

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MARYLAND DEPARTMENT OF THE ENVIRONMENT
AND THE MARYLAND DEPARTMENT OF NATURAL RESOURCES**

THIS MEMORANDUM OF UNDERSTANDING (MOU or Agreement) is entered into by the Maryland Department of the Environment (MDE) and the Maryland Department of Natural Resources (MDNR), both agencies of the State of Maryland, to carry out portions of the October 29, 2019 Conowingo Dam Water Quality Settlement Agreement between the State of Maryland, Department of Environment and Exelon Generation Company, LLC, (“Settlement Agreement”) and certain conditions of FERC License P-405, dated March 19, 2021.

WHEREAS: In connection with the re-licensing of the Conowingo Hydroelectric Dam, Exelon has agreed to support MDE’s efforts to undertake a significant mussel restoration initiative by (i) providing \$4.5 million in funding during the first three years after the effective date of the new license to assist with the cost of constructing the hatchery and developing the restoration program; and (ii) \$250,000 per year thereafter for the remainder of the term of the new license, to support the operation and maintenance costs of the mussel restoration initiative; and

WHEREAS: Pursuant to § 9-320 of the Environment Article of the Annotated Code of Maryland, the Department has the authority to receive such funds into the Maryland Clean Water Fund and may use those funds for activities that are related to the management, conservation, protection, and preservation of the State’s groundwater and surface water including program development of these activities as provided by the State budget; and

WHEREAS: Freshwater mussels provide important ecosystem services, including filtration and transformation of sediment and nutrient pollution. This mussel restoration initiative partially funded by Exelon through the Settlement Agreement is needed to re-establish populations of freshwater mussels including eastern elliptio, the most common and widespread species in the Mid-Atlantic Region, in the lower Susquehanna River and other suitable areas on a limited basis as provided for in this Agreement; and

WHEREAS: Exelon Generation Company, LLC will make payments to the MDE Clean Water Fund to provide for construction of a mussel hatchery and 47 years of support for hatchery and stocking operations; and

WHEREAS: MDE, recognizing that MDNR has the knowledge, expertise, and resources to construct, operate, and maintain aquatic animal propagation facilities and to conduct aquatic species conservation and enhancement activities, will compensate MDNR on a fixed price or cost reimbursement basis to carry out the activities under this Agreement; and

WHEREAS: MDE recognizes that partnerships with other organizations and bringing expertise from other academic and nonprofit organizations to collaborate with MDNR will increase the probability of a successful long-term effort to restore freshwater mussels to the ecosystem; and

WHEREAS: MDNR has agreed to perform hatchery construction and mussel restoration for the State (the “Project”) in accordance with the terms and conditions of this MOU and to

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actively seek partners and to collaborate with relevant academic and nonprofit organizations with expertise in freshwater mussel biology; and

NOW THEREFORE: MDE and MDNR agree as follows:

ARTICLE I - DURATION/TERM

The term of this Agreement shall be from January 1, 2022 through June 30, 2027. The parties agree that this Agreement will be effective as of January 1, 2022, and expenses incurred on or after that date through June 30, 2027 will be reimbursable, upon execution by all parties.

Beginning June 30, 2027 and every five years thereafter, the parties intend to develop and execute a new Agreement for the duration of the fifty-year Project term.

ARTICLE II - SOURCE AND LEVEL OF FUNDING

A. Funding Level. The level of funding for MDNR to perform approved tasks pursuant to this Agreement shall not exceed five million dollars (\$5,000,000.00) for a five-year period. Certain payments to MDNR shall be adjusted for inflation in accordance with Section 2.7 of the terms of the Settlement Agreement.

B. MDE shall compensate MDNR for the satisfactory performance of any approved task related to the Project as determined by MDE for which MDE approves a task order as set forth in Article IV and in accordance with a budget, which MDNR shall submit to MDE for approval prior to commencement task. The budget amount for each task shall be as specified in each individual task order, which shall reference this Agreement and shall be either a FIXED PRICE or COST REIMBURSEMENT budget, whichever is appropriate for the task.

