

GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM

THIS GRANT AGREEMENT (“Agreement”) is made as of 5/12, 2015 (“Effective Date”) by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs (“Grantor”), and Laurel Redevelopment Corporation (“Grantee”).

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant NA14 NOS 419 0123.

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled The Laurel Redevelopment Corporation’s Drainage Assessment of the Ramble Project (“Project”).

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$24,999 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A):

The Laurel Redevelopment Corporation (“GRANTEE”) will complete a comprehensive drainage study and environmental assessment to determine feasibility of green infrastructure flood abatement techniques at the “The Ramble,” a linear community park along Broad Creek. The impacts of sea level rise will be incorporated into the assessment. As a result of the assessment of existing and future conditions, recommendations and designs for green infrastructure will be provided. This project will serve as an example for other towns in the region seeking to conduct resilient waterfront redevelopment.

- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.
- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.

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

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds \$24,999 awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.

- (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the Project is in violation of any federal, state, or local law or rule; or creates a risk to the public health, safety or environment.
- (g) Grantor is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

- (a) Grantor may, by written notice to Grantee, terminate this Agreement if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Grantee or any agent or representative of Grantee to any officer or employee of the State of Delaware or Grantor with a view toward securing a contract or securing favorable treatment with respect to the awarding of Grant Funds or making of any determinations with respect to the performance of this Agreement.
 - (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
 - (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.
10. Insurance.
- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
6. If required to transport state employees, Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

(b) Grantee shall provide Forty-Five (45) days written notice of cancellation or material change of any policies.

(c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement Number stated herein, shall be filed with the State. The certificate holder is as follows: DNREC, Delaware Coastal Programs, Coastal Management Grant Program.

(d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

11. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the addresses set forth below:

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

Laurel Redevelopment Corporation
P.O. Box 333
115 DE Avenue
Laurel, DE 19956
Phone: 302-745-0709

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.

- (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.

- (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by [GRANTEE] using Federal funds under award NA14 NOS 419 0123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

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

Original on File

Original on File

Witness: _____


Name: _____

Title: Secretary

Date: 5-18-15

Date: 5/18/15

**GRANTEE
LAUREL REDEVELOPMENT
CORPORATION**

Original on File

Original on File

Witness: _____


Name: Brian G. Shannon

Title: Property Manager

Date: 5/14/15

Date: 5/14/2015

GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM

THIS GRANT AGREEMENT ("Agreement") is made as of 5/12, 2015 ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and the City of Lewes ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant NA14 NOS 419 0123.

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled: "Vulnerability Assessment for Lewes Evacuation Planning ("Project")."

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$5,000.00 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A): The City of Lewes will compile data and map existing and future flood risk within city boundaries to identify vulnerabilities to critical infrastructure. Priority infrastructure will be surveyed to determine threshold flood levels for operational issues. This information will be used to form the basis of future hazard and evacuation plans and to inform infrastructure upgrades.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.

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

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$5,000.00) awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
- (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
 - (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

6. If required to transport state employees, Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
 - (b) Grantee shall provide Forty-Five (45) days written notice of cancellation or material change of any policies.
 - (c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement Number stated herein, shall be filed with the State. The certificate holder is as follows: DNREC, Delaware Coastal Programs, Coastal Management Grant Program.
 - (d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

11. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the addresses set forth below:

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

City of Lewes
PO Box 227
Lewes, DE 19958
Phone: 302-645-7777 x109

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by [GRANTEE] using Federal funds under award NA14 NOS 419 0123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

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

Original on File

Original on File

Witness: / _____

Name: _____

Title: Secretary

Date: 5/12/15

Date: 5/12/15

**GRANTEE
CITY OF LEWES**

Original on File

Original on File

Witness: _____

Name: Theodore W. Becker

Title: Mayor, City of Lewes

Date: 04-28-15

Date: April 28, 2015

**GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM**

THIS GRANT AGREEMENT ("Agreement") is made as of 4/30, 2015 ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and the Town of Little Creek ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant Number NA14NOS4190123.

