



## **Wolf Creek Floodplain Restoration**

**Design-Build Project**

**(Seneca County, Ohio)**

**Request for Proposals**

**July 21, 2021**

**Proposals must be received by 4:00pm Eastern on August 25, 2021**

## ***STATEMENT OF PURPOSE***

The Black Swamp Conservancy (“Conservancy”) is an accredited land trust that protects more than 19,700 acres of natural and working lands in northwest Ohio for the benefit of future generations. The Conservancy’s Strategic Conservation Plan focuses on riparian corridors as key areas to protect and restore to provide the greatest benefits for water quality and wildlife habitat.

The Conservancy is soliciting proposals for a Contractor to manage and implement all aspects (including, without limitation, design, engineering, permits, construction, and planting) of a design-build wetland, stream and riparian woods restoration with enhanced floodplain connectivity (the “Project”) on the 161-acre Wolf Creek Properties (the “Site”) in Seneca County, Ohio. The Site lies along both sides of a ¾-mile stretch of Wolf Creek. Approximately 53 acres of the Site is wooded, including 10.5 acres of Freshwater Forested/Shrub Wetland, according to the National Wetland Inventory. The remaining 108 acres of the Site are currently in grain production.

The portion of the Site to be restored for this Project is the 108 acres of land now in agricultural production (the “Project Area”). Maps showing the general location of the Site, and the specific Project Area within it, are attached to this RFP as Exhibit A. The Project Area has about 50 acres of hydric soils and about 35 acres that are subject to seasonal flooding from Wolf Creek. About 10 acres of the Project Area will be planted to turf grass or otherwise prepared to pave the way for future park land and public access, when the property is transferred to Seneca County Parks after completion of this Project.

This rest of the 108-acre Project Area will be restored to native habitats as part of this Project. The restoration will include: 1) removal and/or daylighting of drainage tile on the site to restore hydrology; 2) creation of 45 acres of wetlands, including a combination of emergent, shrub-scrub and forested wetlands; 3) restoration and/or construction of approximately 1,500 linear feet of streams, oxbows or other waterways; 4) establish connectivity between Wolf Creek and the restored wetlands and waterways; 5) conversion of 50 acres of ag land to riparian woods and native meadow habitats.

A preliminary restoration concept for this project is included as Exhibit B. Contractors are encouraged to submit proposals that modify and build upon the preliminary restoration concept to result in the best nutrient reduction and habitat outcomes while still incorporating the minimum Project deliverables and staying within the budget. Photos depicting the condition of the Site as observed on May 17, 2021, are attached as Exhibit C.

## **SECTION A: GENERAL ADMINISTRATIVE PROVISIONS**

### ***THE CONSERVANCY’S PROCUREMENT PROCESS***

The Conservancy reserves the right to reject, in its sole and absolute discretion, any and all proposals, for any reason, to waive technicalities, and to pursue purchasing that is in the best interest of the organization.

## **VENDOR'S OBLIGATIONS**

Contractor must analyze and respond to all articles of this RFP providing sufficient information to allow the Conservancy to evaluate the Proposal. Contractor, by submitting its Proposal, agrees that any costs incurred by the Contractor in responding to this RFP are to be borne by the Contractor and may not be billed to the Conservancy.

Through this RFP, one Contractor will be selected to implement the design, engineering, construction and planting of the Wolf Creek Floodplain Restoration Project. The Conservancy shall select a Contractor in the Conservancy's sole discretion. The Conservancy reserves the right to reject any and all proposals for any reason and to pursue purchasing in a manner that is in the best interest of the organization and that is in compliance with the grant requirements that are financing the Project.

*If a particular entity is chosen as an award winner and any additional costs are presented at the time of entering into a final agreement or Project implementation, the Conservancy reserves the right to reject that entity as the Contract winner and/or terminate any Project Contract with that entity, in the Conservancy's sole and absolute discretion.*

## **RESTRICTED COMMUNICATIONS**

In order to avoid situations where a potential or perceived conflict of interest could occur or where an unfair competitive advantage could be obtained or perceived, all inquiries or other communications regarding this RFP shall be exclusively directed to Melanie Coulter as directed in Section E below. Contractors are hereby expressly instructed not to otherwise communicate with the Conservancy or partners regarding this RFP. This prohibition is also applicable to Contractor's affiliates, officers, employees, agents, subcontractors, consultants and proposing team members.

## **DISPOSITION OF PROPOSALS**

All material submitted in response to this RFP will become the property of the Conservancy and may be returned only at the option of the Conservancy and at the expense of the Contractor. The Conservancy reserves the right to retain a copy of any materials returned. Successful and unsuccessful Contractors will be notified in writing. The Conservancy shall not be obligated to detail any of the results of its evaluation.

## **CONFLICTS OF INTEREST AND ETHICS COMPLIANCE**

In order to eliminate any conflicts of interest or perceived conflicts of interest, it is necessary for each Contractor to disclose names and information in accordance with the attached Conflict of Interests Disclosure form. This relates to people who work, directly or indirectly, to respond to this RFP, as well as people who will do the resultant work if the Contractor receives the contract. The information will be kept confidential and given out only on a "need to know" basis.

The Contractor shall not voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

The Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflicts of Interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43 and Executive Order No. 2007-01S (“Executive Order”). The Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will take any action inconsistent with such laws and/or the Executive Order. The Contractor understands that failure to comply with Ohio’s ethics and conflict of interest laws is, in itself, ground for termination of the Contract.

***INSURANCE REQUIREMENTS***

1. The Contractor shall provide the Conservancy with a Certification of Insurance verifying its limits for liability, property damage, and automobile insurance in an amount not less than One Million Dollars (\$1,000,000), per occurrence.
2. The Conservancy shall be specifically named as an “additional insured” on all policies covering work under this Contract. The required Certificate of Insurance shall show that the Conservancy has been added to the policies.
3. ALL insurance shall be endorsed so that it cannot be canceled in less than sixty (60) days.
4. The Contractor shall also meet any further insurance requirements set forth in the Contract and/or the Grant Agreement.

***BONDING REQUIREMENTS***

Upon signing the Contract, the selected Contractor shall furnish and deliver to the Conservancy a performance bond and a payment bond issued by a surety authorized to do business in the State of Ohio, covering the faithful performance and completion of the Project, and covering the payment of all obligations arising hereunder. Each such bond shall be issued in an amount equal to the Contract price. The Contractor shall also meet any further bonding requirements set forth in the Contract and/or the Grant Agreement.

***APPLICABLE STATE AND FEDERAL REQUIREMENTS***

In the performance of the Project, Contractor shall comply with:

1. All applicable Ohio Governor Executive Orders; Federal, state and local laws, regulations (rules), assurances, and orders, whether or not specifically referenced herein.
2. Any and all terms and conditions of the Grant Agreement, attached as Exhibit D.

***DRUG FREE WORKPLACE***

The Contractor agrees to comply with all applicable federal, state and local laws and/or requirements of the Grant Agreements regarding smoke-free and drug-free work places and shall ensure that none of its

employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

***NONDISCRIMINATION***

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, handicap, or disability. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, ancestry, age, sex, handicap, or disability. Such action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices as may be provided by the State of Ohio setting forth the provisions of this non-discrimination clause.

The Contractor agrees that the hiring of employees for the performance of work under this Agreement shall be done in accordance with Sections 125.111, 153.59, and 153.591 of the Ohio Revised Code.

***EQUAL EMPLOYMENT OPPORTUNITY***

The Contractor agrees that it will fully cooperate with the State Equal Employment Opportunity Coordinator, with any other official or agency of the State or Federal Government which seeks to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices, and said Contractor shall comply promptly with all requests and directions from the state of Ohio or any of its officials and agencies in this regard, both before and during performance. All proposals and the Contract shall contain necessary requirements to implement these provisions.

***OHIO ELECTIONS AND CAMPAIGN CONTRIBUTIONS LAW***

In its Proposal, the Contractor shall certify that all applicable parties listed in ORC 3517.13(I)(3) or (J)(3) are in full compliance with ORC 3517.13(I)(1) and (J)(1).

***NON-COMPLIANCE***

Contractor's non-compliance with the non-discrimination requirements set forth herein shall be a basis for not awarding the Project to the Contractor and/or for termination of the Contract.

***INDEPENDENT CONTRACTOR CAPACITY***

The parties hereto agree that the Contractor, and any agents, employees, and/or subcontractors of the Contractor, in the performance of this agreement, shall act in an independent capacity and not as officers, employees, or agents of the State of Ohio, the Conservancy, partners and/or funding agencies. Nothing in this Agreement or the Contract shall be construed so as to create a partnership, joint venture, or other form of business entity or relationship between the parties.

### **CONTINGENCIES TO AWARD OF CONTRACT**

The Conservancy shall not be required to award a contract to any of the entities that submit a proposal in response to this RFP. The Conservancy shall, at the Conservancy's sole and absolute discretion, determine which entity, if any, shall receive the award. Reasons for non-award of this contract may include, but are not limited to, the Conservancy's dissatisfaction of the submitted proposals, insufficient interest from contractors, withdrawal of one or more of the grants described above that are being used to fund the Project, and/or inability of the Conservancy to get one or more permits necessary to complete the Project. The final award of the Project is conditional on Contractor executing a written Contract acceptable to the Conservancy, in its sole and absolute discretion. A draft Contract is attached to this RFP as Exhibit E. If the Contractor proposes changes to that form of Contract, such proposed changes should be submitted as part of its Proposal. The Conservancy reserves the right, in its sole and absolute discretion, to reject any and all changes proposed by any Contractor submitting a Proposal.

### **TRANSFER OF RECORDS**

Data shall be collected and formatted in a manner consistent with common good engineering practices. All records (original tracings, maps, field sketches, lab reports, flow data, graphics originals, design calculations, electronic files including model input and output files, etc.) generated by the Project shall be the property of the Conservancy and shall be turned over to the Conservancy upon completion or as directed.

### **SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS**

The contractor or team of contractors (collectively "Contractor") shall furnish all necessary drawings, plans, permits (local, state and federal), labor, facilities, materials, equipment, and construction oversight services to complete the Project scope of services as defined herein and in the Design-Build Contract entered into between the Conservancy and the Contractor (the "Contract").

The Contractor must be able to demonstrate the successful completion of at least 4 stream and/or wetland restoration projects, each greater than \$250,000 in contract amount, preferably but not mandatorily within the Western Lake Erie Basin, to be eligible to submit proposals.

The total maximum cost for the Project is \$1,615,930. The maximum amount of \$1,615,930 shall not be exceeded under any circumstances. *If a particular entity is chosen as an award winner and any additional costs are presented at the time of entering into a final agreement or Project implementation, the Conservancy reserves the right to reject that entity as the Contract winner and/or terminate any Project Contract with that entity, in the Conservancy's sole and absolute discretion.*

A map of the Project Area is attached as Exhibit A to this Request for Proposals ("RFP"). A Preliminary Restoration Concept for the Project is attached as Exhibit B. Photos depicting the condition of the Site as observed on May 17, 2021, are attached as Exhibit C. The Conservancy does not have topographical,

hydrological or other technical surveys of the Project Area. If desired, any such surveys shall be the Contractor's responsibility and should be included within the Contractor's pricing structure.

Contractors may submit their proposal based on the attached Preliminary Restoration Concept, but contractors are encouraged to submit proposals with suggested modifications or an alternative conceptual design and related justification and pricing for the Conservancy's consideration. Any alternative or modified conceptual design must incorporate the minimum Project requirements, as discussed in Section C: Project Description and Specifications and Section D: Contractor Scope of Services.

## **SECTION C: PROJECT DESCRIPTION AND SPECIFICATIONS**

### ***BACKGROUND***

This Project was made possible through a grant from the State of Ohio, Department of Natural Resources (the "ODNR"), acting by and through its Director, pursuant to Section 1501.01 of the Ohio Revised Code and Amended Substitute House Bill No. 166, passed by the 133<sup>rd</sup> General Assembly of the State of Ohio and signed by the Governor of Ohio on 18 July, 2019, with the following funds: H2Ohio Fund (Fund 6H20 725681). A copy of the "Grant Agreement" between the Conservancy and ODNR is attached as Exhibit D. *Contractors should review the Grant Agreement as the Contractor awarded the Project will be required to agree to all terms and conditions set forth in the Grant Agreement.*

The Site is a 161-acre future nature preserve recently purchased by the Conservancy and located along Wolf Creek between Township Road 36 and Fostoria Fremont Road (OH 12), in Liberty Township, one mile east-southeast of the village of Bettsville, Ohio. *See Exhibit A.*

About one third of the Site contains natural habitat including some secondary growth woods dominated by honeysuckle and around 25 acres of high quality mature riparian woods that contain 10.5 acres of freshwater forested/shrub wetland, according to the National Wetland Inventory. The Project Area is about 108 acres of agricultural field to be restored, 35 acres of which lie in the floodplain of Wolf Creek. The Project Area is divided in two by Wolf Creek, which runs from south to north through the center of the Site. *See Exhibit A.*

Available information indicates that the Site has been similar to current conditions since at least 1901. A 1901 topographic map depicted the Site as open land with no structures and Wolf Creek running through the Site. A 1951 aerial photograph showed the Site in agricultural production with no structures, and with woods along Wolf Creek and scattered trees in the southeast part of the Site. A swale was present along the eastern side of the Western Project Area. By 1982, the swale had become more vegetated (not being farmed) and tree lines were expanding from their earlier extents. However, by 2013 the tree lines and the vegetation in the swale had been removed. A berm of concrete debris was installed along the west side of the swale's northern end, to slow the water and reduce flooding of the field to its west. That concrete debris is still in place.