C. Fixed Price. When MDNR submits a proposal for a task with a fixed price budget, the parties shall agree in writing to the fixed price for each deliverable and/or task prior to the commencement of the task as set forth in Article IV.

D. Cost Reimbursement. For each task that is not suitable for a fixed price arrangement, the parties shall agree in writing to a cost reimbursement arrangement, with a not to exceed amount for each such task, prior to the commencement of the task as set forth in Article IV.

ARTICLE III - METHOD OF PAYMENT

During the Term of this Agreement, MDE shall pay MDNR after receipt of an invoice as follows:

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A. Fixed Price. MDNR shall send MDE an invoice for the fixed price of each deliverable or task upon completion. MDNR shall include with the invoice all relevant deliverables and reports that document the completion of the task.

B. Cost Reimbursement. MDNR shall send MDE an invoice, with all relevant receipts, reports, and documentation. MDNR shall submit quarterly invoice packages to MDE that are itemized and detailed for all work performed and costs incurred by MDNR in connection with each cost reimbursement task.

These invoices shall be received within thirty (30) days of the last day of the invoiced quarter. The total invoiced amount for each task shall not exceed the amount approved by MDE for the task, unless authorized in writing in advance by both parties and in accordance with Article V.

C. For each invoice submitted, MDNR shall include the following:

1. A cover letter, which includes:

- a. MDE's Blanket Purchase Order Number;
- b. MDE's Purchase Order Number;
- c. MDNR's Invoice Number;
- d. Task Order Number; and
- e. Identification and/or description of each task or project deliverable for which MDE is being invoiced.

2. A dated original and remittance invoice, with MDNR's federal tax ID number, which is 52-6002033, its DUNS# 0334253850000, the date the invoice was generated, the task order, and MDE's purchase order number.

3. Information necessary for MDE to complete an MDE Invoice Certification Form, if necessary.

4. If subcontractors are used, copies of subcontractors' invoices that itemize and detail all costs incurred for subcontractor services.

5. Each fixed price invoice will be broken down to identify specific milestones and/or deliverables as set forth in an approved task order.

6. If compensation to MDNR is based on a cost reimbursement, then if requested by MDE MDNR shall supply copies of MDNR personnel time reports and any other appropriate documentation supporting MDNR's request for cost reimbursement. This documentation, including the personnel time reports, shall be kept at MDNR but be available to MDE at

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all reasonable times and is subject to spot audits by MDE as specified in Article XI.A of this Agreement.

D. All invoices shall be sent to:

Accounts Payable
Fiscal Services Division
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230
mde.ap@maryland.gov
david.seaborn@maryland.gov

E. Payments to MDNR shall be made in accordance with the terms of the Agreement. Charges for late payment are prohibited. MDE reserves the right to withhold payment for any invoice that is submitted for work that was not adequately performed, or any invoice containing a discrepancy or inconsistency in the billing amount.

F. In the event that MDE disputes a portion of the invoice, it will pay that portion of the invoice that is not in dispute within the 30-day period following receipt of the invoice. In the event MDE withholds payment of any invoice, invoiced item, or billing amount, or portion thereof, MDE shall provide MDNR with a written Notice of Defect describing the reason payment of the invoice, invoiced item, or billing amount is being withheld. MDNR shall have 10 days to correct the problem or respond to the Notice of Defect. Any disputes will be resolved in accordance with Article XVI of this Agreement. After the dispute has been resolved, MDNR may submit a new invoice for the disputed amount or include the disputed amount on the invoice for the next billing cycle for payment within 30-days. The revised invoice shall be issued as a new invoice and MDNR shall cancel the original invoice.

G. All payments for fixed price deliverables are contingent upon receipt and approval by MDE that the deliverables due at the time the payment is to be made have been satisfactorily completed. MDE shall withhold 10% of the payment for each deliverable until MDE's project officer determines that all the deliverables related to the invoice are received and approved.

