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**GRANT THORNTON PUBLIC SECTOR LLC**

1000 WILSON BLVD,  
SUITE 1400  
ARLINGTON, VA 22209

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April 1, 2021

Diana Reed, MMC  
Town Clerk, The Town of Elsmere  
11 Poplar Avenue  
Elsmere, DE 19805

Via email: [diana.reed@townofelsmere.com](mailto:diana.reed@townofelsmere.com)

Dear Ms. Reed:

As a follow up to our recent conversation, we are writing to outline our proposed engagement and provide you with the specifics of our proposed Scope of Work (SOW). This letter documents the understanding of the services and related deliverables defined below (the "Services") that Grant Thornton Public Sector LLC ("Grant Thornton", "Vendor", "we" or "us") will provide to the Town of Elsmere, (Elsmere, the "Town" or "you"). The purpose of this Engagement Letter (the "Letter") and Attachment A – Standard Grant Thornton Engagement Terms, as defined below, (collectively, the "Agreement") is to confirm the scope and terms of our engagement. The attached Terms are the same as we have engaged with New Castle County, DE.

Our work, to be performed under your direction, will focus on providing the County with the support necessary for Strategic Fund Management to confirm that all expenditures of American Rescue Plan Act (ARPA) funds are made in accordance with the Act and consistent with guidance issued by the U.S. Department of Treasury as well as other federal agencies as applicable. As such Grant Thornton will:

#### **Advisory Services**

- Support and participate in discussions with the Town to develop program conceptualization around ARPA funding and eligibility;
- Provide guidance on grant administration and federal reimbursement, to include best practices around fund management, insights regarding policies and procedures, and internal controls;
- Assist in providing periodic input to the Town lead written reports to the Town Executive, Council, and others regarding expenditures of ARPA funds and compliance with federal requirements and guidelines;
- Provide consultation, to the Chief Financial Officer, Town Manager, Town Clerk and Director of Finance throughout period of engagement; and
- Provide advisory support to the Town's Director of Finance on how best to be prepared for the Town's Single Audit.

#### **Subrecipient Monitoring**

- Review the Town's ARPA plan for the use of its Coronavirus Local Fiscal Recovery Fund, Subrecipient monitoring protocols, operating procedures and internal controls and provide an assessment of their ARPA Compliance;
- Assist the Town in developing a risk-based approach and assessment methodology, weighting and evaluation of applicant proposals to support their Subrecipient monitoring;
- Assist the Town in applying the Risk Assessment tool to applicant proposals;
- Provide Subrecipient monitoring including, as necessary, eligibility determinations, risk assessments and follow up compliance monitoring;
- Provide Subrecipient compliance monitoring including the validation of Subrecipient cost documentation, expenditure analysis, and provide, as necessary, reimbursement recommendations; and
- Review Subrecipient performance reports to confirm funds are expended in accordance with federal requirements and program guidance.

#### **Deliverables**

Grant Thornton will provide the following deliverables based on a mutually agreeable schedule:

- Monthly Reports
- Subrecipient Eligibility Determinations
- ARPA Compliance Plan

#### **Fees**

Our billings for the Services set forth in this Agreement will be based upon our hourly rates that are consistent with the rates in the engagement with New Castle County. The total amount for Grant Thornton's labor is not expected to exceed \$100,000.00. A report outlining the hours and fees expended will be provided on a regular basis as determined between the Town's project leader and the Grant Thornton project leader.

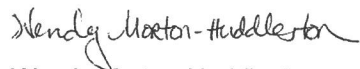
<b>Position</b>	<b>Proposed Hourly Rate</b>
Engagement Partner	\$270.00
Engagement Director	\$205.00
Project Manager	\$175.00
Subject Matter Expert	\$190.00
Grants Management Specialist	\$ 85.00

No travel is anticipated at this point. However, any required travel will be billed consistent with GSA Mileage and Per Diem Rates at cost. The total amount of travel shall not exceed \$5,000.00. Grant Thornton will bill the Town monthly on a Time & Material basis and provide a summary of the hours by staff member. Invoices shall include Purchase Order #\_\_\_\_. Invoices shall be submitted to the contact listed on the Purchase Order. Any travel will be approved by the Town's project leader beforehand.

