

AGENDA
REGULAR MEETING OF THE MAYOR AND COUNCIL
November 28, 2017
SEAFORD CITY HALL - 414 HIGH STREET

- 7:00 P.M.** - Mayor David Genshaw calls the Regular Meeting to Order.
- Invocation
 - Pledge of Allegiance to the Flag of the United States of America.
 - Executive Session - Potential Litigation
 - Changes to agenda for this meeting.
 - Approval of minutes of the regular meeting on November 14, 2017.

ALL ITEMS ON THIS AGENDA MAY OR MAY NOT BE VOTED ON.

Sara Lee Thomas, DSA to do a presentation to the City.

7:05 PUBLIC HEARING:

1. Brad Whaley, Director of Community Development and Housing to present information for the development of an application to the State of Delaware Community Development Block Grant program to include the City of Seaford.
2. The City of Seaford Mayor and Council for the second reading and adoption on **Tuesday, November 28, 2017 at 7:05 p.m., in City Hall, 414 High Street, Seaford, Delaware:**

**Presenting the second reading of an ordinance to amend Chapter 15, of the Municipal Code of Seaford, Delaware relating to "Zoning", in the manner following, to wit:
Chapter 15 of the Municipal Code of Seaford, Delaware is hereby amended by adding language to Section 15-50 Uses by right (12)**

Mayor closes Public Hearing and calls for a motion to adopt the afore-referenced amendment to the Municipal Code.

CORRESPONDENCE:

- 1.

AGENDA

REGULAR MEETING OF THE MAYOR AND COUNCIL

November 28, 2017

NEW BUSINESS:

1. Joey Gilkerson, DEVRECO will be present seeking an extension of 180 day for the sale of Tax Map 531-10.00-236.00 located at the corner of Park Avenue and Nesbitt Drive consisting of approximately 2.68+ acres.
2. Present the information for funding the parking lot at the new Ross Community Event Center at Ross Mansion and make a request for City funds towards this parking lot.
3. Present the Wastewater Planning Advance as an addendum for the Preliminary Engineering Report for the Upgrade and Expansion of the City's Wastewater Treatment Facilities.
4. Bill Bennett, Director of Power to present his updates on the Pine Street Substation and Distribution projects.
5. Reading of an ordinance relating to the promotion of Economic Development and Commerce by regulations of certain involuntary payments required of Employees in the City of Seaford.

OLD BUSINESS:

- 1.

EXECUTIVE SESSION:

1. Potential litigation

Mayor Genshaw solicits a motion to hold an Executive Session for the purpose of discussing potential litigation.

Mayor Genshaw reopens the regular Council meeting.

AGENDA

REGULAR MEETING OF THE MAYOR AND COUNCIL

November 28, 2017

REMINDER OF MEETINGS & SETTING NEW MEETINGS:

1. Caroling in the Park, Gateway Park, Monday, November 27th; Band at 6:45 p.m. with program starting at 7 p.m.
2. Christmas Parade, "Season of Lights" to be held on Saturday, December 2nd with step-off at 7 p.m. Rain Date is Sunday, December 3rd with step-off at 7 p.m.
3. SCAT dinner meeting, Victoria's; Rehoboth Beach, Wednesday, December 6th at 6 p.m.
4. Employee dinner, SVFD Banquet Hall, December 9th @ 5:30 p.m.

LEAF MACHINE WILL BE IN OPERATION STARTING OCTOBER 1ST THROUGH DECEMBER 31ST. In rain events help us to help you by clearing a catch basin or calling Public Works to have the catch basin cleaned at 302-629-8307 or after hours 302-629-4550.

COMMITTEE REPORTS:

1. **Police & Fire - Councilwoman Leanne Phillips-Lowe**
2. **Administration - Councilman Orlando Holland**
3. **Code, Parks and Recreation - Councilwoman Grace Peterson**
4. **Public Works & WWTF - Councilman William Mulvaney**
5. **Electric - Councilman Dan Henderson**

Mayor Genshaw solicits a motion to adjourn the regular council meeting.

NOTE: Agenda shall be subject to change to include or delete Additional items (including executive session) which arise at the time of the meeting. (29 Del. C. S1004 (e) (3))

Date Posted: 11/21/17 @ 4:00 p.m.

Posted by: TNT

PH-1
11-28-17

ORDINANCE #2017-0?

