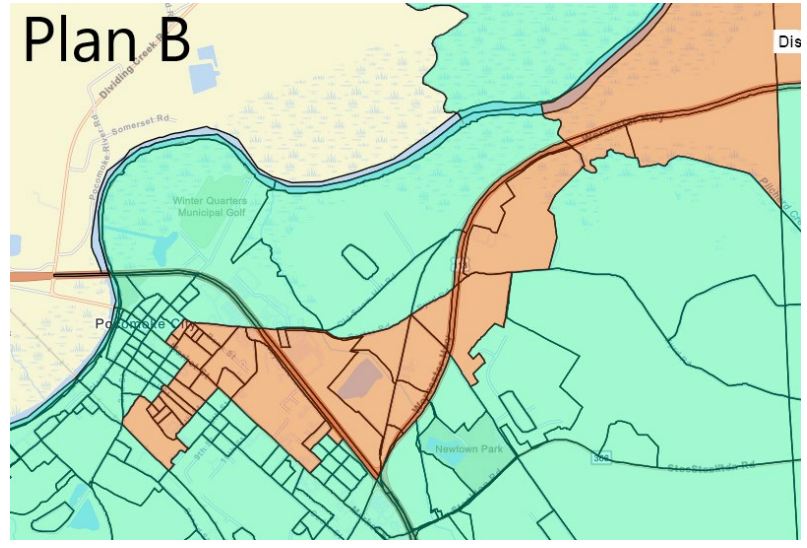
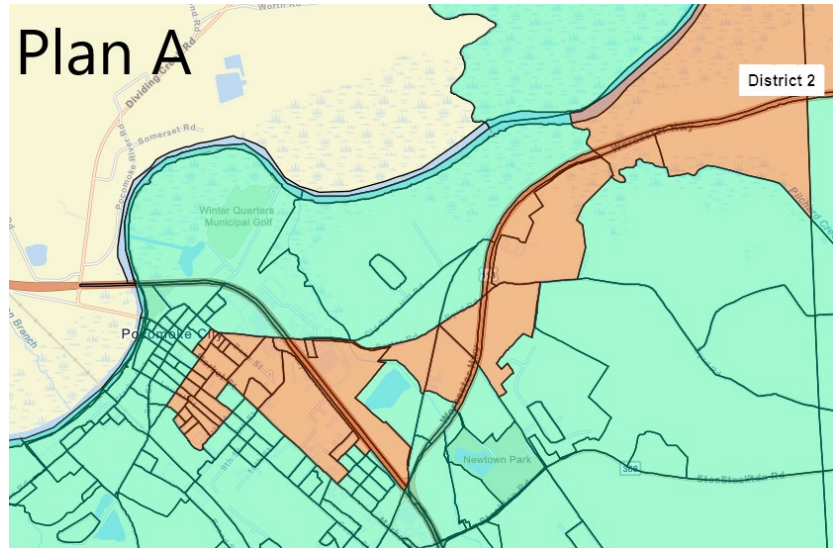
Boundary: Route 12, Nassawango Creek, Old Furnace Road, Old Beech Road and Five Bridges Road

Boundary: Nassawango Creek, Nassawango Road, and both sides of Whitesburg Road north to Sand Road and Pusey Branch

Boundary: Nassawango Creek to Sand Road, Forest Road to Old Furnace Road, Honeywell Road and Meadow Bridge Road

