

Appendix G1 - Assessment of Controls (BMP Effectiveness Monitoring)

**MEMORANDUM OF UNDERSTANDING (MOU) FOR THE
BMP EFFECTIVENESS POOLED MONITORING**

Chesapeake Bay Trust – Harford County, Maryland Cooperative Agreement

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“The Agreement”), entered into this 5 day of
September, 2024, by and between

HARFORD COUNTY, MARYLAND

212 SOUTH BOND STREET, 1ST FLOOR

BEL AIR, MARYLAND 21404

(A Body Corporate and Politic, “Harford County”)

And

CHESAPEAKE BAY TRUST

108 SEVERN AVENUE

ANNAPOLIS, MARYLAND 21401

(“The Trust”)

WHEREAS, Harford County and the Trust share a common interest in improvement of water quality in Harford County's tributaries and advancing the community's understanding and improvement of methods by which to do so.

WHEREAS, Harford County has opted into the Pooled Monitoring program as described in the *Assessment of Controls - BMP Effectiveness Monitoring* section of Harford County's National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit.

WHEREAS, the Trust administers the Pooled Monitoring Program to answer key restoration questions pertaining to cumulative impacts of watershed restoration activities and the effectiveness of specific restoration practices using robust and rigorous methods.

WHEREAS, the Trust, a nonprofit entity established by the Maryland General Assembly in 1985 to promote public awareness and participation in the restoration and protection of the water quality, aquatic and land resources of the Chesapeake Bay, and other aquatic and land resources of the State, is authorized to contract with other units of government, including Harford County; and

WHEREAS, the Trust has a governance and oversight structure with formal representation from the local government, State natural resource agencies, and the Maryland General Assembly, and uses independent technical review committees to review proposals and recommend awards made through its competitive award programs; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties agree as follows:

ARTICLE I. SCOPE OF WORK

The Trust administers the Pooled Monitoring Program as described in the *Assessment of Controls* section of Harford County's MS4 permit. The goal of the Pooled Monitoring program is to align monitoring and other resources from multiple sources to rigorously and effectively answer key questions about efficacy of watershed restoration projects, impact of restoration projects, ability to detect water quality signals from restoration projects or suites of projects (at either the project or catchment scale), and other similar questions. The specific questions to be addressed in each program cycle are determined by the Pooled Monitoring Advisory Committee (PMAC), on which

Harford County will have one (1) seat as per the PMAC charter (Attachment A to this agreement, which is expressly incorporated herein and made part of this Agreement).

Questions are posed via open, competitive, publicized Requests for Proposals for each program cycle by the Trust, in consultation with the PMAC. The Trust uses an external peer review process to review proposals, and reviews are discussed, and proposals recommended for funding to the Trust board by the PMAC. The Trust, in consultation with the PMAC, manages subsequent awards, and works with the PMAC to interpret and present results for and to various stakeholder audiences.

ARTICLE II. CONSIDERATION AND METHOD OF PAYMENT

Harford County has opted to participate in the Pooled Monitoring Program option for MS4 monitoring as described in the *Assessment of Controls* section of Harford County's MS4 permit at a funding level of Seventy five thousand dollars (\$75,000) per year for the MS4 permit term as determined by the Maryland Department of the Environment (the Department), the regulatory entity governing compliance with the monitoring section of the MS4 permits.

Harford County may provide additional funds to the Trust upon written agreement by both parties.

Harford County shall provide the annual amount identified above to the Trust by September 1 of each year for the duration of this Agreement. The Trust shall place the award funds in an account to be used solely for administering the Pooled Monitoring Program.

All financial obligations imposed on Harford County by this Agreement and any renewals thereof beyond the current Harford fiscal year (FY25) are subject to appropriation and availability of funds by the Harford County Council (Council). Should the Council not appropriate sufficient funds to meet Harford County's obligations under this Agreement, the Agreement shall automatically terminate at the end of the last fiscal year for which sufficient funds were appropriated.

To accomplish the Scope of Work and manage the Program, an amount not to exceed five percent (5%) may be allocated by the Trust to administrative expenses. Copies of financial and programmatic reports prepared by the Trust for the Pooled Monitoring Advisory Committee and Maryland Department of the Environment will be submitted to Harford County quarterly for quarters ending September 30, December 30, March 31, and July 31 of each year.

The Trust agrees to follow a cost accounting practice, which is in accordance with the standards, principles, and procedures in Code of Maryland Regulation (COMAR) 21.09 and uniform accounting practices of the profession, as acceptable to Harford County.

ARTICLE III. TERM AND RENEWAL

The Agreement Period shall be from September 1, 2024, through August 31, 2027. The agreement shall be renewable for additional terms of five (5) years, payable in one-year increments per Article II, upon written agreement by both parties. This agreement will be extended on an annual basis if the County's MS4 permit is administratively continued, in accordance with Part V.C., until a new permit becomes effective. Any portion of the initial term beyond the current Harford County fiscal year (FY25), and any renewal term, shall be subject to appropriation and availability of funds by the Harford County Council as set forth in Article II of this Agreement.

