

## GRANT AGREEMENT

### (Nitrogen Reducing Septic System Replacement or Upgrade - Installation)

This Grant Agreement (this “Agreement”) is entered into by and between the County of Dukes County, Massachusetts (the “County”) and [\_\_\_\_\_] (the “Homeowner”), the owner of the residential property located in the County at [\_\_\_\_\_] *street address, town*, Massachusetts (the “Property”).

WHEREAS, the County is the recipient of a of federal financial assistance from the State & Local Fiscal Recovery Fund (CFDA No. 21.027), authorized by the American Rescue Plan Act of 2021 (ARPA), in the total amount of Three Million Three Hundred Sixty-Six Thousand Five Hundred Thirty-Eight Dollars (\$3,366,538.00) identified as federal award identification number SLFRP5544 (the “ARPA Grant”) with a federal award date of October 20, 2021, provided by the United States Treasury (“Treasury”);

WHEREAS, the County intends to use a portion of the ARPA Grant to improve the wastewater infrastructure within the County, including by making grants to homeowners to design, acquire, construct and install replacements of or upgrades to residential septic systems with a goal to reduce the amount of nitrogen released into the environment and to thereby improve the water quality in County ponds;

WHEREAS, the Homeowner has submitted to the County the application attached hereto as Exhibit A (the “Application”), for a grant to pay on a reimbursement basis all or a portion of the reasonable costs of the acquisition, construction and installation of an eligible nitrogen reducing septic system replacement or upgrade at the Property, and in reliance on the representations, certifications and warranties made by the Homeowner herein and in the Application, the County is willing to provide a restricted grant (the “Grant”) in the amount of \$\_\_\_\_\_ (the “Grant Amount”) to the Homeowner on the terms and conditions stated in this Agreement; and

WHEREAS, the Homeowner is willing to accept the Grant evidenced by this Agreement and the Application, on the terms and conditions stated in this Agreement.

NOW, THEREFORE, the County and the Homeowner agree and bind themselves as follows:

### ARTICLE I - REPRESENTATIONS OF THE HOMEOWNER

The Homeowner makes the following representations to the County, on which the County will rely, as of the date of this Agreement, as follows:

- (a) *Property; Existing Septic System; Ownership; Residence.* The Property is a legal residence within the County; the Property has an existing septic system sized to permit the flow listed on the Application (flow is related to the allowed number of bedrooms, type of kitchen (i.e. residential or commercial) and other allowed uses of the Property); the Homeowner is the owner of the Property; and Homeowner is a year-round resident of the Property. For avoidance of doubt, the Homeowner is not making, and is not required by this Grant Agreement to make, any representation that the existing septic system is in poor or failing condition.
- (b) *Approved Design; Nitrogen Release.* The design for the new septic system to be acquired, constructed and installed has been completed and approved by the Board of Health and was designed to achieve a removal standard of releasing not more than 10 mg/l of nitrogen into the ground after treatment.
- (c) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, other than as disclosed to the County in

writing, is pending or, to the knowledge of the Homeowner, threatened (1) seeking to restrain or enjoin the execution and delivery of this Agreement, or the undertaking of the Project (defined below) or (2) contesting or affecting the validity of this Agreement; and neither the consent nor capacity of the Homeowner, nor its ownership of the Property, is being contested.

