

Town of Emmitsburg

300 A South Seton Avenue • Emmitsburg, MD 21727

Office: 301-600-6300 • Fax: 301-600-6313

www.emmitsburgmd.gov

TOWN MEETING AGENDA TOWN OFFICE – 300A SOUTH SETON AVENUE WEDNESDAY, JANUARY 18TH, 2023 AT 7:00 PM

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. FUTURE MEETINGS

Town Board Meeting: Monday, February 6, 2023 at 7:00 pm (Town Office & Zoom)

Planning Committee Meeting: Monday, January 30, 2023 at 7:00 pm (Town Office & Zoom)

MEETING ITEMS

- A. APPROVE MINUTES: December 6th, 2022 and December 12th, 2022
- B. POLICE REPORT
- C. TOWN MANAGER'S REPORT
- D. TOWN PLANNER'S REPORT
- E. COMMISSIONER COMMENTS
- F. MAYOR'S COMMENTS
- G. PUBLIC COMMENTS
- H. ADMINISTRATIVE BUSINESS (NONE)
- I. CONSENT AGENDA
 1. Appoint of Melissa Mckenney to the Citizen Advisory Committee with a term of January 18, 2023 to January 18, 2025.
- J. TREASURER'S REPORT
- K. PLANNING COMMISSION REPORT
- L. AGENDA ITEMS (DETAILS ATTACHED)
 - 1) For consideration, approval of Bearing Construction change order for removal of trees on dam at the Silo Hill Basin.
 - a. Mandatory requirement from Frederick County Soil Conservation per MDE guidelines.
 - 2) For consideration, approval of agreement with Barton and Loguidice for Silo Hill Basin tree removal engineering services.
 - a. Part of the change order request that was not in the initial scope of work.
 - 3) For consideration, approval of the HACH estimate for the ChemScan upgrade at the WWTP.
 - a. The Board previously approved a similar upgrade at the WTP. This was included as an asset project for the WWTP in the FY 23 budget.
 - 4) For consideration, approval of Resolution 2023-01 bond reduction request for the Irishtown Road project.
 - 5) For approval, designation of the second tranche of the American Rescue Plan monies.
 - 6) For consideration, approval of Ordinance 2023-03 amendment to Title 16 changes to subdivision fees.
 - a. This ordinance will amend subdivision, plan review and annexation, forest

Mayor Donald N. Briggs

Town Manager Cathy Willets

Town Clerk Sabrina King

Board of Commissioners Timothy O'Donnell, President • Joseph Ritz, III, Vice President • Clifford Sweeney • Frank Davis • Amy Boehman-Pollitt

- 7) For consideration, approval of Ordinance 2023-02 amendment to Title 17 changes to zoning fees.

- a. This ordinance will amend the collection process for zoning fees.

M. SET AGENDA FOR NEXT MEETING: MARCH 6, 2023

4. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

5. ADJOURN

Zoom Link:

When: Jan 18, 2023 07:00 PM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://us02web.zoom.us/meeting/register/tZlqceCqrjgsGNTrnAT6g0Z5g-sYfzlhZrsO>

A. APPROVE MINUTES

**MINUTES
TOWN MEETING
DECEMBER 6, 2022
TOWN OFFICE – 300A SOUTH SETON AVENUE**

Present: *Elected Officials* - Mayor Donald Briggs; Commissioners: Timothy O'Donnell, President; Joseph Ritz III, Vice President; Clifford Sweeney, Treasurer, Frank Davis; and Amy Boehman-Pollitt. *Staff Present* - Cathy Willets, Town Manager; Sabrina King, Town Clerk; Cole Tabler, Accounting Supervisor; Reese Fryer, Recorder. *Others Present* – Deputy Jason Ahalt; Clark Adams, Town Attorney Associate.

Call to Order

A quorum being present, Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the November 21st, 2022 town meeting to order at 7:30 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Approval of Minutes

Commissioner Sweeney motioned to accept the November 7, 2022 town meeting minutes as modified; second by Commissioner Boehman-Pollitt. Yeas – 5; Nays – 0. The motion was accepted.

Commissioner Ritz motioned to accept the November 21, 2022 town meeting minutes; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion was accepted.

Police Report:

Deputy Ahalt presented the police report from October 2022 (exhibit attached).

Town Managers Report:

Ms. Willets, Town Manager, presented the Manager's Report from October 2022 (exhibit in agenda packet). Ms. Willets highlighted key points in her report and noted that at the time of the report, Rainbow Lake was 1.8' feet below the spillway level. As of today it is 14.5 feet or 2.1 feet below the spillway level and would like to continue with phase 1 voluntary water restrictions.

Grant Administrative Report:

Ms. Willets, Town Manager, presented Ms. Shaw's Grants Administrative Report. Highlighted the current grants that are taking place along with future projects.

Town Planners Report:

The Town Planner's Report from October 2022 (exhibit attached).

Commissioner Comments:

- Commissioner Amy Boehman-Pollitt: She attended the Tree Lighting Ceremony which she explained that she enjoyed the music and seeing the Community. She also liked the connection the Town had with Ukraine. Commissioner Boehman-Pollitt felt that it was touching and moving and thought it brought the Community together. She gave her thanks to the Town Staff and all who participated to make it happen.

- Commissioner Davis: He also attended the Tree Lighting Ceremony along with the other program at the Carriage House. He gave his thanks to the Field family for their part at the Carriage House and wished everyone a happy holiday season.
- Commissioner Sweeney: He attended the programs for the Christmas Tree Lighting and the Carriage House.
- Commissioner Ritz III: No comment.
- Commissioner O'Donnell: He wished everyone a Merry Christmas. He briefly commented that, 2022 has been a dynamic year with reopening the Community and moving forward with staffing. He went on to speak about how successful the Turkey Trot was. They had raised an excessive \$850.00 for the Seton Center; North County outreach program. Commissioner O'Donnell thanked the Mayor, the Board, Town Staff, Vigilant Hose Company, Deputies, Fire Police Volunteers and handful of other volunteers that helped make it possible. He mentioned the trails were growing in popularity this year as defined in their increase of usage.

Mayor's Comments:

Mayor Briggs hoped everyone had a blessed Thanksgiving. He attended numerous meetings (exhibit attached). On Veterans Day, November 11th at 11am the honor guard fought the weather and went to St. Josephs and American Legion. He attended a "Ukrainian Icons" lecture with Kateryna Dovgan at Mount St. Mary's. He met with Ms. Shaw for the Town wayside exhibits and went to Mother Seton School for the 4th grade presentation. He and Conrad Weaver met with Michael Zhorvin who will take the Sister City Proclamation over to Ukraine to the Mayor. He also attended the Christmas Tree Lighting Ceremony and thanked all who was a part of the program and who made it happen.

Public Comments: *Eric Sloane, Emmitsburg MD*- He spoke about the maintenance work in the Town that needs to be done before there are no funds left to take care of those issues. *Rebecca Ness, Emmitsburg MD*- She has advocated for the No Parking Signs on Irishtown Road and glad they are there. She knows there are some home owners that still abuse this and park in the bike lane. Her concern is the no parking signs that are on Brookfield Drive between Timbermill Rd and Carrick Ct. She said that strip is used for the overflow for Pembroke. She expressed that the road is not wide enough to park, so home owners would use part of Irishtown Rd to park. Since the no parking signs have been put up, she is confused on why the whole road has been eliminated for all. She does not recall that being mentioned, and now homeowners that are in Carrick Ct or Pembroke have to park in the swale. Ms. Ness also mentioned 3115 Stonehurst Ct. was recently bought in August of 2022, the Board and Mr. Clagget who is the HOA consultant, was aware that the gentlemen who bought this home was to be used as his residence. This was brought to their attention that he is not living there and he is actually renting the house out to college students. *Dennis Ebaugh, Emmitsburg MD*- He expressed his concerns about the corner at DePaul and North Seton. He knows that he has brought this issue to the Board in the past. Green Street North Seton Avenue program was going to address this, but from his understanding there's no money for that program. He got the document from Zach Gulden and said it was a concept drawing. He disagrees with the MS4 and asked what happens if the Town does not pay it? He also had concerns about speeding on Irishtown Rd. He said the speed limit is 15 mph and it looks like a racetrack. Mr. Ebaugh also mentioned when the State put the sidewalk in front of the church they took away the pipe and now the Church is in risk of flooding.

Administrative Business:

(1) Mayor Briggs and Town Staff Recommendations: For the Holiday Season, free metered parking from Friday, December 9, 2022 to Tuesday, January 3, 2023. *Motion:* Commissioner Davis motioned to accept free metered parking; second by Commissioner Ritz III. Yeas -5; Nays - 0. The motion was

adopted. Recommendation for all monies collected will be donated to the Lions Club for Heritage Day Fireworks, the Friends of Emmitsburg Library and the Seton Center.

(2) Discussion related to using Farmer's Market land for larger community garden plot. Commissioner Boehman-Pollitt gave background information from previous meetings with the Citizens Advisory Committee. Ms. Willets mentioned to keep in mind of the parking and there is no water access. Commissioner Boehman-Pollitt asked Mr. Deatherage about moving forward, in which he did not see a problem with this. Ms. Willets suggested that the Citizens Advisory could make a plan or suggestion to the staff and it can be brought back to the Board.

(3) For consideration, Proclamation honoring Emmitsburg High School Volunteer. *Motion:* Commissioner Ritz III motioned to accept the Proclamation for Joyce Bruchey; second by Commissioner Davis. Yeas – 5; Nays – 0.

Consent Agenda:

Motion: The Board of Commissioners unanimously accepted to reappoint Diane Walbrecker to Board of Appeals with a term of December 15, 2022 to December 15, 2025; Yeas – 5; Nays – 0. The motion was adopted.

Motion: The Board of Commissioners unanimously accepted to appoint Jack Pollitt to the Parks and Recreation Committee with a term of December 6, 2022 to December 2, 2024; Yeas – 4; Nays – 0; Abstain (Boehman-Pollitt). The motion was adopted.

Motion: The Board of Commissioners unanimously accepted the to appoint Valerie Turnquist an alternate to the Planning Commission with a term of December 6, 2022 to December 6, 2027; Yeas – 5; Nays – 0.

Motion: The Board of Commissioners unanimously accept to reappoint Mark Walker to the Citizen's Advisory Committee with a term of November 7, 2022 to November 7, 2024. Yeas – 5; Nays – 0. The motion was adopted.

Treasurer's Report:

Commissioner Sweeney presented the Treasurer's Report for October 2022 (exhibit in agenda packet).

Planning Commission Report:

Commissioner Ritz III announced that they did not meet in November and were going to meet in December but the applicant was not ready, the next meeting will be January 30th, 2023.

II. Agenda Items

Agenda #1 – Hold a public hearing then consideration of Ordinance 2022-12 which would increase water and sewer rates over a three-year period. *Motion:* Commissioner Ritz III motioned to close the town meeting at this moment to open the public hearing regarding Ordinance 2022-12 regarding the increase water and sewer rates over a three-year period; second by Commissioner Boehman-Pollitt.

Town Meeting closed at 8:26pm.

Public hearing open at 8:26pm.

Commissioner O'Donnell reviewed the process of how the public hearing will follow and asked those who will speak to please stand to be sworn in. Ms. Willets presented information about the water and sewer rates and how they got to where they are. A few key highlights are after two meetings the Board

gave direction of the 44% rate increase for the proposed water rates. After further investigating she explained that there are not enough fees or revenue to cover the cost for maintaining and improving the system. Ms. Willets noted that there have not been any increases for the average user in over 14 years. Rates for high end users were raised eight years ago. Ms. Willets also added that the outside consultant from NewGen Strategies, Michael Maker, began the process with the water rate study beginning in January 2022. After examining everything very carefully, they took into consideration the necessary improvements in the water infrastructure. Also after a preliminary engineer report the Town is lacking a fire flow capability. The contractor's recommendation, which is now seconded by USDA, is to put in 16-inch line and abandoned the 10-inch. Ms. Willets had noted that she has mentioned to the Board per USDA in FY 2021 they will not be able to offer the Town any funding until the water rates are increased. Due to USDA's analysis of the system, the Town cannot afford the required maintenance cost of the current system. Ms. Willets spoke of the proposed rates that was advertised for the public, and explained the chart of the rate increase for each year for the users. Mr. Tabler added that the 14% increases are due to the sewer rate being increased significantly when the WWTP was constructed. Sewer rates are only being proposed to increase 3%. Commissioner Ritz wanted to clarify that there is a 3% rate increase each year, and the Board can decide to stop when it is necessary. After no further discussion Commissioner O'Donnell explained the procedures for public comment.

Blaine Ridenour, Emmitsburg MD- He stated that he is opposed to a 40% rate increase. He isn't disagreeing that there should be an increase. He questioned if Waynesboro Pike would have to pay for a waterline like the residents do on Mountain View Road. Lastly, he asked why the Town purchases water from the Mount.

Before moving forward Commissioner O'Donnell clarified the reason why the Town purchases water from the Mount is because it is to reserve the water line in case of an emergency.

Dennis Ebaugh, Emmitsburg MD- He stated that he was confused by the numbers being presented because year one would be 44% and then following years would be 132%. He then pointed out the treasurer's report and asked why money can't be transferred.

Staff provided information, that roughly \$3.2 million is American Rescue Plan monies that are or will be designated solely for water/sewer infrastructure.

Marty Miller, Emmitsburg MD- Commissioner Ritz spoke, and told the Board that he was unable to come due to an illness, but expressed to him that he was concerned with the rates and it's a very drastic spread out over all the years. It will be a hardship on himself and others of the increase.

John Howard, Emmitsburg MD- He stated that he felt the chart is unreadable and can't understand it. He explained with a 14% increase residents will not be able to afford to live here and asked if there any programs for families that can provide assistance. He is also concerned about the businesses in Town because their bill will be higher than the residents.

Lyn Miller, Emmitsburg MD- He asked the Board for answers, if the increase is going to be 14% or is it going to be 44% and to have more clarification. He would like to know before the next meeting on what the average house hold prices are and or lines being charged. Lastly, he requested a break down to know where the money is going.

Kevin Hagan, Emmitsburg Business Alliance- He stated, on behalf of the business community, that any increase to the bottom line cuts the viability. He knows that the majority of the businesses are small or single operator businesses.

Motion: Commissioner Sweeney motioned to close the public hearing and resume the town meeting; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion was adopted.

Public Hearing Close at 9:17 pm.

Ms. Willets referred to the Ordinance 2022-12 of the proposed water and sewer rate increases. She briefly explained the new language that was corrected amongst other changes with the new rates and code corrections. (exhibit in agenda packet) Commissioner Davis asked about late bills, because he has had multiple people call him they did drop their payment on the due date. But was still charged a late fee because it was not put in the drop box by 4pm. Ms. Willets informed the Board of how Staff processes all water bill payments and what is considered on time or late. Commissioner O'Donnell asked Mr. Hagan to speak about the concerns of the Ordinance.

Kevin Hagan, Business Alliance- He stated if the Ordinance could be re-written on page 3 related to the three-year period. He asked if it could begin in FY 2025 since businesses are still recovering from Covid.

Commissioner Sweeney stated how he has been with the Town for 23 years and apologizes for not raising any rates those years ago. He said that when it came to the Board to make a decision they did not want to burden the families. He knows in order to pay for the maintenances, up keeps and the future projects that the increase has to happen. He stated that if they do not raise them now that the Town will be worse than what they are now.

Commissioner Ritz III agrees with Commissioner Sweeney that the Town is in a bind. He stated another alternative as he is uncomfortable with the proposed rate increase. He knows that this increase will cause hardship on families. He also understands that they have to look down the road, but is not overly comfortable on what they are voting on as the whole package rate wise.

Commissioner Davis would like to see this be stretched out further and make the increase less per year. He said the Town is trying to fix a twenty-year problem in three years. He also suggested to tighten the general budget and help offset with that. He also has concerns about the Town putting money out for grants in order to receive them.

Commissioner Boehman-Pollitt asked staff about the proposed rates if they do not take effect in January how would this set the Town back?

Ms. Willets responded that the Town will not reach the 90-day fund at the end of the three years and it will continue to extend. Ms. Willets reminded the Board of how fortunate they are to receive grants and funding due to the competitiveness and hopes the Town never gets in a position where they cannot get funding. She wants the Town to be in a position where they can pay out of pocket rather than relying on grants or funding.

Commissioner Boehman-Pollitt asked about the USDA funding and if there are any specifics on what would be a considerable increase for them to assist the Town?

Ms. Willets said, USDA looked at the Town's budget two years ago from another project because the revenues and budget could not sustain the payments. She was told by USDA that they need to know that the town is making head way towards improvements.

