

**AGREEMENT REGARDING**  
**CHESWOLD AREA TRANSPORTATION IMPROVEMENT DISTRICT**  
**BETWEEN**  
**DELAWARE DEPARTMENT OF TRANSPORTATION**  
**AND**  
**KENT COUNTY**

**PROJECT MANAGER: SARAH COAKLEY, AICP, PRINCIPAL PLANNER, DELDOT**

**THIS AGREEMENT**, made and entered into this 5th day of April 2021, by and between the Delaware Department of Transportation, as First Party, hereinafter referred to as the **DEPARTMENT**, and Kent County, as Second Party, hereinafter referred to as the **COUNTY**.

**WITNESSETH:**

**WHEREAS**, the **DEPARTMENT** and the **COUNTY** seek to establish a Transportation Improvement District, hereinafter referred to as the **TID**, in the Cheswold area, for the purpose of securing required improvements to transportation facilities in that area,

**NOW, THEREFORE**, for and in consideration of the mutual covenants, hereinafter stipulated to be kept and performed, it is agreed between the parties as follows:

**SECTION 1. GEOGRAPHIC BOUNDARIES**

- A. The initial boundaries of the **TID**, to be refined in the development of the Land Use and Transportation Plan, are shown on Exhibit A, attached hereto, and are described as follows:
1. Participant Boundary. Beginning in the northwest, where Brenford Rd. crosses the Leipsic River, the boundary follows the Leipsic River east to the westernmost southbound lane of SR1, south and southeast along SR1 to Scarborough Rd., runs southwest along Scarborough Rd. to North Dupont Hwy., northwest along North Dupont Hwy. to West Denny's Rd., southwest along West Denny's Rd. to Fork Branch, then runs west along the northern City of Dover municipal boundary to Maidstone Branch, follows Maidstone Branch west to the western boundary of Forty Nine Pines, runs north along the western boundary of Forty Nine Pines to the flowline of a stream, northwest along this stream flowline, west along West Denny's Rd. to the western boundary of Planters Woods, follows the western boundary of

Planters Woods north to an intermittent stream, the intermittent stream west to the western parcel line of parcel 2-00-05600-01-2800-00001, runs north along this parcel line to Central Church Rd., west along Central Church Rd. to the western parcel line of parcel 2-00-05600-01-0600-00001, northwest along this parcel line to a perennial stream, follows this perennial stream north to Fork Branch, Fork Branch west to the western parcel line of parcel 3-00-05500-01-3600-00001, north along this parcel line and the western parcel line of parcel 3-00-05500-01-3300-00001, then west along the southern parcel line of parcel 3-00-04600-02-0105-00001, follows the eastern and southern parcel lines of parcel 3-00-04500-01-6606-00001, the southern parcel line of parcel 3-00-04500-01-6607-00001, the southern and western parcel lines of parcel 3-00-04500-01-6609-00001, follows Seven Hickories Rd. east to the eastern parcel line of parcel 3-00-04500-01-5800-00001, northeast along this parcel line to Willis Branch, runs north and northeast along Willis Branch to an intermittent stream flowline west of Hidden Brook, north and northwest along this flowline to Brenford Rd., and north along Brenford Rd. to the point of beginning.

2. Facilities Boundary. Beginning in the northwest, at the intersection of Brenford Rd. and Moorton Rd., the boundary follows Brenford Rd. north to Hillyard Rd., Hillyard Rd. to Sunnyside Rd., Brenford Rd. northeast to Rabbit Chase Rd., Hickory Ridge Rd. east to North Dupont Hwy., North Dupont Hwy. north to Big Oak Rd., North Dupont Hwy. back south to Twin Willows Rd., Twin Willows Rd. east to SR1 and west back to North Dupont Hwy., North Dupont Hwy. south to Fast Landing Rd., Fast Landing Rd. east to SR1 and west back to North Dupont Hwy., North Dupont Hwy. south to Simms Woods Rd., Simms Woods Rd. east to SR1 and west back to North Dupont Hwy., North Dupont Hwy. south to Hatchery Rd., Hatchery Rd. southeast to Dyke Branch Rd., Dyke Branch Rd. east to SR1 and west back to West Denny's Rd., West Denny's Rd. to its easternmost limits and back west to North Dupont Hwy., North Dupont Hwy. south to Scarborough Rd. and back north to Fork Branch Rd., Fork Branch Rd. west to McKee Rd./Saulsbury Rd., Saulsbury Rd. south to Dover city limits and back north to Central Church Rd., Central Church Rd. west to Kenton Rd., Kenton Rd. south to Chestnut Grove Rd., Chestnut Grove Rd. west to Deer Track Lane, Deer Track Lane south to Sharon Hill Rd. and back north to Chestnut Grove Rd., Chestnut Grove Rd. west to Sharon Hill Rd. and back east to Maidstone Branch Rd., Maidstone Branch Rd. north to West Denny's Rd., West Denny's Rd. west to Sharon Hill Rd. and back east to Blue Heron Rd., Blue Heron Rd. north to Pearsons Corner Rd., Pearsons Corner Rd. west to Dinahs Corner Rd. and back east and northeast to Rose Dale Lane, Rose Dale Lane northwest to Seeneytown Rd., Seeneytown Rd. west to Shaws Corner Rd. and back east to Seven Hickories Rd., Brenford Rd. north to Mt. Friendship Rd., Mt. Friendship Rd. north to Wheatley's Pond Rd. and back south to Bryn Zion Rd., Bryn Zion Rd. west to Wheatley's Pond Rd. and back east to Mt. Friendship Rd., and Massey's Millpond Rd. east to the point of beginning.

