

**CONTRACT AGREEMENT  
BETWEEN**

**QUITTAPAHILLA CREEK WATERSHED ASSOCIATION**

**AND**

**CLEAR CREEKS CONSULTING**

**THIS AGREEMENT** made this 14th day of January in the year of 2017 by and between Clear Creeks Consulting, hereafter referred to as Contractor, and the Lebanon Valley Conservancy, a non-profit organization incorporated in Pennsylvania, hereafter referred to as Conservancy.

**WHEREAS**, Quittapahilla Watershed Association is not party to this agreement, the organization has entered into an agreement with the Conservancy that allows it to represent their interests in this project.

**WHEREAS**, In representing the interests of the Quittapahilla Watershed Association, the Conservancy has appointed Clear Creeks Consulting as Contractor to furnish the professional services outlined in Exhibit A - Clear Creeks Consulting Scope of Work to develop the Quittapahilla Creek Watershed EPA 319 Watershed Implementation Plan (WIP) and obtain approval for that WIP from PADEP and USEPA, hereinafter referred to as Project.

**WHEREAS**, the public and private landowners along the reaches of Quittapahilla Creek and its tributaries to be affected by implementation of the WIP are not parties to this agreement, the Conservancy will ensure that the Quittapahilla Watershed Association participates in *Project Identification and Planning, Initiating Contact with Landowners to Explain Project Planning and Confirm Interest in Participating, and Developing and Implementing a Public Education, Participation and Outreach Strategy*, as outlined in Article 4.

**WHEREAS**, funding for Project shall be provided through an Environmental Stewardship grant (Contract# – 4100073251, SC# - 150075) from the Pennsylvania Department of Environmental Protection, which is not party to this agreement. The Conservancy will ensure that funds sufficient to cover the professional services associated with the Project shall be deposited by the Pennsylvania Department of Environmental Protection in an account established on behalf of the Conservancy prior to a written notice to proceed being given to the Contractor.

**Contract Date 7/12/16  
Completion Date 12/31/19**

## **WITNESSETH**

The Watershed Association and the Contractor, in consideration of the performance on their respective parts of the several provisions herein contained, and intending to be legally bound, agree as follows:

### **ARTICLE 1 - GENERAL**

The Contractor shall hold harmless the Watershed Association for any personal injuries sustained by the Contractor's personnel or for the loss of or damage to Contractor's equipment, materials, and supplies resulting from the execution of this Project.

### **ARTICLE 2 - RESPONSIBILITY OF THE CONTRACTOR**

2.1 The Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of the EPA 319 Watershed Implementation Plan (WIP) for the Quittapahilla Watershed furnished by the Contractor under this agreement. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in his summaries, designs, drawings, or final plans.

2.2 The rights and remedies of the Watershed Association provided for under this agreement are in addition to any other rights and remedies provided by law.

### **ARTICLE 3 - SCOPE OF WORK**

3.1 The Contractor's Scope of Work dated January 14, 2017 attached as Exhibit A is hereby made part of this agreement. The generalized tasks for the project are:

1. Identify and prioritize restoration projects.
2. Convert the calculated pollutant loadings reductions into pollutant loadings reductions for restoration project reaches.
3. Develop pollutant load reductions evaluation criteria.
4. Develop implementation schedule for the prioritized projects.
5. Develop cost estimates for a) survey, design and permitting and b) construction of the prioritized projects.
6. Develop a public education, participation and outreach strategy.
7. Prepare the narrative, tables, graphs, and other exhibits for the Watershed Implementation Plan (WIP) and format the document.

### **ARTICLE 4 - RESPONSIBILITY OF WATERSHED ASSOCIATION**

4.1 The Conservancy shall be responsible for ensuring that the Quittapahilla Watershed Association participates in project identification and planning, coordinating with Township, City of Lebanon and Lebanon County representatives, initiating contact with landowners to explain the project planning and confirm interest in participating, and developing and implementing a public education, participation and outreach strategy,

developing and implementing a monitoring component to track projects and document that the watershed plan is being implemented.