Commissioner O'Donnell stated that other Municipalities are functioning and not functioning while providing services for their Community. The Town has a responsibility to create a safe and viable community and to protect those things. The hard reality is that this has been kicked down the road again and again, and the situation is not improving. Commissioner O'Donnell asked Staff, if there is any system that is critical, relating to the safety?

Ms. Willets explained that the contractor who did the preliminary report said that the fire flow was lacking in Town. USDA, along with the contractor who completed the Preliminary Engineering Report, recommended to abandon the fifty-year old ten-inch line and add a new 16" main line to Town. She added that there are multiple lines that are in need for replacements through Town and that are in bad condition with tuberculation. Commission O'Donnell briefly explained the hard decision that is in front of the Board.

Commissioner Boehman-Pollitt agrees there has to be an increase and something has to happen. She stated her concerns about the resources in Town for those that need it and a breakdown of the formatting of the bill for over 10,000 gallons.

Ms. Willets informed the Board that there are multiple resources that can help residents and the information can be found on the Town website along with a page dedicated on how to breakdown the water/sewer bill.

Mayor Briggs reminded the Board that Staff has gathered the information needed to present to them. The Board has to make the decision based off that information. He stated that the consultant was hired because he could go to other Towns and gather viable information needed. He explained the reason behind the new equipment and the safety hazard for employees and the environment. He stated that the Town began funding equipment and paving the in the Capital Improvements Fund at a rate of \$100,000 per year. Mayor Briggs noted that the Town does not put in as much now, but still continues to put funds in. He explained the Town has 3.2 million dollars all going to the programs for the water/sewer. Mayor Briggs informed the Board that the Town has been cutting back and has tighten the belt as much as it can. He explained that even though the property tax did increase in value the yield factor dropped. He knows that the water should have been increased in previous years but there were always problems that arise. He stated the reason why residents with vacant lots pay for trash and the minimum six thousand gallons. He explained that it is because it helps the residents in Town to keep it lower for everyone and that everyone has to contribute for the fixed cost. Mayor Briggs acknowledges that the Town has received many grants since having a Grants Administrator. He spoke about the attributes the Town holds and how important it is for the community to come together and help those that do need it. He thanked Staff on their presentation on his behalf. Mayor Briggs stated that he liked some of the ideas that were mentioned, and explained that ten percent won't help catch up. He reminded the Board to take care of the people the best they can.

Commissioner O'Donnell turned to the Board, and asked who would be on agreement for a modified rate increase. Staff suggested if the Board can give direction, since they prepared what the Board instructed to do at the last meeting. Being that it is not what is wanted. Commissioner Sweeney

clarified that it was just for the water and not for the sewer, and that the sewer will stay at the 3%. Ms. Willets recommended the Board have multiple proposed rates, of 25% and 30%.

Motion to direct staff to return with water rate numbers showing 10 %, 25% and a 30% rate increase where the 10% is the flat rate applied to all users.

Ms. Willets told the Board that this will not happen at the next town meeting on January 9th. It will give Staff enough time to have in the February 6th meeting.

Consent with the direction for Staff for a modification of the water bill rate. Yeas; 5, Nays; 0.

Mayor Briggs stepped away at 10:38 pm

Mr. Tabler left at 10:38 pm.

Mr. Clark; Town Attorney took the chair at 10:40 pm.

Motion: Commissioner Davis motioned to approve to table approval of Ordinance 2022-12 until the February 6th meeting; second by Commissioner Boehman-Pollitt. Yeas – 5; Nays – 0. The motion was approved.

Agenda #2 – For consideration, approval of Ordinance 2022-13 which would change Board of Commissioners meeting to 7:00pm. Staff presented the following item to the Board and added that on behalf of the Mayor and herself, if holiday falls on a Monday, then the meeting will fall on the following Monday. *Motion:* Commissioner Sweeney motioned to approve the Ordinance 2022-13; second by Commissioner Davis. Yeas – 4; Nays – 1; Nay – 1 (O'Donnell). The motion was approved.

Commissioner Davis suggested to switch Agenda Item #3 and #4. Staff has no problem to move them.

Agenda #4 – For discussion and consideration, an offer from Richard Lindsay to purchase three acres from the Town of Emmitsburg located near the WWTP. Ms. Willets presented the agenda item with background information to where they are now. She also read from the agenda packet the proposed amount offered from Richard Lindsay. (attachment in agenda).

Mayor Briggs returned at 10:43 pm.

Mayor Briggs spoke and that the Town wants to sell it even though the Ms. Powell suggests to lease. He would like to sell the property to Richard Lindsay. Someone else was interested in the property but for industrial purposes which is how they came up with the figures. Mayor knows he can't give a price, but looking for the board to either sell or retain to lease.

Mr. Clark added the Town would be better served to continue to an agricultural lease at market value rather than selling.

Richard Lindsay did speak on behalf of his proposal and background history of how he has maintained the land. Thanked the Mayor for speaking on his behalf.

After a lengthy discussion on pricing and who would be responsible for the survey fees. Mr. Lindsay offered to pay the survey cost, if the Town would accept his offer. Clarification, the 3 acres would then belong to Mr. Lindsay which would be outside of Town limits.

Motion: Commissioner Ritz III motioned to accept the offer of \$18,000.00 for the three-acre parcel located between the WWTP and property at 16737 Creamery Road, and that the purchaser pay for the survey of this parcel, the Town will be responsible for all other associated cost; second by Commissioner Davis. Yeas – 3; Nays – 1; Abstain – 1. (Nays – O’Donnell; Abstain – Boehman-Pollitt) The motion was adopted.

Agenda #3- For consideration, approval of the three-year sewer relining bid. Ms. Willets presented the agenda item with past history from the previous three-year sewer relining. She then went over the process of how Staff chose the top four bids. She briefly explained the break-down of the bids with the pricing and experience. Staff recommends Guyer Brothers because of the ten-year warranty and explained they do not use chemicals. Guyer Brothers uses Thermoform, which is environmental friendly option.

Motion: Commissioner Davis motioned to accept the approval of the three-year sewer relining bid; second by Commissioner Boehman-Pollitt. Yeas – 5; Nays – 0. The motion was adopted.

Commissioner Davis stepped out at 11:29 pm.

Agenda #5– For consideration, approval of revertible forest conservation easement with Daughters of Charity. A) The Daughters of Charity is providing the Town a 9.2013- acre revertible forest conservation easement to the Town in order to plan trees for the 2023-2028 MS-4 permitting term. Parcel located on East side of US 15.

Ms. Willets stepped out at 11:30 pm.

Mr. Clark gave the presentation, referring to page sixty-eight in the agenda packet. He gave specifics from the easement and how similar it is to another one for this exact property. He referred to page seventy-five of the packet with the maintenance agreement.

Commissioner Davis returned at 11:31 pm.

Ms. Willets returned at 11:32 pm.

Motion: Commissioner Sweeney motioned to accept the revertible forest conservation easement of Daughters of Charity; second by Commissioner Boehman-Pollitt. Yeas – 5; Nays – 0. The motion was adopted.

Agenda #6- For consideration, amending the hours of the Farmer’s Market. Commissioner Boehman-Pollitt explained the challenges that the residents and vendors face that cannot make the current time. After further discussion the Board agreed to extend only the time and keep the current day as Friday.

Motion: Commissioner Ritz III motioned to accept amending the hours of the Farmer’s Market from 2:00 pm to 8:00 pm; second by Commissioner Davis. Yeas – 5; Nays – 0. The motion was adopted.

~~Agenda #7– For consideration, approval the Amendment to Loan and Financing agreement for the extension of credit made to the Vigilant Hose Company of Emmitsburg as the successor by merger to the Emmitsburg Volunteer Ambulance Co. WITHDRAWN BY APPLICANT~~

Set Agenda Items for January 9th 2023 Town Meeting

Agenda Items:

For consideration, approval of Bearing Construction change order for removal of trees on dam at the Silo Hill Basin. (A) Mandatory requirement from Frederick County Soil Conservation per MDE guidelines (2.) For consideration, approval of agreement with Barton and Loguidice for Silo Hill Basin tree removal engineering services. (3) For consideration, approval of the HACH estimate for the ChemScan upgrade at the WWTP. (A) The Board previously approved a similar upgrade at the WTP. This was included as an asset project for the WWTP in the FY 23 budget. (4) For consideration, approval of Resolution 2023-01 bond reduction request for the Irishtown Road project. (5) For approval, designation of the second tranche of the American Rescue Plan monies. (6) For consideration, approval of Ordinance 2023-03 amendment to Title 16 changes to subdivision fees. (A) This Ordinance will amend subdivision, plan review and annexation, forest conservation procedures related to fees. (7) For consideration, approval or Ordinance 2023-02 amendment to Title 17 changes to zoning fees. (A) This Ordinance will amend the collection process for zoning fees. **Administrative Business:** (1.) Appointment of Melissa Mckenney to the Citizen Advisory Committee with a term of January 9, 2023 to January 9, 2025.

Motion: Commissioner Ritz III motioned to accept the December 6, 2022 town meeting agenda as presented; second by Commissioner Sweeney. Yeas – 5; Nays – 0. The motion was adopted.

III. Sign Approved Text Amendments and/or Resolutions

IV. Adjournment

With no further business, Commissioner Sweeney motioned to adjourn the December 6th, 2022, 2022 town meeting at 11:45 p.m.; second by Commissioner Ritz III. Yeas – 5; Nays - 0. The motion was adopted.

Respectfully submitted,

Sabrina King, Town Clerk
Minutes Approved On:

**MINUTES
TOWN MEETING
DECEMBER 12TH 2022
TOWN OFFICE - 300A SOUTH SETON AVENUE**

Present: Elected Officials - Commissioners: Timothy O'Donnell, President; Joseph Ritz III, Vice President; Clifford Sweeney, Treasurer, Frank Davis; and Amy Boehman-Pollitt. Staff Present - Cathy Willets, Town Manager; Sabrina King, Town Clerk. *Others Present-* Amanda Haddaway, HR Consultant; and Chris Jakubiak, Town Planner Consultant.

I. Call to Order

A quorum being present, Commissioner Timothy O'Donnell, President of the Board of Commissioners, called the December 12th, 2022 town meeting to order at 7:00 p.m. Pledge of Allegiance was recited. Upcoming meetings were announced.

Announcement of a Closed Session

President O'Donnell announced the need for a closed executive session following adjournment of the December 12, 2022 town meeting for the purpose of consulting with staff, consultants, or other individuals to discuss the proposed employment of the candidate for the Town Planner. The authority for meeting in closed session for this purpose is permitted by the General Provisions Article Section 3-305 (b)(1), Annotated Code of Maryland which authorizes us to meet in closed session to discuss employment. The Board of Commissioners will not be meeting in another open session after the closed session has ended.

Public Comments: No public comment.

II. Agenda Items

Agenda #1 — Closed executive session to consult with staff, consultants or other individuals to discuss the proposed candidate for the Town Planner.

Announcement of a Closed Session

President O'Donnell announced the need for a closed executive session following adjournment of the December 12, 2022 town meeting for the purpose of consulting with staff, consultants, or other individuals to discuss the proposed employment of the candidate for the Town Planner. The authority for meeting in closed session for this purpose is permitted by the General Provisions Article, Section 3-305 (b)(1), Annotated Code of Maryland which authorizes us to meet in closed session to discuss employment. The Board of Commissioner will not be meeting in another open session after the closed session has ended.

IV. Adjournment

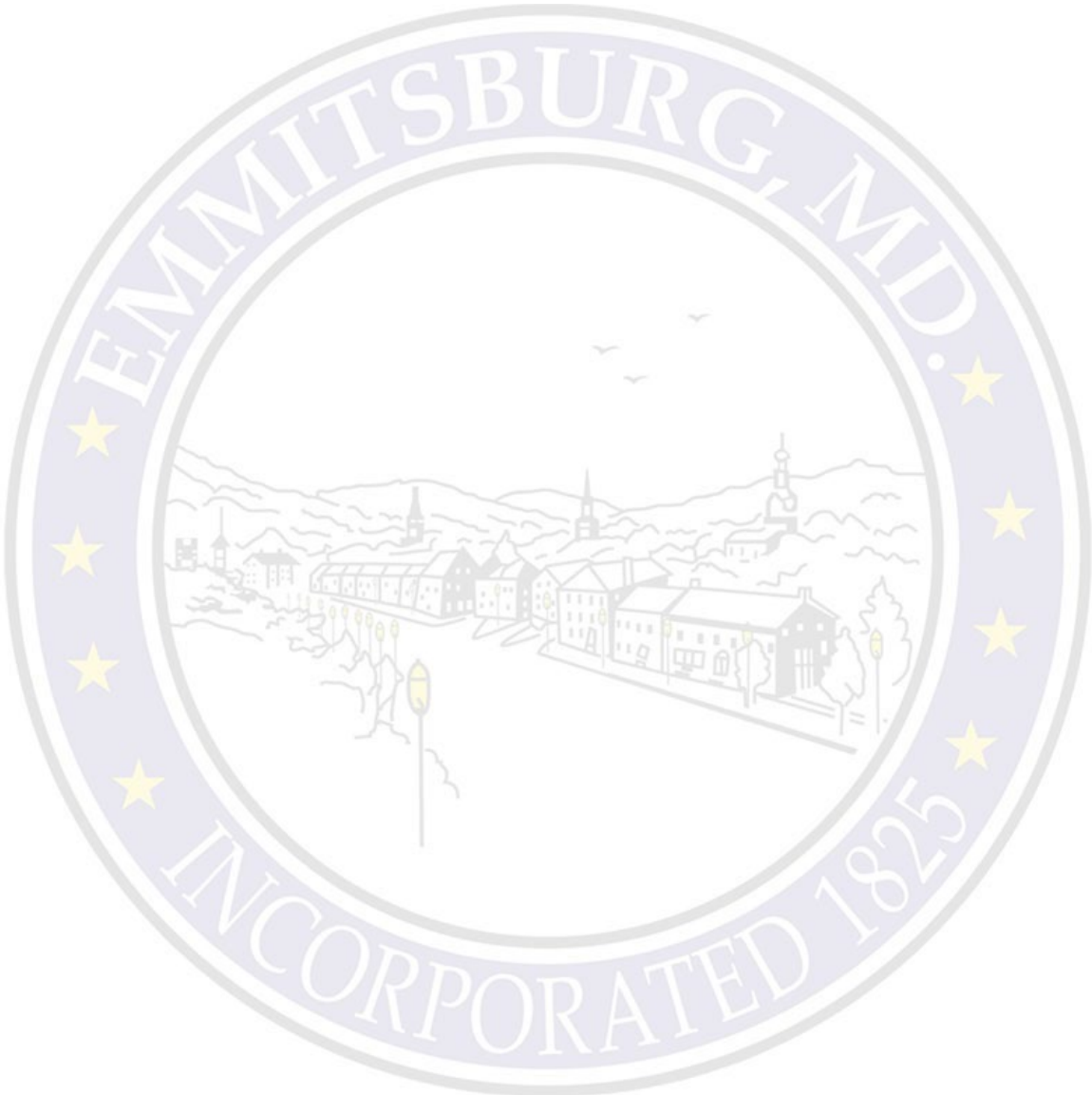
With no further business, Commissioner Ritz motioned to close the December 12, 2022 town meeting at 7:06 pm for a closed executive session to consult with counsel, consult with staff, consultants or other individuals to discuss the proposed employment of the candidate for the Town Planner, as permitted by the General Provisions Article, Section 3-305(b)(1); second by Commissioner Boehman-Pollitt. Yeas — 5; Nays —0. The motion was adopted. to adjourn the December 12 town meeting at 7:06 p.m.; second by Commissioner Boehman-Pollitt. Yeas — 5; Nays - 0. The motion was adopted.

Respectfully submitted,

Sabrina King, Town Clerk

Approved On:

B. POLICE REPORT



C. TOWN MANAGER'S REPORT

Town Manager's Report

November 2022

Prepared by Cathy Willets

Streets:

- Staff replaced and repaired some street signs around town.
- Staff conducted monthly street sweeping.
- Staff repaired street lights.
- Staff conducted monthly storm drain inlet cleaning.
- Staff put flags on street light poles and around square as well as section of East & West Main St. for Veteran's Day.
- Staff put up Christmas decorations on street light poles on East & West Main St. as well as North & South Seton Ave.

Parks:

- Staff conducted daily park checks – trash cans, cameras, dog waste stations, restrooms.
- Staff conducted monthly park maintenance – playground equipment, roads, fences, pavilions, etc.
- Staff mowed, trimmed and weed killed in parks.
- Staff winterized Memorial Park restroom building, concession stand, and the dog park in E. Eugene Myers Park.
- Contractor removed the sunshades from the ADA playground equipment in E. Eugene Myers Park.