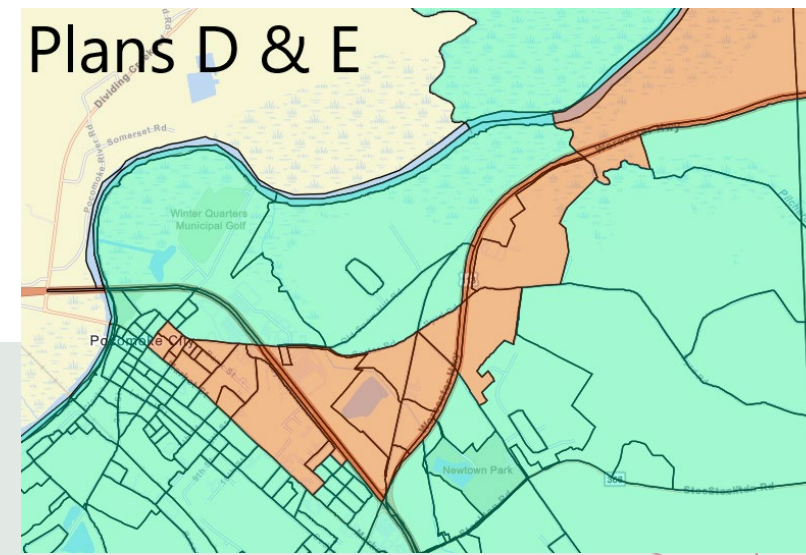


DISTRICTS 1 & 4



Pocomoke City

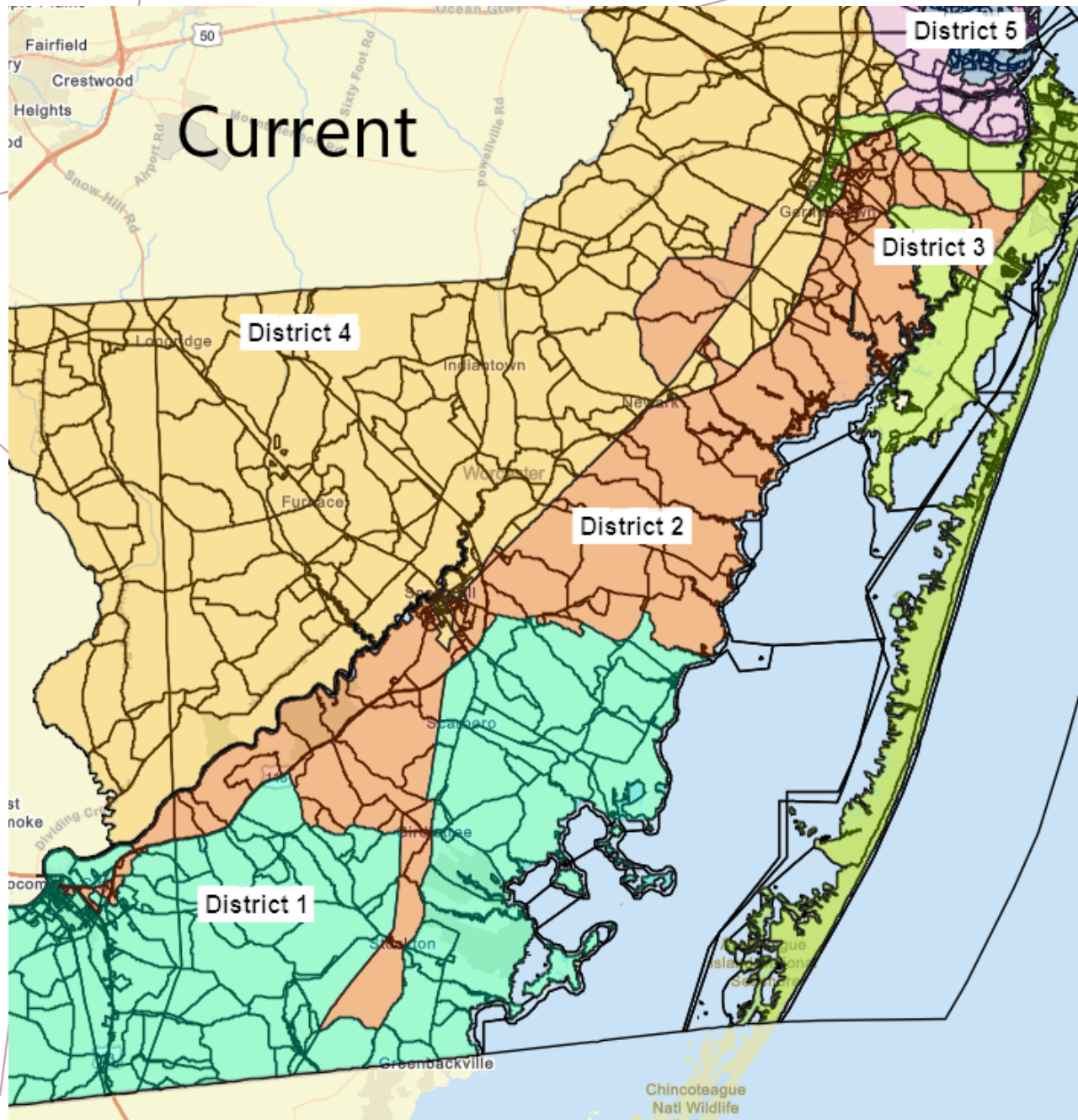
DISTRICTS 1 & 2

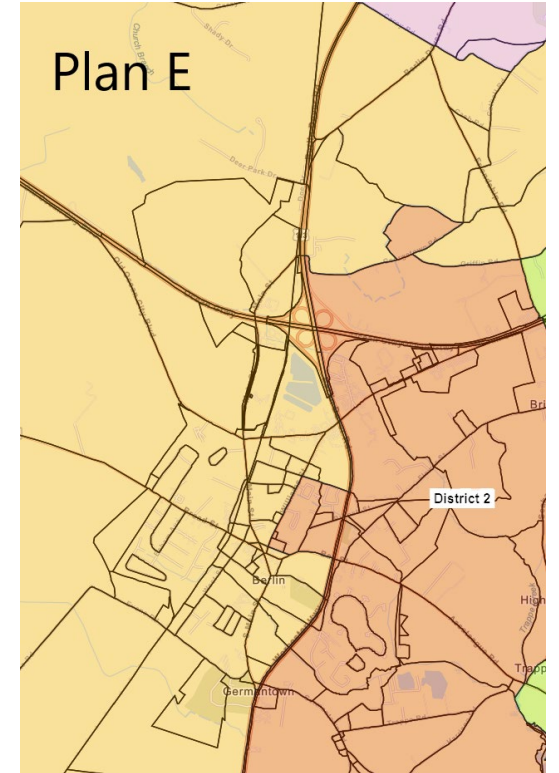
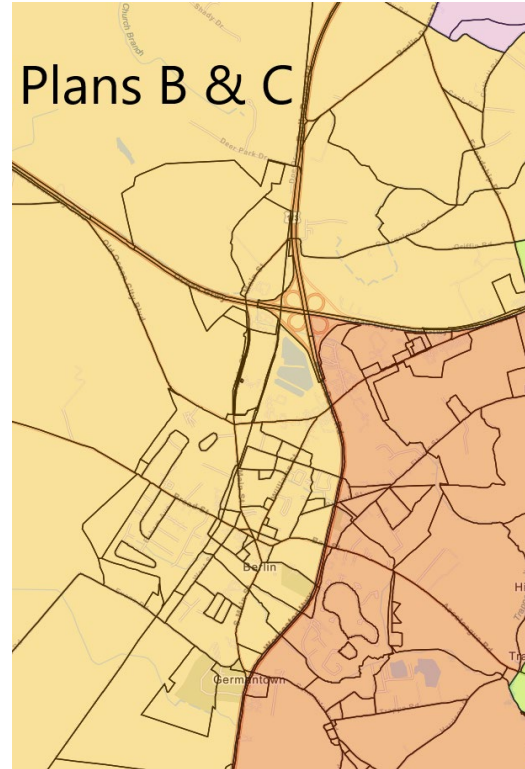
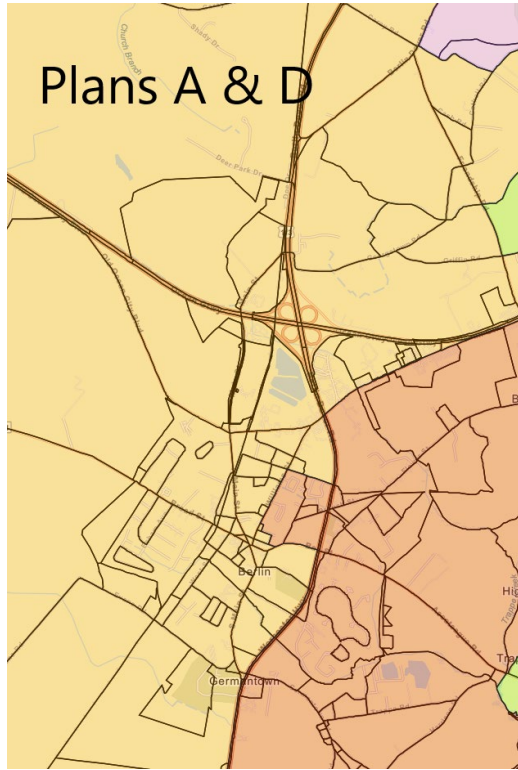
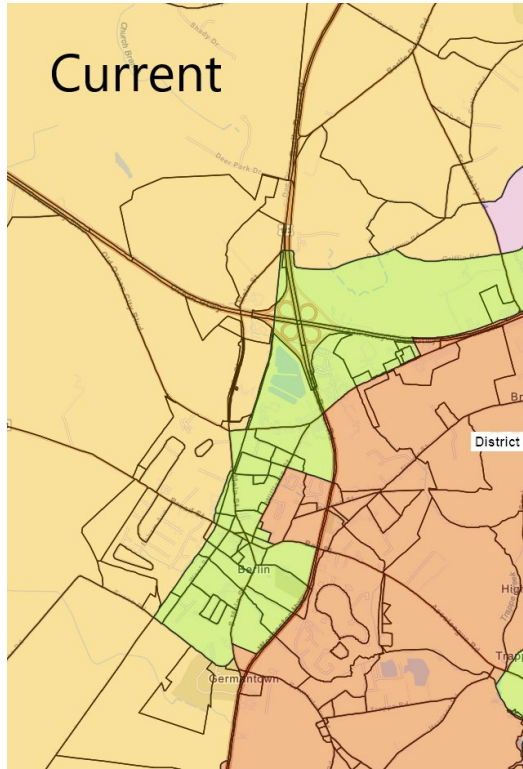


DISTRICT 2 - CENTRAL

Summary:

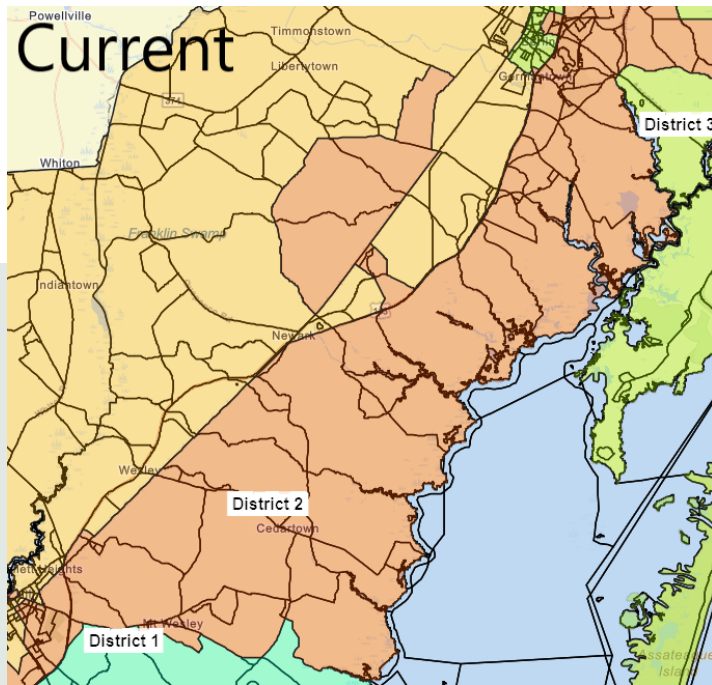
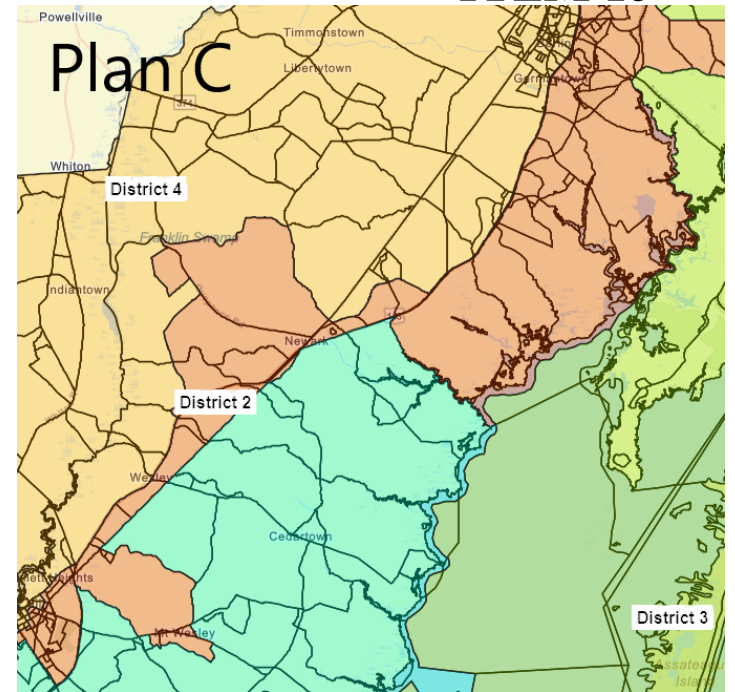
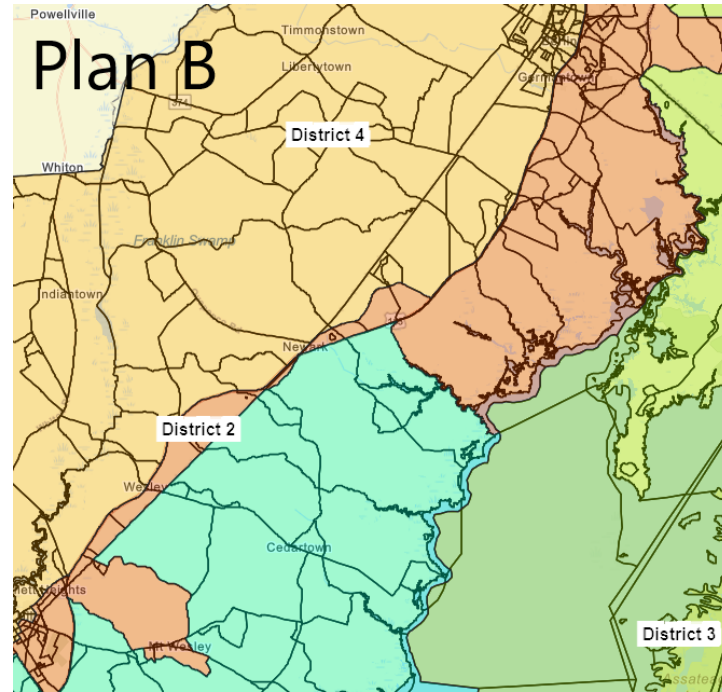
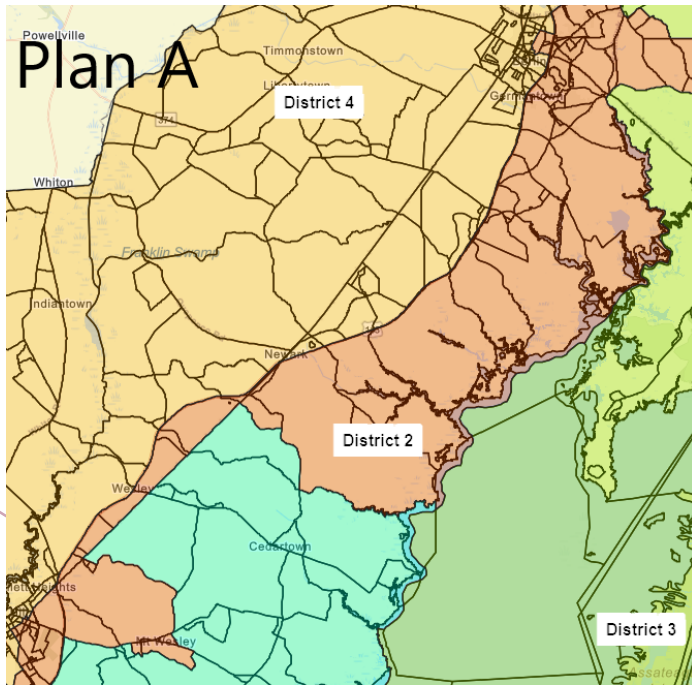
- This district is the majority-minority district.
- All drafts propose to incorporate census blocks in downtown Pocomoke from District 1.
- All drafts propose the transfer of census blocks southeast of Snow Hill at Route 113, including Girdletree and Stockton, to District 1.
- The main differences that are proposed in the five draft plans include:
 - The extent to which Route 113 and/or Route 50 is used as a district boundary in Berlin;
 - The extent of census block changes between Districts 2 and 3 in West Ocean City and Berlin;
 - The extent of census block changes between Districts 1, 2 and 4 in Newark and Snow Hill; and
 - The effects that each of the changes have on the total minority population in the district.



