



Otsego School District Living Laboratory

Design-Build Project

(Wood County, Ohio)

Request for Proposals

April 26, 2022

Proposals must be received by 4:00pm Eastern on May 24, 2022

STATEMENT OF PURPOSE

The Black Swamp Conservancy (“Conservancy”) is an accredited land trust that protects more than 21,000 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, meadow and woods restoration project on 16-acre Fox-Shank Living Laboratory (the “Site”) in Wood County, Ohio (the “Project”). The Site includes about 13 acres in agricultural production and a narrow band of woods (8-20 meters wide) along Tontogany Creek. Maps showing the general location of the Site, and the specific Project Area within it, are attached to this RFP as Exhibit A.

About 11 acres that are currently in agricultural production will be restored to native habitats as part of this Project. The restoration will include: 1) creation of at least 5 acres of emergent and shrub-scrub wetland, including decommissioning of drainage tiles; 2) restoration of appropriate mix of native meadow and native woods on remaining acres, including at least 2.5 acres of riparian woods along Tontogany Creek and its tributary; 3) site assessments and designs for incorporating future infrastructure to facilitate the site’s use as an educational living laboratory for Otsego Schools, including retaining up to 2 acres in agricultural production for Future Farmers of America (FFA).

A preliminary concept for this project is included as Exhibit B. The project concept is flexible, and Contractors are encouraged to submit creative proposals that incorporate wetland and upland restoration in proximity to retained agriculture, with forethought for future educational uses and access by students. Contractors’ proposed concepts must still include nutrient runoff reduction, increased habitat and the minimum Project deliverables. Maps and photos depicting the condition of the Site as observed on December 14, 2021, and March 3, 2022, 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 Otsego School District Living Laboratory 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 riparian 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 \$292,700. The maximum amount of \$292,700 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 Site is attached as Exhibit A to this Request for Proposals ("RFP"). A Preliminary Concept for the Project is attached as Exhibit B. Maps and photos depicting the condition of the Site as observed on December 14, 2021, and March 3, 2022, are attached as Exhibit C. The Conservancy does not have topographical, hydrological or other technical surveys of the Project Site. If desired, any such surveys shall be the Contractor's responsibility and should be included within the Contractor's pricing structure.

The project concept is flexible, and Contractors are encouraged to submit creative proposals that incorporate wetland and upland restoration in proximity to up to 2 acres of retained agriculture, with forethought for future educational uses and site access by students. Contractors' proposed concepts must still include nutrient reduction, increased habitat and the minimum Project deliverables, as discussed in Section C: Project Description and Specifications and Section D: Contractor Scope of Services. Suggested conceptual designs and project components must be accompanied by related justification and pricing for the Conservancy's consideration.

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 133rd 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 16-acre farm owned by the Conservancy and located off Tontogany Creek Road in the Village of Tontogany, Washington Township, Wood County, Ohio. See Exhibit A. Approximately 13 acres of the Site is in agricultural production. Tontogany Creek wraps around the north and northeastern sides of the Site, and a narrow band of trees (8-20 meters wide) lies along the Creek. A short ditch flows into Tontogany Creek, just at the northwestern corner of the Site. The existing band of riparian woods is wider at this confluence.

About 2.5 acres of the Site is in the 100-year floodplain of Tontogany Creek. The Site is characterized by two elevations. The lower tier lies along the Creek and comprises the floodplain. The majority of the Site is in the upper tier, south of the floodplain. Between the two tiers is a slope, and rill erosion is occurring between the bottom of the slope and the Creek.

Along the Site's western side, there are two turf access ways that connect the Site to Tontogany Creek Road. Residences border the western, southern and southeastern sides of the Site. See Exhibit C for a map and photos showing the existing conditions at the Site.

The Site has been in agricultural production since at least 1939. The 13-acre agricultural field was in soybean production until fall harvest 2022. In April 2022 the field was sprayed, and in May 2022 it will be seeded with Summermax CC6 Cover Crop Mix to reduce pressure from common field weeds, and help prep the soil for restoration plantings.

This Project includes restoring about 11 acres of the current 13-acre agricultural field to wetland and riparian habitat. After restoration is complete, the Conservancy will gift the Site to Otsego Schools.

Otsego Schools will use the site as a living laboratory for students. The Schools' administration and teachers are anticipating students using the site for educational activities like sampling restored wetlands, learning about riparian and meadow or prairie habitats, using nature as art inspiration, accessing Tontogany Creek for fish and invertebrate sampling, and much more. Additionally, part of the current agricultural field will be retained as a demonstration farm, for use by Otsego School's Future Farmers of America (FFA) program. The farm will demonstrate the value of using natural habitats to filter agricultural runoff.

Up to 2 acres of the current 13-acre agricultural field will be retained for the demonstration farm and for a pavilion that the School will install. It is anticipated that additional access infrastructure will be installed by the School, for example, a parking lot, trails throughout the site, and boardwalk or pier into the wetland. Though this infrastructure for future student access must be considered in the Contractor's design, ODNR's H2Ohio program and Black Swamp Conservancy will not fund installation of this infrastructure.

PROJECT DESCRIPTION

The Project is located at a 16-acre farm (the "Site") along Tontogany Creek Road in the Village of Tontogany, Ohio. The Site is located at 41.42433407926882, -83.74098517516427. The Site's address is 0 North Street, Tontogany Village, OH.

