

**ENGINEERING CONSULTANT AGREEMENT
ECOSITE, INC FOR CHESAPEAKE BAY TRUST GRANTS**

ENGINEERING CONSULTANT'S AGREEMENT (the "Agreement") is effective this _____ day of _____, 2024, by and between the TOWN OF BLADENSBURG (the "Town"), a municipal corporation of the State of Maryland, whose address is 4229 Edmonston Road, Bladensburg, Maryland 20710 and ECOSITE, INC., hereinafter referred to as (the "Consultant,") whose address 4600 Powder Mill Road Suite 450-S16, Beltsville, MD 20705.

WHEREAS, the Town has received a grant from the Chesapeake Bay Trust (CBT) for road improvement construction for Chesapeake Bay Trust – Prince Georges County Stormwater Funds Proposals ("Project"); and

WHEREAS, the Consultant desires to provide engineering services to the Town to assist with providing the specifications and project management for the Project, and

WHEREAS, the Town desires that the Consultant provide such services project development and grant applications for the Prince George's Stormwater Funds for the Chesapeake Bay Trust, and

WHEREAS, the Mayor and Council have approved the use of the Consultant's engineering services for this Project with the support Resolution passed on October 14, 2024, and

NOW, THEREFORE, in consideration of the forgoing, the premises and mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Appointment. The Town hereby engages Consultant, as an independent professional contractor and not as an agent or employee of the Town, to provide

engineering consulting services. Consultant hereby accepts such work, subject to the terms and provisions of this Agreement.

2. Scope of Services. Pursuant to the Agreement, the Consultant agrees to furnish all the material and perform all of the work in compliance with the requirements and standards contained in the Contract Documents, as defined herein. All work shall be performed in accordance with industry standards. Consultant services included as part of this Agreement will include the following:

The consultant will develop the appropriate engineering details, specifications, and preliminary quantities required for the CBT applications and project management. Once received, the consultant will assist the Town in evaluating construction bids and provide project management services during the project's construction.

3. Term. The term of this Agreement is three years from the effective date. The term may be extended by agreement of the Parties. All work shall be performed at the written request of the Town. It is understood by the parties hereto that time is of the essence in the completion of the approved services under this contract.

4. Contract Price. The Town agrees to pay the Consultant, as consideration for the Consultant's satisfactory performance of specific tasks approved by the Town, based on the following hourly rates:

Labor Category	Year 1 (2025)	Year 2 (2026)	Year 3 (2027)
Principal Engineer / P.E. I Project Manager	\$ 150.00	\$ 155.00	\$ 160.00
Sr. Engineer/ Scientist	\$ 125.00	\$ 125.00	\$ 130.00

Engineer I Scientist	\$ 100.00	\$ 100.00	\$ 105.00
CADD I GIS Tech	\$ 70.00	\$ 70.00	\$ 75.00
Field Technician	\$ 60.00	\$ 60.00	\$ 65.00

The not to exceed the contract price for each project or task shall be included in an approved per-task scope of work. The parties recognize that a specific project may require the Consultant to retain subcontractor services. Fees for subcontractor services must be pre-approved by the Town. All out-of-pocket expenses by the Consultant, such as postage, reproduction, diagrams, photographs, blueprinting, courier service, etc., may be billed to the Town as reimbursable expenses at cost. The consultant must notify the Town prior to incurring them if reimbursable costs are expected to exceed \$100.00 per task. The Town shall pay the Consultant for approved tasks and expense reimbursement monthly, subject to receipt and approval of an invoice by the Town. The Consultant will provide all services related to this Agreement on an as-requested basis as directed by the Town in writing. Such services shall be billed to the Town at the hourly rates referenced herein.

5. Contract Documents. This Agreement and the following enumerated documents, which are incorporated by reference as if fully set forth herein, form the contract and are termed the Contract Documents:

- Certificate(s) of Insurance and additional insured endorsement

6. Other Payments; Expenses; Taxes. The Town will not be responsible for any cost or expenses of operation of any kind associated with the Consultant's provision of services pursuant to this Agreement, except as set out herein. The consultant shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the services to be rendered hereunder except as set out herein. The parties hereto further agree that the Town shall have no obligation to reimburse, pay directly, or otherwise satisfy any expenses of the Consultant in connection with the performance of obligations under this Agreement except as set out herein.

