

**MARYLAND ENVIRONMENTAL SERVICE  
SERVICES CONTRACT  
(I.D. No.: 2-16-3-81)**

THIS CONTRACT, entered into this 6<sup>TH</sup> day of SEPTEMBER, 2016, by and between the

**MARYLAND ENVIRONMENTAL SERVICE**  
259 Najoles Road  
Millersville, Maryland 21108  
hereinafter ("Service")

and

**BOARD OF GARRETT COUNTY COMMISSIONERS**  
203 South Fourth Street – Room 207  
Oakland, Maryland 21550  
hereinafter ("Customer")

**WHEREAS**, the Service, pursuant to Subtitle 1 of Title 3 of the Natural Resources Article of the Annotated code of Maryland, exercises certain powers and responsibilities, including the power and responsibility to design, construct, reconstruct, improve, operate, maintain and repair dredging projects (services), and

**WHEREAS**, at the request of the Customer, the Service submitted a Proposal dated June, 2016 to provide dredging evaluation services; and

**WHEREAS**, the Service has agreed to perform the work herein and be bound by the terms and conditions of this Contract;

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

**ARTICLE I - SCOPE OF WORK**

The general objective of this Contract is that the Service shall provide dredging evaluation services for the Customer as described in the Service's Proposal (hereinafter "Proposal") dated June 2016 which is attached hereto and expressly incorporated and made a part of this Contract and identified as Attachment One.

Customer shall provide the Service with any and all documentation between the Maryland Department of the Environment and the Customer concerning the funding for this project prior the Service commencing work. Customer shall promptly provide the Service with additional documentation if the Customer receives it after the commencement of the work.

**ARTICLE II - REIMBURSEMENT AND METHOD OF PAYMENT**

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The Customer shall reimburse the Service for costs incurred in accordance with the Proposal. The not to exceed amount of the Contract is One Hundred Sixty-one Thousand Three Hundred and Ninety Dollars (\$161,390.00).

On or about the fifteenth of each month, the Service shall submit an invoice to the Customer for costs incurred during the previous month. Within thirty (30) days after receipt of each monthly invoice from the Service, the Customer shall pay the full amount specified therein. However the Customer reserves the right to reject the invoice in whole or part due to disputed items. The Customer shall provide written explanation of the disputed item. The Customer will not exercise this right in an arbitrary or capricious manner. Any amounts payable under this contract by the Customer to the Service that are not paid when due in accordance with this Contract shall bear interest at an annual rate (compounded monthly at 1 ½% per month) equal to eighteen percent (18%).

**ARTICLE III - TERM**

This Contract shall be in effect from the date it is executed until May 31, 2017.

**ARTICLE IV - CONTRACT REPRESENTATIVES**

The following individuals are designated as Contract Representatives for their respective parties (name and address):

Service	Stephanie Peters 259 Najoles Road Millersville, Maryland 21108
Phone	410-729-8341
Email	SPete@menv.com
Customer	Kevin Null 203 South Fourth Street – Room 207 Oakland, Maryland 21550
Phone	301-334-8970
Email	knull@garrettcountry.org

**ARTICLE V - TERMINATION**

**SECTION 501. Termination by the Customer.** The Customer may terminate this Contract upon thirty (30) days' notice to the Service. In the event of such termination, the Service shall be entitled to reimbursement for all its efforts up to the date of termination.

**SECTION 502. Termination by the Service.** The Service may terminate this Contract for failure of the Customer to comply with any provision of this Contract. Prior to such

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termination, the Service shall notify the Customer, in writing, of the alleged grounds for termination. If, within ten (10) days of receipt of such notice, the Customer has not corrected or is not making reasonable progress towards correcting the alleged breach, then the Service may terminate this Contract by written notice, effective immediately. In the event of such termination, the Service shall be entitled to reimbursement for its efforts up to the date of termination.

**ARTICLE VI - FINANCIAL RESPONSIBILITY**

**SECTION 601. Insurance.** The Service shall obtain and keep in force, during the term of this Contract, insurance it deems prudent.