Since 1989, the property has been farmed by the same lessee, who is known for utilizing some sustainable farming practices. The agricultural fields on the property are extensively tiled, and the tiles drain to Wolf Creek and into the swale on the Western Project Area. An oil/gas pipeline traverses east-west through the northern portion of the Site. Proposed soil disturbance in this area must include measures to minimize potential impacts to and from the pipeline.

### ***PROJECT DESCRIPTION***

The Wolf Creek Properties lie along both sides of Wolf Creek in Seneca County, Ohio. The Project Area is located at 41°14'08.8"N 83°15'47.6"W. The Project Area is divided in two by Wolf Creek, which runs from south to north through the center of the Site. The Western Project Area can be accessed from Township Road 36, which runs along the northern boundary of the Western Project Area. The Eastern Project Area can be accessed from Fostoria Fremont Road (OH 12), which runs along the southeastern corner of the Site. Temporary road-side parking is possible at unimproved farm equipment entrances on both of these roads.

The 108 acres of agricultural fields that make up the Project Area are being farmed by the lessee in 2021. Access for site assessment activities will be coordinated with the farmer through the Conservancy. Construction activities will not begin until after crops are harvested in the fall.

The objective of this Project is to design, engineer, permit, construct and plant a restoration project that will restore wetlands, floodplain, and forest on the 108-acre Project Area and reduce nutrient and sediment runoff from the Site. The minimum Project requirements are to increase nutrient uptake, reduce sedimentation and erosion, increase wetland habitat, and improve riparian habitat. To meet the funding requirements contained in the Grant, the Project must develop new wetlands, reduce phosphorus runoff and prevent pollutants from entering Wolf Creek. The end result must provide nutrient reduction and fish and wildlife habitat.

To achieve these goals, the Project will include:

- 1) Remove, crush, daylight or decommission drainage tile in the Project Area to restore more natural hydrology. Since the Site lies along Wolf Creek, it is assumed that tiles on the Project Area drain adjacent properties and carry their waters to the creek. All hydrology changes, including tile decommission, must maintain existing drainage of neighboring properties and roads.
- 2) Create 45 acres of wetlands in the hydric soils of the Project Area. A combination of emergent, shrub-scrub and forested wetland habitats should be restored.
- 3) Restore and/or construct approximately 1,500 linear feet of streams, oxbows or other waterways. This should include restoration of the swale in the Western Project Area, including removal and/or beneficial use of the concrete berm. This may also include daylighting tiles into constructed streams and/or oxbows.
- 4) Convert 50 acres of the Project Area not suitable for wetland restoration from row crop to riparian woods and native meadow habitat.

- 5) Enhance floodplain connectivity between Wolf Creek and the restored wetlands and waterways. Best methods for doing so will be determined by the Contractor during the design phase of the Project.
- 6) Prepare about 10 acres of the Project Area for future use as park land, by treating weeds and planting a low-mow grass. The location will be determined in collaboration with Seneca County Parks during the design phase, but will likely include 5 acres near each road. This Project does not include installing public access or other park infrastructure, but simply preparing the ground.

A Preliminary Restoration Concept for the Project is attached as Exhibit B. Contractors may submit their proposal based upon the attached Preliminary Restoration Concept or may submit an alternative conceptual design and related justification and pricing for the Conservancy’s consideration. The Preliminary Restoration Concept and suggested project elements are to help guide the Contractor in the design and engineering of this project. However, upon completing site analyses and surveys, the selected Contractor may devise additional or alternative design concepts and elements that are more appropriate for the site conditions and desired outcomes. Any alternative or modified designs must incorporate the minimum Project requirements, as discussed in Section B: Project Description and Section D: Contractor Scope of Services.

The following chart describes project deliverables from the Grant Agreement and describes if they are: 1) required in the Contractor’s proposed design, 2) flexible in order to create the best nutrient reduction and habitat outcomes, or 3) optional depending on budget and suitable site conditions.

<b>Deliverables</b>	<b>Amount in Grant Agreement</b>	<b>Optional/Required</b>
Total Acres Restored	98 acres	Restoring 98 acres of Project Area to native habitats is required. Additional restoration in other areas of the Site is optional
Acres Planted to Low-Mow Grass	10 acres	Planting 10 acres of ag field with low-mow grass is required.
Wetland Restored	45 acres	Required minimum
Riparian Woods Restored	20 acres	Required minimum. Woods + Meadow restoration must total about 50 acres.
Native Grasslands or Meadow Planted	20 acres	Required minimum. Woods + Meadow restoration must total about 50 acres.
Waterway Restoration & Construction	1500 linear feet	Types of waterway construction/ restoration are flexible, as is quantity. Restoration is required along at least 400 ft of the swale in the Western Project Area. Daylighting some main tile to stream is a preferred outcome.
Post-Restoration Invasive Plant Treatments	1 year	Required

## **SECTION D: CONTRACTOR SCOPE OF SERVICES AND SCHEDULE**

### ***CONTRACTOR SCOPE OF SERVICES***

The selected Contractor will be required to complete the following tasks:

- 1) Site Assessment to identify and characterize existing conditions in the Project Area to support the development of restoration design plans. Conditions to be assessed include, but are not limited to, topography, soil, and hydrology.
- 2) Provide plans for wetland, floodplain, and riparian restoration and re-vegetation. If the proposed design creates a need for any specialized engineering or geotechnical services (i.e. berms impounding water would be supported with corresponding hydraulic and routing studies), the Contractor's proposal should address each service.
  - a. Design documents shall include a minimum of 98 total acres of restored habitat, including at least 45 acres of wetland and 50 acres of riparian woods plus native grassland or meadow. The goals of the wetland restoration are ORAM scores in the middle to high Category 2 range.
  - b. Documents should clearly indicate the proposed restoration approach or combination of approaches to meet the stated goals.
- 3) Procure all regulatory permits necessary to initiate and complete the Project. It is the Contractor's responsibility to determine all necessary permitting requirements, prepare all permit related applications, reports, etc, and procure all necessary permits before construction begins. The Contractor should anticipate and budget for 5 years of post-construction monitoring in conjunction with a Nationwide 27 Permit, and completing a SWPPP for the proposed design in accordance with an Ohio EPA construction general permit. Additional permits and regulatory communications are anticipated and should be considered in Contractor's budget.
- 4) Complete three design reviews with the Conservancy at the following stages of completion: Conceptual, Preliminary and Final Engineered Designs.
- 5) Project Construction: The selected Contractor shall perform construction of this Project per the Final Design as approved by the Conservancy and per the terms and conditions of the Contract.
- 6) The Contractor shall be responsible for minimizing disturbance to the site, existing natural areas and nearby waterways during project implementation.
  - a. The Contractor shall prevent erosion and transport of materials into Wolf Creek.
  - b. The Contractor shall give particular attention to avoiding soil compaction through best management practices, and remediating compaction where it is unavoidable.

- c. No fill or spoil shall be placed in a stream or wetland area, either on-site or off-site, unless specifically designated as a part of the approved and final Project design and permit.
  - d. Any areas disturbed or spoil areas must be cleaned up, graded naturally, mulched and seeded or reforested in accordance with reasonable timeframes or as required by the Contract and/or the Ohio EPA general permit and/or the SWPPP.
  - e. Sanitation of equipment before entering and leaving the project site, particularly to reduce transport of invasive species.
  - f. The Contractor shall be responsible to repair, replace, or restore any part of the property outside of the Project boundaries that are damaged or changed by the contractor or subcontractor doing work on the Project.
  - g. The Contractor shall be responsible for ensuring that hydrology of the project as designed will not impact existing infrastructure including houses, roads, utilities and drainage of neighboring properties. The design shall ensure and detail stable and appropriate tie-ins with all drainages in the Project Area.
- 7) Meetings with the Conservancy shall be conducted on the Site at pre-construction, at 50% completion, and at 100% completion before equipment is removed to ensure that all activities are satisfactorily planned for and completed. A person qualified in each design phase of the project shall be available when required to support the necessary visits. The 100% construction meeting shall be held prior to demobilization.
- 8) The Contractor shall perform re-vegetation of the Project Area per the design as approved by the Conservancy and per the terms of the Contract and permits.
- a. Vegetative survival must attain 80 percent over a two-year period after completion of construction.
- 9) Any data resulting in a formal report such as a wetland delineation, endangered species survey etc. shall be given to the Conservancy at Project completion. All survey data collected during the Project shall be delivered in raw data form with coordinate information, survey codes, benchmark control and/or other GPS data. Design plans shall be delivered in both hardcopy and electronic version (pdf and GIS files).
- 10) All materials and each part or detail of work shall be subject to inspection by the Conservancy. The Conservancy or its representatives shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as required to make a complete and detailed inspection at any and all times.
- 11) An as-built survey should be prepared of the completed construction Project, including a red-line mark-up version compared to the design plan.
- 12) Perform invasive species control for 1 year after Project completion.

## **DELIVERABLES**

Deliver the following to the Conservancy:

- Digital copies of all data, plans and regulatory permits gathered and generated in a format acceptable to the Conservancy.
- Conceptual Design Plan
- Preliminary Design Plan
- Final Engineered Plan, signed and endorsed by a professional engineer
- Construction photographs: The Contractor shall furnish a series of digital construction photos to show the progress of work. Photos must be provided in digital format.
- As-Built drawings: Prior to submission of a final application for payment, as-built drawings shall be provided to the Conservancy showing final site conditions, including acres of wetland restored and acres of area reforested/revegetated. A set of red-line as-built drawings shall also be submitted displaying deviations from the approved design plan.

## **SCHEDULE**

All Project activities must be completed no later than November 30, 2022. The Contractor should provide a schedule of its planned activities for completing all tasks. Contractor should assume a commencement date of September 2021. Include within the schedule a proposed payment schedule.

## **SECTION E: INSTRUCTION FOR OFFERERS**

In responding to this request, please include the following items:

1. Statement of Qualification including the following:
  - a. Vendor Questionnaire (Exhibit H)
  - b. List and description of each entity, including proposed subcontractors, that are a part of the Contractor's Project team, including each entity's experience with projects similar in nature to the subject Project. If proposed subcontractors are not identified in the proposal, a rationale for how those subcontractors will be selected should be provided.
  - c. A summary of at least four 4 wetland or riparian restoration projects, preferably performed within the Western Lake Erie Basin.
  - d. Identification of all of the key Project team personnel, including key subcontractor personnel, who will be involved in the Project, including the experience, knowledge, technical expertise, certifications and licenses (including state of licensure), and resumes of key personnel.

2. A cover letter including an executive summary of the key proposal elements, not to exceed two pages in length. The cover letter shall be signed by a person legally authorized to bind the Contractor.
3. A Project narrative comprised of the following sections and referencing the Project Specifications and Contractor Scope of Services above:
  - a. Description of the Contractor's understanding of the Project.
  - b. Proposal and technical approach for completing all tasks described in this RFP.
  - c. Description of the restoration approach. How the approach will meet and/or exceed the minimum Project and grant requirements.
  - d. Discussion of any additional observations, concept design alterations, cost-saving strategies, etc.
  - e. A table that clearly states the quantity of proposed restoration features (i.e. length of stream, acres of wetland etc.). See Exhibit I. The approach should also detail the amount of disturbance in terms of acres and/or volume of earth disturbance.
  - f. A description of water diversion and water quality protection methods to be utilized during construction, as necessary.
4. A detailed budget that relates to quantity of work to be completed (i.e. make clear how many acres will be planted or how many feet of channel will be restored for the specified costs). The budget should include categories for engineering and design, permitting, construction and site preparation, planting, post-restoration invasive treatments and monitoring, and contingencies. The Contractor may also include a budget narrative (no more than one page) in order to better support the budget.
5. A proposed Project schedule with completion of all Project activities no later than November 30, 2022. The Project schedule should include key milestones, deliverables, coordination meetings, and a proposed payment schedule.
6. Three (3) References, including contact information and brief Project descriptions. At least two of the references must be from among the four wetland or riparian restoration projects provided in Item 1(c) above.

7. Completed Conflict of Interest Disclosure Form(s), a blank copy of which is attached as Exhibit F. Each entity, including proposed subcontractors, that are a part of the Contractor's Project team must fill out a COI Disclosure Form. Additionally, any individual who works for any of the entities and can answer Yes to any of the questions, must fill out an individual COI Disclosure Form.
8. A completed Non-Collusion Affidavit, a blank copy of which is attached as Exhibit G.

The selection process will involve screening of submitted proposals and possible interviews. The Conservancy will select a Contractor on the basis of adherence to the RFP, Contractor qualifications and experience, understanding of the scope of services, response to technical components of this document, and the quantity and quality of work to be performed in relation to the budget.

Any contract awarded under this invitation will be financed solely through the H2Ohio funds described in Exhibit D of this RFP. *The Conservancy's receipt of the grant funds shall be a **condition precedent** to the Conservancy's obligation to make any payment to the Contractor.*

#### **VISITING THE SITE**

To allow interested Contractors to assess the conditions of the site to inform their responses to this RFP, the Conservancy will provide site access, upon request, to all firms interested in submitting a proposal. Please notify the Conservancy before visiting the site. Email your access request to [mcoulter@blackswamp.org](mailto:mcoulter@blackswamp.org).

