

REVISED - 9/14/2020

**AGENDA
REGULAR MEETING OF THE MAYOR AND COUNCIL
September 22, 2020
SEAFORD CITY HALL - 414 HIGH STREET**

The meeting will be streamed via live feed.

To view a live meeting visit one of the links below:

- On our website: www.seafordde.com/meetinglivefeed
- On Facebook: www.Facebook.com/cityofseaford
- On YouTube: <https://www.youtube.com/channel/UCmTD6-NSvIMLwLSg3FUCzIA>

To view this meeting agenda and supporting documentation visit our website:

www.seafordde.com/meetings_and_agendas

Comments and questions may be mailed to:

Councilinfo@seafordde.com

- 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.
 - Changes to agenda for this meeting.
 - Approval of minutes of the regular meeting on September 8, 2020.

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

CORRESPONDENCE:

- 1.

PUBLIC HEARING:

1. Belle Ayre Investments LLC., is seeking a Rezoning request of fifty-one (51) single family lots from and R-1 Low Density Residential Zoning to R-3 High Density Residential Zoning, Tax Map and Parcel # 531-10.00-407.00 thru 464.00 to accommodate the proposed building of one hundred thirty -two (132) townhome units.
2. Belle Ayre Investments LLC., is seeking a Sketch Site Plan Review for fifty-one (51) lots to be redeveloped into one hundred thirty-

AGENDA

REGULAR MEETING OF THE MAYOR AND COUNCIL

September 22, 2020

two (132) townhome units; to be built on Tax Map and Parcel # 531-10.00-407.00 thru 464.00.

3. Annexation request from Sapan Shah for annexation of SCTM# 331-3.00180.00; 22512 Sussex Highway (Sunrise Motel) Seaford, DE 19973.

NEW BUSINESS:

1. Mr. Charles Kistler from Help Initiative to present a MOU between the City and HELP Initiative to support implementation and program management of a portfolio of programs.
2. Present for approval a contract for construction phase services for Phase I of the Oyster House Park Project with Landscape Architectural Services.
3. Bids - SVFD Roof and Drainage Renovation.
4. First reading of proposed ordinance revisions to the Municipal Code - Division 3; High Density Residential District, Section 15-26 Area and bulk regulations to change the permitted dwelling units per acre, setbacks, site coverage, habitable floor area, exterior materials, safety improvements and site amenities.
5. Present for approval a resolution in support of a partnership with the Parks Resource Office, State Division of Parks and Recreation under the Outdoor Recreation, Parks and Trails Grant Program for construction of Phase 1 for the Oyster House Park and installation of fencing and sidewalk at the Seaford Sports Complex.

OLD BUSINESS:

1. Council to review the information provided by City Clerk, Tracy Torbert regarding the voter registration process and determine if staff should prepare a charter change to transition to the State

AGENDA

REGULAR MEETING OF THE MAYOR AND COUNCIL

September 22, 2020

Voter Registration database for the April 2022 Municipal election or continue to use the Book of Registered Voters and provide additional registration options to City voters.

REMINDER OF MEETINGS & SETTING NEW MEETINGS:

1. SCAT Meeting, October 7th at SVFD Banquet Hall starting at 6:00 p.m.

LIAISON REPORTS:

1. Police & Fire - Councilman Dan Henderson
2. Administration - Councilman Jose Santos
3. Code, Parks and Recreation - Councilman Orlando Holland
4. Public Works & WWTF - Councilman James King
5. Electric - Councilman Matt MacCoy

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: 9/14/2020

Posted by: TNT



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

August 13, 2020

The Honorable David C. Genshaw
Mayor
City of Seaford
Seaford, DE 19973

*PH # 3
9.22.2020*

Dear Mayor Genshaw,

We, a Committee appointed by you on June 14, 2020 to investigate the possibility of annexing certain lands into the City of Seaford limits, would like to present the following report:

PETITIONER AND LOCATION OF LANDS:

Petitioner:	Sapan Shah 22512 Sussex Highway Seaford, DE 19973
Owner:	Sapan Shah 22512 Sussex Highway Seaford, DE 19973
Sussex County Tax Map Address:	Parcel # 331-3.00-180.00 22512 Sussex Highway Seaford, DE 19973
Total Acreage:	1.64 +/-

REASON FOR ANNEXATION

The submitted annexation paperwork dated June 15, 2020 states that the property petitioner's reason for requesting annexation is to obtain City utilities.

STREETS AND ROADWAYS:

The property identified for annexation is located adjacent to Sussex Highway and contains a commercial building (motel) and other ancillary facilities. The Department of Transportation must approve any new or revised entrances on the roadway listed above, as it is State maintained. Any proposed development has the potential of imposing additional traffic on the adjoining roads and intersections. Anyone planning to develop any project on this land is encouraged to contact the Delaware Department of Transportation prior to formulating their plans or purchases. The

parcel proposed for annexation is shown on the attached Sussex County Tax Map. The City of Seaford does not expect to construct any new streets to accommodate development of this land.

STORM WATER DRAINAGE:

There is not a municipal storm water system in close proximity to these lands. Any storm water management system to serve these lands will have to be designed by the developer and approved by the Sussex Conservation District office. As in all projects, the regulations require the site to discharge the same quantity of storm water post-development as the property discharges pre-development. The prevailing regulations of the Sussex County Soil Conservation District will be imposed on this project.

ZONING:

The proposed area of annexation is zoned as listed:

TMP#: 531-12.00-40.00

Current Sussex County Zoning: General Business

Requested City of Seaford Zoning: C-2 Highway Commercial District.

The City of Seaford Council may have to zone the land through the City's Municipal Code following annexation, pending legal advice.

ELECTRIC:

Currently the subject parcel receives electrical service from Delmarva Power. Upon annexation the City will amend its service territory agreement with Delmarva Power through the Public Service Commission to include the annexed lands. Any development after the amendment of that agreement would be serviced by the City of Seaford. Current City policy is to plan for effective growth by working out phasing plans with developers that accommodate development in the most cost-effective manner possible. All electrical design will be completed at the cost of the developer in accordance with City rules and regulations.

SEWER:

The City of Seaford currently has a gravity sewer main near the subject property. This facility services the Lowes development located south of the subject lands. The City of Seaford municipal sewer system is the only publicly owned system in the area. Once annexed these lands would be eligible to be tied into the municipal sewer system. The extension of sewer mains and the construction of lift stations (if required) are considered a part of the project development cost and the owner should give careful review and consideration for sewer connections. Connection of any new buildings located on the site will be contingent on approved connection plans and available capacity of the wastewater treatment system. The City of Seaford's wastewater treatment plant's capacity is 2.0 M gallons per day for secondary treatment and nutrient limitations; current average daily flows are approximately 1.1 MGD. The estimated daily flows from the site would have to be provided to the City. Planning of the service mains would have to be performed by the owner and approved by the City prior to any construction. The owner would be expected to pay all associated fees. The Building Official will develop a fee assessment for the project upon request with proper information provided.