The objective of this Project is to design, engineer, permit, construct and plant a restoration project that will restore wetlands and riparian habitats on the Site and reduce nutrient and sediment runoff into Tontogany Creek. The minimum Project requirements are to reduce phosphorus runoff, increase nutrient uptake, reduce sedimentation and erosion, increase wetland habitat, and improve riparian habitat. The Project has the additional objectives of Otsego Schools using the restored natural habitats as a living laboratory for its K-12 schools, and the FFA using a small portion of the property as a demonstration farm.

To achieve these goals, the Project must include:

- 1) Disable tile to restore a more natural hydrology. Tile will be left in place on up to 2 acres to drain the FFA demonstration farm. Runoff from the demonstration farm should be designed to interact with the planned wetland or other natural filtration features. Care must be taken to ensure drainage of water from neighboring properties is not disrupted.
- 2) Maximize sediment and nutrient capture from the approximately 13 square mile watershed that drains through the site (according to StreamStats, see Watershed Map in Exhibit C).
- 3) Improve existing riparian woods along Tontogany Creek and restore at least 2.5 acres of forested riparian buffer.
- 4) Restore 5 to 10 acres of emergent and/or shrub-scrub wetland.

- 5) Restore other native habitat on parts of the Site that the Contractor determines won't support wetland or riparian woods. As a Living Laboratory, a diversity of habitats is desirable for teaching. Prairie or meadow habitat would be a good addition.
- 6) Determine best location for the up to 2-acre FFA demonstration farm.
- 7) Coordinate with Otsego Schools administration, teachers and students, particularly during design phase.
- 8) Consider and leave space for future student access infrastructure in the final design. Such infrastructure could include a pavilion, a parking lot, walking paths, boardwalk or pier into wetlands, footpath access to Tontogany Creek for sampling, etc. Though the Contractor should include ideas for appropriate locations for this infrastructure in their final design plans, this Project does not include funds for installation of this infrastructure.

A Preliminary Concept for the Project is attached as Exhibit B. The Preliminary Restoration Concept includes only a few of the required elements of the project. Contractors are encouraged to submit a more complete conceptual design, which can include alternate locations of required elements. With their alternate conceptual designs, Contractors should include 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 this Section C: Project Description and in Section D: Contractor Scope of Services and Schedule.

The following chart identifies project deliverables noted in the Grant Agreement that are either: 1) required for contractors to include in their design, 2) flexible to be changed to create the best nutrient reduction and habitat outcomes, or 3) optional to include depending on budget and suitable site conditions.

Deliverables	Amount in Grant Agreement	Optional/Required
Total Acres Restored	11 to 14 acres	Required: create habitat on at least 11 acres of the 13-acre farm field
Emergent or Scrub-Shrub Wetland Restored	5 to 10.5 acres	Required minimum is 5 ac
New Forested Riparian Buffer	2.5 acres	Required
Other Habitat Types Restored / Created		Optional: if any acres of 13-acre farm field are not suited for wetland or riparian woods. Otsego Schools prefers some meadow/prairie on site

Improve Existing Wooded Riparian Zone		Optional: E.g. invasives control in woods; creation of access to creek for future Living Lab
Remove / Decommission Drainage Tile	5 to 13 acres	Required element, but Flexible acreage: Must disable tile in wetland restoration acres. Optional in other areas, with consideration for required sediment and nutrient retention from watershed. Should retain tile in demo farm and pavilion area(s).
Demonstration Farm	1 to 2 acres	Required: Area for demo farm must be selected and included in final design. Contractor is not required to prep farm area, but will need to include drainage in final design.
Coordination with Otsego Schools; Consider Future Student Access Infrastructure		Required: Create final design that incorporates school's desired elements for future Living Laboratory. Installation of student access and use infrastructure is <u>not</u> permitted as part of this Project cost.

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, riparian, and other restoration and re-vegetation. If the proposed design creates a need for any specialized engineering or geotechnical services (i.e. berms impounding water should be supported with corresponding hydraulic and routing studies), the Contractor's proposal should address each service.
 - a. Design documents shall include a minimum of 11 total acres of restored habitat, including at least 5 acres of emergent and/or shrub-scrub wetland. 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) Prepare 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: Restoration Concept, Preliminary Design, and Final Design. At least one of these design reviews will be on Site.
- 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. Construction for this Project, funded by H2Ohio dollars, will not include installation of future student access infrastructure, even though those elements may be included in the Final Design.
- 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 Tontogany Creek and its tributary. Please note that the Site contains a slope which may require special consideration to prevent erosion.
 - 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 parts of the property outside of the Project boundaries that they or their subcontractors damage or change while 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) During construction, 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. A longitudinal profile of any waterway restoration within the limits of the Project area will also be prepared.
- 12) Perform invasive species control for at least 2 years after Project completion.

DELIVERABLES

The selected Contractor, during the course of the Project, will deliver the following to the Conservancy:

- Digital files of all data, plans and regulatory permits gathered and generated in a format acceptable to the Conservancy.
- Conceptual Design Plan
- Preliminary / Interim Design Plan (usually 30%)
- Final Engineered Plan (often 60% or 90%), signed and endorsed by a professional engineer
- As-Built drawings and longitudinal profile 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.
- Construction photographs: The Contractor shall furnish a series of digital construction photos to show the progress of work. Photos must be provided on a CD or other digital media.

SCHEDULE

All Project activities must be completed no later than June 15, 2023. The Contractor should provide a schedule of its planned activities for completing all tasks. Contractor should assume a commencement date of June 2022. Include within the schedule a proposed payment schedule. An ideal project schedule would have all major earthwork, grading activities and site stabilization completed by February 2023, allowing reforestation and other planting tasks to be completed in Spring 2023.

