

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2017 Legislative Session

Legislative Day No. 26

Resolution No. 156-2017

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

A RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO ACCEPT A GRANT AWARD FROM THE MARYLAND DEPARTMENT OF ENVIRONMENT, IN THE AMOUNT OF FIFTY-EIGHT THOUSAND, FOUR HUNDRED THIRTY-FIVE DOLLARS (\$58,435), FOR THE NANTICOKE RIVER WATERSHED MANAGEMENT PLAN PROJECT AND TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE GRANT FUNDS.

WHEREAS, the Department of Public Works has been awarded a grant from the Maryland Department of Environment, in an amount up to Fifty-Eight Thousand Four Hundred Thirty-Five Dollars (\$58,435), for the Nanticoke River Watershed Management Plan project; and

WHEREAS, the Department of Public Works desires to enter into the Memorandum of Understanding, attached as Exhibit A, with the Maryland Department of Environment for the grant funds; and

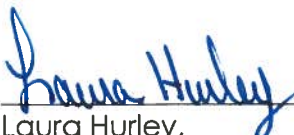
WHEREAS, the County Executive recommends accepting the grants funds and entering into a Memorandum of Understanding with the Maryland Department of Environment for the use of such funds; and

WHEREAS, the grant funds are to be appropriated to the Wicomico County Department of Public Works, Account Number 03010013-540008-14120, once this Resolution is accepted.

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, that the County Executive is hereby authorized to accept and appropriate grant funds in the amount of Fifty-Eight Thousand Four Hundred Thirty-Five Dollars (\$58,435), from the Maryland Department of Environment for the Nanticoke Watershed Management Plan project, and execute a Memorandum of Understanding, in substantially the same form attached as Exhibit A.

Done at Salisbury, Maryland, this 21<sup>st</sup> day of November, 2017.

ATTEST:


  
\_\_\_\_\_  
Laura Hurley,  
Council Administrator

COUNTY COUNCIL OF  
WICOMICO COUNTY, MARYLAND

  
\_\_\_\_\_  
John T. Cannon,  
Council President

Certification

This Resolution was Adopted , Adopted with Amendments , Failed, , Withdrawn,  by the County Council on November 21, 2017.

Certified by   
\_\_\_\_\_  
Laura Hurley, Council Administrator

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
MARYLAND DEPARTMENT OF THE ENVIRONMENT  
AND  
WICOMICO COUNTY, MARYLAND  
Federal ID 52-6001054 / DUNS 069396117**

- RE:** Nanticoke River Watershed Management Plan (the "Project")
- PARTIES:** This Memorandum of Understanding ("Agreement") is by and between the Department of the Environment of the State of Maryland (the "Department"), and Wicomico County, Maryland (hereinafter "Grantee").
- WHEREAS:** On May 12, 2009, President Barack Obama signed Executive Order 13508 ("EO 13508") (74 FR 23099, May 15, 2009), which recognizes the Chesapeake Bay as a national treasure and calls on the federal government to lead a renewed effort to restore and protect the nation's largest estuary and its watershed; and
- WHEREAS:** As a result of EO 13508, the Environmental Protection Agency's Chesapeake Bay Program Office receives funding for the Chesapeake Bay Regulatory and Accountability Program Grants ("CBRAP"); and
- WHEREAS:** Under § 117 of the Clean Water Act, 33 U.S.C. § 1267, and CBRAP, the Environmental Protection Agency ("EPA") awarded the Department, on behalf of the State of Maryland, a grant in the amount of \$3.875M to conduct EPA-approved activities, including providing financial support to local governments for work on local Watershed Implementation Plan 2-year milestones in order to help meet the Chesapeake Bay Total Maximum Daily Loads ("TMDLs") for nitrogen, phosphorus, and sediment; and
- WHEREAS:** Pursuant to § 1-404 of the Environment Article of the Annotated Code of Maryland, the Department may apply for, receive, and spend grants-in-aid by the federal government or any of its agencies or any other federal funds made available to the Department for use in carrying out the powers and duties of the Secretary of the Environment or the Department; and
- WHEREAS:** The Department is providing financial assistance to the Grantee using CBRAP grant funds received by the Department under Catalog of Domestic Federal Assistance ("CFDA") Number 66.466, Chesapeake Bay Program (the "CBRAP Grant").
- WHEREAS:** The purpose of this Agreement is to make available, and to specify the terms and conditions for the payment of, moneys from the CBRAP grant funds to the Grantee for work consistent with the CBRAP grant requirements, and;

**NOW  
THEREFORE:**

**TERMS:** In consideration of the foregoing and the mutual promises and the covenants contained herein, the Department and Grantee agree as follows:

**I. DURATION**

This Agreement takes effect as of or upon execution by all parties and shall continue until the work described in the Work Plan attached hereto as *ATTACHMENT A* and expressly incorporated herein by reference (the "Work Plan") is completed, which shall not be later than October 31, 2018.