#### **Time period**

The Time Period of our Services will run from April 1, 2021, to December 31, 2021. This contract may be extended at any point by mutual agreement.

Sincerely,



Wendy Morton-Huddleston

Principal

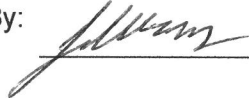
Grant Thornton Public Sector LLC

**Agreed and Accepted**

The foregoing letter and Attachment A fully describe our understanding and are accepted by us.

Town of Elsmere, DE

By:

  
\_\_\_\_\_

Date:

04-09-21

- d) Limitation on Period to File Claims. It is expressly agreed that any claim by or on behalf of either party arising out of the Services, whether it be in contract, tort, or otherwise, shall be deemed waived if a claim is asserted more than two (2) years from the date that the Deliverable is issued or 2 years of completion of audit of expenditures being overseen by Grant Thornton, whichever is greater.

- 3 Use of Documentation and Reliance. In accordance with professional standards, the working papers for the Services are the property of Grant Thornton and constitute confidential information. The working papers shall mean all items prepared by Grant Thornton solely for purposes of the applicable Statement of Work to substantiate the work being performed hereunder. Grant Thornton acknowledges that it has a responsibility to retain the working papers for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention.

All data, materials, deliverables and reports, and opinions delivered to you (the "Deliverables") are prepared solely for the internal use of the Client's management, employees and board of directors. You agree to protect all Deliverables from unauthorized use and prevent disclosure of the Deliverables to unauthorized third parties who may rely on them.

Our Deliverables will be based on our interpretation of the federal and state laws, regulations, administrative and judicial pronouncements, and other relevant authorities, in effect when we provide the Deliverables. All of these authorities are subject to change, and such change may be retroactive or prospective in effect. We assume no responsibility to either advise you of, or to update our conclusions, for changes in respect to federal and state laws, regulations, administrative and judicial pronouncements, and other relevant authorities expressly set forth in this Agreement and applicable law.

Grant Thornton shall retain sole and exclusive ownership of and all right, title, and interest in and to any know-how, concepts, techniques, methodologies, ideas, processes, models, templates, tools, utilities, routines, and trade secrets that (i) existed prior to, or were developed independent of, this engagement or (ii) may have been discovered, created, or developed by Grant Thornton as a result of its own efforts during this engagement, which are of general application and do not contain Client's Confidential Information (collectively, the "Grant Thornton Property"). Client shall acquire no right to or interest in the Grant Thornton Property, except for a non-exclusive, non-transferable, royalty-free right to use such Grant Thornton Property solely in connection with Client's permitted use of the Deliverables to the extent any Grant Thornton Property is incorporated therein. Client will not sublicense or otherwise grant any other party any rights to use, copy, or otherwise exploit or create derivative works from the Grant Thornton Property.

- 4 Other Costs. Unless expressly provided for, the Services do not include giving testimony or appearing or participating in discovery proceedings, in administrative hearings, in court, or in other legal or regulatory inquiries or proceedings. Except with respect to a dispute or litigation between Grant Thornton and the Client, Grant Thornton's costs, expenses and time spent in legal and regulatory matters or proceedings arising from this Agreement, such as subpoenas, testimony, bankruptcy fee filing, or consultation involving private litigation, arbitration, industry, or government regulatory inquiries, whether made at the Client's request or by subpoena or equivalent, will be billed to the Client separately at Grant Thornton's standard rates for such services.
- 5 Access to Resources and Information. Unless specified in a Statement of Work as the responsibility of Grant Thornton to provide, you shall have obtained for us on a timely basis any internal and third party permissions, licenses or approvals that are required for us to perform the Services contemplated hereunder (including use of any necessary software or data). You shall also provide us, on a timely basis, with all information, approvals and assistance as may be necessary to our work or as we may reasonably request, and our personnel assigned to any engagement hereunder shall not be assumed or deemed to have knowledge of information provided to other Grant Thornton engagement teams or third parties.
- 6 Term and Termination. We shall each have the right to terminate this Agreement, in whole or in part, at any time without further obligation to the other by giving not less than thirty (30) days written notice to the other party; provided that in-process Statements of Work shall be completed, except in the event of an uncured, material breach by either party. Further, Grant Thornton shall have the right to terminate this Agreement immediately if it discovers practices by you that we deem dishonest, fraudulent, or illegal; or we determine that application of or changes in applicable rules or professional standards, such as those established by the American Institute of Certified Public Accountants, Public Company Accounting Oversight Board, or U.S. Securities and Exchange Commission, result in the Grant Thornton Firm's inability to complete the work. In the event that either party terminates this Agreement or any or all Statements of Work as set forth in this section, you agree to pay us for the Services, including out-of-pocket expenses and costs, rendered up to the date of such termination, except for a termination caused by Grant Thornton's uncured material breach.
- 7 Use of Third-Party Service Providers and Affiliates