- B. The TID shall have both a Participant (inner) Boundary and a Facilities (outer) Boundary. The purpose of having two boundaries is to better provide for adequate infrastructure on all sides of developments inside the Participant Boundary. All land developments, within the Participant Boundary and outside of the Town of Cheswold, requiring a subdivision or land development plan, and all State-maintained capital transportation facilities (roads, bridges, sidewalks, bus stops, etc.) within the Facilities Boundary shall be subject to the terms of this agreement.
- C. The boundaries of the **TID** may be amended at any time by mutual agreement of the parties in the form of a supplement to this **AGREEMENT**.
- D. The **COUNTY** shall, at a minimum, evaluate the need to amend the boundaries of the **TID** when they update their Comprehensive Plans.

## **SECTION 2. TARGET HORIZON YEAR**

- A. The Target Horizon Year for which land use is to be forecast in creating the TID is 2045.
- B. The Target Horizon Year may be amended at any time by mutual agreement of the parties in the form of a supplement to this **AGREEMENT**, but shall ordinarily be at least 10 years after the most recent US Census.
- C. The **COUNTY** shall, at a minimum, evaluate the need to amend the Target Horizon Year of the **TID** when they update their Comprehensive Plans.

## **SECTION 3. SERVICE STANDARDS**

- A. The parties hereby agree to work together to develop a set of standards (Service Standards) for conditions in the **TID** in the Target Horizon Year, which will be incorporated into this **AGREEMENT** as Exhibit B.
- B. Prior to incorporating Service Standards into this **AGREEMENT**, the parties will solicit public comment on proposed standards and consider the comments received.
- C. The Service Standards may be amended at any time by mutual agreement of the parties in the form of a supplement to this **AGREEMENT**, provided that the public is first afforded an opportunity to review and comment on the proposed amendment.
- D. The **COUNTY** shall, at a minimum, evaluate the need to amend the Service Standards of the **TID** when they update their Comprehensive Plans.

#### **SECTION 4. LAND USE AND TRANSPORTATION PLAN**

- A. The parties agree to work together to create a Land Use and Transportation Plan, hereinafter referred to as an **LUTP** for the **TID**.
- B. The **COUNTY** shall supply to the **DEPARTMENT** a parcel-level land use forecast for the **TID** area, composed of the following components:
  - 1. Existing land use as of 2021.
  - 2. Development approved and/or recorded but not yet built as of that date, including any “sunset” provisions.
  - 3. Development expected or in the land development process but not approved as of that date.
  - 4. Development not yet proposed but projected by the Target Horizon Year, based on population and employment forecasts, and the current Comprehensive Plan and zoning map.
- C. The **DEPARTMENT** shall inventory the existing transportation network and programmed improvements thereto within the **TID** area, which inventory shall include the following information:
  - 1. Functional Class and Traffic Pattern Group;
  - 2. Numbers, assignments and widths of lanes at each intersection;
  - 3. Type of control at each intersection;
  - 4. Typical section and type of pavement on each road segment;
  - 5. Roadway geometry deficiencies in sufficient detail to determine whether the agreed upon Service Standards are met;
  - 6. Roadway capacity and Level of Service conditions (to the extent known) in sufficient detail to determine whether the agreed upon Service Standards are met;
  - 7. Presence, and frequency of transit service;
  - 8. Any bicycle and pedestrian facilities not covered under Item 4 above.
- D. The **DEPARTMENT** shall forecast traffic on the study area road network for the Target Horizon Year, shall determine what locations would need improvement to meet the Service Standards, in that year, and shall identify conceptually what improvements are needed in those locations.
- E. The **DEPARTMENT** shall assemble the information identified in Paragraphs B, C, and D above as the **LUTP**, which the parties hereto shall, upon review and approval, adopt as an Appendix to this Agreement.