SECTION E: INSTRUCTIONS 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. Include the experience, knowledge, technical expertise, certifications and licenses (including state of licensure) 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 should be provided that clearly defines the quantity of proposed restoration features (i.e. acres of wetland, etc.). 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 acres of wetland 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 June 15, 2023. 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 the four wetland or riparian restoration projects requested in Item 1(c) above.
 7. Completed Conflict of Interest (COI) 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 on the COI Form, must fill out an individual COI Disclosure Form.
 8. A completed Non-Collusion Affidavit, a blank copy of which is attached as Exhibit G.
 9. A completed Project Deliverables Worksheet, a blank copy of which is attached as Exhibit I.

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 assess the conditions of the site to inform their responses to this RFP, all firms interested in submitting a proposal are encouraged to visit the site. Please notify the Conservancy before visiting the site, and we will issue a site access permit. Email your access request to mcoulter@blackswamp.org.

QUESTIONS ABOUT THIS RFP MUST BE EMAILED TO:

Melanie Coulter mcoulter@blackswamp.org No phone calls please.

Questions must be received via email. 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. There will be two scheduled question and answer periods. All questions received via email by May 9, 2022, will be answered on May 10, 2022. All questions received between May 10 and May 19, 2022, will be answered on May 20, 2022. All questions received after May 19 will not be answered.

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.

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.

RESPONSE TO THIS RFP MUST BE EMAILED TO:

Melanie Coulter mcoulter@blackswamp.org No phone calls please.

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 emailed via the Contractors own large file transfer service or they may be mailed to the Conservancy at P.O. Box 332, Perrysburg, OH 43552-0332.

Submissions, including submissions that are mailed or shipped to the above P.O. Box, must be received no later than 4:00 pm on May 24, 2022. Proposals received after this date will not be accepted. The Conservancy expects to award the contract in early June 2022. Work will commence after successful execution of a contract for services between the Contractor and the Conservancy.

EXHIBITS

- Exhibit A – Maps of Project Site and Project Area
- Exhibit B – Preliminary Concept for Project
- Exhibit C – Current Site Conditions Maps and 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