On January 1, 2020, Grant Thornton LLP ("Grant Thornton LLP" or "Parent"), a federal and state and local government contractor since 2001, reorganized its Public Sector service line into a wholly-owned subsidiary named Grant Thornton Public Sector LLC. Grant Thornton LLP and Grant Thornton Public Sector LLC have entered into a Services Agreement, which provides for the two entities to provide assistance to each other on government contract engagements.

Grant Thornton LLP is the U.S. member firm of Grant Thornton International Ltd ("GTIL"), a global organization of member firms in over one hundred ten (110) countries. Member firms are neither members of one international partnership nor otherwise legal partners with one other. There is no common ownership, control, governance, or agency relationship among member firms. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate one another and are not liable for one another's acts or omissions.

Grant Thornton may use third party service providers, such as independent contractors, specialists, or vendors, to assist in providing the Services. Grant Thornton may also use GTIL member firms, affiliates (including the GT US Shared Services Center India Private Limited ("GTSSC") and/or the Grant Thornton Knowledge and Capability Center India Private Limited ("KCC"), affiliates of Grant Thornton located in Bangalore, India), or other accounting firms. Such entities may be located within or outside the United States. In the event that you desire the services of GTIL member firms or affiliates of Grant Thornton LLP, we will seek your prior written consent before subcontracting the Services to them by specifying such third party service providers in the applicable SOW or otherwise. Such GTIL member firms and affiliates of Grant Thornton LLP shall receive the benefit of the protections in this Agreement, including without limitation this Attachment A. In the event Grant Thornton subcontracts some of the Services to a GTIL member firm, Grant Thornton takes sole responsibility for all work performed in relation to the applicable SOW and Client agrees that, with respect to work that is the subject of the SOW, its sole recourse is against Grant Thornton.

Additionally, Grant Thornton may use third parties to provide administrative and operational support to Grant Thornton business operations. All of these third-party service providers are subject to confidentiality obligations to protect the confidentiality of client data. Such entities may be located within or outside the United States.

- 8 Electronic Communications. During the course of our engagement, we may need to electronically transmit confidential information to each other and to third-party service providers or other entities engaged by either Grant Thornton or you. Electronic methods include telephones, cell phones, e-mail, cloud services and fax. These technologies provide a fast and convenient way to communicate. However, all forms of electronic communication have inherent security weaknesses, and the risk of compromised confidentiality cannot be eliminated. You agree to the use of electronic methods to transmit and receive information, including confidential information and accept the risk of doing so.

Grant Thornton shall not be responsible for any (i) service interruptions of or (ii) corruption or damages to the Client's or third party's information systems, and the information and data contained therein, including but not limited to denial of access, and automatic shut-down of information systems caused by or resulting from Grant Thornton's performance of the Services.

