

# HCAP General Terms & Conditions

Note that the City of Harrisonburg and the Shenandoah Valley Soil and Water Conservation District (the District) work in partnership to administer the program.

The following general Terms and Conditions are items that explain expectations, legal requirements, program rules, and other important information regarding applications and contracts in the HCAP program. These Terms and Conditions are enumerated in other documents associated with the HCAP program as well as the HCAP Manual and some are provided here as a summary for interested participants to review. This list is not exhaustive. For questions regarding the program or these Terms and Conditions contact the Shenandoah Valley Soil and Water Conservation District.

## **Please read the following statements carefully and fully.**

### Forms

Any forms associated with this program should be completed by the person who is legally responsible for the site where the project is being done. Contractors should not be completing forms for applicants. If assistance is needed in completing any forms associated with the program, contact the District. Payment will be made to the person whose name is on the application.

### Site Access

Applicants must agree to allow access to The City of Harrisonburg and the District and their authorized agents, and employees to evaluate site conditions and design options, observe construction, and/or conduct spot checks during the 10 year life span of the practice. The City of Harrisonburg and the District and their authorized agents, and employees will only have access to the site for the purposes stated above and only during normal business hours.

### Application

Applications may be internally ranked and may be held for future approval and funding.

Application approval is not guaranteed.

Once applications are approved for funding, the application is considered to become a contract.

Signing application documents does not obligate the District and/or the City of Harrisonburg to provide any funds until the application is approved. Additionally, receiving application approval does not guarantee payment for the practice. Final payment will be contingent upon meeting the required specifications and returning all required documentation to the District. Applicants may cancel their application/contract at any point prior to receipt of payment. After receipt of payment, applicants wishing to cancel their contract may do so only if the cost share funds are repaid.

One contiguous BMP cannot have more than one application regardless of property boundaries nor will the HCAP program accept multiple applications from adjacent property owners for the same contiguous project.

Applicants cannot start any work associated with the practice until their application has been approved. Applicants will be notified of approval by mailed letter from the District. Application approval will be revoked, and any associated cost share funds cancelled, if any work for the practice has been initiated prior to application approval.

Some practices have engineering requirements. The District will notify the applicant if the practice has these engineering requirements. Applications for an engineered practice must have the engineer's design approved by the District prior starting any work on the practice. The District will notify the applicant of design approval. Application approval will be revoked, and any associated cost share funds cancelled, if any work for the practice has been initiated prior to design approval.

Following application approval, the installed practice must be in accordance with the approved design and that any plan changes, to include but not limited to, changes in location, size, or type of project must receive pre-approval. Acceptance of plan changes will be at the discretion of the District and/or the City of Harrisonburg. Applicants that do not receive pre-approval of the plan changes will result in cancellation of approved application/contract and any associated cost share funds.

#### Program Eligibility

Applicants shall not use a Harrisonburg Conservation Assistance Program (HCAP) practice to fulfill any local, state, or federal regulatory requirement or be used to correct a violation. Additionally, the HCAP practice shall not be used for purposes of Nutrient Trading. Applicants who violate this requirement will be responsible for repaying the entire cost-share amount provided.

Practices may not be installed on new construction. Generally, new construction is considered concluded when the site's construction activity has ended, the equipment and materials are removed, the site is stabilized and properly vegetated, coverage under the Construction General Permit is terminated (if applicable) and an occupancy permit (if applicable) has been issued.

HCAP is eligible to private, non-profits, and commercial landowners within the City of Harrisonburg. State- and federally-owned land does not qualify.

HCAP is not eligible to address flooding issues on existing development.

HCAP is intended to treat only on-site drainage. Sites with contributing offsite runoff may be addressed with other City programs.

#### Cost Share Funds

HCAP is a reimbursement program and it is the applicant's responsibility to pay for work completed under this agreement.

Permit fees and "HCAP Preparation" fees are not eligible for reimbursement.