Water:

- Rainbow Lake is 2.1' below the spillway level (14.5 feet). Spillway is 16.6 feet.
- The roughing filters are being backwashed four times a day. The DE filters are getting one week runs.
- Well levels (optimum level was determined to be May 2011).

	<u>May 2011</u>	<u>November</u>	<u>Change</u>
○ Well #1:	35'	43'	-8'
○ Well #2:	8'	19'	-11'
○ Well #3:	12'	34'	-22'
○ Well #4:	108'	OFF'	N/A
○ Well #5:	10'	OFF'	N/A

- Water production and consumption. We produced an average of 227,364 GPD. We consumed an average of 241,775 GPD (finish water + MSM). The amount of Backwash Water in the month of November is ... (18.1%).
 - 42.63% of this water came from wells.
 - 5.21% of this water came from Mt. St. Mary's.
 - 52.16% of this water came from Rainbow Lake.

We purchased 432,350 gallons of water from MSM this month.

Wastewater:

- We treated an average of 409,017 gpd (consumed 241,775 GPD) which means that 40.89% of the wastewater treated this month was "wild water". This reflects lagoon pump and not all weather related.
- We had no spills of untreated sewage in the month of November.
- We exceeded the plant's design capacity 13 times in the month of November due to the pumping down of lagoons (nothing to do with weather or I&I).
- We received about 4.5" of precipitation this month (the average is 3.61"). We have a precipitation **SURPLUS of 1.53"** over the last six months. The average precipitation for the period from June 1 through November 30 is 22.22". We have received 23.75" for that period.

Trash: Trash pickup will remain Mondays in the month of January.

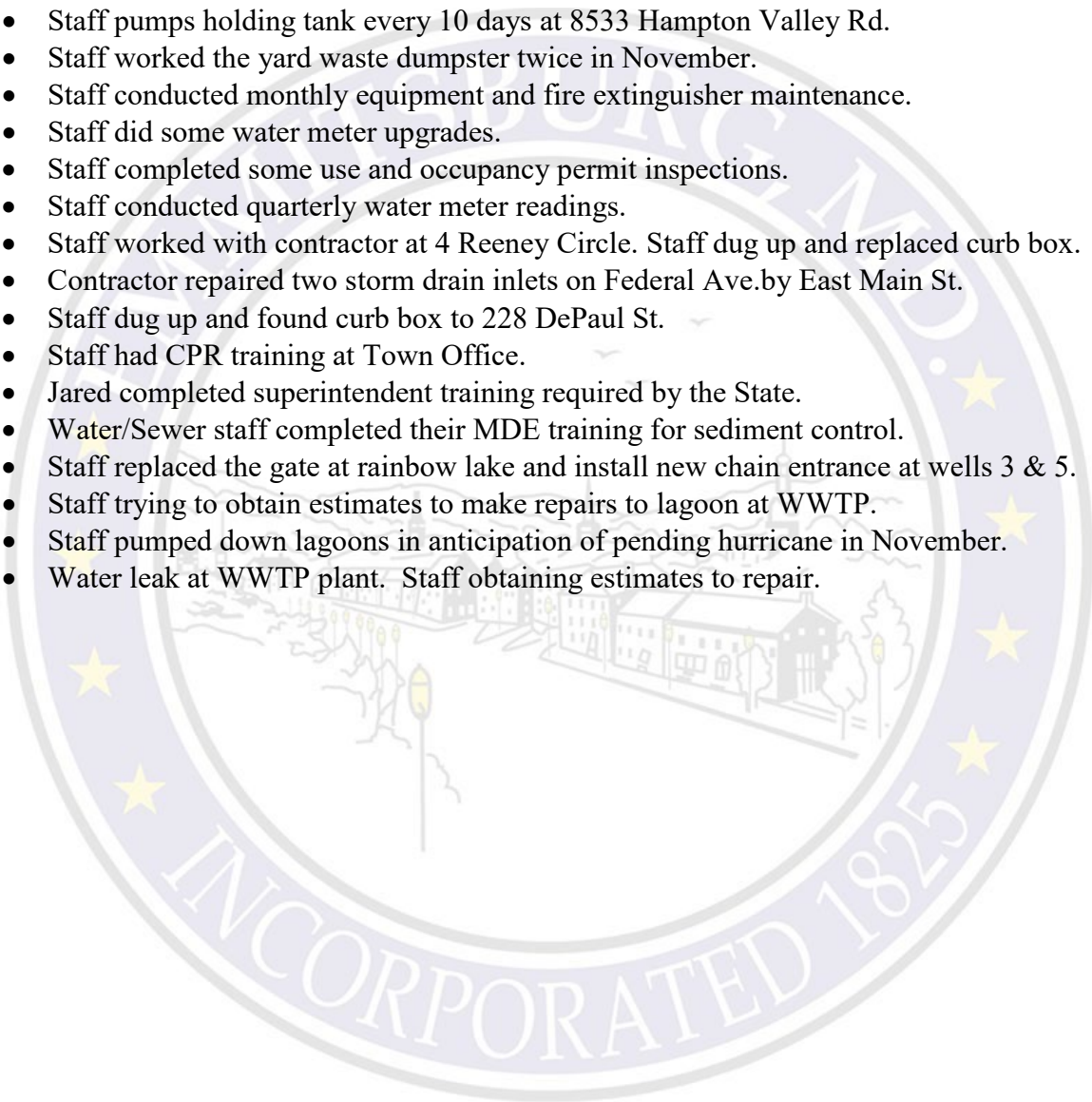
Meetings Attended:

- 11/01 Conducted interviews with HR, Dir of PW for the parking/code enforcement officer position.
- 11/02 Met with Mayor.
- 11/03 Conducted interviews with HR, Dir of PW for the parking/code enforcement officer position.
- 11/04 Attended DNR webinar re: grants for MS/4 and stormwater.
- 11/04 Conference call with Town attorney re: outstanding projects and code enforcement.
- 11/07 Attended Town Meeting.
- 11/08 Conference call with Town Attorney, staff and Federal Stone re: project updates.
- 11/08 Conducted interviews with HR, Town Clerk for office coordinator position.
- 11/15 Conducted FY23 first quarter budget review with staff.
- 11/15 Conducted interviews with HR, Town Clerk for office coordinator position.
- 11/18 Call with StreamLink re: FY23 tree plantings for MS-4 permit.
- 11/21 Conference call with Town Attorney, PNC, staff and VHC regarding previous bond.

- 11/21 Attended Town Meeting.
- 11/22 Met with Town of Thurmont's code enforcement officer.
- 11/28 Conducted interviews with HR, Mayor, Planning Consultant for planner position.

Noteworthy:

- Staff pumps holding tank every 10 days at 8533 Hampton Valley Rd.
- Staff worked the yard waste dumpster twice in November.
- Staff conducted monthly equipment and fire extinguisher maintenance.
- Staff did some water meter upgrades.
- Staff completed some use and occupancy permit inspections.
- Staff conducted quarterly water meter readings.
- Staff worked with contractor at 4 Reeney Circle. Staff dug up and replaced curb box.
- Contractor repaired two storm drain inlets on Federal Ave. by East Main St.
- Staff dug up and found curb box to 228 DePaul St.
- Staff had CPR training at Town Office.
- Jared completed superintendent training required by the State.
- Water/Sewer staff completed their MDE training for sediment control.
- Staff replaced the gate at rainbow lake and install new chain entrance at wells 3 & 5.
- Staff trying to obtain estimates to make repairs to lagoon at WWTP.
- Staff pumped down lagoons in anticipation of pending hurricane in November.
- Water leak at WWTP plant. Staff obtaining estimates to repair.



As of January 4, 2023 Grants Administrator Report

Prepared By: Madeline Shaw, Grants Administrator

ACTIVE GRANTS (12 TOTAL)

#22-1, USDA New Public Works Equipment for \$168,900 (match of \$128,500)

- For purchase of a 4x4 work truck, backhoe loader, multi-user tractor, WWTP SCADA.
- Status - Backhoe and multi-use tractor delivered. SCADA completed. Waiting on work truck to be delivered; delayed to Feb. 2023 now. Once all invoices are received final report will be submitted.

#22-5, GOCCP Edward J. Byrne Memorial Justice Assistance Grant (BJAG) for \$98,544 (no match)

- For purchase/installation of 3 license plate readers & 3 surveillance cameras.
- Status – DONE. All three ALPRs are operational and connected to the Maryland State Police hotlist. 2 surveillance cameras installed, 3rd no longer being pursued due to budget constraints and difficulty obtaining agreement with property owner. Final grant report to be submitted by Jan. 31.

#22-6, POS New Bathroom/Concession Stand for \$147,980 (\$89,000 match)

#22-7, LPPI New Bathroom/Concession Stand for \$40,000 (no match)

- For construction of a new bathroom/concession stand combo building in Community Park.
- Status – Engineer submitting site plan to Frederick County any day now. Need to order pre-fabricated building, then hire contractor to prepare site for delivery (water/sewer/electrical/stone pad).

USDA Creamery Road Pump Station Replacement \$863,000 grant, \$1,987,000 loan

- For replacement of Creamery Road Pump Station will new station.
- Status – waiting on USDA to approve final design and project for bid. A lot of time spent in December sending the USDA a long list of documents in preparation for this. Continuing to submit monthly reports to USDA too.

#23-1, TRIPP Historic Walking Tour and Visit Emmitsburg Website for \$9,750 (\$9,750 match)

- For creation of a tri-fold brochure with walking tour map and creation of VisitEmmitsburg website that would include things to do in area and walking tour.
- Status – DONE. VisitEmmitsburg.com website went live Nov. 21. Brochure printed and delivered across County mid-December. Final grant report submitted 01/04.

#23-2, TRIPP Emmitsburg Advertising for \$2,963 (\$1,481 match)

- For advertising Emmitsburg in Celebrate Gettysburg, Visit Frederick and Montgomery Magazine.
- Status – waiting to run ads in spring/summer 2023. First ad to be run in March 2023.

#23-4, CP&P Silo Hill Playground Improvements for \$146,263 (no match)

- To replace old swing set and playground tower and install half basketball court.
- Status – State fully approved grant. Purchase order sent to contractor for work 08/25. Installation to occur end of January 2023. Pre-construction meeting to occur week of Jan. 9th.

#23-8, MEA Streetlight & Outdoor Lighting Efficiency Pilot for \$27,500 (15% of total project cost match)

#23-10, USDA Downtown Streetlight Replacement for \$75,000

#23-11, USDA Downtown Streetlight Replacement for \$50,000

- Replace 102 streetlights along Main Street / Seton Avenue with new LED dimmable cutoff lights.
- Status – waiting on DHCD Operating Assistance grant award in January and town budget transfer to fund entire project est. at \$234,090.

NEWLY AWARDED GRANTS

#23-12, DHCD Business District and Neighborhood Safety Grant for \$85,000 submitted 10/21/22

- Purchase two portable radar speed trailers and two surveillance cameras for town square.

#23-3, DHCD Community Legacy Façade Improvements FY2023 for \$50,000

- Provide property owners in sustainable community's district with 50/50 funds to fix-up property
- Status – applications were due by Dec. 31 to town office. Need to schedule meeting with sustainable community committee and new town planner to determine what projects will be funded.

PENDING GRANTS (WAITING FOR ANNOUNCEMENT) (14 TOTAL)

#23-5, POS Rainbow Lake Parking Lot for \$70,000 (\$37,500 match)

- For SWM plan and to pave a 10 to 12 space parking lot at Rainbow Lake.

#23-6, POS Community Park Cornhole for \$6,000 (\$2,00 match)

- For installing two pairs of permanent concrete cornhole boards in Community Park.

#23-7, POS Outdoor Storybook Trail for \$8,250 (\$2,750 match)

- For installation of 30 single pedestal exhibits that would display exchangeable storybook pages.

DHCD Operating Assistance Grant – Main Street Improvement Grant for \$10,000

- Replace 102 streetlights along Main Street / Seton Avenue with new LED dimmable cutoff lights.

MWQFA Drinking Water Revolving Loan and/or Water Supply Grant for \$2,255,552 submitted 01/31/22

1. North Seton Avenue waterline replacement \$1,145,552
2. DePaul Street waterline replacement \$1,110,000

DNR Local Parks and Playgrounds Infrastructure Grant FY2023 – 4 Totaling \$100,000 submitted 07/06/22

1. Rainbow Lake Parking Lot to cover remainder of funds needed for project \$44,500
2. Community Park Pavilion Improvements to rehab pavilion and replace tables \$30,500
3. Memorial Park Pavilion Improvements to rehab pavilions and replace tables \$22,000
4. Baseball Bat/Helmet Racks to purchase racks for remaining 3 ballfields \$3,000

DNR Community Parks and Playgrounds FY2024 – 2 Totaling \$120,686 submitted 08/24/22

1. Install half basketball court in Memorial Park \$15,000
2. Install playground addition via Timber Stacks play equipment in Memorial Park \$105,686

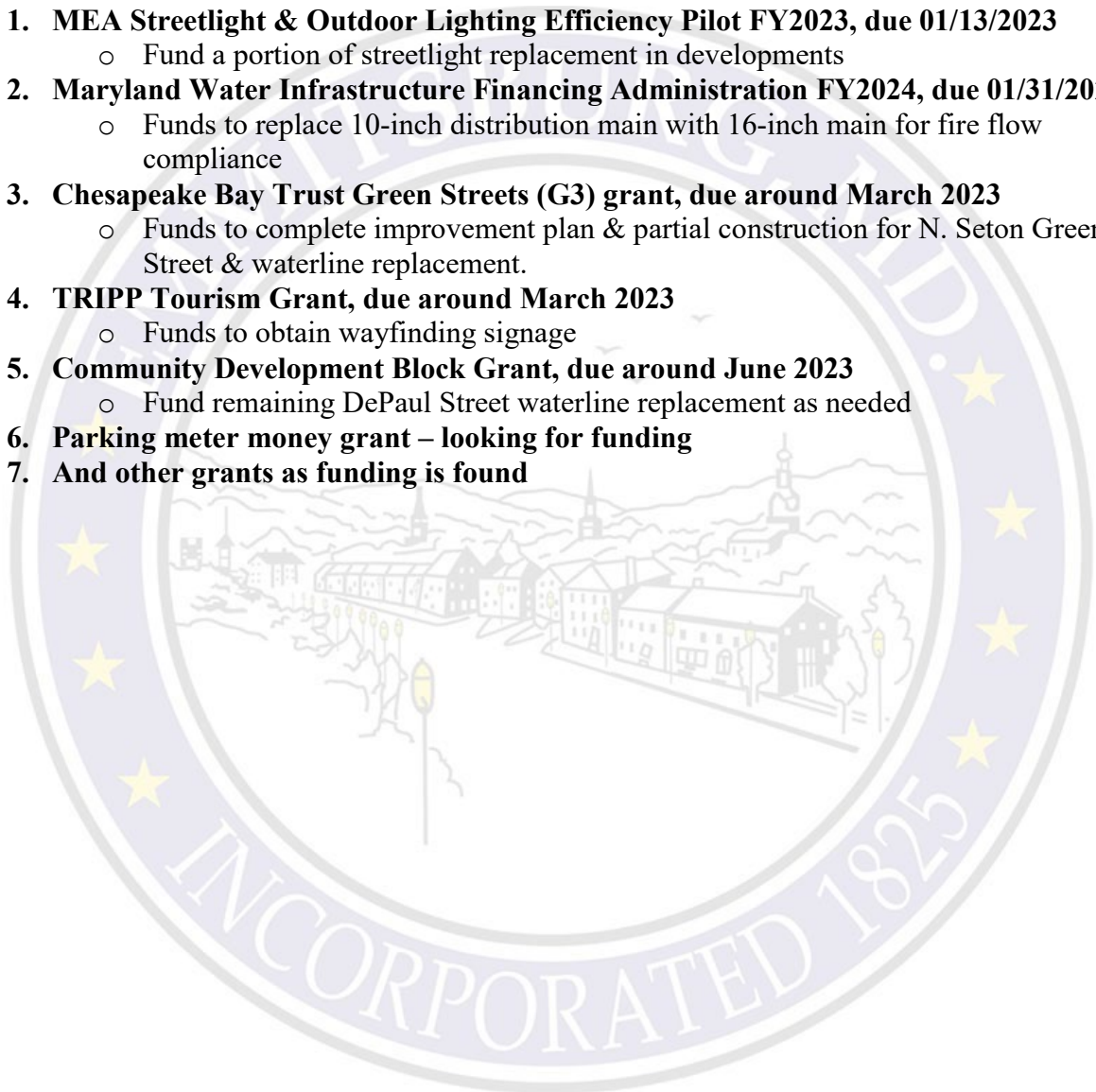
KMB Citizen Stewardship Grant for \$5,000 submitted 11/14/2022

- Purchase 4 pet waste stations and 3 recycling containers to be installed at various areas in Town.