#### **ARTICLE 5 - TERMINATION**

Should the project be abandoned or terminated prior to completion, the Watershed Association shall pay the Contractor the proportionate share of the fee earned at the time of termination. No amount of fee shall be allowed for anticipated profit for work not performed.

#### **ARTICLE 6 - PAYMENT**

- 6.1 The Conservancy covenants and agrees in consideration of the Contractor's professional services called for by Article 3 to pay the Contractor for such services as detailed herein and in the attached Scope of Work.
- 6.2 Costs for the Contractor's professional services are indicated in the Contractor's Scope of Work and shall include: professional fees only. Travel (including mileage) and miscellaneous reimbursable expenses are not included.
- 6.3 Unless agreed to by the Conservancy, the total Professional Fee payable to the Contractor under this agreement shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000.00) for the Project.
- 6.4 The Contractor shall invoice the Conservancy on a monthly basis as the work proceeds. Costs by subtask as outlined in the Scope of Work include: professional fees only. The monthly invoice will include the professional fee from the Scope of Work applicable to that portion of the work completed during the preceding month. The Watershed Association shall remit payment within sixty (60) days of receipt of an invoice.
- 6.5 Final payment of the Contractor shall be made upon completion and acceptance of the professional services specified under the terms of this agreement.
- 6.6 No additional work shall be performed without written authorization from the Watershed Association.

#### **ARTICLE 7 - NOTICES**

It is agreed that all notices that are required to be given by either party to the other may be either personally delivered or sent by registered or certified mail, return receipt requested, properly addressed and postage prepaid to the addresses for the parties herein given unless another address shall have been substituted for such by notice in writing. Such notice shall be addressed or delivered to:

Contractor:	Clear Creeks Consulting 1317 Knopp Road Jarrettsville, Maryland 21084
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Conservancy:

Lebanon Valley Conservancy  
752 Willow Street Suite E  
Lebanon, PA 17046

### **ARTICLE 8 - VOIDABLE PROVISIONS**

It is agreed that if any provisions of this Agreement shall be determined to be void by any court or competent jurisdiction, then such determination shall not affect any other provision of this Agreement, all of which other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Agreement is capable of two (2) constructions, one (1) of which would render the provision valid, then the provision shall have the meaning which renders it valid.

### **ARTICLE 9 - INTEGRATION**

This Agreement, including any Exhibits that may be attached hereto, shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party.

### **ARTICLE 10 - NONASSIGNMENT**

The Contractor is not to assign any work specified in this agreement to any other person, partnership, corporation, or other entity without the expressed written permission from the Watershed Association.

### **ARTICLE 11 – HOLD HARMLESS/INDEMNIFICATION**

- 11.1 The Contractor shall hold harmless and indemnify the Conservancy from any and all losses and/or claims, which may result, directly or indirectly, from the project, the execution of this agreement and/or any act of omission of the Contractor. The Contractor further agrees that he shall hold harmless and indemnify any and all officers, directors, employees, and/or members, jointly or separately, of the Conservancy from any and all losses and claims which may result, directly or indirectly, from the project the execution of this agreement and/or any act of omission of the Contractor.
- 11.2 The Commonwealth of Pennsylvania through the Department of Environmental Protection shall not be responsible for any loss of life, personal injury, or property damage of any kind in performing and completing the work of the project. Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from and against any damages to property or injuries (including death) to any persons and other losses, damages, expenses, claims, demands, suits and actions by any party against the Commonwealth in connection with the work performed by Contractor.