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SEAFORD, an ordinance to amend Chapter 15, of the Municipal Code of Seaford, Delaware relating to "Zoning", in the manner following, to wit:

Chapter 15 of the Municipal Code of Seaford, Delaware is hereby amended by adding language to Section 15-50 Uses by right (12) to read as shown on the following page.

11/14/2017	First Reading Date
??/??/20??	Second Reading Date & Adoption
??/??/20??	Advertisement Date
??/??/20??	Effective Date of Ordinance

CITY OF SEAFORD

By: _____
Mayor

Witness: _____

Attest: _____
City Manager

CHAPTER 15 - ZONING

ARTICLE 4 - INDUSTRIAL DISTRICTS

Division 1 - M-1 Light Industrial Districts.

§15-50. *Uses by right.*

(12) Handling, distribution or bulk storage of petroleum, natural gas, propane or similar petroleum products, chemicals and chemical products when properly screened from view by fencing or natural vegetation and when used in conjunction with one of the other permitted uses listed in items 1-11 above located on the same property.

Sale Contract
1st Addendum

N.B. 1
11-28-17

WHEREAS, Seller and Buyer entered into an Agreement for Sale of property, dated May 24, 2017 for the below described property.

Seller sells to Buyer and Buyer purchases from Seller the following described property situated in the City of Seaford, Sussex County, Delaware, and is being generally described as follows: Tax Map 531-10.00-236.00 located at the corner of Park Avenue and Nesbitt Drive, Seaford, DE 19973 consisting of approximately 2.68 ± acres Further Described in Exhibit 'A' of the Sale Contract.

WHEREAS, Buyer's Deposit of Five Thousand Dollars (\$5,000) shall be refundable for 180-Days during the Study Period.

WHEREAS, Settlement shall occur on or before the December 9, 2017.

WITNESSETH:

NOW THEREFORE, Buyer's Deposit of Five Thousand Dollars (\$5,000) shall become non-refundable on May 31, 2018.

NOW THEREFORE, Buyer's Deposit contributed toward the Purchase Price.

NOW THEREFORE, Settlement shall occur on or before the June 29, 2018.

NOW THEREFORE, All other terms and conditions remain the same.

SELLERS: CITY OF SEAFORD

Witness

Date

By: _____
City of Seaford

Date

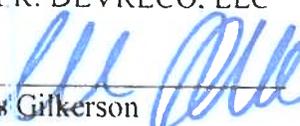


Witness

11/15/17

Date

BUYER: DEVRECO, LLC

By: 
Chris Gilkerson
Authorized Member

11/15/17

Date



414 High Street | PO Box 1100
Seaford, DE 19973
302.629.9173 fax 302.629.9307
www.seafordde.com

Agenda
11-22-17
N.B. 2

November 10, 2017

TO: Mayor and Council

FR: Dolores J. Slatcher, City Manager */LOP*

RE: Ross Community Event Center

All,

The memo is to request the City of Seaford provide funding towards the Ross Station Community Center parking lot that has an estimated cost of \$187,894.00, a copy of which is attached.

Representative Short, Representative Wilson, Senator Richardson and Senator Pettyjohn have allocated collectively \$142,000 in Community Trust Funds. Michael Vincent, President Sussex County Council donated \$8,000 to the Seaford Historical Society. The remaining unfunded balance is \$37,894.00. I would like to request the City provide this funding from the Street Franchise Fee Reserve. The City did give some land to the project but this cash contribution can be used towards their challenge funding. This too puts the City in partnership with the State and Sussex County funding.

The project will be bid and constructed by the City of Seaford as the administrator of the Community Trust Funds to assure all requirements are met. The project will not begin until the Seaford Historical Society has their funding and issues their construction documents. The City will need to coordinate closely with their engineer and representatives. This project should be set forth in the FY19 budget writing to account for the revenue and expenses.

Should you have any questions please let me know. Thanks.