#### **SIZE OF PROPOSAL**

The total size of the proposal submitted to the Conservancy under this RFP should be no more than 100 pages in pdf format, or 50 pages, double sided, if in printed format. The proposal should be in Times New Roman 12 point font on 8.5" x 11" page size. If concept plans are provided in conjunction with the proposal, such concept plans can be sized for 11" x 17" pages. The required Conflict of Interest Forms and Non-Collusion Affidavits will not be included in the page count limit.

If the Contractor's proposal is larger than 10 MB in size it may not be received by the Conservancy's email system. Proposals larger than 10 MB in size may be submitted via the Contractor's own large file transfer service or they may be mailed in hard copy or CD-ROM format to the Conservancy at P.O. Box 332, Perrysburg, OH 43552-0332.

#### **QUESTIONS AND RESPONSE TO THIS RFP MUST BE EMAILED TO:**

Melanie Coulter                      [mcoulter@blackswamp.org](mailto:mcoulter@blackswamp.org)                      No phone calls please.

All questions about this RFP must be emailed to Melanie Coulter by August 4, 2021. Not later than August 6, 2021, the Conservancy will distribute all questions received and its responses to those questions to all firms that have expressed an interest in submitting a proposal. All firms interested in

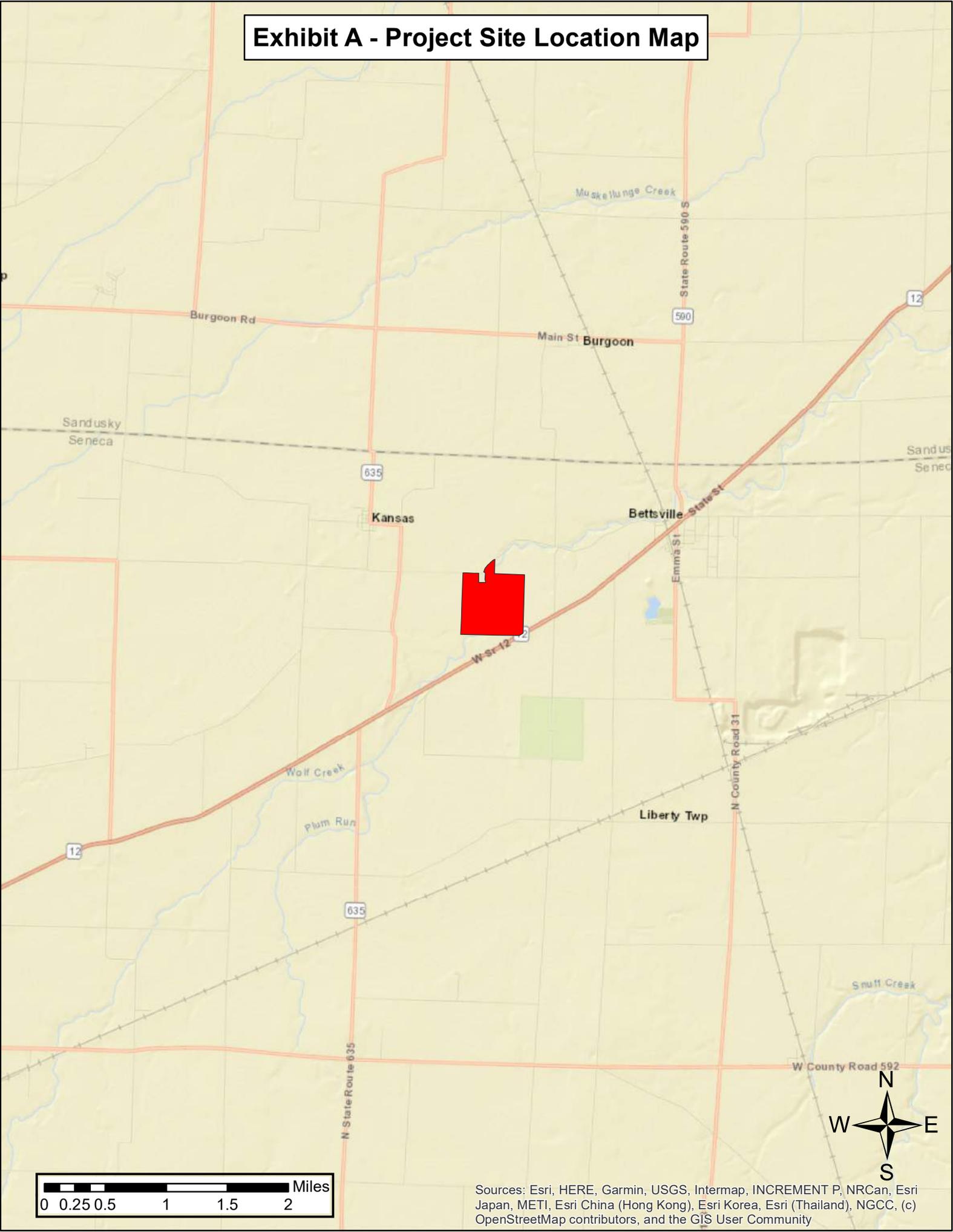
submitting a proposal and being included on the question and response distribution list should notify Melanie Coulter by email at [mcoulter@blackswamp.org](mailto:mcoulter@blackswamp.org).

All Proposal Submissions in response to this RFP, including submissions that are mailed or shipped to the above P.O. Box, must be received no later than 4:00 pm on August 25, 2021. Proposals received after this date will not be accepted. The Conservancy expects to award the contract by September 10, 2021. Work will commence after successful execution of a contract for services between the Contractor and the Conservancy.

## **EXHIBITS**

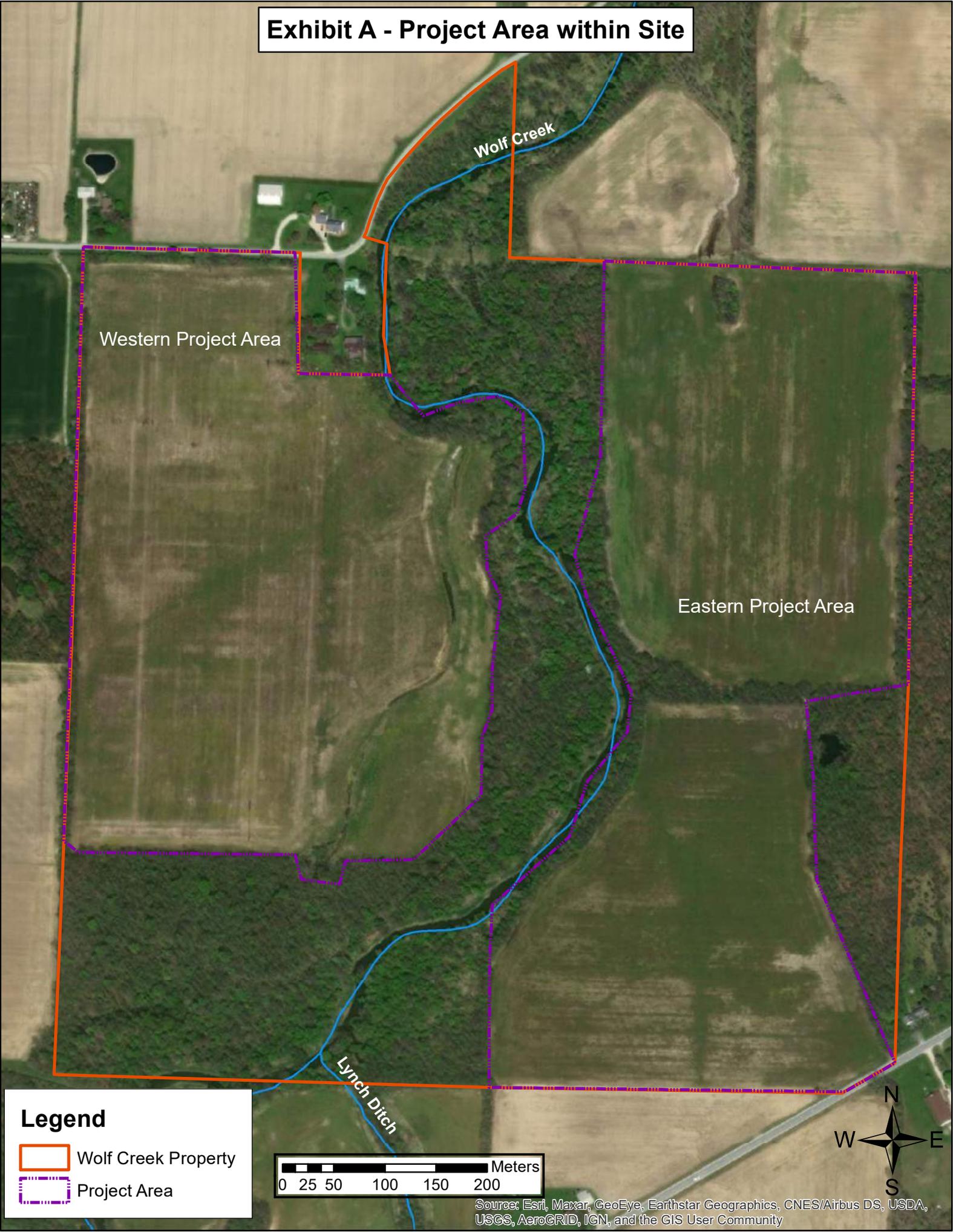
- Exhibit A – Maps of the Site and Project Area
- Exhibit B – Preliminary Restoration Concept for Project
- Exhibit C – Current Site Condition Photos
- Exhibit D – Grant Agreement between Black Swamp Conservancy and Ohio DNR
- Exhibit E – Draft Contract
- Exhibit F – Conflict of Interest Disclosure Form
- Exhibit G – Non-Collusion Affidavit
- Exhibit H – Vendor Questionnaire
- Exhibit I – Project Deliverables Worksheet

