

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE

MARYLAND AGRICULTURAL WATER QUALITY COST-SHARE PROGRAM

AUTHORITY: Agricultural Article, Sec. 8-701, et seq.
Annotated Code of Maryland

AGREEMENT NUMBER: _____

THIS AGREEMENT, dated _____, is among the MARYLAND DEPARTMENT OF AGRICULTURE, "Department"; the _____ SOIL CONSERVATION DISTRICT, "District"; and

who has applied for cost-share funds under the State's Agricultural Water Quality Cost-Share Program, and, when applicable, the "Landowner(s)" as named on Page 7 of this Agreement, who shall sign this Agreement if the Applicant is not the owner of the land on which the project is to be located.

This Agreement concerns the installation, maintenance, and use of the following water pollution control project ("project"): _____ . This project is to be installed on the land described: (a) in the following deed(s): Liber _____ Folio _____ as recorded in the land records of _____ County, naming the Applicant/Landowner as Grantee; and (b) by the following Maryland coordinates: East _____ and North _____ .

The project is being installed to address an existing or potential water quality problem which the District has certified in writing exists on the above described land. The Applicant's "Application/Water Quality Project Form" ("Application"), which bears the above agreement number, as well as the Applicant's name and signature, is incorporated herein and made part of this Agreement. The project's estimated total cost is _____ , and the **approximate Cost-Share grant** from the Department is _____ .

This project shall be maintained and used as provided under this Agreement for _____ years ("project life"), beginning on the "Completion Date" indicated on the "Claim for Payment" form.

WHEREAS, the Department is authorized, pursuant to Agricultural Article Sec. 8-701 et seq., Maryland Annotated Code, to make State or Federal funds available to eligible applicants for pollution control projects and to promote statewide program for the control of agriculturally related nonpoint sources of water pollution; and

WHEREAS, the above Applicant is eligible for State and Federal cost-share funds for water pollution control under sec. 8-701 et seq.; and

WHEREAS, the above soil conservation district has reviewed and approved the technical specifications for the project on the above-referenced property;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto as follows:

ARTICLE I - APPLICANT'S DUTIES AND RESPONSIBILITIES

The Applicant agrees:

- A. To comply with all regulations adopted by the Department under the "Cost-Sharing-Water Pollution Control Program", COMAR 15.01.05;
- B. To be in compliance with the state's nutrient management requirements (MD Agric. Code Ann. §§8-801-8-806 and COMAR 15.20.06-08) as a condition of eligibility to receive cost share payments for implementation of this practice.
- C. To establish, construct or install the project:
 - (1) On the property described above;
 - (2) Consistent with the content of the Application, or as subsequently agreed to by all parties;
 - (3) In accordance with the applicable USDA Natural Resources Conservation Service (NRCS) standards and specifications, and District recommendations for the practice(s) comprising the project as approved by the District (these standards and specifications are on file in the local District office and are incorporated herein and made a part of this Agreement); and
 - (4) Within one year from the date of this Agreement, or as agreed to in writing by all parties.
- D. To obtain all permits, materials or equipment, or contractors needed to complete the project;
- E. To be responsible initially for the total cost of the project's installation;
- F. To obtain the District's certification that the project has been completed according to the applicable standards and specifications and District recommendations; to document all eligible costs on an itemized Departmental statement, as provided in COMAR 15.01.05.10; and to submit this statement (and any invoices or payment receipts in support thereof) to the District for its approval of components and costs before filing any claim for cost-sharing funds with the Department;
- G. To maintain and to use the project to solve the existing or potential water quality problem that the District, in the Application, has certified exists on the property described above; to do so for the project life indicated on page one of this Agreement; and to do so according to the above-referenced standards, technical specifications, District recommendations, and any attached operation, maintenance, or management plan (where applicable);
- H. To allow representative(s) of the Department or the District, upon reasonable notice, to inspect the project at any time during the project life, to see that it is being maintained and utilized in accordance with the terms of this Agreement and with all referenced standards and specifications, District recommendations, and attachments;
- I. During the project life (Page 1), to notify the Department and the District, beforehand in writing, of any change in the ownership or possession of the farm, or part thereof, where the project is located, and to either:

- (1) Provide the Department with a signed statement on a Departmental form from the potential new owner or operator, binding that person to all the terms of this Agreement for the remainder of the project life, or
 - (2) Return to the Department the cost-sharing funds which have been provided under this Agreement;
- J. To notify the Department and the District of any change in agricultural operations during the project life which affects the project or its use. (If the Applicant is a farm tenant and not the owner of the land on which the project is situated, the Owner shall notify the Department if the tenant stops farming the land.);
- K. To pay back to the Department the full amount of cost-sharing funds it has provided under this Agreement, if the Applicant:
 - (1) Alters, changes, or modifies the project in any manner without Departmental approval, after it has been established, constructed, or installed as provided under Section C of this Article I;
 - (2) Fails to establish, install, construct or maintain the project, or fails to use the project as provided under Section G of this Article I. (However, the Applicant may not be found liable for having either inadequately maintained or destroyed the project, if the damages are caused by an act of nature that could not reasonably have been anticipated by the Applicant.);
 - (3) Fails to comply with the requirements of either Section I or Section J of this Article I;
 - (4) Uses the project in a manner that is contrary to, inconsistent with, or somehow interferes with:
 - (a) The purpose behind the project's establishment, construction, or installation (that purpose being to solve a water quality problem originating from conditions on the above-referenced property); or
 - (b) Any attached plan (for operation, maintenance or management established for or accompanying the project (See Article IV.F); or
 - (5) Has misrepresented the need for the project.
- L. To have all landowners sign and notarize the attached covenant, and notice of recordation of the Agricultural Water Quality Cost-Share Agreement. (Authority: Md. Agric. Code Ann., §8-704)

ARTICLE II - THE DISTRICT'S DUTIES AND RESPONSIBILITIES

The District agrees:

- A. To assist the Applicant in the design and layout of the project, where appropriate, and to review and approve the proposed design;
- B. To periodically inspect the project during its construction or installation, to determine whether the completed project will meet all applicable NRCS standards and specifications and District recommendations;

- C. To inspect the Applicant's project after construction, to confirm the size or extent of the completed project, to determine whether it meets all applicable standards and specifications, and if it does, to certify this to the Department on a "Claim for Payment" form; to ensure that the "Claim for Payment" form for the project construction, installation, or establishment is consistent with the content of the Application;
- D. To review the itemized "Claim for Payment" (and any invoices, statements or payment receipts in support thereof) submitted by the Applicant, and to determine whether the "Claim for Payment" properly represents all eligible costs, and if it does, to certify this to the Department and to provide the Department with all itemized statements, invoices or payment receipts;
- E. To cooperate with the Department in implementing the cost-sharing program, and to keep all cost-share records and make them available to the Department upon request; and
- F. To assist the Department in monitoring the project to see that it is maintained and utilized in accordance with the above-referenced standards and specifications, District recommendations, and any attached operation, maintenance, or management plan. This includes making periodic inspections of the project during the project life and reporting the District's findings to the Department.
- G. To assist the landowners and the Department with the attached covenant, and notice of recordation of the Agricultural Water Quality Cost-Share Agreement. (Authority: Md. Agric. Code Ann., §8-704)

ARTICLE III - THE DEPARTMENT'S DUTIES AND RESPONSIBILITIES

The Department shall grant to the Applicant the approximate amount indicated on the first page of this Agreement if:

- A. The applicant has complied with the terms of this cost-sharing Agreement;
- B. The District has certified to the Department on a "Claim for Payment" that the completed project meets all applicable standards and specifications, that the invoices accurately represent all eligible costs for the project, and that all invoices have been properly itemized and signed by the Applicant; and
- C. The Department has reviewed and approved the "Claim for Payment" (and supporting invoices, etc.) for the completed project.