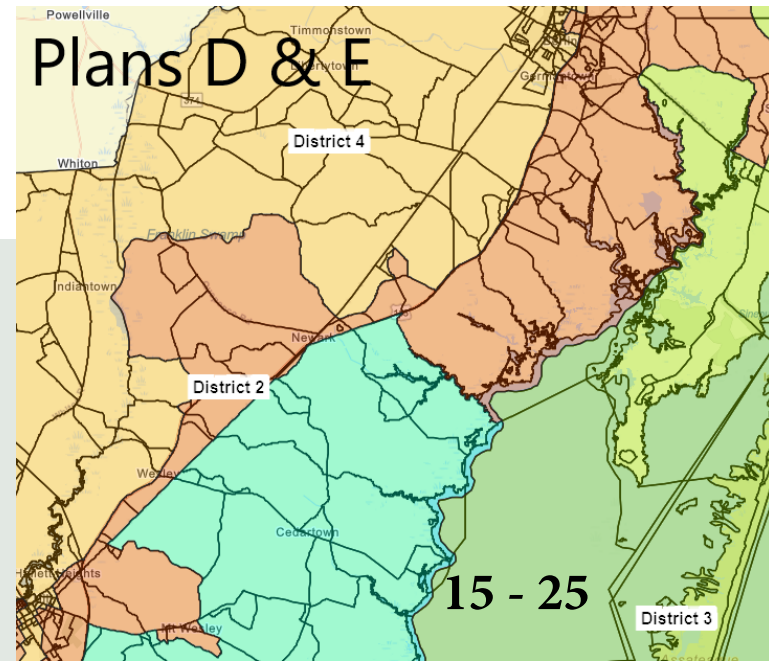


Berlin

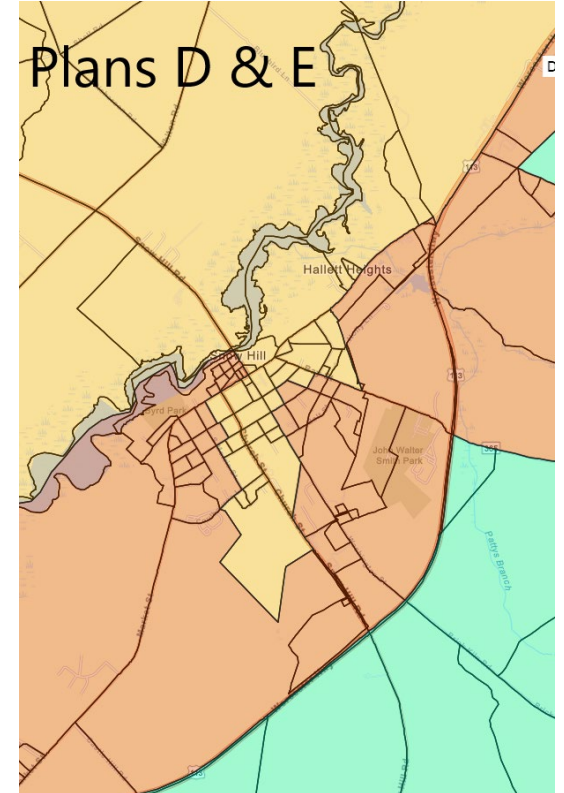
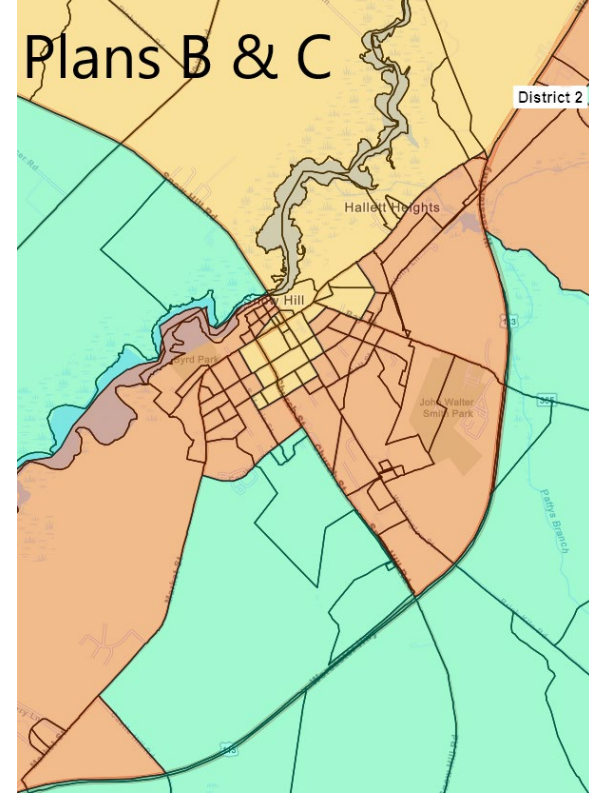
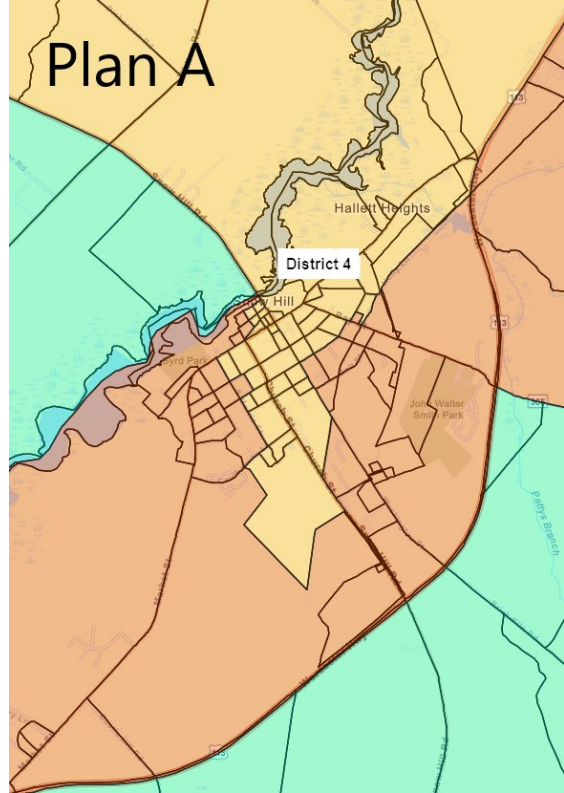
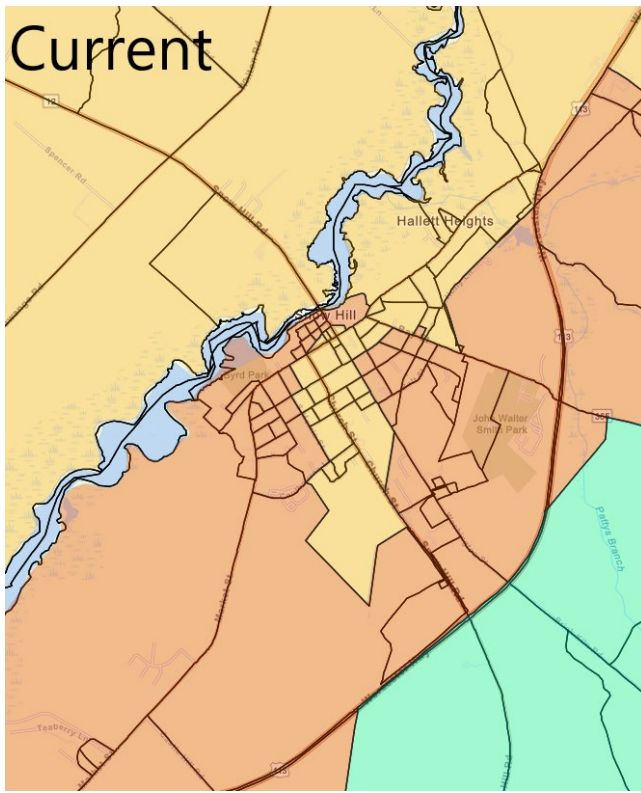
DISTRICTS 2 & 4



Newark



DISTRICTS 1, 2 & 4



Snow Hill

DISTRICTS 1, 2 & 4

DISTRICT 2 – MAJORITY MINORITY POPULATION

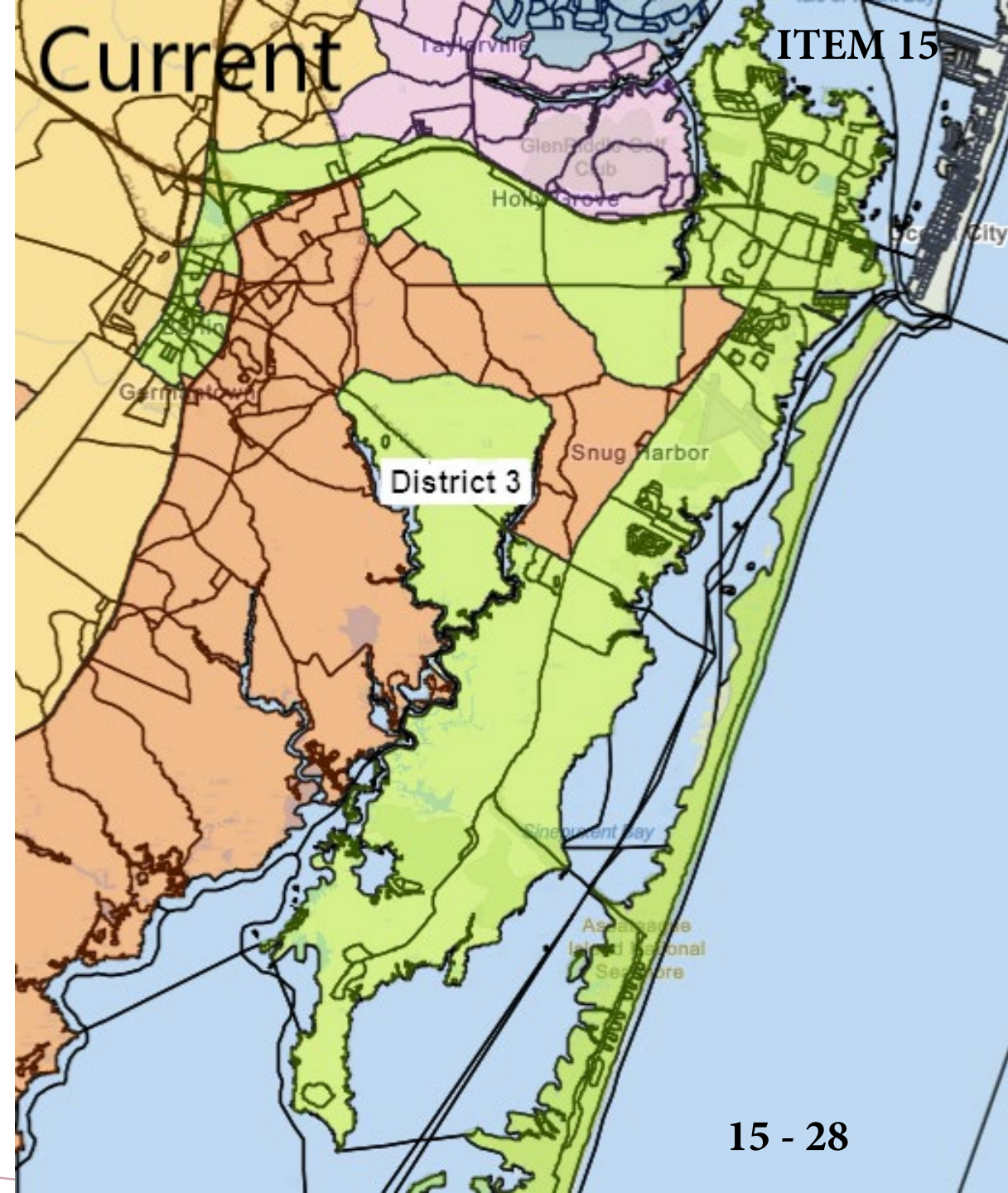
- During the last redistricting process, District 2 had a majority minority population by 395 people.
- Currently, District 2 maintains a majority minority status by 1 person based upon the 2020 Census figures.
- On the draft maps, District 2 will retain a majority minority population by:
 - 671 people on Draft Map A
 - 615 people on Draft Map B
 - 273 people on Draft Map C
 - 277 people on Draft Map D
 - 284 people on Draft Map E