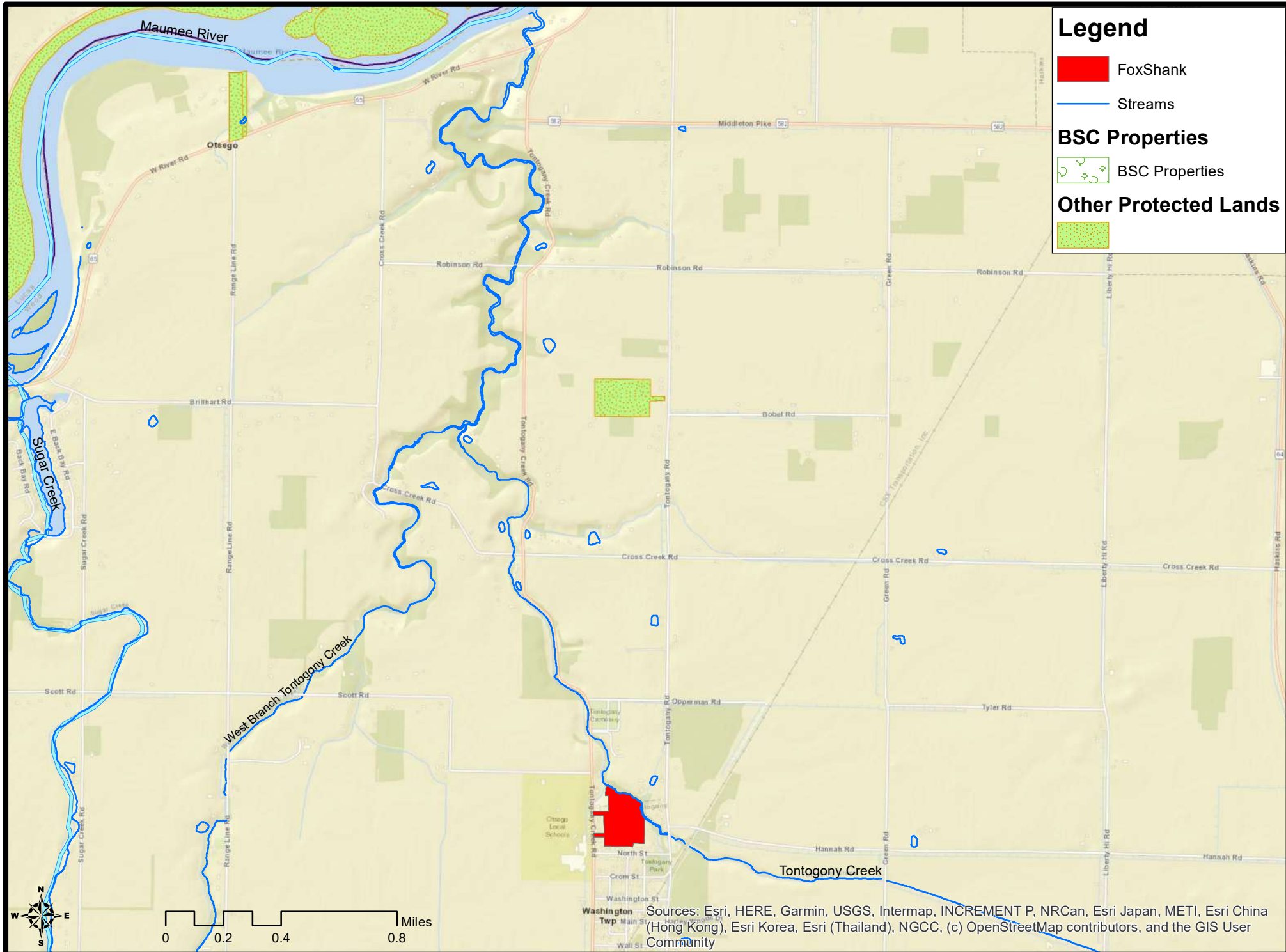


Exhibit A : Project Site Aerial Map

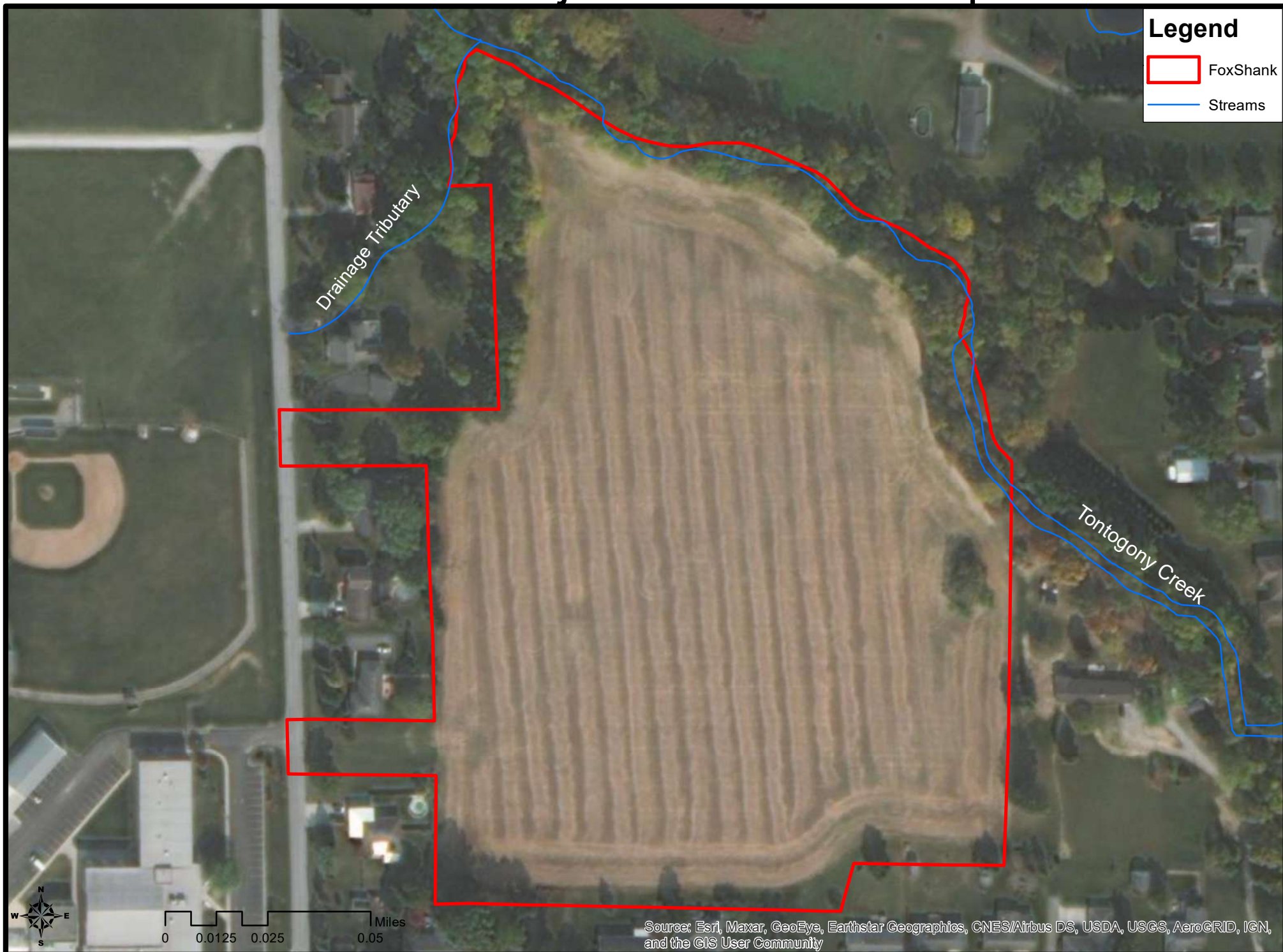