HCAP Cost Share funds may be combined with other grant or cost-share resources, but may not exceed one hundred percent (100%) of total practice costs. HCAP funds shall not be paired with ineligible funds to prevent double reporting. If receiving additional funding for this project, the applicant is required to fully disclose to the District funding source(s) and amount(s)

Each HCAP practice has a practice cap, which is the maximum payment that may be given to an applicant per practice. The final cost share payment shall not exceed the total cost of installation. All applicants will be limited to a participant cap of \$30,000.00 in total cost-share received per program year, per entity (defined by unique tax ID or social), based on date of application approval.

Applicants may apply for and be approved for multiple applications in the same program year. Applicants who submit and are approved for multiple applications must install the most effective BMP first or concurrently. However, the applicant, after approval of multiple applications, cannot refuse a higher ranked BMP and still be eligible for cost share on a lower ranked BMP.

Application approval will be for a set amount of cost share funds. Applicants may request additional cost share funds if project expenses exceed the estimated practice cost and practice or participant caps have not been met yet. Approval of additional cost share funds is at the discretion of the District and/or the City of Harrisonburg.

All projects approved by the City during a given calendar year must begin work within 90 days of approval to qualify for cost-share payment. An extension may be granted if the applicant provides a justification deemed reasonable by the City of Harrisonburg, such as waiting for the appropriate planting season.

Projects must be completed by June 1<sup>st</sup> of the calendar year following the approval of the application. Contracts that cannot be completed by June 1<sup>st</sup> of the calendar year following the approval may be cancelled unless there is acceptable justification for an extension. All extensions are at the discretion of the City of Harrisonburg.

The Soil and Water Conservation District (District) is required to issue a Form 1099-Misc (IRS) for any applicant issued a payment over \$600.00 as it will be considered taxable income. Applicants should discuss any tax implications with their tax preparer. Because the IRS uses the Social Security number/Federal Tax ID number as a unique identifier, the District must collect applicant's identification number. The City of Harrisonburg and the District do not use the Social Security number or Federal Tax ID for purposes other than as stated above.

#### Practice Lifespan

All HCAP practices have a ten-year maintenance commitment and is subject to spot check throughout the 10-year lifespan. The ten-year lifespan end date is calculated from the January 1<sup>st</sup> following payment. Applicants must maintain the practice from the time of installation until the ten-year lifespan end date.

Applicants are responsible for the operation and maintenance of the BMP and will follow the Operation and Maintenance (O&M) Agreement that will be provided to them by the District.

Failure to properly maintain the installed practice or removal of the practice before the end of the ten-year lifespan may result in the need for repayment of a prorated amount of cost share funding received.

The sale, lease, or changed use of the property will not exempt this requirement unless the accepting party agrees to transfer the responsibility. Should the property be sold, leased or have a change of usage during the lifespan of the practice, it is the applicant's responsibility to notify the District and/or City of Harrisonburg and work with them to ensure that an *Agreement Transferring BMP Responsibility* form is completed.

#### Other General

Applicants must indemnify and hold the District and the City of Harrisonburg and their authorized agents and employees harmless from any and all claims for damages to persons or property arising from the installation, maintenance, repair, operation or use of the BMP.

It is the applicant's responsibility to ensure all work performed for the practice meets all applicable local, state, and federal permits, policies, and ordinances.

The applicant is the project manager and responsible for all the components of the project including, but not limited to, securing contractors, ensuring project meets timeline and budget, resolving contractor disputes, and notifying the District of project status. Neither the District nor the City are responsible for managing contractors, resolving disputes, or coordinating work.

No work can be planned or installed in any Right of Way, Line of Sight, easements that restrict the installation of a practice, or any location that is restricted by an existing utility.

Prior to any ground disturbance, applicants must locate all public utilities near the location of the proposed practice. Contact Miss Utility before any land disturbance.

If the practice will disturb greater than 1 acre, the applicant will need to obtain a Virginia Stormwater Management Permit from the City of Harrisonburg.

If the practice will disturb greater than 10,000 sq.ft., the applicant will need to obtain a Land Disturbance Permit from the City of Harrisonburg.

The City of Harrisonburg and the Soil and Water Conservation District programs, activities and employment opportunities are available to all people regardless of race, color, religion, gender, age, national origin or political affiliation.