State Aid for Police Protection (SAPP) FY2024, submitted 12/13/2022

UPCOMING GRANTS (TO APPLY FOR)

- 1. MEA Streetlight & Outdoor Lighting Efficiency Pilot FY2023, due 01/13/2023**
 - Fund a portion of streetlight replacement in developments
- 2. Maryland Water Infrastructure Financing Administration FY2024, due 01/31/2023**
 - Funds to replace 10-inch distribution main with 16-inch main for fire flow compliance
- 3. Chesapeake Bay Trust Green Streets (G3) grant, due around March 2023**
 - Funds to complete improvement plan & partial construction for N. Seton Green Street & waterline replacement.
- 4. TRIPP Tourism Grant, due around March 2023**
 - Funds to obtain wayfinding signage
- 5. Community Development Block Grant, due around June 2023**
 - Fund remaining DePaul Street waterline replacement as needed
- 6. Parking meter money grant – looking for funding**
- 7. And other grants as funding is found**



D. TOWN PLANNER'S REPORT

Town Planner Report

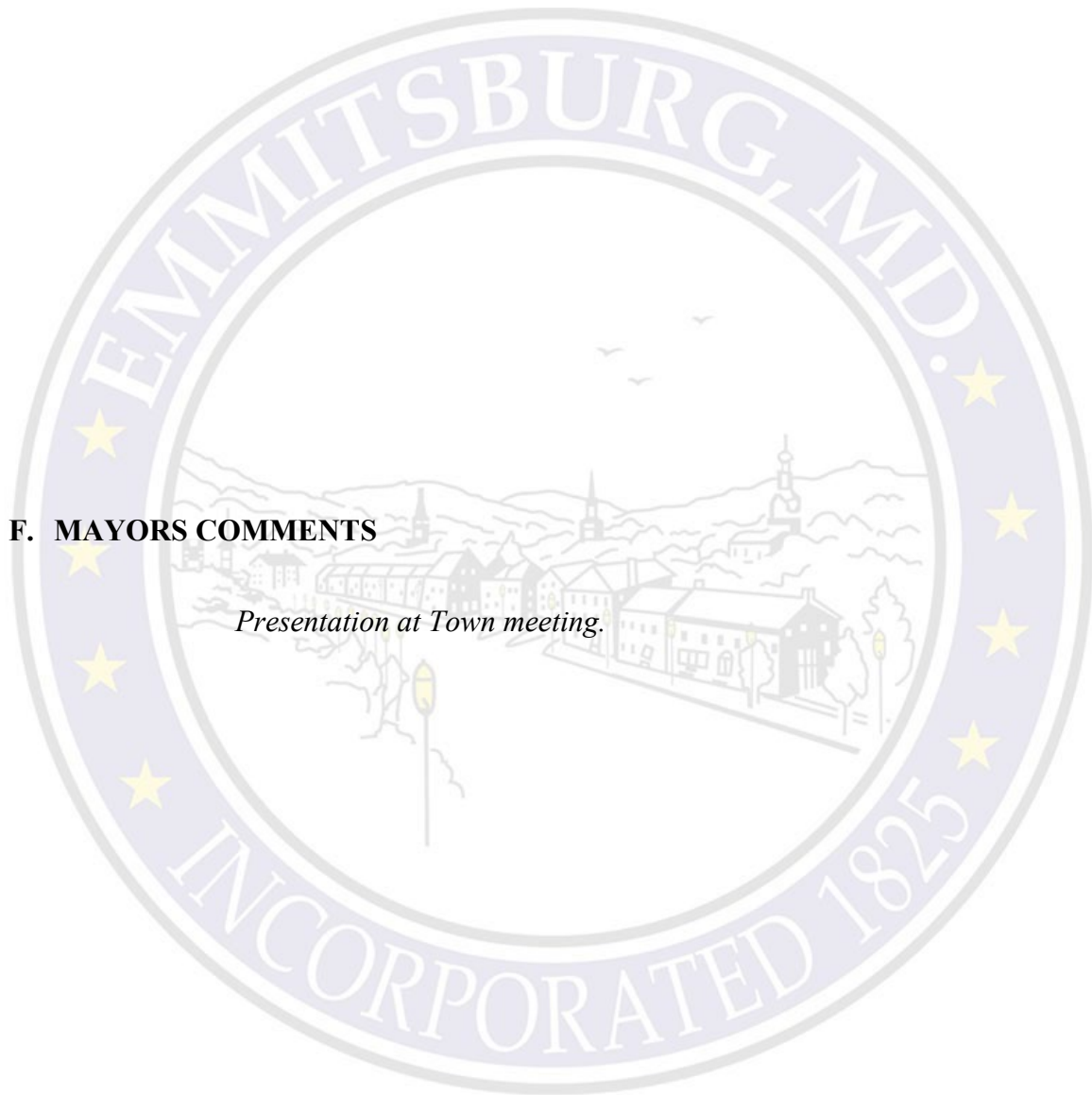
To: Board of Town Commissioners
From: Christopher Jakubiak, AICP
Date: January 4, 2023
Re: Update on Open Projects

1. The Federal Stone company is proposing changes to its previously approved preliminary site plan at Creamery Court to reflect a proposed new building format and footprint and related changes to the site. The matter will be addressed at the January 30, 2023 Planning Commission Meeting.
2. Rutters fuel station and convenience store is proposing an amendment to its approved site plan to remove a forest conservation easement. If approved by the Planning Commission, this would allow the removal of some of the trees on the property that are now protected by the easement.
3. The January 30, 2023 meeting agenda would include the Planning Commission's deliberations on a draft zoning text amendment to address the placement of boundary fences along the street sides of corner lots. The Planning Commission will be asked to formulate and transmit a recommendation to the Board of Town Commissioners.
4. The Daughters of Charity Ministries, Seaton Village Property has advanced in its efforts to formally re-plot its property, which would create two legal lots for purposes related to ownership. This is a technical plat change and I have advised the surveyor on the Town's plat requirements and procedures.

E. COMMISSIONERS COMMENTS

F. MAYORS COMMENTS

Presentation at Town meeting.



G. PUBLIC COMMENTS

H. ADMINISTRATIVE BUSINESS (NONE)

I. CONSENT AGENDA(NONE)

1. Appointment of Melissa Mckenney to the Citizen Advisory Committee with a term of January 9, 2023 to January 9, 2025.



J. TREASURER'S REPORT

**TOWN OF EMMITSBURG
CASH ACTIVITY as of December 27, 2022**

\$9,041,106	Cash Balance December 1, 2022
149,748	Deposits
<u>-295,582</u>	Withdrawals
\$8,895,272	Operating Balance Forward

<u>Check Amount</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check Date</u>	<u>Check Number</u>
\$98,147	State Retirement and Pension	FY23 Pension Contribution	11.30.22	44414
\$26,300	TFJ Excavating	Concrete and Blacktop for SWM	12.21.22	44516
\$22,415	Pine Hill Electronics	Camera Installation - Memorial Park - Grant #22-5	12.21.22	44512
\$21,224	Chesapeake Employers Insurance	FY23 Workmans Compensation	12.21.22	44501
\$16,621	MD Dept of Budget & Mgmt	Nov 22 Health Insurance	11.30.22	44413
\$13,992	Powell, LLC	Legal Fees	12.14.22	44492
\$13,761	UGI Energy Services	Aug 22 Solar Field #1	12.14.22	44494
\$12,786	UGI Energy Services	Aug 22 Solar Field #2	12.14.22	44494
\$12,054	Grove Public Relations	Historic Walking Tour Website - Grant #23-1	12.14.22	44478
\$9,776	UGI Energy Services	Oct 22 Solar Field #1	12.07.22	44452

Ck dates 11.30.22 to 12.27.22

K. PLANNING COMMISSION REPORT

L. AGENDA ITEMS

AGENDA ITEM #1: For consideration, approval of Bearing Construction change order for removal of trees on dam at the Silo Hill Basin.

- a) Mandatory requirement from Frederick County Soil Conservation per MDE guidelines.

Presentation at the meeting by Town Staff.





PCCO #002

Bearing Construction Inc
805 Shine Smith Rd
Sudlersville, Maryland 21668
Phone: (410)-556-8100

Project: 20128 - EMMITSBURG STORM WATER DB
Silo Hill Rd
Emmitsburg, 21727

Prime Contract Change Order #002: CE #002 - Stump Removal

TO:	Town of Emmitsburg, Maryland 300A South Seton Ave. Emmitsburg, Maryland 21727	FROM:	Bearing Construction Inc 805 Shine Smith Rd Sudlersville, Maryland 21668
DATE CREATED:	10/20/2022	CREATED BY:	Jay Douthit (Bearing Construction Inc)
CONTRACT STATUS:	Pending - In Review	REVISION:	0
DESIGNATED REVIEWER:		REVIEWED BY:	
DUE DATE:		REVIEW DATE:	
INVOICED DATE:		PAID DATE:	
SCHEDULE IMPACT:	7 days	EXECUTED:	No
REVISED SUBSTANTIAL COMPLETION DATE:		SIGNED CHANGE ORDER RECEIVED DATE:	
CONTRACT FOR:	20128:Emmitsburg Silo Hill Basin Retrofit Project Prime Contract	TOTAL AMOUNT:	\$47,185.00

DESCRIPTION:
CE #002 - Stump Removal

Basis for Change Order

Bearing Construction, Inc. (Bearing) has prepared this change order for the Town of Emmitsburg (Town's) consideration associated with unanticipated construction needs and associated professional services for the Silo Hill Stormwater Basin Retrofit. The project has evolved in such a way such that additional services were necessary for successful completion, arising from agency review comments not available to us at the time of our June 16, 2020 General Contractor Agreement.

Additional Bearing Construction Services Not Previously Planned or Budgeted

As part of the permit requirements from Frederick County Soil Conservation, the slope of the dam requires additional clearing of trees and stumps. The Town has previously cut and removed 33 trees, leaving the stumps near ground level. Bearing Construction is prepared to coordinate the removal of the stumps, in accordance with dam safety measures. Additionally, the Town request the site be covered with topsoil and seed to allow future mowing and easier maintenance. Bearing Construction proposes the following services:

1. Excavation to remove 33 stumps from the slope of the dam,
2. Hauling away all stumps for proper disposal,
3. Providing fill material and backfilling each stump hole in accordance with MDE Dam Safety measures,
4. Spreading two loads of topsoil across the slope to provide even terrain,
5. Seeding the slope with a standard turf-type tall fescue seed with a cover crop,
6. Installing straw matting to prevent soil erosion.

The additional work will be performed by the currently approved subcontractors already on site (Lindstrom and ER&M). Time is of the essence to allow a continuous workflow and avoid the expense of a second mobilization.

The additional work will add approximately 7 days to the schedule. Anticipated start date is Tuesday Oct. 25, 2022.

Exclusions: This proposal does not include any Engineering Supervision or Testing services that may be required per the MDE guidelines. Those services will be provided by B&L under a separate contract directly with the Town.

Time is of the essence to allow a continuous workflow and avoid the expense of a second mobilization. Please respond to this change order by Friday Oct. 21, 2022.

ATTACHMENTS:

POTENTIAL CHANGE ORDERS IN THIS CHANGE ORDER:

Bearing Construction Inc

Page 1 of 2

Printed On: 10/20/2022 11:08 AM

AGENDA ITEM #2: For consideration, approval of agreement with Barton and Loguidice for Silo Hill Basin tree removal engineering services.

- a) Part of the change order request that was not in the initial scope of work.

Presentation at the meeting by Town Staff.



AGREEMENT
BETWEEN
The Town of Emmitsburg, Maryland
AND
Barton & Loguidice, D.P.C.
FOR
PROFESSIONAL SERVICES
SILO HILL BASIN TREE REMOVAL ENGINEERING SERVICES

THIS IS AN AGREEMENT ("Agreement") effective as of October 24, 2022 ("Effective Date") between The Town of Emmitsburg, Maryland ("Owner") and Barton & Loguidice, P.C. A/K/A Barton & Loguidice, D.P.C. ("Consultant").

Consultant agrees to provide those professional services specifically described in Exhibit A ("Scope of Services") to Owner for professional services associated with the Silo Hill Basin Tree Removal Engineering Services Project ("Project"), which is incorporated by reference herein.

Owner and Consultant further agree as follows:

1.01 Basic Agreement

- A. Consultant shall provide, or cause to be provided, the Services set forth in this Agreement, and Owner shall pay Consultant for such Services as set forth in Paragraph 4.01. In the event of any inconsistency between Exhibit A and the terms of this Agreement, the terms of this agreement shall control.
- B. The use of standard business forms, including but not limited to Owner's purchase orders, are solely for the convenience of the parties and none of the provisions thereof shall in any way limit, alter or modify the terms of this Agreement whether or not any such document is signed.

2.01 General Considerations

- A. The standard of care for all professional or related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.
- B. Consultant and its Subconsultants may use and rely upon the information, work product and services provided or performed by others, including, but not limited to, Owner's consultants, contractors, manufacturers, and suppliers.
- C. Consultant shall commence to provide its services upon the full execution of this Agreement and shall provide those services within a reasonable time. In no event shall Consultant be obligated to perform services on a schedule which, in the Consultant's professional judgement, does not provide Consultant sufficient time to perform in accordance with the aforesaid standard of care.
- D. If, through no fault of Consultant, the orderly and continuous progress of Consultant's services is impaired, its services are delayed or suspended, or the Owner authorizes changes in the scope,

extent, or character of the Project, then the time for completion of Consultant's services, and the rates and amounts of Consultant's compensation, shall be adjusted equitably.

- E. The Owner shall notify the Consultant within (7) day's from when the Owner becomes aware of any fault or defect in the Project, including errors, omissions, or inconsistencies on the Consultant's Instruments of Service.
- F. All design documents prepared or furnished by Consultant are instruments of service, and Consultant retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Consultant grants Owner a limited license to use the instruments of service exclusively (1) performance of design or operation, (2) for Project construction as is the intended purpose of the documents, and (3) for the purpose of maintenance and repair of the Project, or (4) other documents, reports, details and plans as defined in the project Scope of Work.
- G. The Contract Documents for construction contracts prepared as a service under this Agreement are to be the Consultant's template Contract Documents, including but not limited to General Conditions, General Requirements, Information for Bidders and bidding documents, as may be amended by the Owner.
- H. Consultant shall not at any time supervise, direct, or have control over any contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.
- I. Consultant neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.
- J. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Consultant's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decisions regarding, or interpretations or clarifications of, the construction contract or Instruments of Service made by Owner or any third party without the advice and consultation of Consultant.
- K. Consultant shall be responsible only for those Construction Phase services expressly required of Consultant in Exhibit A, Scope of Services. With the exception of such expressly required services in Exhibit A, Consultant shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services, unless otherwise added to the Scope of Services by supplemental agreement. Owner waives all claims against the Consultant that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Consultant in Exhibit A.
- L. If the Construction Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Consultant shall specify the appropriate performance and design criteria that such services must satisfy. The Consultant 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 Consultant. The Consultant's review shall be for the limited purpose of checking for

conformance with information given and the design concept expressed in the Contract Documents. The Consultant 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.

- M. Owner shall bear full responsibility and liability for the generation, existence, or presence of any toxic, hazardous, radioactive, infectious, mutagenic, teratogenic, carcinogenic, explosive, combustible, or other dangerous substances ("hazardous materials") pre-existing at the site. Owner affirms certain additional responsibilities under the Agreement, including without limitation the following:
1. Owner shall grant or cause to be granted a license of right-of-way to Consultant to access all sites necessary for the performance of the Services under this Agreement.
 2. Owner shall furnish or cause to be furnished to Consultant all documents and information known to Owner that relate to the identity, location, quantity, nature, or characteristics of any hazardous materials at or near the site(s).
 3. Unless otherwise required by law or set forth in this Agreement, Owner shall be responsible for accurately locating and prominently marking all buried, concealed, or submerged pipes, tanks, cables, utilities or other man-made obstructions ("underground facilities") that may affect or be affected by Consultant's services.
- N. Unless otherwise included under this Agreement, the parties acknowledge that Consultant's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). Owner represents to Consultant that, to the best of its knowledge, a Hazardous Environmental Condition does not exist at the Site, except as expressly disclosed to the Consultant in writing. If Consultant or any other party encounters a Hazardous Environmental Condition, Consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.
- O. The services to be provided by Consultant under this Agreement DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Consultant are understood by the parties to this Agreement to be strictly *engineering or other technical* opinions, advice, information or recommendations. Consultant is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The other parties to this Agreement should determine independently whether they require the services of a municipal advisor.
- P. The Consultant shall not be required to execute certificates, guarantees, warranties or make representations that would, in its professional judgment, require knowledge, services or responsibilities beyond the scope of this Agreement.
- Q. Owner and Consultant may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If the Scope of Services does not establish protocols for electronic or digital transmittals, then Owner and Consultant shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those

used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

3.01 Insurance

- A. Consultant shall procure and maintain insurance as set forth in Exhibit B, "Insurance". Consultant shall cause Owner to be listed as an additional insured on applicable general liability insurance policies carried by Consultant.
- B. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Consultant's interests in the Project. Owner shall require Contractor to cause Consultant and its Subconsultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- C. Owner and Consultant shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit B. Such certificates shall be furnished prior to commencement of Consultant's services and at renewals thereafter during the life of the Agreement.
- D. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Consultant and to each other additional insured (if any) to which a certificate of insurance has been issued.