- (d) *No Conflicts.* The execution and delivery of this Agreement, and performance by the Homeowner of the Project and of its obligations under this Agreement, will not constitute a breach of, or a default under, any law, ordinance, resolution, agreement, indenture or other instrument to which the Homeowner is a party or by which it or any of its properties is bound.
- (e) *No Debarment.* Neither the Homeowner, nor, to the knowledge of the Homeowner, any contractor or subcontractor involved in the Project, or any of their employees, is included on a state or federal listing of debarred or suspended persons, or is proposed for disbarment, declared ineligible, or voluntarily excluded from participation by any state or Federal department or agency.
- (f) *Taxes; Debts.* The Homeowner is current on the payment of all Federal, state and local taxes, including without limitation all property taxes owed with respect to the Property. The Homeowner current and in good standing with respect to the payment and performance of all obligations under agreements for borrowed money, whether as debtor, guarantor, co-signer or otherwise and all debts secured by an lien on the Property are current and in good standing.
- (g) *Income Limit.* The aggregate income of the Homeowner's household does not exceed 240% of the Area Median Income (AMI) for the County, adjusted for household size. See Exhibit A to the Application. To evidence compliance with this condition, the Homeowner has submitted with this Grant Agreement a copy of its most recently filed IRS Form 1040 (or other applicable federal income tax return).
- (h) *Agreement.* The Homeowner has read and understands this Agreement, to the extent it has determined necessary, has consulted with its attorneys or other advisors concerning the terms of this Agreement, and freely and voluntarily agrees to be bound by all terms of this Agreement.
- (i) *Binding Agreement.* This Agreement, when executed and delivered, will be the legal, valid, and binding obligation of the Homeowner, enforceable in accordance with its terms, subject only to limitations on enforceability imposed in equity or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.
- (j) *Information Submitted.* All information, reports, and other documents and data submitted to the County in connection with this Agreement (including without limitation, the Application and the federal income tax return referenced in (g) above) were, at the time the same were furnished, and are, as of the date of this Agreement, true, correct and complete in all material respects.
- (k) *Ratification.* By executing this Agreement, the Homeowner (i) affirms and ratifies all statements, representations and warranties contained in all written documents that it has submitted to the County in connection with this Agreement, including without limitation the Application (which is incorporated into and made a part of this Agreement) and (ii)

agrees that on each date that a disbursement of the Grant is made, it will be deemed to have affirmed and ratified all such statements, representations and warranties.

## ARTICLE II - THE GRANT

### 2.1 Grant Amount

The County agrees to make and the Homeowner agrees to accept, on the terms and conditions stated in this Agreement, the Grant in the Grant Amount, to be disbursed on a reimbursement basis from time to time pursuant to the terms hereof.

### 2.2 Project

- (a) *Grant Purpose.* The Grant is being made solely to pay on a reimbursement basis the reasonable costs of the acquisition, construction and installation of a new nitrogen reducing septic system replacement or upgrade for the Property meeting the following conditions (the “Project”):
- (i) *Approved Design; Nitrogen Release.* The nitrogen reducing septic system replacement or upgrade will be acquired, constructed and installed pursuant to a design that has been approved by the Board of Health, and was designed to achieve a removal standard of releasing not more than 10 mg/l of nitrogen into the ground after treatment.
  - (ii) *New System or Upgrade.* The new nitrogen reducing replacement or upgrade acquired, installed and constructed will replace or upgrade an existing septic system. The existing septic system is currently in use and, as of the date of this Agreement, the acquisition, construction and/or installation of such nitrogen reducing septic system replacement or upgrade has not yet commenced. For avoidance of doubt, it is not a requirement for Grant eligibility that the existing septic system be in poor or failing condition. The Grant is being awarded to pay, on a reimbursement basis, the eligible costs of (***check one***):
    - \_\_\_ a full replacement nitrogen reducing septic system
    - \_\_\_ select nitrogen reducing upgrades to a septic system ((*costs, if any, relating to other upgrades or replacements of the existing septic system are not eligible for Grant reimbursement*)).
  - (iii) *Equivalent Size.* The replaced or upgraded septic system will permit flow not in excess of the flow permitted by the existing septic system (i.e. the replaced or upgraded septic system will not, under existing zoning, allow for an increase in the number of permitted bedrooms, the installation of a commercial kitchen, or for any other use of the Property in excess of the use allowed with the existing system).
  - (iv) *Board of Health Permit.* Once complete, the replaced or upgraded septic system must be permitted by the Board of Health, evidenced by a copy of the final permit to be delivered by the Board of Health to the Homeowner, with a copy to the County.
- (b) *Disbursement.* The Grant shall be disbursed on a reimbursement basis in a single installment, paid within sixty (60) days following receipt by the County of a complete

Disbursement Requisition, including all attachments and signed by the Homeowner, in the form attached as Exhibit B.