Cc: Charles Anderson, ACM
June Merritt, DF
Berley Mears, DPWs

**Preliminary Cost Estimate
for
Ross Station Community Event Center
Seaford , Delaware**

Parking Lot and Entrance Loop						
<u>Item</u>	<u>Description</u>	<u>Size</u>	<u>Unit</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Mobilization	-	LS	1	\$ 12,000.00	\$ 12,000.00
2	Furnish & Install Erosion and Sediment Control Measures	-	LS	1	\$ 6,500.00	\$ 6,500.00
3	Clearing and Grubbing	-	Ac	0.92	\$ 2,000.00	\$ 1,840.00
4	Strip Topsoil and Stockpile	-	CY	1470	\$ 4.00	\$ 5,880.00
5	Furnish & Place Base Graded Aggregate Base Course (GABC) - Entrance Loop	8"	CY	80	\$ 45.00	\$ 3,600.00
6	Furnish & Place Base Course Asphalt Type B Hot Mix - Entrance Loop	2"	SY	360	\$ 15.40	\$ 5,544.00
7	Furnish and Place Surface Course Asphalt Type C Hot Mix - Entrance Loop	1-1/2"	SY	360	\$ 12.65	\$ 4,554.00
8	Furnish & Place Base Graded Aggregate Base Course (GABC) - Parking Lot	8"	CY	200	\$ 45.00	\$ 9,000.00
9	Furnish & Place Base Course Asphalt Type B Hot Mix - Parking Lot	2"	SY	880	\$ 15.40	\$ 13,552.00
10	Furnish and Place Surface Course Asphalt Type C Hot Mix - Parking Lot	1-1/2"	SY	880	\$ 12.65	\$ 11,132.00
11	Furnish and Place P.C.C. Curb and Gutter, Type 3	-	LF	447	\$ 32.50	\$ 14,527.50
12	Furnish and Place Concrete Sidewalk	5'	SF	2400	\$ 8.00	\$ 19,200.00

13	Furnish and Place ADA Handicapped Sidewalk Ramps	5'	EA	4	\$ 3,500.00	\$ 14,000.00
14	Furnish and Place Signage and Striping		LS	1	\$ 1,500.00	\$ 1,500.00

**Preliminary Cost Estimate
for
Ross Station Community Event Center
Seaford , Delaware**

Parking Lot and Entrance Loop						
<u>Item</u>	<u>Description</u>	<u>Size</u>	<u>Unit</u>	<u>Est. Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
15	Furnish and Place Wheel Stops		EA	22	\$ 120.00	\$ 2,640.00
16	Furnish and Install LED Streetlights		EA	3	\$ 3,750.00	\$ 11,250.00
17	Furnish & Install Bioswale for Stormwater Management	3'	LF	150	\$ 48.75	\$ 7,312.50
18	Furnish & Install Topsoil, Fertilizing, Seeding and Mulching	-	SY	3000	\$ 1.50	\$ 4,500.00
19	Contingency			10%		\$ 14,853
20	Subtotal - Construction Cost					\$ 163,386.00
21	Engineering - Design and Construction Phase Services			15%		\$ 24,508
22	Total Project Cost Estimate					\$ 187,894.00

N.B.3
11-28-17

**Wastewater Planning Advance
to
City of Seaford
for the preparation of a
Preliminary Engineering Report
for the
Upgrade and Expansion of the City’s Wastewater Treatment Facilities
Addendum**

THIS GRANT AGREEMENT (“Agreement”) is made as of _____, 2017 (“Effective Date”) by and between The State of Delaware, Delaware Department of Natural Resources, **Office of the Secretary** (“Grantor”), and **City of Seaford** (“Grantee”).

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds for the Water Infrastructure Advisory Council from the Non-Federal Administrative Account (NFAA) for Wastewater Planning Projects, pursuant to *Title 29 Del. C. § 8011* (“Water Infrastructure Advisory Council”).

WHEREAS, Grantee has made an application dated September 28, 2017 (“Application”) to Grantor for a Grant under the Wastewater Planning Advance (WPA) Program, in an amount not to exceed Thirty Three Thousand Dollars (\$33,000). The Grant funds shall be used by Grantee to carry out the preparation of an Addendum to the Preliminary Engineering Report for the Upgrade and Expansion of the City of Seaford’s Wastewater Treatment Facilities (“WPA Project”), as more completely described herein.

WHEREAS, Grantor, with consultation from the Water Infrastructure Advisory Council (“WIAC”), has (i) considered the Application under the criteria for the WPA Program, and (ii) resolved to Grant Thirty Three Thousand Dollars (\$33,000) to the Grantee in accordance with the terms and conditions of this Agreement and Attachments hereto.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Obligation(s) of Grantee.
 - (a) Grantee shall use the Grant Funds to carry out the Wastewater Planning Advance Project, to prepare an Addendum to the Preliminary Engineering Report (PER) for the Upgrade

and Expansion of the City of Seaford's Wastewater Treatment Facilities herein described and in the Application and Attachments hereto as Appendix A. The study shall include:

1. Evaluation of relevant information associated with Wastewater Treatment Facility performance, effluent limit derivation and BLM modeling to ascertain an appropriate course of action to obtain appropriate water quality based effluent limits for copper,
 2. The current NPDES permit with corresponding fact sheets and information on effluent dilution at the point of discharge.
 3. Facility performance data (flow, CBOD₅, TSS, Copper, pH, Ammonia-Nitrogen, TRC, and WET test results and reports) for the past five years.
 4. Monitoring data collected for BLM model and results prepared for DNREC.
 5. Comments and calculations related to determining the IWC for the BLM input parameter.
 6. Preparation and submittal of an Addendum to the previously prepared Preliminary Engineering Report.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Grantor's Grant Application Instructions; and (c) Grantee's Application for grant funds. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.
- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Wastewater Planning Advance Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations. Grantee shall solely bear the costs of permits and other relevant costs required in the performance of the Project.
- (e) Grantee shall keep accurate records of the expenditures of the grant funds. Appropriate internal control procedures should be established by the Grantee.
- (f) Grantee request for reimbursement of eligible expenses may be made upon completion of the project and the work is deemed acceptable to the Grantor.
- (g) Grantee is NOT required to provide a match toward the cost of development of the project as described in Appendix A. The Grantee may request up to 100% of the costs of the Project. The NFAA will be reimbursed 50% of the Project costs at the

time of closing of the subsequent Water Pollution Control Revolving Fund (WPCRF) loan.

- (h) All documentation supporting the claim for reimbursement must be kept readily available for examination by the State. The financial records, including all documents to support entries on the accounting records and to substantiate charges for each project, shall be included as part of the required documentation. All such records shall be retained and available for inspection for a period of three years after final payment.

2. Obligations of Grantor; Disbursement & Limitation of Grant Funds.

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Upon incurring eligible expenses, Grantee shall complete and submit to Grantor a "Wastewater Planning Advance Reimbursement Request Form," ("Reimbursement Request Form") attached hereto.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of a Reimbursement Request, Grantor agrees to pay the undisputed portion of the Reimbursement Request within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the Reimbursement Request within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$33,000) awarded to Grantee from the NFAA and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
- (e) Grantee shall submit its Final Reimbursement Request Form for all remaining "Eligible Project Costs," along with its "Final Project Report," within the grant timeframe. Any awarded Grant Funds remaining after Grantor has made its final reimbursement to Grantee shall be returned to the Non-Federal Administrative Account.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

Project is in violation of any federal, state, or local law or rule; or creates a risk to the public health, safety or environment.

- (g) Grantor is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, including the issuance of a Purchase Order allocating the Grant Funds, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Reimbursement Request Form; or for One (1) year from the date on the Purchase Order, whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in the writing.

4. Independent Status. It is understood that Grantee is an independent entity, and is not an agent or employee of Grantor. Grantee shall complete the Project in its own manner and method. Grantee shall be solely responsible for, and shall indemnify, defend and save Grantor harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

5. Modifications. Grantee shall provide written notice to Grantor within a reasonable time not to exceed Thirty (30) days of planned changes or modifications which impact the scope, purpose, objectives, or nature of the Project for which the Grant Funds were awarded. If Grantor determines that the changes or modifications are of such significance as to no longer qualify the Project for Grant Funds, Grantor may terminate this Agreement in its discretion.

6. Assignment. Any attempt by Grantee to assign or otherwise transfer any interest in this Agreement without the prior written consent of Grantor shall be void.

7. Termination.

- (a) Grantor may, by written notice to Grantee, terminate this Agreement if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Grantee or any agent or representative of Grantee to any officer or employee of the State of Delaware or Grantor with a view toward securing a contract or securing favorable treatment with respect to the awarding of Grant Funds or making of any determinations with respect to the performance of this Agreement.

- (b) If sufficient funds are not appropriated by the Delaware General Assembly, or other appropriate federal or state agency, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this

Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.