ARTICLE IV - SCOPE OF WORK

A. Work pursuant to this Agreement, up to the Funding Level set forth in Article II, will be handled on an individual task basis. MDNR shall engage in activities related to the Project. Specifically, each task to be performed under this Agreement shall involve one or more of the following activities in support of the mussel restoration activities:

1. Mussel hatchery design and construction.
2. Development and implementation of mussel site restoration plans that include site-specific stocking goals and monitoring designs, which incorporate production.

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3. Mobile mussel propagation trailer design, construction, and operation.
4. Research and conduct alternative propagation and culture techniques in the Susquehanna River and its tributaries (e.g., cage propagation and culture, streamside infestations, and *in vitro* metamorphosis).
5. Developing propagation plans for years 6-10 to meet restoration plan stocking goals with input from appropriate partners.
6. Measuring survival and growth of produced and stocked mussels in accordance with the monitoring proposed in mussel site restoration plans.
7. Quarterly and annual reports.
8. Conducting outreach, soliciting input, and seeking active partners for mussel propagation, culture, and monitoring to support the mussel restoration effort for the Susquehanna River and its tributaries.

B. For any work request by MDE under the activities set forth above, MDNR shall prepare, and submit to MDE for approval, a task order with a scope of work that describes the deliverables and/or tasks to be completed, including but not limited to methodology, timeline, and a budget based on the deliverables and/or timelines and associated costs. Upon acceptance of the task order by MDE, MDNR will complete the work requested. Each final approved task order shall be attached hereto and incorporated herein as an addendum to this Agreement.

C. MDNR is not authorized to initiate work on a task order until: (i) MDE has approved the task order as set forth under Article IV.B. and (ii) a Purchase Order is issued to MDNR in writing.

ARTICLE V - TASK ORDER CHANGES

Upon written notice, one party may request additions or changes to a task order, including the scope of work provided the additions or changes do not result in an increase in the Funding Level as set forth in Article II of this Agreement. All additions or changes to a task order shall be documented in writing, signed, and dated by the authorized representative of MDE and MDNR.

ARTICLE VI - IMPLEMENTATION

A. MDNR Responsibilities.

1. MDNR shall include in each task order required in Article IV.B, at a minimum, the following:
 - a. A scope of work having one or more tasks to be performed; a project schedule; and milestones and deliverables.
 - b. A budget with cost proposals, including but not limited to a budget for each task identified in the scope of work and associated deliverables.

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- c. A fee schedule, which will include a fee schedule for services and any supplemental services provided.
 - d. A schedule of deliverables.
 - e. In the event MDE provides an agreed upon fixed set of specifically defined requirements with an expressly limited fixed and articulated list of tasks, subtasks, and deliverables, the budget shall be based on a fixed price for each task or deliverable.
 - f. A complete breakdown of costs to support a fixed price budget, when applicable. The budget shall include a list of all MDNR personnel that will work on the project, the actual or estimated hours each MDNR personnel will devote to each task and their hourly rate, and all costs associated with the task or sub-task, including all costs for subcontractor work and the general work duties to be performed by the subcontractor.
 - g. A payroll roster identifying all job classifications and labor rates that may be used in completing the scope of work.
2. Prior to MDE's acceptance of a task order, MDNR shall acknowledge and incorporate, as agreed and as appropriate, any MDE comments for each proposal. MDNR may agree to modify the proposal, including but not limited to the scope of work, tasks, budgets, schedules, costs, billable rates, and deliverables, as warranted by changes in MDE's requirements. Following the acceptance, in writing, of a task order any revisions shall be explained in writing and must be approved by both MDNR and MDE as set forth in Article V of this Agreement and attached as an amendment to the task order before any work is commenced or charges incurred.
3. MDNR shall not incur expenditures in excess of the budget within an approved task order, as that budget is determined prior to commencement of the task and relative to the Funding Level as set forth in Article II of this Agreement, without prior written approval from the authorized representative within MDE in accordance with Article V of this Agreement.
4. In accordance with Article V of this Agreement, MDNR shall request any potential revisions to a task or deliverable item in writing. The revised proposal shall consist of:
- a. A written request that indicates that a revision is being submitted, the revision number (i.e., 1st, 2nd, 3rd, etc.), and the date of submission to MDE; and
 - b. A description of the revision. The original approved task order shall remain in effect until MDE approves, in writing, the requested revision.