- (c) *Timeline for Obligation and Expenditure.* The Grant will not reimburse any costs other than those incurred (i.e. obligated) during the period from the date of this Agreement to June 30, 2024 (subject to extension by the County in its sole discretion, but not later than December 31, 2024 as required by the terms of the ARPA Grant). No portion of the Grant will be disbursed after November 1, 2026, as required by the terms of the County program.

### **ARTICLE III - AFFIRMATIVE COVENANTS**

#### **3.1 Use of Disbursement**

The Homeowner will expend the Grant funds only in reimbursement for eligible costs of the Project, subject to Article II hereof and in accordance with applicable laws, rules and regulations. The Homeowner shall be responsible for compliance with, and shall comply in all material respects with, all applicable laws, rules and regulations, whether or not such laws, rules or regulations are expressly referenced herein.

#### **3.2 Reporting; Non-Discrimination and Compliance with Laws**

- (a) The Homeowner shall comply with all reporting requirements, including those set forth in Schedule A hereto. In addition, the Homeowner agrees that the Project shall be undertaken in full compliance with all applicable provisions of federal, state and local law and all regulations thereunder.
- (b) The Homeowner, the Project contractor, each subcontractor and their respective agents, employees and representatives, shall comply with all applicable federal, state and local laws, regulations, rules and orders to assure that no person shall be excluded from participating in any activity conducted with or benefiting from funds received from this Grant on the basis of such person's race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability and/or status as a veteran (including Vietnam-Era Veterans).
- (c) Without limiting the generality of subsections (a) and (b) above, the Homeowner certifies that it has read and understood its obligations with respect to compliance with the non-discrimination requirements in this Agreement (including, without limitation, the Assurances of Compliance with Federal Civil Rights Requirements in Schedule B hereto), certifies that it is in compliance with such requirements, and covenants to remain in compliance at all times while this Agreement is in effect.

#### **3.3 Additional Project Funding; Maintenance and Testing**

- (a) *Project Completion.* The Homeowner shall ensure that adequate funding is in place to complete the Project. In the event that the Grant, alone, is (or is reasonably expected to be), for any reason and at any time, insufficient to complete the Project, the Homeowner will (i) promptly notify the County in writing describing with reasonable detail the circumstances of such fact or expectation and (ii) obtain or make available and apply other funds (including without limitation, by incurring loans or obtaining other grants) in an aggregate amount necessary to ensure completion of the Project. For avoidance of doubt, in the case of a grant awarded for select nitrogen reducing upgrades (as noted in Section 2.2(a)(ii)), all costs, if any, relating to other upgrades or replacements of the existing septic system are not eligible for reimbursement from the Grant.

- (b) *Maintenance and Testing.* The Homeowner agrees, at its expense, to enter into a contract for ongoing maintenance and testing of the replaced or upgraded septic system in a manner consistent with the system design approved by the Board of Health. Such maintenance and testing shall be performed upon final permitting of the replaced or upgraded system and quarterly thereafter for a period of three years. An executed copy of the contract for such testing shall be attached to the Grant Requisition. The Homeowner agrees, and it shall be a condition of disbursement of Grant proceeds, that it will cause a restriction to be placed on the deed for the Property in the appropriate real estate recording office such that the requirement to perform maintenance and testing for such three year period shall be enforceable against subsequent transferees of the Property. For avoidance of doubt, costs of maintenance and testing are not eligible for reimbursement from the Grant.

### **3.4 Recoupment and Costs; Set-Off**

The Homeowner acknowledges that it is responsible for compliance with this Agreement and all local, state and federal laws, rules and regulations applicable to the Grant and the Project. Breach of this Agreement and/or failure to comply with such law or regulation may result in all or a portion of the Grant becoming subject to recoupment. If the Grant is subject to recoupment, the County will notify the Homeowner in writing and the Homeowner shall promptly and, in any event, within 10 days of receiving such notice, return such Grant proceeds and any interest earnings thereon. In addition, Homeowner shall be responsible for, and hereby agrees to promptly pay or reimburse the County for all costs incurred by the County, its employees, officers and agents (including without limitation, attorneys' fees) related to or arising out of such recoupment including, without limitation, costs of any related investigation, audit and/or collection efforts. The County reserves the right to use any and all legal and equitable means to recoup disbursements of the Grant, costs related thereto and any other amounts owing from the Homeowner to the County under this Agreement including, without limitation, through set-off of any amounts otherwise payable by the County to the Homeowner.

