

**APPENDIX C**  
Standard Contract

AGREEMENT BETWEEN

AND

THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

**TABLE OF SECTIONS IN GENERAL TERMS AND CONDITIONS**

- I. Grant Award Data and Signatures
- II. Compliance with Existing Laws and Policies
- III. Insurance
- IV. Indemnification
- V. Assignments and Sub-Agreements
- VI. Availability of Funds
- VII. Procurement Standards
- VIII. Property Management Standards
- IX. Method of Payment
- X. Matching and Cost Sharing Requirements
- XI. Project Income
- XII. Financial Management System
- XIII. Financial and Performance Reporting
- XIV. Monitoring Performance
- XV. Audit Requirements
- XVI. Agreement Amendment
- XVII. Closeout Procedures
- XVIII. Termination, Expiration, and Suspension
- XIX. Access to Records
- XX. Record Retention
- XXI. Approvals and Authorizations
- XXII. Interest on Advance Payments and Disallowed Costs
- XXIII. Miscellaneous Provisions

**TABLE OF ATTACHMENTS\***

- |      |   |   |                             |
|------|---|---|-----------------------------|
| A.   | Additional Provisions and Special Modifications. ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| B.   | Approved Project Budget . ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| B-1. | Itemization and Justification of Budget . ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| B-2. | Approved Advance Payment. ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| C.   | Expenditure Report . ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| D.   | Scope of Services. ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| D-1. | Project Requirements. ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| D-2. | Grantee's Proposal . ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| E.   | <input checked="" type="checkbox"/> Corporate Resolution, <input type="checkbox"/> Other Authorization. |   |                             |
| E-1  | <input type="checkbox"/> Governing Body Resolution. . ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| F.   | Subcontractor Certification . ....  | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| G.   | Statement of Adequacy of Accounting System . ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |
| RB.  | Reference Bibliography . ....   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no |

\* Wherever this agreement form, including any attachments, presents alternatives, choices must be indicated as follows: An "X" within brackets or on a blank line shall indicate selection of the particular alternative.

# GENERAL TERMS AND CONDITIONS

## I. Grant Award Data and Signatures

Grantee's	- Name:  Address:
Financial Officer's -Name	- Title:

<b>The Freshwater Wetlands Mitigation Council (the "Council")</b> Granting agency's - name: The Freshwater Wetlands Mitigation Council ("the Granting Agency") - address: P.O. Box 420, Mail Code 401-07D Trenton, NJ 08625-0420
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Source of Funds		AMOUNT	STATE ACCOUNT NUMBER	CFDA NUMBER	ACCOUNT TITLE
	State	0.00			
	Federal	0.00			
	Grantee	0.00			
	Wetland Mitigation Council	\$			
		\$	TOTAL APPROVED PROJECT AMOUNT		

<b>Work Period:</b> The "effective date" of this grant agreement is the date the Grantee executes it or the date the Council executes it, whichever date is later. The "work period" for this grant commences on XXX or the effective date, whichever is <input checked="" type="checkbox"/> earlier <input type="checkbox"/> later, and runs for a period of <u>6 years</u> thereafter.
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<b>Purpose and Authority:</b> Grant Project to be Funded:  Statutory Authority for this Grant: N.J.A.C. 13:9B-14
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In consideration of the payment of the State, the Federal, and if through the State treasury, the "other" amounts shown above (the "Grant"), the Grantee agrees to provide its share of the Total Project amount and to perform the work described in Attachment D, within the work period and in the manner and upon the terms specified in this agreement. The provisions of this agreement set forth in this Section I through Section XXIII constitute the General Terms and Conditions portion of this agreement.

\*Wherever this agreement form, including any attachments, presents alternatives, choices must be indicated as follows: An "X" within brackets or on a blank line shall indicate selection of the particular alternative. "NA" or "---" (a dashed line) shall indicate that no information is to be entered on a particular blank line. No blanks may remain just prior to execution, except in the signature blocks on attachments C and F.

COUNCIL AND GRANTEE APPROVAL SIGNATURES

APPROVED AS TO LEGAL FORM

For the Council: \*

For the Grantee: \*\*

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(signature)

\_\_\_\_\_, Deputy Attorney General  
(print name)

\_\_\_\_\_, Attorney for Grantee  
(print name)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\* A confidential and privileged memorandum pre-approving this agreement as to legal form ☐ has ☒ has not been provided to the Granting Agency by the Deputy Attorney General.

\*\* Approval of this agreement by an attorney for Grantee is optional.

APPROVAL OF GRANTING AGENCY

NJ FRESHWATER WETLANDS MITIGATION COUNCIL  
(print name of Granting Agency; all capitals)

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print title)

Date: \_\_\_\_\_

EXECUTION SIGNATURES

By the signatures below, the Grantee and the Council (the 'parties') execute this agreement and confirm that they are mutually bound by all provisions contained in its General Terms and Conditions and in each attachment selected as "ATTACHED" in the Table of Attachments.

SIGNED:

COUNTERSIGNED:

THE STATE OF NEW JERSEY

By: the Council

By: \_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print title)

\_\_\_\_\_  
(print title; Chairperson)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## II. Compliance with Existing Laws and Policies

The Grantee, in order to induce the Council to award the grant and enter into this agreement, agrees in the performance of this agreement to comply with all applicable federal, State, and municipal laws, rules, regulations, and written policies. Failure to comply with such laws, rules, regulations or policies shall be grounds for termination of this agreement. Such laws, rules, regulations, and policies include, but are not limited to, the following:

- A. The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq., if applicable, is by this reference incorporated as part of this agreement and the Grantee agrees to comply with it. The Grantee warrants that neither it nor any subcontractor it might employ to perform work in furtherance of this agreement is listed or is on record in the Office of the Commissioner, Council of Labor, as one who has failed to pay prevailing wages in accordance with the New Jersey Prevailing Wage Act.
- B. The parties agree that, if applicable, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., N.J.S.A. 10:5-31 et seq., N.J.S.A. 10:2-1 et seq., N.J.A.C. 13:6-1 et seq. and N.J.A.C. 17:27-1.1 et seq. are by this reference incorporated as part of this agreement and are binding upon them. The Grantee agrees and guarantees to afford equal opportunity in performance of this agreement in accordance with an affirmative action program approved by the State Treasurer. Further, if the cited laws and regulations apply to this agreement, the Grantee agrees as follows:
  1. The Grantee shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The Grantee shall take affirmative action to ensure that such applicants are recruited and employed, that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees, and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
  2. The Grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex;
  3. The Grantee shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency grant officer, advising the labor union or workers' representative of the Grantee's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  4. The Grantee shall include these same provisions in any subcontract for work in furtherance of this agreement.
- C. The act codified at N.J.S.A. 52:13D-12 et seq., the "New Jersey Conflicts of Interest Law", and the act codified at N.J.S.A. 40A:9-22.1 et seq., the Local Government Ethics Law, are by this reference incorporated as part of this agreement. The Grantee represents and affirms that none of its employees, its subcontractors, its subcontractors' employees, and the Grantee itself is engaged in any conduct which constitutes a conflict of interest under, or a violation of, either the New Jersey Conflicts of Interest Law or the Local Government Ethics Law.
- D. The Grantee represents and warrants that:
  1. No person or selling agency has been employed or retained to solicit or secure this agreement in violation of N.J.S.A. 52:34-15,
  2. It has made, and knows of no payments or gratuities made in violation of N.J.S.A. 52:34-19,
  3. It is, and will remain, in full compliance with N.J.S.A. 40A:11-1 et seq., the Local Public Contracts Law, if applicable,
  4. It is, and will remain, in full compliance with N.J.S.A. 14A:13-1 et seq., and N.J.S.A. 15A:13-1 et seq. (both regarding out-of-state corporations), if applicable, and
  5. It is, and will remain, in full compliance with N.J.S.A. 2A:44-143 (regarding bonds on construction and public works contracts), if applicable.
- E. The Grantee shall report in writing to the Attorney General and the Executive Commission on Ethical Standards, the solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any other State vendor.
- F. The Grantee shall not influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- G. The Grantee warrants that it will obtain and maintain, during the term of this agreement, all licenses, certifications, authorizations, or any documents required by the federal, state, county, or municipal governments and international authorities, wherever necessary, to perform this agreement. The Grantee shall promptly notify the State of any

disciplinary action or any change in the status of any license, permit, or other authorization required by law or this agreement

