

**GOVERNOR'S AGRICULTURE & FORESTRY INDUSTRIES DEVELOPMENT
FUND - BLUE CATFISH PROCESSING, FLASH FREEZING, AND
INFRASTRUCTURE GRANT PROGRAM**

GRANT AND PERFORMANCE AGREEMENT

This **GRANT AND PERFORMANCE AGREEMENT** (the "Agreement") effective as of the date it is fully executed by both the Parties (the "Effective Date"), by and among the **VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES** (the "Agency"), an agency of the Commonwealth of Virginia; the **CITY OF HAMPTON, VIRGINIA** (the "City"), a political subdivision of the Commonwealth of Virginia; the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF HAMPTON, VIRGINIA** (the "Authority"), a political subdivision of the Commonwealth of Virginia; and **L.D. AMORY AND COMPANY, INCORPORATED** (the "Company"), a Virginia stock corporation authorized to transact business in the Commonwealth (collectively, the Agency, City, Authority, and Company, the "Parties").

RECITALS:

WHEREAS, the City has been awarded a grant of and expects to receive \$247,038 from the Governor's Agriculture & Forestry Industries Development Fund – Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program (the "Blue Catfish Grant"), through the Agency, for the purpose of supporting the Company's implementation of a modern quick freezer and essential packing equipment that will allow the Company to increase processing capacity at its facility located in the City;

WHEREAS, the City shall disburse the Blue Catfish Grant funds to the Authority and the Authority shall disburse the Blue Catfish Grant funds to the Company to support its implementation of a modern quick freezer and essential packing equipment, provided that the Company promises to meet certain grant and performance requirements, as furthered detailed in this Agreement; and

WHEREAS, the Parties desire to set forth their understanding and agreement as to the grant and performance requirements associated with the Blue Catfish Grant Funds.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows.

Section 1. Approved Workplan; Modifications

The Company shall be responsible for developing and delivering those actions and results as described in Section VI Work Plan (the "Approved Workplan") in Exhibit A: Grant Application, which is attached hereto and made a part hereof. There shall be no modifications to the Approved Workplan without the prior written approval of the Agency. To receive such approval, the Company, in coordination with the City and the Authority, must submit a written request to modify the Approved Workplan to the Agency. The written request shall include a justification for the Approved Workplan modification, a description of the modifications proposed, and any budget revisions, if applicable.

Section 2. Period of Performance

The period of performance shall be from November 1, 2024 to October 31, 2026, unless a written request for an extension is submitted to and approved by the Agency. The Agency shall not provide reimbursement for any expenses incurred after October 31, 2026, unless agreed to in writing by the Parties.

Section 3. Disbursement of Blue Catfish Grant Funds

The Agency shall provide a total of up to \$247,038 in reimbursement expenses, as further detailed in Exhibit B: Project Budget, which is attached hereto and made a part hereof. Reimbursements shall be made as follows:

- (a) Seventy-five percent (75%) of the Blue Catfish Grant funds, or \$185,278.50, shall be reimbursed upon the Agency's receipt from the Company of a valid, complete invoice in the form of Exhibit C: Invoice Template, which is attached hereto and made a part hereof. The completeness and validity of any invoices shall be in the sole discretion of the Agency, though the Agency must provide notice to the Company of the reasons for incompleteness or invalidity in writing within 30 days of receipt of the invoice by the Company. The Company may, one time only, resubmit amended invoices within 30 days of receipt of notice from the Agency citing the reasons for incompleteness or invalidity. The Company's invoice must include a description as to how the expenditures submitted for reimbursement are related to the Approved Workplan. Payment by the Agency shall be made to the City within 30 days of Agency's approval of the Company's invoice. Within 30 days of receipt of such amount, the City shall disburse such Agency payment to the Authority; and within 30 days of receipt of such amount, the Authority shall disburse such Agency payment to the Company.
- (b) The remaining twenty-five percent (25%) of the Blue Catfish Grant funds, or \$61,759.50, shall be reimbursed upon the Agency's receipt from the Company of a valid, complete final report and budget close-out form, as further described in Section 6(b). The completeness and validity of the final report and budget close-out form shall be in the sole discretion of the Agency, though the Agency must provide notice to the Company of the reasons for incompleteness or invalidity in writing within 30 days of receipt of the invoice by the Company. The Company may, one time only, resubmit an amended final report and budget close-out form within 30 days of receipt of notice from the Agency citing the reasons for incompleteness or invalidity. Payment by the Agency shall be made to the City within 30 days of Agency's approval of the Company's invoice. Within 30 days of receipt of such amount, the City shall disburse such Agency payment to the Authority; and within 30 days of receipt of such amount, the Authority shall disburse such Agency payment to the Company.

As stated in the Blue Catfish Processing, Flash Freezing, and Infrastructure Grant Program Guidelines, which are incorporated herein by reference, should the Agency determine that the Company failed to substantially complete the Approved Workplan, the Company shall repay to the Agency the portion of Blue Catfish Grant funds requested by the Agency.