4.01 Payment for Services

- A. Payment. Owner shall pay Consultant as follows: An amount equal to the cumulative time charged to the Project by each class of Consultant's employee's times hourly billing rates then in effect at the time the services are provided for each applicable billing class, plus reimbursable expenses and Consultant's charges for Subconsultants, if any. Unless specifically indicated otherwise in this Agreement, Consultant's charges for subcontracted services shall be invoiced at cost plus fifteen percent. Consultant's current billing rates schedule is included in Exhibit C.

The total compensation for services and reimbursable expenses is estimated to be \$19,000. This amount will not be exceeded without authorization of the Owner.

- B. Preparation of Invoices. Consultant will prepare an invoice in accordance with Consultant's standard invoicing practices and submit the invoice to Owner.
- C. Payment of Invoices. Invoices are due and payable within thirty (30) days of the date of the invoice. If Owner fails to make a timely payment due Consultant, then Consultant may, without liability, after giving seven (7) days' written notice to Owner, suspend services under this Agreement until Consultant has been paid in full all amounts due for services, expenses, and other related charges.
- A. 5.01 Additional Services
 - A. If mutually agreed by Owner and Consultant, or if required in Consultant's professional judgement because of changes in the Project, or unforeseen circumstances, Consultant shall furnish services in addition to those set forth above and in Exhibit A ("Additional Services").
 - B. When reasonably practicable in Consultant's professional judgment, Consultant shall provide Owner a written request for authorization to perform Additional Services and obtain Owner's written authorization before performing said Additional Services. Consultant's written request may be transmitted by electronic mail or regular mail. Consultant's request shall include a description of the Additional Services required and an estimate of the cost thereof. If the Owner fails to authorize the Additional Services within seven (7) days after Consultant's mailing or

transmission of Consultant's request, said request will be deemed to have been denied and Consultant shall have no obligation to perform said Additional Services, nor shall Consultant bear any responsibility or liability for any costs, damages or delays resulting from the lack of said Additional Services.

- C. When, in Consultant's professional judgement, Additional Services are required to be provided on a schedule which does not allow time to obtain Owner's written authorization in advance, Consultant shall begin to provide said Additional Services. As soon as reasonably practicable thereafter, Consultant shall provide Owner written notice of its commencement of said Additional Services and its request for authorization to complete the Additional Services. Consultant's written requests may be transmitted by electronic mail or regular mail. If the Owner fails to authorize the Additional Services within (3) days after Consultant's mailing or transmission of Consultant's request, said request will be deemed to have been denied and Consultant shall have no obligation to complete said Additional Services, nor shall Consultant bear any responsibility or liability for any costs, damages or delays resulting from the lack or said Additional Services. Owner shall pay Consultant for the Additional Services performed prior to the effective date of Owner's denial.
- D. Owner shall pay Consultant for any Additional Services provided as follows: (1) as may be mutually agreed to in writing, or (2) in the absence of a mutual agreement an amount equal to the cumulative hours charged to the Project by each member or each class of Consultant's employees engaged in providing the Additional Services times the Consultant's hourly billing rates for each applicable billing class in effect at the time the Additional Services are performed; plus reimbursable expenses and charges for Consultant's Subconsultants, if any, at cost plus fifteen (15) percent.

6.01 Dispute Resolution

- A. Owner and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice by either party of the existence of the dispute. If a dispute involves matters other than a claim by Consultant for payment of fees and the parties fail to resolve the dispute through negotiation then Owner and Consultant agree that they shall first submit any and all such unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. Owner and Consultant agree to participate in the mediation process in good faith and to share the cost of the mediation equally. The process shall be conducted on a confidential basis, and shall be completed within 150 days of the date of notice by either party of the existence of the dispute. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to an alternative dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.
- B. If a dispute involves a claim by Consultant for payment of fees and the parties fail to resolve the dispute through negotiation then Consultant may seek to have its claim for fees resolved by a court of competent jurisdiction without first participating in mediation.

7.01 Accrual of Claims

- A. All causes of action between the parties to this Agreement including those pertaining to acts, failures to act, or failures to perform in accordance with the obligations of the Agreement or failures to perform in accordance with the standard of care shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts, failures to act or failures to perform occurring prior to Substantial Completion, or the date of issuance of the Notice of Acceptability of Work (or similar notice of the

final completion of the Project) for acts, failures to act or failures to perform occurring after Substantial Completion.

8.01 Controlling Law

- A. This Agreement is to be governed by the law of the state in which the project is located.

9.01 Indemnification and Liability

- A. The Consultant and the Owner mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability or cost (including reasonable attorneys' fees and defense costs) but only to the extent caused by their own respective negligent acts, negligent errors or negligent omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this Agreement. Neither party is obligated to indemnify the other in any manner whatsoever for the other's own negligence.
- B. In addition to the indemnity provided under Paragraph 9.01 A and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Consultant and its officers, directors, partners, employees, and Consultant's Subconsultants from and against all costs (including attorneys' fees), losses, damages and liabilities arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, damage or liability is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Project itself), including the loss of use resulting therefrom.
- C. In recognition of the relative risks and benefits of the Project to both the Owner and the Consultant, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Consultant and Consultant's officers, directors, partners, employees, shareholders, owners and sub consultants for any and all claims (including claims by third parties), losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant and Consultant's officers, directors, partners, employees, shareholders, owners and sub consultants shall not exceed \$100,000, or the amount actually paid to Consultant's for services rendered on this Project, whichever is greater (the "Limitation Amount"), and further, in no event shall the Limitation Amount exceed the amount of liability insurance proceeds actually available to the Consultant for the claim at issue at the time of settlement or final judgment net of any and all expenses paid or incurred on the claim at issue, payments made or incurred in connection with other claims made against the Consultant, or any other circumstances which may reduce, impair, or eliminate the overall availability of such insurance to the Consultant. It is intended that these limitations apply to any and all liability or cause of action, including, without limitation, active and passive negligence, breach of contract, breach of warranty, tort, strict liability, or equity, or liabilities that might arise out of the parties' indemnification obligations, however alleged or arising, unless otherwise prohibited by law. The Client specifically agrees that it has had the opportunity to negotiate this Limitation of Liability clause and to accept or reject its inclusion herein.

10.01 Successors, Assigns, and Beneficiaries

- A. Owner and Consultant each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Consultant (and to the extent permitted by Paragraph 10.01.B the assigns of Owner and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

- B. Neither Owner nor Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. This provision shall not preclude Consultant from retaining Subconsultants as it deems reasonably necessary for the completion of the services rendered hereunder.

11.01 Termination

- A. The obligation to provide further services under this Agreement may be terminated:
 - 1. For cause,
 - a. By either party upon thirty (30) days' written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
 - b. By Consultant:
 - 1) upon seven (7) days' written notice if Consultant believes that Consultant is being requested by Owner to furnish or perform services contrary to Consultant's responsibilities as a licensed professional; or
 - 2) upon seven (7) days' written notice if the Consultant's services for the Project are delayed or suspended for more than 90 days for reasons beyond Consultant's control.
 - 3) Upon seven (7) days' written notice if Owner fails to pay an invoice when due.
 - 4) In the event Consultant terminates this agreement for either of the above-specified reasons, Consultant shall have no liability to Owner on account of such termination or any resulting costs, damages or delays.
 - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 11.01.A.1.a if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
- 2. For convenience, by Owner effective ten (10) days after the receipt of written notice by Consultant.
 - a. The terminating party under Paragraphs 11.01.A.1 or 11.01.A.2 may set the effective date of termination at a time up to thirty (30) days later than otherwise provided to allow Consultant to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
 - b. In the event of any termination under Paragraph 11.01.A.1, Consultant will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the

effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk.

- c. In the event of termination by Owner for convenience or by Consultant for cause, Consultant shall be entitled, in addition to payment for those items identified in Paragraph 4.01, to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, including, but not limited to, reassignment of personnel, costs of terminating contracts with Consultant's Subconsultants, and other related close-out costs, using reasonable methods of calculation including the methods and rates for Additional Services as set forth in Paragraph 5.01.

12.01 No Third Party Beneficiaries

- A. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of any third party against the Consultant.

13.01 Waiver

- A. Non-enforcement of any provisions by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

14.01 Total Agreement/Severability

- A. This Agreement, including any expressly incorporated Exhibits, constitutes the entire Agreement between Owner and Consultant and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. If any term or condition of this Agreement shall, to any extent, be found invalid, void or unenforceable, the remaining provisions shall remain in full force and effect to the extent allowed by applicable law.
-

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

OWNER:	Town of Emmitsburg, Maryland	CONSULTANT:	Barton & Loguidice, D.P.C.
By:	_____	By:	
Title:	Cathy Willets Town Manager	Title:	David R. Hanny Senior Associate
Date Signed:	_____	Date Signed:	October 21, 2022

Address for giving notices:
Town of Emmitsburg, Attn: Town Manager
300A South Seton Avenue
Emmitsburg, MD 21727

Address for giving notices:
Barton & Loguidice, Attn: President
443 Electronics Parkway
Liverpool, New York 13088

Exhibit A - Scope of Services Silo Hill Basin Tree Removal Engineering Services

The Silo Hill Basin Tree Removal Engineering Services were requested by Owner to provide ongoing engineering support related to tree removals along the embankment of the Silo Hill Stormwater Basin. In accordance with the Dam Safety Policy Memorandum #1 (herein "memo"), dam owners must maintain all areas of the dam free from trees and woody vegetation. During a recent site visit approximately 37 trees of varying diameters were observed along the dam embankment. Project tasks that are required to complete the removal of trees and stumps in accordance with the memo, and subject to this Agreement, are summarized as follows:

1. **Support for Project Signage** – Consultant has provided ongoing support with Owner and their graphics contractor(s) related to completion of the project signs, including but not limited to sharing of documents and files. Consultant will continue to coordinate with Owner's graphics contractor such that signs can be produced.
2. **Site Meeting with Soil Conservation District** – As part of our work, Consultant will coordinate and attend a field meeting at the Silo Hill Retention Basin with a representative of the Frederick & Catocin Soil Conservation District (SCD) and other attendees as requested by Owner. The purpose of the meeting is to familiarize SCD staff with the project. Additional site meetings or requests resulting from this meeting are outside this scope of services and will be considered additional services as detailed in Section 5.01 of this agreement.
3. **Work Plan & Soil Report Review** – Consultant will review the proposed work plan prepared by Owner's contractor for conformance with Standard Detail TR-1 of the memo. Any deficiencies in the work plan will be noted and returned to Owner's contractor for revision and approval. Consultant will also review one soil report, prepared by the Owner or Owner's contractor, to include geotechnical data for the proposed material to be used as fill for voids remaining after stump removal. Owner or Owner's contractor is responsible for identifying and testing sufficient fill material for project completion. Consultant assumes limited coordination with MDE and/or SCD in reviewing an approvable work plan and soil report.
4. **Stump Removal & Backfill Oversight** – As required by Standard Detail TR-1 of the memo, Consultant will be onsite to oversee stump removal and fill placement. Consultant may provide professional judgements on tree stump excavation and backfill as required under Standard Detail TR-1. Consultant will take photographs and generate daily logs of activities. Upon completion of work, Consultant will prepare a letter summarizing field activities, and will include photographs and daily logs as attachments. We assume five days of field oversight will be required for the work.
5. **Geotechnical Support** – During the backfill of void spaces resulting from stump removals, Consultant will collect nuclear gauge data for each lift, up to a maximum of eight-inches (8") per lift, of material. The results of the nuclear gauge testing must demonstrate results that achieve conformance with Standard Detail TR-1 #7 and the acceptable range identified in the Soil Report discussed in item Number 2, above.
6. **Springtime Inspection of Vegetative Cover** – Upon completion of the tree and stump removal, Owner or their contractor must reseed the dam embankment. During spring of the following calendar year, Consultant will perform an inspection to assess the survival rate of the reseeded embankment. Consultant will prepare a Technical Memo summarizing embankment conditions and recommendations to Owner of required maintenance and/or reseeded.

Exhibit B - Insurance Silo Hill Basin Tree Removal Engineering Services

The kinds and amounts of insurance required of the CONSULTANT are as follows:

- a) A policy or policies providing protection for employees of the CONSULTANT in the event of job-related injuries, generally referred to as "Worker's Compensation Insurance".
 - b) Automobile Liability policies with a combined single limit of not less than \$1,000,000 for each person, or each accident because of bodily injury, sickness, or disease including death at any time resulting therefrom, sustained by any person, and for damages because of injury or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance, or use of owned, non-owned or hired automobiles.
 - c) Commercial General Liability Insurance shall be furnished with the limits of not less than:

General Aggregate	\$2,000,000	Each Occurrence	\$1,000,000
Products - Comp/Op Agg.	\$2,000,000	Damage to Rented Premises	\$100,000
Personal/Adv. Injury	\$1,000,000	Medical Expense	\$5,000
 - d) Excess Liability Insurance Umbrella Form, bodily injury and property damage combined:

Each Occurrence	Aggregate
\$1,000,000	\$1,000,000
 - e) Professional Liability Insurance, including errors and omissions, shall be maintained with minimum limits of not less than One Million Dollars (\$1,000,000).
-

Barton & Loguidice
Billing Rates For Calendar Year 2022



Travel by passenger vehicle*IRS standard mileage rate
 Overnight travel & subsistenceat cost
 Telephone, postage, overnight delivery, etc.....at cost
 In-house printing..... Unit rate schedule for printed material
 Field equipment & expendablesUnit rate schedule
 Outside services including lab services & printingCost plus 15%

INDIVIDUAL TECHNICAL EMPLOYEES AT THE FOLLOWING HOURLY RATES:

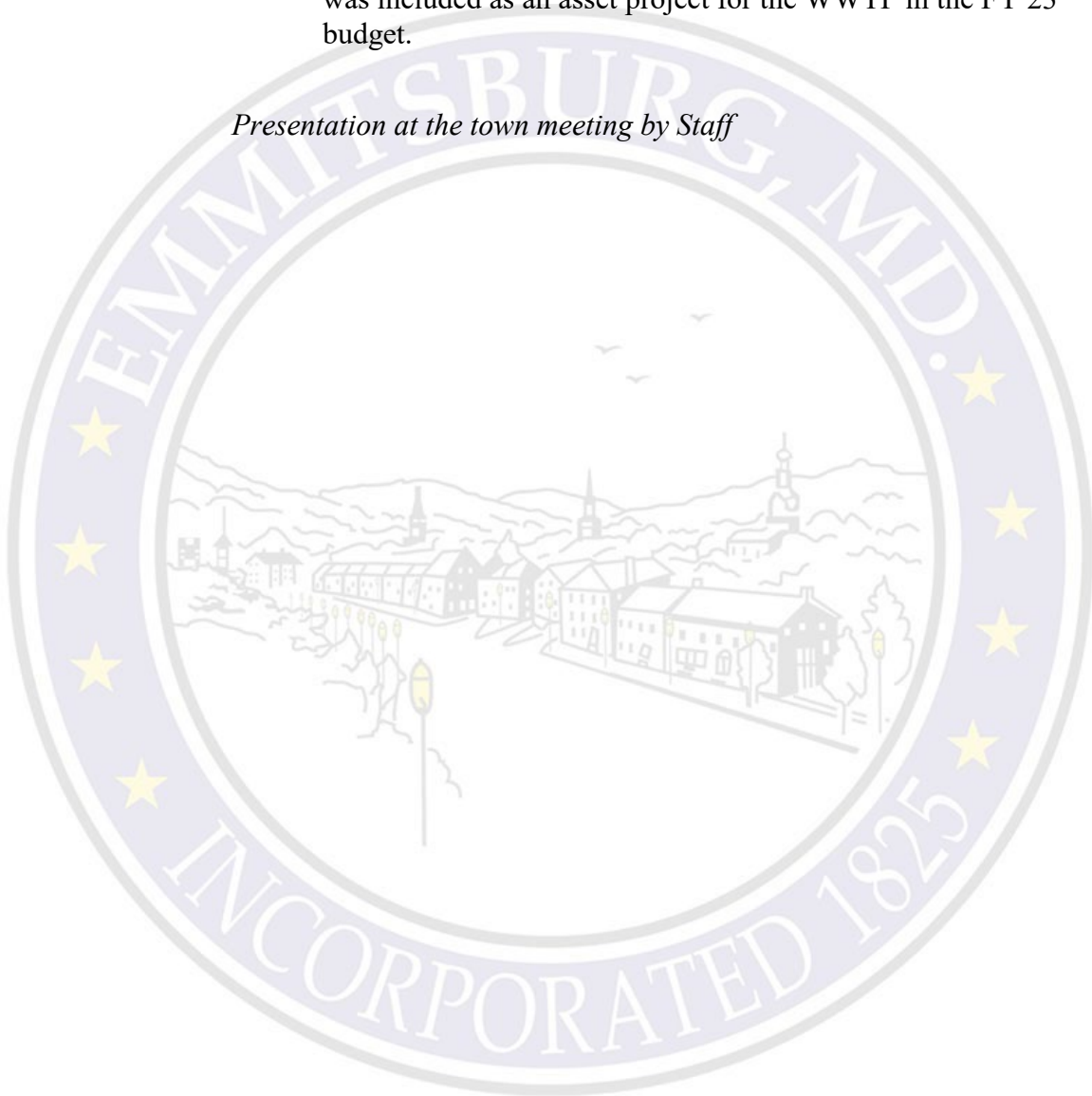
Billing Title	Hourly Rate
Executive Manager	\$270.00
Manager V	\$232.00
Manager IV	\$210.00
Manager III	\$195.00
Manager II	\$183.00
Manager I	\$170.00
Professional VI	\$156.00
Professional V	\$140.00
Professional IV	\$126.00
Professional III	\$114.00
Professional II	\$99.00
Professional I	\$82.00
Technician VII	\$139.00
Technician VI	\$131.00
Technician V	\$115.00
Technician IV	\$107.00
Technician III	\$96.00
Technician II	\$80.00
Technician I	\$69.00
Construction III	\$131.00
Construction II	\$111.00
Construction I	\$99.00
Technical Assistant III	\$97.00
Technical Assistant II	\$82.00
Technical Assistant I	\$70.00

* IRS standard mileage rate in effect at time of travel (exclusive of operator time).