- H. The Grantee warrants that in performing its responsibilities under this agreement, the Grantee will comply with all local, state, and federal laws, rules, and regulations applicable to this agreement and to the work to be done hereunder. Failure to comply will constitute a material breach of this agreement.
- I. The New Jersey State Treasury Circular Letter 98-07, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid Payments is by this reference incorporated as part of this agreement.
- J. The New Jersey State Treasury's Single Audit Policy Guide for Non-Profit Subrecipients and Independent Auditors is by this reference incorporated as part of this agreement.
- K. The following documents issued by the United States are by this reference incorporated as standards and procedures used by the Council and made part of this agreement:
  - 1. United States Office of Management and Budget ("OMB") Circulars A-21, A-87, and A-122 (Cost Principles: Educational Institutions; State and Local Governments; Non-Profit Organizations, respectively),
  - 2. OMB Circulars A-102 and A-110 (Uniform Administrative Requirements for Grants in Aid and Other Agreements: State and Local Governments; Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, respectively),
  - 3. OMB Circular A-133, Revised (Audits of States, Local Governments, and Nonprofit Organizations),
  - 4. Common Rule regulations for federal agencies, as applicable (e.g. 40 CFR for U.S.E.P.A.)
  - 5. Directory of Generally Applicable Requirements and Administrative Management Standards for Federal Assistance,
  - 6. Compliance Supplement for Single Audits of State and Local Governments (Compliance Supplement Revised), and
  - 7. Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions.

### III. Insurance

The Grantee shall maintain in force for the term of this agreement the following minimum types and levels of coverage. These coverages shall be maintained either through insurance policies from insurance companies licensed to do business in the State of New Jersey or through formal, fully funded self-insurance programs authorized by law and acceptable to the Council. Unless current documentation is already on file with the Council, the Grantee must submit certificates of insurance, documentation of self-insurance, or both to the Council within thirty (30) days after the effective date of this agreement. No payments may be made under this agreement until acceptable documentation of insurance coverage is received. Each certificate shall certify that the coverage shall not be canceled for any reason except after thirty (30) days written notice to the Council. Each certificate shall also name the State of New Jersey and State employees as additional insureds to the fullest possible extent of the coverage. The minimum required coverages are:

- A. Comprehensive general liability policy as broad as the standard coverage form currently in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of the coverage. The policy shall include an endorsement for contractual liability and shall name the State of New Jersey as an additional insured. The policy shall also include an endorsement for products liability. Limits of liability shall not be less than \$500,000 per person and \$1 million per occurrence for personal injury liability and \$250,000 per occurrence for property damage liability,
- B. Comprehensive automobile liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$500,000 per person and \$1 million per occurrence for property damage liability, and
- C. Worker's compensation insurance as required by the laws of the State of New Jersey and employer's liability insurance with a limit of not less than \$100,000.

### IV. Indemnification

The Grantee shall defend, indemnify, protect, and save harmless the State, its officers, its agents, its servants, and its employees from and against any damage, claim, demand, liability, judgment, loss, expense, or cost (collectively, "damage") arising, or claimed to arise, from, in connection with, or as a result of, the Grantee's performance, attempted performance, or failure to perform in connection with this agreement (collectively, "performance"), regardless of whether such performance was undertaken by the Grantee, its officers, its directors, its agents, its servants, its employees, its subcontractors, or any other person at its request, subject to its direction, or on its behalf. As nonrestrictive examples only, this indemnification shall apply, but shall not be limited, to (a) any settlement by the State of any claim or judgment against the State or its agents, provided the Grantee had the opportunity to participate in the settlement negotiation, and (b) all attorneys' fees, litigation

costs, and other expenses of any nature, incurred by the State in connection with any damage. The Grantee (a) shall immediately notify the State of any damage for which it or the State might be liable and (b) shall, at its sole expense, (i) appear, defend, and pay all charges for attorneys, all costs, and all other expenses arising in connection with any damage and (ii) promptly satisfy and discharge any judgment rendered against the State or its agents, or any settlement entered into by the State, for any damage. The Grantee shall not assert any defense which would be available to the State but not to the Grantee, whether arising pursuant to the New Jersey Tort Claims Act or otherwise, without having first obtained the written approval of the New Jersey Division of Law. This agreement to indemnify shall continue in full force and effect after the termination, expiration, or suspension of this agreement. The Grantee does not hereby agree to indemnify the State against damage to the extent it results from the State's tortious action or inaction for which it would be liable under the New Jersey Tort Claims Act. As soon as practicable after it receives a claim for damage made against it, the State shall notify the Grantee in writing and shall have a copy of such claim forwarded to the Grantee.

**V. Assignments and Subcontracts**

The Grantee shall not subcontract any of the work or services covered by this agreement nor shall any interest be assigned or transferred, except as may be provided for in this agreement or with the express written approval of the Council.

- A. As a precondition of the Council's approval of a subcontractor and prior to any payments by the Council for subcontracted work, the Grantee shall secure from the subcontractor and shall submit to the Council a completed and executed copy of Attachment F, Subcontractor Certification.
- B. The Grantee shall be responsible for compliance by any subcontractor with the terms, conditions and requirements of this agreement.
- C. The Grantee shall be responsible for any claims arising out of any subcontract hereunder and, as a condition of any subcontract hereunder, the subcontractor shall hold the State harmless from any claims by the subcontractor or third parties which may arise under or as a result of the subcontract.

**VI. Availability of Funds**

- A. The parties understand that this agreement is fully or partly funded as designated in Section II of Attachment A, Additional Provisions and Special Modifications.

**VII. Procurement Standards**

Procurement of supplies, equipment, and other services with funds provided by this agreement shall be accomplished in accord with federal OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law, which shall be provided to the Grantee, upon request, by the Council. Procurement shall also be consistent with the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and other statutory requirements, as applicable. Both the federal and applicable State requirements shall be incorporated into any subcontracts under this agreement.

Adherence to the standards contained in those applicable federal and state laws and regulations does not relieve the Grantee of the contractual responsibilities arising under its procurements. The Grantee is the responsible authority, without recourse to the Council, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of this agreement.

**VIII. Property Management Standards**

Property furnished by the Council or acquired in whole or in part with federal or Council funds or whose cost was charged to a project supported by federal or Council funds shall be utilized and disposed of in a manner generally consistent with state and federal requirements (OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law).

**IX. Method of Payment**

- A. Payment under this agreement will be made upon submission by the Grantee of a properly executed State invoice form (available from the Council), and all invoices, bills, and other documents necessary to justify the payment. This form must also be accompanied by a certification from the Grantee that all procurements for which payment is requested have been made in accord with federal OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law, and in accord with all applicable State laws and have been made during the work period.

- 1. If Attachment B-2, Approved Advance Payment, provides for a justification of an advance payment and if Section III of Attachment A, Additional Provisions and Special Modifications, so provides, an initial advance payment will

be made to the Grantee upon receipt by the Council of a properly executed copy of this agreement, signed by an appropriate officer of the Grantee organization, together with a properly executed invoice form.

2. Progress payments shall be made by the Council on a periodic basis as prescribed in Section III.B of Attachment A, Additional Provisions and Special Modifications. Such payments shall be issued only upon receipt of the required financial and narrative reports described in Section XIII of the General Terms and Conditions of this agreement, Financial and Performance Reporting. Payment shall be made either in fixed amounts as determined by the Council to be reasonable to maintain an appropriate level of services or in the form of reimbursement of actually reported expenditures as indicated in Section III of Attachment A, Additional Provisions and Special Modifications.
3. If Section III of Attachment A, Additional Provisions and Special Modifications, so provides, a portion of the grant will be withheld pending receipt of the required final reports described in Section XVII of the General Terms and Conditions of this agreement, Grant Closeout Procedures.
4. The Council shall withhold payment of any costs disallowed by the Council as improperly incurred under any provision of this agreement.
5. Grantee may not use any grant funds to satisfy any obligation which arose outside the work period, except as it relates to aerial survey work authorized prior to the start of the work period.

- B. If the grant covered by this agreement includes federal funds, all invoices must be submitted by the Grantee and all payments must be made by the State no later than ninety (90) days after the end of the work period.

#### **X. Matching and Cost Sharing Requirements**

If there are any matching and/or cost sharing requirements indicated in Section IV of Attachment A, Additional Provisions and Special Modifications, then, regardless of whether federal funds are involved, the Grantee shall account to the satisfaction of the Council for these requirements in accordance with federal OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law.