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5. MDNR shall maintain all original financial documents related to each task for five years. This includes, but is not limited to:

- a. All time sheets of each MDNR employee or other person who provided any services in connection with the task(s).
- b. All documents related to requests for proposals or competitive bids solicited by MDNR in connection with the task(s).
- c. All documents relating to the rental or purchase of any equipment or materials used on the task(s).
- d. All daily logs and reports.
- e. All invoices, receipts, bills of lading, disbursement records, and any other documents generated by MDNR or any subcontractor or received by MDNR from any subcontractor whose services are retained in connection with the task(s).

B. MDE responsibilities.

1. MDE shall work with MDNR to issue task orders under this Agreement.
2. MDE shall provide an adequate agreed upon fixed set of specifically defined requirements with an expressly limited fixed and articulated list of tasks, subtasks, and deliverables, for which MDNR may generate a proposed task order.
3. MDE shall make readily available and provide to MDNR, any digital or paper documentation, including files, databases and metadata, and any other information MDE may have available so that all factors can be considered in the evaluation and development of any task orders requested pursuant to this Agreement.
4. MDE shall review, comment in writing upon, and subsequently approve or disapprove each task order submitted by MDNR within 30 days of MDE's receipt. MDE may request that MDNR revise its proposal, including but not limited to the scope of work, tasks, budgets, schedules, costs, billable rates, and deliverables as warranted by changes in MDE's requirements. Any revisions shall be explained in writing, in advance, and must be approved by both MDNR and MDE.
5. MDE shall secure funding for each task order approved by MDE prior to MDNR commencing on the project or task.

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6. MDE shall notify MDNR within 10 business days of learning that sufficient funds are not available to continue an approved task order. MDE may terminate this Agreement pursuant to Article XX.

7. MDE shall review, comment upon in writing, and subsequently approve or disapprove each deliverable, including but not limited to budgets, schedules, reports, status reports, and proposals. MDNR will acknowledge and incorporate, as appropriate, MDE's comments for each deliverable. MDNR and MDE may agree to revise deliverables, including but not limited to budgets, schedules, scopes of work, and reports, as warranted by changes in the task requirements. Revisions shall be explained in writing and must be approved by MDNR and MDE as set forth in Article V of this Agreement.

8. MDE shall set the priority of simultaneous tasks being performed by MDNR under this Agreement.

ARTICLE VII - ENTIRE AGREEMENT/AMENDMENTS

This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter of this Agreement, other than those contained herein or incorporated herein by reference. The Agreement may only be amended in writing by mutual consent of both parties.

ARTICLE VIII - CONFIDENTIALITY

To the extent permitted by law, MDNR agrees to ensure that its employees, agents, and subcontractors maintain, as confidential, all MDE confidential files, data, and information. This provision does not apply to information that is already in the public domain.

ARTICLE IX - WARRANTY

MDNR agrees that all work under this MOU shall be performed continuously, diligently, and by qualified personnel in a professional and efficient manner. MDNR agrees that all work shall be of good quality.

ARTICLE X - FORCE MAJEURE

MDNR shall not be liable for any failure to perform as required by this MOU, to the extent such failure to perform is caused by or due to circumstances reasonably beyond MDNR's control.

ARTICLE XI - RETENTION OF RECORDS-AUDITS

A. MDE shall have the right, at any time during usual business hours, to examine and

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audit MDNR records that MDE deems necessary or advisable to verify invoices submitted pursuant to the Agreement. This audit may be conducted in person or through a request that the records be forwarded to MDE for verification. MDNR and its contractor(s) or subcontractor(s) shall retain and maintain all records and documents relating to the services performed under the Agreement, for a minimum period of five years after MDE conducts a close out of the MOU.