The owners and/or developers should prepare professional engineering studies to confirm the cost of extending sewer collector mains, and if needed the installation of a sewage lift station on the basis of inadequate fall for gravity mains. The system should be studied from the point of discharge into the system to the point of treatment at the plant. All improved properties are expected to be served by the municipal sewer system within one year of annexation, or as soon as development occurs.

The City of Seaford's current practice is for the developer or owner to extend mains that are sized for the project needs. The City reserves the right to review plans and oversize mains and/or lift stations at their cost to extend sewer service to other areas they designate.

A final review will be made by the City to determine sewer concentrations of the proposed discharge to the municipal system. In some cases, pretreatment may be required prior to discharge. This will be determined once the use of the lands is identified. All final fees will be assessed and permits for connecting to the municipal sewer system will be issued by the City Building Official.

WATER:

The City of Seaford has an existing water main near the subject property. A 16" water main is located in the Sussex Highway right-of-way (on the north bound side) adjacent to the site. In addition, a 10" water main exists to the south of the subject property serving the Lowes complex. The City's water supply is sufficient to support development. However, the necessary distribution system extension to include mains and the water tap serving the facility would have to be provided by the developer. Planning of the service connections would have to be performed by the owner of the lands and approved by the City prior to any connection. The owner would be expected to pay all associated construction and connection fees.

EASEMENTS:

The owner will need to provide the City the necessary easements prior to acceptance of any streets, water mains, sewer mains, and electric installations (if applicable). These should include a survey sealed by a licensed Delaware surveyor with a written legal description of lands being given. The easement document must stipulate that no permanent structures can be built within the easement area(s).

PROPERTY TAX:

The lands will be taxed based on the City assessment following the annexation. The assessment would be based on the value of the land and improvements as per City zoning. The current designated land use by the Sussex County Tax Assessment office is as follows:

TMP#: 331-3.00-180.00
Commercial

No real estate property taxes can be determined until City assessment occurs. The City hires a professional assessor to determine the value of assessment on lands. Therefore, staff cannot advise as to any potential tax billings for the subject lands. These will be based on improvements and land values that are subject to change per improvements and changes in zoning. The City's current real estate property tax rate is \$0.34 per \$100.00 of 100% assessment based on 2019

market values. There is an exemption for non-profit entities. A final review and approval must be granted by the Tax Assessor of the City of Seaford

COMPREHENSIVE PLANS REVIEW

The City of Seaford Comprehensive Plan

The Annexation Plan designates the subject property in the Town Center District. The Land Use Plan identifies the area that the subject property is located in as commercial. The requested zonings of C-2 per City Zoning regulations would be consistent with the objectives of the plan.

Copies of the above referenced maps are attached hereto.

ADVANTAGES TO THE CITY:

These are not listed in any particular order of priority:

1. The City may benefit from an increased tax base.
2. There is the opportunity to provide utility services (electricity, water and sewer) to the parcel and spread the cost of service over a larger user base. It will allow the City to be positioned to serve additional lands adjacent but not in the City by the extension of the utilities to this property.
3. There is local control of development at the local municipal level by having authority over it; being able to implement the municipal codes to maintain the property based on complaints received.
4. This area would be served by the Municipal Police force, which will reduce property owner confusion and minimize dispatcher time (currently the area is serviced by the State Police, which is confusing to the property owners who have a Seaford address but are not within the City limits).
5. The governing body that will be the most impacted by the land use decisions will be making those decisions.
6. This is in keeping with Livable Delaware and minimizing sprawl.

DISADVANTAGES TO THE CITY:

These are not listed in any particular order of importance:

1. With continued growth, the City will have to expand personnel to provide all of the expected services.
2. The expansion may increase the operating and capital budgets. In addition, it will increase the area for City departments to serve.
3. Traffic may increase on area roads in the event that a redevelopment of the property occurs.
4. If the property redevelops, accidents could increase without improvements to the adjoining roads and intersections. A traffic plan should be prepared if development is planned.
5. There will be an added number of requests to the City for reviews of plans, service extensions, Code, and Police services.

ADVANTAGES TO THE AREA PROPOSED FOR ANNEXATION:

This is not intended to be inclusive of all of the advantages, but to be a represented sampling of some of the advantages to the area proposed for annexation.

1. The area will receive all utility services from one owner so coordination of services will be less complicated.
2. They will be provided local police protection with anticipated shorter response time.
3. All permitting will be coordinated through the City.
4. Support will be provided in obtaining other agency permits.
5. Checklist will be provided for development.
6. The local government will do the zoning of the lands.
7. Snow removal on all City owned public streets, leaf and limb pickup at the curb, and maintenance, such as paving, pavement markings, etc., on the City streets will be provided by the City.
8. All complaints will be made to the City.
9. The property owners will receive local representation for concerns through the elected officials who have to live in the community.
10. They will benefit from the municipal water and sewer services, once extended by the owner.

DISADVANTAGES TO THE AREA PROPOSED FOR ANNEXATION:

1. They will have to adhere to local codes and ordinances, in building and maintaining facilities, which may be perceived as additional paperwork and more restrictive.
2. They will have only one vendor for utilities – water, sewer and electric.
3. They will have to adhere to more restrictive codes in placement of outside storage and appearance of property.

RECOMMENDATION:

The committee members unanimously agree to proceed with the proposed annexation process for this property. The committee members further recommend that the property be zoned C-2 Highway Commercial, in accordance with the City Zoning Ordinance upon annexation.

PUBLIC HEARING:

A Public Hearing will be held to fully explain what area is being proposed to be annexed into the City of Seaford. As part of the State of Delaware's Land Use Planning Act, the Plan of Services information will be submitted to the State of Delaware Planning Office for all State agencies to review and submit comments to the City.

DISCLAIMER:

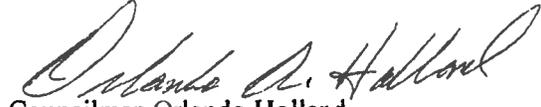
The annexation committee reviews solely the annexation of lands into the territorial limits of the City of Seaford. They do not review projects for any endorsement as part of the annexation process. Any projects that may be presented for the land once they are annexed into the City of Seaford will follow the normal process for development, including Planning and Zoning and City Council Public Hearings to allow the public the opportunity to comment on the project proposal.

If you have any additional questions, feel free to contact me.

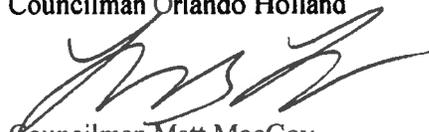
Respectfully Submitted,
THE CITY OF SEAFORD

A handwritten signature in black ink, appearing to read "Dan Henderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Councilman Dan Henderson, Chairman

A handwritten signature in black ink, appearing to read "Orlando D. Holland". The signature is cursive and somewhat stylized.

Councilman Orlando Holland

A handwritten signature in black ink, appearing to read "Matt MacCoy". The signature is cursive and somewhat stylized.