ARTICLE IV. AGREEMENT REPRESENTATIVES

The following individuals shall have authority to act under this Agreement for their respective parties:

Harford County: Harford County, Maryland

Robert G. Cassilly

County Executive

410-638-3350

countyexecutive@harfordcountymd.gov

Trust: Jana Davis, Ph.D.

President

Chesapeake Bay Trust

410-974-2941 x100

jdavis@cbtrust.org

ARTICLE V. KEY PERSONNEL

The parties agree that the following named individuals are considered to be essential to the work being performed hereunder and are designated as key personnel who shall be made available to the full extent required to carry out the work under this Agreement:

Harford County: Steve Walsh

Deputy Director of Public Works

Harford County Department of Public Works

410-638-3545 ext. 1375

sawalsh@harfordcountymd.gov

Trust: Sadie Drescher

Vice President of Programs for Restoration

Chesapeake Bay Trust

410-974-2941 x105

sdrescher@cbtrust.org

Should these individuals become unavailable during the period of performance, personnel of equivalent capability shall be assigned to complete the work related to this Agreement. Any such substitutions shall require prior written approval by Harford County, which approval may be denied by Harford County at its sole discretion but shall not be unreasonably denied. Should the Trust be unable to provide substitutes acceptable to Harford County, Harford County may terminate this Agreement, or at its option, negotiate with the Trust for an acceptable modification in the work and/or payment under the Agreement relative to the loss of such key personnel.

ARTICLE VI. MERGER

This Agreement, all exhibits and approved modifications hereto (hereinafter referred to collectively as "Agreement Documents"), embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference. The Trust's performance of any work under the Agreement constitutes the Trust's acceptance of all of the Agreement Documents.

ARTICLE VII. AMENDMENT

Only a writing executed by both parties may amend this Agreement.

ARTICLE VIII. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Maryland.

ARTICLE IX. NO THIRD-PARTY BENEFICIARIES

Nothing in this Agreement shall be construed to: (1) provide a benefit to any third party; (2) operate in any way as a promise, covenant, warranty, or other assurance to any third party; or (3) create any obligation to any third party.

ARTICLE X. INDEMNIFICATION

The Trust shall indemnify, defend, and hold harmless Harford County, its officers, directors, agents and employees (each, including Harford County, a "Covered Person") from and against any and all pending or threatened claims, losses, liabilities, litigation, damage, penalty, expense and demands of every kind and nature whatsoever (any of the foregoing a "Loss"), including, without limitation, the costs as and when incurred of defending any such Loss, and including, without limitation, reasonable attorneys' fees and disbursements therefore, incurred by a Covered Person resulting from or arising in connection with the performance of this Agreement, caused in part or in whole by any negligent or willful act or omission of the Trust, its officers, agents, employees or representatives. The Trust expressly understands and agrees that any performance bond or insurance protection required by this Agreement or otherwise provided shall in no way limit the responsibility to indemnify, keep and save harmless and defend Harford County as herein

provided. Harford County does not waive any right or defense, or forebear any action, in connection herewith.

ARTICLE XI. ACCOUNTING

Retention of Records. The Trust shall retain and maintain all records and documents relating to this Agreement for three (3) years after final payment or any applicable statute of limitations, whichever is longer. Records and documents relating to this Agreement shall include, but not be limited to, the Request for Proposals, received proposals, proposal reviews, documents related to the selection of the proposals to fund, and all documentation prepared by or for the Awardees.


Audit. The Trust shall make available for inspection all records and documents relating to this Agreement upon request of Harford County. All records and documents relating to this Agreement are subject to audit by Harford County or an authorized representative of Harford County. The Trust shall promptly award access to its facilities to authorized Harford County representative(s) for review of documents, information and interviews of Trust personnel. The Trust will provide to Harford County upon request copies of any invoices, records, timesheets, work logs, contracts, or any other documents or information needed in order for Harford County to comply with State or federal reporting and audit requirements.

Payment. Payments to the Trust shall be made in accordance with the terms of the Agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement by causing the same to be signed by their duly authorized representatives on the day and year first above written.

HARFORD COUNTY, MARYLAND

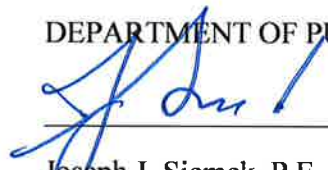

WITNESS

By:  Date: 9.5.2024
Robert G. Cassilly
Harford County Executive

**APPROVED FOR LEGAL FORM AND
SUFFICIENCY**

 Date: 8/29/24
Margaret K. Hartka
Deputy County Attorney

DEPARTMENT OF PUBLIC WORKS

 Date: 9-4-24
Joseph J. Siemek, P.E.
Director of Public Works

CHESAPEAKE BAY TRUST

Charity
Tofte

Digitally signed
by Charity Tofte
Date: 2024.08.23
13:52:25 -04'00'

WITNESS

Jana
Davis

Digitally signed by Jana Davis
DN: cn=Jana Davis, o=
ou=Chesapeake Bay Trust,
email=jdavis@cbtrust.org, c=US
Date: 2024.08.23 11:55:52 -04'00'

Date: _____

Jana Davis, Ph.D.

President

Chesapeake Bay Trust