NOTE: This grant amount is an estimate only and may be adjusted by the Department, based upon the Applicant's actual costs, as finally certified by the District to the Department. In no case will the grant payment exceed:

- (1) \$50,000 for individual agreements (except in the case of animal waste projects, where the grant limit is \$200,000), or
- (2) \$100,000 for pooling agreements (a single project involving more than one person and more than one property), and \$200,000 for a pooling agreement for an animal waste project.
- D. The Department has received and signed the attached covenant, and notice of the recordation of the Agricultural Water Quality Cost-Share Agreement for recordation at the Clerk of Circuit Court.

ARTICLE IV - GENERAL CONDITIONS

- A. This Agreement is binding on all heirs and assigns of the owner of the property where the project is located.

- B. If the Applicant has been notified by the Department of having violated any of the "Applicant's Duties and Responsibilities" under this Agreement, the Applicant shall correct or eliminate the violation in accordance with a schedule specified by the Department. The project shall be restored to the condition required by the applicable standards and specifications, District recommendations, and any attached operation, maintenance or management plan.
- C. Nothing herein prevents the Department, if it has determined that the Applicant has failed to comply with any term of this Agreement, from initiating legal action to enforce this Agreement, or in the alternative, to seek recovery from the Applicant or the landowner of any cost-share grant funds it has paid the Applicant under the Agreement. The burden to prove compliance with the terms of this Agreement rests with the Applicant.
- D. The parties agree that the following named individual shall be contacted if there is any dispute over the terms of this Agreement:
- Name: Jason D. Keppler, Acting Administrator
Address: Water Quality Cost-Share Program
Office of Resource Conservation
Maryland Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: (410) 841-5864
- E. This Agreement is the whole 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.
- F. The following checked items are incorporated herein and made a part of this Agreement:
- Certificate of Resolution/Special Power of Attorney
- Provisions for All Animal Waste Management Facilities
- Additional Provisions for Roofed Animal Waste Storage Structures
- Provisions for Dead Poultry Composting Facilities
- Waste Management System Plan
- Covenant and Notice of Recordation
- G. This Agreement is terminated automatically, without any liability to the Department or the District, if there are no available public funds under the water pollution control program.
- H. **The applicant should not proceed with construction or installation of the project until all the parties to the Agreement (the Applicant, the Department and the District) have signed it. IF THE APPLICANT STARTS THE PROJECT BEFORE RECEIVING A COPY OF THE FULLY SIGNED AGREEMENT HE/SHE DOES SO AT HIS/HER OWN RISK, AND THE DEPARTMENT IS NOT OBLIGATED TO PROVIDE FUNDS FOR THE PROJECT.**

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

By: _____

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE

By: _____

SOIL CONSERVATION DISTRICT

By: _____

Applicant (signature)

Date

Type in Applicant Name

Applicant(s)' Signing Instructions:

1. If the Applicant is a tenant on the farm where this project is to be installed, the landowner is required to sign the following "Agreement of Landowner". This Cost-Sharing Agreement is not effective unless each landowner signs below.
2. All persons having a legal interest in the farm (generally those persons named in either the latest deed to the property or a will) shall sign the following "Agreement of Landowner". The signature of a person who has been given Power of Attorney by the owner(s) to transact such business on the owners' behalf is acceptable. The Power of Attorney is to be attached to the Agreement.
3. If the farm is owned by a company, corporation, partnership or any other legal entity, the Applicant shall attach a Certificate of Resolution indicating (a) the person authorized to sign on behalf of the entity; and (b) the extent of the authority given to the person by the entity.

Agreement of Landowner

In consideration of the benefit the owner receives from having the water pollution control project placed on the land described in the deed referenced on Page One, the owner by his signature to this Agreement consents to its terms and conditions, and shall be bound by the Agreement to the same extent as the Applicant.

By: _____
Landowner (signature) Date

Type in Landowner Name

By: _____
Landowner (signature) Date

Type in Landowner Name

By: _____
Landowner (signature) Date

Type in Landowner Name

By: _____
Landowner (signature) Date

Type in Landowner Name

By: _____
Landowner (signature) Date

Type in Landowner Name

By: _____
Landowner (signature) Date

Type in Landowner Name

This document has been approved for legal form and sufficiency by the Attorney General's Office, Maryland Department of Agriculture.