Councilman Matt MacCoy

NB# 1
9-22-2010

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MEMORANDUM OF UNDERSTANDING), hereinafter referred to as the Memorandum, entered into on _____ (effective date), by and between HELP Initiative, Inc. residing at 101 W. Loockerman, Suite 1B, Dover Delaware 19904, hereinafter referred to as the "HELP," and City of Seaford located at 414 High Street, City Hall, Seaford DE 19973 hereinafter referred to as the "CITY", and collectively known as the "Parties" for the purpose of establishing and achieving a Scope of Work relating to the Project named "Unified Delaware" Campaign.

WHEREAS, the Parties desire to enter into the herein described agreement in which they shall work together to accomplish a common purpose and Scope of Work set forth;

AND WHEREAS, the Parties have a need to establish an understanding, thus setting out all necessary working arrangements that both Parties agree shall be necessary to complete this project;

1. PURPOSE

The Parties to this Memorandum of Understanding intend to establish a mutual working relationship that would provide a unified framework of services including Lights-ON, Health-ON, Weatherization-ON and Heat-ON programs.

2. SCOPE OF WORK

The Parties shall work together to carry out the Scope of Work as detailed in Attachment "A" Scope of Work.

3. FUNDING OBLIGATION

The City of Seaford shall provide In-Kind resources to support HELP for the Unified Delaware campaign as outlined on Attachment "B" Seaford In-Kind Resources.

4. RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES

It is the desire and the wish of the aforementioned Parties to this Memorandum of Understanding Agreement that this document should not and thus shall not establish nor create any form or manner of a formal agreement or indenture, but rather an agreement between the Parties to work together in such a manner that would promote a genuine atmosphere of collaboration and alliance in the support of an effective and efficient partnership and leadership meant to maintain, safeguard and sustain sound and optimal managerial, financial and administrative commitment with regards to all matters related to this project.

5. TIMELINE

The above outlined scope and objective shall be contingent on the Parties obtaining the necessary Funds and In-Kind resources required for the project as described within any grant or business loan application, if any. Responsibilities under this Memorandum of Understanding may coincide with the funding period.

6. TERMS OF UNDERSTANDING

The term of this Memorandum of Understanding shall be for a period of one (1) year from the effective date and may be extended upon written agreement of both Parties.

7. AMENDMENT OR CANCELLATION OF THIS MEMORANDUM

This Memorandum of Understanding may be amended or modified at any time in writing by mutual consent of both parties.

In addition, the Memorandum of Understanding may be cancelled by either party with 30 days advance written notice, with the exception where cause for cancellation may include, but is not limited to, a material and significant breach of any of the provisions contained herein, when it may be cancelled upon delivery of written notice to the other party.

8. GENERAL PROVISIONS

The Parties acknowledge and understand that they must be able to fulfill their responsibilities under this Memorandum of Understanding in accordance with the provisions of the law and regulations that govern their activities. Nothing in the Memorandum is intended to negate or otherwise render ineffective any such provisions or operating procedures. The parties assume full responsibility for their performance under the terms of this Memorandum.

If at any time either party is unable to perform their duties or responsibilities under this Memorandum of Understanding consistent with such party's statutory and regulatory mandates, the affected party shall immediately provide written notice to the other party to establish a date for resolution of the matter.

9. NON-DISCRIMINATION PROVISIONS

HELP will not discriminate against any employee, volunteer or recipient/prospective recipient of services under this agreement because of race, creed, color, religion, citizenship status, gender, age, national origin, ancestry, disability, sexual orientation, gender identity or expression, marital status, pregnancy, military veteran status, political beliefs or affiliation, genetic history, or other characteristic protected by law. These protections apply to all areas of employment, including recruitment, hiring, training and development, promotion, transfer, dismissal, layoff, compensation, benefits, social and recreational programs.

10. COMPLIANCE WITH THE LAW

Parties shall comply with all applicable federal, state, and local laws, ordinances, codes, and regulations.

11. CONFLICT OF INTEREST/POLITICAL ACTIVITY

The elected officials, public officials, employees and agents of the City shall comply with all applicable laws and regulations relating to conflicts of interest with regard to the work and compensation covered by this Agreement.

HELP shall not use the compensation paid through this Agreement for political activities or legislative activities. For the purpose of this Agreement, the terms "political activities" and "legislative activities" shall have the meanings ascribed to them by the Internal Revenue Service.

12. INSURANCE

During the entirety of the period covered by this Agreement, the HELP shall maintain in full force and effect liability insurance providing coverage against all claims for damage to both persons and property caused by the agents and employees of the HELP. Liability insurance coverage shall be in an amount not less than one million dollars per episode (\$1,000,000.00). Upon request of the CITY, the HELP shall furnish the CITY with copies of such policies or, if the CITY so chooses, a Certificate of Insurance evidencing proper insurance coverage, and shall name the CITY as an additional insured or certificate holder on said policies.

13. INDEMNIFICATION

The HELP shall indemnify and hold the CITY harmless from any and all liabilities, suits, judgments, costs and expenses, including attorneys' fees arising from the HELP's performance of this Memorandum of Understanding or any act, omission or negligence of the HELP's employees, officers, subcontractors or licensees.

14. NOTICE

Any notice or communication required or permitted under this Memorandum shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such address as one may have furnished to the other in writing.

15. GOVERNING LAW

This Memorandum of Understanding shall be governed by and construed in accordance with the laws of the State of Delaware.

16. SEVERABILITY CLAUSE

In the event that any provision of this Memorandum of Understanding shall be deemed to be severable or invalid, and if any term, condition, phrase or portion of this Memorandum shall be determined to be unlawful or otherwise unenforceable, the remainder of the Memorandum shall remain in full force and effect, so long as the clause severed does not affect the intent of the parties. If a court should find that any provision of this Memorandum to be invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed and enforced as so limited.

17. ASSIGNMENT

Neither party to this Memorandum of Understanding may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

18. ENTIRE UNDERSTANDING

The herein contained Memorandum of Understanding constitutes the entire understanding of the Parties pertaining to all matters contemplated hereunder at this time. The Parties signing this Memorandum of Understanding desire or intend that any implementing contract, license, or other agreement entered between

the Parties subsequent hereto shall supersede and preempt any conflicting provision of this Memorandum of Understanding whether written or oral.

19. AUTHORIZATION AND EXECUTION

The signing of this Memorandum of Understanding does not constitute a formal undertaking, and as such it simply intends that the signatories shall strive to reach, to the best of their abilities, the goals and objectives stated in this Memorandum of Understanding.

This Agreement shall be signed by HELP Initiative, Inc. and the City of Seaford and shall be effective as of the date first written above.

(HELP Signature)
HELP Initiative, Inc.
Charles T. Kistler, Executive Director

(Date)

(CITY Signature)
City of Seaford

(Date)

ATTACHMENT A: SCOPE OF WORK

1. **Lights-ON Campaign** – promote, outreach, educate and install energy efficiency lighting measures for those residents that need improved public safety and reduced energy burden.
2. **Health-ON Campaign** – promote, outreach, educate and perform healthy home assessments for those residents that have hazards (i.e. trip and fall, mold, asthma) and need a formal scope of work that can be referred to service providers with funding to remediate the problem.
3. **Weatherization-ON Campaign** – promote, outreach, educate, intake and enroll those residents that have energy inefficient homes with high energy usage and health and safety concerns.
 - a. Pre-Weatherization services will be provided to those residents whose home is deferred during the Weatherization audit based on specific deferral guidelines.
4. **Heat-ON Campaign** – promote, outreach, educate, coordinate with State Service Center to enroll, and perform an assessment to determine those residents that have heating units that need either repair or replacement services.