### **3.5 Indemnification**

To the fullest extent permitted by law, the Homeowner agrees to indemnify, defend and hold harmless the County and all of its employees, officials, officers, and agents (each, an "Indemnified Person") from and against any and all losses, costs, damages, expenses, judgments, and liabilities of whatever nature (including, but not limited to, attorneys', accountants' and other professionals' fees and expenses, litigation and court costs and expenses, amounts paid in settlement and amounts paid to discharge judgments and amounts payable by an Indemnified Person relating to or arising out of (i) the actual or alleged failure of the Homeowner to comply with the terms of this Agreement or with any other requirement or condition applicable to the federal grant with which the Grant is funded or (ii) the undertaking of the Project; provided that no indemnification shall be required of an Indemnified Person to the extent such losses are determined by the final judgment of a court of competent jurisdiction to be the result of the gross negligence or willful misconduct of such Indemnified Person. Such indemnification includes, but is not limited to, costs arising from third-party claims.

The provisions of this Section shall survive the expiration or termination of this Agreement, and the obligations of the Homeowner under this Agreement shall apply to losses or claims whether asserted prior to or after the termination of this Agreement. In the event of failure by the Homeowner to observe the covenants, conditions and agreements contained in this Section, any Indemnified Person may take any action at law or in equity to collect amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Homeowner under this Section. The obligations of the Homeowner under this Section shall not be affected by any assignment or other transfer by the County of its rights or interests under this Agreement and will continue to inure to the benefit of the Indemnified Persons after any such transfer. The provisions of this Section shall be

cumulative with and in addition to any other agreement by the Homeowner to indemnify, defend and hold harmless any Indemnified Person.

### **3.6 Recordkeeping.**

The Homeowner shall maintain reasonable written records with respect to the Project and the Grant. The Homeowner shall keep and maintain all financial records and supporting documentation related to the Project and the Grant for a period of seven years after the final disbursement of the Grant. Wherever practicable, Homeowner shall collect, transmit, and store such records in open and machine readable formats, in addition to hard copies. Homeowner agrees to make such records available to the County or to the United States Treasury upon request, and to any other authorized oversight body, including but not limited to the Government Accountability Office (GAO), the Treasury's Office of Inspector General (OIG) and the Pandemic Relief Accountability Committee (PRAC). The Homeowner agrees to make such accounts and records available for on-site inspection after reasonable request during regular business hours and to permit the County, the United States Treasury or any other such authorized oversight body to audit, examine, and reproduce such accounts and records, and to make audits of all contracts, invoices, materials, records, data, and other information relating to all matters covered by this Agreement.

The Homeowner shall permit the County or any party designated by it upon reasonable prior notice to the Homeowner to examine, visit and inspect the Project and the Property and to inspect and, without limiting the generality of the previous paragraph, to make copies of any accounts, books and records of the Homeowner pertaining to the Project and/or the Grant.

### **3.7 Insurance**

Throughout the term of this Agreement, the Homeowner shall maintain property damage insurance coverage with a reputable insurance provider that is reasonable and customary for residential property similar to the Property. Evidence of such insurance coverage has been provided and is attached as Exhibit C.

## **ARTICLE IV - TERMINATION AND REMEDIES**

### **4.1 Termination**

- (a) *Termination by the County.* The County, in its sole and absolute discretion, may terminate this Agreement and the Grant:
  - (i) if the Homeowner has breached any provision of this Agreement (including without limitation reporting requirements in Schedule A hereto) or has failed to comply with any applicable local, state or federal law, rule or regulation applicable to the Project and/or the Grant; or
  - (ii) if any representation or covenant made by the Homeowner in the Application, this Agreement, or any certification or other supporting documentation shall prove to have been incorrect in any material respect at the time made.
- (b) *Notice of Termination by the County.* The County will provide the Homeowner with written notice of termination of this Agreement and the Grant pursuant to Section 4.1(a), setting forth the reason(s) for termination. The termination of this Agreement and the Grant will be effective as of the date such notice of termination is sent by the County or any later date set forth in such notice as the termination date.
- (c) *Effect of Termination by the County.* Upon termination of this Agreement or any Grant pursuant to Section 4.1(a), the Homeowner shall reimburse the County for all costs and

any disbursements of the terminated Grant on a schedule to be negotiated in good faith between the County and the Homeowner, but in no event more than 60 days from the date of such termination.