**II. SOURCE AND LEVEL OF FUNDING**

The Department shall provide the Grantee with funds not to exceed \$58,435 for tasks to be performed in accordance with this Agreement.

Such funds shall be used solely and exclusively for tasks performed and materials required in accordance with this Agreement. Such funds shall be expended substantially in accordance with the budget as shown in the Work Plan.

**III. SCOPE OF WORK**

The Grantee shall perform its responsibilities as set forth in this Agreement and shall perform and/or ensure the performance of the activities outlined in the Work Plan.

**IV. OBLIGATIONS OF GRANTEE FOR THE PROJECT**

The Grantee agrees to comply with all the requirements of the Conditions of Financial Assistance Award, which is attached as *ATTACHMENT B* to this Agreement and expressly incorporated by reference herein ("Grant Conditions"). Specifically,

- a) As part of the Project, the Grantee is responsible for the administration of the Project, including, but not limited to, any applicable procurement; and
- b) The Grantee agrees to provide the Department quarterly with the information that the Department needs to report on the use of these grant funds to the federal government as described in the Grant Conditions. Grantee's failure to submit the necessary information in the Grant Conditions shall result in the Department withholding Grantee's funds for the quarter in which the information was required to be submitted; and
- c) The Grantee agrees that any publicity or public outreach events, in which it participates as a result of the Award, shall be coordinated with the Department; and
- d) The Grantee agrees to use the Award for eligible project costs only, as determined by the Department.

## V. METHOD OF PAYMENT

Costs will be paid for the project under this Agreement on a fixed price basis as follows:

- a) The maximum amount of payment to the Grantee under this Agreement will be up to *Fifty-Eight Thousand Four Hundred Thirty-Five and 00/100ths Dollars (\$58,435.00)*, according to the Work Plan, which shall be construed to comprise the entire project budget under this Agreement.
- b) The funding provided under this Agreement will be made according to the following schedule of five (5) total reimbursement payments:
  - a. A payment of *Twelve Thousand and 00/100ths Dollars (\$12,000.00)* for each of four (4) work completion phases:
    - i. Task 1 and Task 2 deliverables and semi-annual report for 2017 July-December, as described in the Work Plan
    - ii. Task 3 deliverables
    - iii. Task 4 deliverables and semi-annual report for 2018 January – June, as described in the Work Plan
    - iv. Task 5 deliverables
  - b. One (1) final payment of *Ten Thousand Four Hundred Thirty-Five and 00/100ths Dollars (\$10,435.00)* for Task 6 deliverables and final semi-annual report 2018 July thru to the end of the Project, as described in the Work Plan.
- c) Each payment will be contingent upon receipt and approval by the Department of all deliverables due at the time the payment is to be made. The final payment will be withheld until the Department's project officer determines that the project has been completed and that all deliverables under this Agreement are received and approved.
- d) The Grantee's Federal Tax Identification Number, which is **52-6001054**, the DUNS # **069396117**, and the Department's purchase order number must appear on all invoices submitted for payment.

All invoices are to be emailed to the following email address with a copy emailed to the Department's Agreement Representative:

MDE.AP@maryland.gov  
kenneth.shanks@maryland.gov

## VI. PRODUCTS AND SCHEDULE

The Grantee will provide work products and deliverables to the Department according to the schedule and requirements described in the Work Plan and Grant Conditions. Work products and deliverables submitted by the Grantee will be reviewed for approval by the

Department to determine that they are sufficient to meet both the terms of this Agreement and Departmental reporting needs for the EPA.