ATTACHMENT B: SEAFORD IN-KIND RESOURCES

1. Lights-ON Campaign

- a. Seaford to provide working relationship with the Police Department during the installation phase to communicate and track installation crew activity
- b. Seaford to provide crime reporting monthly for HELP to evaluate and map outcomes using Esri ArcGIS applications
- c. Seaford to provide the installation and target areas managed by the Utility Department streetlight retrofits process so HELP can plan installation plan installations to achieve maximum lighting within a specific target area (i.e. Woodside Manor, Martin Farms)
- d. Seaford to provide access to Code Enforcement during the installation of solar lighting measures for vacant properties.

2. Health-ON Campaign

- a. Seaford to provide working relationship with Fire Department to identify those homes with health and safety hazards that could result in HELP performing a healthy home assessment and refer the resident for remediation of hazards
- b. Seaford to provide a handoff to local hospital for HELP to identify homes with health and safety hazards based on readmissions to the Emergency Room

3. Weatherization-ON Campaign

- a. Seaford to provide HELP with access to the City Hall lobby during high periods of service disconnections so HELP can provide outreach, education and schedule energy audits and weatherization services.
- b. Seaford to provide access to Code Enforcement for HELP to identify those homes with energy and home performance issues that would be good candidates for the weatherization process.

4. Heat-ON Campaign

- a. Seaford to provide HELP with access to the City Hall lobby during high periods of service disconnections so HELP can provide outreach, education and schedule assessments for heating repair and replacement services.
- b. Seaford to provide access to customer service representatives who can provide information on residents with heating issues during the winter months.

ATTACHMENT C: REPORTING REQUIREMENTS

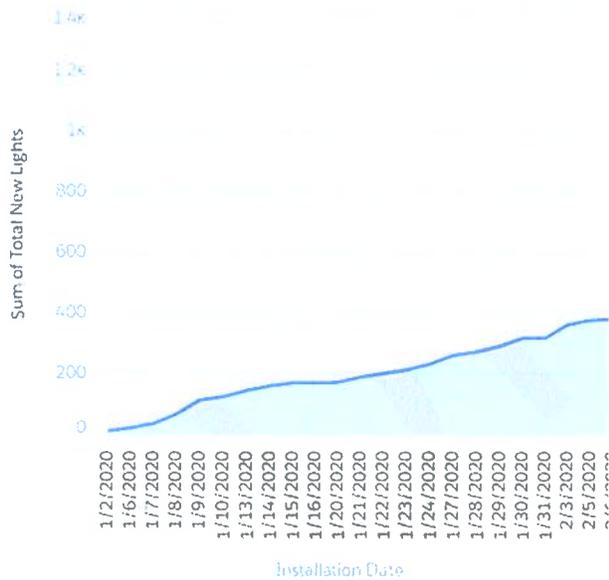
1. Monthly Reporting to include the following deliverables:

- Status Report* – will include program points of contact, work completed, work in process, partnership opportunities, quality control issues, program concerns and milestone schedule updates
- Work Completed Report by Program* – comprehensive list of those properties installed with measures by program type including Lights-ON, Health-ON, Weatherization-ON and Heat-ON services.

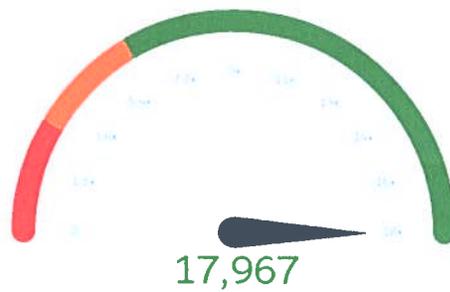
2. Contributions to City of Seaford Public Relations material to include:

- Monthly energy activity dashboard including total number of Energy Efficiency (EE) Lighting Measures installed and deemed energy savings (see illustrations below)
- Testimonials from the recipients of EE lighting measures
- Testimonials from Stakeholder organization actively participating in the Lights-On Program