It is expressly understood and acknowledged by the parties hereto that the fees payable

hereunder shall be paid in the gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Consultant, as an independent contractor of the Town, is responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, Social Security payments, unemployment compensation payments, and any other fees, taxes, and expenses whatsoever. In the event that Consultant is deemed not to be an independent contractor by any local, state, or federal governmental agency, Consultant agrees to indemnify and hold harmless the Town for any and all fees, costs, and expenses, including, but not limited to, attorneys fees incurred thereby.

7. Insurance. The consultant will purchase and maintain during the entire term of this Agreement, professional errors and omissions insurance, automobile and workers' compensation insurance, if applicable, with limits of not less than those set forth below. On each policy Consultant will name the Town as an additional insured and will provide an additional insured endorsement for all coverages except workers compensation and professional errors and omissions.

A. Comprehensive General Liability Insurance

(1) Personal injury liability insurance with a limit of \$1,000,000 each occurrence/aggregate;

(2) Property damage liability insurance with limits of \$500,000.00 each occurrence/aggregate.

All insurance shall include completed operations and contractual liability coverage.

B. Automobile Liability Coverage. Automobile insurance for personal injury and property damage \$1,000,000 each occurrence/ aggregate

C. Workers' Compensation Insurance. Consultant shall comply with the requirements and benefits established by the State of Maryland for the provision

of Workers' Compensation insurance, if applicable. The Town will deduct a predetermined percentage of each payment to any Consultant who has failed to provide a Certificate of Insurance for Workers' Compensation, in order to defray coverage costs of the Town. This percentage is subject to change. The Consultant will be provided notification of any change. All Corporations are required to provide Workers' Compensation Certificates of Insurance.

D. Professional errors and omissions. \$1,000,000 each occurrence/ aggregate. Consultant covenants to maintain insurance, in these amounts, which will insure all activities undertaken by Consultant on behalf of the Town under this Agreement. The Town shall be provided with thirty days prior notice of changes that would reduce the coverage available. Copies of certificates of insurance and additional insured endorsements for all required coverage shall be furnished to the Town prior to beginning work.

Provision of any insurance required herein does not relieve Consultant of any of the responsibilities or obligations assumed by the Consultant in the contract awarded or for which the Consultant may be liable by law or otherwise. The provision of such insurance is not intended in any way to waive the Town's immunities or any damage limits applicable to municipal government as provided by law.

8. Indemnification. The Consultant shall indemnify and save harmless the Town, its officers, officials, employees, and agents, from all suits, actions, and damages or costs of every kind and description, including attorneys' fees, arising directly or indirectly out of the performance of the Agreement, caused by the negligent or intentional act or omission on the part of the Consultant, its agents, servants, employees, and subcontractors.

Subject to and without waiving common law and other governmental immunities and the provisions §5-301 et seq., Local Government Tort Claims Act, Courts and Judicial Proceedings Article, Annotated Code of Maryland, the Town shall indemnify and save harmless the Consultant, its officers, employees and agents, from all suits, actions and damages or costs of every kind and description, including attorneys' fees, arising directly or

indirectly out of the performance of the Agreement, caused by the negligent or intentional act or omission on the part of the Town, its officers, officials, employees and agents.

9. Licenses, Applicable Laws. The consultant will be responsible for obtaining any and all licenses pertaining to the performance of work under the Agreement. All services and materials provided by Consultant shall conform to all applicable laws and regulations.

10. Materials and Standard of Work. All work performed and material provided pursuant to this Agreement shall be in conformance with industry standards and specifications.

11. Subcontracting. The Consultant may not subcontract any work approved under this Agreement without the consent of the Town. If the Consultant wishes to subcontract any of the said work, it must provide subcontractor names, addresses, telephone numbers, and a description of the work to be done. The Consultant is not relieved of primary responsibility for the full and complete performance of any work identified to the subcontractor. There shall be no contractual relationship between the Town and the subcontractors.

12. Accurate Information. The Consultant certifies that all information provided in response to requests for information is true and correct. Any false or misleading information is grounds for the Town to terminate this Agreement.

13. Errors in Specifications. The Consultant shall take no advantage of any error or omission in the specifications. The Town shall make such corrections and interpretations as may be deemed necessary and that decision shall be final.

14. Construction and Legal Effect. This Agreement, including all Contract Documents, constitutes the entire understanding between the parties. No modification or addition to this Agreement shall have any effect unless made in writing and signed by both parties hereto.