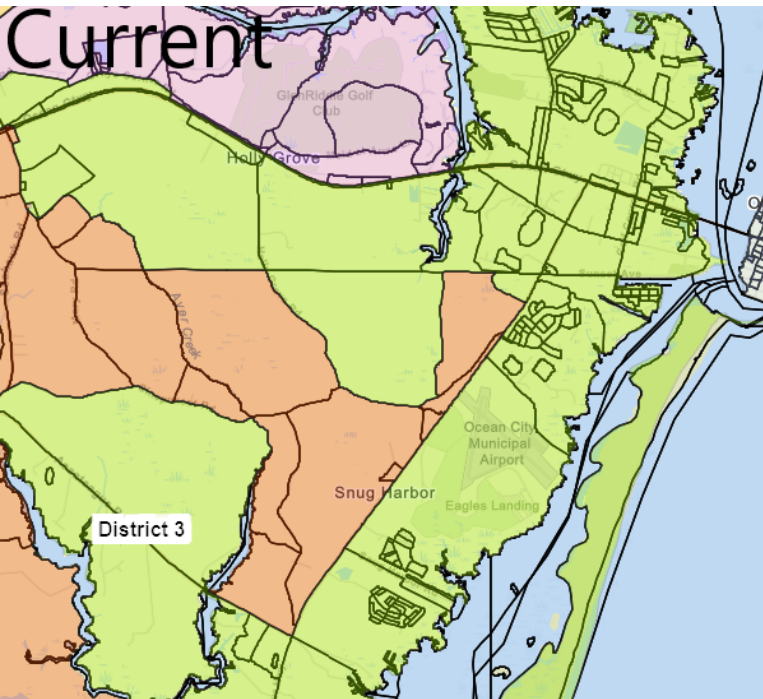
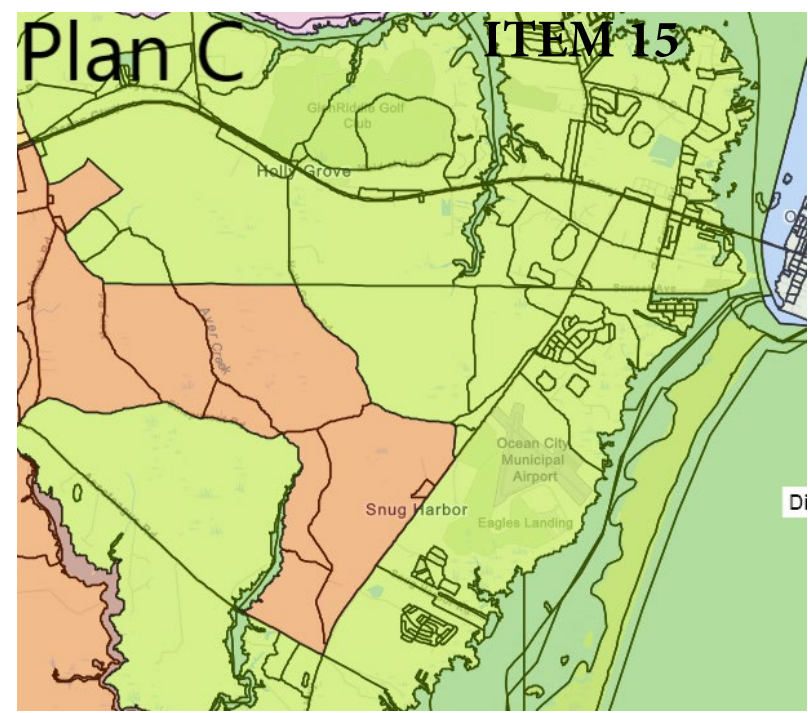
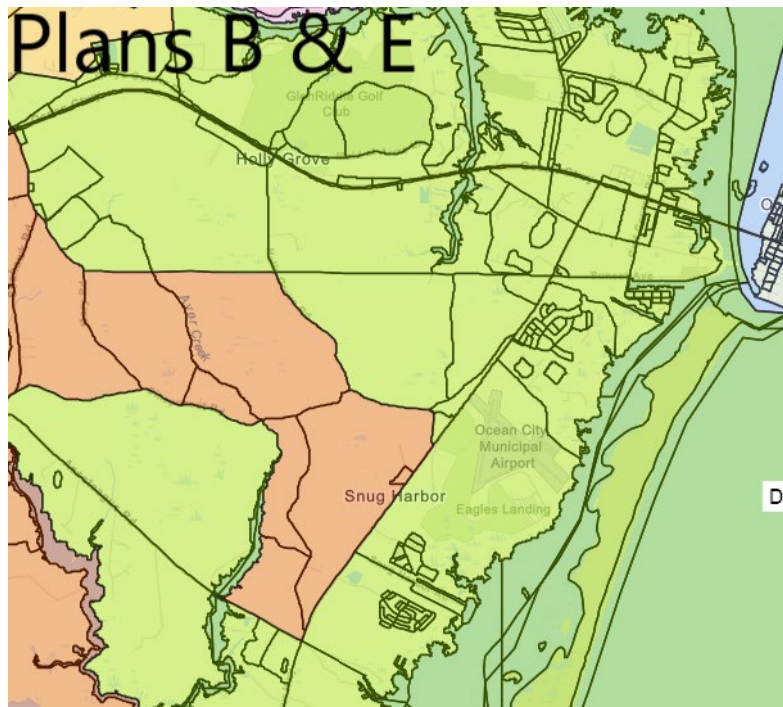
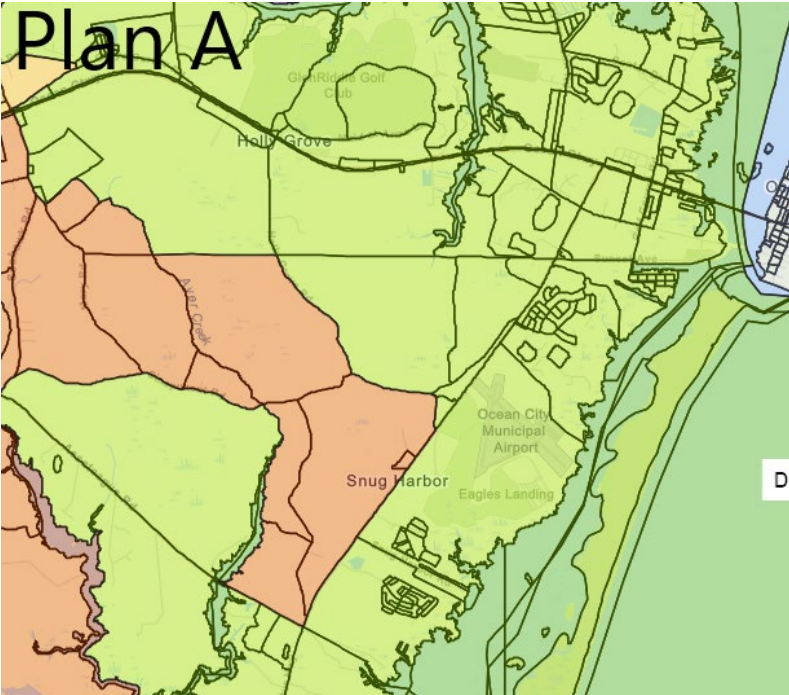
Current

DISTRICT 3 - SINEPUXENT

Summary:

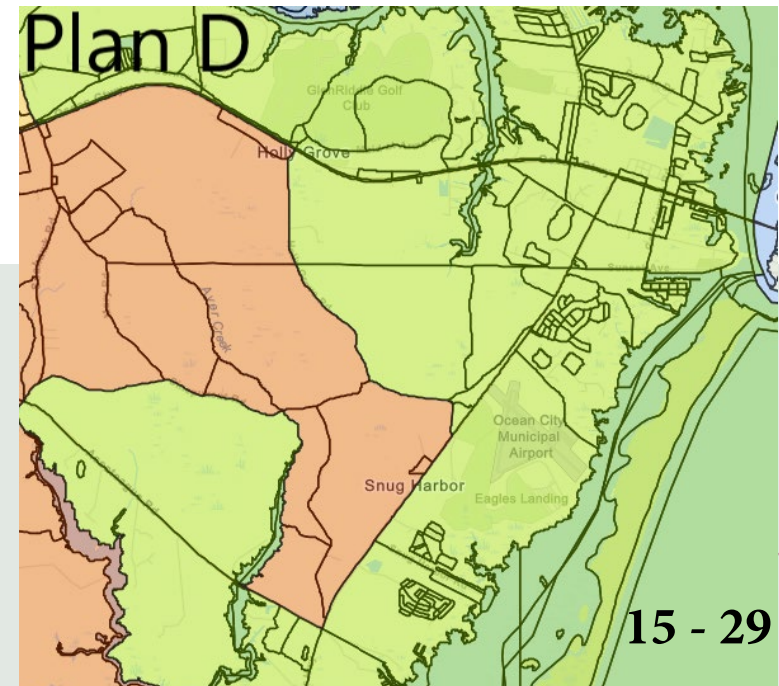
- All drafts propose to withdraw District 3 from downtown Berlin, establishing the westerly district boundary as Friendship Road.
- All drafts propose to include census blocks on the northerly side of Route 50 to Turville Creek, and on the westerly side of Route 611 at Sinexpuxent Road.
- The main differences that are proposed in the five draft plans include:
 - The extent of census block changes between Districts 2 and 3 in West Ocean City and Berlin; and
 - The extent of census block changes between Districts 3, 4 and 6 in the area between Routes 589, 50, 113 and 90.