## VII. ASSURANCES

- (a) Non-Discrimination In Employment. The Grantee agrees (i) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (ii) to include a provision similar to that contained in subsection (i) above in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (iii) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
- (b) Dispute Resolution. In the event of a dispute under this Agreement, the parties agree to each appoint an authorized representative to resolve the dispute in good faith.
- (c) Compliance With Laws. Grantee and the Department shall comply with all applicable State and federal laws and regulations related to the receipt of funds under Section 117 of the Clean Water Act, 33 U.S.C. § 1267 and CBRAP.
- (d) Federal Requirements. The Grantee agrees to comply with all the requirements of the Grant Conditions.
- (e) FFATA Compliance. To Comply with the Federal Funded Accounting and Transparency Act (FFATA), the Grantee confirms that it is registered with Central Contract Registration (CCR) and provides the following information:

The Data Universal Numbering System (DUNS) number: **069396117**

## VIII. AGREEMENT REPRESENTATIVES

The following individuals shall have authority to act under this Agreement for their respective parties:

Department: Kenneth Shanks  
Water and Science Administration  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore MD 21230-1718  
410-537-4216  
kenneth.shanks@maryland.gov

Grantee: Dallas Baker, Jr., P.E. Director  
Wicomico County Department of Public Works  
28440 Owens Branch Road

Salisbury, MD 21801  
Telephone: 410-548-4875 x12  
E-mail: dbaker@wicomicounty.org

These representatives shall have authority to render any decision or take any action under this Agreement. Service of any notice required by the Agreement shall be complete upon mailing of such notice, postage prepaid, to the appropriate representative at the address indicated above.

IX. ON-SITE INSPECTIONS

The Department shall have the right to conduct on-site visits throughout the project period.

X. CONTRACTOR STATUS AND SUBCONTRACTING

The Grantee shall be responsible for providing all supplies and materials necessary for performance of all work under this Agreement. The Grantee is not an agent of the Department, and cannot commit the Department to any expenditure of funds, nor enter into any contractual obligation on behalf of the Department.

The Grantee may subcontract any portion of the grant with notice thereof to the Department. Any subcontractor(s) shall, and the Grantee shall require that any subcontractor(s) shall, provide to the Department upon request copies of any invoices, records, timesheets, work logs, contracts, or any other documents or information needed in order for the Department to comply with State or federal reporting and audit requirements. Consent to subcontract, assign, or otherwise dispose of any portion of the Agreement shall not be construed to relieve the Grantee of any responsibility for fulfilling all the requirements of this Agreement.

The Grantee shall insert provisions into its agreements with any and all subcontractors requiring that: Any and all subcontractors retained by the Grantee in the course of performance of this Agreement shall indemnify and save harmless and defend the State of Maryland, the Department, the Grantee, and all of their respective representatives from all suits, actions, or claims of any character, brought on account of any injuries or damage sustained by any person or property in consequence of any work performed under this Agreement, either by the Grantee or the Department, or any subcontractor, or their respective employees, agents, or representatives. This responsibility (and indemnification) is not to be deemed as a waiver of any immunity, which may exist in any action against the Department or the Grantee.

XI. AMENDMENTS

This Agreement may only be amended in writing by mutual consent of both parties.

XII. WARRANTY

The Grantee agrees to perform all work under this Agreement continuously and diligently, and to meet all milestones and provide all deliverables referenced above. The Grantee shall be responsible for the supervision, inspection, technical accuracy, and coordination of all data and work pursuant to this Agreement, and shall produce in a timely manner to the Department's satisfaction a product meeting professional standards of quality and methodology. The Grantee shall not be responsible for any delay in performance caused by events beyond its control including labor strikes, fires, or natural disasters.

### XIII. RETENTION OF RECORDS - AUDIT

The Department shall have the right, at any time during usual business hours, to examine and audit records of the Grantee, which the Department deems necessary or advisable in order to verify invoices submitted pursuant to this Agreement. This audit may be conducted in person or through a request that the records be forwarded to the Department for verification. The Grantee and its contractor(s) or subcontractor(s) shall retain and maintain all records and documents relating to the services performed under this Agreement, for a minimum period of three years after the Department conducts close out of the grant.

### XIV. LIABILITY FOR THIRD PARTY CLAIMS

(a) The Grantee is and will be acting as an independent Grantee in the performance of its work and other obligations under this Agreement. The Department has no obligation for the payment of any judgments or the settlement of any claims made against the Grantee, its employees, agents, or sub-contractors, if any, as a result of or relating to the Grantee's work and other obligations under this Agreement.