Timeline New Lights Installed

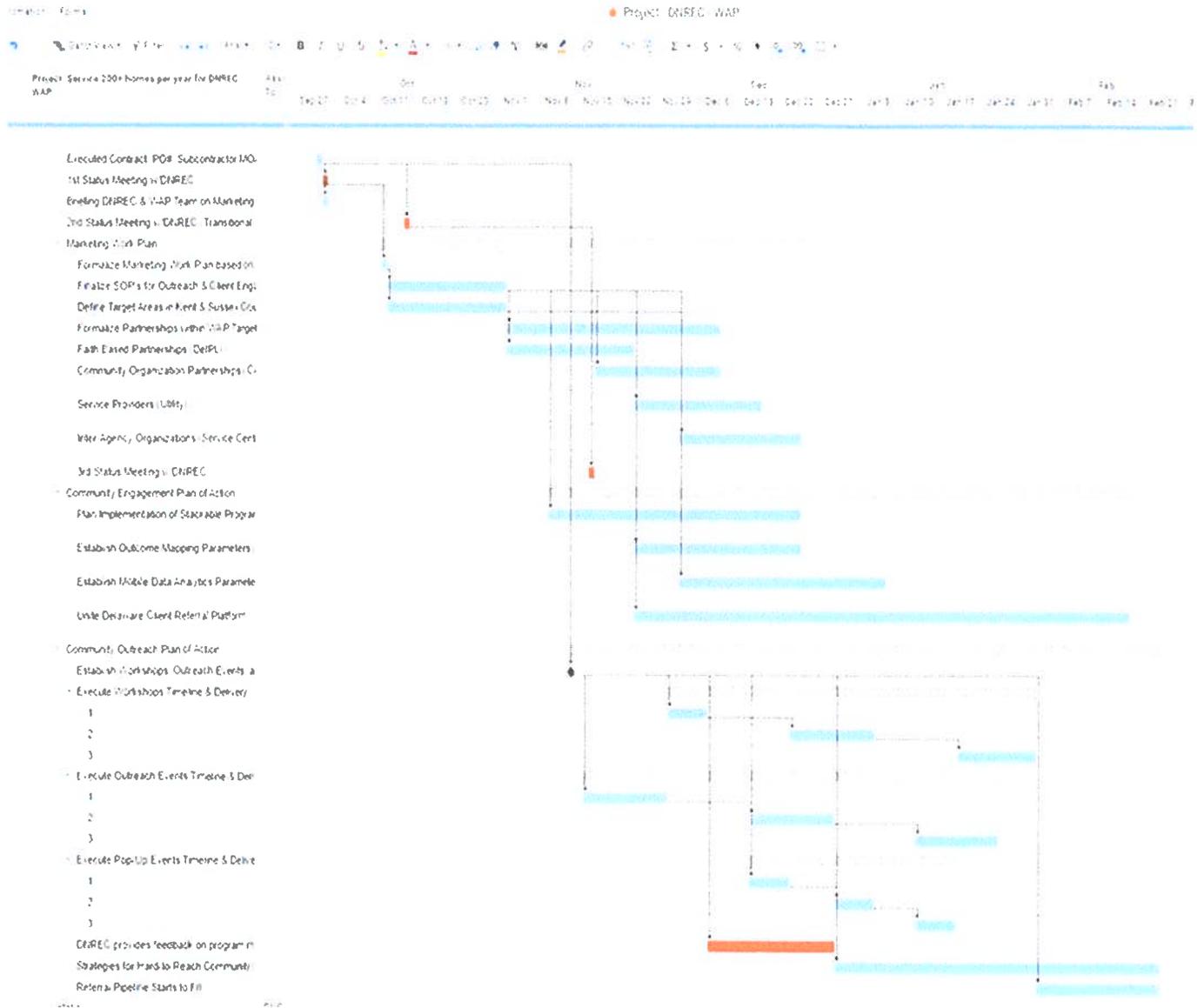


New Lights Watts



ATTACHMENT D: MILESTONE SCHEDULE

Weatherization-ON Campaign



Note: (1) Milestone schedule for Lights-ON, Health-ON, Weatherization-ON and Heat-ON programs will be contingent on a fully executed contract and purchase order by each funding agent.

 **AIA**® Document B104™ – 2017

NB# 2
9-22-2020

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the 18 day of September in the year 2020
(In words, indicate day, month and year.)

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

City of Seaford
414 High Street PO Box 1100
Seaford, Delaware 19973
Attn: Charles Anderson, City Manager

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

Landscape Architectural Services, LLC
PO Box 293
Dover, Delaware 19903
Attn: Matthew Spong, Principal

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

Oyster House Park Phase 1 Tax Parcel 4 31-7.00-23.80
between Pearl & Cannon Streets
Seaford, Delaware 19973

The Owner and Architect agree as follows. CONSTRUCTION PHASE

The Architect will assist the Owner with administration of the construction contract for constructing the Oyster House Park Phase #1 and provide limited monitoring of the General Contractor's construction of the contract according to the contract documents and specifications dated revised for bid August 8, 2020 and Addenda 1, 2, and 3.

In addition to the Construction Phase Services described in Article 3.40 – 3.46 of this agreement includes a total of **twenty (20) site visits/meetings** during construction to monitor progress and evaluate construction quality and general conformation with the contract documents. However, "the Landscape Architect shall not be required to make exhaustive or continuous on-site inspections" The City of Seaford will also prepare construction progress minutes. Also included in the scope of work and fee is the Engineering consultant's, GMB, fees. They will assist the Landscape Architect with the following tasks:

- A. Obtain additional hydrographic survey data, from where the survey of May 2020 ended, to provide additional River bottom elevations for the proposed Bulkhead area to the Existing Riverwalk on the east end of the OHP Phase #1 site.
- B. Shop Drawing review of the Bulkhead materials submissions.
- C. One (1) field inspections during sheeting installation; one (1) inspection during bulkhead installation; one (1) inspection during backfilling and compaction behind bulkhead.

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.

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 below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, 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.

(Paragraph deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement 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.

§ 2.2 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 11.8:

Init.

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

- .1 General Liability
 - \$1,000,000. Each occurrence
 - \$3,000,000. General Aggregate
- .2 Automobile Liability
 - \$1,000,000
- .3 Workers' Compensation
 - \$1,000,000.
- .4 Professional Liability
 - \$1,000,000. Per claim
 - \$ 3,000,000. Aggregate
 - See certificate of insurance (attached) Exhibit "A"

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES ** N/A – Completed ******

§ 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 coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. 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.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. 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.

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

§ 3.2 Design Phase Services ** N/A – Completed ******

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

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

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

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services ** N/A – Completed ******

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

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

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 The Architect shall advise and consult with the Owner 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 responsible for the Contractor'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 Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, 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 Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

Init.

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

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor 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 3.4.2 and on the data comprising the Contractor'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 Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 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 Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall 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. 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 Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor 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 Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The 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.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 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. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; 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 Contractor; and 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.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. *(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)*

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. 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.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or 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 procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services twenty (20) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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 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. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. ***** N/A completed *****

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other

consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. ***** N/A completed *****

§ 5.4 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 require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 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.

§ 5.6 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.

§ 5.7 The Owner shall provide prompt written notice to the Architect 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.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

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

§ 5.10 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.

ARTICLE 6 COST OF THE WORK ***** N/A completed *****

§ 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 contractors' 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 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 Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect 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.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

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.

§ 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 when 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 Contractor, 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, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 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 A104–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 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 9.6.

§ 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 Mediation, 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. 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.

§ 8.2.3 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.)

- [X] 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 the Agreement.

§ 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.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

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 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all 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:

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

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

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 A104–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 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 or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of 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 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. However, the Architect's materials shall not include information the Owner has identified in writing as 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 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)

Fifty thousand dollars and no cents (50,000.00) The construction phase services as described in Article 3.40 – 3.4.6 plus reimbursable expenses.
- .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)

§ 11.2 For Supplemental Services identified in Section 4.1, 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.)

§ 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.)

Registered Landscape Architect, Principal	125.00 per hr.
Associate Principal, Landscape Architect Designer	95.00 per hr.
Landscape Architect intern	75.00 per hr.
Professional Engineer Sr. Project Director.....	175.00 per hr.
Graduate Engineering Technician	95.00 per hr.
Surveyor	95.00 per hr.
Survey Crew Chief	80.00 per hr.
Administrative Support	50.00 per hr.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15 %), or as follows:

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

Design Phase	percent (%)
Construction Documents	percent (%)

Phase	percent ()
Construction Phase		%)
Total Basic Compensation	one hundred	percent (100 %)

**** N/A *****

§ 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, if any, 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.)*

Employee or Category	Rate
Registered Landscape Architect, Principal	\$125. Per hr.
Associate Principal, Landscape Architect Designer	95. per hr.
Landscape Architect Intern	75. per hr.
Professional Engineer Sr Project Manager	175. per hr.
Graduate Engineering Technician	95. per hr.
Surveyor	95. per hr.
Survey Crew Chief	80. per hr.
Survey Technician	75. per hr.
Administrative Support	50. per hr.

§ 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 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .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 or required for the Project;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of five thousand dollars and no cents (\$ 5,000.00) 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.

§ 11.9.2 Progress Payments

§ 11.9.2.1 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 () 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.)

%

§ 11.9.2.2 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.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to 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.)

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 B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect ***** N/A completed *****

.2 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.)