15. No Assignment. This Agreement shall not be assigned or transferred by Consultant, whether by operation of law or in any other manner, without prior written consent from the Town. In the event of insolvency of either party, this Agreement shall terminate immediately at the election of the other party.

16. Relief. The Consultant recognizes the substantial and immediate harm that a breach or threatened breach of this Agreement will impose upon the Town, and further recognizes that in such event monetary damages may be available to the Town. Accordingly, in the event of a breach or threatened breach of this Agreement, Consultant consents to the Town's entitlement to seek ex parte, preliminary, interlocutory, temporary or permanent injunctive, or any other equitable relief, protecting and fully enforcing the Town's rights hereunder and preventing the Consultant from further breaching any of its obligations set forth herein. Nothing herein shall be construed as prohibiting the Town from pursuing any other remedies available to the Town at law or in equity for such breach or threatened breach, including the recovery of damages from Consultant.

17. Termination for Default. Notwithstanding anything to the contrary herein, this Agreement may be terminated upon the failure of the Consultant to deliver work, supplies, materials or services in a timely manner, to correct defective work or materials, to act in good faith, or to carry out the work in accordance with contract documents, each of which shall constitute a breach of this Agreement. In such event, the Town may give notice to the Consultant to cease work until the cause for such order has been eliminated. Should the Consultant fail to correct such default within 24 hours after receipt of notification, the Town may terminate this Agreement. This provision shall not limit the Town in exercising any other rights or remedies it may have.

18. Termination for Convenience. The performance of work or delivery of services under this Agreement may be terminated in whole or in part at any time upon written notice when the Town determines that such termination is in its best interest. The Town will be liable

only for labor, materials, goods, and services furnished prior to the effective date of such termination.

19. Notices. All notices shall be sufficient if delivered in person or sent by certified mail to the parties at the following addresses:

To the Town:

Michelle Bailey Hedgepeth, Town Administrator
Town of Bladensburg
4229 Edmonston Road
Bladensburg, MD 20710

To the Consultant:

Michael L. Clar, P.E. Ecosite, Inc.
4600 Powder Mill Road
Suite 450-S16
Beltsville, MD 20705

20. Costs. In the event of any breach or failure by a party to fulfill any term, covenant or provision of this Agreement, the prevailing party shall be entitled to any and all costs and expenses, including reasonable attorneys' fees.

21. Enforcement Provisions. The failure of the Town or Consultant, at any time, to enforce any of the provisions of this Agreement, or any right with respect thereto, will in no way be construed to be a waiver of such provisions or right, or in any way to affect the validity of this Agreement. The exercise by either party of any rights under this Agreement shall not preclude or prejudice the subsequent exercise of the same or any other rights under this Agreement.

22. Governing Law. This Agreement shall be governed by the laws of the State of Maryland, excluding its conflict of law rules, as if this Agreement were made and to be performed entirely within the State of Maryland.

23. Severability. If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

24. Materials.

A. Materials produced under or by reason of this Agreement shall be considered Official Products of Work owned by the Town.

B. Materials independently developed and owned by the Consultant or by other authors and third parties, and which may be used by the Consultant in the fulfillment of this Agreement, remain the property of their authors or owners. Subsequent use of such materials by the Town shall require written permission of the Consultant or other author(s) thereof.

C. Information contained in records that may be given to the Consultant for review remain the property of the Town and may not be duplicated or distributed or otherwise published without its express consent. Material provided to the Consultant for review shall be returned to the Town upon completion of the task.

D. The Consultant understands that information and records provided to or made available about participants and clients or services during the performance of this Agreement are considered confidential and shall not be used for any purpose other than to perform the required services. Regardless of the data format, the Consultant agrees that it, and any of its employees and sub-contractors, shall not disclose or allow disclosure of any such data or derivatives of it to any third party without the written permission of the Town. Any copies of such records made during

the performance of this Agreement shall be returned to the Town upon the expiration of the Agreement.

25. Attorney Fees and Costs: The prevailing party shall be entitled to reasonable attorney's fees and costs incurred in any actions or claims brought in a court of competent jurisdiction to enforce this contract or for damages thereunder

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal on the day and year above written.

ATTEST:

TOWN OF BLADENSBURG

By:

Michelle Bailey Hedgepeth, Town Administrator

WITNESS:

ECOSITE, INC.

By: 

Name: Michael L. Clar

Title: President