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled *Sea Level Rise Vulnerability and Adaptation Planning* ("Project").

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$15,470 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

I. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A): Map sea level rise and flood vulnerabilities within town boundaries and identify sea level rise and resiliency goals for the town; identify and evaluate options for sea level rise adaptation; and incorporate selected options into their Comprehensive Development Plan. Public workshops and a town opinion survey will also be conducted as part of the project.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.

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

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$15,470) awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
- (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
 - (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

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

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

Town of Little Creek
PO Box 298
Little Creek, DE 19961

12. **Force Majeure.** Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
13. **Entire Agreement; No Oral Modification.** This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
- (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by [GRANTEE] using Federal funds under award NA14NOS4190123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

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

Original on File

Original on File

Witness

Name

1
Date: 5/11/15

Title: Secretary
Date: 5/11/15

**GRANTEE
TOWN OF LITTLE CREEK**

Original on File

Original on File

Witness:

Name:

Witness: [Signature]
Date: 5/4/15

Name: GLENN GALVES
Title: Mayor
Date: 4/30/15

**GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM**

THIS GRANT AGREEMENT ("Agreement") is made as of 5/11/11, 2015 ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and the Town of Milton ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant Number NA14NOS4190123;

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled *Sea Level Rise Adaptation – Mapping Strategies for the Future* ("Project");

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$7,000 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto;

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A): Grantee will map risks of flooding and sea level rise and identify and describe vulnerable assets within Town boundaries. They will also review their zoning and building code to identify sections inconsistent with long term flood planning and identify opportunities for code improvements. Public meetings and workshops will also be held to engage residents in the vulnerability assessment process and to disseminate results of the study
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
 - (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.
2. Obligations of Grantor; Disbursement & Limitation of Grant Funds.
- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice(s) for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
 - (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
 - (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
 - (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$7,000) awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
 - (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
 - (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
 - (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

6. If required to transport state employees, Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

(b) Grantee shall provide Forty-Five (45) days written notice of cancellation or material change of any policies.

(c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement Number stated herein, shall be filed with the State. The certificate holder is as follows: DNREC, Delaware Coastal Programs, Coastal Management Grant Program.

(d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

11. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the addresses set forth below:

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

Town of Milton
115 Federal Street
Milton, DE 19968
(302) 684-4110

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by the Town of Milton using Federal funds under award NA14NOS4190123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

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

Original on File

Witness: _____
Date: 5/11/15

Original on File

Name: _____
Title: Secretary
Date: 5/12/15

**GRANTEE
TOWN OF MILTON**

Original on File

Witness: _____
Date: 4-29-15

Name: Kirsty Rogers
Title: Town Clerk
Date: 4-29-2015

**GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM**

THIS GRANT AGREEMENT ("Agreement") is made as of 5/12, 2015 ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and City of New Castle ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant Number NA14NOS4190123

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled *Battery Park Living Shoreline Planning and Feasibility* ("Project").

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$7,000 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A): Evaluate feasibility and develop a conceptual plan for a living shoreline project at an eroded stretch of shoreline in Battery Park, a historic landmark and highly utilized public park/walkway. With this project, the City is positioning itself as a champion and innovator for nature based infrastructure as a response to storms and sea level rise in the Delaware River.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.

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

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds \$7,000 awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
- (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
 - (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
 - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

6. If required to transport state employees, Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

(b) Grantee shall provide 10 (10) days written notice of cancellation or material change of any policies.

(c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies, referencing the Agreement Number stated herein, shall be filed with the State. The certificate holder is as follows: DNREC, Delaware Coastal Programs, Coastal Management Grant Program.