#### **XI. Project Income**

Project income must be accounted for as indicated in Section V of Attachment A, Additional Provisions and Special Modifications. "Project income" means gross income earned by the Grantee from grant-supported activities. Such earnings include, but are not limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights. In all cases, interest earned on advances of grant funds shall be remitted to the Council, except for interest earned on advances to instrumentalities of a state as provided by the federal Intergovernmental Cooperation Act of 1968, P. L. 90-577.

#### **XII. Financial Management System**

- A. The Grantee's Chief Financial Officer, as designated in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures, shall be responsible for maintaining an adequate financial management system. The Chief Financial Officer shall notify the Council when the Grantee cannot comply with the requirements established in this Section XII, Financial Management System.
- B. Grantee financial management system shall provide for:
1. Accurate, current, and complete disclosure of the financial results of each project, agreement, or contract,
  2. Records that adequately identify the source and application of funds for Council-supported activities, and that contain information pertaining to awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income,
  3. Effective internal and accounting controls over all funds, property, and other assets, which controls adequately safeguard all such assets and assure that they are used solely for authorized purposes,
  4. Comparison of actual outlays with budgeted amounts for all major cost categories on Attachments B, Approved Project Budget; B-1, Itemization and Justification of Budget; D, Scope of Services; and D-2, Grantee's Proposal, and correlation of financial information with performance or productivity data, including the production of unit cost information required by the Council,
  5. Accounting records that are supported by source documentation,
  6. Procedures to minimize the time elapsing between the advance of funds from the Council and the disbursement by the Grantee, whenever funds are advanced by the Council, and
  7. Procedures for determining reasonableness, allowability, and allocability of costs generally consistent with the provisions of federal OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law.
- C. If required by Section VI of Attachment A, Additional Provisions and Special Modifications, the Council may require the submission of Attachment G, Statement of Adequacy of Accounting System.



- D. The Council may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to the award. If the Council determines that the Grantee's accounting system does not meet the standards described in paragraph B of this Section XII, Financial Management System, additional information to monitor the agreement may be required by the Council upon written notice to the Grantee.

### **XIII. Financial and Performance Reporting**

- A. Attachment B, Approved Project Budget, is the approved financial plan to carry out the purpose of this agreement. The budget shall be itemized to disclose specifically the agreement tasks and project activities to be funded.
- B. The Grantee shall submit interim expenditure reports, including a completed copy of Attachment C, Expenditure Report, comparing actual expenditures with the Approved Project Budget. These reports shall be submitted on a periodic basis as prescribed in Section VII of Attachment A, Additional Provisions and Special Modifications, and must be certified by the Grantee's Chief Financial Officer.
- C. The Grantee shall submit performance reports on an interim basis as prescribed by the Council in Section VII of Attachment A, Additional Provisions and Special Modifications. Performance reports shall present the following information for each agreement task and shall include all available and relevant, quantitative data pertaining to production of project work units, completion of agreement tasks, and actual costs for each unit or task:
1. A comparison of actual accomplishments to the objectives established in Attachments D, Scope of Services; D-1, Project Requirements; and D-2, Grantee's Proposal, for the reporting period,
  2. Reasons why established goals were not met or tasks were not completed as scheduled, and
  3. Other pertinent information, including a description of work performed during the reporting period, relevant literature citations, raw data generated, any modifications to the planned scope of work, and an anticipated work schedule for the next reporting period.
- D. The Grantee shall submit a final report on its overall performance of this agreement, as prescribed in Section VII of Attachment A, Additional Provisions and Special Modifications, including a completed copy of Attachment C, Expenditure Report, comparing actual expenditures for the entire project with the Approved Project Budget, certified by the Chief Financial Officer, and a final performance report.
- E. Extensions of reporting due dates may be granted upon written request to the Council.
- F. If reports are not submitted as required the Council shall, at its discretion, suspend payments on this agreement or any other agreement entered into between the Council and the Grantee and shall take action to suspend payments to the Grantee by other State agencies.
- G. If the Grantee has a history of unsatisfactory performance or the Grantee does not submit satisfactory reports, the Council may require additional and more detailed reports from the Grantee.

### **XIV. Monitoring Performance**

- A. The Grantee shall continually monitor its performance under this agreement to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved as applicable and as defined in Attachments D, Scope of Services; D-1, Project Requirements; and D-2, Grantee's Proposal.
- B. The Grantee shall inform the Council as soon as possible if any of the following types of conditions affect project objectives and performance and shall describe the action taken, or contemplated, and the Council assistance needed, if any, to respond to any such condition:
1. Problems, delays, or adverse conditions which will materially affect the ability to attain project objectives, prevent the meeting of time schedules and goals, or preclude the completion of project work units or agreement tasks within established time periods and
  2. Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more project work units or completing more agreement tasks than originally projected.
- C. The Council may, at its discretion, make site visits to:
1. Review project accomplishments and management control systems,
  2. Audit the financial records pertaining to this agreement, and
  3. Provide such technical assistance as may be required.

- D. If the Grantee is not performing satisfactorily, the Council may require remedial measures deemed necessary to fulfill the project requirements, including requiring the Grantee to obtain additional Council approvals before proceeding or requiring the Grantee to obtain outside technical or managerial assistance.

## **XV. Audit Requirements**

- A. Pursuant to the federal Single Audit Act of 1984, P.L. 98-502 (the "Audit Act"), federal OMB Circulars A-133 Revised, and A-102 or A-110, and the appropriate federal common rule, whichever would be applicable under federal law, any grant to a local government funded by the federal government is subject to the single-audit provisions of the Audit Act. Pursuant to State Treasury Circular 98-07, the State of New Jersey has adopted by reference the standards and provisions of the Audit Act and the federal OMB Circulars. If the Grantee receives a total of \$300,000 or more of federal and State financial assistance combined in the Grantee's fiscal year, the Grantee must have a single audit performed.
- B. As indicated in Section VIII of Attachment A, Additional Provisions and Special Modifications, the Grantee shall comply with the single-audit requirements of the Audit Act and OMB Circulars under the following conditions:
1. This agreement is supported by federal or State grant funds,
  2. The Grantee is a local government as defined by the Act and conducts an annual single-audit under the Audit Act, and
  3. Pursuant to criteria established in the Audit Act, this agreement is governed by the single-audit provisions of the Audit Act.
- C. As indicated in Section VIII of Attachment A, Additional Provisions and Special Modifications, if it is not subject to the single audit requirement, this agreement is subject to other State audit requirements. Any new agreement must be audited upon its expiration. Any agreement which is a continuation of work under an agreement previously performed and audited may be audited at the discretion of the Council up to three (3) years after the end of the work period or after the Grantee completes the agreement tasks, whichever is later. Any such audit must be made in accordance with generally accepted auditing standards, including the standards described in the federal General Accounting Office Standards for Audit of Governmental Organizations, Programs and Functions.
- D. Any required single audit or other audit shall be done on an organization-wide basis.
- E. Any required single audit shall include:
1. Compliance testing for all major State grant and major State Aid programs, consistent with the definition of "major" programs in State Treasury Circular 98-07 and federal OMB Circular A-133 Revised,
  2. Compliance testing of at least 50 percent of the Grantee's total expenditures under State grants and State Aid programs,
  3. Auditors' comments as to the Grantee's compliance with the material terms and conditions of State grant agreements, State Aid programs, and applicable statutes and regulations, and
  4. A schedule showing the State grants and State Aid received by the Grantee, including for each grant or aid:
    - (a) State grantor Council,
    - (b) Program and project titles,
    - (c) State account number,
    - (d) Total project amount and grant or aid amount received, and
    - (e) Total disbursements.
- F. Where a single audit or other audit conducted hereunder indicates any noncompliance by the Grantee with the material terms and conditions of this agreement, the Grantee shall forthwith take corrective action as permitted or required by Section XVI of the General Terms and Conditions of this agreement, Agreement Amendment; Section XVIII of the General Terms and Conditions of this agreement, Termination, Expiration, and Suspension; or as otherwise required by the Council. As a result of any audit hereunder, recommendations shall be made whether any costs incurred by the Grantee should be disallowed as beyond the scope or the purpose of this agreement, excessive, or otherwise impermissible. The Council retains the right to recover any disallowed expenditures, and the Grantee shall return to the Council any disallowed expenditures no later than thirty (30) days after the request.
- G. In any case, whether or not it is subject to the single-audit requirements, this agreement is, at the discretion of the Council, subject to audits by the Council at any time prior to closeout and subject to a follow-up compliance audit which may build upon the single audit or other audit required in Section VIII of Attachment A, Additional Provisions and Special Modifications.
- H. Copies of all audit reports involving this agreement must be sent to the COUNCIL, Office of Audit and the Granting Agency identified in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures.