Exhibit B : Preliminary Concept

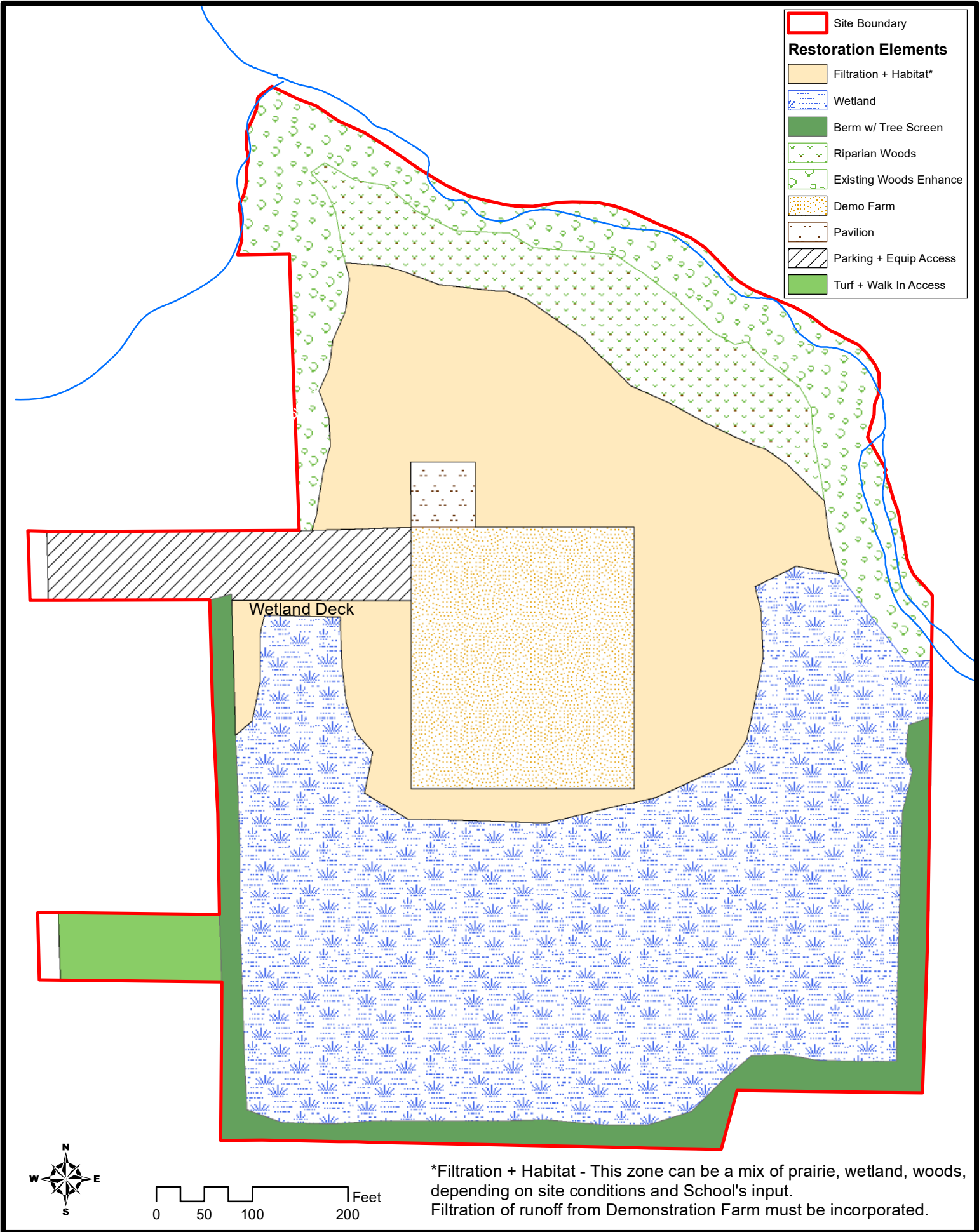
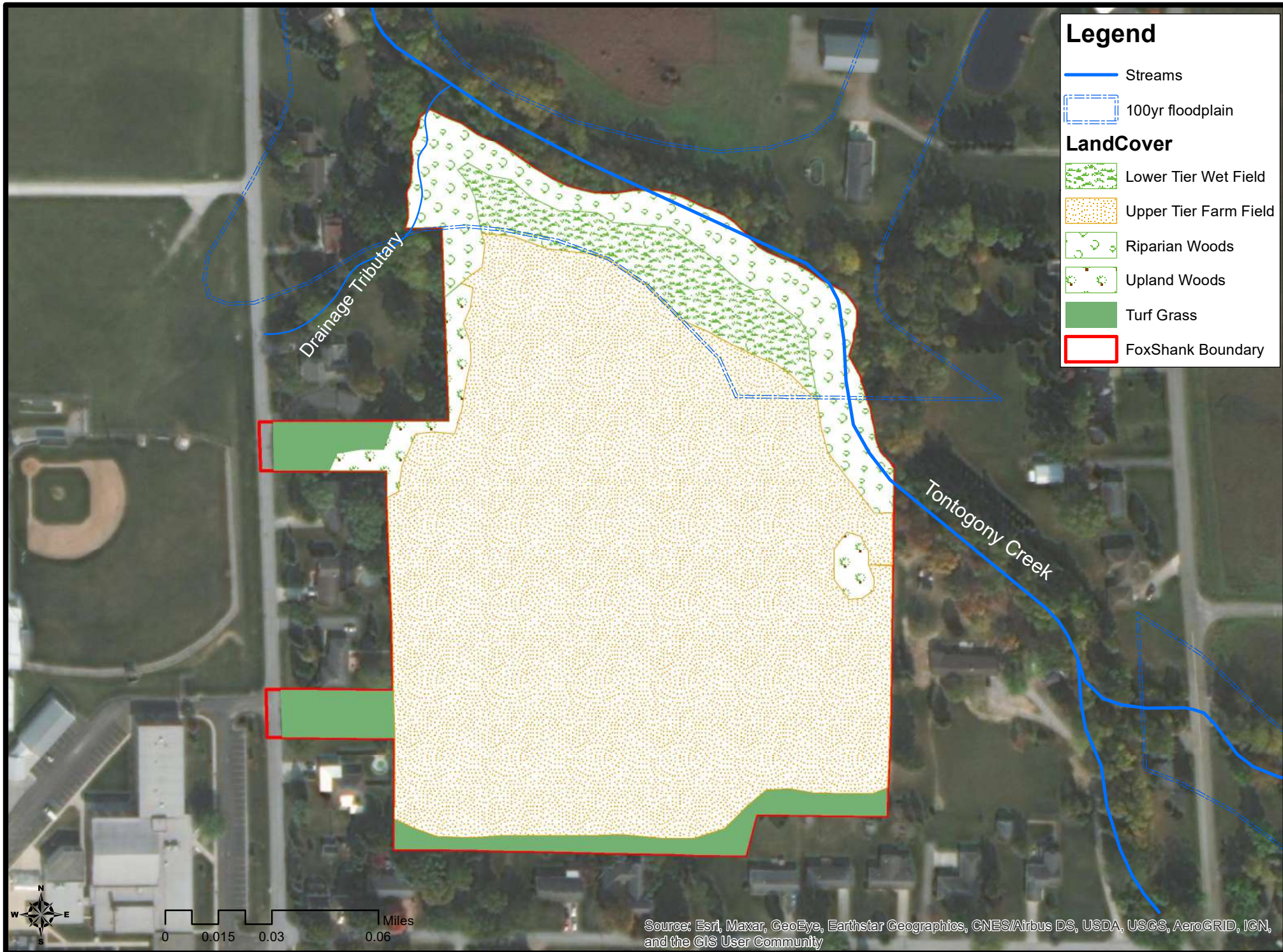