***** N/A completed *****

.3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

EXHIBIT "A" Landscape Architectural Services, LLC certificate of Insurance

.4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

- Sheet 1 of 13 Cover
- Sheet 2 of 13 Sediment & Stormwater Management Cover & General Notes
- Sheet 3 of 13 Sediment & Stormwater Management Site Plan
- Sheet 4 of 13 Sediment & Stormwater Management Details

Sheet 5 of 13	Construction Plan
Sheet 6 of 13	Layout Plan & Details: Bulkhead
Sheet 7 of 13	Details - Bulkhead
Sheet 8 of 13	Layout Plan & Details: Boardwalk and Pier
Sheet 9 of 13	Elevation & Details: Boardwalk Railings
Sheet 10 of 13	Construction Details: Boardwalk
Sheet 11 of 13	Construction Details: Gangway and Floating Docks
Sheet 12 of 13	Construction Details: Kayak Dock
Sheet 13 of 13	Planting Plan

All drawings dated "rev. August 8, 2020 for bids" The project specifications manual consisting of Division 00 Procurement & Contract Requirements, Division 1 – General Requirements, the Technical Specifications, Divisions: 2, 5, 6, 31, 32, and 33 also dated August 8, 2020 for bids. And Addenda #1, #2, and #3.

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

OWNER *(Signature)*

Charles Andeson City Manager
(Printed name and title)

ARCHITECT *(Signature)*

Matthew T Spong, RLA Principal
(Printed name, title, and license number, if required)

Additions and Deletions Report for **AIA® Document B104™ – 2017**

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 16:03:34 ET on 09/17/2020.

PAGE 1

AGREEMENT made as of the 18 day of September in the year 2020

...

City of Seaford
414 High Street PO Box 1100
Seaford, Delaware 19973
Attn: Charles Anderson, City Manager

...

Landscape Architectural Services, LLC
PO Box 293
Dover, Delaware 19903
Attn: Matthew Spong, Principal

...

Oyster House Park Phase I Tax Parcel 4 31-7.00-23.80
between Pearl & Cannon Streets
Seaford, Delaware 19973

The Owner and Architect agree as follows. CONSTRUCTION PHASE

The Architect will assist the Owner with administration of the construction contract for constructing the Oyster House Park Phase #1 and provide limited monitoring of the General Contractor's construction of the contract according to the contract documents and specifications dated revised for bid August 8, 2020 and Addenda 1, 2, and 3.

In addition to the Construction Phase Services described in Article 3.40 – 3.46 of this agreement includes a total of **twenty (20) site visits/meetings** during construction to monitor progress and evaluate construction quality and general conformation with the contract documents. However, "the Landscape Architect shall not be required to make exhaustive or continuous on-site inspections" The City of Seaford will also prepare construction progress minutes. Also included in the scope of work and fee is the Engineering consultant's, GMB, fees. They will assist the Landscape Architect with the following tasks:

A. Obtain additional hydrographic survey data, from where the survey of May 2020 ended, to provide additional River bottom elevations for the proposed Bulkhead area to the Existing Riverwalk on the east end of the OHP Phase #1 site.

B. Shop Drawing review of the Bulkhead materials submissions.

C. One (1) field inspections during sheeting installation; one (1) inspection during bulkhead installation; one (1) inspection during backfilling and compaction behind bulkhead.

PAGE 2

§ 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.~~

PAGE 3

\$1,000,000. Each occurrence
\$3,000,000. General Aggregate

...

\$1,000,000

...

\$1,000,000.

.4 Professional Liability

\$1,000,000. Per claim
\$ 3,000,000. Aggregate
See certificate of insurance (attached) Exhibit "A"

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES **** N/A – Completed ****

...

§ 3.2 Design Phase Services **** N/A – Completed ****

PAGE 4

§ 3.3 Construction Documents Phase Services **** N/A – Completed ****

PAGE 6

§ 4.2.2 The Architect has included in Basic Services twenty (20) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

...

§ 4.2.4 If the services covered by this Agreement have not been completed within twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

...

§ 5.2 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. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. ***** N/A completed *****

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. ***** N/A completed *****

PAGE 7

ARTICLE 6 COST OF THE WORK ***** N/A completed *****

PAGE 9

Arbitration pursuant to Section 8.3 of this Agreement

PAGE 12

Fifty thousand dollars and no cents (50,000.00) The construction phase services as described in Article 3.40 – 3.4.6 plus reimbursable expenses.

...

<u>Registered Landscape Architect, Principal</u>	<u>125.00 per hr.</u>
<u>Associate Principal, Landscape Architect Designer</u>	<u>95.00 per hr.</u>
<u>Landscape Architect intern</u>	<u>75.00 per hr.</u>
<u>Professional Engineer Sr. Project Director</u>	<u>175.00 per hr.</u>
<u>Graduate Engineering Technician</u>	<u>95.00 per hr.</u>
<u>Surveyor</u>	<u>95.00 per hr.</u>
<u>Survey Crew Chief</u>	<u>80.00 per hr.</u>
<u>Administrative Support</u>	<u>50.00 per hr.</u>

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15 %), or as follows:

PAGE 13

**** N/A *****

...

<u>Registered Landscape Architect, Principal</u>	<u>\$125. Per hr.</u>
<u>Associate Principal, Landscape Architect Designer</u>	<u>95. per hr.</u>
<u>Landscape Architect Intern</u>	<u>75. per hr.</u>
<u>Professional Engineer Sr Project Manager</u>	<u>175. per hr.</u>
<u>Graduate Engineering Technician</u>	<u>95. per hr.</u>
<u>Surveyor</u>	<u>95. per hr.</u>
<u>Survey Crew Chief</u>	<u>80. per hr.</u>
<u>Survey Technician</u>	<u>75. per hr.</u>
<u>Administrative Support</u>	<u>50. per hr.</u>

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

PAGE 14

An initial payment of five thousand dollars and no cents (\$ 5,000.00) 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.

Additions and Deletions Report for AIA Document B104 – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 16:03:34 ET on 09/17/2020 under Order No.8243888469 which expires on 09/17/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes:

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, 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 16:03:34 ET on 09/17/2020 under Order No. 8243888469 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

NB# 4
9-22-2020
(RED-LINE COPY)

ORDINANCE #2020-023

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SEAFORD, an ordinance to amend Chapter 15, Division 3; R-3 High Density Residential District 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 amending language to Division 3; R-3 High Density Residential District as shown on the following pages.

<u>9/22/2020</u>	First Reading Date
	Second Reading Date & Adoption
	Advertisement Date
	Effective Date of Ordinance

CITY OF SEAFORD

By: _____
Mayor

Witness: _____

Attest: _____
City Manager

Division 3. R-3 High Density Residential District.¹

Sec. 15-23. Intent of Division.

It is the purpose of this Division to permit development of garden type apartment structures that will yield high densities in selected areas of the City. ~~single family residential development in connection with R-3 development. It is not the intent of this Division to allow single family development in an R-3 district without the development of garden type apartments. Adopted 9/14/04~~
(Zoning Ord., §203, 9/23/69)

Sec. 15-24. Uses by right.

(a) In any R-3 district, land, buildings or premises shall be used by right only for one (1) or more of the following:

- 1) Garden Apartments.
- 2) Townhouses.
- 3) Single Family Detached Houses, to be developed in compliance with the requirements of:

(A) R-1 Single Family:

- i. Sec. 15-12 Uses by Right in this District;
- ii. Sec 15-21 Area and Bulk Requirements.

