

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2018 Legislative Session

Legislative Day No. 01

Resolution No. 04-2018

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE, ON BEHALF OF WICOMICO COUNTY, A PROJECT AGREEMENT FOR A LOAN, IN THE AMOUNT OF NINETY-SIX THOUSAND, TWO HUNDRED EIGHTY-SEVEN DOLLARS (\$96,287), PLUS FOUR THOUSAND FOUR HUNDRED EIGHT DOLLARS (\$4,408) FOR TECHNICAL AND ADMINISTRATIVE SERVICES, FROM THE MARYLAND DEPARTMENT OF NATURAL RESOURCES, FOR THE COVE ROAD BEACH SHORE EROSION CONTROL PROJECT.

WHEREAS, pursuant to the Natural Resources Article of the Annotated Code of Maryland, the Department of Natural Resources provides loans from the Shore Erosion Control Construction Loan Fund to local governments for the design and construction costs of shore erosion control projects; and

WHEREAS, the Department of Recreation, Parks & Tourism desires to enter into in a Project Agreement for a loan in the amount of Ninety-Six Thousand Two Hundred Eighty-Seven Dollars (\$92,287), plus Four Thousand Four Hundred Eight Dollars (\$4,408) for technical and administrative services for the Cove Road Beach Shore Erosion Control Project, shown as Exhibit "A"; and

WHEREAS, the County Executive has determined that it is in the best interests of the citizens of Wicomico County to borrow funds for the Cove Road Beach Shore Erosion Control Project.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Wicomico County, Maryland that the County Executive is authorized to execute, on behalf of Wicomico County, a Project Agreement, in substantially the form attached hereto as Exhibit "A", for a loan in the amount of Ninety-Six Thousand, Two Hundred Eighty-Seven Dollars (\$96,287), plus Four Thousand Four Hundred Eight Dollars (\$4,408) for technical and administrative services, from the Maryland Department of Natural Resources for the Cove Road Beach Shore Erosion Control Project.

Done at Salisbury, Maryland, this 2nd day of January, 2018.

ATTEST:

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

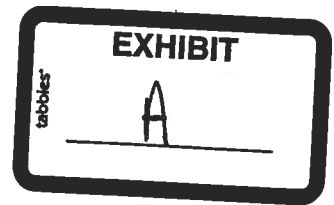
Laura Hurley, Council Administrator

John T. Carinon, Council President

CERTIFICATION

This Resolution was Adopted , Adopted with Amendments , Failed , Withdrawn  by the County Council on January 2, 2018.

Certified by Laura Hurley, Council Administrator



**STATE OF MARYLAND**  
**DEPARTMENT OF NATURAL RESOURCES**  
**SHORELINE CONSERVATION SERVICE**

**PROJECT AGREEMENT**

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the State of Maryland, Department of Natural Resources, Shoreline Conservation Service, hereinafter referred to as the DEPARTMENT, and Wicomico County, hereinafter referred to as the LOCAL GOVERNMENT.

WHEREAS, pursuant to Subtitle 10 of Title 8 of the Natural Resources Article of the Annotated Code of Maryland (2000 Replacement Volume and Supplement), as it may be amended from time to time, the DEPARTMENT is authorized to enter into agreements with local governments for loans made from the "Shore Erosion Control Construction Loan Fund";

WHEREAS, the LOCAL GOVERNMENT has made application to the DEPARTMENT for a loan as provided in said Article and has complied with all the provisions set forth therein, said loan intended to support the cost for the design and construction of a shore erosion control project;

WHEREAS, the project and its location have been identified as:

Project Number: SEC – 02–18  
Project Name: Cove Road Beach  
Project Location: Cove Road (Street)  
Nanticoke River (Waterway)  
Bivalve (Locale)  
Wicomico (County)

WHEREAS, the shoreline at this location is affected by active erosion and the project qualifies for State financial assistance;

WHEREAS, the LOCAL GOVERNMENT has agreed that the estimated project costs are Fifteen Thousand DOLLARS and No CENTS (\$ 15,000.00) for design and Eighty-One Thousand Two Hundred Eighty-Seven DOLLARS and No CENTS (\$ 81,287.00) for construction;

WHEREAS, the LOCAL GOVERNMENT has agreed that the amount to be borrowed from the DEPARTMENT, being the net project construction cost, shall be Ninety-Six Thousand Two Hundred Eighty-Seven DOLLARS and No CENTS (\$ 96,287.00 ), to be repaid, without interest, to the DEPARTMENT in fifteen ( 15 ) annual installments as provided by Section 8-1005 of the Natural Resources Article of the Annotated Code of Maryland; and

WHEREAS, the LOCAL GOVERNMENT has also agreed that a reimbursement in the amount of Four Thousand Four Hundred Eight DOLLARS and No CENTS (\$ 4,408.00 ) shall be made to the DEPARTMENT for technical and administrative services provided in the development and establishment of this project. In the event that the project is abandoned by the LOCAL GOVERNMENT for any reason, the DEPARTMENT will charge a prorated fee.

NOW THEREFORE, THIS AGREEMENT WITNESSETH THAT, for and in consideration of the services rendered and monies loaned by the State of Maryland, as administered by the DEPARTMENT, for the design and construction of the shore erosion control project, pursuant to the DEPARTMENT'S standards and specifications, the LOCAL GOVERNMENT agrees as follows:

1. To pay to the Department the total amount of One Hundred Thousand Six Hundred Ninety-Five DOLLARS and No CENTS (\$ 100,695.00 ), being the sum of the net project construction cost and the reimbursement for services, for which the DEPARTMENT will be paid in accordance with the following schedule:

**SCHEDULE OF PAYMENTS**

Payment Number	Loan Repayment Amount	Reimbursement for Services Amount	Total Payment
1	\$ 2,305.00	\$ 4,408.00	\$ 6,713.00
2-15	\$ 6,713.00	\$ -	\$ 93,982.00
<b>TOTAL</b>	<b>\$ 96,287.00</b>	<b>\$ 4,408.00</b>	<b>\$ 100,695.00</b>

2. That the first installment shall be due on July 1st immediately following the completion of the project, that subsequent installments shall be due on July 1st of each year thereafter, and that an annual installment shall be in default if not paid by September 30th, at which time a penalty on the amount of the loan only shall be assessed at the rate of two percent (2%) per month until full payment is made.