- F. When updating their Comprehensive Plan, the **COUNTY** shall consider the need to update the **LUTP** and shall initiate that effort if the land use forecast for the **TID** area has changed significantly. The parties hereto shall, upon review and approval, readopt the revised **LUTP** as an Appendix to this Agreement.
- G. The **DEPARTMENT** shall provide an updated Exhibit C each time the **LUTP** is amended.

#### **SECTION 5. TID CAPITAL TRANSPORTATION PROGRAM (TID-CTP)**

- A. For the deficient locations identified in the adopted **LUTP**, the **DEPARTMENT** shall identify a set of projects needed to address those deficiencies and shall develop cost estimates for those projects. The **DEPARTMENT** shall update the cost estimates periodically as needed. Subject to review and approval by the **COUNTY**, this set of projects shall constitute the **TID** Capital Transportation Program (**TID-CTP**).
- B. The **COUNTY** shall, in odd numbered years to coincide with development of the DelDOT Capital Transportation Program, recommend projects from the **TID-CTP** for inclusion in the **DEPARTMENT**'s 6-year Capital Transportation Program. Inclusion of recommended projects shall be subject to the **DEPARTMENT**'s normal process for development of the 6-year program. Projects included in the **DEPARTMENT**'s 6-year Capital Transportation Program shall be eligible to receive funding from the **COUNTY** consistent with Paragraph 7D below, in addition to applicable State and Federal funds.

#### **SECTION 6. DEVELOPMENTS EXCLUDED FROM PARTICIPATION**

- A. Where the **LUTP** has been agreed upon by the parties and a proposed development is determined by the **DEPARTMENT** and the **COUNTY** to be both inconsistent with the land use element of the **LUTP**, and to generate sufficient traffic to warrant a Traffic Impact Study (TIS), the **DEPARTMENT** and the **COUNTY** shall require a TIS and, as necessary, off-site improvements in accordance with the **DEPARTMENT**'s Development Coordination Manual.
- B. Parcels located within the Town of Cheswold are excluded from the requirements of this agreement.

#### **SECTION 7. INFRASTRUCTURE FEE PROGRAM**

- A. The **DEPARTMENT** and the **COUNTY** shall require that any activity requiring a subdivision or land development plan within the Participant Boundary of the TID participate in the improvement of transportation facilities within the Facilities Boundary of the TID in

accordance with the current LUTP and this Agreement. The **DEPARTMENT** and the **COUNTY** shall require that the manner and extent of that participation be documented on the record subdivision or land development plan. The manner of participation shall be through the payment of a fee, right-of-way dedication or the construction of physical improvements identified in the TID-CTP, or some combination thereof. The extent of participation shall be in accordance with Paragraph E below. The **COUNTY** shall collect any fees prior to issuance of building permits. The schedule for construction of physical improvements shall be specified on the record subdivision or land development plan and shall be subject to approval by both the **DEPARTMENT** and the **COUNTY**.

- B. Dedication of rights-of-way in lieu of some or all of the fee shall be by agreement between the developer, the **DEPARTMENT**, and the **COUNTY**, with payment of the fee being required if any party is not amenable to the proposed dedication. The value of the rights-of-way to be dedicated shall be determined in accordance with **DEPARTMENT** policies and regulations. The creditable area shall be determined based on highway plans acceptable to the **DEPARTMENT** and shall exclude the standard dedications provided in **DEPARTMENT**'s Development Coordination Manual, rights-of-way for any proposed streets and any lands needed to accommodate the site entrance.
- C. Design and/or Construction of physical improvements in lieu of some or all of the fee shall be by agreement between the developer, the **DEPARTMENT**, and the **COUNTY**, with payment of the fee being required if any party is not amenable to the proposed construction. If a developer seeks to design and/or construct physical improvements in lieu of paying into the Fee, the developer shall be required to obtain a minimum of three bids for the work. The bids shall be subject to review and approval by the **DEPARTMENT**. Credit toward the fee shall be based on the developer's payments to the selected contractor. Design and Construction of improvements required by the **DEPARTMENT** and the **COUNTY** as part of the development's entrance construction or on-site infrastructure, e.g. subdivision streets, and curb ramps, turn lanes, acceleration lanes at development entrance, shall not be creditable toward the fee. At their discretion, the **DEPARTMENT** and the **COUNTY** may require improvements beyond the site entrance to correct an unsafe condition that they find would be created or worsened by the proposed development. Such improvements may include, but are not limited to, the addition or widening of shoulders, and/or the construction of a shared-use path or sidewalk along the development's frontage. In that case, the cost of that work shall be determined by the **DEPARTMENT**, using the Shared-Use Path and Sidewalk Fee Calculation Form for those items and current comparable contract bid prices as a guide for other items, and shall be creditable toward the fee.
- D. The **COUNTY** shall create and administer a separate account or accounts expressly for the purpose of managing the funds needed to pay for design and construction costs of work identified in the **TID-CTP** under the terms of this Agreement. The account shall be funded by Infrastructure Fee payments from developers as called for by this Agreement.