(d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

11. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the addresses set forth below:

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

City of New Castle
220 Delaware Street
New Castle, DE 19720
(302) 351-3421

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by the City of New Castle using Federal funds under award NA14NOS4190123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

GRANTOR
STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
Original on File

Original on File

Witness: [Signature]

Date: 8/8/15

Name: David Small

Title: Secretary

Date: 8/8/15

GRANTEE
CITY OF NEW CASTLE

Original on File

Original on File

Witness: [Signature]

Date: 6/30/15

Name: William S. Barthele

Title: City Administrator

Date: 6/30/15

GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM

THIS GRANT AGREEMENT ("Agreement") is made as of 5/12, 2015 ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and the City of Seaford ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant NA14 NOS 419 0123.

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled: "Vulnerability Assessment of the Seaford Wastewater Treatment Facility and Associated Infrastructure ("Project")."

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$5,538.00 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A); the City of Seaford will conduct a vulnerability assessment of its wastewater treatment facility and associated infrastructure. They will conduct an inventory of critical assets, conduct ground based surveys of the treatment facility and assess risk to the structure from flooding and sea level rise. They will also identify mitigation and adaptation actions for incorporation into long-term capital plans for their wastewater systems.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
- (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.

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

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
- (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
- (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
- (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$5,538.00) awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
- (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
- (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
- (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
- (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.

9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

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

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

City of Seaford
414 High Street
Seaford, DE 19973
Phone: 302-645-7777 x109

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. Miscellaneous Provisions.
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

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

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

Original on File
Witness: f
Date: 5/12/15

Original on File
Name: [Signature]
Title: Cabinet Secretary
Date: 5/12/15

**GRANTEE
CITY OF SEAFORD**

Original on File
Witness: [Signature]
Date: 5/4/15

Original on File
Name: Dolores Slatcher
Title: City Manager, Seaford
Date: 5/4/15

GRANT AGREEMENT
DELAWARE COASTAL MANAGEMENT ASSISTANCE GRANT PROGRAM

THIS GRANT AGREEMENT ("Agreement") is made as of 5/12, 2015_ ("Effective Date") by and between The State of Delaware, Delaware Department of Natural Resources, Delaware Coastal Programs ("Grantor"), and the Town of South Bethany ("Grantee").

W I T N E S S E T H :

WHEREAS, Grantor is charged with administering and granting funds through the Delaware Coastal Management Assistance Grant Program (CMAG) with funding received from the National Oceanic and Atmospheric Administration (NOAA) Grant NA14 NOS 419 0123.

WHEREAS, Grantee has submitted a grant proposal to Grantor for a Grant under the CMAG Program entitled: "Sea Level Rise Vulnerability Assessment for Priority Town Assets ("Project")."

WHEREAS, Grantor, in consultation with a Grant Review Committee and approval from NOAA, has (i) considered the proposed Project under the criteria for the CMAG Program and (ii) resolved to provide funding to Grantee in an amount not to exceed \$9,992.50 to complete Project in accordance with the terms and conditions of this Agreement and Attachments hereto.

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

1. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the Project, herein described and outlined in the attached Scope of Work (Attachment A): the Town of South Bethany will conduct a sea level rise vulnerability assessment for priority town assets. A GIS model will simulate sea level rise over varying conditions and evaluate the extent of inundation and potential damage to each asset. This study will form the basis for future efforts to develop a comprehensive sea level rise adaptation plan for the town.
- (b) Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) Project Scope of Work (Attachment A); (c) Grantor's Request for Proposals (Attachment B); and (d) Grantee's submitted project proposal (Attachment C). The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