## **XVI. Agreement Amendment**

If it desires to amend this agreement, the Grantee must submit a written request to the Grant Officer designated in Section IX of Attachment A, Additional Provisions and Special Modifications. Any amendment, whether requested by the Grantee or the Council, must be documented by completion of the Council's amendment form (COUNCIL-076). The completed amendment form must be formally executed by authorized representatives of both parties in the same manner as this agreement, unless the amendment being documented is of the type described in paragraph A, B, or C of this Section XVI, Agreement Amendment. If the amendment is of the type described in paragraph A, B, or C below, the Grant Officer may execute the amendment form for the State by signing it in the designated place, and no formal execution by authorized representatives of the parties will be required. As a nonrestrictive example only, if the Council requests, and the Grantee consents to, any amendment to the scope of the services to be performed by the Grantee, including any increase in the amount of the approved budget, such amendment must be memorialized by a completed amendment form, formally executed by authorized representatives of both parties.

- A. The Grantee may obtain approval directly from the Grant Officer to transfer amounts of up to \$93,033.93 or 10% of the total grant amount, whichever is less, from one direct cost category to another or from the indirect cost category to a direct cost category, as long as this transfer does not result in any change in the project's scope, work period, objective, or deliverables. If the total grant amount is less than \$25,000, the Grant Officer may disregard the 10% limitation and approve transfers of up to \$2,500.
  1. "Indirect costs" are those incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. "Direct costs" are those which can be identified specifically with a particular cost objective.
  2. The amendment form documenting any budget revision shall clearly show and justify each change in each cost category, either on the form or on an attachment to it.
- B. The Council may reduce the grant budget and the scope of services so that they fairly reflect anticipated project expenditures and progress if:
  1. The Council notifies the Grantee, that the Grantee is making project expenditures or progress at a rate which, in the judgment of the Council, will result in substantial failure to expend the grant or to fulfill the purposes of this agreement,
  2. The Council notifies the Grantee at least thirty (30) days in advance of any reduction,
  3. After consultation, the Grantee is unable to develop to the satisfaction of the Council a plan to rectify its low level of project expenditures or progress, and
  4. The Council considers the Grantee's fixed costs when making any reduction.
- C. The Grant Officer may approve no-cost time extensions to the work period or the due date of the final report in increments of six months or less but not beyond the expiration date as described in Section XVIII.A.2 of the General Terms and Conditions of this agreement, Termination, Expiration, and Suspension. Written justification and documentation evidencing the need to extend the work period or the due date of the final report must be submitted to the Grant Officer at least thirty (30) days in advance of the scheduled end of the work period. The Grant Officer shall decide whether to grant the extension. The amendment form documenting any no-cost time extension shall clearly show and justify the change, either on the form or on an attachment to it.

## **XVII. Closeout Procedures**

The closeout of this agreement shall mean the process by which the Council determines that all applicable administrative actions and all required work have been completed by the Grantee. This process shall include the steps enumerated below.

- A. The Grantee shall submit a final report as provided in Section VII of Attachment A, Additional Provisions and Special Modifications. The Council may permit extensions when requested in writing by the Grantee.
- B. The Grantee shall, together with the submission of the final report, refund to the Council any cash advanced but not committed to payment of eligible project costs in accordance with the Attachment B, Approved Project Budget.
- C. The Grantee shall refund to the Council any funds spent on costs which are disallowed by the Council. Such refund shall be made within thirty (30) days after the request.
- D. In the event a final audit has not been performed prior to the closeout of this agreement, the Council retains the right to recover any appropriate amount after fully considering any recommendation on disallowed costs resulting from the final audit.

- E. The Grantee shall account for any property acquired with grant funds or received from the Council in accordance with Section VIII of the General Terms and Conditions of this agreement, Property Management Standards.
- F. The Council retains the right to request any additional information reasonably necessary to close out this agreement and may retain any final grant payment until the closeout procedure is completed.

#### **XVIII. Termination, Expiration, and Suspension**

- A. The following definitions shall apply for the purposes of this Section XVIII, Termination, Expiration, and Suspension.
  - 1. Termination - The "termination" of this agreement means the cancellation of unsatisfied, contractual obligations prior to the completion of the agreement tasks by the Grantee. Work should stop unless the Grantee wants to continue at its own expense and is not otherwise required for good cause to stop by the Council.
  - 2. Expiration Date - The "expiration date" of this agreement is the agreed upon date at which time the term of this agreement automatically ends absent a formal written amendment agreement executed by the parties. The expiration date of this agreement shall be the third anniversary of the date the work period would end as initially agreed upon in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures.
  - 3. Suspension - The "suspension" of this agreement means a temporary cessation of State support or assistance pending corrective action by the Grantee or pending a decision to terminate the agreement by the Council. Work should stop unless the Grantee wants to continue at its own expense and is not otherwise required for good cause to stop by the Council.
- B. If the Grantee fails to comply with any term, condition, requirement, or provision of this agreement, the Council may upon notice to the Grantee suspend this agreement and withhold further payments, prohibit the Grantee from incurring additional obligations of grant funds pending corrective action by the Grantee, or decide to terminate this agreement in accordance with paragraph C of this Section XVIII, Termination, Expiration, and Suspension. The Council may allow all necessary and proper costs which the Grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of federal OMB Circulars A-102 or A-110 and the appropriate federal common rule, whichever would be applicable under federal law.
- C. The Council may terminate this agreement, in whole or in part, upon thirty (30) days notice, whenever it determines that the Grantee has failed to comply with any term, condition, requirement, or provision of this agreement. The Council shall promptly notify the Grantee, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect. If the State terminates this agreement because of a default by the Grantee, an equitable adjustment in grant payments shall be made, which shall reflect payments made to the Grantee prior to the termination, costs reasonably incurred by the Grantee for commitments made prior to the termination which were not made in anticipation of termination and cannot be canceled, and any costs to the State resulting from default by the Grantee.
- D. The Council and the Grantee may terminate this agreement in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions including the date on which the termination shall take effect, and, in case of partial terminations, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the date on which the termination shall take effect, and shall cancel as many outstanding obligations as possible.
- E. The closeout procedures described in Section XVII of the General Terms and Conditions of this agreement, Closeout Procedures, shall apply in all cases of termination of this agreement.

#### **XIX. Access to Records**

- A. The Grantee agrees to make available to the Council, any federal agency whose funds are expended in the course of this agreement, and any of their duly authorized representatives such pertinent accounting records, books, documents, and papers as may be necessary to monitor and audit Grantee's operations.
- B. Whenever reasonable and practical, the Council shall give reasonable notice to the Grantee prior to any visitation, inspection, or audit, including any visitation or request for documentation in discharge of the Council's responsibilities. However, the Council retains the right to make unannounced visitations, inspections, and audits as deemed necessary.
- C. The Council reserves the right to have access to records of any subcontractor and requires the Grantee to provide the Council access to such records in any contract with the subcontractor.

- D. The Council reserves the right to have access to all workpapers produced in connection with audits made by the Grantee or by independent certified public accountants or licensed public accountants hired by the Grantee to perform such audits.

**XX. Record Retention**

- A. The Grantee shall retain financial records, supporting documents, statistical records, and all other records in the Grantee's financial management system or otherwise pertinent to this agreement (a) for a period of five (5) years from the date the Grantee submits the final expenditure reports or the final performance reports, whichever is later, or (b) for such longer period as any applicable State or federal statute may require, with the qualifications stated below.
1. If any litigation, claim, or audit is started before the end of the five-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.
  2. Records for nonexpendable property acquired with Council funds shall be retained for five (5) years after its final disposition.
- B. The Council may request transfer of certain records to its custody from the Grantee when it determines that the records possess long term retention value and will make arrangements with the Grantee to retain any records that are continuously needed for joint use.