# Exhibit A - Project Site Location Map



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

# Exhibit A - Project Area within Site



Western Project Area

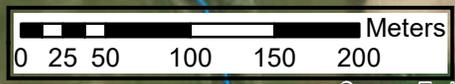
Eastern Project Area

Wolf Creek

Lynch Ditch

**Legend**

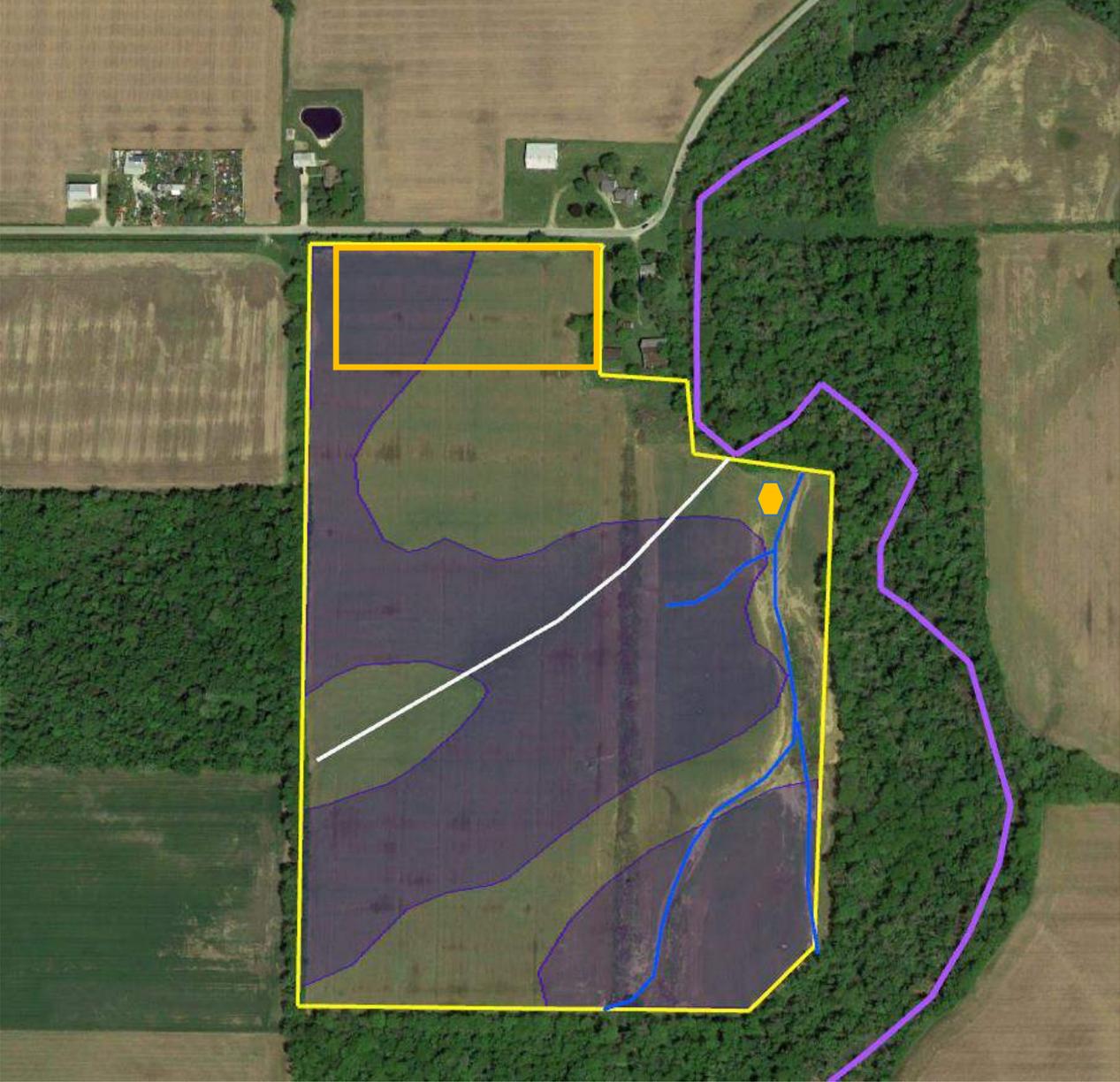
-  Wolf Creek Property
-  Project Area



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

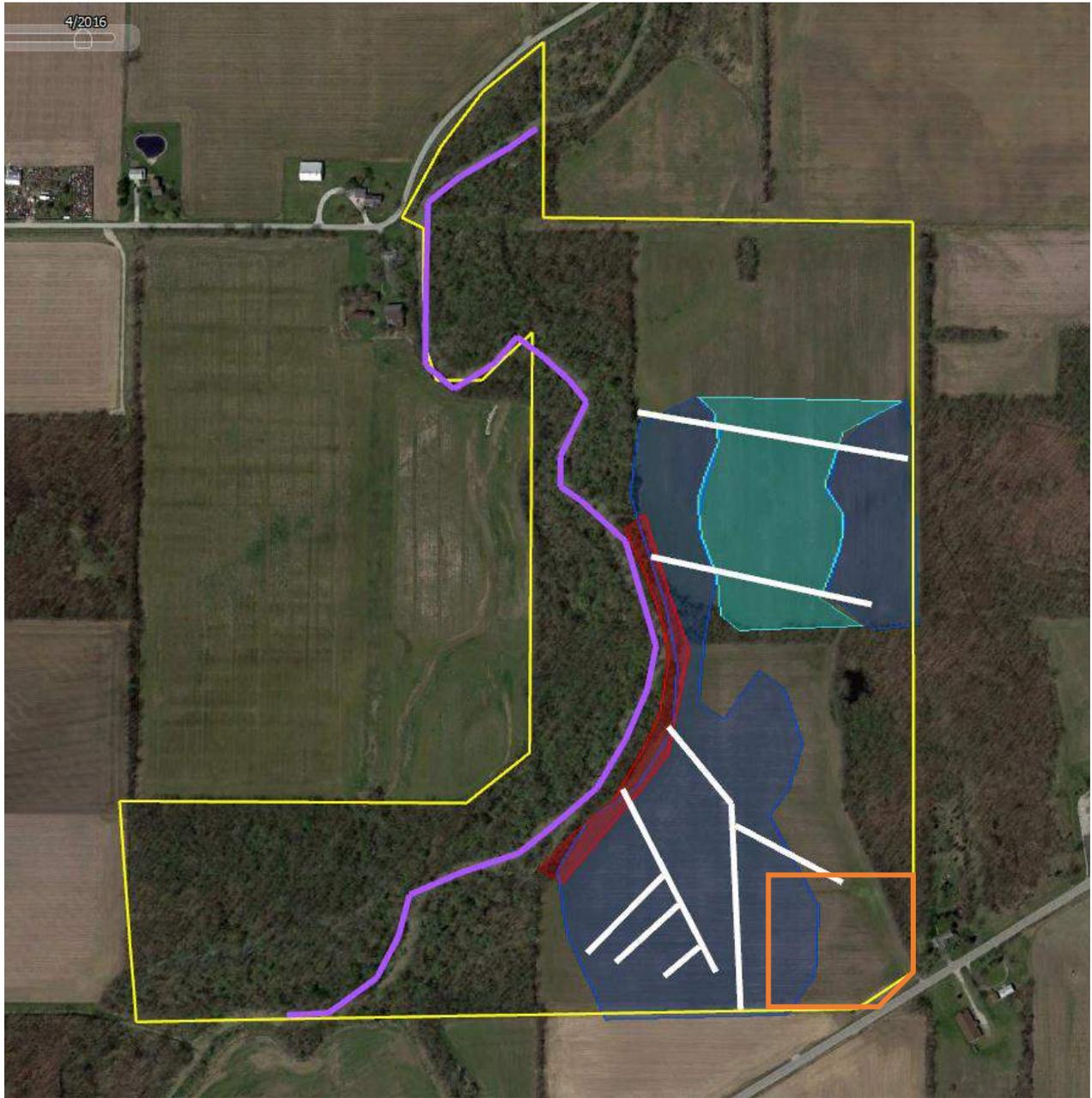
# Exhibit B: Preliminary Restoration Concept

## Western Project Area



Yellow outline indicates approximate Western Project Area boundary. Purple line is Wolf Creek. Dark blue shaded areas indicate 66-99% hydric soils suitable for wetland restoration. Light blue lines on the South East portion of the property indicate the swale and intermittent channels within it, which are a potential stream restoration opportunity. Gold hexagon shows location of concrete berm at end of swale. White line across the fields indicate the potential presence of a drainage main tile based on a review of current and historic aerial imagery. This main tile could be daylighted into restored wetland or daylighted into a stream, or a combination. Orange box is possible location for 5 acres of low-mow grass for future park use.

## Eastern Project Area



Yellow outline indicates parcel boundary. Eastern Project Area is agricultural fields and narrow portion of existing riparian woods indicated in red. Purple line is Wolf Creek. Dark blue shaded areas indicate 66-99% hydric soils suitable for wetland restoration. Light blue area indicates opportunity to connect restored areas to restore hydrology and enhance habitat connectivity. White lines across the fields indicate the potential presence of drainage tile based on a review of current and historic aerial imagery. Red polygon indicates an opportunity to enhance Wolf Creek's connectivity with restored wetlands and floodplain areas. Orange box is possible location for 5 ac of low-mow grass for future park use.

WOLF CREEK PROPERTY Site Visit Photos May 17, 2021



1. North end of Western Project Area field, looking southeast. Wolf Creek flows in the treeline, from right to left



2. North end of swale in Western Project Area. Photo is looking south. Note concrete rubble berm.



3. Scale of concrete rubble berm on north end of swale.



4. South end of swale, looking north.

WOLF CREEK PROPERTY Site Visit Photos May 17, 2021



5. Broken tile outletting into swale from the west.



6. South end of Eastern Project Area. Looking north at narrow band of trees that separates north & south fields. Note wet areas



7. SW corner of North field of Eastern Project Area, looking northwest. Low lying area on left is floodplain of Wolf Creek.



8. Flooding around copse of trees at very north edge of Eastern Project Area. Opportunity to capture more water from ditch?

**H2Ohio Grant Agreement Between  
Black Swamp Conservancy  
And the  
Ohio Department of Natural Resources**

This Grant Agreement (the “Agreement”) is made and entered into by and between the State of Ohio, Department of Natural Resources, (the “ODNR”), acting by and through its Director, pursuant to Section 1501.01 of the Ohio Revised Code and Amended Substitute House Bill No. 166, passed by the 133<sup>rd</sup> General Assembly of the State of Ohio and signed by the Governor of Ohio on 18 July, 2019 (effective date July 18, 2019) and Black Swamp Conservancy, (the “Grantee”).

Pursuant to Am. Sub. H.B. No. 166, the 133<sup>rd</sup> General Assembly of the State of Ohio has appropriated and the Controlling Board has authorized (authorization number DNR0101982 issued on March 8, 2021) funds of which Two Million Seven Hundred and Sixty-Seven Thousand, Five Hundred Dollars (\$2,767,500.00) has been redirected and awarded to the Grantee for costs associated with the Wolf Creek Floodplain, Acquisition and Restoration Project (hereinafter referred to as the “Project”).

The General Assembly has identified the H2Ohio Fund (Fund 6H20 725681), as the fund from which these monies will be disbursed.

The scope of work is set forth in Exhibit A, which is attached hereto and by reference fully incorporated into this Agreement, with the total amount funded for the Project limited to the amount stated above.

NOW, THEREFORE, for the purposes of providing the funds to the Grantee pursuant to Am. Sub. H.B. No. 166 of the 133<sup>rd</sup> General Assembly and Controlling Board Authorization DNR0101982, the parties hereto agree as follows:

1. ODNR agrees to provide the Grantee up to Two Million Seven Hundred and Sixty-Seven Thousand, Five Hundred Dollars (\$2,767,500.00) via qualifying advance and reimbursement to be used toward the total cost of the Project as follows:
  - a. Property Acquisition Costs:
    - i. Consistent with Exhibit A, up to Nine Hundred and Eighty-Eight Thousand, One Hundred and Eighty-Two Dollars (\$988,182.00) of the Grant Funds will be utilized by Grantee to acquire a 55-acre parcel of real property

located in Seneca County and commonly known as the Boulee property and a 107-acred parcel of real property located in Seneca County and commonly known as the McDonald property (collectively “Property”) which will be restored in a manner consistent with Exhibit A;

- ii. Upon execution of this Agreement, Grantee shall forward to ODNR a property acquisition disbursement schedule for approval by ODNR;
- iii. ODNR will review the property acquisition disbursement schedule and determine and approve the amount of the Grant Funds to be used to acquire the Property based on its review of (i) appraisals of the Property, (ii) evidence of title and title insurance, and (iii) agreements as to the terms and conditions of a purchase and sale contract that are negotiated at arms’ length with the current owner(s) of the Property;
- iv. Once approved, any adjustments to the property acquisition disbursement schedule must be approved by ODNR;
- v. Once ODNR approves the property acquisition disbursement schedule and the amount of the Grant Funds to be used to acquire the Property, Grantee shall, within fifteen (15) days in advance of the anticipated acquisition expenditures being incurred by Grantee, submit to ODNR for approval and payment an invoice for an advancement of Grant Funds for the acquisition (“Acquisition Invoice”).
- vi. The Acquisition Invoice shall be accompanied by a detailed statement listing the estimated item expenditures to be incurred during the invoice period;
- vii. Beginning with the second Acquisition Invoice, each such invoice shall (i) also be accompanied by a detailed accounting of property acquisition expenditures of all previously-advanced funds and (ii) deduct from the amount requested any unencumbered, previously-advanced funds;
- viii. Upon payment of the final Acquisition Invoice, Grantee will refund to ODNR any and all unexpended funds which were advanced for acquisition; and,
- ix. It is mutually agreed that acquisition of the Property shall be completed on or before December 31, 2021.

b. Property Restoration Costs:

- i. Consistent with Exhibit A, up to One Million, Seven Hundred and Seventy-Nine Thousand, Three Hundred and Eighteen Dollars (\$1,779,318.00) of the Grant Funds will be used to restore the Property in a manner consistent with Exhibit A;
- ii. For all expenditures related to restoration of the Property, not less than fourteen (14) business days in advance of the date Grantee anticipates making expenditures for the Project, Grantee shall submit to ODNR an invoice for an advancement of funds (“Restoration Invoice”), accompanied by a detailed statement listing the estimated item expenditures to be incurred during the invoice period; and,
- iii. Beginning with the second Restoration Invoice, each such invoice shall (i) also be accompanied by a detailed accounting of the Project expenditures of all previously-advanced funds and (ii) deduct from the amount requested any unencumbered, previously-advanced funds.

c. Timing.

- i. ODNR shall review such invoices promptly and shall pay the invoice within fourteen (14) business days of receipt thereof, unless it requires and requests additional information from Grantee as a condition of payment; and,
- ii. ODNR agrees to accept invoices for an advancement of funds submitted less than fourteen (14) days in advance of the date Grantee anticipates making expenditures for the Project, but payment shall still proceed in accordance with paragraphs (1)(c) above.

d. Environmental Deed Restriction. The Property acquired and restored pursuant to this Agreement shall be maintained, in perpetuity, in a condition consistent with Exhibit A hereto. Upon completion of the Project, Grantee shall deliver to ODNR an Environmental Deed Restriction, in a form substantially similar to the form attached hereto as Exhibit B, to be recorded with the County Recorder, which

prohibits any activity or construction on the Property inconsistent with the Project set forth in Exhibit A.

- e. Restriction on Transfer of Property. Grantee shall not sell, assign, transfer, lease, exchange, convey or otherwise encumber the Property, including without limitation, surface rights or interests or rights or interest in soil, sand, gravel, oil, natural gas, minerals, or other materials, without prior written consent of ODNR, which consent may be withheld in ODNR's sole and absolute discretion. ODNR does acknowledge Grantee's intent to ultimately transfer the Property to the Seneca Park District. ODNR shall not unreasonably withhold consent to such a transfer so long as BSC takes all necessary steps to ensure that all restrictions set forth in Paragraphs 1(d) and (e) of this Agreement transfer to Seneca Park District.
2. In no event shall ODNR's payment to Grantee exceed Two Million Seven Hundred and Sixty-Seven Thousand, Five Hundred Dollars (\$2,767,500.00). Obligations of the State are subject to the provisions of Section 126.07 of the Ohio Revised Code. Any funds provided under this Agreement that are not timely spent in connection with the Project shall be returned with interest to the State of Ohio calculated in accordance with R.C. § 1343.03(A).
3. Grantee agrees that the Project will be completed, in accordance with Exhibit A, on or before December 31, 2022 ("Completion Date") at which time Grantee will provide a final report to ODNR. This Agreement shall terminate five (5) years after ODNR's receipt of the final report, however, ODNR's financial obligations under this Agreement are subject to the provisions of Section 126.07 of the Ohio Revised Code. Upon written request, and subject to appropriation and renewal of funds by the State of Ohio, this Agreement may be renewed and extended by the Parties.
4. The Grantee hereby represents and warrants that there are not now, and there will not be, any restrictions of record with respect to the Project, including without limitation, any encumbrances, liens, or other matters, which would interfere with or otherwise impair the use of the property to restore and/or develop wetlands and wetland function
5. The Grantee shall be responsible for the administration of the Project. The Grantee shall have the full authority to contract with appropriate persons for the design and construction of the Project. The Grantee shall make diligent efforts to secure all necessary permits for the Project. If the issuance of one or more such permits is delayed, ODNR agrees to extend the Completion Date to allow Grantee to complete the Project once such permits are issued. The Grantee warrants and certifies that it will cause the Project to be constructed on or

before the Completion Date and reasonably adhere to the submitted development timeline set forth in Exhibit A.