- 9 Privacy. Grant Thornton is committed to protecting personal information. Grant Thornton will maintain such information in confidence in accordance with professional standards and governing laws. Therefore, any personal information provided to us by the Client will be kept confidential and not disclosed to any third party unless expressly permitted by the Client or required by law, regulation, legal process, or professional standards. Client will not provide any personal information unless necessary for Grant Thornton to perform the Services. Client will anonymize, mask, obfuscate, and/or de-identify all personal information unless Grant Thornton requires it to provide the Services. Specifically the Client is responsible for obtaining, pursuant to law or regulation, consents from parties that provided the Client with their personal information, which will be obtained, used, and disclosed by Grant Thornton for its required purposes. Grant Thornton shall not use the name of the County in any advertisement without the written consent of the Town. Notwithstanding the foregoing, Grant Thornton is authorized to disclose and use County name, industry and a general description of the services provided in proposals, presentations, biographies or similar communications.
- 10 Management Representations. Our findings, conclusions, and recommendations are limited solely to the matters for which we were engaged. No conclusions should be inferred as to any matters not specifically covered in the Agreement. Further, the findings, conclusions, and recommendations are based upon the facts and information presented by you and may be inapplicable if the actual facts differ from those presented in any respect.

You represent that we may rely on the following, to the extent applicable, without verification:



- a) All original documents, signatures and copies of documents provided by you, a third party at your request, or your agents are authentic.
- b) When only drafts of pertinent documents are available, the executed versions of the draft documents will not vary materially from the ones provided by you, a third party at your request, or your agents for examination.
- c) There are no inconsistent or adverse facts that are not otherwise provided by you, a third party at your request, or your agents and not apparent from the face of the documents that we have relied upon.
- d) All legal documents necessary to perform the Services have been duly and validly authorized, approved and executed by the appropriate persons.
- e) To the extent that you provide us with reports from licensed environmental engineers or other licensed professional service providers, you authorize us to rely upon such reports in performing our Services.

With respect to (a) – (e) above, you hereby agree not to sue the Grant Thornton Firm and hereby release the Grant Thornton Firm from all claims, whether known or unknown, liability, damages, fees, expenses and costs (including defense costs) relating to the Services that arise or relate to any information provided by you, your personnel or agents, that is false, misleading, incomplete, or not current.

11 Standards of Performance. We will perform our Services in conformity with the terms expressly set forth in each Statement of Work, including all applicable professional standards. Accordingly, our Services shall be evaluated solely on our substantial conformance with such terms and standards expressly set forth in the Statement of Work and applicable law.

12 Dispute resolution.

- a) Mediation. Any controversy or claim arising out of or relating to the Services, related fees, or this Agreement shall first be submitted to mediation. A mediator will be selected by agreement of the parties, or if the parties cannot agree, a mediator acceptable to all parties will be appointed by the American Arbitration Association (“AAA”). The mediation will proceed in accordance with the customary practice of mediation and shall be concluded within sixty (60) days from receipt of written notice unless the parties agree otherwise. Any facts disclosed related to the mediation shall be kept confidential and each side shall pay its own costs of the mediation but will share equally the mediator’s expenses.
- b) Arbitration. In the event mediation is not successful, then the parties agree that the dispute(s) or claim(s) shall be settled by binding arbitration. The provisions herein supersede any contrary arbitral rules that might otherwise apply. The arbitration proceeding shall take place in the city in which the Grant Thornton office providing the Services is located unless the parties mutually agree to a different location. If the Services that are at issue are provided from various Grant Thornton offices, the arbitration will take place in Chicago, Illinois. The proceeding shall be governed by the provisions of the Federal Arbitration Act (“FAA”) and will proceed in accordance with the then current Conflict Prevention & Resolution (“CPR”) or the similar rules of another arbitration association if one other than CPR is selected, except that pre-hearing discovery shall be limited as provided for herein or unless specifically authorized by the arbitrators.
  - i To begin the arbitration process, a party shall provide written notice of the issues to be resolved by arbitration (the “Notice”) within fifteen (15) days of the parties’ agreement to terminate or waive mediation, and the other party shall respond within twenty one (21) days and shall add any other issues to be resolved within the arbitration. The arbitrators shall only resolve those issues identified in the Notice, and issues that are not identified in the Notice shall not be arbitrated nor brought to court.
  - ii The arbitration shall be conducted by three (3) arbitrators. Each party shall select an arbitrator experienced in the relevant subject matters within twenty one (21) days of the Notice who shall serve as a neutral arbitrator, and the two (2) designated arbitrators shall then select a third neutral arbitrator within twenty one (21) days of their selection by the parties. It is the parties’ intention that the two (2) arbitrators selected by the parties be “neutrals” who will not be informed as to which party selected them. If the two (2) arbitrators cannot agree on selection of a third arbitrator within twenty one (21) days of their appointment, the agency whose rules govern the arbitration shall request a list of arbitrators and select a third arbitrator under the agency’s rules within thirty (30) days. If both parties are in agreement, the dispute may be heard by one (1) arbitrator selected within sixty (60) days following receipt of the Notice.