(b) The Department has no obligation to provide legal counsel or legal defense to the Grantee, its employees, agents, or sub-contractors, if any, in the event that a suit, claim, or action of any character is brought by any persons not party to this Agreement as a result of or relating to the Grantee's work and other obligations under this Agreement.

(c) The Grantee shall immediately give notice to the Department of any claim or suit made or filed against the Grantee, its employees, agents, or sub-contractors, if any, regarding any matter resulting from or relating to the Grantee's work and other obligations under this Agreement.

(d) The Grantee shall cooperate, assist, and consult with the Department in the defense or investigation of any claim, suit, or action made or filed against the Department as a result of or relating to the Grantee's work or other obligations under this Agreement.

### XV. TERMINATION

(a) This Agreement may be terminated at any time by mutual agreement or by either party giving ninety (90) days' notice in writing to the other party. Termination of this Agreement by the Grantee prior to the completion of the Project shall result in the

immediate remittance of funds to the Department for the uncompleted portion of the Project.

(b) Notwithstanding the provisions of XV(a), the Department reserves the right to terminate this Agreement at any time if funding is unavailable. If the General Assembly fails to appropriate funds or if funds are not otherwise available for performance by the Department, this Agreement shall be canceled automatically upon notice by the Department to the Grantee that funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Grantee's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the Grantee and the State of Maryland from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The State shall notify the Grantee as soon as it has knowledge that funds may not be available for the continuation of this Agreement.

#### XVI. EFFECTIVE DATE

It is understood and agreed by the parties that this Agreement and any modification thereof shall not become effective or enforceable until the date it is executed by the Department.

#### XVII. COMPLIANCE WITH LAWS

The Grantee shall observe and comply with all federal, state, and local laws, regulations and ordinances that affect the work to be performed under this Agreement, the persons employed or engaged in connection therewith, or any material or equipment used. The Grantee shall procure and bear the expense of all necessary licenses, permits, and insurance.

#### XVIII. SEVERABILITY

It is understood and agreed by the parties hereto that, if any of these provisions shall contravene, or be invalid under, the laws of the particular state, county, or jurisdiction where used, such contravention or invalidity shall not invalidate the Agreement, but the Agreement shall be construed as if not containing the particular provision or provisions held to be invalid in the particular state, county, or jurisdiction, and the rights and obligations of the parties shall be construed and enforced accordingly.

#### XIX. ENFORCEMENT

The failure of the Department to enforce at any time the provisions of this Agreement, or to exercise any option which is herein provided, or to require at any time performance by the Grantee of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part thereof, or the right of the Department to enforce each and every such provision.

#### XX. MERGER



The Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference.

**XXI. MARYLAND LAW**

Maryland Law governs this Agreement.

**XXII. NO THIRD PARTY BENEFICIARIES**

Nothing in this Agreement shall be construed to: (a) provide a benefit to any third party; (b) operate in any way as a promise, covenant, warranty or other assurance to any third party; or (c) create any obligation to any third party.



**ATTACHMENT A  
WORK PLAN**

**Name of Organization:** Wicomico County

**Grant Title:** Chesapeake Bay Regulatory and Accountability Program grant (CBRAP, funded under Clean Water Act Section 117 the Chesapeake Bay Program)

**Funding period:** November 1, 2017\* thru October 31, 2018  
\*Execution of the Agreement may occur after this date

**Point of Contact:** Jim Grindle  
Wicomico County Public Works Department  
125 N. Division Street Room B1, Salisbury MD 21801  
E-mail: jgrindle@wicomicocounty.org  
Telephone: 410-548-4927