AGENDA ITEM #3: For consideration, approval of the HACH estimate for the ChemScan upgrade at the WWTP.

- a) The Board previously approved a similar upgrade at the WTP. This was included as an asset project for the WWTP in the FY 23 budget.

Presentation at the town meeting by Staff



Quotation

Quote Number: 100848964v1

Use quote number at time of order to ensure that you receive prices quoted

Hach
PO Box 608
Loveland, CO 80539-0608
Phone: (800) 227-4224
Email: quotes@hach.com
Website: www.hach.com

Quote Date: 11/17/22

Quote Expiration: 01/16/23

TOWN OF EMMITSBURG
300A S SETON AVE UNIT 1
EMMITSBURG, MD 21727-8704

Name: Jared Brantner
Phone: (240) 840-1502
Email: jared.brantner55@gmail.com

Customer Account Number : 024892

Sales Contact: Phil McGuire Email: pmcguire@hach.com Phone: 410-739-4399

\$56,937.00

PRICING QUOTATION

Line	Part Number	Description	Qty	Unit Price	Extended Price
1	LXV402.99.00002	SC1000 Multi-parameter Universal Controller Display Module (without GSM/GPRS). Standard lead time 10 days.	1	4,372.00	4,372.00
2	LXV400.99.1R682	SC1000 Probe Module, 6 Sensors with Conduits, 8x 4-20mA Out, 4x 4-20mA In, 4x Relays, 110-240VAC with Conduits. Standard lead time 25 days.	1	3,997.00	3,997.00
3	9020000	Hach LDO sc Model 2 , DO Probe with Luminescent Dissolved Oxygen Technology. Standard lead time 5 days.	1	2,996.00	2,996.00
4	LXV422.99.33011	Phosphax sc LR Phosphate analyzer, indoor, 1-channel. Standard lead time 15 days.	1	23,862.00	23,862.00
5	LXV448.99.51001	NT3100sc UV Nitrate Sensor, 5 mm path length. Standard lead time 25 days.	1	14,760.00	14,760.00
6	DPD1P1	pHD sc: Digital pH sensor with glass differential electrode, sc compatibility, PEEK®, Convertible Mount. Standard lead time 5 days.	2	1,546.00	3,092.00
7	WRTUPGPHOSPHAXSC	WarrantyPlus Service Agreement includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 1 on-site calibrations per year, factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates.	1	2,608.00	2,608.00
8	WRTUPGNT3X00	WarrantyPlus Service Partnership provides full coverage, including parts, labor, and travel for instrument startup, one preventative maintenance visit, and on-site repairs with priority status.	1	1,250.00	1,250.00

Part Number	Description	Qty	Unit Price	Extended Price
Grand Total				\$ 56,937.00

TERMS OF SALE

Freight: Ground Prepay and Add

FCA: Hach's facility

ALL LEAD TIMES ARE ESTIMATED AND NOT GUARANTEED.

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at www.hach.com/terms. Hach TCS are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale "Contract" in accordance with the Hach TCS: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract

from the provisions of the Hach TCS are not part of the Contract.

Due to International regulations, a U.S. Department of Commerce Export License may be required. Hach reserves the right to approve specific shipping agents. Wooden boxes suitable for ocean shipment are extra. Specify final destination to ensure proper documentation and packing suitable for International transport. In addition, Hach may require: 1). A statement of intended end-use; 2). Certification that the intended end-use does not relate to proliferation of weapons of mass destruction (prohibited nuclear end use, chemical / biological weapons, missile technology); and 3). Certification that the goods will not be diverted contrary to U.S. and/or applicable laws in force in Buyer's jurisdiction.

ORDER TERMS:

Orders are Subject to Credit Review
To order for Hach to process the order as quickly as possible, please provide the following information.
Complete Billing address.
Complete Shipping address.
Part numbers and quantities of items being ordered.
Please reference the quotation number on your purchase order

If the order is over \$25,000 Hach will also require the following additional information.

Pricing
Purchase Order Number
Freight terms and INCO term FOB Origin or FCA Shipping Point
Required delivery date
Vendor name should specify "Hach Company" with the Loveland address:
o Hach, PO Box 389, Loveland, CO 80539
Credit terms of payment. Default payment terms are Net 30.
Indicate if order needs to ship complete or if it can ship partial.
Tax status
Special invoicing instructions

Sales tax is not included on quote. Applicable sales tax will be added to the invoice based on the U.S. destination, if applicable provide a resale/exemption certificate.
Shipments will be prepaid and added to invoices unless otherwise specified.

Equipment quoted operates with standard U.S. supply voltage.

Hach standard terms and conditions apply to all sales.

Additional terms and conditions apply to orders for service partnerships.

Quotes do not include delivery of product. Reference attached Freight Charge Schedule and Collect Handling Fees.

Standard lead time is 30 days.

This Quote is good for a one time purchase

Virtual and/or on-site training must be scheduled/completed within 30 days of order, or the price will be subject to change.

Sales Contact:

Name: Phil McGuire
Title: Regional Sales Manager
Phone: 410-739-4399
Email: pmcguire@hach.com



HACH COMPANY

Headquarters
P.O. Box 389
5600 Lindbergh Drive
Loveland, CO 80539-0389

Purchase Orders
PO Box 608
Loveland, CO 80539-0608

Quotation Addendum

WebSite: www.hach.com

U.S.A.

Phone: 800-227-4224
Fax: 970-669-2932
E-Mail: orders@hach.com
quotes@hach.com
techhelp@hach.com

Export

Phone: 970-669-3050
Fax: 970-461-3939
Email: intl@hach.com

Remittance

2207 Collections Center Drive
Chicago, IL 60693

Wire Transfers

Bank of America
231 S. LaSalle St.
Chicago, IL 60604
Account: 8765602385
Routing (ABA): 071000039

ADVANTAGES OF WORKING WITH HACH

Hach Service	Pick&Ship™	Technical Support
<p><i>Protect your investment & peace of mind</i></p> <ul style="list-style-type: none"> ✓ A global partner who understands your needs ✓ Delivers timely, high-quality service you can trust ✓ Provides team of unique experts to help you maximize instrument uptime ✓ Ensure data integrity ✓ Maintain operational stability ✓ Reduce compliance risk <p>www.hach.com/service-contracts</p>	<p><i>Pick&Ship™ Program offers a better way to keep your supplies in stock</i></p> <ul style="list-style-type: none"> ✓ Convenience of one purchase order for the entire year ✓ Flexibility to change, cancel or create new orders ✓ Savings from locking in prices & thus avoiding price surges and rush charges ✓ Peace of mind with automatic, reliable shipments just as you need them <p>www.Hach.com/pickandship</p>	<p><i>Provides post-sale instrumentation and application support</i></p> <ul style="list-style-type: none"> ✓ Hach's highly skilled Technical Support staff is dedicated to helping you resolve technical issues before, during and after the sale. ✓ Available via phone, e-mail, or live online chat at Hach.com! ✓ Fast access to answers at https://support.hach.com ✓ Toll-free phone: 800-227-4224 ✓ E-mail: techhelp@hach.com <p>www.Hach.com</p>

ADVANTAGES OF SIMPLIFIED SHIPPING AND HANDLING

Safe & Fast Delivery	Save Time – Less Hassle	Save Money
<ul style="list-style-type: none"> ✓ Receive tracking numbers on your order acknowledgement ✓ Hach will assist with claims if an order is lost or damaged in shipment 	<ul style="list-style-type: none"> ✓ No need to set up deliveries for orders or to schedule pickup ✓ Hach ships order as product is available, at no additional charge, when simplified shipping and handling is used. 	<ul style="list-style-type: none"> ✓ No additional invoice to process – save on time and administrative costs ✓ Only pay shipping once, even if multiple shipments are required

STANDARD SIMPLIFIED SHIPPING AND HANDLING CHARGES 1, 2, 3, 4						Collect 4 Handling Fee Effective 4/11/2020
Total Price of Merchandise Ordered	Standard Surface Delivery (Mainland USA)	Second Day Delivery (Mainland USA)	Next Day Delivery (Mainland USA)	Second Day Delivery (Alaska & Hawaii)	Next Day Delivery (Alaska & Hawaii)	
\$0.00 - \$49.99	\$17.99	\$44.99	\$83.90	\$72.21	\$137.27	\$13.47
\$50.00 - \$149.99	\$28.59	\$84.27	\$159.00	\$120.84	\$229.73	\$13.85
\$150.00 - \$349.99	\$50.22	\$133.98	\$272.91	\$169.07	\$329.04	\$14.72
\$350.00 - \$649.99	\$69.95	\$182.91	\$363.75	\$228.65	\$442.76	\$15.48
\$650.00 - \$949.99	\$88.16	\$191.13	\$399.98	\$236.66	\$446.10	\$16.04
\$950.00 - \$1,999.99	\$110.91	\$235.85	\$498.69	\$280.67	\$543.06	\$17.52
\$2,000.00 - \$3,999.99	\$128.04	\$250.64	\$513.44	\$291.54	\$554.54	\$20.22
\$4,000.00 - \$5,999.99	\$148.44	\$260.33	\$538.23	\$292.89	\$570.53	\$24.90
\$6,000.00 - \$7,999.99	\$175.40	\$296.40	\$612.84	\$323.07	\$622.86	\$29.04
\$8,000.00 - \$9,999.99	\$200.15	\$336.83	\$658.19	\$360.41	\$683.52	\$33.51
Over \$10,000	2.5% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	4.5% of Net Order Value	7% of Net Order Value	\$51.84

- Shipping & Handling charges shown are only applicable to orders billing and shipping to U.S. destinations. Shipping & Handling charges will be prepaid and added to invoice. Shipping & Handling for the Pick&Ship Program is charged on each shipment release and is based on the total price of each shipment release. Shipping & Handling charges are subject to change without notice.
 - Additional Shipping & Handling charges will be applied to orders containing bulky and/or especially heavy orders. Refrigerated and all weather Samplers do not qualify for simplified Shipping & Handling charges, and are considered heavy products. Dissolved Oxygen Sensors can be damaged if exposed to temps below freezing, causing sensor failure. Must be shipped over night or 2nd day air during the cold weather months.
 - Orders shipping to Alaska or Hawaii: Additional Shipping & Handling charges may be applied at time of order processing. Second Day and Next Day delivery is not available to all destinations.
 - Hach Company will assess a collect handling fee on orders with collect shipping terms. This handling fee covers the additional costs that Hach Company incurs from processing and managing collect shipments.
- Due to variations in component characteristics, regulatory transportation requirements and/or associated shipping and handling costs, individual kit components may or may not be packaged together in a single carton at time of final packaging and shipping.

SALES TAX

Sales Tax is not included in the attached quotation. Applicable sales and usage taxes will be added to your invoice, at the time of order, based on U.S. destination of goods, unless a valid resale/exemption certificate for destination state is provided to the above address or fax number, attention of the Tax Dept.

TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

- 1. APPLICABLE TERMS & CONDITIONS:** These Terms & Conditions of Sale are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.
- 2. CANCELLATION:** Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs. Seller may cancel all or part of any order prior to delivery without liability if the order includes any Products that Seller determines may not comply with export, safety, local certification, or other applicable compliance requirements.
- 3. DELIVERY:** Delivery will be accomplished FCA Hach's facility located in Ames, Iowa or Loveland, Colorado, United States (Incoterms 2010). Legal title and risk of loss or damage pass to Buyer upon transfer to the first carrier. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am - 5 pm Monday through Friday, excluding holidays.
- 4. INSPECTION:** Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.
- 5. PRICES & ORDER SIZES:** All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; VAT, income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or other charges imposed upon the production, sale, distribution, or delivery of Products. Buyer will either pay any and all such charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.
- 6. PAYMENTS:** All payments must be made in U.S. dollars. For Internet orders, the purchase price is due at the time and manner set forth at www.hach.com. Invoices for all other orders are due and payable NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice, or for customers with no established credit, Hach may require cash or credit

card payment in advance of delivery. In the event payments are not made or not made in a timely manner, Hach may, in addition to all other remedies provided at law, either: (a) declare Buyer's performance in breach and terminate this Contract for default; (b) withhold future shipments until delinquent payments are made; (c) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (d) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (e) repossess the Products for which payment has not been made; (f) recover all costs of collection including reasonable attorney's fees; or (g) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer grants Hach a security interest in the Products to secure payment in full, which payment releases the security interest but only if such payments could not be considered an avoidable transfer under the U.S. Bankruptcy Code or other applicable laws. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment. See [120](#) for further wire transfer requirements.

- 7. LIMITED WARRANTY:** Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will, when used in accordance with the manufacturer's operating and maintenance instructions, conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in material and workmanship and will, when used in accordance with the manufacturer's operating and maintenance instructions, conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. **All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded.** The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

- 8. INDEMNIFICATION:** Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. Buyer is responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to negligence, misuse or misapplication of any goods or services, violations of law, or the breach of any provision of this Contract by the Buyer, its affiliates, or those employed by, controlled by or in privity with them. Buyer's workers' compensation immunity, if any, does not preclude or limit its indemnification obligations.

- 9. PATENT PROTECTION:** Subject to all limitations of liability provided herein, Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies



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Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products. Further, to the same extent as set forth in Hach's above obligation to Buyer, Buyer agrees to defend, indemnify and hold harmless Hach for patent infringement related to (x) any goods manufactured to the Buyer's design, (y) services provided in accordance with the Buyer's instructions, or (z) Hach's Products when used in combination with any other devices, parts or software not provided by Hach hereunder.

10. **TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

11. **SOFTWARE AND DATA.** All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media and/or included as an Appendix to these Terms & Conditions of Sale. Except to the extent such express licenses conflict with the remainder of this paragraph, the following also applies relative to Hach's software: Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by all such license agreements. Title to software remains with the applicable licensor(s). In connection with Buyer's use of Products, Hach may obtain, receive, or collect data or information, including data produced by the Products. In such cases, Buyer grants Hach a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of such data, or to aggregate such data for use in an anonymous manner, solely to facilitate marketing, sales and R&D activities of Hach and its affiliates.

12. **PROPRIETARY INFORMATION; PRIVACY:** "Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's information and personal data in accordance with its Privacy Policy, located at <http://www.hach.com/privacyandintegrity>.