- iii The parties shall not be entitled to discovery except as it directly relates to the underlying Services that are at issue between the parties and shall submit a joint proposed schedule to the arbitrator(s) within thirty (30) days of the arbitrator(s)' selection. Other than described herein, no other discovery is allowed except by the arbitrator(s) and only for good cause shown.
- iv Except for impeachment-only information, each party must disclose within thirty (30) days after the selection of the arbitrator(s): (1) the names, addresses, telephone numbers, and email addresses of persons who have knowledge and/or discoverable information relating to the issues submitted for resolution, its claims and defenses; and (2) a computation showing each element of claimed damages.
- v The parties shall be entitled to take three (3) depositions not to exceed seven (7) hours for each such deposition. In addition, each side shall be entitled to depose any expert witness who will testify in the arbitration proceeding for no more than seven (7) hours. Each testifying expert shall provide the same materials required under Federal Rule of Civil Procedure 26(a)(2)(B). The parties must confer in good faith to resolve all discovery disputes. If they cannot resolve these themselves, the parties must attempt to do so in conference with the arbitrator(s). If the dispute is not resolved in conference, the arbitrator(s) must promptly rule on the issues. Each side may file dispositive motions without obtaining leave from the arbitrator(s), but must first confer with the other side prior to filing any dispositive motions. All motions should be filed no later than sixty (60) days prior to the arbitration hearing, unless agreed otherwise by the parties or ordered by the arbitrator(s).
- vi The arbitrator(s) shall have no authority to award non-monetary equitable relief and will not have the right to award indirect, consequential, or punitive damages. The award of the arbitration shall be in writing and shall be accompanied by a well-reasoned opinion. The award issued by the arbitrator(s) may be confirmed in a judgment by any federal or state court of competent jurisdiction. Each party shall be responsible for its own costs associated with the arbitration, except that the costs of the arbitrator(s) shall be equally divided by each side involved in the arbitration. The arbitration proceeding and all information disclosed during the arbitration shall be maintained as confidential, except as may be required to confirm the award, for disclosure to professional or regulatory bodies, as required by law or a court of law, or in a related confidential mediation or arbitration.

### 13 General.

- a) Neither party shall assign any rights, obligations or claims relating to this Agreement.
- b) Neither party shall be liable for any delay or failure in performance due to circumstances beyond its reasonable control.
- c) Except for GTIL member firms and other Grant Thornton affiliates, no third-party beneficiaries are intended under this Agreement.
- d) Neither party shall use the other's name, service marks, or trademarks without prior written consent.
- e) This Agreement, including its formation and the parties' respective rights and duties and all disputes that might arise from or in connection with this Agreement or its subject matter, shall be governed by and construed in accordance with the laws of Delaware, without giving effect to conflicts of laws rules. Each party is an independent contractor with respect to the other and shall not be construed as having an employee/employer, trustee, joint venture, agency or fiduciary relationship.
- f) If any portion of this Agreement is held invalid, it is agreed that such invalidity shall not affect any of the remaining portions. If because of a change in the Client's status or due to any other reason, any provision in this Agreement would be prohibited by laws, regulations, or published interpretations by governmental bodies, commissions, state boards of accountancy, or other regulatory agencies, such provision shall, to that extent, be of no further force and effect, and the Agreement shall consist of the remaining portions.
- g) This Agreement, including any other incorporated attachments, sets forth the entire understanding between and among the parties regarding the Services and the exchange of information and supersedes all prior and contemporaneous agreements (whether written or oral), arrangements and communications and may not be modified or amended, except by the mutual written agreement of both parties that references and is incorporated into this Agreement. No "click-through," "shrink-wrap," "browse-wrap", similar agreements or other terms, whether before, on, or after the date of this Agreement, will be effective to add to or modify the

terms of this Agreement or alter the relationship of the parties, regardless of any party's (or its personnel's) acceptance of or agreement to such terms by electronic or other means.