**Work Plan Description:**

<b>Objective # 25</b>	<b>Title:</b> <i>Nanticoke River Watershed Management Plan</i>	<b>Budget for this Project:</b>	Award: \$58,435
<b>Narrative Summary of Outputs for this Objective:</b>	Wicomico County, with its consultant, will assess the Nanticoke River watershed for candidate water quality improvement projects, prioritize viable candidates, and produce a plan that identifies candidate projects so that the County will be positioned to seek funding assistance for design and implementation.		
<b>Description of Objective:</b>	<ol style="list-style-type: none"> <li>1) What is the ultimate goal of the project? Produce watershed plan. (see narrative above)</li> <li>2) What will be accomplished during the current grant cycle? Completed watershed plan.</li> <li>3) If a multi-year project, what has been completed in previous years? NA</li> </ol>		
<b>Tasks Under this Objective:</b>	<p><u>All tasks will be completed by October 31, 2018:</u></p> <p><i>Task 1. Kick Off Meeting as described in the proposal submitted by Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 12/15/17)</i></p> <p><i>Task 2. Conduct watershed assessment as described in the proposal submitted by Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 2/15/18)</i></p> <p><i>Task 3. Identify and list potential project sites as described in the proposal submitted by Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 5/1/18)</i></p> <p><i>Task 4. Prioritize candidate projects as described in the proposal submitted by</i></p>		

	<p><i>Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 6/30/18)</i></p> <p><i>Task 5. Produce concept plans for priority projects as described in the proposal submitted by Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 8/31/18)</i></p> <p><i>Task 6. Finalize watershed plan that identifies sites for potential implementation opportunities to help reduce nutrients and/or sediments entering surface waters as described in the proposal submitted by Wicomico County for the Wicomico County Watershed Study - Nanticoke River, WAGP Review # 36386 (due by 10/31/18)</i></p>
<p><b>Deliverables</b></p>	<p><u>Programmatic Deliverables</u></p> <p><i>Task 1 Kick Off Meeting deliverables:</i> Electronic copies of meeting handouts, presentations, brief summary of key results.</p> <p><i>Task 2 Watershed assessment deliverables:</i> Electronic copy of assessment document.</p> <p><i>Task 3 Potential project sites deliverables:</i> Electronic copy of potential project site list, and as appropriate, supporting documentation.</p> <p><i>Task 4 Prioritized candidate projects deliverables:</i> Electronic copy of prioritized project candidates.</p> <p><i>Task 5 Priority project concept plans deliverables:</i> Electronic copy of selected concept plans.</p> <p><i>Task 6 Watershed plan deliverables:</i> Electronic copy of watershed plan document.</p> <p><u>Administrative Deliverables</u></p> <p><b>Semi-Annual Progress Reports, including applicable documentation, for each six-month period during the grant project's life:</b> January-June: due July 15 July-December: due January 15.</p> <p><b>Final Report, including applicable documentation:</b> Due before submittal of the final invoice to MDE but no later than 30 days after the grant project end date.</p>

<b>Link to Jurisdiction's WIP Commitment(s)</b>	Wicomico County's 2016-2017 2-year milestones include: "Partner with public, private and nonprofit organizations to identify properties and funding sources to implement stormwater BMPs." The milestone is clarified by indicating that the "...partnership ranges from...conducting field surveys, review of preliminary and final watershed management-related plans... Wicomico County will leverage County funding... to construct retrofit WIP projects."
<b>Progress Reporting</b>	This section is left blank in the work plan but will be completed for Semi-Annual progress reports and for the Final Report.

**Budget**

**Project:** *Nanticoke River Watershed Management Plan*

**Organization:** *Wicomico County*

Category		Federal CBRAP2 Grant (\$)
Contractual	Contractor for assessment & plan	58,435
Match	Provided by MDE (1)	
<b>TOTAL</b>		<b>58,435</b>

- (1) The State of Maryland MDE is providing dollar-for-dollar match for the overall CBRAP grant, including this objective, from the Bay Restoration Fund. The local government grant recipient is not responsible for providing match. Additionally, MDE encourages the grant recipient to report nonfederal funds, if any, that are leveraged by the CBRAP grant. Staff summary: No grant or match expenditures for this project support staff in MDE or the local government.

## Attachment B Grant Conditions

### MARYLAND DEPARTMENT OF THE ENVIRONMENT CONDITIONS OF FINANCIAL ASSISTANCE AWARD FOR PROJECTS USING FEDERAL GRANT FUNDS FROM THE CHESAPEAKE BAY REGULATORY AND ACCOUNTABILITY PROGRAM (CBRAP)

**Project Name:** Nanticoke River Watershed Management Plan  
**Number:** CBRAP Objective 25-12 FFY17 funding

**Upon the receipt of grant funding from the Maryland Department of the Environment (the "Department"), the following conditions are understood and accepted as binding upon the recipient organization (the "Grantee").**