**SECTION 602. Indemnification.** This Section 602 shall be effective only to the extent that and at such time as the General Assembly of the State of Maryland appropriates funds specifically for payment of any liability otherwise arising under this Section prior to the event in connection with which the obligation to indemnify arises. The Service, to the extent permitted by Applicable Law, shall indemnify the Customer and save it harmless against and from any and all suits, claims, costs, expenses, losses, and damages which the Customer may, at any time or times, incur, suffer, sustain, and or be subjected to, directly by reason of, on account of, or in any way resulting from the tortious acts or omissions of the Service, its employees and officers. The Service shall not be obligated to indemnify the Customer against costs, expenses, losses or damages resulting from the tortious or illegal act of the Customer, its employees, invitees, successors, and assigns. Nothing in this Section 602 shall enlarge or alter the conditions of Service's waiver of sovereign immunity as set forth in the Maryland Tort Claims Act, Maryland Code Annotated, State Government Article, Title 12, Subtitle 1.

**ARTICLE VII - GENERAL PROVISIONS**

**SECTION 701. Customer's Contract Representative.** This Contract shall be construed as being between the Service and the Customer. The Customer has designated the person identified in Article IV as the Contractual Representative of the Customer with full authority to give and receive any notice required herein, or take any action in regard to the interest of the Customer under this Contract.

**SECTION 702. Records, Accounts and Audits.** The Service shall keep proper books, records and accounts for the Services and make separate, complete and correct entries therein of all its transactions relating to the Services, and all such books, records and accounts shall be subject to audit and inspection by the Customer during regular business hours.

**SECTION 703. Subletting, Assignment or Transfer.** The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors. No right or duty hereunder shall be sublet, assigned, delegated or otherwise disposed of by either

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party hereto, except with the prior written consent of the other party. Any sublease, assignment, delegation, or other disposal in violation of this Section shall be null and void.

**SECTION 704. General Compliance with Laws.** Each party hereto shall comply with all federal, State and local laws and regulations that affect performance or payment hereunder or any materials, equipment, or employees connected in any manner whatsoever with such performance or payment.

**SECTION 705. Force Majeure.** Neither party shall be deemed to be in default under the provisions hereof for delay arising from causes beyond its control or the control of its agents or employees, including, but not limited to, the inability to secure needed materials or equipment, or severe weather beyond reasonable anticipation that impedes performance, or acts of God, or willful or negligent acts of the other party or of its agents or employees, or regulations of restrictions imposed by any governmental agency or authority, or fire, strikes, lockouts, labor disputes, or civil commotion.

**SECTION 706. Non-Discrimination in Employment.** The provisions of Title VII of the Civil Rights Act of 1964 are hereby included in this Contract to the end that no person in the United States shall, on the grounds of race, color, sex, religion or national origin, be excluded from participation in, be denied the benefits of or otherwise subjected to discrimination under this Contract. The provisions of Article 49B, Sections 14 to 18 (Discrimination in Employment) of the Annotated Code of Maryland, are incorporated by reference and are made a part hereof.

**SECTION 707. Governing Law.** This Contract shall be governed in accordance with the laws of the State of Maryland.

**SECTION 708. Independent Contractor.** At all times during the term of this Contract, the Service is and shall be deemed to be an independent contractor.

**SECTION 709. Severability.** If any provisions hereof shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions hereof, and this Contract shall be construed and enforced as if such invalid and unenforceable provision had not been contained herein.

**SECTION 710. Amendments.** This Contract may be amended from time to time by written agreement, duly authorized and executed by the parties hereto. Oral statements purporting to amend this Contract shall be null and void.

**SECTION 711. Merger.** This Contract merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof, and constitutes the entire agreement between the parties hereto in respect thereof.

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IN WITNESS WHEREOF, the parties have executed this Contract I.D. No. 2-16-3-81,  
to be effective on the day and year first above written.

MARYLAND ENVIRONMENTAL SERVICE

Susan Weil  
WITNESS

BY: John O'Neill  
JOHN O'NEILL  
DEPUTY DIRECTOR

BOARD OF GARRETT COUNTY COMMISIONERS

Paul C Edwards  
WITNESS

BY: Paul C Edwards  
NAME: PAUL C EDWARDS  
TITLE: CHAIRMAN

Approved as to form and legal  
sufficiency this 6th day of

July, 2016.

William J. Hall  
Assistant Attorney General

## Deep Creek Lake Dredging Evaluation, Garrett County, Maryland

### Scope of Work

June 2016

Proposal No.: EDR-59-16  
MES Contract Number: 2-16-3-81

**Summary:** The Maryland Environmental Service (MES) will provide, manage, and coordinate qualified MES professional staff and MES subcontractors to assist Garrett County with the dredging evaluation, DNR Boating Services Waterway Improvement Fund grant application, and outreach associated with the dredging of a cove in Deep Creek Lake, in Garrett County, MD.