6. The Grantee shall be solely responsible for the operation, maintenance, and upkeep of the Project.
7. If for any reason funds and/or interest on such funds acquired through this Agreement are required to be paid, repaid, or remitted to the State of Ohio, such shall be remitted in full within forty-five (45) days of demand to:

Payable to: Treasurer of the State of Ohio  
30 East Broad Street, 9th Floor  
Columbus, Ohio 43215

Mailed to: Department of Natural Resources  
Office of Budget and Finance  
2045 Morse Road, Bldg D-2  
Columbus, OH 43229

Any such remittance shall include a copy of this agreement. A copy of the cover letter transmitting the remittance to the Treasurer of State shall be sent simultaneously to the Auditor of State (88 E. Broad Street, 10<sup>th</sup> Floor, Columbus, Ohio 43215) and ODNR.

8. ODNR's sole liability under this Agreement shall be for the advancement of the grant funds described herein.
9. Grantee has furnished ODNR with acceptable proof of insurance providing coverage for all employees or agents of Grantee who are or will be responsible for maintaining or disbursing funds acquired through this Agreement against loss of such funds, with a limit of liability of \$5,000. ODNR agrees that said coverage is adequate. All funds acquired by Grantee through this Agreement shall be deposited in one or more federally-insured financial institutions until such funds are spent on the Project.
10. The Grantee will keep and make all Project-related records available to ODNR, the state Auditor or the Auditor's designee for a period of not less than five (5) years after the date of the Project completion. The Grantee acknowledges that the Auditor of State or ODNR may audit the Project at any time, including before, during and after completion.
11. The Grantee assures compliance with the following Federal, State, and local laws and regulations, for the Project:
  - a. Prevailing wage pursuant to ORC Chapter 4115

b. Worker's Compensation

c. Equal Opportunity Laws

The Grantee agrees that it will fully comply with all state and federal non-discrimination laws and promptly comply with all requests and directions from the State of Ohio in this regard.

d. Domestic Steel pursuant to ORC 153.011

e. Environmental and Historical Preservation Laws and Regulations

The Grantee assures compliance with all applicable Federal, State, and local environmental and historic preservation laws and regulations pertaining to the Project.

f. Drug-free Workplace

The Grantee agrees to comply with all applicable State and Federal laws regarding a drug-free workplace. The Grantee will make a good faith effort to ensure that all contract employees, while working on Grantee's property, will not purchase, transfer, use or possess illegal drugs or abuse prescription drugs in any way.

g. Laws of Professional Design

The Grantee will comply with all laws that may require approval of the Project by a registered professional engineer, surveyor, architect, or landscape architect.

12. The Grantee agrees it will comply with any other Federal, State, and local laws and regulations applicable to the Project, whether now known or later identified.

13. The Grantee affirmatively represents and warrants to the State that it is not subject to a finding for recovery under R.C. 9.24, or that it has taken appropriate remedial steps required under R.C. 9.24 or otherwise qualifies under that section.

14. ODNR reserves the right to terminate this Agreement if the Grantee is unable to proceed with the Project described in this Agreement, or if Grantee violates any of the terms of this Agreement (a "Default"). If ODNR believes a Default has occurred, ODNR shall provide written notice of its intent to terminate this Agreement reasonably identifying the Default. Grantee shall have thirty (30) days from receipt of such notice to cure such Default or dispute that a Default has occurred. During this thirty (30) day period, Grantee shall not incur any additional expenses on the Project unless and until the Default is cured.

- 15.** The Grantee will assure that monies expended under this Agreement are spent in conformity with their intended purpose as provided by Am. Sub. H.B. No. 166, 133rd General Assembly, Section 126.60 of the Ohio Revised Code. ODNr agrees that the expenditure of monies by Grantee to complete the Project in a manner consistent with Exhibit A will conform with the intended purposes of Am. Sub. H.B. No. 166, 133rd General Assembly, Section 126.60 of the Ohio Revised Code.
- 16.** The Grantee certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. The Grantee understands that failure to comply with Ohio's ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.
- 17.** No personnel of either Party who exercises any functions or responsibilities in connection with the review or approval of this Agreement shall, prior to the completion of the Project, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to this Agreement. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest shall immediately disclose his or her interest to the other Party in writing. Thereafter, he or she shall not participate in any action affecting the Project, unless the other Party determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- 18.** The Grantee hereby certifies that neither it nor, to the best of its knowledge any of its officers or directors, or the spouse of any such person, has made contributions to the ODNr or the Governor in excess of the limitations specified in R.C. 3517.13.
- 19.** If any provisions hereof (or the application thereof to any person, firm or corporation or to any circumstances) shall be deemed invalid or unenforceable by any court of competent jurisdiction, the remaining provisions of this Agreement (or the application of such invalid provision to such persons, firms or corporations or circumstances other than those as to which it is invalid or unenforceable), shall not be affected thereby, and said provisions hereof shall be valid and enforceable to the fullest extent permitted by law.
- 20.** This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio.

21. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
22. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by the Grantee, without the prior written consent of ODNR.
23. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
24. This Agreement is not binding upon ODNR unless executed in full. This Agreement is effective as of the last date of signature by ODNR.
25. All notices, consents and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof and shall be sent to the addresses set forth above. Notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. All Notices required or permitted to be given pursuant to the terms of this Agreement shall be respectively addressed as follows:

For ODNR:

Christina Kuchle

952 Lima Ave  
Findlay, Ohio 45840  
419-348-5073  
Christina.kuchle@dnr.state.oh.us

For Grantee

Melanie Coulter  
P.O. Box 332  
Pemberville, Ohio 43450  
419-833-1025  
mcoulter@blackswamp.org

Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

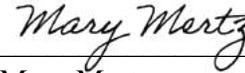
- 26. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- 27. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

IN TESTIMONY WHEREOF, the Grantee and ODNR have caused this Agreement to be executed by their respective officers on the dates indicated below.

**FOR THE BLACK SWAMP CONSERVANCY**

**FOR THE ODNR**

**Rob Krain** Digitally signed by Rob  
Krain  
Date: 2021.04.26  
09:45:23 -04'00'



\_\_\_\_\_  
Rob Krain  
Executive Director

\_\_\_\_\_  
Mary Mertz  
Director

\_\_\_\_\_  
Date

4/29/2021  
\_\_\_\_\_  
Date

## **Exhibit A**

### **Scope of Work**

#### **Wolf Creek Floodplain, Acquisition and Restoration**

The Wolf Creek Floodplain Property, located in Seneca County, Ohio, is comprised of two sections: Section A (the McDonald Property) is 107 acres, and Section B (the Boulee Property) is 55 acres. See Figures 1a and 1b. The combined property lies along both sides of about 1 mile of Wolf Creek, a significant tributary to the Sandusky State Scenic River. Approximately 108 acres of the property are farmed in row crop agriculture and 53 acres are woods. According to the National Wetland Inventory, 10.5 acres of these woodlands are Freshwater Forested/Shrub Wetlands. The property contains approximately 50 acres of hydric soils and about 3000 linear feet of waterways, mostly grassed waterways but also some ditch. About half of the property is floodplain to Wolf Creek (Figure 2) and, based on aerial images, the property has at least 3,000 feet of tile, including a 1,200-foot continuous tile line runs through Section B and into Wolf Creek (see Figure 1b). Section B alone accommodates drainage from a 64 square mile watershed.

This project will include:

- 1.) Fee Simple acquisition of the 107-acre McDonald Property (Section A) and the 55-acre Boulee Property (Section B);
- 2.) Engineering & Design for the following:
  - Removal of tile from much of the site to restore hydrology
  - Construction of 45 acres of wetlands and creation of connectivity between those wetlands
  - Construction of about 1,500 feet of streams, oxbows or other waterways
  - Increase floodplain connectivity to Wolf Creek
  - Conversion of 30 acres of land from grain crops to native wooded riparian buffer
  - Conversion of 20 acres of land from grain crops to native grassland habitat
- 3.) Implementation of the approved Engineering & Design Plan

Figure 1a

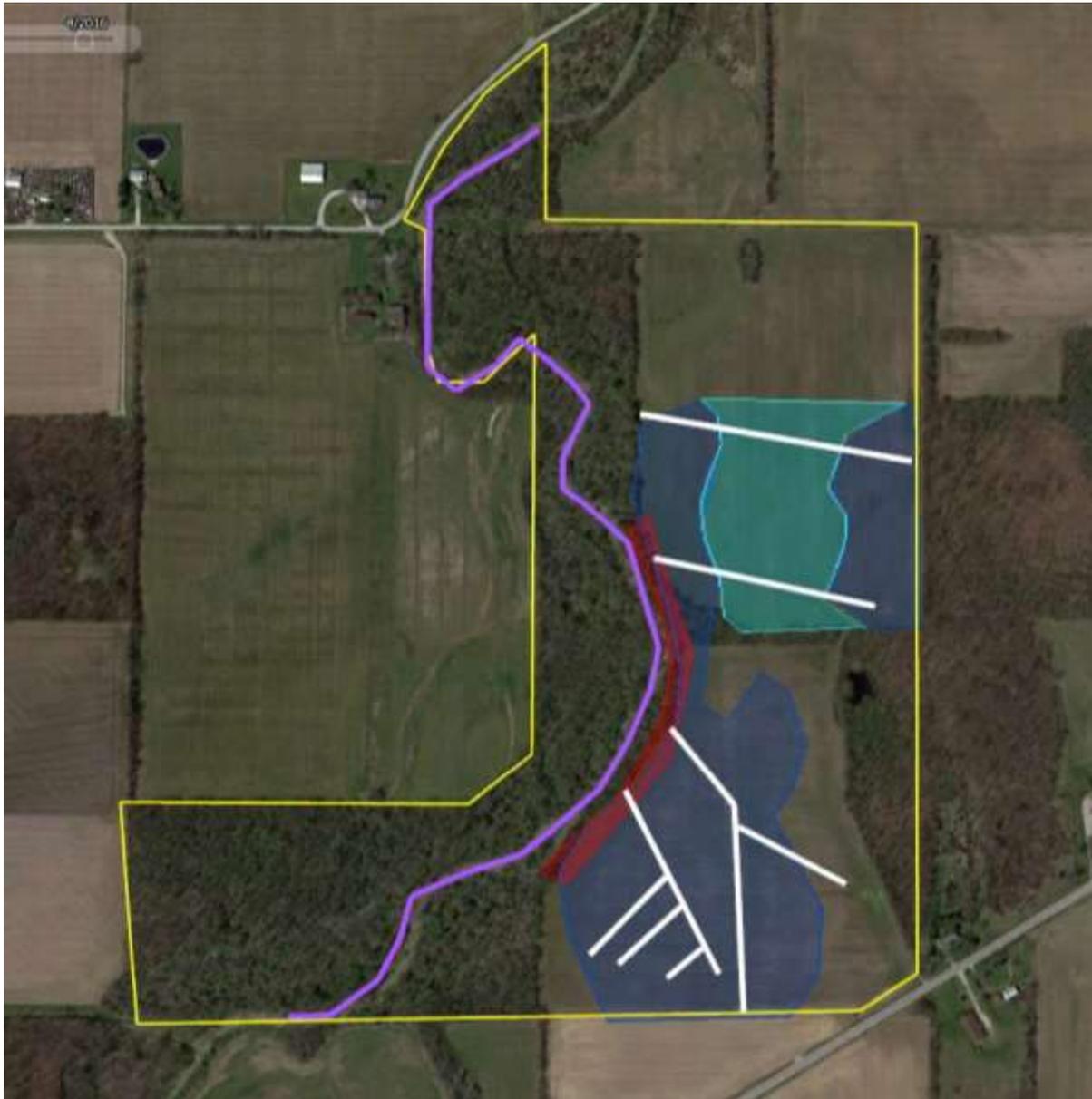
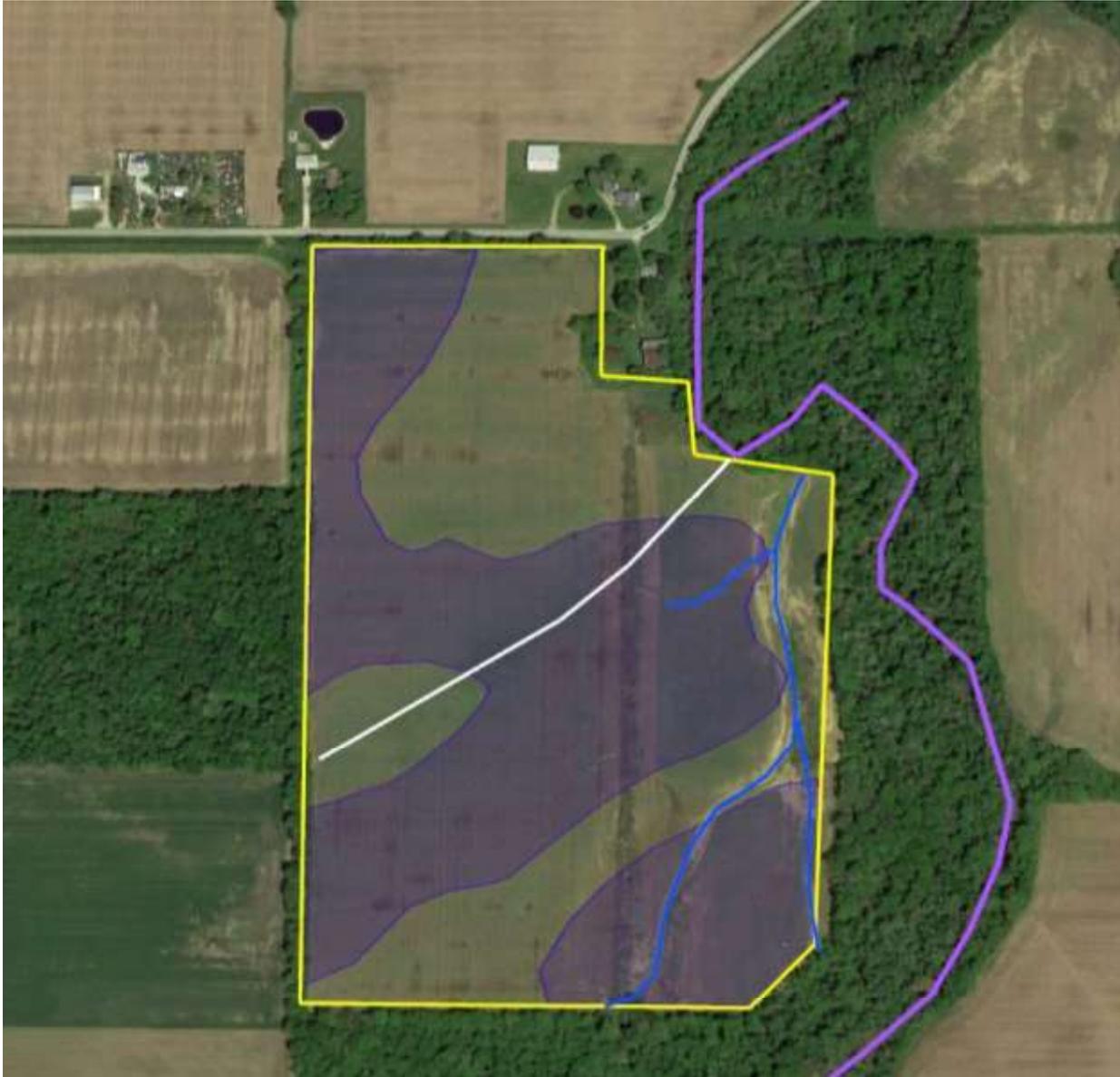