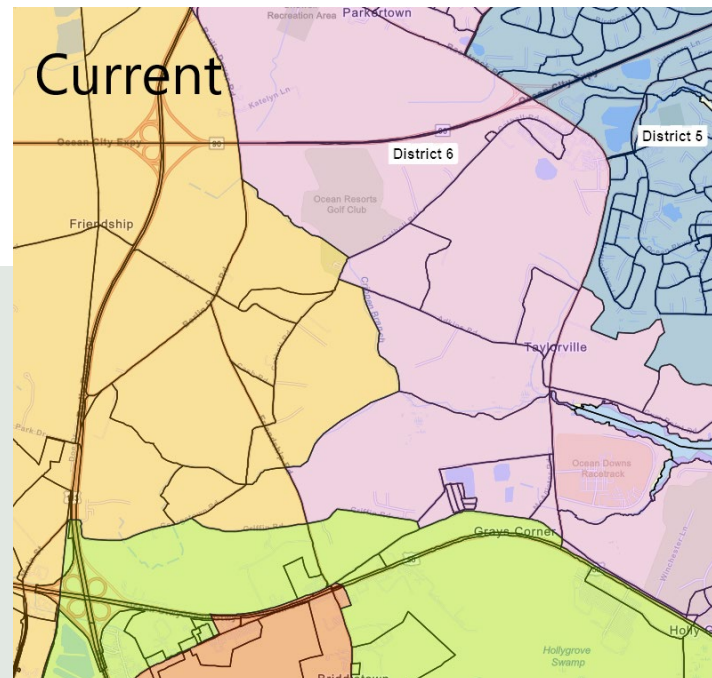
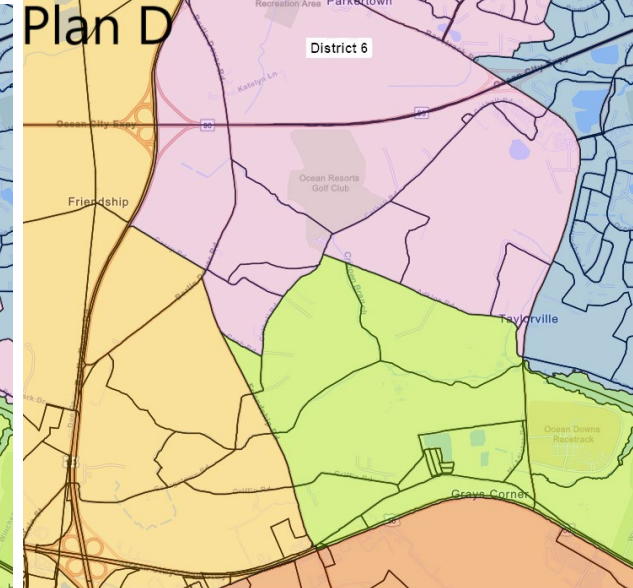
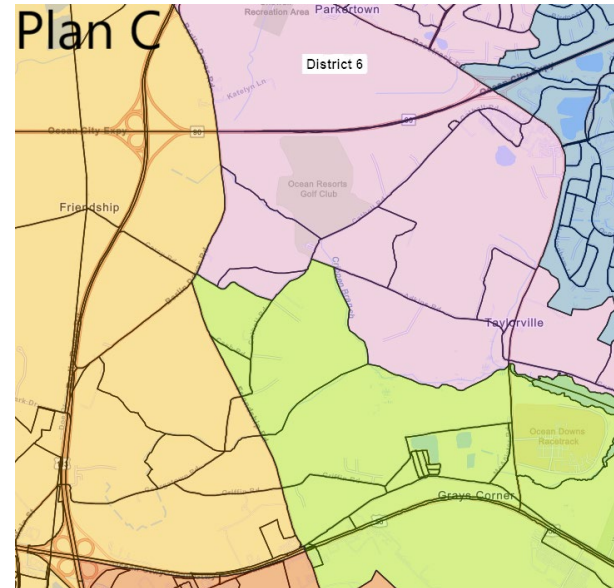
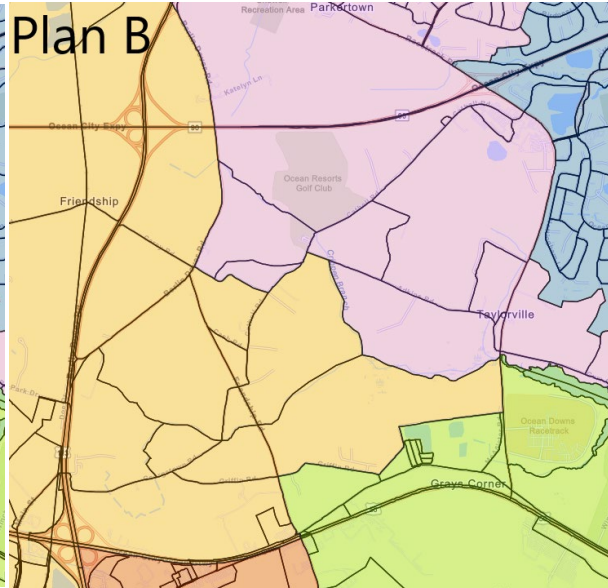
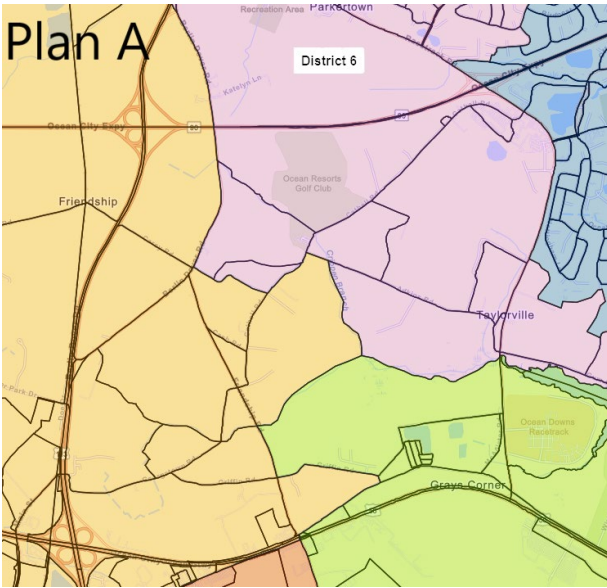


The vicinity of Seahawk Road, Holly Grove Road, Samuel Bowen Boulevard, Sinepuxent Road and Route 611