- (d) *Automatic Termination.* This Agreement shall terminate and the obligation of the County to disburse the Grant, or any portion thereof, shall expire without any further action or notice if:
- (i) a copy of the final signed construction contract for the Project has not been received by the County by the earlier of (i) ninety (90) days from the date of this Agreement and (ii) the deadline for incurrence of expenditures provided in Section 2.2(c); or
  - (ii) the final nitrogen reducing replacement of or upgrade to septic system has not been completed and a written request for final inspection has not been submitted to the Board of Health by the earlier of (i) six months from the date of this Agreement and (ii) the deadline for disbursement of the Grant provided in Section 2.2(c) ;

unless the County, in its sole and absolute discretion, has approved one or more extensions to such deadlines.

#### **4.2 Term**

This Agreement shall remain in effect until one of the following events has occurred:

- (a) All of the Homeowner's obligations under this Agreement have been discharged to the County's satisfaction, including, without limitation, any obligation to reimburse the County for disbursements of the Grant; or
- (b) This Agreement has been terminated pursuant to the provisions of Section 4.1 hereof.

The Homeowner's obligations with respect to reporting and record-keeping, to indemnify, defend and hold harmless each Indemnified Person, and to return Grant funds subject to recoupment together with costs of the County related thereto shall each survive any termination or expiration of this Agreement.

### **ARTICLE V - MISCELLANEOUS**

#### **5.1 Notices**

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing and delivered, (i) in the case of the County, to Martina Thornton, County Manager, County of Dukes County, P.O. Box 190, Edgartown, Massachusetts 02539, and (ii) in the case of the Homeowner, to: \_\_\_\_\_ or, as to either party, at such other address as shall be designated by such party in a notice to each other party. Unless otherwise provided herein, receipt of all such communications shall be deemed to have occurred when personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein.

#### **5.2 No Waiver**

No failure or forbearance on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by the County of

any right hereunder preclude any other or further exercise thereof or the exercise of any other right. Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the parties.

### **5.3 Governing Law**

This Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts. The Homeowner agrees to bring any federal or state legal proceedings arising under this Agreement in which the County is a party in a court of competent jurisdiction within the Commonwealth and, unless otherwise required by law, within the County of Dukes County. This section shall not be construed to limit any other legal rights of the parties.

### **5.4 Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of the Homeowner and the County and their respective successors and assigns, except that the Homeowner may not assign or transfer its rights or obligations hereunder without the prior written consent of the County.

### **5.5 Complete Agreement; Waivers and Amendments**

All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Homeowner and the County unless otherwise specified in this Agreement. The parties understand and agree that this Agreement (including the Application and all other schedules and exhibits attached hereto), supersedes all other verbal and written agreements and negotiations by the parties regarding the matters contained herein.

### **5.6 Headings**

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

### **5.7 Severability**

If any term, provision or condition, or any part thereof, of this Agreement shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

### **5.8 Schedules, Exhibits and Attachments; Counterparts; Electronic Signature**

Each schedule, exhibit or other attachment hereto referred to herein is an integral part of this Agreement. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000 and related state law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

### **5.9 Further Assurances**

Homeowner agrees that it will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such further instruments as may reasonably be required as

determined by the County for carrying out the intention or facilitating the performance of this Agreement and for confirming continued compliance with this Agreement and the terms and conditions of the Grant.

**5.10 Third-Party Beneficiaries**

This Agreement is exclusively between the County and the Homeowner, and does not nor is intended to create any privity of contract with any other party not a party hereto other than the Indemnified Persons, nor to imply a contract in law or fact. The County is not obligated to disburse grant funds on any contract, or otherwise, between the Homeowner and any other party, nor intends to assume, at any time, direct obligations for payment for work, goods, or other performance under such contracts. The obligation to pay any amounts due under such contracts is solely the responsibility of the Homeowner. Nothing herein, express or implied, is intended to, or shall confer upon, any other person any right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement between the County, the Homeowner and the Indemnified Persons.