(B) R-2 Medium Density:

- i. Sec. 15-18 Uses by Right in this District;
- ii. Sec. 15-21 Area and Bulk Requirements.

Adopted 9/14/04

Sec. 15-25. Accessory Uses.

(a) Only the following accessory uses shall be permitted:

- 1) Customary garden apartment accessory uses.
- 2) Swimming pools subject to Article 5 of this Chapter.
- 3) All accessory use structures shall be placed no closer than the five feet from the side and rear property line and no closer to the front property line than the front yard setback or in alignment with the front facing wall of the main structure, whichever results in the greater setback;

Except, on a corner lot, than the accessory structure shall be placed in alignment with the side wall of the main structure facing the street but no closer than the side yard setback, whichever results in the greater setback. Amended 6/10/03

4) Each dwelling unit shall have a storage area separate and apart from the living area. The storage area shall be a minimum size of 5'x5' with a ~~six feet~~~~six-foot~~ ceiling height. The storage area shall be easily accessible and there shall be no charge for the use of the storage area, in the event the unit is a rental property. The City Building Official will work with the developer to determine the most compatible location for the storage areas, taking into consideration the purposed use of the apartment or townhouse. *Adopted 9/14/04*

Sec. 15-26. Area and bulk regulations.

(a) Area and bulk regulations: Any area to be developed for R-3 purposes (the "site") shall observe the following regulations:

¹ Charter reference: As to power to enact zoning regulations, see §36(A).

- 1) Site area - One (~~14~~) acre minimum
- 2) Dwelling unit per acres - ~~140~~ maximum
- 3) Dwelling units per garden apartment building or each group attached townhouse dwelling units - ~~182~~ maximum
- 4) Street frontage of site - 50 foot minimum along public street
- 5) Depth of site - 100 foot minimum
- 6) Building setback line - ~~250~~ feet minimum from all perimeter and interior streets and exterior property lines of the site.
- 7) Site coverage - building area shall not exceed 20% of site area.
- paved area of the site shall not exceed 15% of the site area.
- 8) Side Yard lines - minimum distance from the side of any garden apartment building or from the side of any end unit of a townhouse group to an exterior property line of the site shall be ~~250~~ feet.
- 9) Building Separation - minimum distance from the side of any garden apartment building or from the side of any end unit of a townhouse group on the site shall be 25 feet
- 9) Rear yards - ~~250~~ feet minimum
- 10) Height - 35 feet maximum, or 3 stories
- 11) Habitable Floor Area - ~~1,000 One Thousand Four-hundred fifty~~ square feet minimum per dwelling unit, excluding stairs, corridors and basements recreation rooms for any dwelling unit having less than two (2) bedrooms; ~~1,200 Twelve hundred Six-hundred (600)~~ square feet minimum per dwelling unit excluding stairs, corridors, basement recreation rooms for any dwelling unit having two (2) or more bedrooms.
- 12) Subgrade units - a basement shall not contain habitable rooms except for custodian's living quarters or basement recreation rooms.
- 13) Building placement - no part of any garden apartment building or townhouse building comprising a series of attached dwelling units shall be nearer than 25 feet to any other garden apartment building or townhouse building on such site, and no portion of the front or rear of any such garden apartment building or townhouse building shall be nearer than 50 feet to any other garden apartment or townhouse building on such site.

14) Landscape screen - Along each side or rear property line which directly abuts a residential district in the city or similar district in the country, a landscape screen of not less than 15 feet in width as defined in Section 102.2(A) 62 shall be provided.

15) Exterior Materials - All exterior walls must be finished with the following: (a) architectural masonry units (excluding concrete block and cinder block); (b) natural stone; (c) pre-cast concrete with approval by the City; (d) brick; (e) stucco; (f) glass materials; (g) steel; (h) aluminum or their equivalent.

16) Site Amenities - Every development must include:
- A community center for use by the residents with a minimum square footage of 1,200 sq. ft.
- A fenced play area and neighborhood park area with play equipment for the use of the residents a minimum of three acres in area.
- Walking trails and site fixtures, benches, trashcans and other features.

17) Safety and Security - Community-wide camera system serving all common and parking areas of the site is required.
- Fencing of the entire site perimeter is required.

158) Single townhouse lot
Minimum lot width - 16 feet minimum
Lot depth - 100 feet minimum
Front yard - 25 feet minimum
Rear yard - 25 feet minimum
Side yard (end unit) - 10 feet minimum

(Zoning Ord. §203.2, 9/23/69.)

Sec. 15-27. Off-street parking regulations.

The off-street parking regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord. §203.2, 9/23/69.)

Formatted: Indent: Left: 3.44"

Formatted: Indent: First line: 0"

NB# 4
9.22.2020
(CLEAN COPY)

ORDINANCE #2020-03

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SEAFORD, an ordinance to amend Chapter 15, Division 3; R-3 High Density Residential District 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 amending language to Division 3; R-3 High Density Residential District as shown on the following pages.

9/22/2020	First Reading Date
	Second Reading Date & Adoption
	Advertisement Date
	Effective Date of Ordinance

CITY OF SEAFORD

By: _____
Mayor

Witness: _____

Attest: _____
City Manager

Division 3. R-3 High Density Residential District.¹

Sec. 15-23. Intent of Division.

It is the purpose of this Division to permit development of garden type apartment structures that will yield high densities in selected areas of the City.
(Zoning Ord., §203, 9/23/69)

Sec. 15-24. Uses by right.

(a) In any R-3 district, land, buildings or premises shall be used by right only for one (1) or more of the following:

- 1) Garden Apartments.
- 2) Townhouses.
- 3) Single Family Detached Houses, to be developed in compliance with the requirements of:

(A) R-1 Single Family:

- i. Sec. 15-12 Uses by Right in this District;
- ii. Sec 15-21 Area and Bulk Requirements.

(B) R-2 Medium Density:

- i. Sec. 15-18 Uses by Right in this District;
- ii. Sec. 15-21 Area and Bulk Requirements.

Adopted 9/14/04

Sec. 15-25. Accessory Uses.

(a) Only the following accessory uses shall be permitted:

- 1) Customary garden apartment accessory uses.
- 2) Swimming pools subject to Article 5 of this Chapter.

3) All accessory use structures shall be placed no closer than the five feet from the side and rear property line and no closer to the front property line than the front yard setback or in alignment with the front facing wall of the main structure, whichever results in the greater setback;

Except, on a corner lot, the accessory structure shall be placed in alignment with the side wall of the main structure facing the street but no closer than the side yard setback, whichever results in the greater setback. *Amended 6/10/03*

4) Each dwelling unit shall have a storage area separate and apart from the living area. The storage area shall be a minimum size of 5'x5' with a six-foot ceiling height. The storage area shall be easily accessible and there shall be no charge for the use of the storage area, in the event the unit is a rental property. The City Building Official will work with the developer to determine the most compatible location for the storage areas, taking into consideration the purposed use of the apartment or townhouse. *Adopted 9/14/04*

Sec. 15-26. Area and bulk regulations.