- E. As detailed in Exhibit C (to be attached), developers shall participate in the improvement of transportation facilities within the Facilities Boundary of the **TID** in accordance with the current **LUTP** as follows:
1. In the Target Horizon Year, the **LUTP** shows that a total number of trips will be generated within the Participant Boundary of the **TID** in an average weekday evening peak hour. The total estimated cost to construct the improvements identified in the **TID-CTP** can also be determined. Development within the Participant Boundary of the **TID** can be grouped into broad land use categories, each with an associated trip generation per square foot or per dwelling unit. Therefore, for each subdivision or land development plan, the **DEPARTMENT** and the **COUNTY** shall require participation proportional to the number of trips generated in an average weekday evening peak hour. Where there is a question as to how to characterize a specific development, the **COUNTY** shall refer to the **LUTP** and may consult the **DEPARTMENT** as necessary.
  2. Improvements by the **DEPARTMENT**'s Division of Maintenance and Operations are excluded from the **TID-CTP** and are not eligible for funding through the Infrastructure Fee Program.
- F. While transportation improvement projects await construction funding, the costs of constructing the project will escalate at the rate of inflation for highway construction projects. The amounts paid by developers, therefore, shall be subject to an increase of up to four percent (4%) per year, not compounded, beginning on January 31, 2022 and increasing by the established amount on January 31 of each year thereafter. The actual amount of the increase shall be set by DelDOT in January of each year based upon the change in the Consumer Price Index (CPI) for Delaware Region during the previous year. The established rate shall not exceed four percent (4%) in any one year and escalation shall only apply to contributions unpaid on January 31 of each year.

## **SECTION 8. MONITORING PROGRAM**

- A. The **DEPARTMENT** shall monitor traffic volumes within the Facilities Boundary of the **TID** and shall report to the **COUNTY** in calendar year 2023 and at regular intervals not to exceed every 5 years their findings and their recommendations as to what improvements in the **TID-CTP** are needed at the time of the report and what improvements in the **TID-CTP** are likely to be needed in the next six years.
- B. The extent of the monitoring effort shall be at the **DEPARTMENT**'s discretion but the **DEPARTMENT** will accommodate reasonable requests from the **COUNTY** for the inclusion of specific information.

## **SECTION 9. SCOPE OF AGREEMENT**

This **AGREEMENT** constitutes the sole understanding by and between the **DEPARTMENT** and the **COUNTY**, and nothing outside of this **AGREEMENT** shall be construed as an alteration, modification and/or revision hereof. This **AGREEMENT** shall not be modified except in writing subscribed by all parties.

## **SECTION 10. SUCCESSOR AND ASSIGNMENTS**

The **DEPARTMENT** and the **COUNTY** each binds itself, its successors, legal representatives, agents, employees, officers, and assigns, to each other to this Contract.

## **SECTION 11. LAWS OF DELAWARE**

This **AGREEMENT** and the terms thereof shall be construed in accordance with the laws of the State of Delaware.

## **SECTION 12. PUBLIC INVOLVEMENT**

Absent a specific agreement to the contrary, to the extent that a public meeting, workshop or hearing is needed pertaining to procedural matters relating to this **AGREEMENT**, said public meeting, workshop or hearing shall be publicized and hosted by the **COUNTY**. The **DEPARTMENT** shall send appropriate representatives to such events as necessary. For specific improvements to be made in the **TID**, the **DEPARTMENT**'s Public Involvement Process shall govern.



**IN WITNESS WHEREOF**, the parties hereunto have caused this **AGREEMENT** to be executed in quadruplicate, the date and year first above written.