**5.11 Waiver of Personal Liability**

No Indemnified Person shall be individually or personally liable for the payment of any sum under this Agreement or any claim based on this Agreement, or be subject to any personal liability or accountability by reason of the execution and delivery of this Agreement. No Indemnified Person (including any Indemnified Person who executes any certificate in connection with the Grant that restates or certifies as to the truth and accuracy of statements in such certificate) shall be individually liable for the breach by the County of any representation or covenant contained in this Agreement.

*[Remainder of page intentionally left blank; signature page follows.]*

**IN WITNESS WHEREOF**, the parties to this Grant Agreement have caused this Grant Agreement to be duly executed as of the latest date set forth below.

**COUNTY OF DUKES COUNTY,  
MASSACHUSETTS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

Authorized by a vote of the County Commissioners as a properly noticed meeting held on \_\_\_\_\_, 20\_\_

**HOMEOWNER**

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

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

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

## **SCHEDULE A**

### **Reporting Requirements**

#### **Event Reporting**

The following events shall be reported to the County promptly upon the occurrence thereof (and in any event with five business days of such occurrence):

- (a) The inclusion of the Homeowner, or any contractor or sub-contractor of the Homeowner related to the Grant or the Project, or any employee, officer or other official of any of the foregoing, on any state or federal listing of debarred or suspended persons, or if any of such persons are proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any state or Federal department or agency.
- (b) Any criminal, administrative or civil litigation, or credible threat of such litigation, or investigation by any governmental entity of any of the persons listed in (a) for violations of local, state or Federal law involving fraud, bribery, misappropriation of funds, breaches of fiduciary duty or other actions bearing on the trustworthiness, credibility or responsibility of such person.
- (c) Any antidiscrimination complaints, reviews and proceedings, if any, as described in item 8 of Schedule B.

#### **On Demand Reporting**

At the County's request from time to time, the Homeowner shall promptly (and in any event with five business days of such request) provide to the County full copies of insurance policies described in Section 3.7 with evidence that such policies have been fully paid and/or such other information relating to the Grant and the Project including, without limitation any information reasonably necessary for the County to assess compliance, or risk of noncompliance, by the Homeowner with any requirements of the Grant and the local, state and federal laws, rules or regulations or Treasury or other guidance related thereto.

#### **Scheduled Reporting**

Within ninety days from the date of this Agreement (or, if earlier, the deadline for incurrence of expenditures provided in Section 2.2(c) of the Grant Agreement), the Homeowner will submit a copy of the final, signed construction contract for the Project.

Within six months from the date of this Agreement (or, if earlier, the deadline for disbursement of the Grant provided in Section 2.2(c) of the Grant Agreement), the Homeowner will provide notice to the County that the final nitrogen reducing replacement of or upgrade to septic system has been completed and a written request for final inspection has been submitted to the Board of Health.

Within thirty days of the issuance of the final Board of Health permit for the replaced or upgraded septic system, a copy of the initial test performed pursuant to Section 3.3(b) of the Grant Agreement (the "Initial Test").

Following the Initial Test, once each calendar quarter for a period of three years, a copy of the test performed in such quarter pursuant to Section 3.3(b) of the Grant Agreement.



## **SCHEDULE B**

### **Assurance of Compliance with Federal Civil Rights Requirements**

As a condition of receipt of federal financial assistance including the Grant, the Homeowner provides the assurances stated herein. The federal financial assistance includes the Grant and may include other federal grants, loans and contracts to provide assistance to the recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits. This assurance applies to all federal financial assistance from or funds made available through the Department of the Treasury, including the Grant and any such assistance that the Homeowner may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to all of the Homeowner's programs, services and activities, so long as any portion of the Homeowner's programs is federally assisted in the manner proscribed above.