- (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
 - (e) As part of this Agreement, the Grantee is required to submit a Notice of Intent (NOI) and subsequent WPCRF loan application for the aforementioned project as directed by the Grantor. The Grantor shall have the right to terminate this Agreement for failure to comply with this requirement.
8. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.
9. Insurance.
- (a) Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or

5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 6. If required to transport state employees, Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
- (b) Grantee shall provide Forty-Five (45) days written notice of cancellation or material change of any policies.
- (c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement Number stated herein, shall be filed with the State. The certificate holder is as follows: DNREC, Office of the Secretary.
- (d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.
10. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the addresses set forth below:

If to Grantor:

Greg Pope, PE
Environmental Finance
DNREC/Office of the Secretary
5 E. Reed St, Suite 200
Dover, DE 19901
Phone: 302-739-9941

If to Grantee:

City of Seaford
Dolores Slatcher, City Manager
414 High Street, P.O. Box 1100
Seaford, DE 19973
Phone: (302) 629-9173

11. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
12. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and

understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
14. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
15. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
16. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 8 "Indemnification;" Section 13 "Governing Law."
17. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) As part of this Agreement, the Grantee is required to submit a Notice of Intent (NOI) and subsequent WPCRF loan application for the aforementioned project as directed by the Grantor. Should the WPCRF loan not proceed for the reason of an unsuccessful borrowing referendum or for reasons beyond the control of the Grantee

(and acceptable to the Grantor), 100% of the Project costs will be forgiven without further stipulation.

[This section left intentionally blank, signatures follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

**GRANTOR
STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

Witness: _____

Name: _____

Title: _____

Date: _____

Date: _____

**GRANTEE
CITY OF SEAFORD**

 _____

Witness: _____

Name: Dolores J. Slatcher

Title: City Manager

Date: _____

Date: 11/14/17

N.B.S
11-28-17

ORDINANCE #2017-??

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SEAFORD, an ordinance to amend Chapter 5, of the Municipal Code of Seaford, Delaware relating to "Regulation of Involuntary Payments Required of Employees , in the manner following, to wit:

Chapter 5; Article 5 of the Municipal Code of Seaford, Delaware is hereby included as provisions in City Code § 5.5.1 through 5.5.12, to read as shown on the following pages.

11/28/2017	Date of First Reading
??/??/20??	Date of Second Reading & Adoption
??/??/20??	Date of Advertisement
??/??/20??	Date the Ordinance is Effective

CITY OF SEAFORD

By: _____
Mayor

Witness: _____

Attest: _____
City Manager

N.B. 5
11-28-17

Draft Ordinance

ORDINANCE NO. __

AN ORDINANCE RELATING TO THE PROMOTION OF ECONOMIC DEVELOPMENT AND COMMERCE BY REGULATION OF CERTAIN INVOLUNTARY PAYMENTS REQUIRED OF EMPLOYEES IN THE CITY OF SEAFORD

WHEREAS, the City of Seaford as set forth in its Charter has assumed pursuant to Title 22 Section 802 of the Delaware Code all of the powers of the State that are not specifically prohibited by statute;

WHEREAS, Section 3 of the Charter of the City of Seaford confers upon City Council the exercise of all powers under the City Charter

WHEREAS, it is the intent of this Ordinance to provide that no employee covered by the National Labor Relations Act be required to join or pay dues to a union, or refrain from joining a union, as a condition of employment;

WHEREAS, the City Council desires to promote economic development and worker freedom within all of the City of Seaford, directly and in cooperation with public and private entities promoting the City of Seaford and its resources, its people, and its many geographical and cultural advantages;

WHEREAS, the City of Seaford and its residents compete for the expansion of employment opportunities with other cities, counties, and states (including states such as Michigan, Kentucky, Indiana, and a majority of the other states in the U.S.) whose citizens benefit from the protection under similar right to work legislation, and the City of Seaford desires to compete on a level playing field with other cities, counties, and states that have enacted such right to work legislation;

WHEREAS, the City Council believes that right to work legislation is not “anti-union” legislation, but actually could lead to healthier, more robust unions who freely compete for employee membership; and

WHEREAS, the City Council of Seaford hereby finds and determines that it is in the best interest of the citizens of the City of Seaford to promote and encourage direct commerce for the protection and convenience of the public, by giving employees in the private sector covered by the National Labor Relations Act freedom to choose employment without restraint or coercion regarding the payment of mandatory dues, fees, or other payments to a labor organization as a condition of that employment; and

WHEREAS, the City Council believes that the goals of the foregoing can be furthered through the passage of this Ordinance and amending the City Code as provided for herein;

NOW, THEREFORE, THE CITY OF SEAFORD HEREBY ORDAINS:

Section 1. Declaration of public policy. It is hereby declared to be the public policy of the City of Seaford in order to ensure individual freedom of choice in the pursuit of employment, for the protection and convenience of its citizens who desire the broadest choice of employment opportunities, to permit its citizens to choose to increase their real take home pay by decreasing mandatory payroll deductions in order to stimulate savings and economic growth, and to encourage an employment climate conducive to the economic development of the City of Seaford, including recruiting new businesses to the City of Seaford, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

Section 2. Terms. The terms “employee,” “employer,” “labor organization,” and “person” as used in this chapter shall have the same meanings as defined by the National Labor Relations Act. The terms “employee”, and “employer”, do not refer to public employees or public employers.