- h) The clauses regarding liability limitations, third party proceedings, indemnification, resolution of differences and any such terms that by their nature should survive shall survive any termination of this Agreement.

#### 14 Personnel.

- a) Client acknowledges that hiring Grant Thornton (or GTIL) personnel participating on an engagement may be perceived as compromising our objectivity, and if applicable, impairing our independence. Accordingly, prior to entering into any employment discussions with such personnel, you agree to discuss the potential employment, including any applicable independence ramifications, with the engagement partner responsible for the Services.

#### 17. Insurance Terms

##### *Workers' Compensation & Employer's Liability Insurance*

Vendor shall purchase and keep in force and effect workers' compensation insurance that will provide the applicable statutory benefits for all of the vendor's employees who may or do suffer covered injuries or diseases while involved in the performance of their work for the Vendor; and, even if permitted to do so by statute, Vendor shall not reject any workers' compensation insurance option that, in the absence of such a rejection, would be applicable to any of the said employees. The policy providing the workers' compensation insurance shall include: (1) broad form all-states coverage; (2) an endorsement that specifically waives any subrogation rights the insurer would otherwise have against The Town of Elsmere, its officials or employees.

Vendor shall purchase, and keep in force and effect, Employer's Liability insurance with maximum limits for each employee of \$1,000,000 for each bodily injury by accident, or occupational disease, and \$1,000,000 aggregate maximum limits for all bodily injuries by accidents and occupational diseases within the coverage period, regardless of the number of employees who may sustain bodily injuries by accident or occupational disease.

##### *Automobile and General Liability Insurance*

Vendor shall purchase: (1) motor vehicle liability coverage, for hired and non-owned vehicles, covering any and all claims for bodily injury and property damage that arise out of Vendor's performance of work for The Town of Elsmere, (2) comprehensive Commercial General Liability (CGL) insurance with limits of \$1,000,000 each occurrence and \$2,000,000 annual aggregate. The CGL policy shall be extended by endorsement or otherwise to also include (a) coverage for Contractual Liability assumed by Vendor, with defense provided in addition to and separate from policy limits for indemnities of the named insured, (b) coverage for Independent Contractor Liability providing coverage in connection with such portion of the Services being subcontracted prior to any of the Services being subcontracted, in accordance with the terms and conditions of this Agreement, (c) coverage for Broad Form Property Damage Liability, (d) coverage for Personal Injury and Advertisers Liability, (e) products and completed operations.

##### *(X) Professional Liability Insurance (applicable if checked)*

Each vendor of professional services for whom this provision is applicable shall provide professional liability insurance with limits of \$1,000,000 per claim and \$3,000,000 annual aggregate.

All insurance required under this contract except workers' compensation, employer's liability, and professional liability (if applicable) shall be provided on a policy(s) that specifically names The Town of Elsmere, its officials and employees as additional insured.



Vendor shall give The Town of Elsmere at least thirty (30) days' advance written notice of the insurer's intention to cancel, refuse to renew, or otherwise terminate the policy, suspend or terminate any coverage under the policy,.

Each policy shall be written by a carrier licensed by the State of Delaware to do insurance business of the type involved in the State of Delaware, and which has, and maintains for the life of this contract, at least an "A" rating from the A.M. Best Agency with "Stable" outlook.

Any change in this rating or outlook must be related to The Town of Elsmere by the Vendor or insurance carrier as soon as possible upon learning of same, and the Vendor shall use due diligence with its insurance broker or carrier to keep track of same.

All insurance required under this contract except workers' compensation, employer's liability and professional liability shall expressly provide that such insurance shall be primary insurance, and any similar insurance in the name of Vendor shall be excess and non-contributing.