Exhibit C : Site's Current Conditions



FOX-SHANK LIVING LABORATORY Site Visit Photos December 14, 2021 (March 3, 2022, if noted)



1. Southern-most of the two turf access ways, as seen from Tontogany Creek Road. This is where to enter for site visit.



2. Upper tier of farm field, looking east from SW part of field. There were several pockets of standing water, in hydric soils.



3. Wettest part of upper tier, with frequent standing water and hydric soil. Isolated cluster of trees. On E side of Site.



4. Looking down slope at lower tier of farm field. Tontogany Creek flows right to left along the tree line.

FOX-SHANK LIVING LABORATORY Site Visit Photos December 14, 2021 (March 3, 2022, if noted)



5. Lower tier of farm field. Very wet soil from flooding; not hydric? Creek is just to left. Slope rises on right to upper tier.



6. Rill erosion in flooplain in lower tier of farm field. Tontogany Creek is in the tree line. (Taken March 3, 2022.)



7. NW corner of lower tier of farm field. The small ditch tributary flows into Tontogany Creek just beyond the tree line.



8. A pipe entering Tontogany Creek near NW corner of the Site. May drain neighbors' property or part of the Site.

Exhibit C: Site's Soils & Drainage



Site's Soil Moisture Levels & Estimated Tiles :

Red line shows approximate boundary of 16 acre Site.

Dark blue shows 5 acres of 66 %– 99% hydric soils.

Light blue shows 5.5 acres of prime agricultural soil. Based on aerial images and standing water, hydric soils may extend into parts of this 5.5 acres.

Green polygon represents floodplain and very wet area just outside of the floodplain.

White lines represent over 1 mile of drainage tiles, estimated by appearance on aerial photos.