B. If the results of the final audit indicate overpayment of funds by MDE, then MDNR will provide immediate reimbursement to MDE. In the event that the final audit indicates underpayment of funds under the terms of this agreement by MDE, then MDE will immediately provide the funds owed to MDNR.

ARTICLE XII - ON-SITE INSPECTIONS

MDE shall have the right to conduct on-site visits related to the Project throughout the duration of the Agreement.

ARTICLE XIII - ANTI-DISCRIMINATION PROVISION

MDNR agrees:

- A. not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, gender, sex, sexual orientation, marital status, national origin, ancestry, or physical or mental impairment, unrelated in nature and extent so as reasonably to preclude the performance of such employment.
- B. to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials.
- C. to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment notices setting forth the substance of this clause.

ARTICLE XIV - LIABILITY FOR THIRD-PARTY CLAIMS

A. MDNR is and will be acting as an independent contractor in the performance of its work and other obligations under this MOU. MDE has no obligation for the payment of any judgments, or the settlement of any claims made against MDNR, its employees, agents, or subcontractors, if any, as a result of or relating to MDNR's work and other obligations under this Agreement.

B. MDE has no obligation to provide legal counsel or legal defense to MDNR, its employees, agents, or subcontractors, if any, in the event that a suit, claim, or action of any character is brought by any persons not party to this Agreement as a result of or relating to MDNR's work and other obligation under this Agreement.

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C. MDNR shall immediately give notice to MDE of any claim or suit made or filed against MDNR, its employees, agents, or subcontractors, if any, regarding any matter resulting from or relating to MDNR's work and other obligations under this Agreement.

D. MDNR shall cooperate, assist, and consult with MDE in the defense or investigation of any claim, suit, or action made or filed against MDE as a result of or relating to MDNR's work or other obligations under this Agreement.

ARTICLE XV - ASSURANCES

A. MDNR is responsible for procuring necessary goods and services and obtaining licenses and permits necessary to adhere to the requirements detailed in each scope of work.

B. MDNR agrees that any publicity or public outreach events in which it participates as a result of the Agreement shall be coordinated with MDE.

ARTICLE XVI - DISPUTES

If a dispute arises under this Agreement, each party shall appoint a representative to resolve the dispute. Both parties shall use best efforts to arrive at a final resolution of the dispute.

ARTICLE XVII - APPLICABLE LAW

The laws of the State of Maryland shall govern this MOU, and the parties hereby expressly agree that the courts of the State of Maryland shall have exclusive jurisdiction to decide any question arising hereunder.

ARTICLE XVIII - WAIVER

The failure of MDE to enforce any of the provisions of this Agreement or to exercise any option which is provided in this Agreement, or to perform any of the provisions of this Agreement shall not be construed as a waiver of such provisions, nor in any way affect the validity of this Agreement or any part of it, or the right of MDE to enforce every such provision.

ARTICLE XIX - SEVERABILITY

MDE and MDNR agree that if any of these provisions contravene or are held to be invalid under any applicable law, such provisions shall not invalidate this Agreement in its entirety, but the Agreement shall be construed as if not containing the particular provisions which have been so construed, and all remaining obligations of the parties shall remain in full effect to the maximum extent reasonable.

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ARTICLE XX - TERMINATION

The performance of work under this Agreement may be terminated by MDE upon 30 days written notice to MDNR and in accordance with this clause in whole, or from time to time, or in part whenever MDE shall determine that such termination is in the best interest of MDE. MDE will pay all reasonable costs associated with this Agreement that MDNR has incurred, including any non-cancelable costs, up to the date of termination of the Agreement or, in the event of insufficient funds, up to the notice of insufficient funds. However, MDNR shall not be reimbursed for anticipatory costs that have not been earned up to the date of termination. If, at the time of termination, funds have been provided to MDNR based on estimated costs for procurements to be secured and have not yet been encumbered or spent by MDNR in accordance with an approved task order as approved by MDE in Article IV.B., MDNR shall transfer any balance of funds back to MDE.

