

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
PRINCE GEORGE'S COUNTY MARYLAND
AND
TOWN OF BLADENSBURG, MARYLAND
REGARDING FLOODING MITIGATION PILOT PROGRAM**

RECITALS

This Memorandum of Understanding: Flooding Mitigation Pilot Program ("MOU") made this _____ day of _____, 2024, by and between the Prince George's County, Maryland, a body corporate and politic (the "County"), on behalf of its Department of Public and Transportation, and the Town of Bladensburg, Maryland (hereinafter the "Town") and collectively (the "Parties").

WHEREAS, the purpose of this MOU is to set forth the understandings that shall govern the Parties' cooperative efforts to develop and implement a pilot program to assist with flooding mitigation in the Town along Edmonston Channel and Quincy Run.

WHEREAS, the Flood Mitigation Pilot Program's purpose is to reduce flooding in the area of Quincy Run and the Edmonston Channel (hereinafter, collectively, the "Project").

WHEREAS, records of flooding issues within the Town can be found as far back as the late 1700's.

Whereas, the County shall design, construct and implement the Project to reduce flooding in the Town.

WHEREAS, the Town has committed American Rescue Plan Act (ARPA) funding in the amount of \$500,000 for the pilot program.

WHEREAS, the Town has historically experienced a multitude of flooding issues primarily resulting from its proximity to the Anacostia River.

WHEREAS, as recently as 2022, residential homes and condominiums within the Town experienced flooding during an especially short-duration, high-intensity storm event.

Whereas, the County and Town agree that the construction of the Project will both benefit the parties to this Agreement and promote the health, safety, and general welfare of the citizens of Prince Georges County.

NOW THEREFORE, WITNESSETH: that for and in consideration of the mutual promises and other consideration set forth herein, the adequacy of which is acknowledged, the Parties hereto agree as follows:

1.0 PROJECT

- 1.1 The County and Town are entering into an MOU for the implementation of a pilot program (hereinafter the “Project”) to address flood mitigation by developing preliminary design of two stream channel systems within Bladensburg: Edmonston Channel and Quincy Run. The two locations will be evaluated for the feasibility of using passive flip-up floodwalls or other alternative designs.
- 1.2 The purpose of the project is to determine the cause and extent flooding along Quincy Run and Edmonston Channel corridors through modelling and analytical methods; recommend solutions to eliminate/reduce flooding for the impacted properties; and provide engineering design (Plan, Specification and Estimates) of the selected suite of alternatives and final construction documents for implementation.
- 1.3 The project limits are as follows: Edmonston Channel, approximately 6400 linear feet from Edmonston Road to 56 Avenue/Spring Road and Quincy Run, approximately 1900 linear feet from 52nd Avenue to 55th Avenue.

2.0 PROJECT DESIGN

- 2.1 The design of the Project shall be a collaborative process between the County and the Town. During the Design Phase of the Project, the Parties shall resolve all design issues between themselves, and will not accept the design plans and Specifications for inclusions in the bid package without having first mutually agreed upon all elements thereof.
- 2.2 The County will obtain all necessary Federal, State, and Local permits and approvals and will make best efforts to identify and comply with all applicable rules, Federal and State laws, regulations, and ordinances.
- 2.3 The County will perform all tasks necessary to design the Project and will review and obtain approvals from appropriate governmental agencies. Such permits and approvals shall include, but are not limited to:
 - a) Natural Resource Inventories of every kind including, but not limited to, aquatic species if necessary;
 - b) Tree Conservation Plans;
 - c) Conservation Plans for Chesapeake Bay Critical Area compliance;
 - d) Historic Resource Inventories, Archeological Studies and Surveys;
 - e) Rare, Threatened and Endangered Species surveys;
 - f) Floodplain Studies or revisions;
 - g) Utility relocation plans;
 - h) Transportation Plans, Highway Access Plans, or Maintenance of Traffic Plans; and

- i) Post construction documentation, including but not limited to as-built survey work where necessary.
- 2.4 The Town will be required to review and approve the Project at the following three intervals:
 - 2.4.1 Concept Level with Alternative Options
 - 2.4.2 30% Design Level (Preliminary Design)
 - 2.4.3 60% Design Level (Semi-Final Design)
 - 2.4.4 100% Design Level (Final Design) with all permits secured for construction.
- 2.5 The County and their consultants will develop the Specifications and the Plans and Construction Cost Estimates for the Project.
- 2.6 The Parties will determine and conduct regular progress meetings to review and discuss all aspects of the Project.
- 2.7 The County will provide the Town with one (1) set of prints and one (1) set of design support documents for review and comment at each project design milestone. Design milestones generally occur at the 30%, 60%, and 100% plan completion points.
- 2.8 The Town will perform plan reviews, provide written comments, and consult with the County. The Town will complete each review within two (2) weeks.