(a) Area and bulk regulations: Any area to be developed for R-3 purposes (the "site") shall observe the following regulations:

- | | |
|----------------------------|------------------------|
| 1) Site area | - One (4) acre minimum |
| 2) Dwelling unit per acres | - 10 maximum |

¹ **Charter reference:** As to power to enact zoning regulations, see §36(A).

- 3) Dwelling units per garden apartment building or each group attached townhouse dwelling units - 12 maximum
- 4) Street frontage of site - 50 foot minimum along public street
- 5) Depth of site - 100 foot minimum
- 6) Building setback line - 50 feet minimum from all perimeter and interior streets and exterior property lines of the site.
- 7) Site coverage - building area shall not exceed 20% of site area.
- paved area of the site shall not exceed 15% of the site area.
- 8) Side Yard- minimum distance from the side of any garden apartment building or from the side of any end unit of a townhouse group to an exterior property line of the site shall be 50 feet.
- 9) Building Separation - minimum distance from the side of any garden apartment building or from the side of any end unit of a townhouse group on the site shall be 25 feet
- 9) Rear yards - 50 feet minimum
- 10) Height - 35 feet maximum, or 3 stories
- 11) Habitable Floor Area -1,000 One Thousand square feet minimum per dwelling unit, excluding stairs, corridors and basements recreation rooms for any dwelling unit having less than two (2) bedrooms; 1,200 Twelve hundred square feet minimum per dwelling unit excluding stairs, corridors, basement recreation rooms for any dwelling unit having two (2) or more bedrooms.
- 12) Subgrade units - a basement shall not contain habitable rooms except for custodian's living quarters or basement recreation rooms.
- 13) Building placement - no part of any garden apartment building or townhouse building comprising a series of attached dwelling units shall be nearer than 25 feet to any other garden apartment building or townhouse building on such site, and no portion of the front or rear of any such garden apartment building or townhouse building shall be nearer than 50 feet to any other garden apartment or townhouse building on such site.
- 14) Landscape screen - Along each side or rear property line which directly abuts a residential district in the city or similar district in the country, a landscape screen of not less than 15 feet in width as defined in Section 102.2(A) 62 shall be provided.

15) Exterior Materials

- All exterior walls must be finished with the following: (a) architectural masonry units (excluding concrete block and cinder block; (b) natural stone; (c) pre-cast concrete with approval by the City; (d) brick; (e) stucco; (f) glass materials; (g) steel; (h) aluminum or their equivalent.

16) Site Amenities

- Every development must include;
- A community center for use by the residents with a minimum square footage of 1,200 sq. ft.
- A fenced play area and neighborhood park area with play equipment for the use of the residents a minimum of three acres in area.
- Walking trails and site fixtures, benches, trashcans and other features.

17) Safety and Security

- Community-wide camera system serving all common and parking areas of the site is required.
- Fencing of the entire site perimeter is required.

18) Single townhouse lot

Minimum lot width

- 16 feet minimum

Lot depth

- 100 feet minimum

Front yard

- 25 feet minimum

Rear yard

- 25 feet minimum

Side yard (end unit

- 10 feet minimum

(Zoning Ord. §203.2, 9/23/69.)

Sec. 15-27. Off-street parking regulations.

The off-street parking regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord. §203.2, 9/23/69.)

NB# 5 A
9-22-2020

**City of Seaford Resolution in support as partnership with the Parks Resource Office,
State Division of Parks & Recreation under the Outdoor Recreation, Parks & Trails
Grant Program**

Whereas, the City of Seaford has long been committed to providing active and passive outdoor recreation experiences for its residents; and

Whereas, a key factor in business expansion and location decision is the quality of life, with a premium placed on adequate parks and open space; and

Whereas, Seaford endeavors to renew its downtown district making it a thriving and robust place for merchants drawing residents and visitors alike; and

Whereas, children exposed to parks have greater opportunities to be physically active by running, walking or participating in other recreational activities, thereby helping to combat the problem that one in three children in the U.S. are overweight or obese; and

Whereas, the Nanticoke River is valuable both regionally and nationally for natural, cultural and recreational resources; and

Whereas, the State's Outdoor Recreation, Parks & Trails Program seeks to identify and highlight new ways for expanding outdoor play in areas with great need, as well as promoting the development of new or enhanced partnerships for outdoor recreation across Delaware; and

Whereas, the City has applied for grant assistance from the Outdoor Recreation, Parks & Trails Program to assist in construction costs for the first phase of the Oyster House Park project; and

Whereas, the City appoints Trisha Newcomer, Director of Economic Development and Community Relations, as its ORPT Grant manager.

NOW, THEREFORE, BE IT RESOLVED, when the City of Seaford is awarded an ORPT Grant for Oyster House Park, it is committed to completing the tasks outlined in the ORPT application that was submitted to the State Division of Parks & Recreation Resource Office.

BE IT FURTHER RESOLVED, when accepting ORPT Grant assistance, the City makes commitment to protecting and maintaining the Oyster House Park.

I, David C. Genshaw, Mayor of the City of Seaford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the Mayor and City Council at its Regular Meeting held in September 22nd, 2020, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Dated: _____

David C. Genshaw, Mayor

Attest: _____
Charles Anderson, City Manager

NRB#5 B
9.22.2020

**City of Seaford Resolution in support as partnership with the Parks Resource Office,
State Division of Parks & Recreation under the Outdoor Recreation, Parks & Trails
Grant Program**

Whereas, the City of Seaford has long been committed to providing active and passive outdoor recreation experiences for its residents; and

Whereas, parks can create more vibrant, healthy, safe, and equitable communities by improving physical health and mental health; providing environmental benefits; increasing social and economic opportunities; and promoting community cohesion;

Whereas, children exposed to parks have greater opportunities to be physically active by running, walking or participating in other recreational activities, thereby helping to combat the problem that one in three children in the U.S. are overweight or obese; and

Whereas, investments in park facilities and park programming can increase park and neighborhood safety by providing healthy and positive activities that deter antisocial behavior, improving community cohesiveness, and encouraging greater use

Whereas, parks that provide a range of amenities and features and are well maintained, accessible, aesthetically pleasing, and safe are used at higher rates, which in turn maximizes potential health and other benefits for residents

Whereas, the City has applied for grant assistance from the Outdoor Recreation, Parks & Trails Program to assist in installation costs to provide safety fencing and accessible sidewalks at the Seaford Sports Complex; and

Whereas, the City appoints Katie Hickey, Superintendent of Parks & Recreation, as its ORPT Grant manager.

NOW, THEREFORE, BE IT RESOLVED, when the City of Seaford is awarded an ORPT Grant for the Sports Complex, it is committed to completing the tasks outlined in the ORPT application that was submitted to the State Division of Parks & Recreation Resource Office.

BE IT FURTHER RESOLVED, when accepting ORPT Grant assistance, the City makes commitment to protecting and maintaining the Seaford Sports Complex.

I, David C. Genshaw, Mayor of the City of Seaford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the Mayor and City Council at its Regular Meeting held in September 22nd, 2020, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Dated: _____

David C. Genshaw, Mayor

Attest: _____
Charles Anderson, City Manager