1. The Grantee agrees to comply with the EPA General Terms and Conditions Applicable to 40 CFR Part 30 and 31 Recipients Effective December 26, 2014, as applicable, available at: <http://www2.epa.gov/grants/epa-general-terms-and-conditions-effective-december-26-2014>
2. The Grantee agrees to utilize CBRAP funds for the eligible project costs as described in the Memorandum of Agreement.
3. Management fees or similar charges in excess of direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under the Memorandum of Agreement. Management fees or similar charges may not be used to improve or expand the project funded by the Memorandum of Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.
4. The Grantee agrees to secure sufficient funds to cover all project costs not financed by CBRAP funds in order to complete the project.
5. The Grantee agrees to immediately notify the Department of its inability to proceed with the project due to a lack of funds to cover project costs not financed by CBRAP funds or for any other reason.
6. The Grantee agrees to adhere to the schedule developed in coordination with the Department and required by the Memorandum of Agreement.
7. The Grantee agrees to comply with the requirements of the U.S. Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (M/WBE) contained in 40 CFR, Part 33, in all procurements, and require any prime contractors and A/E firms to do the same, consistent with the Department's Disadvantaged Business Enterprise (DBE) Program procedures.
8. The Grantee agrees to make the affirmative good-faith efforts listed in (a) - (e) below. Additional information on the Department's M/WBE goals is available on the website. The required affirmative steps, as outlined in 40 CFR 33.301 are as follows:
  - (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities, including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
  - (b) Make information on opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process, including whenever possible, posting solicitations for a minimum of 30 calendar days before the closing date.
  - (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs, including dividing total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by DBEs in the competitive process.
  - (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
  - (e) Use the services and assistance of the Maryland Department of the Transportation (MDOT). MDOT is designated as the primary agency within Maryland for listing and certifying MBEs.
  - (f) Grantees must require the prime contractor, if subcontracts are to be let, to take the steps in paragraphs (a) - (e) above.
9. The Grantee agrees to submit to the Department for review and approval all DBE and M/WBE participation information. This information must be provided to the Department semiannually by March 31 and September 30, as applicable, beginning with the federal fiscal year (Oct. 1 - Sept. 30) the Grantee receives the award.
10. The Grantee agrees to make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B and shall identify all known workplaces operating under this award and keep this information on file during the performance of the award.