**XXI. Approvals and Authorizations**

- A. Unless specifically stated otherwise, wherever this agreement requires the approval or authorization of the Council, that approval or authorization must be given in writing by the Chairperson of the Council, by the authorized delegate who signed this agreement, or by said delegate's successor or superior, if any.
- B. If the Grantee is a municipal or county government agency, the Grantee must submit with this agreement a copy of an ordinance or resolution, duly enacted by the governing body of that municipal or county government agency or of the municipality or county authorizing execution of this agreement. If the Grantee is a corporation, the Grantee must submit with this agreement a corporate resolution, duly adopted by its board of directors, board of trustees, or equivalent governing body, and authorizing execution of this agreement. The Council will not make any payments until such ordinance or resolution is received.
- C. If the Grantee is a corporation or partnership, the Grantee must submit with this agreement a disclosure of the names and addresses of any persons who own 10% or more of the firm's stock or interest, in accordance with N.J.S.A. 52:25-24.
- D. If the Grantee is a corporation incorporated outside of New Jersey, the Grantee must, as a condition of payment hereunder, obtain a certificate of authority to do business in New Jersey from the Secretary of State and file a copy of that certificate with the Grant Officer designated in Section IX of Attachment A, Additional Provisions and Special Modifications.

**XXII. Interest on Advance Payments and Disallowed Costs**

- A. **Advance Payments:** The Grantee is required to deposit any advance payments received hereunder in an interest bearing account. Any interest up to \$100 per year may be retained by the Grantee for documented administrative expenses. If this agreement is federally funded, any interest above \$100 per year must be remitted on a quarterly basis to the Council for return to the federal government. If this agreement is funded by the State, interest above \$100 per year may be retained by the Grantee for purposes of this agreement or shall be remitted to the Council as indicated in Section XI of Attachment A, Additional Provisions and Special Modifications.
- B. **Disallowed Costs:** Where the Grantee has been reimbursed by the Council for costs which are subsequently disallowed by the Council, the Grantee shall return the funds to the Council no later than thirty (30) days after the request. Where the Grantee fails timely to return the funds or appeals the disallowed costs, an interest charge as indicated in Section XI of Attachment A, Additional Provisions and Special Modifications, shall be charged on the funds beginning thirty (30) days from the date the Grantee was notified of the debt. If the Grantee is successful on appeal, the accrued interest will be canceled.

**XXIII. Miscellaneous Provisions**

- A. **Governing Law:** It is agreed and understood that this agreement shall be governed and construed, and the rights and obligations of the parties hereto shall be determined, in accordance with the laws of the State of New Jersey including but not limited to the Contractual Liability Act, N.J.S.A 59:13-1 et seq.

- B. Conflict of Terms: In the event of any conflict, the order of precedence shall be (1) the terms and conditions of this agreement; (2) any State Agency application form or specific correspondence describing the Project and/or soliciting a Grantee's proposal; and (3) the Grantee's proposal (d-2).

NOTE: The only exception to the above is that consistency with rules and regulations promulgated pursuant to the State Program's enabling legislation shall always have precedence in any conflict with the terms and conditions of the agreement.

- C. Dispute Resolution: Consistent with the Contractual Liability Act, N.J.S.A 59:13-1 et seq., unless otherwise provided in this agreement, all claims, counterclaims, disputes, and other matters in question between the State and the Grantee arising out of, or relating to, this agreement or the breach of it will proceed as follows:
1. The dispute shall initially be submitted by either party for resolution via administrative proceedings conducted by the Council.
  2. If there is no mutually agreeable resolution after administrative recourse is exhausted, the matter may then proceed to arbitration or litigation. Any litigation must be submitted to, and heard by, a court of competent jurisdiction within the State of New Jersey.
- D. Performance: The Grantee warrants that it is aware of the work required to be performed under this agreement, that it has the capabilities and credentials required by the agreement, and that it will faithfully perform the work and abide by the terms, conditions, and other requirements of this agreement.
- E. Disclaimer of Agency Relationship: The Grantee's status shall be that of an independent principal and not as an agent or employee of the State. Nothing contained in the agreement shall be construed to create, either expressly or by implication, the relationship of agency between the State and the Grantee or its subcontractors.
- F. Computation of Time: When the agreement refers to a period of time in terms of days, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. In computing a period of time of less than seven days, Saturday, Sunday, and legal holidays shall be excluded.
- G. Intellectual Property Rights: If the Grantee, in the course of its duties under this agreement, develops any invention apparatus, computer program, discovery, or other intellectual property, the State will own the entire right, title and interest throughout the world to each such property right and to patents and copyrights protecting the same. The State's ownership shall be unaffected by any assignment, suspension, termination, or expiration of this agreement.
- H. Captions and Headings: Captions and headings used in this agreement are for convenience of reference only and shall in no way be deemed to define, limit, explain, or amplify any term or provision.
- I. Severability: In case any term or provision of this agreement shall be held invalid, illegal, or unenforceable, in whole or in part, neither the validity of any remaining part nor the validity of any other term or provision shall in any way be affected by such holding.
- J. Entire Agreement: The parties understand and agree that all prior understandings and agreements between them regarding performance of the obligations described herein are merged into this written grant agreement which supersedes all such prior understandings and agreements. Neither party enters into this agreement in reliance on any statement or representation of the other which is not reiterated herein.
- K. Successor and Assigns: This agreement shall be binding upon any successors or assigns of the Grantee. The State may, in its sole discretion, reject any proposed successor or assign of the Grantee.
- L. Counterparts: This agreement may be executed in multiple counterparts, each of which shall constitute an original instrument and all of which taken together shall constitute one and the same instrument.
- M. Notices: All notices, certificates, and other documents (a "notice") to be given by one party to the other shall be in writing and shall be delivered to the other party. Any such notice shall be delivered to the address of the Grantee or the Granting Agency shown in Section I, Grant Award Data and Signatures, by overnight courier service or by regular first class, certified, or registered mail, postage prepaid. If mailed, said notice shall be deemed to have been received five (5) days after its deposit in the United States Mail; and if given otherwise, said notice shall be deemed to have been received when delivered to the party to whom it is addressed.
- N. Waiver of Breach: The waiver by either party of any breach of this agreement shall not be deemed a waiver of any subsequent breach of the same or any other term or provision.

- O. Gender and Number: Use of the singular or plural includes the other and use of any gender includes all genders, as the context requires or permits.
- P. Waiver of Jury Trial: In the event of litigation, Grantee waives any right it may have to a trial by jury.
- Q. Authority to audit or review contract records N.J.A.C. 17:44-2.2: Grantee shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request."

GRANT AGREEMENT  
BETWEEN  
  
AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT A: ADDITIONAL PROVISIONS AND SPECIAL MODIFICATIONS

This Attachment A adds the terms, conditions, requirements, and provisions specified in Sections I through XI below, and makes the modifications specified in Section XII below, to the preceding General Terms and Conditions of the agreement between Rockaway Township and the State of New Jersey, by and for the Council.

I. Insurance (See Section III of the General Terms and Conditions of this agreement, Insurance.)

A. The Grantee maintains and must continue to maintain the required insurance coverages as follows:

1. Comprehensive general liability  
☒ insurance  
☐ self insurance  
☐ not required
2. Automobile liability  
☒ insurance  
☐ self-insurance  
☐ not required
3. Worker's compensation  
☒ insurance  
☐ self-insurance  
☐ not required
4. Employer's liability  
☒ insurance  
☐ self-insurance  
☐ not required

B. Certificates of insurance or documentation of self-insurance:

- ☐ Is on file with the Council.  
☒ Will be forthcoming within 30 days after the effective date of this agreement.  
☐ Other (explain) \_\_\_\_\_

**NOTE:** No payment can be made until the Council has received acceptable documentation of these required coverages.

II. Availability of Funds (See Section VI of the General Terms and Conditions of this agreement, Availability of Funds.)

Based upon funds available to the Council in the State's fiscal year, the agreement (the sum of the State, the federal, and if through the State treasury, the other amounts, shown as components of the Total Project Amount in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures) is:

- ☒ fully funded.  
☐ partially funded in the amount of \$ \_\_\_\_\_.  
☐ not applicable.

III. Method of Payment (See Section IX of the General Terms and Conditions of this agreement, Method of Payment.)

- A. Advance payment, if justified and itemized in Attachment B-2, Approved Advance Payment, is  
☒ authorized for \$ \_\_\_\_\_  
☐ not applicable.



B. Progress payments

☐ shall be made on a \_\_\_\_\_ basis for \$\_\_\_\_\_ per payment.  
(e.g. mo./qtr./deliverable)

☐ shall be based on actual expenditures submitted on a quarterly basis accompanied by receipts.  
(e.g. mo./qtr.)

☒ shall be made on submission of deliverables in accordance with the project specifications and requirements.  
☐ are not applicable.

C. Final payment of \$\_\_\_\_\_  
(amount or description)

☐ shall be withheld pending receipt of all final reports.  
☒ is not applicable.  
☐ (other, specify) \_\_\_\_\_.