Figure 1b: Yellow outline indicates approximate property boundary of the 107 acre McDonald parcel. Purple line indicates approximate location of Wolf Creek. Dark blue shaded areas indicate 66-99% hydric soils suitable for restoration. Light blue area indicates opportunity to connect restored areas to restore hydrology and enhance habitat connectivity. White lines across the fields indicate the potential presence of drainage tile based on a review of current and historic aerial imagery. Red polygon indicates an opportunity to enhance Wolf Creek's connectivity with restored wetlands and floodplain areas.

**Figure 1b**



**Figure 1b:** Yellow outline indicates approximate property boundary of 55 acre Boulee parcel. Purple line indicates approximate location of Wolf Creek. Dark blue shaded areas indicate 66-99% hydric soils suitable for wetland restoration. Light blue lines on the South East portion of the property indicate 2,500 linear feet of stream restoration opportunity. White lines across the fields indicate the potential presence of a drainage main tile based on a review of current and historic aerial imagery.

**Figure 2**



**Figure 2:** FEMA Floodplain map of Boulee parcel. The light blue shaded area indicates the 100-year floodplain of the Wolf Creek tributary.

**Specific tasks include the following:**

### **Task 1 – Conceptual Design**

The in-house conceptual design for this project entails increasing floodplain capacity, restoring wetlands and natural waterways, removing tile to restore hydrology and vegetating row crop areas with native plants. See Figures 1a and 1b.

**Deliverable 1** – The conceptual design is completed – see Figures 1a and 1b

### **Task 2 – Land Acquisition:**

Grantee will acquire fee interest title to the 107 acre McDonald Property and 55 acre Boulee Property (See, Figures 1a & 1b). Acquisition shall occur no later than December 31, 2021.

### **Deliverable 2a – Two Executed Purchase Agreements**

Grantee holds both fully executed Purchase Agreements for the properties.

### **Deliverable 2b – Due diligence, including:**

- a) Appraisal
- b) Title Commitment
- c) Phase 1 Environmental Assessment
- d) Survey with boundary marking
- e) Legal Review

### **Deliverable 2c – Simple Fee ownership of 162 acres**

Grantee will acquire fee simple title to the property as evidenced through deed of ownership.

## **Task 3- Engineering and Design**

Grantee will use its competitive Request for Proposals process to select and engage an outside firm in a Design-Build contract. The selected firm will be responsible for the restoration from start to finish, including Engineering and Design, Permitting, and Implementation. The selected Design-Build firm will convert Grantee's Restoration Concept into an engineered design.

Grantee will require Conceptual, Preliminary and Final engineered designs from the firm and will meet with the firm to provide feedback on each stage of the design.

**Deliverable 3a** - Conceptual and Preliminary Designs for the restoration.

**Deliverable 3b** – Final Engineered Plan Set for the restoration, signed and endorsed by a professional engineer.

## **Task 4 – Permitting**

All permitting will be investigated and prepared by the firm hired to complete the Design-Build contract and may include the following:

- Ohio EPA Section 401 Water Quality Certification
- US Army Corps of Engineers Section 404 Permit
- National Pollution Discharge Elimination System (NPDES) General Permit for discharge of storm water for construction activities of over one acre in size
  - Stormwater Pollution Prevention Plan (SWPPP) will be developed for submission with the NPDES.

- Notice of Intent (NOI) for coverage under the NPDES Storm Water General Permit for Construction Activities will be required.
- Special Flood Hazard Area Development Permit from the County Engineer. This permit application will be accompanied by:
  - Certification from a registered professional engineer that flood carrying capacity will not be diminished. Certification will be determined by the Design-Build firm by providing engineering certification that development within the floodway will not cause a rise in the Base Flood Elevation
- State Historic Preservation Office Section 106 Review

**Deliverable 4a** – Final List of Required Permits, vetted by selected firm.

**Deliverable 4b** – All Required Permits delivered to Grantee prior to construction.

## **Task 5 – Implementation**

Grantee will work with the current landowners to purchase the property and provide general oversight throughout the project. After hiring a Design-Build firm, the Black Swamp Conservancy will provide oversight by working closely with the selected contractor through the engineering/designing and implementation phases.

### **Deliverable 5**

98 acres of row crop fields will be restored to native habitat including wetlands, floodplain and upland buffer habitat, plus restored streams and/or oxbows. Specific implementation deliverables, subject to change as a firm completes the full engineering and design, could include:

- Removal of tile on site to restore hydrology. Upstream portion of main 1,200-foot tile line on Section B and upstream portions of main tiles on Section A should stay intact to drain neighboring property. Wetland elements will be designed to take on tile outfall without backing up tile drainage from neighboring properties during storm events.
- Construction of 45 acres of wetlands and creation of connectivity between those wetlands
- Construction of about 1,500 feet of streams, oxbows or other waterways, mostly by daylighting tiled waterways and/or restoring former streams/oxbows through current grassed waterways
- Enhance floodplain connectivity to Wolf Creek by connecting wetland spillovers to the creek via restored waterways, particularly in the southeast portion of the Section B. In Section A, connectivity could be increased by cutting back high banks along up to 1,000 feet of Wolf Creek, or by creating spillways between restored wetland areas and the creek.
- Conversion of 50 acres of land from grain crops to a mix of native grassland and riparian woodland habitats, as upland buffers along the restored wetlands and waterways. About 10 additional acres of cropland will be planted to turf to provide space for future park access. Locations to be determined during planning phase in consultation with Seneca County Park District.

- After construction is complete, the selected Contractor will provide 1 year of invasive species management on the restored areas of the site.

## Task 6 – Construction Oversight

The firm selected for the Design-Build contract will be charged with overseeing construction. The Black Swamp Conservancy anticipates that the Design-Build firm will sub-contract with a construction firm and will directly oversee the construction firm’s work. Grantee staff will oversee the Design-Build firm by requesting frequent project updates and performing site checks during the construction and planting phases.

**Deliverable 6:** As-built drawings of the wetland restoration and channel alterations licensed by a professional engineer.

## Task 7 – Project Management

Grantee’s Conservation Manager, Melanie Coulter, will provide general oversight throughout the project; however, additional direct component oversight may be given to a private firm, yet to be determined once an engineer/contractor is determined. Reviews of the project will be conducted on the Conceptual, Preliminary and Final restoration designs, documenting project progress and reporting to ODNR on a quarterly basis.

**Deliverable 7:** Reporting will take place quarterly as required, submitted by the Grantee. The tentative timeline provided in the chart below indicates approximate proposed time frames for accomplishments, that may be modified during the engineering/design phase. The implementation/construction schedule is highly variable, as it is weather and permit dependent.

Project Timeline – name of project here	Q3 FY21 Jan 2021	Q4 FY21 April 2021	Q1 FY22 July 2021	Q2 FY22 Oct 2021	Q3 FY22 Jan 2022	Q4 FY22 April 2022	Q1 FY23 July 2022	Q2 FY23 Oct 2022
Task 1 – Conceptual Design								
Task 2 – Acquisition								
Task 2 – Engineering and Design								
Task 3 - Permitting								
Task 4 - Implementation								
Task 5 – Construction Oversight								
Task 6 – Project Management								

## Budget Justification

Budget Summary	
Reimbursable Item	\$ Amount
Salaries and Benefits	\$6,737
Travel	\$0
Supplies	\$0
Equipment	\$0
Contractual	\$1,615,930
Other (Property Acquisition Costs, up to)	\$988,182
Total Direct Expenses	\$2,610,849
Indirect Expenses (at 6%)	\$156,651
Total Reimbursable	\$2,767,500

**Total: \$2,767,500**

**Salaries and Benefits: \$6,737**

\$1,625 = 1 week salary including health insurance and retirement benefits for Executive Director's time managing the project's acquisition activities.

\$5,112 = 6 weeks of salary for Conservation Manager's time for refining Conceptual Design and Project Management over the course of the project's restoration activities.

**Travel: \$0**

No charges for travel.

**Supplies: \$0**

No charges for supplies.

**Equipment: \$0**

No charges for equipment.

**Contractual: \$1,615,930**

<b>Design-Build Contract Component</b>	<b>Cost</b>	<b>Justification</b>
Construct & Plant 45 acres of wetlands with hydrologic connection to each other and to Wolf Creek	\$585,000	\$13,000 per acre includes all components of construction & planting
Construct about 1,500 feet of Streams, Oxbows or other waters and create connectivity to Wolf Creek	\$390,000	\$260 per linear foot includes staking, construction, water control, bank stabilization, erosion control, as-built survey
Increase connectivity to floodplain by altering banks along up to 1,000 feet of Wolf Creek (i.e. reducing bank height or creating spillways)	\$260,000	\$260 per linear foot of bank or near-bank alteration
Design & Engineering	\$90,000	Max cost for E&D of large complex project
Seed 50 acres with Grassland seed mix or floodplain seed mix as Upland Buffers around restored wetlands and along Wolf Creek riparian zone	\$60,000	\$1,200 per acre includes native seed mix from Ohio Prairie Nursery and seeding
Plant 30 acres of riparian woods (on the areas seeded with floodplain mix)	\$114,750	\$17 per tree @ 225 tree/ac – includes trees, stakes, protective tubes, weed mats, fertilizer
Permitting	\$30,000	Based on permits for other recent projects
1 year of invasive plant treatments post-restoration	\$86,180	About \$880 per acre, based on other recent invasive treatment contracts
	<b>\$1,615,930</b>	

**Other (Property Acquisition Costs): \$988,182**

Purchase price for the property, title work, title insurance, Phase 1 environmental, appraisal, survey / boundary marking.

**Indirect Costs: \$156,651**

Indirect expenses are set at 6% of total project costs.

# Exhibit E

## CONTRACT FOR DESIGN-BUILD

This Contract is dated, made, and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2021.

BETWEEN:

Black Swamp Conservancy (“BSC”)  
P.O. Box 332  
Perrysburg, OH 43552

AND:

CONTRACTOR (“Contractor”)  
ADDRESS  
CITY, STATE, ZIP  
Tax Identification Number: \_\_\_\_\_

Sec. 1. Background and Purpose. This Project is funded with a grant from the State of Ohio, Department of Natural Resources (the “ODNR”), acting by and through its Director, pursuant to Section 1501.01 of the Ohio Revised Code and Amended Substitute House Bill No. 166, passed by the 133<sup>rd</sup> General Assembly of the State of Ohio and signed by the Governor of Ohio on 18 July, 2019, with funds to be disbursed from the H2Ohio Fund (Fund 6H20 725681). An H2Ohio Grant Agreement was entered into by and between ODNR and BSC on April 29, 2021 (the “Grant”) setting forth the terms, conditions, and restrictions of the Grant (Exhibit A). All terms, conditions, and restrictions set forth in the Grant are incorporated into this Agreement and, to the extent there is any conflict between this Agreement and the Grant, the terms of the Grant shall prevail.