3.0 CONSTRUCTION

- 3.1 The County will have full responsibility for the construction of the Project.
- 3.2 The County will incorporate appropriate measures to minimize natural resource impacts into the construction drawings for the Project. The County will include requests by the Town in the construction Specifications relevant to the Project.
- 3.3 The COUNTY will obtain all necessary Federal and State permits and approvals and will comply with all applicable rules, Federal and State laws, regulations and ordinances.
- 3.4 The COUNTY will advertise the PROJECT for construction bid, award and administer the construction contract through its contractor, construct the Project as shown on the final plans, Specifications, and approved revisions thereto, and perform construction inspection and material testing/certification.
- 3.5 The County will schedule a pre-construction meeting on-site with the Town personnel.

- 3.6 The COUNTY will provide the Town with all applicable documentation, inspections, and certifications pertaining to the construction of the Project.
- 3.7 The County will act as the point of contact to the contractor during the construction phase of the Project, and only The County will direct the contractor with regard to all aspects of the construction phase.
- 3.8 The COUNTY will take appropriate measures, including adding construction-related safety signs, required to notify the public of any closures/detours caused by the Project.
- 3.9 As requested by the Town, The County will schedule and conduct regular progress meetings with the Town Representative and The County's Contractor to review and discuss all aspects of the Project construction phase activities.
- 3.10 The County will restore areas within the LOD as impacted by the County's/ Contractor's construction activities and as indicated on the mutually approved contract drawings in a timely manner.
- 3.11 When the County has determined that the construction of the Project has been completed, the County will conduct a final inspection, inviting the Town staff to participate. The County will direct the remedy for any problems revealed by the inspection.
- 3.12 Upon completion and final acceptance of the Project, the County will provide the Town with one (1) hard copy set of as-built plans for its review, together with one (1) copy of the as-built plans in an electronic format acceptable to the Town for record keeping.

4.0 COSTS.

- 4.1 The Town shall pay \$500,000 from awarded ARPA funds to the County as part of the design and feasible alternatives selection services cost-share of the Project.
- 4.2 The County shall be responsible for the remaining expenses required for the completion of the Design Phase of the Project.
- 4.3 The County shall construct and install the components of the Project at the sole expense of the County. The Town will provide review, approval, and input throughout the design and implementation process. The County and Town shall collaborate during all phases of the Project.

5.0 TERM.

5.1 The term of this MOU shall commence on the Effective Date and shall expire on June 30, 2027 (the "Initial Term"). This MOU may be extended for one (1) additional term of two (2) years provided the County notifies the Town in writing by at least six (6) months before the end of the current term. Any renewal shall be subject to the conditions outlined in this MOU's provisions.

5.2 This MOU shall expire at the end of the Initial Term unless the parties mutually agree in writing.

6.0 MAINTENANCE

6.1 The County shall be responsible for the maintenance of the Project upon completion of the Project and will notify the Town of what maintenance activities shall be included with requisite timelines within 30 days of completion. The County will provide the Town with Maintenance Operations Documentation for record keeping.

7.0 NOTICES AND COMMUNICATION

7.1 Any legal notices required under this MOU shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered to the following addresses and individuals or at such other addresses and/or individuals a Party may identify in writing to the other Parties:

To the County:

Michel D. Johnson, PE
Director of Department of Public Works & Transportation
9400 Peppercorn Place
Suite 300
Largo, Maryland 20774

County Attorney
Prince George's County Office of Law
1301 McCormick Drive
Suite 4100
Largo, Maryland 20774

To the Town of Bladensburg:

Michelle Bailey Hedgepeth
Town of Bladensburg Administrator
4229 Edmonston Road, Bladensburg MD 20710
Phone 301-927-7048
Mobile 667-392-7642
Email: mbaileyhedgepeth@bladensburgmd.gov

8.0 COMMUNICATIONS TO THE PUBLIC

- 8.1 The Parties will have joint responsibility for any communications made to the public, shall host joint public meetings, and ensure meetings are accessible to “non-English” speakers.
- 8.2 The County and the Town will schedule regular community meetings with stakeholders (residents) and distribute communication materials, including but not limited to door hangers, flyers, letters, and presentations, at a minimum, during the 30, 60, and 100 percent design milestones.

9.0 INDEMNIFICATION.

- 9.1 Each Party to this MOU shall assume the responsibility and liability for the acts and omissions of its employees, deputies, officers, or agents in connection with the performance of their official duties under this MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties, or between the Town and any consultants or contractors under contract with the County. The County will require any consultant or contractor providing design or construction services under contract for the Project to name the Town as an additional insured for all insurance coverages except workers’ compensation and errors and omissions.

10.0 MODIFICATION

- 10.1 This MOU and any annexes or addenda thereto may be modified upon the mutual written consent of the Parties.

11.0 DISCONTINUATION

- 11.1 Any Party may discontinue, suspend or terminate the Project by giving 60 days prior written notice to the other Party.