NOTE: No payment can be made unless a proper state invoice is submitted with appropriate justification, receipts, etc. and unless any required expenditure and performance reports are submitted.

IV. Matching and Cost Sharing Requirements (See Section X of the General Terms and Conditions of this agreement, Matching and Cost Sharing Requirements.)

- ☐ The Grantee shall provide the matching or cost sharing amounts indicated in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures, and described further in Attachment B, Approved Project Budget.  
☒ Matching and cost sharing requirements do not apply.

V. Project Income (See Section XI of the General Terms and Conditions of this agreement, Project Income.)

A. Royalties, if any, received as a result of copyrights or patents produced under this agreement shall be:

- ☐ Paid to the Council.  
☐ Retained by the Grantee.  
☒ Not applicable.

B. Other project income, if any, as defined in Section XI of the General Terms and Conditions of this agreement, Project Income, shall be:

- ☐ Added to funds committed to the project by the Council and used to further eligible project objectives.  
☐ Deducted from the total project costs for the purpose of determining the net costs on which the Council shall base grant payments.  
☒ Paid to the Council.  
☐ Retained by the Grantee.  
☐ Not applicable.

VI. Certification of Adequacy of Accounting System (See Section XII of the General Terms and Conditions of this agreement, Financial Management System.)

A. A statement attesting to the adequacy of the Grantee's accounting system in accordance with the standards set forth in Section XII of the General Terms and Conditions of this agreement, Financial Management System,

- ☒ Must be completed, on Attachment G, Statement of Adequacy of Accounting System, by the Chief Financial Officer identified in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures.  
☐ Is not required.

B. Financial reports shall be prepared in a manner consistent with the Grantee's normal accounting records, which are kept on:

- ☐ A cash basis.
- ☒ An accrual basis.
- ☐ Modified accrual basis.
- ☐ (Other, specify) \_\_\_\_\_.

**VII. Financial and Performance Reporting** (See Section XIII of the General Terms and Conditions of this agreement, Financial and Performance Reporting.)

- A. All financial reports must be certified by the Chief Financial Officer.
- B. Interim expenditure reports, including a completed copy of Attachment C, Expenditure Report, shall be submitted
  - ☐ On a quarterly basis, no later than 45 days immediately following the end of the period.  
(e.g. mo./qtr.)
  - ☒ (Other, specify) \_\_\_\_\_ shall be made on submission of deliverables in accordance with the project specifications and requirements\_\_\_\_\_, but no later than the due date of the final expenditure report.
- C. Performance reports shall be made on submission of deliverables in accordance with the project specifications and requirements.
- D. A final expenditure report, including a completed copy of Attachment C, Expenditure Report, and a final performance report shall be submitted by the Grantee no later than 90 days after the Grantee's completion of all agreement tasks, the expiration date of this agreement, or the termination of this agreement, whichever first occurs.

**VIII. Audit Requirements** (See Section XV of the General Terms and Conditions of this agreement, Audit Requirements.)

- A. Under the federal Single Audit Act or the State Treasury Circular 98-07,
  - ☐ This agreement is subject to a single audit and will be audited as such on Grantee's fiscal year.
  - ☒ This agreement is not subject to a single audit and shall be audited as indicated in paragraphs B and C below.
- B. If this agreement is not subject to a single audit under paragraph A above,
  - ☐ The agreement shall otherwise be audited at the end of the work period.
  - ☒ The agreement may otherwise be audited at the Council's discretion up to three years after the end of the work period.
- C. If this agreement is audited under paragraph B above, the audit shall be conducted by
  - ☐ State auditors.
  - ☐ Council internal auditors.
  - ☐ A CPA firm appointed by Council.
  - ☒ A CPA firm chosen by the Grantee.
  - ☐ (Other, specify) \_\_\_\_\_.
- D. The Council's records show the Grantee's fiscal year ends on December 31st. The Grantee shall notify the Council immediately if this date is incorrect or is changed.
- E. Copies of all audit reports must be submitted to COUNCIL, Office of Audit, PO Box 402, Trenton, NJ, 08625-0402 and to the Granting Agency identified in Section I of the General Terms and Conditions of this agreement, Grant Award Data and Signatures, not later than nine months after the close of the Grantee's fiscal year.

**IX. Agreement Amendment** (See Section XVI of the General Terms and Conditions of this agreement, agreement Amendment.)

All budget revisions and modifications must be submitted, in writing, to (name) Jill Aspinwall, (title) Staff to Council or the successor to that position (the "Grant officer").

X. Authorizations and Disclosures (See Section XXI of the General Terms and Conditions of this agreement, Approvals and Authorizations.)

A. The Grantee is

- ☐ A local government agency.
- ☐ A New Jersey corporation.
- ☐ An out-of-state corporation.
- ☒ (Other, specify) A New Jersey Non-profit corporation.

B. Appended hereto as Attachment E, Governing Body Resolution or Corporate Resolution, is

- ☐ A governing body resolution.
- ☒ A corporate resolution.
- ☐ No resolution.

C. A Grantee's Stockholder Disclosure Statement is

- ☐ Submitted herewith.
- ☒ Not applicable.

D. A certificate of authority for Grantee to do business in New Jersey

- ☒ Will be submitted.
- ☐ Is not applicable.

NOTE: No payment can be made until the Council has received any documents required under this Section X, Authorizations and Disclosures.

XI. Interest (See Section XXII of the General Terms and Conditions of this agreement, Interest on Advance Payments and Disallowed Costs.)

A. Interest above \$100 per year on advance payment of State funds

- ☐ May be retained by the Grantee for documented purposes under this agreement.
- ☒ Shall be remitted to the Council on a quarterly basis.
- ☐ Will not exist because no advance payment is authorized.
- ☐ (Other, explain) \_\_\_\_\_.

NOTE: On federally funded grants, any interest above \$100 per year must be remitted on a quarterly basis to the Council for return to the federal government.

B. Interest on payments of disallowed costs not returned within 30 days of request shall accrue in favor of the State at the rate specified in the "Notice of Intent to Collect" document (ADM-182).

XII. Modifications to General Terms and Conditions

The General Terms and Conditions of this agreement are changed, supplemented, or deleted ("modified") as specified in this Section XII, which supersedes inconsistent terms, conditions, requirements, or provisions contained elsewhere in this agreement. If all modifications do not fit on this page, the numeral "5" in the phrase "of 5" in the header of each page of this Attachment A must be changed to equal the total number of pages in this Attachment A, and each new page must be identified and successively numbered in the same manner as the first five pages.

- ☐ This Section XII does not contain modifications to the General Terms and Conditions of this agreement.
- ☒ This Section XII does contain modifications to the General Terms and Conditions of this agreement. Attachment A comprises 5 pages.

1. The Grantee agrees to acknowledge the funding from the Wetland Mitigation Council in any publications.

2. The Grantee agrees to maintain a separate bank account only containing Council Funding.
3. The Grantee agrees to submit business registration certificates for its organization and its subcontractors prior to the transfer of any Council Funding.

GRANT AGREEMENT  
BETWEEN

AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT B: APPROVED PROJECT BUDGET

ACCOUNT DESCRIPTION	TOTAL BUDGET	FEDERAL	STATE	GRANTEE	COUNCIL
A. Personnel Costs		0.00	0.00	0.00	
Salaries					
Fringe Benefits		0.00	0.00	0.00	
B. Consultants and Subcontractors		0.00	0.00	0.00	
C. Other Costs					
Specify:					
Travel		0.00	0.00	0.00	
		0.00	0.00		
		0.00	0.00		
		0.00	0.00		
		0.00	0.00		
D. Audit	0.00	0.00	0.00	0.00	
Subtotal Direct Costs	0.00	0.00	0.00	0.00	
Less Program Income	0.00	0.00	0.00	0.00	
Total Direct Costs		0.00	0.00	0.00	
Indirect Costs		0.00	0.00	0.00	
TOTAL PROJECT AMOUNT		0.00	0.00		

TOTAL GRANT AMOUNT is ☐ the sum of "Federal" and "State" column totals \$0.00

☒ the sum of "Federal" "State" and "Council" column totals

The sums identified in the "Total Budget" column are itemized and justified in (check one or more as appropriate)

☒ Attachment D-2, Grantee's Proposal, comprising 76 pages.

☒ Attachment B-1, Itemization and Justification of Budget, comprising 4 page.