Exhibit C - Site's Watershed

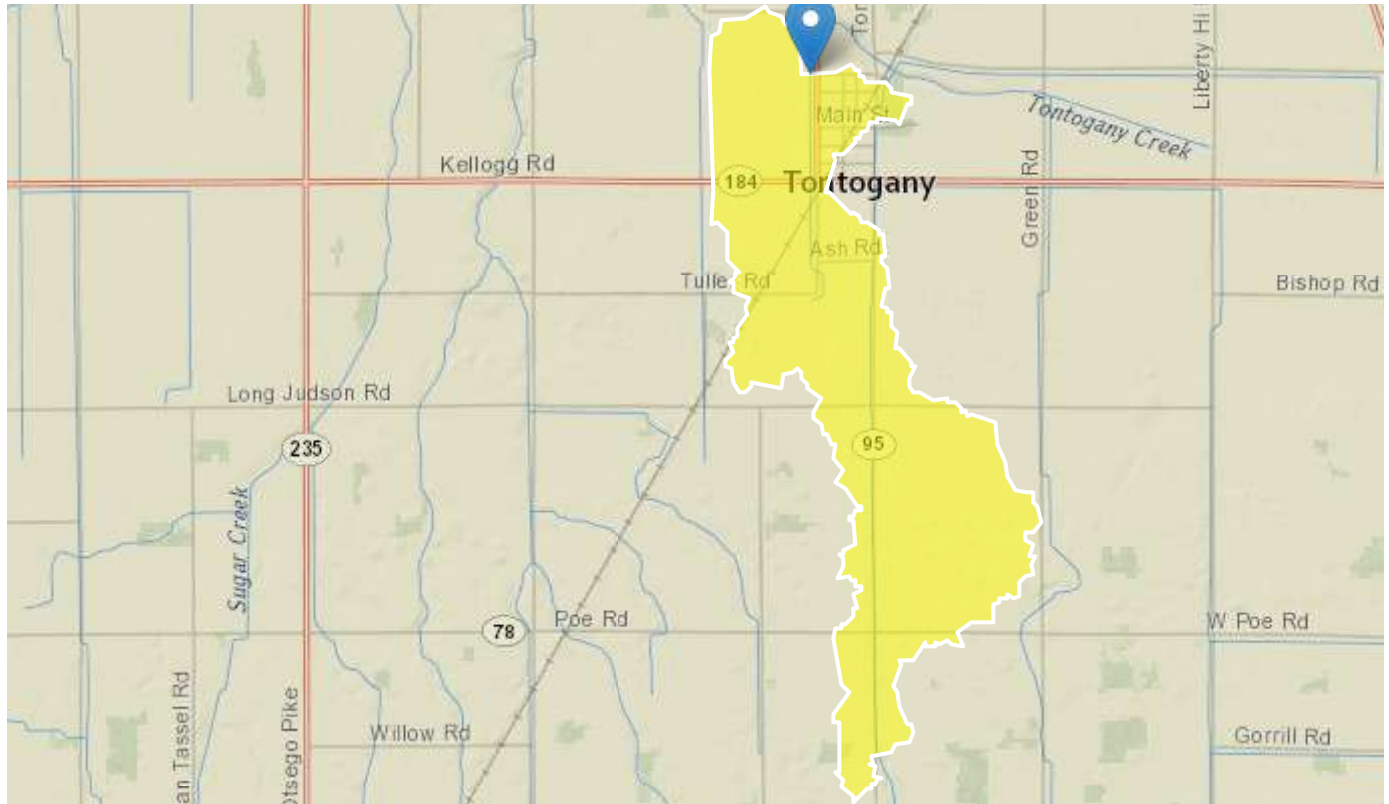
StreamStats Report

Region ID: OH

Workspace ID: OH20210615132956562000

Clicked Point (Latitude, Longitude): 41.42273, -83.74256

Time: 2021-06-15 09:32:24 -0400



**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. 110, passed by the 134th General Assembly of the State of Ohio and signed by the Governor of Ohio on 1 July, 2021 (effective date June 30, 2021) and Black Swamp Conservancy, (the "Grantee").

Pursuant to Am. Sub. H.B. No. 110, the 134th General Assembly of the State of Ohio has appropriated funds of which Four Hundred and Forty-Three Thousand, One Hundred and Forty-Two Dollars (\$443,142.00) has been redirected and awarded to the Grantee for costs associated with the Otsego School District Living Laboratory 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. 110 of the 134th General Assembly, the parties hereto agree as follows:

1. ODNR agrees to provide the Grantee up to Four Hundred and Forty-Three Thousand, One Hundred and Forty-Two Dollars (\$443,142.00) via qualifying advance or reimbursement to be used toward the total cost of the Project as follows:
 - a. Property Acquisition Costs:
 - i. Consistent with Exhibit A, up to One Hundred and Fifteen Thousand Dollars (\$115,000) of the Grant Funds will be utilized by Grantee to acquire a 16-acre parcel of real property commonly known as the Fox Shank Property ("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 March 1, 2022.

b. Property Restoration Costs:

- i. Consistent with Exhibit A, up to Three Hundred, Twenty-Eight Thousand, One Hundred and Forty-Two Dollars (\$328,142) 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 may 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 Covenant. 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 Covenant, 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.

2. In no event shall ODNR's payment to Grantee exceed Four Hundred and Forty-Three Thousand, One Hundred and Forty-Two Dollars (\$443,142.00). 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 to State of Ohio in accordance with Paragraph 7, below.

3. Grantee agrees that the Project will be completed, in accordance with Exhibit A, on or before June 30, 2023 (“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, all provisions that logically ought to survive termination of this Agreement shall survive. 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. It is specifically understood and agreed that ODNR does not indemnify Grantee. Nothing in this Agreement shall be construed to be a waiver of the sovereign immunity of the State of Ohio or the immunity of any of its employees or agents for any purpose. In no event shall ODNR be liable for indirect, consequential, incidental, special, liquidated, or punitive damages, or lost profits.
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, 10th Floor, Columbus, Ohio 43215) and ODNR.

8. ODNR's only liability under this Agreement shall be for the advancement of the grant funds described herein.
9. Grantee represents that it maintains adequate insurance 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. 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 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:

Rachel DeNoewer
H2Ohio Assistant Program Manager
2045 Morse Road, Bldg. B-3
Columbus, Ohio 43229
Rachel.DeNoewer@dnr.ohio.gov

For Grantee

Rob Krain
Director of the Black Swamp Conservancy
4825 Sugar Ridge Rd.
Pemberville, Ohio 43450
director@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 BLACK SWAMP CONSERVANCY

FOR THE ODNR

Rob Krain
Digitally signed by Rob Krain
Date: 2021.09.14 11:51:01 -0400

Mary Mertz

Rob Krain
Director

Mary Mertz
Director

9/15/2021

Date

Date

Exhibit A

Scope of Work

Otsego School District Living Laboratory

Black Swamp Conservancy will purchase and restore natural habitat on a 16-acre site located in Wood County, in the Village of Tontogany within Washington Township. See Figure 1. The site is currently a subsurface drained farm field. Acquisition and restoration of this site could result in the decommissioning of over 1 mile of subsurface drainage, restoration of at least 2.5 acres of riparian habitat, and restoration of 5 to 10.5 acres of wetland habitat. The restoration will be completed to maximize sediment and nutrient capture from the 13.38 square mile watershed draining through the site. Once restoration is completed, Black Swamp Conservancy would gift the site to Otsego Schools for use as a living laboratory. Black Swamp Conservancy intends to maintain a perpetual conservation easement on the site. Approximately 1.5 acres of the property would be retained in agricultural use for Otsego School's Future Farmers of America program to demonstrate the value of using natural habitats to filter agricultural runoff. To support this program, the reserved property will contain infrastructure for the Otsego School district such as a parking lot and a pavilion for class use. The Ohio Department of Natural Resources' H2Ohio program will not be financially responsible for funding this infrastructure.