DISTRICTS 2 & 3

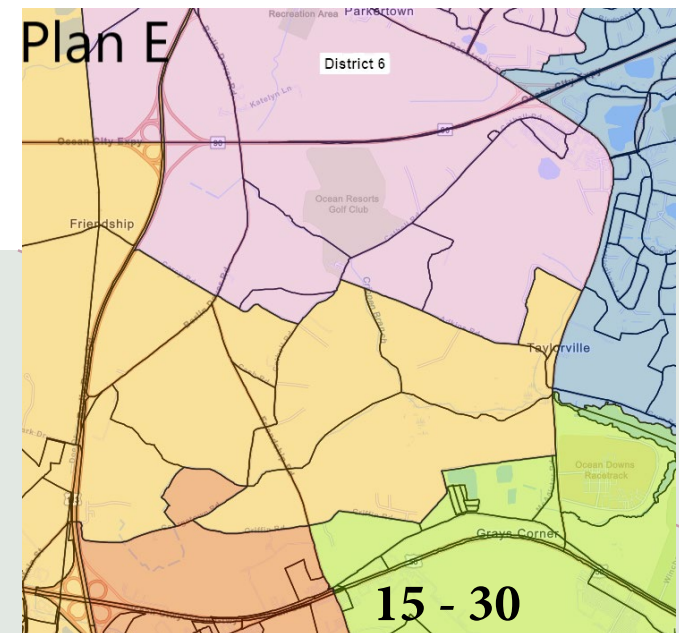


ITEM 15



North: Route 90
South: Route 50
East: Route 589
West: Route 113

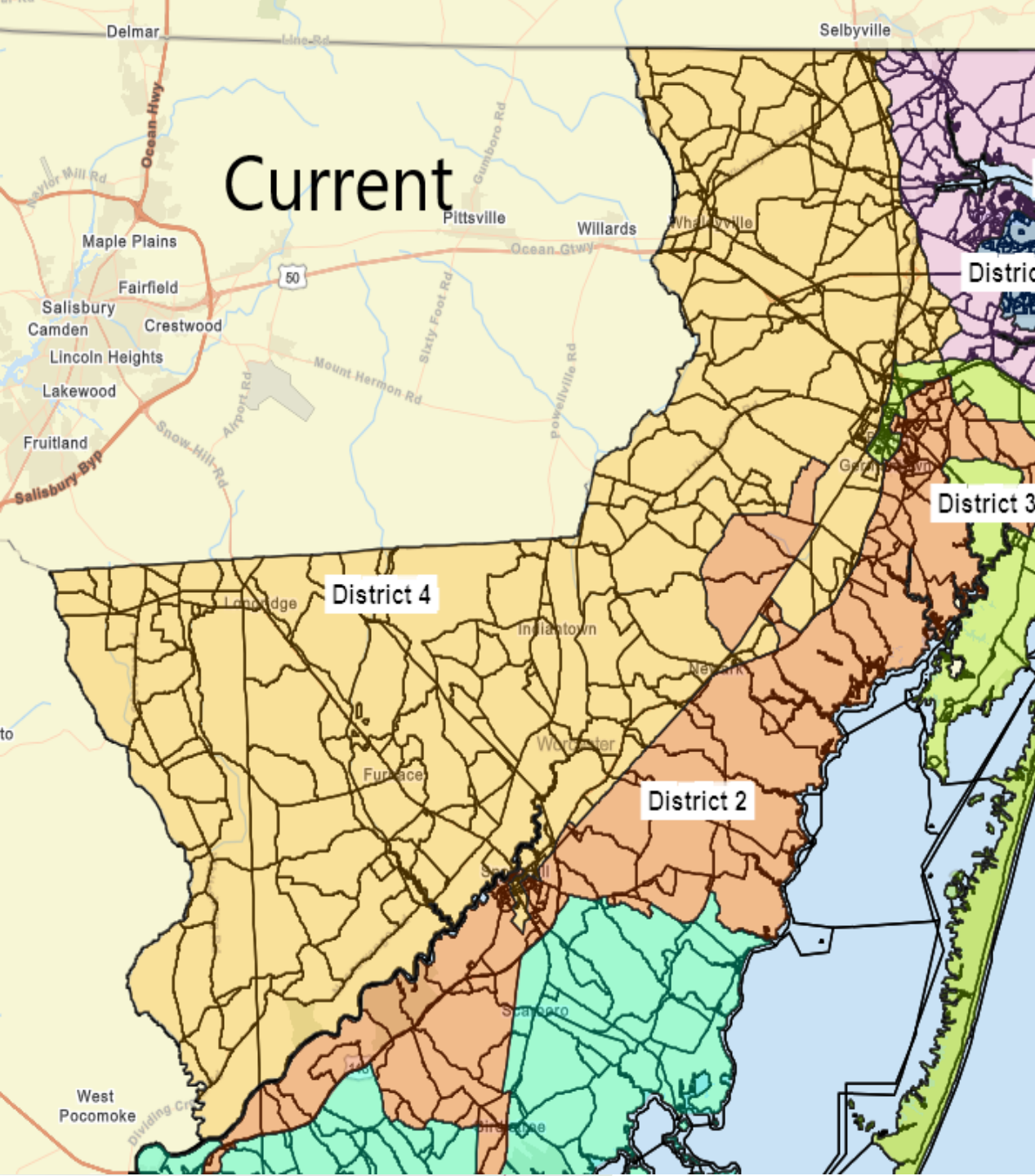
DISTRICTS 2, 3, 4 & 6

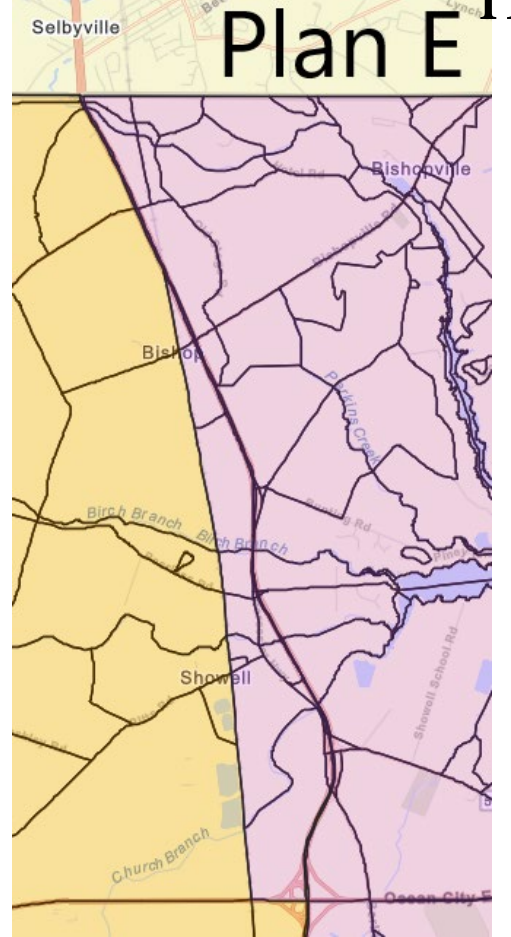
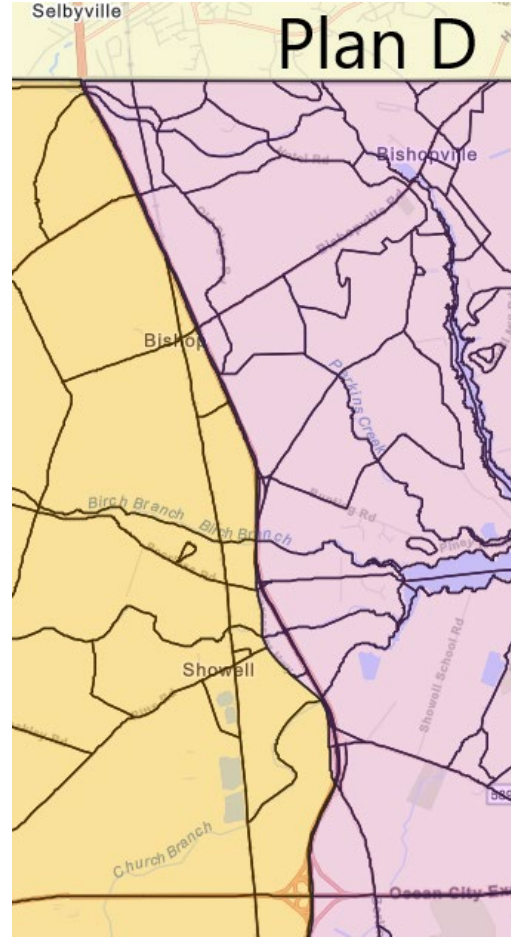
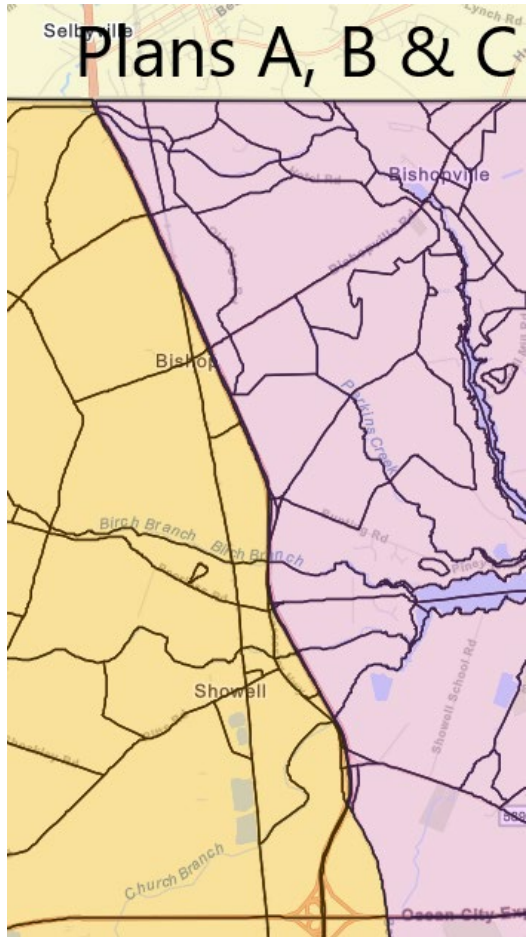
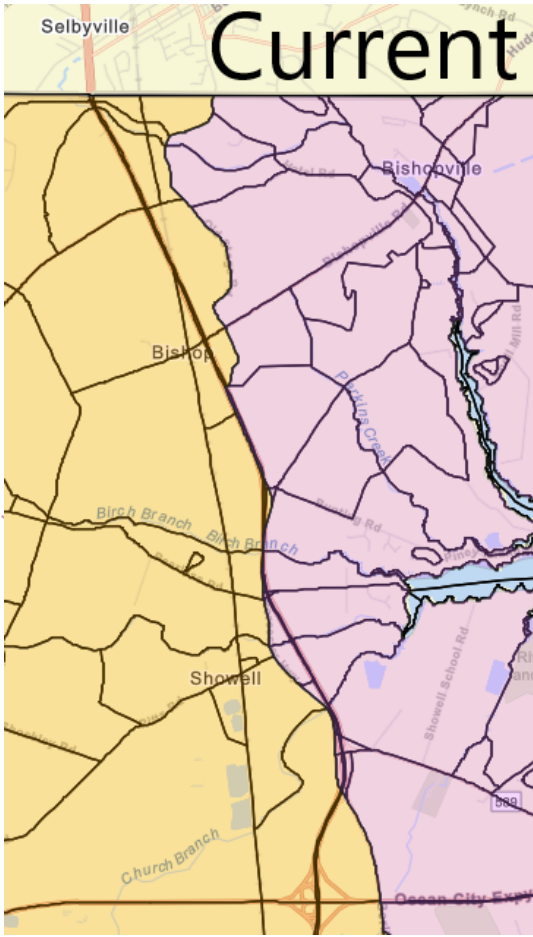


DISTRICT 4 - WESTERN

Summary:

- Due to the need to increase the population in District 1, District 4 will transfer census blocks on the westerly side of the Pocomoke River between Snow Hill and Pocomoke.
- Population is gained from the addition of census blocks in downtown Berlin from District 3.
- The main differences that are proposed in the five draft plans include:
 - The extent to which Route 113 or the railroad is used as a district boundary from the Delaware line south to the Route 90 interchange;
 - The extent of census block changes between Districts 3, 4 and 6 in the area between Routes 589, 50, 113 and 90;
 - The extent of census block changes between Districts 1, 2 and 4 in Newark and Snow Hill; and
 - The extent of census block changes between Districts 1 and 4 on the westerly side of the Pocomoke River between Snow Hill and Pocomoke.





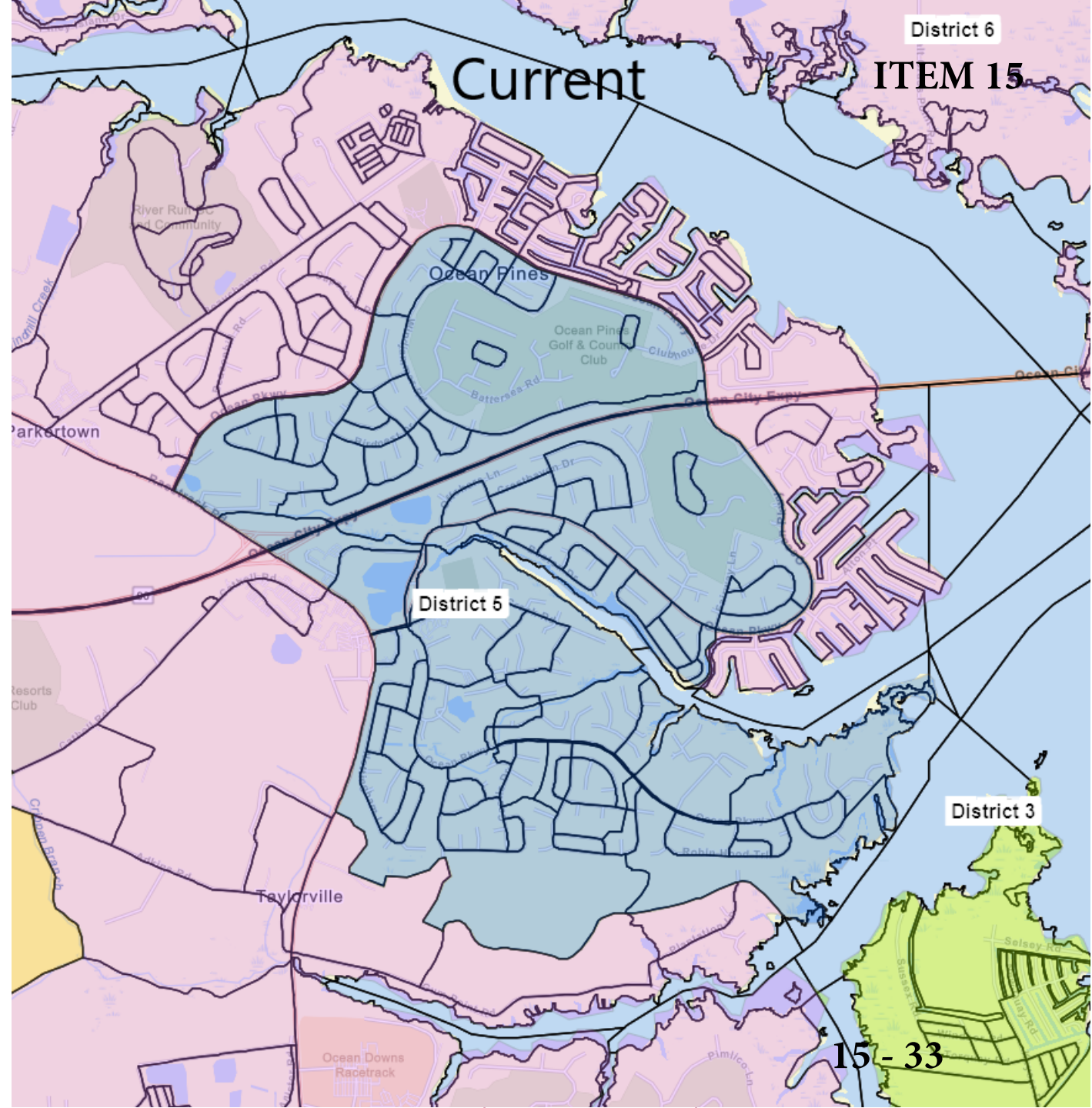
Northerly Route 113 Corridor

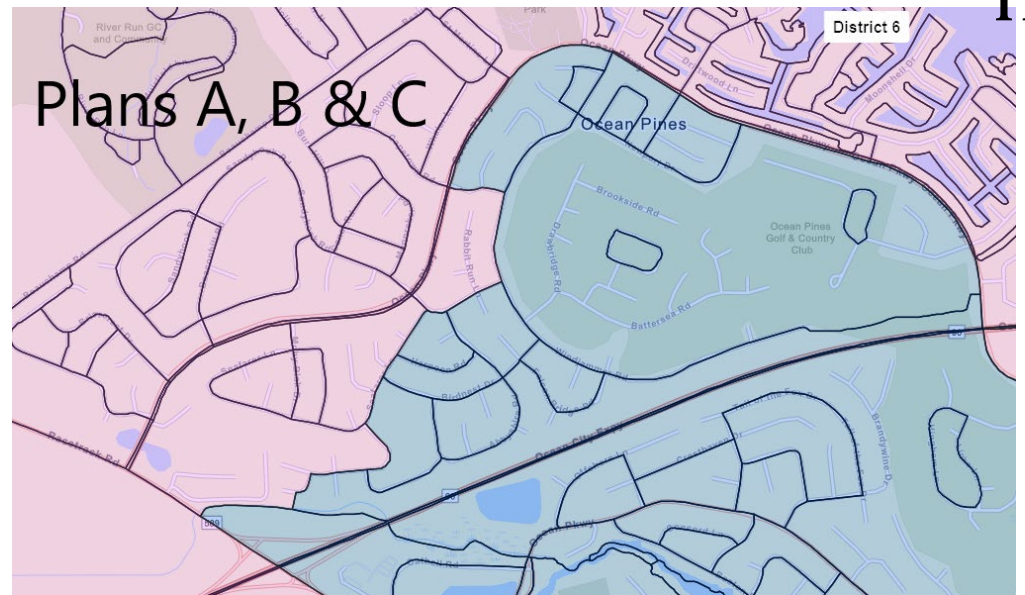
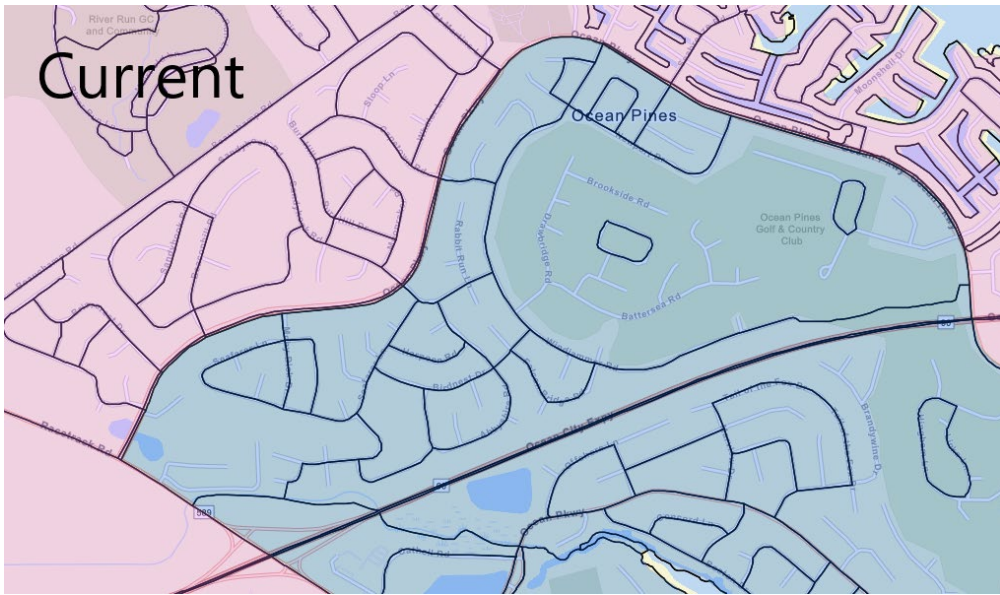
DISTRICTS 4 & 6