Sec. 2. Services and Scope to be Performed. Presumption that Duty is Contractor’s. BSC requires design and construction of a wetland, stream and floodplain restoration project on Wolf Creek Property in Seneca County, Ohio, as detailed in (i) “Wolf Creek Floodplain Restoration Design-Build Project Request for Proposals” dated July 21, 2021 (“RFP”) (Exhibit B) and (ii) the CONTRACTOR Proposal dated August 25, 2021 (“Proposal”) (Exhibit C) (collectively, the “Project”). Contractor shall furnish all licensing, permits, certifications, designs, plans, equipment, materials, labor and supervision, as may be necessary to complete the Project as described herein. Contractor shall abide by all Ohio EPA and United States Environmental Protection Agency regulations for activities on or near open water and otherwise. In this Agreement, “Work” means the services that Contractor is required to perform to complete the Scope of Work for this Project and all of Contractor’s duties to BSC necessary to complete the Scope of Work for this Project. There shall be no additional compensation for mobilization, signage, licensing, permits, certifications, equipment, or materials and no adjustments to the compensation based on changes in the Scope of Work on the Project. Unless the context requires otherwise, if this Project states that a task is

to be performed or that a duty is owed, it shall be presumed that the task or duty is the obligation of the Contractor. The Contract Documents consist of this Agreement and Exhibits A, B, and C hereto, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein (the "Agreement").

Sec. 3. Scope of Work.

(a) Project Overview. Contractor shall provide Work as set forth in (i) the RFP (Exhibit B) and (ii) the Proposal (Exhibit C) (collectively, the "Scope of Work").

(b) Scheduling and Hours of Work. Contractor's operations shall be governed by the following schedule: Contractor shall coordinate with and provide to BSC a written schedule of activities required to complete the Project. All activities pertaining to Work affecting the Project Areas shall be performed in accordance with Contractor's pre-approved schedule, and changes to scheduling must be communicated to BSC as soon as possible. Pre-approved scheduling is likely to vary due to weather or other unforeseen events, but it is the responsibility of Contractor to adhere to this Contract, and to Ohio EPA and United States Environmental Protection Agency regulations. BSC retains the right and authority to cease and reschedule Work to address special needs of BSC, if meteorological conditions degrade, or scheduling conflicts arise which would preclude Contractor's ability to safely and effectively conduct the Work. BSC will notify Contractor and coordinate to reschedule when appropriate.

Sec. 4. Complete Work without Extra Cost. Except to the extent otherwise specifically stated in this Contract, Contractor shall obtain and provide, without additional cost to BSC, all designs, plans, labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform Work.

Sec. 5. Contractor's Billings to BSC. Compensation. Contractor shall send its invoices to BSC quarterly or bi-monthly, on a schedule agreed to by both parties. Invoices shall be based on direct costs incurred or percent of work completed. All Work on the Project shall be completed prior to November 30, 2022. Any penalties, fines or other payments assessed to BSC as a result of any delay beyond November 30, 2022, shall be paid by Contractor. Prior to final payment, Contractor shall provide lien waivers for all labor and materials furnished to complete the Project. **In total, BSC shall pay to the Contractor a sum up to, but not to exceed, \$1,615,930.00 for completion of all Work as defined herein and on the Exhibits attached hereto. Final payment will be paid when all Work is successfully completed on or before November 30, 2022. The entire \$1,615,930 will be paid with funds from the H2Ohio award. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, CONTRACTOR ACKNOWLEDGES AND AGREES THAT BSC'S ACTUAL RECEIPT OF THE GRANT FUNDS FROM ODNR IS A *CONDITION PRECEDENT* TO PAYMENT BY OWNER TO CONTRACTOR FOR THE WORK. THE CONTRACTOR EXPRESSLY AND UNEQUIVOCALLY ASSUMES THE RISK OF NON-PAYMENT OF THE GRANT FUNDS TO BSC.**

Sec. 6. BSC shall be permitted, at the time of payment due to Contractor, to withhold payment or a portion thereof for unsatisfactory job progress; defective goods, services, or construction not remedied; disputed work; third-party claims filed or reasonable evidence that such a claim will be filed; failure of the Contractor to make timely payments to its subcontractors for labor, equipment, and materials; and/or other damages suffered to BSC.

Sec. 7. Bonding. The Contractor shall provide a performance and payment bond for 100% of the performance price. This performance and payment bond is intended to secure fulfillment of the Contractor's obligations under this Contract. The bond shall be obtained from a company holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

Sec. 8. Insurance. The Contractor shall maintain insurance not less than the following:

(a) Commercial General Liability, covering premises/operations products/completed operations broad form property damage contractual liability and for independent contractors, if they are used in the performance of this Contract.

(i) BSC must be named additional insured, and an original of the endorsement to affect the coverage must be attached to the certificate (if by blanket endorsement, then agent may so indicate in the GL section of the certificate, in lieu of an original endorsement)

(ii) Combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year

(b) Automobile Liability Insurance, covering owned, hired or borrowed vehicles, employee vehicles, if used in performance of this Contract

(i) Combined single limit not less than \$1,000,000 per occurrence; aggregate limit not less than \$2,000,000 per year

(c) Workers' Compensation Insurance, covering statutory benefits covering employees; covering owners, partners, officers and relatives (who work on this Contract)

(d) Employers' liability, \$1,000,000.

(e) All insurance required hereunder shall be provided by:

(i) Companies authorized to do business in the State of Ohio.

(ii) Companies with Best rating of A-VIII or better

(f) Contractor shall furnish BSC with certificates of such insurance, which shall name BSC as an additional insured and shall also specifically provide that coverage will not be canceled or materially changed prior to sixty (60) days' advance written notice to BSC.

(g) Both the insurance certificate and the additional insured endorsement must be originals and must be approved by BSC before Contractor can begin any work under this Contract.

(h) Waiver of Subrogation. The Contractor hereby waives all causes of action and rights of recovery against BSC, and its directors, officers, independent contractors, employees, agents, successors, and assigns for any loss or damage occurring to the Project resulting from any perils covered by insurance regardless of cause or origin, including the negligence of either party, their respective directors, officers, independent contractors, employees, agents, successors, assigns, guests, and invitees to the extent of any recovery under a policy or policies of insurance, provided that any such policy or policies will not be invalidated in whole or in part by this subrogation. To the extent necessary to effect the foregoing waiver of subrogation, the Contractor agrees to obtain from its insurance carrier(s) endorsements to such policies of insurance waiving the right of subrogation of the insurance carrier as to BSC.

Sec. 9. Performance of Work by BSC. If Contractor fails to perform Work in accordance with the schedule referred to in Section 3 above, BSC may, in its sole discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of BSC's rights and remedies. Contractor shall reimburse BSC for additional costs incurred by BSC in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

Sec. 10. Exhibits. The following exhibits are incorporated by reference and made a part of this Contract:

Exhibit A – Grant Agreement between Black Swamp Conservancy and Ohio DNR

Exhibit B – Wolf Creek Floodplain Restoration Design-Build Project Request for Proposals dated July 21, 2021, which includes:

- map of location where restoration will be done

Exhibit C – CONTRACTOR Proposal dated August 25, 2021, which includes:

- listing of all items and/or services to be provided
- itemized cost for items and/or services being purchased by BSC

In case of conflict between the text of the Exhibits and the text of this Contract excluding the Exhibits, the text of the Exhibits shall control.

Sec. 11. Notice. (a) All notices and other communications required or permitted by this Contract shall be in writing and shall be given either by personal delivery, fax, UPS, Federal Express, or certified United States mail, return receipt requested, addressed as follows. The parties are requested to send a copy by email.

To BSC:

Melanie Coulter  
Black Swamp Conservancy  
P.O. Box 332  
Perrysburg, Ohio 43552-0332  
419-883-1025  
mcoulter@blackswamp.org

To the Contractor:

PROJECT MANAGER  
CONTRACTOR  
ADDRESS  
CITY STATE ZIP  
PHONE  
EMAIL

(b) Change of Address. Date Notice Deemed Given. A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this Contract shall be deemed given and sent at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by United States mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the United States Postal Service or upon actual delivery, whichever first occurs.

Sec. 12. Indemnification.

(a) To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless Indemnitees from and against all Charges that arise in any manner from, in connection with, or out of this Contract as a result of acts or omissions of the Contractor or its subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection "a," the Contractor shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to BSC.

(b) Definitions. As used in subsections "a" above and "c" below -- "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this Contract). "Indemnitees" means BSC and its directors, officers, independent contractors, agents, employees, successor, and assigns, excluding the Contractor.

(c) Other Provisions Separate. Nothing in this section shall affect any warranties in favor of BSC that are otherwise provided in or arise out of this Agreement. This section is in addition to and shall be construed separately from any other indemnification provisions that may be contained in this Agreement.

(d) Survival. This section shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and/or termination of the services of the Contractor under this Agreement.

Sec. 13. Miscellaneous

(a) Choice of Law and Forum; Service of Process. (i) This Contract shall be deemed made in Wood County, Ohio. This Contract shall be governed by and construed in accordance with the law of Ohio. The exclusive forum and venue for all actions arising out of this Contract shall be the Court of Common Pleas of Wood County, Ohio or the United States District Court located in Toledo, Ohio. This subsection (a) shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this subsection. (ii) If the Contractor is not a natural person (for instance, the Contractor is a corporation or limited liability company), this subsection (ii) applies. "Agent for Service of Process" means every person now or hereafter appointed by the Contractor to be served or to accept service of process in any State of the United States. Without excluding any other method of service authorized by law, the Contractor agrees that every Agent for Service of Process is designated as its non-exclusive agent for service of process, summons, and complaint. The Contractor will instruct each Agent for Service of Process that after such agent receives the process, summons, or complaint, such agent shall promptly send it to the Contractor.

(b) Waiver. No action or failure to act by BSC shall constitute a waiver of any of its rights or remedies that arise out of this Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) Severability. If any provision of this Contract shall be unenforceable, the remainder of this Agreement shall be enforceable to the extent permitted by law.

(d) Assignment, Successors and Assigns. Without BSC's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this Agreement. BSC may consent or not consent to an assignment in its sole discretion. Unless BSC otherwise agrees in writing, the Contractor and all assignees shall be subject to all of BSC's defenses and shall be liable for all of the Contractor's duties that arise out of this Agreement and all of BSC's claims that arise out of this Agreement. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this Agreement shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(e) Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law, including without limitation, the Federal, State, and local laws identified in Section 11 of the Grant.

(f) EEO Provisions. During the performance of this Agreement the Contractor agrees as follows: (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer,

recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Contractor shall in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. (3) The Contractor shall send a copy of the EEO provisions to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding. (4) In the event of the Contractor's noncompliance with these EEO provisions, BSC may cancel, terminate, or suspend this Contract, in whole or in part, and BSC may declare the Contractor ineligible for further BSC contracts. (5) Unless exempted by BSC, the Contractor shall include these EEO provisions in every purchase order for goods to be used in performing this Agreement and in every subcontract related to this Agreement so that these EEO provisions will be binding upon such subcontractors and vendors.

(g) No Third Party Rights Created. This Contract is intended for the benefit of BSC and the Contractor and not any other person.

(h) Principles of Interpretation and Definitions. (1) The singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The words "include," "including," etc. mean include, including, etc. without limitation. (2) References to a "Section" or "section" shall mean a section of this Contract. (3) "Contract" and "Agreement," whether or not capitalized, refer to this Contract. (4) "Duties" includes obligations. (5) The word "person" includes natural persons, firms, companies, associations, partnerships, trusts, corporations, governmental agencies and units, and other legal entities. (6) The word "shall" is mandatory. (7) The word "day" means calendar day. (8) The word "Work" is defined in Section 2. (9) A definition in this Contract will not apply to the extent the context requires otherwise.

(i) Modifications. Entire Agreement. A modification of this Agreement shall not be enforceable unless it is in writing and signed by both parties. Further, a modification is not enforceable against BSC unless it is signed by Melanie Coulter, BSC's Project Manager on behalf of BSC. This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Agreement.

Sec. 14. Termination for Convenience ("TFC"). (a) *Procedure.* Without limiting any party's right to terminate for breach, the parties agree that BSC may, without cause, and in its discretion, terminate this Agreement for convenience by giving the Contractor written notice that refers to this section. TFC shall be effective at the time indicated in the notice. (b) *Obligations.* Upon TFC, all obligations that are still executory on both sides are discharged except that any right based on prior breach or performance survives, and the indemnification provisions and the section of this Agreement titled Trade Secrets and Confidentiality, if any, shall remain in force. At the time of TFC or as soon afterwards as is practical, the Contractor shall give BSC all Work,

including partly completed Work. In case of TFC, the Contractor shall follow BSC's instructions as to which subcontracts to terminate. (c) *Payment*. Within 20 days after TFC, BSC shall pay the Contractor one hundred dollars as a TFC fee and shall pay the Contractor for all Work performed in accordance with this contract, except to the extent previously paid for. Work shall be paid for in accordance with the method (unit prices, hourly fees, etc.) to be used for payment had the Work been completed except to the extent it would be inequitable to either party, and if Work was to be paid for on a lump-sum basis, BSC shall pay the part of the lump sum that reflects the percentage of completion attained for that Work. The Contractor shall not be entitled to any payment because of TFC except as stated in this section, whether on the basis of overhead, profit, damages, other economic loss, or otherwise.

Sec. 15. Defective Work and Materials. Contractor shall immediately remedy at its own expense all Work that BSC determines, in its sole discretion, is not in accordance with this Agreement. Payment for work performed shall not be considered as acceptance of that work at any time before the work is inspected and found to be adequate.