GRANT AGREEMENT  
BETWEEN

AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT C:

EXPENDITURE REPORT: For the period beginning \_\_\_\_\_ and ending \_\_\_\_\_

ACCOUNT DESCRIPTION	APPROVED PROJECT BUDGET	PREVIOUSLY REPORTED CUMULATIVE EXPENDITURES	ACTUAL EXPENDITURES AS OF _____ (date)	CUMULATIVE EXPENDITURES	UNEXPENDED BALANCE
A. Personnel Costs Salaries					
Fringe Benefits					
B. Consultants and Subcontractors					
C. Other Costs Specify:  Travel					
D. Audit					
Subtotal Direct Costs					
Less Program Income					
Total Direct Costs					
Indirect Costs					
TOTAL PROJECT AMOUNT					

**CERTIFICATION BY CHIEF FINANCIAL OFFICER**

I certify that the above expenditures for the period are accurate as stated, that all procurements for which payment is required have been made in accordance with the standards contained in this agreement, and that each obligation for which an expenditure is listed arose during the work period.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(print name)

Title: \_\_\_\_\_

**GRANT AGREEMENT  
BETWEEN**

**AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL**

**GRANT IDENTIFIER:**

**ATTACHMENT D: SCOPE OF SERVICES**

The Scope of Services for this agreement comprises Attachment D-2, Grantee's Proposal; any project requirements delineated in Attachment D-1, Project Requirements; and any modifications, amendments, and additions to the Grantee's proposal discussed in this Attachment D. In case of conflict among the provisions of Attachments D, D-1, and D-2, the order of priority shall be: (1) Attachment D-1, (2) Attachment D, (3) Attachment D-2. This Attachment D comprises [1] page, including this page.



GRANT AGREEMENT  
BETWEEN

AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT D-1: PROJECT REQUIREMENTS

The Grantee shall comply with the requirements set forth below, as well as any rules and regulations promulgated pursuant to the program's Enabling legislation, if any, N.J.S.A.13:9B, See N.J.A.C.13:9B. Listed below are specific requirements, including special conditions, of the program and the project covered by this agreement. This Attachment D-1 comprises [1] pages, including this page.

**GRANT AGREEMENT  
BETWEEN**

**AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL**

**GRANT IDENTIFIER:**

**ATTACHMENT D-2: GRANTEE'S PROPOSAL**

Grantee's project proposal, comprising [76] page, including this page, is incorporated into this agreement as this Attachment D-2. Except as modified, amended, or supplemented by Attachment D, this Attachment D-2, Grantee's Proposal, describes the assignment tasks and project work units which the Grantee shall perform and deliver pursuant to this agreement.

GRANT AGREEMENT  
BETWEEN  
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THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT E: CORPORATE RESOLUTION

It is in the best interest of \_\_\_\_\_, a corporation  
(print Grantee's name including corporate designation, e.g., inc., corp., etc.)

of the State of \_\_\_\_\_, to obtain a grant from the State of New Jersey in the amount of approximately  
\$ \_\_\_\_\_ to fund the following project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Therefore, the \_\_\_\_\_ resolves  
(print name of Grantee's governing body, e.g., board of directors, board of trustees, etc.)

that \_\_\_\_\_ or the successor to the office of \_\_\_\_\_  
(print name) (print title of authorized officer)

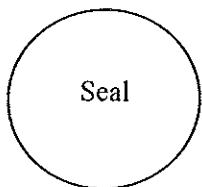
is authorized (a) to make application for such a grant, (b) if awarded, to execute a grant agreement with the State for a grant in an  
amount not less than \$ \_\_\_\_\_ and not more than \$ \_\_\_\_\_, and (c) to execute [ ] any amendments thereto  
[ ] any amendments thereto which do not increase the Grantee's obligations.

\*The \_\_\_\_\_ authorizes and hereby agrees to match \_\_\_\_\_ % of the  
(print name of Grantee's governing body)

Total Project Amount, in compliance with the match requirements of the agreement. The availability of the match for such purposes,  
whether cash, services, or property, is hereby certified. \_\_\_\_\_ % of the match will be made up of in-kind services (if allowed by  
grant program requirements and the agreement).\*

The Grantee agrees to comply with all applicable federal, State, and municipal laws, rules, and regulations in its performance pursuant  
to the agreement.

Introduced and passed \_\_\_\_\_, \_\_\_\_\_.



\*The portion of this form between the asterisks should only be completed if matching funds are required under the terms of the  
agreement. Where in-kind services are allowed and are stipulated by the Grantee, an attachment must be provided and appended  
hereto, breaking out the in-kind services to be provided by the Grantee.

CERTIFICATION\*

I, \_\_\_\_\_, of \_\_\_\_\_  
(print name) (print title)  
\_\_\_\_\_ certify that this resolution was duly adopted by  
(print Grantee's name)  
\_\_\_\_\_ at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_.

(Print name of Grantee's governing body)  
\_\_\_\_\_; that this resolution has not been amended or repealed; and that it remains in full force and effect on the date I have  
subscribed my signature. \*\*

\_\_\_\_\_  
(signature of corporate secretary or equivalent) \*

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print title)

Date: \_\_\_\_\_ \*\*

\* Certification must be signed by officer other than the individual authorized to execute the agreement.

\*\* This date must be no more than sixty (60) days prior to the Grantee's execution of the agreement. If the original certification expires prior to the Grantee's execution, the Grantee must submit a currently certified copy of this Attachment E when it returns the executed agreement to the Council.

GRANT AGREEMENT BETWEEN  
THE FRESHWATER WETLANDS MITIGATION COUNCIL  
GRANT IDENTIFIER:  
ATTACHMENT E-1: GOVERNING BODY RESOLUTION

The governing body of \_\_\_\_\_  
(print Grantee's name)  
desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of approximately \$ \_\_\_\_\_  
to fund the following project:  
\_\_\_\_\_  
\_\_\_\_\_

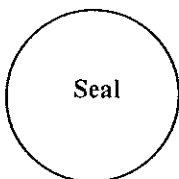
Therefore, the governing body resolves that \_\_\_\_\_ or the successor to the office of  
(print name)  
\_\_\_\_\_ is authorized (a) to make application for such a grant, (b) if awarded, to execute  
(print title of authorized official)  
a grant agreement with the State for a grant in an amount not less than \$ \_\_\_\_\_ and not more than \$ \_\_\_\_\_,  
and (c) to execute ☐ any amendments thereto ☐ any amendments thereto which do not increase the Grantee's obligations.

\*The \_\_\_\_\_ authorizes and hereby agrees to  
(print name of Grantee's governing body, e.g., board of chosen freeholders)  
match \_\_\_\_\_ % of the Total Project Amount, in compliance with the match requirements of the agreement. The availability of the  
match for such purposes, whether cash, services, or property, is hereby certified. \_\_\_\_\_ % of the match will be made up of in-kind  
services (if allowed by grant program requirements and the agreement).\*

The Grantee agrees to comply with all applicable federal, State, and municipal laws, rules, and regulations in its performance pursuant  
to the agreement.

Introduced and passed \_\_\_\_\_, \_\_\_\_\_.

Ayes: \_\_\_\_\_  
Noes: \_\_\_\_\_  
Absent: \_\_\_\_\_



\* The portion of this form between the asterisks should only be completed if matching funds are required under the terms of the  
agreement. Where in-kind services are allowed and are stipulated by the Grantee, an attachment must be provided and appended  
hereto, breaking out the in-kind services to be provided by the Grantee.

CERTIFICATION\*

I, \_\_\_\_\_, ☐ municipal clerk ☐ county clerk ☐ utilities Authority Clerk  
(print name)  
☐ (other, specify) \_\_\_\_\_ of \_\_\_\_\_  
(print Grantee's name)  
certify that this resolution was duly adopted by \_\_\_\_\_ at a  
(print name of Grantee's governing body)  
meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; that this resolution has not been amended or repealed; and that it

remains in full force and effect on the date I have subscribed my signature. \*\*

---

(signature) \*

---

(print name)

---

(print title)

Date: \_\_\_\_\_ \*\*

\* Certification must be signed by an official other than the individual authorized to execute the agreement.

\*\*This date must be no more than sixty (60) days prior to the Grantee's execution of the agreement. If the original certification expires prior to the Grantee's execution, Grantee must submit a currently certified copy of this Attachment E when it returns the executed agreement to the Council.