DISTRICT 5 - OCEAN PINES

Summary:

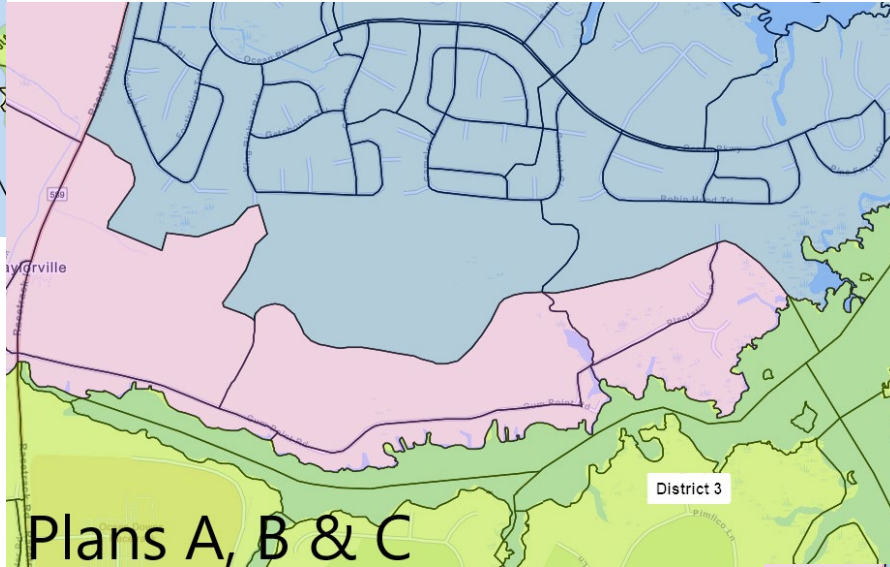
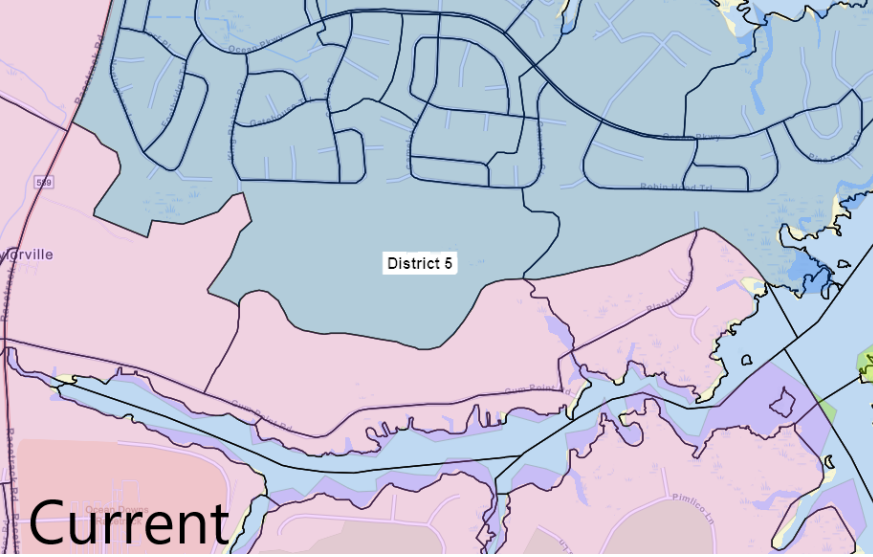
- As the district with the highest population post-2020 census, all drafts propose the transfer of census blocks to District 6.
- The main difference that is proposed in the five draft plans include:
 - The inclusion of census blocks outside of Ocean Pines, south to Gum Point Road.