The Agency reserves the right, upon written notice to the City, Authority, and Company, to withhold future payments after a specified date if the Company fails to comply with any of the conditions of this Agreement. Agency also reserves the right, at Agency's discretion, to withhold payment until the Company submits additional documentation evidencing how the expenditures submitted relate to the Approved Workplan.

Section 4. Audit Requirements

The City, Authority, and Company agree to retain all books, records, data and other documents relative to this Agreement for a period of five (5) years after the end of this Agreement, or until audited by the Commonwealth of Virginia, whichever is sooner. The City, Authority, and Company further agree that the Agency and its authorized agents, and/or state auditors (both the Auditor of Public Accounts and/or the Agency's Internal Auditor) shall have full access to and the right to examine any of said materials and records relating to this Agreement during this period.

Section 5. Site Visits

The Agency and/or its authorized representatives shall have the right, at all reasonable times, to make site visits to review progress and management control systems, and to provide technical assistance as may be required.

Section 6. Company Reporting.

(a) *Interim Report.* The Company shall provide, at the Company's expense, in the form provided in Exhibit D: Interim Report Form, which is attached hereto and made a part hereof, a detailed interim report satisfactory to the City, Authority, and Agency. The interim report is due no later than October 31, 2025.

(b) *Final Report and Budget Close-Out.* The Company shall provide, at the Company's expense, in the form provided in Exhibit E: Final Report and Budget Close-Out Form, which is attached hereto and made a part hereof, a detailed final report and budget close-out form satisfactory to the City, Authority, and Agency. The final report and budget close-out form are due no later than November 30, 2026.

Section 7. Notices.

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

if to Agency, to:

with a copy to:

Attention: _____

Attention: _____

if to City, to:

with a copy to:

City of Hampton, Virginia
22 Lincoln Street, 8th Floor
Hampton, Virginia 23669
Attention: City Manager

Office of the City Attorney
22 Lincoln Street, 8th Floor
Hampton, Virginia 23669
Attention: City Attorney

Department of Economic Development
1 Franklin Street, Suite 600
Hampton, Virginia 23669
Attention: Director

if to Authority, to:

with a copy to:

Economic Development Authority of
the City of Hampton, Virginia
1 Franklin Street, Suite 600
Hampton, Virginia 23669
Attention: Chair

Office of the City Attorney
22 Lincoln Street, 8th Floor
Hampton, Virginia 23669
Attention: City Attorney

Department of Economic Development
1 Franklin Street, Suite 600
Hampton, Virginia 23669
Attention: Director

if to the Company, to:

with a copy to:

Meade Amory
L. D. Amory Co Inc
101 South King St
Hampton Va 23669
Attention: *Meade*

L. D. Amory Co Inc
101 South King St
Hampton Va 23669
Attention: *Tracy*

Section 8. Miscellaneous.

(a) *Compliance with Laws:* The Company agrees to comply with all federal, state, and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of its obligation under this Agreement and in the operation of its business, including, but not limited to, the timely payment of any and all taxes and fees due for any purpose. In addition, the Company, whether organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, shall be at all times authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity. The Company shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth of Virginia to be revoked or cancelled at any time during the term of the Agreement.

(b) *Cancellation of Agreement:* Agency reserves the right, upon written notice to City, Authority, and Company to terminate the Agreement at any time if Agency determines that Company failed to comply with any of the conditions of this Agreement. Termination of the Agreement by City, Authority, and/or Company may occur, but only upon submittal of a written request for termination by City, Authority, and/or Company, and approval of such termination by Agency.

(c) *Entire Agreement; Amendments; Assignment:* This Agreement constitutes the entire agreement among the Parties hereto as to the Blue Catfish Grant and may not be amended or modified, except in writing, signed by each of the Parties hereto. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Agency, City, and Authority.

(c) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Hampton, Virginia and such litigation shall be brought only in such court.

(d) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(e) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(f) *Attorney's Fees:* Attorney's fees shall be paid by the party incurring such fees.

(g) *Force Majeure:* Notwithstanding the foregoing provisions of this Agreement, if the Company does not complete the Approved Workplan or take any action required under this Agreement because of an "Event of Force Majeure" (as defined below), the time for achieving the applicable item or taking such action shall be extended day-for-day by the delay in meeting the applicable item or taking such action caused by the Event of Force Majeure. "Event of Force Majeure"

means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

[SIGNATURES ON THE FOLLOWING PAGE.]

WITNESS, the following signatures:

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

By _____
Name: _____
Title: _____
Date: _____

CITY OF HAMPTON, VIRGINIA

By _____
Name: _____
Title: _____
Date: _____

Approved as to form & legal sufficiency:

City Attorney's Office

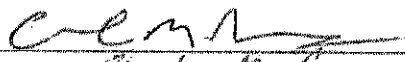
**ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF HAMPTON,
VIRGINIA**

By _____
Name: _____
Title: _____
Date: _____

Approved as to form & legal sufficiency:

Counsel for the EDA

L.D. AMORY AND COMPANY, INCORPORATED

By 
Name: Charles M. Amory
Title: V.P.
Date: 1-2-25