13. **CHANGES AND ADDITIONAL CHARGES:** Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site

prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

14. **SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE:** In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those areas where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any resulting wastes, including without limitation hazardous wastes. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. **LIMITATIONS ON USE:** Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Unless the "ship-to" address is in California, U.S.A., the Products are not intended for sale in California and may lack markings required by California Proposition 65; accordingly, unless Buyer has ordered Products specifying a California ship-to address, Buyer will not sell or deliver any Hach Products for use in California. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

16. **EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS:** Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "Speak Up!" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See <http://danaher.com/integrity-and-compliance> and www.danaherintegrity.com for a copy of the SOC and for access to our Helpline portal.

17. **RELATIONSHIP OF PARTIES:** Buyer is not an agent or representative of Hach and will not present itself as such under any circumstances unless and to

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the extent it has been formally screened by Hach's compliance department and received a separate duly-authorized letter from Hach setting forth the scope and limitations of such authorization.

18. **FORCE MAJEURE:** Hach is excused from performance of its obligations under this Contract to the extent caused by acts or omissions that are beyond its control of, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach may, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

19. **NON ASSIGNMENT AND WAIVER:** Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach's prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

20. **FUNDS TRANSFERS (PAYMENTS):** Buyer and Hach both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new or changed bank transfer or mailing instructions by calling Hach at +1-970-663-1377 and speaking with Hach's Credit Manager before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute mailing or bank transfer instruction changes and require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

21. **LIMITATION OF LIABILITY:** None of the Hach Indemnified Parties will be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; damages incurred in installation, repair or replacement; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). The total liability of the Hach Indemnified Parties arising out of the performance or nonperformance hereunder or Hach's obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.

22. **APPLICABLE LAW AND DISPUTE RESOLUTION:** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Colorado, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Colorado, U.S.A. if Buyer has minimum contacts with Colorado and the U.S., (ii) elsewhere in the U.S. if Buyer has minimum contacts with the U.S. but not Colorado, or (iii) in a neutral location if Buyer does not have minimum contacts with the United States.

23. **ENTIRE AGREEMENT & MODIFICATION:** These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach. Hach

rejects any additional or inconsistent Terms & Conditions of Sale offered by Buyer at any time, whether or not such terms or conditions materially alter the Terms & Conditions herein and irrespective of Hach's acceptance of Buyer's order for the described goods and services.

24. **APPENDICES:** If checked, the following Appendices are attached hereto and incorporated by reference into these Terms & Conditions of Sale:

CLAROS SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

* * *

HACH QUOTE #100848964V1

I got this quote from HACH due to this being a specialized project that only HACHS equipment will work with our current sensors, probes, and turbidity meters at the waste water treatment plant. This equipment will give us real time trending of the wwtp performance and allow us to better treat the water and control chemical feed pumps, valves, filters and blowers as needed rather than sending samples to the lab or running costly in house test more frequently and not knowing the results for days or weeks later and by then it's too late. The trending (graphing) features will also work with our SCADA system so we will be able to see the water quality at all times vs running a bench test, that is only a snap shot of the water at that moment. With this new system we will also be able to save on yearly chemical cost and wear on equipment due to the fact that we will only be feeding chemicals when needed to achieve proper treatment.

The sc1000 and controller display module gives us 100% plug and play access and all staff is familiar with the sc1000 due to us using them at our water treatment plant. We all like how they operate and has been a great asset to the water treatment facility.

The LDO D.O probe is a direct replacement for our current D.O probe that is due to be replaced and was budgeted for, this probe will plug directly into the sc1000 and give us real time trending of our D.O to ensure proper clarifier valve operation that we need to ensure denitrification in our denitrification filters, also is an indicator of our biolac performance and blower operation.

The phosphax phosphate analyzer will also plug directly into the sc1000 controller and will give us the ability to see our plants performance in reducing our total phosphorous that we need to do to stay in compliance with our permit. With this analyzer we will be able to better operate the plant by automating our alum feed to ensure were not under or over feeding chemical for proper treatment.

The nitrate sensor will also plug directly into the sc1000 controller, this sensor will give us real time nitrate readings and trending. This is so important to the operations of the wwtp because without it we are blind on how to operate our blowers and meth pump until it's too late. This sensor will allow us to automate our meth pump to ensure were feeding the correct amount of chemical at all times and better operate the biolac to get our nitrates as low as possible before having to use a chemical to stay in compliance. And shouldn't be out of compliance due to constantly monitoring our nitrate levels.

The two ph. probes were also in the budget due to needing replaced. I made part of this project because they are 100% plug and play with the sc1000 also. These ph. probes will tell us our plants performance before and after our denitrification filters and with these hooking to the sc1000 we will be able to feed our caustic pumps automatically to once again stay in compliance with our current permit and optimize our plants overall performance ensuring proper alkalinity to allow for denitrification biologically.

In conclusion with the purchase of this equipment from HACH we will be able to automate several key items to optimize our WWTP performance as well as be able to operate the plant in a strategic manor to better stay in compliance with our NPDES permit due to the simple fact that we will be able to see our water quality at all times and be able to make adjustments accordingly.

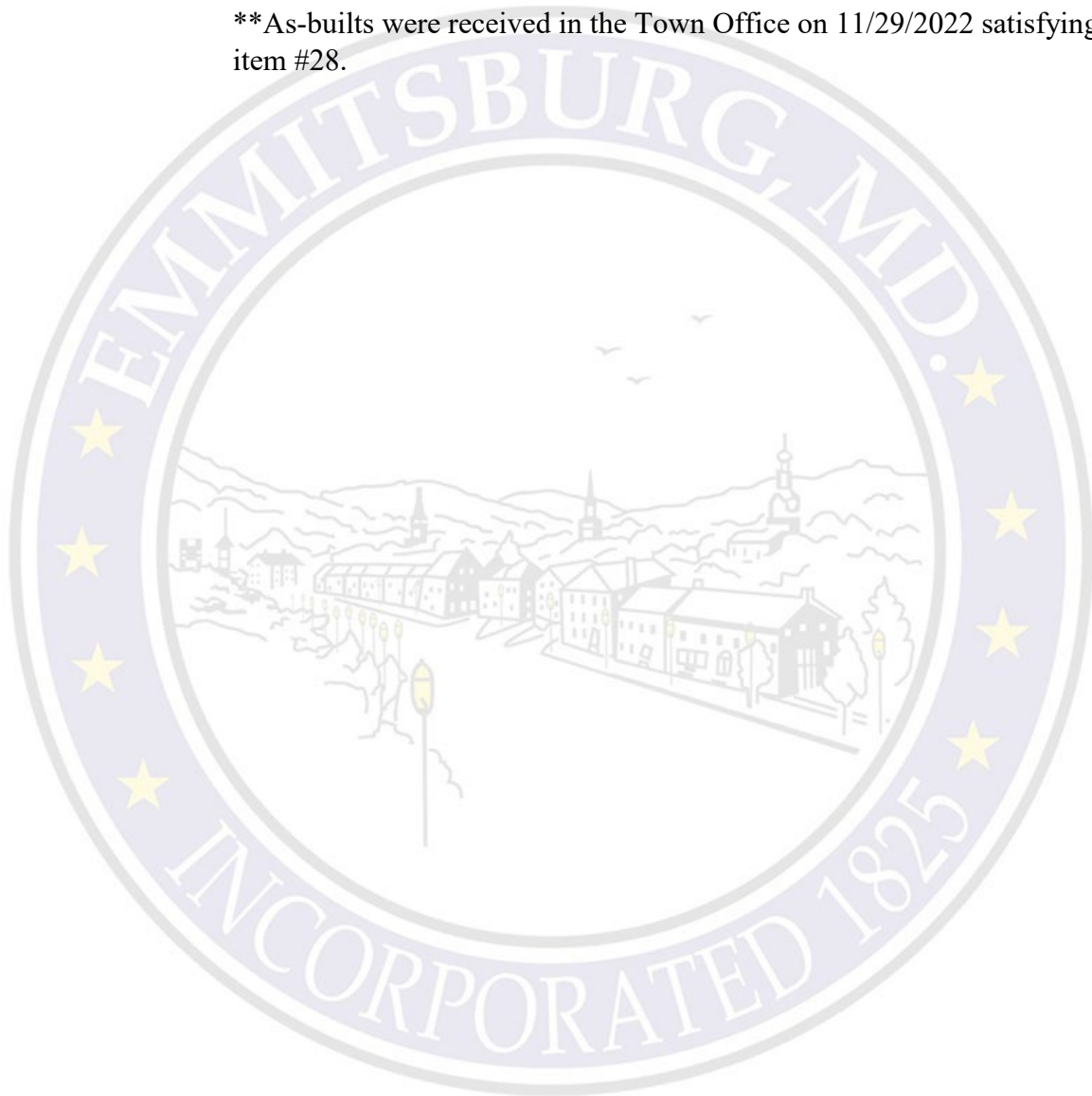
Also to my understanding the state still gives \$30,000 to plants that maintain under certain effluent numbers so this project could help us achieve this yearly incentive every year

THANKS, JARED

AGENDA ITEM #4: For consideration, approval of Resolution 2023-01 bond reduction request for the Irishtown Road project.

Presentation at town meeting by Town Staff.

**As-builts were received in the Town Office on 11/29/2022 satisfying item #28.



RESOLUTION: 2023
RESOLUTION NO. 2023-01R

Page 1 of 2

**A RESOLUTION
APPROVING THE FULL RELEASE OF BOND AL102580
FOR IRISHTOWN ROAD IMPROVEMENTS**

The Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, this 18th day of January 2023, hereby find that:

WHEREAS, R.J.D. Development Corporation contracted and agreed to furnish certain improvements to Irishtown Road pursuant to certain improvement plans and as security to ensure its proper performance of such improvements furnished a Performance Surety Bond No. AL- 102580 (“Bond”) to the Town of Emmitsburg in the amount of \$709,204.25 plus a fifteen percent (15%) contingency in the amount of \$106,380.64; and

WHEREAS, on July 11, 2022, the Town of Emmitsburg reduced the principal amount of the bond to \$125,343.10 upon the completion of the improvements identified on Exhibit A, attached hereto, as items one through seventeen (1-17), twenty-one through twenty-seven (21-27), twenty-nine through thirty-one (29-31), thirty-eight (38), and forty-one (41); and

WHEREAS, R.J.D. Development Corporation has completed all the remaining improvements on the attached Exhibit A, identified as items eighteen through twenty (18-20), twenty-eight (28), thirty-two through thirty-seven (32-37), thirty-nine (39), and forty (40) therein; and

WHEREAS, Geotechnical Laboratories, Inc., G. Matthew Norris, RK&K, Rob Linthicum and Town staff have inspected such work and found it to be in conformance with the plans as described in the certification attached as Exhibit B hereto; and

WHEREAS, the Town of Emmitsburg has determined that a full release of the Bond is appropriate; it is

HEREBY RESOLVED, ENACTED AND ORDAINED THAT:

- a) The improvements numbered one through forty-one (1-41) are hereby APPROVED and ACCEPTED; and
- b) That a full release of the Bond shall be GRANTED.

RESOLUTION: 2023
RESOLUTION NO. 2023-01R

Page 2 of 2

NOW, THEREFORE, BE IT HEREBY enacted this 18th day of January, 2023 by the Mayor and Board of Commissioners, that Resolution Number 2023 – 01R is true, correct, and duly adopted by the Mayor and Board of Commissioners of the Town of Emmitsburg.

PASSED this 18th day of January, 2023 by a vote of:

Commissioners:	For	Against	Absent	Abstain
O'Donnell				
Ritz III				
Sweeney				
Davis				
Boehman-Pollitt				
TOTAL:				

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS:

Sabrina King, Town Clerk

Timothy J. Donnell, President

_____ APPROVED _____ VETOED

this 18th day of January, 2023.

Donald N. Briggs, Mayor



December 5, 2022

Mr. Zach Gulden
Town Planner & Zoning Administrator
Town of Emmitsburg
300A South Seton
Emmitsburg, MD 21727

RE: Bond Reduction
Irishtown Road Improvements
Project No. 121-150

Dear Mr. Gulden:

Geotechnical Laboratories, Inc. (Geolab) has reviewed test results and observations related to roadway and utility constructions and, to the best of our knowledge and belief, the following items have been constructed.

Per Fox Associates estimate dated 06/03/2021 (copy attached with completed items checked) the items numbered 1-27, and 29-41 have been completed.

Should you have any questions or require any additional information, please do not hesitate to contact our office at your convenience.



Sincerely,
Geotechnical Laboratories, Inc.

G. Matthew Norris, M. Eng., P.E.
Principal



Est. 1966

ENGINEERS
SURVEYORS
PLANNERS
LANDSCAPE ARCHITECTS

82 Worman's Mill Ct Suite G Frederick, MD 21701
Phone: 301-695-0880
Fax: 301-293-6009

E-mail: foxfrederick@foxassociatesinc.com

PREPARED BY: R. Yetter
CHECKED BY: C. Castillo
DATE: 6/3/2021
JOB NUMBER: 18-50891
SHEET NUMBER: 1 OF 1

ENGINEER'S ESTIMATE - IRISHTOWN ROAD IMPROVEMENT PLANS

	ITEM	QUANTITY	UNIT	INSTALLED UNIT PRICE	TOTAL
1	8 inch DIP and Fittings	114	LF	\$ 43.00	\$ 4,902.00
2	10 inch DIP and Fittings	1730	LF	\$ 63.00	\$ 108,990.00
3	Connect To 8 inch Main	2	EA	\$ 2,800.00	\$ 5,600.00
4	Cap and Blowoff	1	EA	\$ 1,500.00	\$ 1,500.00
5	FH with Valve & 6 inch Lateral	3	EA	\$ 3,500.00	\$ 10,500.00
6	STD WHC 1" Copper	18	EA	\$ 2,000.00	\$ 36,000.00
7	Water Line Testing	1983	LF	\$ 2.00	\$ 3,966.00
8	Installed 8 inch PVC & Fittings	1660	LF	\$ 38.00	\$ 63,080.00
9	48" Manhole	3	EA	\$ 2,500.00	\$ 7,500.00
10	Drop Manhole	2	EA	\$ 3,000.00	\$ 6,000.00
11	Single Sanitary House Connection	18	EA	\$ 1,000.00	\$ 18,000.00
12	Sewer Line Testing	1660	LF	\$ 1.00	\$ 1,660.00
13	6" Dense Graded Aggregate	4085	SY	\$ 5.00	\$ 20,425.00
14	Fine Grading	4085	SY	\$ 2.00	\$ 8,170.00
15	HMA Superpave Surface (3" * 4085 SY)	12255	IN/SY	\$ 4.00	\$ 49,020.00
16	HMA Superpave Base (3" * 4085 SY)	12255	IN/SY	\$ 3.25	\$ 39,828.75
17	Milling Existing Pavement	2,265	SY	\$ 4.30	\$ 9,739.50
18	HMA Superpave Surface (1.5" * 4085 SY)	6,127	IN/SY	\$ 4.00	\$ 24,508.00
19	Driveway Apron - Single	17	EA	\$ 500.00	\$ 8,500.00
20	Concrete Sidewalk (Materials & Placement)	2233	LF	\$ 25.00	\$ 55,825.00
21	Standard Combination Curb and Gutter	1809	LF	\$ 22.00	\$ 39,798.00
22	Existing Pavement (Removal)	3496	SY	\$ 8.00	\$ 27,968.00
23	Sawcut Existing Pavement	79	LF	\$ 2.00	\$ 158.00
24	Type 'A' COG Inlet	6	EA	\$ 4,500.00	\$ 27,000.00
25	15' MD SHA COG Inlet	2	EA	\$ 4,300.00	\$ 8,600.00
26	15 inch RCP	760	LF	\$ 40.50	\$ 30,780.00
27	18 inch RCP	170	LF	\$ 60.00	\$ 10,200.00
28	As-Built Drawings	1	LS	\$ 3,000.00	\$ 3,000.00
29	City Standard Pole Base / Foundation	14	EA	\$ 2,000.00	\$ 28,000.00
30	Streetlights	14	EA	\$ 1,500.00	\$ 21,000.00
31	Remove Ex. 18 inch Culvert	60	LF	\$ 20.00	\$ 1,200.00
32	Street Tree	38	EA	\$ 271.00	\$ 10,298.00
33	ADA Ramps	4	EA	\$ 749.00	\$ 2,996.00
34	4" White Stripe	3590	LF	\$ 2.00	\$ 7,180.00
35	24" Thermoplastic Stop Bar	47	LF	\$ 15.00	\$ 705.00
36	12" Thermoplastic Crosswalk Marking	132	LF	\$ 6.00	\$ 792.00
37	4" Double Yellow Thermoplastic Marking	1795	LF	\$ 2.00	\$ 3,590.00
38	New Stop Sign	2	EA	\$ 312.50	\$ 625.00
39	New No Parking Sign	16	EA	\$ 75.00	\$ 1,200.00
40	Bike Lane Signs	4	EA	\$ 100.00	\$ 400.00
41	Remove EX Poles	1	LS	\$ 10,000.00	\$ 10,000.00

SUB-TOTAL THIS PAGE \$ 709,204.25
15% CONTINGENCIES \$ 106,380.64
TOTAL: \$ 815,584.89

AGENDA ITEM #5: For approval, designation of the second tranche of the American Rescue Plan monies.