## Attachment B Grant Conditions

11. The Grantee agrees to obtain prior written approval from the Department for all change orders that significantly alter the project. Change orders that do not significantly alter the project do not require prior approval; however, they must be submitted to the Department within 30 calendar days of execution, for eligibility review, if CBRAP funds are to cover the change order costs.
12. The Grantee agrees to comply with all requests for data related to the use of the funds and provide any reasonable information including reports concerning the project in a manner and form prescribed by the Department.
13. The Grantee agrees to seek all payments on a reimbursement basis, i.e. Grantee will not receive funds "up front," unless otherwise authorized by the Department.
14. The Grantee agrees to allow a representative of the Office of the Inspector General to a) examine any of its records, records of its contractors, subcontractors and b) interview any of its officers or employees, subcontractors regarding this transaction. The Grantee is aware that providing false, fictitious or misleading information with respect to the receipt and disbursement of these funds may result in criminal, civil or administrative fines and/or penalties.
15. The Grantee agrees to maintain project and accounting records for a period of three years following the Department's administrative closeout of the project and make them available to the Department for inspection and audit when requested.
16. The Grantee agrees to require, in its contract documents, its vendor(s) to maintain all project and accounting records relating to the grant for three years after final payment on the project, and indicate that the Grantee, the State or Federal government may audit any records in conjunction with a project, in person or by requesting a copy of the records.
17. As an entity receiving Federal financial assistance, the Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency; Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities; the Age Discrimination Act, which prohibits age discrimination; and Section 13 of the Federal Water Pollution Control Act, which prohibits discrimination on the basis of sex in CWA-funded programs or activities, and all applicable EPA civil rights regulations.
18. The Grantee agrees that no CBRAP funds are to be used in lobbying the federal government or in litigation against the United States unless authorized under existing law. The Grantee shall abide by OMB Circulars A-21, A-87 or A-122 which prohibit the use of grant funds for litigation against the United States or for lobbying or other political activities.
19. The Grantee agrees:
  - a. to comply with 40 CFR Part 34: *New Restrictions on Lobbying*. The Grantee is required to submit certifications and disclosure forms to the Department, which forms shall be provided to the Grantee.
  - b. to comply with the Byrd Anti-Lobbying Amendment. The Grantee understands that any prohibited expenditure under Title 40 CFR Part 34 or failure to file certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
20. The Grantee certifies that it is not organized as a Section 501(c)(4) non-profit organization as described in the Internal Revenue Code of 1986; or if it is a Section 501(c)(4) organization, it does not and will not engage in lobbying activities.
21. The Grantee certifies that it is not Debarred or Suspended from receiving financial assistance and agrees to comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532 regarding Debarment and Suspension. The Grantee agrees to include a similar term or condition in any subsequent lower tier covered transaction.
22. The Grantee agrees to comply with the Resource Conservation and Recovery Act (RCRA) section that requires preference be given in procurement programs to purchase of specific products containing recycled materials in any acquisition of items exceeding \$10,000 or where the quantity of items in the preceding year was \$10,000 or more. See 42 U.S.C. 6962.
23. The Grantee agrees to comply with Section 106 of the Trafficking Victims Protection Act of 2000, as amended and shall not engage, or have its employees engage, in (1) severe forms of trafficking in persons during the period of time that the award is in effect; (2) procure a commercial sex act during the period of time that the award is in effect; or (3) use forced labor in the performance of the award.
24. The Grantee agrees to use recycled paper and double sided printing for all reports that are prepared pursuant to, or as part of, the Memorandum of Agreement. This requirement does not apply to forms provided by EPA, or to Standard Forms, which are printed on recycled paper and are available through the federal General Services Administration.
25. The Grantee shall ensure that awards comply with the standards in Section 210 (a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the Grantee.
26. The Grantee must promptly refer to EPA's Inspector General any credible evidence that an employee, contractor, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving CBRAP funds.
27. The Grantee shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with CBRAP funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended).
28. The Grantee shall follow proper operation and maintenance of all management practices that are implemented for projects funded under this grant, and such practices shall be operated and maintained in accordance with commonly accepted standards.

Revised 10/2/14, 9/19/17

## Attachment B Grant Conditions

The Grantee shall insert a similar provision in any lower tiered sub-agreement awarded by the Grantee.

29. Grantee understand and agrees that funds for this project (including funds contributed as a cost share) may not be used to pay for the travel of Federal employees, or for other costs associated with Federal participation in this project unless the Federal agency is performing special technical assistance as allowed under the provisions of the Intergovernmental Cooperation Act.
30. The Grantee agrees to comply with OMB Circular A-133 Single Audit Act, which requires the Grantee to obtain a single audit from an independent auditor if total federal expenditures exceed \$500,000 in any fiscal year. The Department will notify the Grantee of the amount of federal funds disbursed in any fiscal year.
31. The Grantee agrees that the Department may terminate financial assistance, if the Department determines in its discretion that there is:
  - a. failure to perform without good cause;
  - b. gross abuse or corrupt practices in the administration of the project;
  - c. poor, non-standard, or unsafe construction procedures;
  - d. failure to comply with any of the conditions of financial

assistance award or applicable Federal/State laws, regulations or Departmental policies; or

- e. failure to adhere with the approved project schedule.
32. The Grantee agrees to repay the State, immediately upon demand:
  - a. any funds received that were misapplied (i.e., not expended in accordance with the terms of these conditions of financial assistance award or applicable State laws, regulations and Departmental policies); and
  - b. any excess funds received (i.e., total funding received from several funding sources exceeds 100% of project costs).

In the event that the Grantee fails to repay the funds upon demand, the State shall have the right to offset or withhold any funds in the possession of any State agency (that may be due to the Grantee) in an amount equal to the questioned funds, plus interest at a rate of 10% per annum.

33. The Grantee agrees to disclose in writing to the Department all pending litigation, and any conflict of interest related to the financing of the project.
34. The Grantee agrees that the Department may deny any request for funds if the Grantee fails to comply with any of the above conditions of financial assistance award.

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**On behalf of the Grantee, I agree to comply with the above Conditions of Financial Assistance Award and certify I am an authorized official to execute this document.**

\_\_\_\_\_  
Signature of Grantee's Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (printed) and Title

\_\_\_\_\_  
069396117  
Grantee's DUNS Number