FOR THE DELAWARE DEPARTMENT OF TRANSPORTATION:

  
\_\_\_\_\_  
Nicole Majeski, Cabinet Secretary

DATE: 3/31/21

ATTEST:

  
\_\_\_\_\_  
Charlanne Thornton, Director, Finance

DATE: 4/5/21

APPROVED AS TO FORM:

  
\_\_\_\_\_  
George Lees, Deputy Attorney General

DATE: 3-30-2021

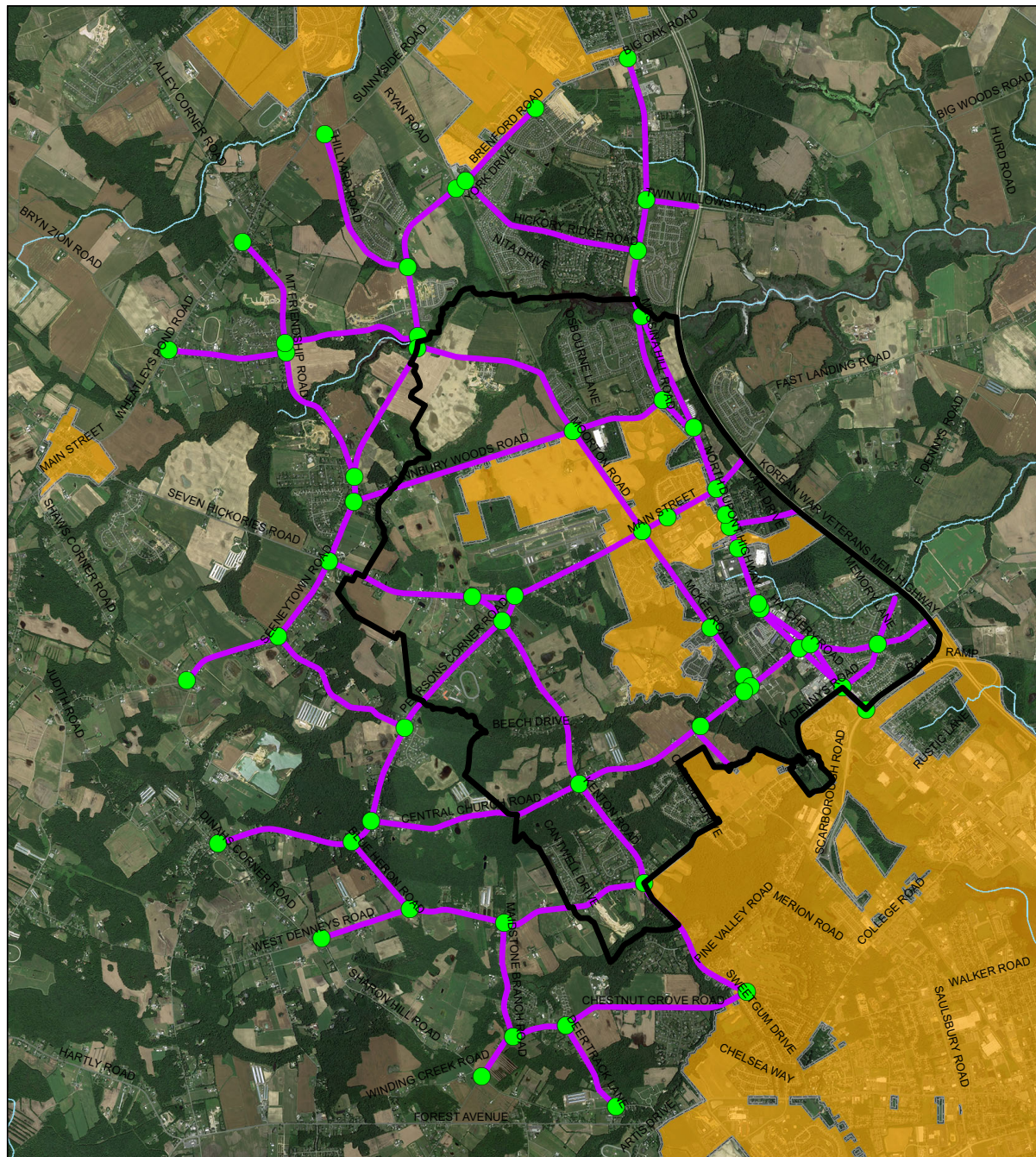
FOR KENT COUNTY:

  
\_\_\_\_\_  
Michael J. Petit de Mange, AICP, County Administrator





DATE: 03-19-2021

# Exhibit A to accompany Cheswold Area TID Agreement

## TID Boundary Map



### Legend

-  Cheswold Area TID Participant Boundary
-  Cheswold Area TID Intersections
-  Cheswold Area TID Segments
-  Municipalities