3. To bear all costs for maintenance of the completed shoreline protection project, and that the DEPARTMENT is not obligated to provide additional funds to defray the cost of maintenance, repairs or remedial work after the project has been completed.

4. To competitively design and construct or cause to be designed and constructed, directly or indirectly, the shore erosion control project funded by this

Agreement.

5. To retain or cause to be retained entities to provide project design and construction services at prices judged to be competitive and to supervise the work performed by these entities.

6. To supervise construction of the project so that the work is completed as per plans and specifications without additions, deletions or trade offs.

7. To assign a competent inspector/project manager acceptable to the DEPARTMENT to supervise the construction of the project.

8. To provide the opportunity to representatives of the DEPARTMENT to participate in the design and construction phases of the project.

9. To ensure that the resulting project is functional, complete in all its parts and that it incorporates state-of-the-art coastal engineering and marine construction techniques.

10. To complete all work funded by this Agreement by June 30, 2021.

11. That it is important this project be completed within the allowed time and that the approved funding under this Agreement will revert to the Fund and no longer be available within three years from the date of this Agreement.

12. That the LOCAL GOVERNMENT understands that the DEPARTMENT makes no claims or warranties as to either the life expectancy of the completed project or the effectiveness of the completed project in controlling erosion and further land loss. The only warranties, express or implied, for work performed under this Agreement are those that may be made by the entities retained to accomplish the design and construction of the project.

13. To the extent permitted by law and available appropriations, to hold harmless and indemnify the State of Maryland, its officers, agents and employees against all claims, demands and causes of action arising out of this Agreement or the effects which the shore erosion control project may have on other riparian owners. It is understood and agreed that the LOCAL GOVERNMENT and the DEPARTMENT do not waive any rights they may have to assert governmental or sovereign immunity.

14. That the LOCAL GOVERNMENT has reviewed and understands the applicable law governing shore erosion control projects, including the provisions regarding the collection of payments in default. Should the DEPARTMENT be required to take any action to collect payments in default, the LOCAL GOVERNMENT shall be responsible for all costs and expenses, including attorney's fees; court costs; and collection costs of up to a maximum of seventeen percent (17%) of the loan.

15. That the obligation of the LOCAL GOVERNMENT under this Agreement shall be supported by the full faith and credit of the LOCAL GOVERNMENT and that the LOCAL GOVERNMENT shall make all good faith efforts to appropriate the funds to fulfill its obligation under this Agreement.

16. That the LOCAL GOVERNMENT shall be responsible for formally notifying the DEPARTMENT in writing, in a timely manner, of any changes regarding the LOCAL GOVERNMENT'S mailing address for billing purposes.

The DEPARTMENT agrees that the DEPARTMENT shall:

1. Act solely in an advisory capacity to the LOCAL GOVERNMENT and provide technical and financial assistance for the design and construction of the project.

2. Modify this Agreement, as necessary, to increase or reduce the net project construction cost for which the DEPARTMENT will be repaid, based on actual costs obtained for the design and construction of the shore erosion control project. An increase in the net project construction cost will be dependent upon the availability of State funds. Any Modified Shore Erosion Control Project Agreement issued for this project shall supersede all prior Shore Erosion Control Project Agreements.

3. Make timely disbursements of funds within thirty (30) calendar days of the request for progress payments, up to the amount of the net project construction cost established in this Agreement, to defray the costs for the design and construction of the project.

4. Inspect the project, upon request, and recommend to the LOCAL GOVERNMENT any measures that are required to maintain the project.

The parties hereto have agreed that this instrument shall be binding on their assigns.

IN WITNESS WHEREOF, the hand and seal of the said LOCAL GOVERNMENT.

Wicomico County

	By:	
Witness		Signature
	<u>Bob Culver</u>	<u>County Executive</u>
	(Typed Name)	(Title)

STATE OF MARYLAND, \_\_\_\_\_ County/City, to wit:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public of the State and County/City aforesaid, personally appeared Bob Culver, the within named authorized representative(s) of the aforesaid LOCAL GOVERNMENT, and he/she/they acknowledged the foregoing Shore Erosion Control Project Agreement to be the act of said LOCAL GOVERNMENT.

WITNESS my hand and Notarial Seal.

My Commission Expires: \_\_\_\_\_ Notary Public

IN WITNESS WHEREOF, the hand and seal of the said DEPARTMENT.

STATE OF MARYLAND  
DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_  
Witness By: \_\_\_\_\_  
Matthew Fleming  
Director, Chesapeake and Coastal Service

STATE OF MARYLAND, \_\_\_\_\_ County, to wit:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, before me, the subscriber, a Notary Public of the State and County aforesaid,  
personally appeared Matthew Fleming, the within named authorized representative  
of the aforesaid DEPARTMENT, who acknowledged the foregoing Shore Erosion Control  
Project Agreement to be the act of said DEPARTMENT.

WITNESS my hand and Notarial Seal.

My Commission Expires: \_\_\_\_\_ Notary Public

Approved as to form and legal sufficiency  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Assistant Attorney General