MES will provide the following services: project and contract management; meetings/conference calls and site visits; evaluation of dredging locations; evaluation of local dredged material placement locations; subcontracted engineering services; bathymetric survey; Waterway Improvement Fund grant application; public outreach; and supplemental (contingent) services. Supplemental services will require notice to proceed from Garrett County.

Services will be provided on a cost reimbursable basis of allowed incurred costs in accordance with the approved scope of work and billable rates. Changed conditions or requirements and budget implications will be reported to Garrett County, as appropriate.

The term of this work is estimated to cover the period of June 2016 through May 31, 2017 pending execution of an agreement between MES and Garrett County.

#### Task 1. Project Management and Technical Services (MES)

##### Subtask 1.1 Project Management and Client Coordination

MES will provide a project manager and supporting professional staff to oversee contracts and to manage work requested by Garrett County and performed by MES staff under this project in coordination with the designated project manager. MES and MES subcontractors will document task status and charges in accordance with the Contract between Garrett County and MES and related contractual agreements between MES and MES subcontractors. Supporting materials will be provided upon request, as necessary, to satisfy task performance and accounting requirements of Garrett County. MES will advise Garrett County of any changed conditions or other situations encountered and reported by MES subcontractors during this project that could potentially affect the planning basis that MES or MES subcontractors used in deriving the price estimates.

MES will develop and manage work under the Contract with Garrett County and agreements with subcontractors; develop scopes of work, cost estimates and proposals; produce monthly status reports; develop and maintain project schedules; process invoices; and develop and track the project budget.

MES will provide status reports on project activity to the designated Garrett County project manager. Monthly reporting is planned and may be adjusted by mutual agreement of Garrett County and MES. The status reports will be provided in electronic format within 15 calendar days of the end of the reporting period. For planning purposes, twelve (12) status reports are planned. Electronic information will be provided in Microsoft Office Suite format.

MES will prepare a draft preliminary schedule in Microsoft Office Suite format and will include information on project elements and timelines. The schedule will be updated as needed. For planning purposes, one (1) schedule update is estimated through June 30, 2016.

MES will provide technical support to the County in determining and navigating the Maryland Department of Natural Resources (DNR) Waterway Improvement Fund (WIF) grant process. This is anticipated to include, but not be limited to, coordination with DNR and other stakeholder groups as necessary. MES will provide regular updates to the County on the status of the dredging evaluation conducted in Subtask 1.3.

### **Subtask 1.2 Meetings/Conference Calls and Site Visits**

MES will prepare for, attend, and facilitate (upon request) meetings and conference calls regarding the project with Garrett County and the project team, regulatory and resource agencies, community groups, and other entities, as needed. MES will prepare agendas, action items, and meeting summaries from all meetings and provide them to Garrett County and the project team. MES will attend site visits of Deep Creek Lake and provide site visit summaries. Meeting documents will be provided electronically, in Microsoft Office Suite format. For planning purposes, three (3) meetings/conference calls and two (2) site visits are planned. Site visits required for survey purposes are included in Subtask 1.5. MES will coordinate with Garrett County to determine whether meetings or conference calls will be held and will charge accordingly.

### **Subtask 1.3 Dredging Evaluation**

MES and its subcontractor will develop an alternatives analysis to determine the most cost effective and environmentally and publicly acceptable location in which to dredge sediment from Deep Creek Lake. Ten lake coves have been identified as priority study areas: Arrowhead Cove, Harvey's Peninsula, Poland Run Cove, Glen Glade Cove, Hazelhurst Cove, Turkey Neck Cove, Chatterton School Cove, Deep Creek Cove, Penn Point Cove, and Pawn Run Cove. Each of these coves will be evaluated according to criteria required by the WIF grant application. These criteria include, but are not limited to:

- Expansion/improvement of public boating access
- Improvement of boating safety
- Cost/benefit
- Regulatory permits/environmental issues
- Projected expenditure rate
- Continuation of a current project
- Impact to boating congestion
- Incorporation of sustainable elements