- (c) Grantee shall appoint a "Project Manager" or "Contact Person" who will oversee the completion of the Coastal Management Assistance Grant Project and serve as a person of contact for Grantee in communications with Grantor. Grantee will notify Grantor of changes to the "Project Manager" or "Contact Person" within a reasonable time not to exceed thirty (30) days.
 - (d) Grantee shall undertake to conduct and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statutes, codes, ordinances, resolutions and other applicable regulations.
2. Obligations of Grantor; Disbursement & Limitation of Grant Funds.
- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Grantee shall complete and submit to Grantor an invoice for completed work as set forth in Appendix A to Delaware Coastal Programs, Coastal Resource Management Grant Program, 5 East Reed Street, Suite 201, Dover, DE 19901.
 - (b) Grantor shall reimburse Grantee within thirty (30) days of receipt of Grantee's Reimbursement Request. If Grantor disputes a portion of an invoice, Grantor agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Grantee a detailed statement of Grantor's position on the disputed portion of the invoice within thirty (30) days of receipt.
 - (c) Grantor shall not be obligated to reimburse Project costs incurred by Grantee on a date before a Purchase Order allocating the Grant Funds has been approved by the Delaware Department of Finance. Grantor shall notify Grantee within a reasonable time not to exceed fourteen (14) days of when the Purchase Order has been approved. Grantee shall be solely responsible for all costs and expenses incurred before a Purchase Order allocating the Grant Funds is approved. Grantor's total liability that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Grantor's Purchase Order.
 - (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds (\$9,992.50) awarded to Grantee from the CMAG Program and authorized in the Purchase Order. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded. Grantor is in no way liable for any such excess costs, fees or expenses.
 - (e) Grantee shall submit its Final Invoice within fifteen (15) days of completing the Project and in accordance with the Scope of Work (Attachment A). Any awarded Grant Funds remaining after Grantor has made its final payment to Grantee shall be returned to the CMAG Program.
 - (f) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that Grantee's performance or completion of the

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

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

3. Term.

- (a) This Agreement shall commence upon the execution of this Agreement by the parties, and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's Final Invoice; or March 15, 2016 whichever occurs first. The parties may agree, by writing, to extend this Agreement for a mutually agreeable term to be specified in writing if the closing date of the NOAA grant to Grantor funding the CMAG has been extended by NOAA.

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

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

6. Procurement & Subcontractors. Grantee is encouraged to follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s).

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

8. Termination.

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

- (b) If sufficient funds are not appropriated by NOAA, to sustain in whole or in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void at the insistence of Grantor. Funds cannot be recalled or otherwise taken back once disbursed to Grantee.
- (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
- (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.

9. Indemnification. Grantee shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

10. Insurance.

- (a) Unless the Delaware Office of Insurance Coverage provides a waiver or modification, Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:
 - 1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
 - 2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
 - 3. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate; or
 - 4. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, or
 - 5. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and

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

If to Grantor:

Delaware Coastal Programs
Coastal Management Grant Program
5 East Reed Street, Suite 201
Dover, DE 19901
Phone: 302-739-9283

If to Grantee:

Town of South Bethany
402 Evergreen Road
South Bethany, DE 19930
Phone: 302-539-3653 x213

12. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
13. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
15. **Severability.** If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
16. **Captions.** The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
17. **Surviving Clauses.** The following clauses survive the termination of this Agreement: Section 5 "Indemnification;" Section 10 "Governing Law."
18. **Miscellaneous Provisions.**
 - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all immunities and defenses provided by law with regard to any action based on this Agreement.
 - (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
 - (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
 - (d) Grantee shall comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.
 - (e) Grantee shall ensure that the cover of the title page of all reports, studies, or other documents, published or distributed electronically or hardcopy, and acknowledgement pages of websites/webpages acknowledge the financial assistance

provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration by including the following statement " "This [report/video/etc.] was prepared by [GRANTEE] using Federal funds under award NA14 NOS 419 0123 from the Delaware Coastal Programs and the Office for Coastal Management (OCM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the OCM, NOAA or the U.S. Department of Commerce."

[This section left intentionally blank, signatures follow]

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

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

Original on File

Witness: _____ *ru*

Date: 5/12/15

Original on File

Name: _____

Title: Cabinet Secretary

Date: 5/12/15

**GRANTEE
TOWN OF SOUTH BETHANY**

Original on File

Witness: _____

Date: 4/29/15

Name: Pat Voveris

Title: Mayor, South Bethany

Date: 4-29-15