Presentation at the town meeting by Town Staff.

American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Funds disbursement.

- Town of Emmitsburg awarded a total of \$ 3,152,038.92.
- On 07/26/2021 the Town received the first tranche in the amount of \$1,575,429.33.
 - The Board of Commissioners approved a designation of the monies to the water clarifier and pump station projects at the 10/04/2021 town meeting.
- On 08/10/2022 the Town received the second tranche in the amount of \$1,576,608.99.
- **Allowable usages:**
 - Support public health expenditures and address negative economic impacts.
 - Replace lost public sector revenue.
 - Provide premium pay for essential workers.
 - Invest in water, sewer and broadband infrastructure.

The Mayor and staff recommend the second tranche (\$1,576,608.99) be used for water infrastructure projects such as the 16” main water line. Staff is applying for initial funding for this project in the spring.

AGENDA ITEM #6: For consideration, approval of Ordinance 2023-03 amendment to Title 16 changes to subdivision fees.

- a) This ordinance will amend subdivision, plan review and annexation, forest conservation procedures related to fees.

Presentation at the town meeting by Town Staff.



Draft

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AN ORDINANCE TO AMEND
TITLE 16
OF THE CODE OF EMMITSBURG
ENTITLED
SUBDIVISIONS

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 16, Subdivisions, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~[brackets and strike out]~~.

Chapter 16.36 FEES

16.36.010 Annexation fees.

~~Annexation review fees shall be established from time to time by policy, resolution, or ordinance by the town and shall be paid for by the applicant at the time of application.~~

- A. AN APPLICANT FOR ANNEXATION SHALL PAY AN APPLICATION FEE ESTABLISHED BY POLICY, RESOLUTION, OR ORDINANCE FROM TIME TO TIME AND ALL COSTS INCURRED BY THE TOWN DURING THE ANNEXATION PROCESS, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT.**
- B. UPON RECEIPT OF THE PETITION FOR ANNEXATION, THE TOWN MANAGER SHALL PROVIDE THE APPLICANT WITH AN ESTIMATE OF THE ANTICIPATED ANNEXATION COSTS BASED ON THE INFORMATION INCLUDED IN THE APPLICATION.**
- C. THE APPLICANT MUST PAY THE APPLICATION FEE AND ESTIMATED COSTS PRIOR TO THE TOWN TAKING ANY ACTION IN CONNECTION WITH THE ANNEXATION PETITION.**
- D. IF AT ANY TIME DURING THE ANNEXATION PROCESS IT BECOMES APPARENT THAT THE TOWN’S ACTUAL COSTS SHALL EXCEED THE ESTIMATE SET BY THE TOWN MANAGER IN SUBSECTION B., THE TOWN MANAGER SHALL NOTIFY THE APPLICANT. THE APPLICANT SHALL PAY THE ADDITIONAL COSTS WITHIN FIFTEEN (15) DAYS OF DEMAND FROM THE TOWN. IF THE APPLICANT FAILS TO PAY THE ADDITIONAL COSTS WITHIN FIFTEEN DAYS OF THE DEMAND, THE TOWN SHALL CEASE ALL ACTIVITY IN CONNECTION WITH THE ANNEXATION AND SHALL NOT TAKE ANY ADDITIONAL ACTION UNTIL THE ADDITIONAL COSTS ARE PAID.**

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E. THE TOWN SHALL REFUND THE APPLICANT ANY AMOUNTS RECEIVED WHICH EXCEED THE TOWNS ACTUAL COSTS AT THE CONCLUSION OF THE ANNEXATION PROCESS.

(Ord. No. 20-08, 10-5-20)

16.36.020 PLAN REVIEW FEES.

- A. AN APPLICANT SUBMITTING ANY SUBDIVISION PLAT FOR REVIEW, INCLUDING SKETCH PLATS, PRELIMINARY SUBDIVISION PLATS, FINAL PLATS, AND IMPROVEMENT PLATS, SHALL PAY A SUBMISSION FEE ESTABLISHED BY POLICY, RESOLUTION, OR ORDINANCE FROM TIME TO TIME AND FOR ALL COSTS INCURRED BY THE TOWN DURING THE PLAN REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT.**
- B. THE APPLICANT SHALL PAY THE SUBMISSION FEE AT THE TIME THE PLAT IS SUBMITTED. THE APPLICANT SHALL PAY ALL ADDITIONAL COSTS INCURRED BY THE TOWN PRIOR TO THE APPROVAL OF THE PLAT. NO PLAT SHALL BE APPROVED UNTIL ALL COSTS HAVE BEEN PAID BY THE APPLICANT.**

~~**16.36.020 Sketch plat fees.**~~

~~Sketch plat review fees shall be established from time to time by policy, resolution, or ordinance by the town and shall be paid for by the applicant at the time of application.~~

~~(Ord. No. 20-08, 10-5-20)~~

Chapter 16.48 Forest Conservation

16.48.060 Criteria.

- A. A forest stand delineation shall be submitted at the initial stages of subdivision application or project plan approval, before a grading permit application, or before a sediment control application is submitted for the tract being developed.
- B. The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01A.
- C. The delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation and shall contain the following components:
 - 1. A topographic map delineating intermittent and perennial streams, and steep slopes over twenty-five (25) percent;
 - 2. A soil's map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of fifteen (15) percent or more;

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3. Forest stand maps indicating species, location, and size of trees and showing dominant and codominant forest types;
 4. Location of one hundred (100) year floodplains;
 5. Information required by the Forest Conservation Technical Manual; and
 6. Other information the department determines is necessary to implement this chapter.
- D. If approved by the commission, a simplified delineation, a concept plan or plat, preliminary plat or plan, sediment control plan, or other appropriate document, verified by a site visit, if appropriate, may substitute for the forest stand delineation if:
1. No forest cover is disturbed during a construction activity; and
 2. Designated to be under a long term protective agreement.
- E. The commission shall consider simplified forest stand delineation, or other substitute plan described in Subsection 16.48.050.D., complete if it includes:
1. All requirements under Subsections 16.48.050.C.1., 2., 4., and 5. of this chapter;
 2. A map showing existing forest cover as verified by field inspection; and
 3. Other information required by this chapter.
- F. An approved forest stand delineation may remain in effect for a period not longer than five years.
- G. Time for Submittal.
1. Within thirty (30) calendar days after receipt of the forest stand delineation, the department shall notify the applicant whether the forest stand delineation is complete and correct.
 2. If the department fails to notify the applicant within thirty (30) days, the delineation shall be treated as complete and correct.
 3. The department may require further information or provide for an additional fifteen (15) calendar days under extenuating circumstances.
 4. The applicant shall pay for the review of the forest stand delineation **AND FOR ALL COSTS INCURRED BY THE TOWN DURING THE PLAN REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT.** Fees are to be established from time to time by policy, resolution, or ordinance by the town. **THE SUBMISSION FEE shall be paid at time of application. THE APPLICANT SHALL PAY ALL ADDITIONAL COSTS INCURRED BY THE TOWN PRIOR TO THE APPROVAL OF THE FOREST STAND DELINEATION. NO FOREST STAND DELINEATION SHALL BE APPROVED UNTIL ALL COSTS HAVE BEEN PAID BY THE APPLICANT.**

(Ord. No. 19-07, 1-6-20)

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16.48.080 Preliminary forest conservation plan.

- A. A preliminary forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01.A.
- B. A preliminary forest conservation plan shall:
 - 1. Be submitted with the preliminary plan of subdivision or proposed project plan;
 - 2. Include the approved forest stand delineation for the site;
 - 3. Include a table that lists the proposed values of the following, in square feet:
 - a. Net tract area;
 - b. Area of forest conservation required; and
 - c. Area of forest conservation that that the applicant proposes to provide, including both onsite and offsite areas;
 - 4. Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
 - 5. Include an explanation of how the provisions of Section 16.48.070 of this article have been met;
 - 6. In the case of afforestation or reforestation, include a proposed afforestation or reforestation plan;
 - 7. Include a proposed construction timetable showing the sequence of forest conservation procedures;
 - 8. Show the proposed limits of disturbance;
 - 9. Show proposed stockpile areas;
 - 10. Incorporate a proposed two-year maintenance agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment; and
 - 11. Other information the department determines is necessary to implement this chapter.
- C. The review of the preliminary forest conservation plan shall be concurrent with the review of the preliminary site plan.
- D. During the different stages of the review process, the preliminary forest conservation plan may be modified provided the commission approves of the changes.
- E. The applicant shall pay for the review of the preliminary forest conservation plan **AND FOR ALL COSTS INCURRED BY THE TOWN DURING THE PLAN REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT. SUBMISSION** fees are to be established from time to time by policy, resolution, or ordinance by the town and shall be paid at time of application. **THE APPLICANT SHALL PAY ALL ADDITIONAL**

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COSTS INCURRED BY THE TOWN PRIOR TO THE APPROVAL OF THE PRELIMINARY FOREST CONSERVATION PLAN. NO PRELIMINARY FOREST CONSERVATION PLAN SHALL BE APPROVED UNTIL ALL COSTS HAVE BEEN PAID BY THE APPLICANT.

(Ord. No. 19-07, 1-6-20)

16.48.090 Final forest conservation plan.

- A. A final forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01.A.
- B. A final forest conservation plan shall:
1. Be submitted with the following:
 - a. A final subdivision plan;
 - b. A final project plan;
 - c. An application for a grading permit; or
 - d. An application for a sediment control permit.
 2. Show proposed locations and types of protective devices to be used during construction activities to protect trees and forest designated for conservation;
 3. In the case of afforestation or reforestation, include an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
 4. Incorporate a binding two-year maintenance agreement specified in COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:
 - a. Watering; and
 - b. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual;
 5. Incorporate a long-term binding protective agreement specified in COMAR 08.19.05.02 that:
 - a. Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention; and
 - b. Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest.
 6. Include the substantive elements required under Subsections 16.48.080.B.2.—5., 7.—9., and 11. of this chapter, as finalized elements of the forest conservation plan; and
 7. Other information the department determines is necessary to implement this chapter.

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C. Time for Submittal.

1. Within forty-five (45) calendar days after receipt of the final forest conservation plan, the department shall notify the applicant whether the forest conservation plan is complete and approved.
 2. If the department fails to notify the applicant within forty-five (45) calendar days, the plan shall be treated as complete and approved.
 3. The department may require further information or extend the deadline for an additional fifteen (15) calendar days under extenuating circumstances.
 4. At the request of the applicant, the department may extend the deadline under extenuating circumstances.
 5. The applicant shall pay for the review of the final forest conservation plan **AND FOR ALL COSTS INCURRED BY THE TOWN DURING THE PLAN REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT. SUBMISSION** fees are to be established from time to time by policy, resolution, or ordinance by the town and shall be paid at time of application. **THE APPLICANT SHALL PAY ALL ADDITIONAL COSTS INCURRED BY THE TOWN PRIOR TO THE APPROVAL OF THE FINAL FOREST CONSERVATION PLAN. NO FINAL FOREST CONSERVATION PLAN SHALL BE APPROVED UNTIL ALL COSTS HAVE BEEN PAID BY THE APPLICANT.**
 6. **THE FOREST CONSERVATION PLAN SHALL BE MEMORIALIZED AND RECORDED IN AN EASEMENT TO BE FILED IN THE LAND RECORDS OF FREDERICK COUNTY, MARYLAND.**
- D. The commission's review of a final forest conservation plan shall be concurrent with the review of the final subdivision or project plan, grading permit application, or sediment control application associated with the project.
- E. The department may revoke an approved forest conservation plan if it finds that:
1. A provision of the plan has been violated;
 2. Approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 3. Changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
- F. The department may issue a stop work order against a person who violates a provision of this chapter or a regulation, order, approved forest conservation plan or maintenance agreement.
- G. Before revoking approval of a forest conservation plan, the department shall notify the violator in writing and provide an opportunity for a hearing.

(Ord. No. 19-07, 1-6-20)

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draft

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

PASSED this __ day of January, 2023

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:
COMMISSIONERS:

EMMITSBURG BOARD OF

Sabrina King, Town Clerk

Timothy O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this __ day of January, 2023

Donald N. Briggs, Mayor

AGENDA ITEM #7: For consideration, approval of Ordinance 2023-02 amendment to Title 17 changes to zoning fees.

- a) This ordinance will amend the collection process for zoning fees.

Presentation at the town meeting by Town Staff.



Draft

ORDINANCE SERIES: 2023
ORD. NO: 23-02

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AN ORDINANCE TO AMEND
TITLE 17
OF THE CODE OF EMMITSBURG
ENTITLED
ZONING

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 17, Zoning, of the Emmitsburg Municipal Code, be amended as follows:

New language is indicated by being in **BOLD, CAPITAL LETTERS**, and deleted language is designated by being in ~~brackets and strike out~~.

Chapter 17.44 – Amendments

17.44.020 Procedures.

- A. A public hearing shall be held by the mayor and board of commissioners before adoption of any proposed amendment, supplement, or change, public notice of which shall be published according to **MD. CODE ANN. LAND USE ART. SECTION 4-204** ~~Section 4.04 of Article 66B of the Maryland Code~~, as adopted or amended.
- B. In order to partially defray the expense of a zoning change public hearing, the person or parties petitioning for a zoning change shall pay **SHALL PAY A SUBMISSION FEE** in accordance with the town of Emmitsburg review fee schedule **AND ALL COSTS INCURRED BY THE TOWN DURING THE ZONING CHANGE REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT.** No part of such amount shall be refunded for failure of said amendment to be enacted into law. In addition thereto, the petitioning person or parties shall pay all costs for the required advertising. **ALL COSTS AND FEES REQUIRED UNDER THIS SECTION SHALL BE PAID BY THE APPLICANT PRIOR TO THE PUBLIC HEARING.**

Chapter 17.48 - Enforcement and Penalties

17.48.050 Site plan requirements.

- A. A site plan shall have the same format as the preliminary plat as required by the Emmitsburg subdivision regulations and be subject to the same guarantee of improvements for all on-site improvements as required by this title.
- B. The following information shall be provided by the site plan:
 - 1. Site location;

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- Draft
2. Dimensions of the lot to be built upon;
 3. Size, height and location of the structure(s) to be erected;
 4. Nature of materials to be used on structure's exterior;
 5. Parking. Location, surface material and road network;
 6. Water and sewer. On-site location and alignment;
 7. Storm drainage facilities;
 8. Sidewalks, unless excepted under subsection 16.16.030W;
 9. Landscaping plan;
 10. Signs. Location, size, height and design of all signs;
 11. Recreational facilities;
 12. Garbage collection points;
 13. Lighting plan.
- C. **AN APPLICANT SUBMITTING A SITE PLAN FOR REVIEW SHALL PAY A SUBMISSION FEE AND ALL COSTS INCURRED BY THE TOWN DURING THE SITE PLAN REVIEW, INCLUDING BUT NOT LIMITED TO ALL FEES CHARGED BY ATTORNEYS, ENGINEERS, OR ANY OTHER CONSULTANT.**
Site plan SUBMISSION fees are to be established from time to time by policy, resolution, or ordinance by the town and shall be paid at the time of application. **THE APPLICANT SHALL PAY ALL ADDITIONAL COSTS INCURRED BY THE TOWN PRIOR TO THE APPROVAL OF THE SITE PLAN. NO SITE PLAN SHALL BE APPROVED UNTIL ALL COSTS HAVE BEEN PAID BY THE APPLICANT.**

(Prior code Art. XI (Art. III § 2.04))

(Ord. No. 20-09, 10-5-20; Ord. No. 21-06, 6-21-21)

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners passes the Ordinance over the veto of the Mayor.

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ORD. NO: 23-02

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PASSED this __ day of January, 2023

by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:
COMMISSIONERS:

EMMITSBURG BOARD OF

Sabrina King, Town Clerk

Timothy O'Donnell, President

MAYOR

_____APPROVED _____VETOED

this __ day of January, 2023

Donald N. Briggs, Mayor

M. SET AGENDA FOR NEXT MEETING: FEBRUARY 6, 2023

- 1.
- 2.
- 3.
- 4.
- 5.

Administrative Business:

- A.
- B.
- C.