Sec. 16. Subcontractors. Contractor shall not assign or subcontract any portion of this Contract without the written consent of Melanie Coulter, BSC's Project Manager. Contractor shall be held responsible for the faithful completion of that part of the work and the assignment or subcontracting shall not relieve the Contractor of any of the obligations or requirements under the Contract.

Sec. 17. Licenses, Permits, and Certifications. Any fees or charges for licenses, permits, registrations, and/or certifications required for the project shall be paid by Contractor. Contractor shall be responsible for all applicable safety and environmental considerations with regards to the application of any herbicides and/or other chemicals to be employed in this Contract. Any additional equipment or items required shall be obtained, maintained, and paid for by Contractor at no additional cost to BSC.

Sec. 18. Damages and Damage Prevention.

(a) Contractor shall use appropriate Best Management Practices to prevent pollution, contamination, and spillage into streams and adjacent property of fuel, oils, chemicals, debris, or other harmful material. If such pollution, contamination, and/or spillage occurs, remediation shall include, but not be limited to, removal of contamination and material, removal and replacement of contaminated soil, and payment of any associated fees, fines or other costs incurred. Contractor must notify BSC immediately in the case of chemical spills or any pollution. BSC shall be notified of damages immediately upon occurrence as well.

(b) Contractor shall take measures to avoid and minimize the removal, injury, or damage to any non-target vegetation and adjacent property by the appropriate selection of manual methods for work on the Project.

(c) Damage to Project Areas, adjacent property, infrastructure, and landscaping due to any cause shall be corrected by Contractor. Any work that leads to damaged material must be removed and properly disposed of as soon as is reasonably practicable at no additional cost to

BSC. If any damage or material represents a hazard to the public or BSC, then removal must occur immediately.

(d) Contractor shall conduct operations so as to minimize damage to all turf, roads, road banks, trails, ditches, storm drains, culverts, other infrastructure and other improvements, landscaping etc in the Project Area. Operations shall be scheduled and conducted to minimize erosion of soils and to prevent siltation and/or excessive discharge of sediment into streams, rivers, and impoundments.

(e) Contractor shall conduct operations so as to ensure that the Project will not negatively affect drainage of neighboring properties.

(f) Except as otherwise specified, Contractor shall notify BSC of any damages within twelve hours of occurrence. Any damage caused by Contractor, other than normal wear, shall be repaired at Contractor's expense. If Contractor fails to repair and/or replace damaged material to the satisfaction of BSC, BSC shall charge the Contractor the cost of all labor & materials required to repair and/or replace damaged material. BSC will notify Contractor prior to replacement or repair.

Sec. 19. Safety. Contractor shall protect the entire Work embraced in this Contract until the final acceptance of the same. The Contractor shall be responsible for any act or omission by it or its employees or agents causing any injuries to persons or any damages to public or private property.

i. Appropriate safety equipment must be used and in operating condition. OSHA compliance must be adhered to when performing Work on BSC properties and Contractor shall adhere strictly to all OSHA regulations. The use of high visibility clothing and head protection is strongly advised. Personnel shall wear appropriate personal protective clothing and/or equipment as recommended. First aid equipment, a supply of clean water, soap, and eyewash equipment shall be provided by Contractor and must meet OSHA regulations. Spills shall be reported to BSC immediately. Spills shall be handled in accordance with the standard procedures for spill clean-up. A spill is considered a Damage as per Section 18 Damages and Damage Prevention of this Contract and shall be treated accordingly.

Sec. 20. Changes to Work. It is agreed that BSC will have the right to determine the amount of work to be done under this Contract and at any time may make changes to the quantity of work to be done or may entirely exclude any of the items or work. Changes to the Scope of Work in which a reduction or elimination of Services is made shall result in a reduction of fee based on the price as described herein. Any additional pricing as described in this Contract and not associated with the change of Scope of Work shall not be altered or invalidated. BSC reserves the right to extend the Agreement upon the same terms and conditions for a period mutually agreed upon in writing by both parties. BSC reserves the right to request that Contractor do additional work not covered in this Agreement. Such extensions of work may be at any point where extensions are authorized by written agreement of both parties signed by Melanie Coulter, BSC's Project Manager on behalf of BSC. Contractor shall accept as payment such prices as authorized by written agreement of both parties signed by Melanie Coulter, BSC's Project Manager on behalf of BSC prior to the commencement of such work. No work or labor

shall be done or materials furnished other than those included in the Contract except as authorized by written agreement of both parties signed by Melanie Coulter, BSC's Project Manager on behalf of BSC prior to the commencement of such work. Without such a written agreement, Contractor shall not be entitled to payment for such work, either on the principle of oral contract, implied contract, quantum merit, unjust enrichment, extra work, or any other legal or equitable theory.

Sec. 21. Ohio Department of Natural Resources Requirements. Contractor shall comply with all requirements set forth in the Grant attached as Exhibit A hereto.

[REST OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, BSC and the Contractor have caused this Contract to be executed under seal themselves or by their respective duly authorized agents or officers.

Black Swamp Conservancy

By: \_\_\_\_\_  
Melanie Coulter, Project Manager

CONTRACTOR

By: \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Name, Title of Officer

DRAFT

# Exhibit F

## Black Swamp Conservancy

### CONFLICT OF INTEREST DISCLOSURE FORM

It is the policy of Black Swamp Conservancy (the Conservancy) to identify actual, potential, or perceived conflicts of interest in any situation in which the Conservancy has a significant business interest. To assist the Conservancy in complying with this policy, we request that all individuals and/or organizations that will be involved in a proposed transaction with the Conservancy complete this form.

#### TRANSACTION

Describe the type of agreement (e.g., service contract, grant, etc.).

Design-Build Contract

**Total dollar value of transaction:** \$ \_\_\_\_\_

#### PARTIES

Copies of this form should be completed for each company submitting a proposal AND for each company included in a proposal team. Additional forms should be submitted for any individual within the company that meets these two criteria: (1) would be working directly on this project and/or are a partner or principle or owner of the company, and (2) whose answer to any question on this form is “Yes.”

Please check the box to indicate the type of party for which this form is being completed, list all individuals and/or organizations that will be involved in this transaction, then complete the applicable section that follows. An “organization” includes a for profit corporation, partnership, trust, estate, joint venture, limited liability corporation, professional corporation or unincorporated entity of any kind, a foundation, public board, commission, and a 501(c) (3) or other charitable organization.

- Individuals (list all, then have each complete Section 1):** \_\_\_\_\_
- For Profit Organizations (list all, then complete Section 2):** \_\_\_\_\_
- Not for Profit Organizations (list all, then complete Section 3):** \_\_\_\_\_

Note: Please refer to the attached list of the Conservancy’s key employees and current and prior members of the Conservancy’s Board of Directors when completing the rest of this form.

#### 1. INDIVIDUALS:

**Please check all that apply and attach an explanation for any “Yes” answers.**

	Yes	No
a. Are you now, or have you been at any time in the past 5 years, a <b>Conservancy “key employee”</b> or a <b>member of the Conservancy’s Board of Directors</b> as identified on the attached list?		
b. Are you now or have you been in the past 12 months a <b>Conservancy employee</b> (other than a key employee) or member of an <b>Advisory Council</b> ?		

c. Have you <b>contributed to the Conservancy</b> U.S. \$500 or more during the current year, or U.S. \$2,500 or more, cumulatively, in this year and the prior five (5) years?		
d. To your knowledge, are you a <b>Family Member</b> of any individual identified in paragraph a, b, or c above? (For those purposes, the term “Family Member” includes the individual’s spouse, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren; and any person with whom the covered person shares living quarters under circumstances that closely resemble a marital relationship or who is financially dependent upon the covered person.)		

## 2. FOR PROFIT ORGANIZATIONS

Please check all that apply and attach an explanation for any “Yes” answers.

	Yes	No
a. Has the organization made total aggregate contributions to the Conservancy (i) during the current year of U.S. \$500 or more, or (ii) during the current and last five (5) years of U.S. \$2,500 or more?		
b. Now or at the time of the proposed transaction, does or will any <b>Conservancy employee (includes former Conservancy employee who left within last year); member of the Conservancy’s Board of Directors; or Conservancy Chapter Trustee or Advisory Council Member (includes former ones who served within the last year)</b> , individually or collectively with other such persons (including <b>Family Members</b> of such persons; see Section 1 (d) above for definition of Family Members), <b>own more than 35% of the stock or value of the organization</b> (directly or indirectly), or have the legal or <i>de facto</i> <b>power to exercise a controlling influence over the organization’s management or policies</b> , e.g., as an officer, key management employee, board member, or partner?		
c. Now, or at the time of the proposed transaction, have or will any members of <b>the Conservancy’s current Executive Team or Board of Directors</b> (see attached list) serve as: <ul style="list-style-type: none"> <li>• An officer, director, trustee, key employee, or partner; or</li> <li>• If the entity is a limited liability corporation, a members; or</li> <li>• If the entity is a professional corporation, a shareholder?</li> </ul>		

## 3. NON PROFIT ORGANIZATIONS

Please check all that apply and attach an explanation for any “Yes” answers.

	Yes	No
a. Now or at the time of the proposed transaction, have or will any <b>Conservancy employee (includes former Conservancy employee who left within last year); member of the Conservancy’s Board of Directors; Chapter Trustees, Council Advisors (includes former ones who served within the last year)</b> , or <b>Family Members</b> of any of these, individually or collectively, <b>have the ability to control management of the entity?</b> See Section 1(d) above for definition of Family Members.		

**Individuals who in the current fiscal year (FY22) are or during the preceding five fiscal years have been a Conservancy “key employee” or a member of the Board of Directors:**

**Key Employees**

**Current Team**

Elisabeth Anderson  
Freya Berntson  
Melanie Coulter  
Rob Krain  
Laura Rodriguez  
Linda Wegman

**Other/Former Key Employees**

Sarah Brokamp  
Christopher Collier  
Christopher Dickey  
Julie Pompa  
Aly Rumer  
Sarah Williams

**Current Board of Directors (FY '22)**

Steve Bowe  
Eric Britton  
Mary Fedderke  
Virginia Keller  
Will Lewis  
Tim Minning  
Rachael Niemer  
Dana Reising  
Tim Schetter  
Karen Raney Wolkins  
Anne Yager

**Prior Board Members (FYs '17-'21)**

Paul Croy  
Sally Gladwell  
Julie Brotje Higgins  
Brian Kennedy  
Mary Krueger  
Dani Kusner  
Tom Reed  
Katie Rousseau  
Alec Vogelpohl  
Laurie VonSeggern  
Karen Wood

**SIGNATURES**

The undersigned certifies that the information in the disclosure form is true and correct to the best of his/her knowledge

**Signatures for Organizations:**

Name of Organization: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name of person: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Signatures for Individuals:**

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit G

NON-COLLUSION AFFIDAVIT

City of \_\_\_\_\_

County of \_\_\_\_\_

ss

State of \_\_\_\_\_

\_\_\_\_\_ being first duly sworn deposes and

says that s/he is \_\_\_\_\_ (Sole Owner, Partner, President, etc.)

of \_\_\_\_\_ the party making the foregoing proposal or bid; that such bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person to put in a sham bid, or that such other person shall refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price or that of any other bidder, or to secure any advantage against the Black Swamp Conservancy or any person or persons interested in the proposed contract; and that all statements contained in said proposal or bid are true; further, that such bidder has not directly or indirectly submitted this bid or the contents thereof, or divulged information or data relative to any association or member or agent thereof.

\_\_\_\_\_  
Affiant

Sworn and subscribed for me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for

\_\_\_\_\_ County, Ohio

My Commission Expires:

\_\_\_\_\_, 20\_\_\_\_\_.

**Exhibit H—Vendor Questionnaire**

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**General Information:**

Company Name: \_\_\_\_\_  
Company Address: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Phone & Email: \_\_\_\_\_  
Federal ID or SSN #: \_\_\_\_\_  
Years in Business: \_\_\_\_\_

---

**Vendor Information:**

Please indicate if you have done business with Black Swamp Conservancy in the past and provide contact information below.

---

**Statement of Qualifications:**

Please provide a statement of qualifications below. This statement of qualifications must include information pertaining to the attached scope of work.

---

**Employee Information**

Number of Employees: \_\_\_\_\_

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**Service Information**

Are there any geographical areas that your company is not able to serve?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please list.

---

**Minority and Women - Owned Business Enterprise**

Please indicate below if your firm is at least 51% minority or women owned, controlled and operated. Identify the % of minority or women ownership.

---

**Legal**

If your firm is bonded, please indicate type:

Performance Bond \_\_\_\_\_ YES \_\_\_\_\_ NO

Labor and Material Payment Bond \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please specify the amount: \_\_\_\_\_

Are there any judgments, suits or claims pending against your firm? \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, please explain:

Has your firm operated under a different name? (Please provide)

## Exhibit I

### Project Deliverables Worksheet

Indicate the type and quantity of project deliverables that are included in your restoration proposal. Refer to the table in Section C of the Request for Proposals for a breakdown of which project deliverables are flexible for creating the best nutrient reduction and habitat outcomes.

Project Deliverables	Amount in Grant Agreement	Amount Proposed By Vendor
Total Acres Restored	98 acres	
Acres Planted to Low-Mow Grass	10 acres	
Wetland Restored	45 acres	
Riparian Woods Restored	20-30 acres	
Native Grassland or Meadow Planted	20-30 acres	
Waterway Restoration & Construction	1500 linear feet	
Post-Restoration Invasive Plant Treatments	1 year	
Other:		
Other:		