ARTICLE XXI - COMPLIANCE WITH LAWS

In providing services hereunder, MDNR shall always abide by all federal, state, and local statutes, ordinances, rules and regulations, including State procurement regulations.

ARTICLE XXII - INTELLECTUAL PROPERTY

Any data created as a result of projects stemming from this MOU shall be considered a deliverable under this Agreement. MDNR retains the right to use said data for research or educational purposes. MDNR will provide work products and deliverables to MDE according to the schedule and requirements described in any task order. MDNR hereby shares with MDE all of its rights, title, and interest (including intellectual property rights) to all such products created under this Agreement and will cooperate reasonably with MDE in effectuating and registering any necessary assignment.

ARTICLE XXIII - PROPERTY AND EQUIPMENT

A. Unless otherwise specified in writing, MDNR agrees that all reports, drawings, studies, estimates, maps, and computations prepared by or for it under the terms of the Agreement shall be delivered upon request to, and become the property of, the MDE upon termination or completion of the work.

B. Subject to the obligations and conditions set forth in this Agreement, title to equipment or personal property acquired with funds under this Agreement by MDNR will vest upon acquisition in MDNR. Title to real property will vest in MDNR.

C. Equipment.

1. MDNR shall maintain the equipment, and real and personal property, in good order, and shall employ adequate safeguards to prevent loss, damage, or theft of the property.

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2. For any item of real or personal property, including equipment, acquired with funds under this Agreement, which has an original per-unit fair market value of \$5,000 or more, MDNR shall, at its own expense, and for the duration of this Agreement, obtain and maintain insurance. The insurance shall provide full protection for MDNR and the State against loss, damage, or destruction of or to the property. MDNR shall, on request, provide MDE with satisfactory evidence of its compliance with this requirement. In case of loss, theft, or damage of the insured property, proceeds of insurance required by this paragraph shall be applied towards replacement of the property.
3. Unless otherwise agreed to in writing by MDE, equipment purchased by MDNR shall only be used by MDNR for the scope of work contained in the appropriate task order for which it was acquired. When equipment is otherwise idle, MDNR may use the equipment for non-Agreement purposes that benefit the State of Maryland with prior notice to an agreement from MDE.
4. When no longer needed for the project or work under this Agreement, the equipment may be used in other work or projects currently or previously supported by a State agency. MDNR may acquire replacement equipment, and may use the original equipment to be replaced as a trade-in to offset the cost of the replacement equipment, subject to the approval of MDE.
5. When no longer needed for the project or work under this Agreement or any other project currently or previously supported by a State agency, personal property and equipment, including replacement equipment, acquired under this Agreement with a current per-unit fair market value of less than \$5,000.00 may be retained, sold, or otherwise disposed of by MDNR.
6. When no longer needed for the project or work under this Agreement or any other project currently or previously supported by a State agency, equipment, including replacement equipment, acquired under this Agreement with a current per-unit fair market value of \$5,000.00 or more may be retained or sold. If sold, all proceeds from the sale shall be applied at the direction of MDE, in its sole discretion.

ARTICLE XXIV - CONTRACT REPRESENTATIVES

The following individuals are designated as contract representatives for their respective parties:

MDNR Technical Contacts:

Tony Prochaska, Director, Freshwater Fisheries and Hatcheries Division
Fishing and Boating Services
580 Taylor Ave., B-2
Annapolis, Maryland 21401
Phone: 410-375-5219
Email: tony.prochaska@maryland.gov

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Matt Ashton, Freshwater Mussel Assessment
Resource Assessment Service
580 Taylor Ave., C-2
Annapolis, Maryland 21401
Phone: (410) 260-8604
Email: matthew.ashton@maryland.gov

MDNR Administrative Contact:

James Hale, Fiscal and Management Services Division
Fishing and Boating Services
580 Taylor Avenue, B-2
Annapolis, MD 21401
Phone: (410) 279-9054
Email: james.hale@maryland.gov

MDE Contacts:

David Seaborn, Deputy Program Manager
Wetlands and Waterways
Water and Science Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230
Phone: (443) 621-1009
Email: david.seaborn@maryland.gov

Mieko Camp, Project Manager
Nontidal Wetlands Division
Water and Science Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230
Phone: (410) 537-3691
Email: mieko.camp@maryland.gov

MDE Fiscal Services Contact:

Antonia Jenkins, Program Manager
Operational Services and Administration
Water and Science Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230
Phone: 410-537-3720
Email: antonia.jenkins@maryland.gov

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ARTICLE XXV - CONTRACTING OF WORK

A. MDNR maintains the right to complete any work associated with the services requested by MDE that are described in an approved task order through the use of MDNR personnel, students, or contractors as appropriate and warranted.

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

C. MDNR may subcontract any portion of a task order with notice thereof to MDE, with the consent of MDE, but such consent will not be unreasonably withheld. Any subcontractor(s) shall, and MDNR shall require that any subcontractor(s) shall, provide to MDE upon request copies of any invoices, records, timesheets, work logs, contracts, or any other documents or information needed for MDE to comply with State reporting and audit requirements. Consent to subcontract, assign, or otherwise dispose of any portion of the Agreement shall not be construed to relieve MDNR of any responsibility for fulfilling all the requirements of the Agreement.

D. Any and all subcontractors retained by MDNR in the course of performance of this Agreement shall indemnify and save harmless and defend the State of Maryland to the extent allowable by law, MDE, MDNR, and all of their respective representatives from all suits, actions, or claims of any character, brought on account of any injuries or damage sustained by any person or property in consequence of any work performed under this Agreement, either by MDNR or MDE, or any subcontractor, or their respective employees, agents, or representatives. This responsibility is not to be deemed as a waiver of any immunity, which may exist in any action against MDE or MDNR.

ARTICLE XXVI - ELECTRONIC DELIVERABLES

MDNR will utilize paperless electronic deliverables to the maximum extent practical. In order to reduce the impacts of wastepaper on the environment, comply with current gubernatorial and Department of General Service's paper reduction initiatives, and support MDE's efforts to electronically organize administrative records, MDNR will submit deliverables in an appropriate electronic format to MDE. Deliverables, as defined here, include progress reports, work plans, data, financial accounting records, and metadata. MDNR may submit these electronic deliverables to MDE by a variety of means, including a secure file transfer protocol (FTP) website, email, shared drive, or a website dedicated to the interactive management of the program. The specific delivery mechanism for the electronic deliverables will be determined and approved by MDNR and MDE. At the special request of MDE, MDNR may submit hard paper copies of specific deliverables, but this should be avoided to the maximum extent practical.

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ARTICLE XXVII - COUNTERPARTS; ELECTRONIC SIGNATURES

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. **The parties agree that signatures provided by facsimile or other electronic means, e.g., and not by way of limitation, in Adobe PDF sent by electronic mail, shall be deemed to be original signatures.**

IN WITNESS WHEREOF, this Agreement represents the full intent and interest of the parties hereto as evidenced by their respective signatures affixed below as of the day and year hereinabove written.

STATE OF MARYLAND DEPARTMENT OF THE ENVIRONMENT

Date: 4/5/22

By: Denise M. Keehner
Print Name: Denise M. Keehner
Title: Asst. Secretary, MDE

Date: 4/5/2022

By: June Dwyer
Print Name: June Dwyer
Title: Deputy Director, Operational Services

Approved as to form and legal sufficiency
this 28 day of March, 2022

Jonathan May
Jonathan May, Assistant Attorney General (MDE)

STATE OF MARYLAND DEPARTMENT OF NATURAL RESOURCES

Date: 2/23/2022

By: Matthew Fleming
Print Name: Matthew Fleming
Title: Acting Asst. Secretary, MDNR

Date: 3/1/2022

By: Katrina Connors
Print Name:
Title: Director of Finance

Approved as to form and legal sufficiency
this 2nd day of March, 2022

Emily Vainieri
Emily Vainieri, Assistant Attorney General (MDNR)