1. Homeowner ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal funds, of any person in the United States on the ground of race, color, or national origin (42 USC § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents.
2. Homeowner acknowledges that Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have limited English proficiency ("LEP"). Homeowner understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Homeowner shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Homeowner understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Homeowner's programs, services, and activities.
3. Homeowner agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on LEP, please visit <http://www.lep.gov>.
4. Homeowner acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance (including, without limitation, the Grant), and is binding upon Homeowner and Homeowner's successors, transferees and assignees for the period in which such assistance is provided.
5. Homeowner acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and

its regulations between the Homeowner and the Homeowner's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 USC § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 USC § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Homeowner understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury (including, without limitation, the Grant), this assurance obligates the Homeowner, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Homeowner for the period during which it retains ownership or possession of the property.
7. Homeowner shall cooperate in any enforcement or compliance review activities by the County or the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. That is, the Homeowner shall comply with information requests, on-site compliance reviews, and reporting requirements.
8. Homeowner shall maintain a complaint log and promptly inform the County of any complaints of discrimination on the grounds of race, color, or national origin, and LEP covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, (i) a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome or (ii) if such is the case, a statement that Homeowner has received no complaints under Title VI.
9. Homeowner must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI of the Civil Rights Act of 1964 and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Homeowner and the administrative agency that made the finding. If the Homeowner settles a case or matter alleging such discrimination, the Homeowner must provide documentation of the settlement.
10. If the Homeowner makes sub-awards to other agencies or other entities, the Homeowner is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document.

**EXHIBIT A**

[Copy of approved signed Application, and all supporting documentation to be attached]

## **EXHIBIT B**

### Disbursement Requisition

Pursuant to Section 2.2(b) of the Grant Agreement between the County of Dukes County, Massachusetts (the “County”) and \_\_\_\_\_ (the “Homeowner”), the owner of the residential property located in the County at \_\_\_\_\_, Massachusetts (the “Property”), the Homeowner, is requesting a disbursement of the Grant referenced in such Grant Agreement in the amount of \$\_\_\_\_\_ to reimburse the Homeowner for the costs of the Project defined in such Grant Agreement.

In connection with this request for disbursement, the undersigned Homeowner certifies as follows:

1. The acquisition, construction and installation Project described in the Grant Agreement has been completed and complies in all respects with the description of the Project in the Grant Agreement and the Board of Health-approved design for the Project.
2. The Project has been inspected and approved by the Board of Health, as evidenced by the final permit from such Board of Health submitted with this requisition.
3. All costs of the Project have been paid in full by the Homeowner, as evidenced by the copy, submitted with this requisition, of the construction contract (or other receipts) marked “PAID IN FULL” by the contractor (or other vendors).
4. To the best knowledge of the Homeowner, all such costs are reasonable in light of the scope of the Project and the circumstances under the work was performed and/or supplies were delivered.
5. The Project, including the work or supplies being reimbursed from the Grant, has been performed or delivered (as applicable) to the satisfaction of the Homeowner.
6. The amount requested for disbursement does not exceed either (i) the Grant Amount listed in the Grant Agreement or (ii) the amount actually paid by the Homeowner for the Project.
7. The costs reimbursed with this requisition were incurred and paid not earlier than the date of the Grant Agreement.
8. All of the representations and warranties made by the Homeowner in the Grant Agreement are true and correct as of the date of this requisition.
9. To the fullest extent permitted by law, the Homeowner hereby forever releases and waives any and all claims, known or unknown, arising before or after the date of this requisition that it has or may have against the County or any Indemnified Person in any way related to the Project or the Grant.
10. The Homeowner has entered into a contract for regular maintenance and testing of the Project for a three-year period consistent with Section 3.3(b) of the Grant Agreement and with the Board of Health-approved design for the Project; an executed copy of such contract is submitted with this requisition; and a deed restriction has been placed upon the Property in the appropriate real estate recording office such that subsequent transferees will be required to cause such maintenance and testing to be performed for such three year period.

**HOMEOWNER**

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

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

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

*Attach copy of construction contract (or other invoices) marked "PAID IN FULL" by contractor or other vendor.*

*Attach copy of final Board of Health permit*

*Attach copy of maintenance and testing contract.*

**EXHIBIT C**

Certificate(s) of Insurance