12.0 RIGHT OF ENTRY

- 12.1 The Town hereby grants unto the County, its agents, consultants, contractors, employees, officials, and representatives, the right to enter in, upon, over, and through the site of the Project for purposes of designing, construction, and completing the Project.

13.0 EASEMENTS

- 13.1 The Parties will determine the governing policy regarding easements for construction and maintenance once an alternative is selected and the Design Phase is underway.

14.0 GENERAL PROVISIONS

- 14.1 No Waiver of Sovereign Immunity. Nothing in this MOU, nor any action taken by any Party pursuant to their MOU, nor any document that arises out of the MOU shall constitute or be constituted as a waiver of either the sovereign immunity or governmental immunity of the Parties.
- 14.2 Obligations Contingent. All obligations of the Parties under this MOU are contingent on compliance with personnel budgeting, purchasing, and expenditure laws, regulations and requirements governing laws of the respective Parties as applicable to each Party, including, but not limited to, all applicable county and/or city codes and charters.
- 14.3 Funding. All financial obligations of the Parties under this MOU, including all obligations that require the expenditure of funds, are contingent upon the availability of appropriated funds from which payment can be made.
- 14.4 Dispute Resolution. In the event that the Parties are unable to resolve a dispute, the affected Party or Parties may submit the dispute to a mediator, acceptable to all affected Parties, for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. The Parties involved in the mediation shall share the cost of the mediation equally. Such mediation shall not be binding on any Party. Each Party reserves all remedies available at law or in equity for violations of this MOU.
- 14.5 Governing Law and Venue. This MOU shall be construed and enforced in accordance with the laws of the State of Maryland. All suits, proceedings and other actions relating to, arising out of or in connection with this shall be submitted to the in personam jurisdiction of the courts of the State of Maryland and venue for all such suits, proceedings and other actions shall be in Prince George's County, Maryland. The Parties hereby waive any claim against or object to in personam jurisdiction and venue in the courts of Prince Georges County Maryland.
- 14.6 Entire Agreement. This MOU contains and embodies the entire agreement of the Parties. No representations, inducements, or agreements, oral or otherwise, between the Parties not contained herein shall be of any force and effect. This MOU may not be amended or modified in any manner other than by an agreement in writing approved by the Parties and duly signed by authorized persons on behalf of all the

Parties. The Parties, through their respective authorized representatives, have executed this MOU on the dates indicated below.

- 14.7 Severability. If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.
- 14.8 Assignment. No Party shall subcontract or transfer the rights it has, or the obligations imposed on it by this MOU without the prior written consent of all the other Parties.
- 14.9 Binding Effect. The terms of this MOU shall be binding on and enforceable against the Parties and their respective successors and assigns.
- 14.10 Authority of Signatories. The signatories hereto, each and respectively, warrant that he or she has the full right, power, and authority to execute, acknowledge, seal, and deliver the MOU and to perform the transaction contemplated by this MOU. This MOU has been duly executed, acknowledged, sealed, and delivered by the Parties as their legal, valid, and binding obligations, enforceable against the Parties, respectively, in accordance with its terms, provided that nothing set forth in this MOU shall incur the benefit of, or be enforceable by, any third-party other than the Parties, there being no other third-party beneficiaries intended or implied.
- 14.11 Recitals. The Recitals are hereby incorporated into this MOU.

/Signature Page Follows/

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this MOU under seal, with the intention of making it a sealed instrument, as of the date first above written.

Prince George's County, Maryland

BY: _____
Floyd D. Holt
Deputy Chief Administrative Officer
for Infrastructure/Environment/Technology

Date

Reviewed and Approval Recommended
Michael A Jackson, P.E., Director
Department of Public Works &
Transportation

Town of Bladensburg, Maryland

BY: _____
Takisha D. James, Mayor
Town of Bladensburg

Date

Suellen Ferguson, Town Attorney
Approved as to Legal Sufficiency

EXHIBIT A

DEFINITIONS:

Construction Plans. The graphic scaled depiction of a property's existing and proposed conditions provides information such as the location of all existing features and proposed improvements. A local government usually requires Construction Plans for all development and redevelopment of a property, including new features, the alteration of or addition to existing structures, and any other type of land development.

Design Phase. This portion of the project is dedicated to the planning and graphic depiction of all proposed improvements. Design will include the layout of the proposed plan elements, the development of language describing the proposed improvements and work effort and the development of pricing to complete the proposed work effort.

Natural Resource Inventory. A written description and plan format indicating the naturally occurring plants and animal habitats observed on a specific property.

Plans and Construction Cost Estimates. The combination of graphic drawings and written language describing the work effort and costs associated with a specific construction of a project. Usually, these items are grouped into one comprehensive package.

Specifications. A written set of descriptions identifying performance standards and expectations of any given number of products.

Scope of Work. A written or verbal description defining a of a desired effort to be completed. The Scope of Work will describe the desired outcome and provide project performance standards.