- State/local priority

In addition to the WIF criteria, each cove will be evaluated on Maryland Department of Natural Resources (MDNR)/stakeholder concerns including, but not limited to:

- Environmental impacts to shallow water habitat, release of organic material into the water column, lake stratification, submerged aquatic vegetation and related monitoring programs, invasive vegetative species, fisheries, benthic community
- Economic impact
- Lake water level impacts
- Recreational activity impact (boating, fishing, whitewater rafting, swimming)
- Community support
- Proximity to placement area
- Current and historical cove depth
- Dredging engineering logistics
- Permitting and potential mitigation costs

The dredging evaluation will consider other factors such as lowering of the lake's water level and/or modifications to the dam. Factors to be considered in evaluating the alternatives include, but are not limited to, constructability, cost, schedule, permitting, and impacts. A concise report including a matrix of the factors will be prepared that identifies the options being considered, including a no dredging option, and then ranks them based on the criteria described above. A preferred alternative will be selected by the project team.

It is anticipated that in as many cases as possible, the most useful existing information from previous studies will be used for input into the matrix. Due to the limited funding available for this project, a total of \$63,685 will be available to the subcontractor for work under this Subtask.

#### **Subtask 1.4 Evaluation of Dredged Material Placement Options**

MES and its subcontractor will evaluate possible dredged material disposal sites based upon a defined radius from the dredging site that is agreed upon with Garrett County. The investigation will include, but not be limited to, evaluating the feasibility of placing dredged material in the Garrett County Landfill, to be used as cover. Additionally, logistical factors such as anticipated dredge pipeline distances and road mileage between the dredge and the placement site will be considered.

#### **Subtask 1.5. Bathymetric Survey**

MES will perform a bathymetric survey of the ten coves under consideration for dredging, as required by the WIF grant application. A recent survey is needed to determine the estimated project costs and to verify sufficient water depths. The terminating bottom contour for the survey should go to at least the proposed project depth. All survey drawings will show all horizontal and vertical controls and the source/information for the benchmark(s) used for the survey. All soundings/elevations should be shown in MLLW. The number/density of soundings taken shall be taken/plotted in a manner sufficient to accurately determine the existing water depths within the project site as described above. Survey shall include a verbal description in the form of a table for all channel stake point descriptions, angles,



distances, and coordinates required to relocate the channel in the field using existing horizontal controls. Any submerged obstructions found in the project site shall be labeled accordingly on the drawing(s). Any existing marine structures (both in-water and upland) within the limits of the proposed project site shall be located/labeled accordingly.

MES shall provide surveys to Garrett County in hard copy, as well as an electronic copy in both PDF/AutoCAD format. Digital orthophoto (orthorectified) overlay aerial maps can be used as part of the final drawing(s) to show adjacent shorelines, etc. as long as they can be displayed electronically in AutoCAD. Hard copy drawings should be provided in Plan D size (24"x36"). All surveys must be stamped by either a Maryland Registered Land Surveyor or Maryland Registered Professional Engineer.

### **Task 2. Waterway Improvement Fund Grant Application**

Should the project team determine that dredging is feasible, MES will complete the DNR Boating Services Waterway Improvement Fund grant application on behalf of Garrett County, incorporating the information for the preferred alternative determined in Task 1.

In lieu of permitting services, MES will provide a schedule of permit-related milestones, as required by the WIF application.

### **Task 3. Public Outreach**

MES will assist Garrett County and the project team with public outreach related to the dredging of Deep Creek Lake specifically, and/or basic dredging information. Services could include, but are not limited to, preparation for and attendance at public meetings, and development of public presentations, fact sheets, and other public outreach deliverables such as a website or an e-newsletter. MES will prepare agendas, action items, and meeting summaries from all meetings and provide them in Microsoft Office Suite electronically to Garrett County and the project team. For planning purposes, two (2) community meetings, two (2) presentations, and two (2) fact sheets are estimated.

### **Task 4. Supplemental (Contingent) Services**

Upon request by Garrett County, MES and/or its subcontractors will provide additional technical services, as needed. MES will submit a scope of work and cost estimate for each requested task for approval by Garrett County. Supplemental tasks will require notice to proceed by Garrett County, and will be performed on a cost reimbursable basis of allowable incurred costs with the approved scope of work and billable rates, not to exceed the available budget. For planning purposes, \$10,000 is estimated for contingent supplemental services for MES and MES subcontractors.