

## Memorandum of Understanding

This Memorandum of Understanding (the "Memorandum") is made on January 28, 2019, by and between the Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, Maryland 21230 (hereinafter referred to as "Department"), the Campbell Foundation, 410 Severn Avenue, Suite 210, Annapolis, Maryland 21403 (hereinafter referred to as "Foundation"), and the Delmarva Poultry Industry, Inc., 16686 County Seat Highway, Georgetown, Delaware 19947 (hereinafter referred to as "DPI") (collectively, the "Partners") for the purpose of achieving the various aims and objectives relating to the Lower Eastern Shore Ambient Air Quality Monitoring Project (the "Project").

WHEREAS, the Department is a principal unit of state government responsible for the environmental interests of the people of Maryland and whose mission it is to protect and restore the environment for the health and well-being of all Marylanders; and

WHEREAS, the Foundation is a family foundation dedicated to improving the conditions of the Chesapeake Bay and engaging in partnership activities to protect living resources and their habitats; and

WHEREAS, DPI is an 1800-member trade association working for the common good of the meat chicken industry in Maryland, the Eastern Shore of Virginia and Delaware and is committed to doing what is right for the communities in which its members work and live; and

WHEREAS, the Department, the Foundation and DPI share the common goal of protecting public health and the Chesapeake Bay and its tributaries; and

WHEREAS, there have been claims that air quality within some communities in rural areas is unhealthy due to concentrated animal feeding operations (CAFO's) involving poultry and, more particularly, that ammonia and particulate emissions from poultry houses adversely affect health illnesses, such as asthma; and

WHEREAS, there are no ambient air monitoring stations in Maryland that measure ammonia or particulate matter on the lower Eastern Shore where many CAFO's are located; and

WHEREAS, the lack of monitoring stations on the lower Eastern Shore in the vicinity of poultry operations does not allow for a scientifically-based approach to determining any potential link between poultry operations on the lower Eastern Shore and adverse health effects.

WHEREAS the Department, the Foundation, and DPI desire to enter into an agreement in which the partners will work together to complete the Project;

AND WHEREAS the Department, the Foundation, and DPI are desirous to enter into a Memorandum of Understanding between them, setting out the working arrangements that each of the partners agree are necessary to complete the Project.

### **Purpose**

The purpose of this Memorandum is to provide a collaborative relationship and a framework of responsibilities for the Department, the Foundation and DPI related to the Project, through which the parties will (1) collect ambient air data for fine particulate matter, coarse particulate matter and ammonia (the "Pollutants") from two new air monitoring stations on the lower Eastern Shore of Maryland and (2) collect ambient air data to establish background levels for fine and coarse particulates and ammonia at two existing monitoring stations owned by the Department and located elsewhere than the lower Eastern Shore.

The data are being collected to provide information about ambient concentrations of pollutants in the vicinity of poultry operations. Data collection provides no assumption of data interpretation; the development of state policy, including establishing ammonia standards or mitigation requirements for CAFO's; the development of monitoring protocols; the assessment of potential public health risks; or the establishment of any laws or regulations. The collected data may be used by any or all parties to this agreement for future projects and for comparing ambient air quality data among the four locations as well as other available ambient air monitoring data related to other locations.

### **Obligations of the Partners**

The Partners acknowledge that no contractual relationship is created between them by this Memorandum, but agree to work together in the true spirit of partnership to ensure that there is a united visible and responsive leadership of the Project and to demonstrate financial, administrative and managerial commitment to the Project by means of the following individual services.

### **Cooperation**

The activities and services for the Project shall include, but are not limited to:

- I. Services to be rendered by Department:
  - a. Operate all air monitoring and meteorological devices and equipment at the two new shelters and the two Department-owned existing air monitoring shelters that are a part of the Project.
  - b. Provide the Foundation and DPI with technical specifications for the air monitoring and meteorological devices and equipment to be purchased and installed under this Agreement to ensure reliability of data and, where applicable, compatibility with the Department's existing equipment.

- c. Negotiate and enter into a lease agreement for the use of any properties associated with the two new shelters that are a part of the Project.
- d. Arrange for the hiring of contractors, as necessary, to prepare and secure the selected sites for the two new shelters and to set up any monitoring or meteorological equipment associated with the project.
- e. Quarterly share all collected air monitoring data and, if requested, meteorological data with the Foundation and DPI. Prepare a final report summarizing data collected during the duration of this Agreement.

II. Services to be rendered by the Foundation:

- a. As specified by the Department, purchase and finance the installation of two air monitoring shelters and provide electrical power to and security fencing for the shelters. These shelters will be located upwind and downwind, respectively, of a concentration of poultry operations on Maryland's lower Eastern Shore. The exact location of the stations will be determined cooperatively among the Department, DPI and local interested parties. Once the location has been determined, the Partners will work collaboratively to secure access to and permission to house the two new air monitoring shelters and associated equipment and fencing.
  - b. As specified by the Department, for placement in the two new air monitoring shelters, purchase and finance air sampling devices and associated equipment to measure, store, and transmit data for the Pollutants.
  - c. As specified by the Department, purchase and finance the installation of two meteorological towers to capture pertinent meteorological data at the two new air monitoring shelters.
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III. Services to be rendered by DPI:

- a. For use at two existing air monitoring shelters owned and operated by the Department, purchase and finance the installation of air sampling devices and associated equipment to measure, store, and transmit data for ammonia.
- b. Assist the Department in efforts to locate a suitable site for the two new lower Eastern Shore air monitoring shelters. Assist the Department in securing the site for the two new shelters and associated equipment and fencing.