GRANT AGREEMENT  
BETWEEN

AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT F: SUBCONTRACTOR CERTIFICATION

As a condition of the State's consent to the subcontract entered into between \_\_\_\_\_ (the "subcontractor") and (the "Grantee") (such subcontract, the "subcontract") for work in furtherance of the grant agreement with the State of New Jersey (the "State") captioned above (the "grant agreement") and in consideration of any payment or benefit the subcontractor may receive for its performance of the subcontract, the subcontractor agrees that the following terms, provisions, and conditions ("terms") shall be additional terms of the subcontract, shall inure to the benefit of the State, and shall not be modified in any way without the written agreement of the State:

1. With respect to all services and goods the subcontractor provides pursuant to the subcontract or in furtherance of the grant agreement, the subcontractor shall comply with, and shall be bound by, all terms of the grant agreement (excepting only (a) those terms, if any, requiring the provision of goods or services not required by the subcontract, (b) the following Sections of the General Terms and Conditions of the grant agreement: IV, IX, X, XI, XIII, XV, XVI, XVII, and XXII, and (c) Attachments B, B-1, B-2, C, and G) as though it were the Grantee and as though all such terms were explicit terms of the subcontract for the benefit of the State as third party beneficiary. The subcontractor acknowledges that the Grantee has given it a complete copy of the grant agreement and that it is familiar with all of the grant agreement's terms.
2. The subcontractor acknowledges and accepts that it is an independent principal working for the Grantee and has no relationship with the State in connection with the grant agreement as its agent, servant, employee, grantee, contractor, or otherwise.
3. The subcontractor shall make no claim or demand against the State, its officers, its agents, its servants, or its employees (the "State or its agents") (a) which arises out of or in connection with, or which is based on, (i) the subcontract or the grant agreement, (ii) any services or goods the subcontractor provides pursuant to the subcontract or in furtherance of the grant agreement, or (iii) the relationship between the subcontractor and the Grantee in connection with the subcontract or (b) which would not exist if the subcontract did not exist.
4. The subcontractor shall defend, indemnify, protect, and save harmless the State, its officers, its agents, its servants, and its employees from and against any damage, claim, demand, liability, judgment, loss, expense, or cost (collectively, "damage") arising, or claimed to arise, from, in connection with, or as a result of, the subcontractor's performance, attempted performance, or failure to perform in connection with the subcontract (collectively, "performance"), regardless of whether such performance was undertaken by the subcontractor, its officers, its directors, its agents, its servants, its employees, its subcontractors, or any other person at its request, subject to its direction, or on its behalf. As nonrestrictive examples only, this indemnification shall apply, but shall not be limited, to (a) any settlement by the State of any claim or judgment against the State or its agents, provided the subcontractor had the opportunity to participate in the settlement negotiation, and (b) all attorneys' fees, litigation costs, and other expenses of any nature, incurred by the State in connection with any damage. The subcontractor (a) shall immediately notify the State of any damage for which it or the State might be liable and (b) shall, at its sole expense, (i) appear, defend, and pay all charges for attorneys, all costs, and all other expenses incurred in connection with any damage and (ii) promptly satisfy and discharge any judgment rendered against the State or its agents, or any settlement entered into by the State, for any damage. The subcontractor shall not assert any defense which would be available to the State but not to the subcontractor, whether arising pursuant to the New Jersey Tort Claims Act or otherwise, without having first obtained the written approval of the New Jersey Division of Law. This agreement to indemnify shall continue in full force and effect after the termination or expiration of the subcontract and the grant agreement. The subcontractor does not hereby agree to indemnify the State against damage to the extent it results from the State's tortious action or inaction for which it would be liable under the New Jersey Tort Claims Act. As soon as practicable after it receives a claim for damage made against it, the State shall notify the subcontractor in writing and shall have a copy of such claim forwarded to the subcontractor.

Date: \_\_\_\_\_

\_\_\_\_\_  
(print name of subcontractor)

by:

(signature)

(print name)

(print title)

ATTEST:

(signature of another officer of subcontractor,  
if corp. or org.; otherwise, person as witness)

(number and street)

(print name and title)

(municipality, state, and zip code)

(telephone number)

**CERTIFICATION\***

I, \_\_\_\_\_, \_\_\_\_\_, of  
(print name) (print title)

(print subcontractor's name)

certify that the individual who executed this

Subcontractor Certification on behalf of the subcontractor was duly authorized to do so.

ATTEST:

(signature of subcontractor's secretary or equivalent)

(signature of another officer of subcontractor,  
if corp. or org.; otherwise, person as witness)

(print name)

(print name)

(print title)

(print title)

Date: \_\_\_\_\_

SEAL

\*This certification must be completed if the subcontractor is an organization, rather than a sole proprietorship.



GRANT AGREEMENT  
BETWEEN  
  
AND  
THE FRESHWATER WETLANDS MITIGATION COUNCIL

GRANT IDENTIFIER:

ATTACHMENT G: STATEMENT OF ADEQUACY OF ACCOUNTING SYSTEM\*

\*If Grantee is a governmental agency, complete Section A. If Grantee is a non-governmental agency, complete Section B.

**Section A: Governmental Agency**

I am the \_\_\_\_\_ (Print title of Chief Financial Officer) of and, in this capacity, I will be responsible for establishing and maintaining the financial statements for the project.

The accounting system that will be established and maintained for the purpose of this agreement will be adequate to:

1. Provide for accurate identification of the receipts and expenditures of funds by approved budget cost categories;
2. Provide for documentation supporting each book entry, filed in such a way that it can be easily located;
3. Provide accurate and current financial reporting information;
4. Be integrated with a strong system of internal controls; and
5. Conform to any and all requirements or guidelines that the Council may issue.

Date: \_\_\_\_\_  
\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

**Section B: Non-governmental Agency**

I am a ☐ certified public accountant ☐ duly licensed public accountant and have been engaged to examine the financial statements of which will be maintained for the project

In my opinion, the accounting system and internal controls ☐ in use ☐ to be established on \_\_\_\_\_  
for this agreement ☐ are ☐ will be adequate to:

1. Provide for accurate identification of the receipts and expenditures of funds by approved budget cost categories;
2. Provide for documentation supporting each book entry, filed in such a way that it can be easily located;
3. Provide accurate and current financial reporting information; and
4. Conform to any and all requirements or guidelines that the Council may issue.

Date: \_\_\_\_\_  
\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print title)

\* This form must be completed as part of the agreement if required by Section VI.A of Attachment A, Additional Provisions and Special Modifications

## ATTACHMENT RB: REFERENCE BIBLIOGRAPHY

This bibliography is provided for reference purposes only. It lists documents incorporated by reference into this agreement and other documents which might be helpful to the Grantee.

### A. New Jersey Council of the Treasury

- Circular Letter 98-07: Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid Payments
- State Grant Compliance Supplement
- Single Audit Policy Guide for Nonprofit Subrecipients and Independent Auditors (December 1988) - Updated by Federal Council of Health and Human Services, Guidelines for Audits of Federal Awards to Nonprofit Organizations (E.)

### B. United States General Accounting Office

- Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions (Yellow Book)

### C. United States Office of Management and Budget

- Circular A-21: Cost Principles for Educational Institutions
- Circular A-87: Cost Principles for State and Local Governments
- Proposed Revisions to Circular A-87: Cost Principles for State and Local Governments
- Circular A-88 Revised: Indirect Cost Rates, Audit, and Audit Follow-up at Educational Institutions Proposed
- Circular A-88 Revised: Coordinating Audits and Negotiating Indirect Cost Rates at Educational Institutions
- Circular A-102: Grants and Cooperative Agreements with State and Local Governments
- Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Rule), (March 11, 1988)
- Compliance Supplement for Single Audits of State and Local Governments-Uniform Requirements for Grants to State and Local Governments (Compliance Supplement, Revised)
- Compliance Supplement for Audits of Institutions of Higher Learning and Other Nonprofit Institutions (October 1991)
- Directory of Generally Applicable Requirements and Administrative Management Standards for Federal Assistance
- Circular A-110: Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations
- Circular A-122: Cost Principles for Nonprofit Organizations
- Circular A-133 Revised: Audits of States, Local Governments, and Non-profit Organizations

### D. American Institute of Certified Public Accountants ("AICPA")

- Audits of State and Local Governmental Units
- Statement on Auditing Standards (SAS) No. 68, Compliance Auditing Applicable to Governmental Entities and Other Recipients of Governmental Financial Assistance
- Exposure Draft, Proposed SOP, Audits of State and Local Governmental Entities Receiving Federal Financial Assistance
- Exposure Draft, Proposed SOP, Audits of Nonprofit Organizations Receiving Federal Award

### E. Federal Council of Health and Human Services

- Guidelines for Audits of Federal Awards to Nonprofit Organizations (April 1984)