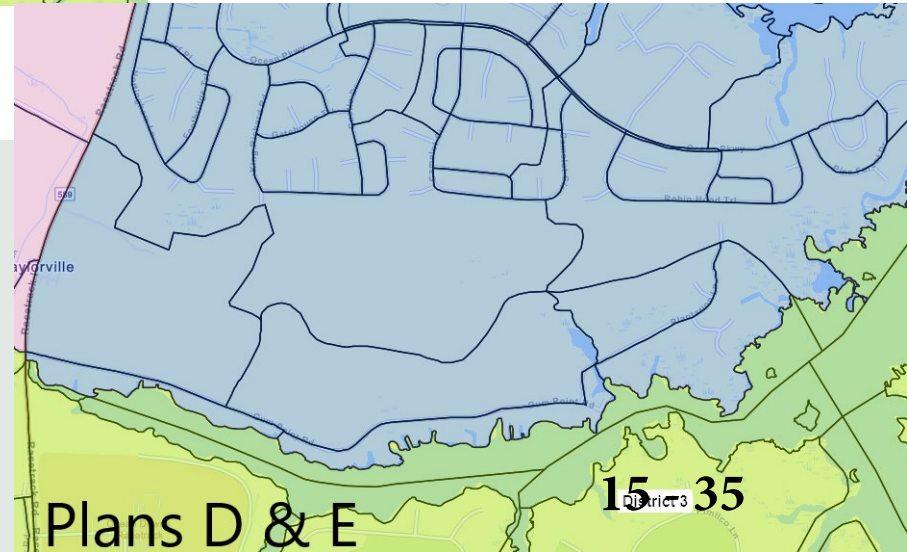
North Gate Ocean Pines

DISTRICTS 5 & 6

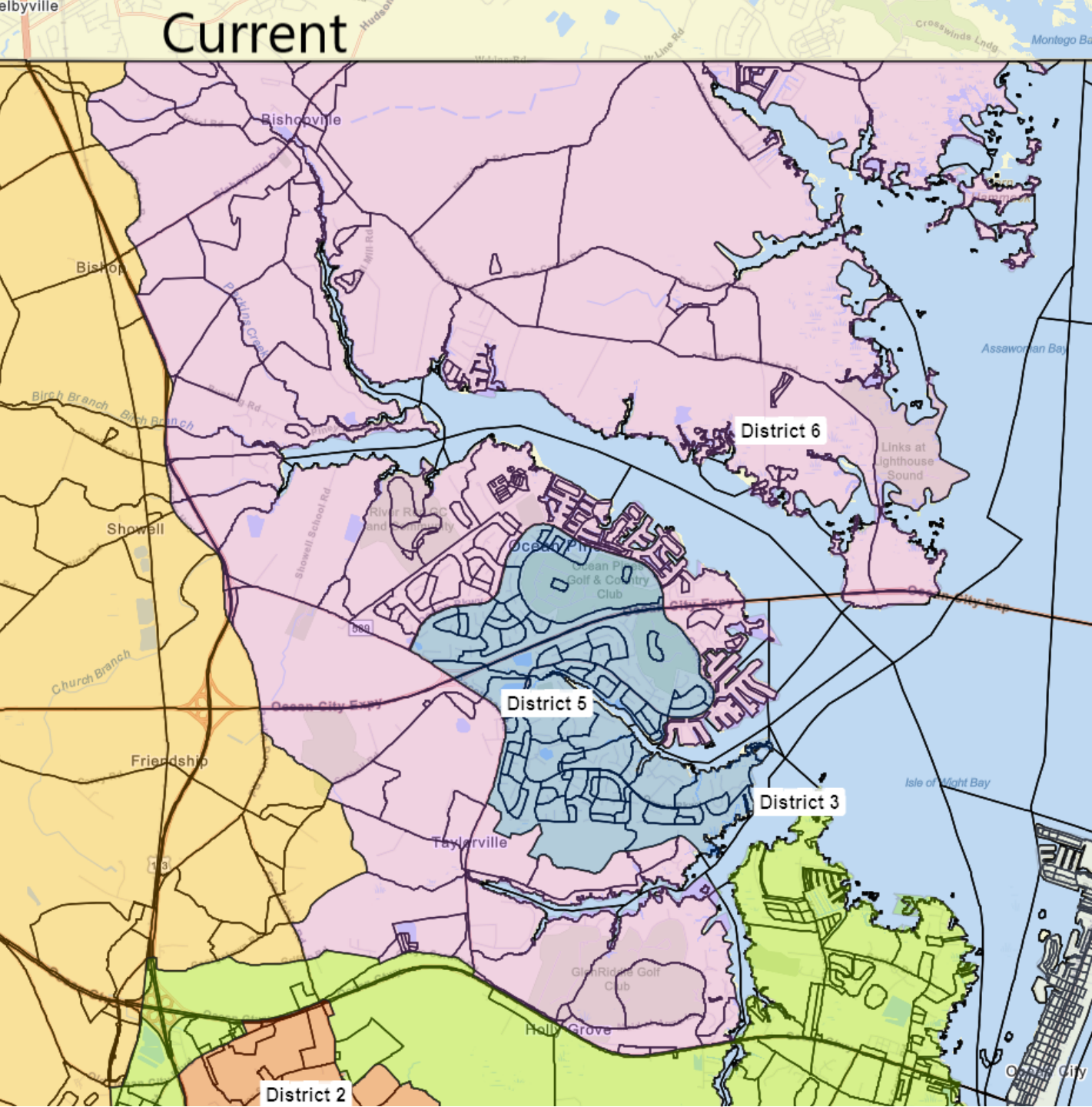


Gum Point Road

DISTRICTS 5 & 6



DISTRICT 6 - NORTHERN



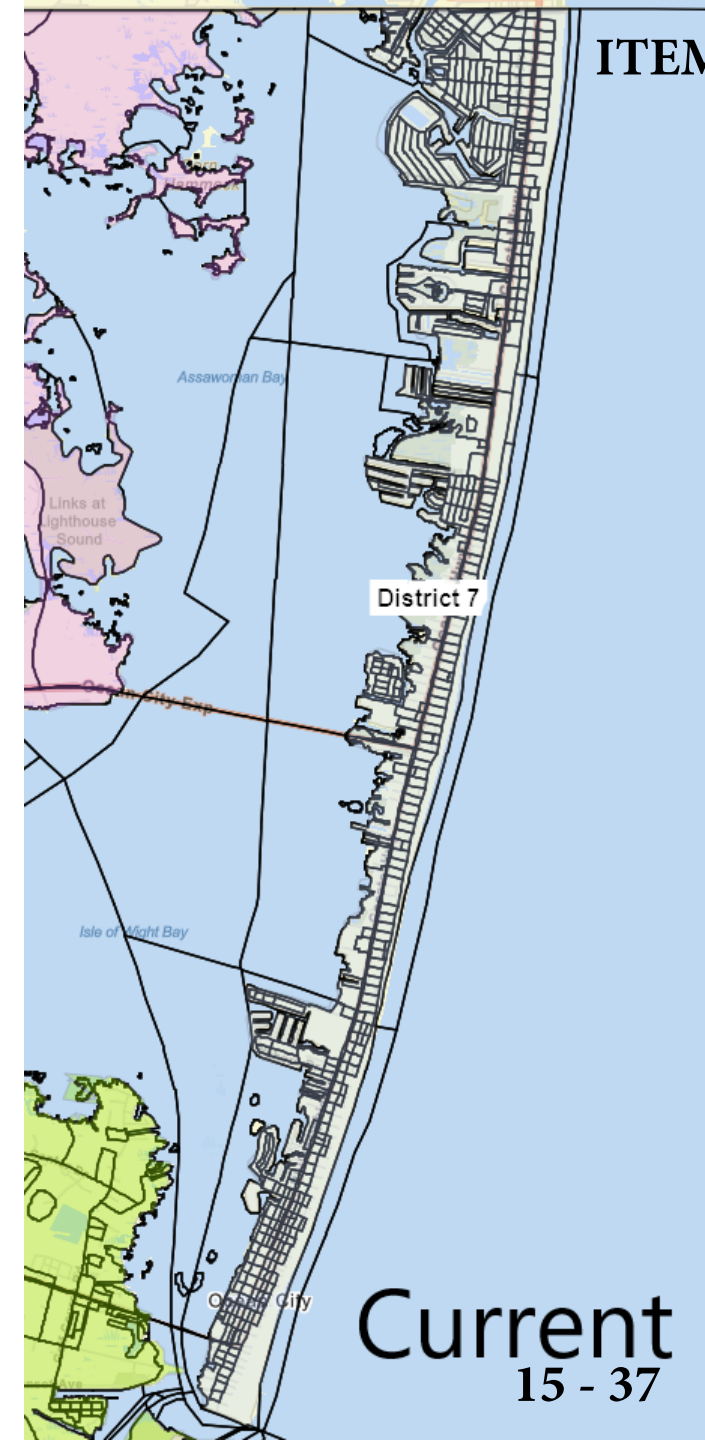
Summary:

- Most draft plans use Route 113 as the district boundary from the Delaware line to the Route 90 interchange to the extent possible.
- All drafts propose to incorporate census blocks at the North Gate of Ocean Pines from District 5.
- All drafts propose to transfer census blocks on the northerly side of Route 50 between Herring Creek, Turville Creek and Route 589 to District 3.
- The main differences that are proposed in the five draft plans include:
 - The extent to which Route 113 or the railroad is used as a district boundary;
 - The extent of census block changes between Districts 3, 4 and 6 in the area between Routes 589, 50, 113 and 90; and
 - To retain or transfer census blocks along Gum Point Road.

DISTRICT 7 - OCEAN CITY

Summary:

- The Ocean City District had a loss of population (279 people) between the 2010 and 2020 Census.
- In all plan versions, the District 7 boundaries remain unchanged.
- There are significant geographical features such as the Assawoman Bay and the Isle of Wight Bay that define the boundaries of the community.



Current
15 - 37

*CONTACT US
FOR MORE
INFORMATION
OR ASSISTANCE:*



Development, Review and Permitting
1 West Market Street, Room 1201
Snow Hill, MD 21863
(410) 632-1200

Weekdays excluding holidays
8:00 AM to 4:30 PM

Redistricting@co.worcester.md.us

<https://wcg-gisweb.co.worcester.md.us/portal/apps/sites/#/worcester-redistricting-1>

Written public comments will be accepted via mail or email through November 14, 2023



MAYOR AND COUNCIL OF SNOW HILL

October 12, 2023

County Commissioners of
Worcester County
1 West Market Street
Snow Hill, Maryland 21863

Dear Commissioners:

As you may know, this week the Town Council of Snow Hill voted unanimously to accept Mayor Pruitt's recommendation to sell the Black-Eyed Susan paddleboat. As we prepare for a settlement date, we earnestly seek your cooperation in bringing to a speedy close our re-negotiated agreement between the Town and the County for repayment of \$300,000 loaned to the Town for the original purchase of the Black-Eyed Susan.

You will recall that in 2020 the County loaned the Town a total of \$400,000 to purchase the Black-Eyed Susan from a party in Havre de Grace, Maryland. That amount included a \$100,000 existing grant to the County from the Community Development Block Grant program that was re-purposed by the County from a project involving Tyson Foods to the Town to assist with the purchase of the paddleboat. That grant was immediately re-assigned back to the County to provide three full years' loan payments and a partial year's payment toward the total debt.

While hopes were high that the Black-Eyed Susan effort would provide a dynamic economic engine to the economies of the Town, the County and the Lower Shore region, it was not to be. Purchased in Year 4 of a 5-year Coast Guard mandated inspection regimen, it was discovered through a thorough inspection in drydock at a Norfolk shipyard that the boat was in need of significant repairs at an estimated cost of over \$600,000. Subsequently, the Town leadership came to the conclusion that such an expense was beyond the ability of the local taxpayers to pay, hence the decision to sell the boat.


Through recent communication with Secretary Jake Day, of the Maryland Department of Housing & Community Development and his staff, we understand that the CDBG grant is in the process of being closed and there will be no repayment of that \$100,000 grant by the Town or the County required. An official letter to that effect is imminent.

However, it is Mayor Pruitt's intention to honor in total the loan agreement between the Town and the County. Accordingly, your attorney has been working with our attorney at Ayres, Jenkins, Gordy

& Alman, PA., to negotiate a new agreement to take effect upon execution to provide for the full repayment of the remaining \$300,000 to the County by the Town. That agreement, the Confessed Judgment Note, should be ready for your attention immediately and we would respectfully ask you to place it on your agenda at the earliest possible time in order to help us settle this entire matter with all parties prior to the end of October. Accompanying the Confessed Judgment Note is a document terminating the original/existing Promissory Note between the Town and County, which as stated is replaced by the new Confessed Judgment Note.

If you have need of additional information, please don't hesitate to ask. On behalf of the Mayor, Town Council and citizens of Snow Hill we appreciate your consideration and timely response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard M. Pollitt, Jr.", written in a cursive style.

Richard M. Pollitt, Jr.
Town Manager

cc: Mayor & Council
Maureen Howarth, Esq.

**TERMINATION OF
PROMISSORY NOTE AND PREFERRED MORTGAGE**

On this _____, the Mayor and Council of Snow Hill (“Town”) and the County Commissioners of Worcester County (“County”) agree as follows:

Recitals:

- A. On October 5, 2020, the parties entered into a Promissory Note and Preferred Mortgage (“Mortgage”) for the purchase and financing of the Motor Vessel Black-Eyed Susan, Official Number 927605 (“Vessel”).
- B. The Town wishes to sell the Vessel.
- C. The Parties wish to terminate the Mortgage.
- D. The Parties intend to execute a Confessed Judgment Note securing the balance of the debt, \$300,000.00, owed to the County.

Terms:

- 1. **Sale Approved.** The County agrees that the Town may sell the Vessel.
- 2. **Termination.** The Parties agree that the Mortgage is terminated.
- 3. **Confessed Judgment.** The Parties agree that a Confessed Judgment Note will be executed contemporaneously with this termination governing the terms of the balance of the debt owed to the County, which is \$300,000.00.

IN WITNESS WHEREOF, the Parties hereto have executed this Termination of Promissory Note and Preferred Mortgage as of the day and year first above written.

Witness:

Witness:

Mayor and Council of Snow Hill

_____(Seal)

Rick Pollitt, Town Manager

**County Commissioner of
Worcester County, Maryland**

_____(Seal)

Anthony W. Bertino, Jr., President

THIS INSTRUMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH IS A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE LENDER TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.

CONFESSED JUDGMENT NOTE

WORCESTER COUNTY, MARYLAND

Amount: US \$300,000.00

Date: October 13, 2023

For Value Received, Mayor and Council of Snow Hill (“Borrower”) promises to pay to the order of the County Commissioners of Worcester County (“Lender”), whose address is 1 West Market Street, Room 1103, Snow Hill, Maryland 21863, the principal sum of Three Hundred Thousand Dollars (\$300,000.00), with 0% interest on the unpaid principal balance from the date of this Note until paid in full. Principal shall be payable at 1 West Market St., Room 1103, Snow Hill, Maryland, 21863, or such other place as the Lender may designate, in twelve (12) consecutive yearly installments of \$25,000.00 each beginning on January 1, 2025, but payable no later than January 15th of each year, and continuing each year thereafter until paid in full on January 1, 2036.

1. Borrower waives the right to exemption from execution as to the debt evidenced by this obligation, and if default be made in the payment of the principal debt at the time limited for the payment thereof, as aforesaid, then this entire debt shall immediately become due and payable.
2. Borrower authorizes any attorney-at-law to appear in any court of record in the State of Maryland, or any other state in the United States, on default in payment of any installment due on this Note, waive issuance and service of process, and confess judgment against Borrower in favor of the Lender for the amount of the debt, together with costs of suit and reasonable attorney fees.
3. Borrower shall pay to the Lender a late charge of 5% of any yearly installment not received by the Lender within fifteen (15) days after the installment is due.
4. Borrower may prepay the principal amount outstanding in whole or in part at any time. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent yearly

installments or change the amount of such installments unless the Lender shall otherwise agree in writing.

- 5. This Note shall be the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.
- 6. Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail addressed to Borrower at 103 Bank Street, Snow Hill, Maryland 21863, or to such other address as Borrower may designate by notice to the Lender. Any notice to the Lender shall be given by mailing such notice by certified mail, return receipt requested, to the Lender at the address stated in the first paragraph of this Note, or at such other address as may have been designated by notice to Borrower.

AS WITNESS the hand and seal of the proper officer of Borrower as of the day and year first above written.

WITNESS:

MAYOR AND COUNCIL OF SNOW HILL

_____ BY: _____ (SEAL)
Richard M. Pollitt, Town Manager

State of Maryland, County of Worcester, to wit:

On this ____ day of _____, 2023, before me, the undersigned officer, personally appeared Richard M. Pollitt on behalf of the Mayor and Council of Snow Hill, and that he, as Town Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Town Manager.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My commission expires _____