## Resources

The Partners will endeavor to have final approval and secure any financing necessary to fulfill their individual financial contributions at the start of the planning for the development of the Project.

- a. The Department agrees to provide the following financial, material and labor resources in respect of the Project:

The Department will provide the resources necessary to operate both the two existing air monitoring stations and the two newly purchased air monitoring stations, as well as the resources necessary to ensure the two new stations are set up properly and security fencing provided and to collect and store all data from these air monitoring stations.

The Department will assist in efforts to locate a suitable site for the two new lower Eastern Shore air monitoring shelters.

- b. The Foundation hereby agrees to provide the following financial, material and labor resources in respect of the Project:

The Foundation will finance the purchase and installation of two new air monitoring shelters and meteorological equipment and gift them to the Department, subject to approval by the Department of Budget and Management, or other entity as mutually agreed, along with any air monitoring devices and data collection and transmission equipment items that are a part of this cooperative effort. Following completion of the Project, the Department will, upon request and subject to availability, allow the gifted equipment to be used by academia and other entities to conduct further research on air pollution.

- c. DPI hereby agrees to provide the following financial, material and labor resources in respect of the Project:

DPI will finance the purchase and installation of two ammonia air monitoring devices and gift them to the Department, subject to approval by the Department of Budget and Management, or other entity as mutually agreed, along with any data collection and transmission equipment items that are part of this cooperative effort. Following completion of the Project, the Department will, upon request and subject to availability, allow the gifted equipment to be used by academia and other entities to conduct further research on air pollution.

DPI will provide the resources necessary to assist the Department in locating two appropriate sites to install the new air monitoring shelters.

## **Communication Strategy**

Marketing of the vision and any media or other public relations contact should always be consistent with the aims of the Project and only undertaken in collaboration with all of the parties. Where it does not breach any confidentiality protocols, a spirit of open and transparent communication should be adhered to. Coordinated communications should be made with external organizations to elicit their support and further the aims of the Project.

## **Liability**

No liability will arise or be assumed between the Partners as a result of this Memorandum.

## **Term**

The arrangements made by the Partners by this Memorandum shall remain in place for a period of eighteen months following full execution of this Memorandum by all Partners. The term can be extended only by agreement of all of the Partners.

## **Notice**

Any notice or communication required or permitted under this Memorandum shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

## **Governing Law**

This Memorandum shall be construed in accordance with the laws of the State of Maryland.

## **Assignment**

Neither party may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

## **Amendment**

This Memorandum may be amended or supplemented in writing, if the writing is signed by the party obligated under this Memorandum.

## **Severability**

If any provision of this Memorandum is found to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Memorandum is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

### **Prior Memorandum Superseded**

This Memorandum constitutes the entire Memorandum between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, agreements, and Memorandums, whether written or oral.

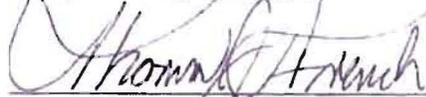
### **Understanding**

It is mutually agreed upon and understood by and among the Partners of this Memorandum that:

- a. Each Partner will work together in a coordinated fashion for the fulfillment of the Project.
- b. In no way does this agreement restrict involved Partners from participating in similar agreements with other public or private agencies, organizations, and individuals.
- c. To the extent possible, each Partner will participate in the development of the Project.
- d. Nothing in this memorandum shall obligate any Partner to the transfer of funds. Any endeavor involving reimbursement or contribution of funds between the Partners of this Memorandum will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the Partners involved and shall be independently authorized by appropriate statutory authority. This Memorandum does not provide such authority.
- e. This Memorandum is not intended to and does not create any right, benefit, or trust responsibility.
- f. This Memorandum will be effective upon the signature of all Partners.
- g. Any Partner may terminate its participation in this Memorandum by providing written notice to other Partners.

IN WITNESS WHEREOF, the parties have executed this Agreement by causing the same to be signed by their duly authorized representatives on the day and year first above written and by their signatures support the goals and objectives of the Lower Eastern Shore Ambient Air Quality Monitoring Project.

**Maryland Department of the Environment**

  
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By: Thomas J. French, Director, Operational Services Administration

**The Keith Campbell Foundation for the Environment**

  
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By: Samantha Campbell, President

**Delmarva Poultry Industry, Inc.**

  
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By: Holly Porter, Executive Director

Approved as to form and legal sufficiency this 25<sup>th</sup> day of January, 2019

  
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