Section 3. Freedom of choice guaranteed, discrimination prohibited. No person covered by the National Labor Relations Act in the City of Seaford shall be required as a condition of employment or continuation of employment:

- (a) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
- (b) to become or remain a member of a labor organization;
- (c) to pay any dues, fees, assessments or other charges of any kind or amount to a labor organization; or
- (d) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.

Section 4. Voluntary deductions protected. It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer, with the following exception:

1. If the card on its face clearly states that it is irrevocable for a period of up to one year after its effective date, that shall be the maximum period of time an employee is prohibited from ceasing payroll deductions;
2. Notwithstanding the foregoing, an employee’s express choice to revoke his authorization is to be given effect as soon as the period of irrevocability passes.

Section 5. Agreements in violation, and actions to induce such agreements, declared illegal. Any agreement, understanding or practice, written or oral, implied or expressed, between any labor

organization and employer that violates the rights of employees as guaranteed by provisions of this Article is hereby declared unlawful, null and void and of no legal force or effect.

Section 6. Coercion and intimidation prohibited. It shall be unlawful for any person, labor organization or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee's or prospective employee's parents, spouse, children, grandchildren or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to an employee's or prospective employee's property, to compel or attempt to compel such employee to join, affiliate with or financially support a labor organization or to refrain from doing so, or otherwise to forfeit any rights as guaranteed by provisions of this Article. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.

Section 7. Penalties.

A. Any person who shall violate a provision of this Article and/or fails to comply with any notice of violation shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of \$250 for the first conviction; \$500 for the second conviction; \$1,000 for the third conviction; and for the fourth and any subsequent conviction of the same violation that has still not been corrected, the fine for such conviction shall be \$2,500. The fines specified herein for the second through fourth convictions shall not be suspended. Upon conviction of a first violation of this Article, the court may order the defendant to correct the violation by a certain date, not to exceed 10 days from the date of the conviction. Jurisdiction over the enforcement of this provision shall be in the Justice of the Peace Courts of the State of Delaware.

B. In addition to prosecuting a violator in the Justice of the Peace Courts, the City Manager, or his/her designee, is authorized, but is not required, to institute appropriate proceedings at law or in equity to restrain, correct, abate or enjoin a violation or to require the removal of the offending condition at the expense of the person who is found to be in violation of these provisions. If the City prevails, the Court shall order the violator to pay the City's reasonable attorney's fees and costs of the action.

C. The penalties set forth in this section shall not affect the City's right to also recover expenses incurred pursuant to this chapter.

Section 8. Civil remedies. Any individual harmed as a result of any violation or threatened violation of the provisions of this Article shall have the right to pursue in a court of competent jurisdiction a civil cause of action to enjoin further violations and to recover the damages sustained, together with the cost of the lawsuit, including reasonable attorneys' fees. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this Article.

Section 9. Duty to investigate. It shall be the duty of the City Manager, or his/her designee, to investigate complaints of violation or threatened violations of this Article and to take all means at his/her command to ensure the effective enforcement of this Article.

Section 10. Prospective application. The provisions of this Article shall apply to all contracts entered into after the effective date of this Article by employers or labor organizations covering employees within this City and shall apply to any renewal or extension of any such contract.

Section 11. Severability. If any provision of this Article, or application thereof to any person, entity or circumstances, shall be invalid or unenforceable to any extent, the remainder of this Article, and the application of such provision to other persons, entities or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 12. When effective. This Article shall take effect 30 days after an advertisement is published in a newspaper with local circulation informing the public of the adoption of this Article by City Council.

Section 13. Inclusion of provisions in City Code. The provisions of §§ 1 through 12 of this Ordinance are hereby made Chapter 5, Article 5 – Regulation of Involuntary Payments Required of Employees, and the sections shall be number §§ 5.5.1 through 5.5.12.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORDINANCE NO. __ ADOPTED BY THE CITY COUNCIL OF SEAFORD ON THE __ DAY OF ____ 2017.

SECRETARY TO THE COUNCIL