**TOTAL AGREEMENT**

Professional Fee

\$25,000.00

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

FOR CLEAR CREEKS CONSULTING

ATTEST:

\_\_\_\_\_/\_\_\_\_\_  
Date Date

FOR THE CONSERVANCY

ATTEST:

By: \_\_\_\_\_/\_\_\_\_\_  
Date Date

## **Exhibit A - Clear Creeks Consulting Scope of Work and Budget (01/214/17)**

The U.S. Environmental Protection Agency (EPA) requires that all watershed restoration projects funded under Section 319 be supported by a Watershed Implementation Plan (WIP) that includes the following nine minimum elements, known as the “a-i criteria”: a) Identification of the causes and sources that will need to be controlled to achieve the load reductions estimated in the watershed plan, b) Estimates of pollutant load reductions expected through implementation of proposed nonpoint source (NPS) management measures, c) A description of the NPS management measures that will need to be implemented, d) An estimate of the amount of technical and financial assistance needed to implement the plan, e) An information/education component that will be used to enhance public understanding and encourage participation, f) A schedule for implementing the NPS management measures, g) A description of interim, measurable milestones, h) A set of criteria to determine load reductions and track substantial progress towards attaining water quality standards, and i) A monitoring component to determine whether the watershed plan is being implemented.

Although many of the elements required for inclusion in the WIP were components of the Restoration and Management Plan (2006), the Plan does not follow the format required by the EPA and certain key elements are missing (i.e., anticipated pollutant load reductions associated with implementation of restoration projects, an implementation schedule for prioritized projects, costs associated with implementation of projects, and appropriate funding sources for specific categories of projects).

Developing an EPA 319 Watershed Implementation Plan (WIP) that meets the EPA’s criteria will require completion of the following tasks:

1. Identify and prioritize restoration projects to be implemented along the mainstem Quittapahilla Creek and in the Priority Subwatersheds.
2. Convert the calculated pollutant loadings reductions developed for priority subwatersheds in the Quittapahilla Creek Watershed Restoration and Management Plan (2006) into pollutant loadings reductions for restoration project reaches.
3. Develop pollutant load reductions evaluation criteria to measure progress in meeting the water quality objectives.
4. Develop implementation schedule for the prioritized projects
5. Develop cost estimates for a) Survey, design and permitting and b) Construction of the prioritized projects.
6. Develop a public education, participation and outreach strategy.
7. Prepare the narrative, tables, graphs, and other exhibits for the Watershed Implementation Plan (WIP) and format the document.

Deliverable – EPA 319 Watershed Implementation Plan approved by PADEP and USEPA.

<b>Task</b>	<b>Budget</b>	<b>Completion Date</b>
1. Identify and prioritize restoration projects to be implemented along the mainstem Quittapahilla Creek and in the Priority Subwatersheds.	\$3,000.00	May 31, 2017
2. Convert the calculated pollutant loadings reductions developed for priority subwatersheds in the Quittapahilla Creek Watershed Restoration and Management Plan (2006) into pollutant loadings reductions for restoration project reaches.	\$5,000.00	August 31, 2017
3. Develop pollutant load reductions evaluation criteria to measure progress in meeting the water quality objectives.	\$2,500.00	September 29, 2017
4. Develop cost estimates for a) survey, design and permitting and b) construction of the prioritized projects.	\$5,500.00	December 29, 2017
5. Develop a public education, participation and outreach strategy.	\$1,000.00	October 31, 2017
6. Prepare the narrative, tables, graphs, and other exhibits for the Watershed Implementation Plan (WIP) and format the document.	\$8,000.00	May 31, 2018
7. Coordinate with; <ul style="list-style-type: none"> <li>a. Client on Project Planning, Scheduling, and Public Outreach</li> <li>b. PADEP Growing Greener Program staff on grant issues</li> <li>c. PADEP Bureau of Conservation and Restoration staff on WIP document review comments</li> </ul>	\$2,500.00 (Match)	On-Going
<b>Total Budget</b>	<b>\$25,000.00</b>	

### **Contract Assumptions**

Quittapahilla Watershed Association will participate in:

1. Planning meetings and decision making process to identify projects.
2. Coordinating with Township, City of Lebanon and Lebanon County representatives.
3. Initiating contact with landowners to explain Project Planning and Goals and confirm their interest in participating.
4. Developing and implementing a public education, participation and outreach strategy.
5. Developing and implementing a monitoring component to track projects and document that the watershed plan is being implemented.