Figure 1: Concept Restoration Design: Red line shows approximate boundary of 16 acre parcel. Dark blue shows 5 acres of 66 %– 99% hydric soils. Based on aerial images, its likely many of these hydric soils extend into the 5.5 acres of light blue shown on the concept design. Green polygon areas represent about 2.5 acres of riparian forest habitat that would be restored. White lines represent over 1 mile of tile drainage that could be removed as part of the wetland restoration of the project. In total, we could see 10.5 acres of wetland habitat and 2.5 acres of riparian habitat restored to function as a living classroom for Otsego School across the street. Contractor to identify retained agricultural area.

Task 1 – Conceptual Design

The in-house conceptual design for this project entails the removal of subsurface drainage, restoration of wetlands, restoration of riparian forest to maximize nutrient capture while serving as a living laboratory for Otsego Schools across the street.

Deliverable 1 – The conceptual design is completed – see Figure 1

Task 2 – Land Acquisition:

Grantee will acquire fee interest title to the 16 acre Fox Shank property (See Figure 1). Acquisition shall occur not later than March 1, 2022.

Deliverable 2a – Executed Purchase Agreement

Grantee holds a fully executed Purchase Agreement for the 16-acre property.

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 – Fee Simple ownership of 16 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 with 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

Approximately 14 acres of row crop fields will be restored to native habitat including wetlands and riparian forest. Specific implementation deliverables for this project are subject to change as a firm completes the full engineering and design:

- Removal of tile on site to restore hydrology. Care will be taken to ensure drainage of water from neighboring properties is not disrupted.
- Establishment of 2.5 acres of forested riparian buffer along Tontogany Creek.
- Construction of 5-10.5 acres of wetlands

Budget Summary	
Reimbursable Item	\$ Amount
Salaries and Benefits	\$8,059
Travel	\$0
Supplies	\$0
Equipment	\$0
Contractual	\$295,000
Other (Property Acquisition Costs, up to)	\$115,000
Total Direct Expenses	\$418,059
Indirect Expenses (at 6%)	\$25,083
Total Reimbursable	\$443,142

Budget Justification

Total: \$443,142

Salaries and Benefits: \$8,059

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

\$6,434 , = 7 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.

Design-Build Contract Component	Cost	Justification
Construct & Plant 5-10.5 acres of wetlands	\$178,500	\$17,000 per acre includes all components of construction & planting, plus as-built survey
Design & Engineering	\$45,100	~25% of construction / restoration costs
Plant 2.5 acres of forested riparian area	\$11,000	\$4,400 per acre includes trees and protection
Permitting	\$20,000	Based on permits for other recent projects
2 years of Post-construction invasive treatment	\$30,400	Based on a per-acre treatment cost of \$1,900
Outreach & Education	\$10,000	
Total	\$295,000	

Contractual: \$295,000

Other (Property Acquisition Costs): \$115,000

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

Indirect Costs: \$25,083

Indirect expenses are set at 6% of total project costs

EXHIBIT B

To be recorded with Deed Records -O.R.C. § 317.08

Environmental Covenant

This Environmental Covenant is entered into pursuant to Ohio Revised Code ("O.R.C.") § 5301.92 by The Black Swamp Conservancy ("BSC") (the Owner), having an address of P.O. Box 332, Pemberville, Ohio 43450, and the Ohio Department of Natural Resources ("ODNR") (the Holder) and the State of Ohio Environmental Protection Agency ("Ohio EPA") (a non-holding party) for the purpose of subjecting certain property ("the Covenant Area") to the activity and use limitations set forth herein.

WHEREAS, BSC is the owner in fee of certain real property, which contains the Covenant Area and is situated in Wood County, Ohio, [INSERT PROPERTY DESCRIPTION];

WHEREAS, BSC has proposed to construct a wetland restoration project for purposes of nutrient reduction on the Covenant Area using H2Ohio funding awarded by ODNR. A copy of the Grant Award Agreement and Scope of Work is attached hereto as Exhibit A and fully incorporated herein;

WHEREAS, BSC proposes to ensure the Covenant Area and Covenant Area's nutrient reduction benefits are protected in perpetuity by this Environmental Covenant.

Now therefore, BSC and ODNR agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to O.R.C. § 5301.80 to 5301.92.
2. Covenant Area. The Covenant Area [INSERT DESCRIPTION]
3. Activity and Use Limitations. BSC hereby agrees to comply with the following activity and use limitations on the Covenant Area:

Division: Any division or subdivision of the Covenant Area is prohibited;

Commercial Activities: Commercial development or industrial activity on the Covenant Area is prohibited;

Construction: The placement or construction of any man-made modifications such as buildings, structures, fences, roads and parking lots on the Covenant Area is generally prohibited; provided, however, BSC shall have the right to install a permeable parking area no larger than _____ Feet by _____ Or _____ square feet as well as a covered

pavilion structure no larger than _____ square feet. BSC shall also have the right to install, maintain, improve, replace or remove minor, small-scale structures to enhance the opportunity for traditional non-intensive outdoor recreation and education and as necessary for the management of such recreation and education not detrimental to the Conservation Values of the Property, including but not limited to, benches for seating; trail markers; small unlighted informational and interpretive signs; trail improvements such as steps, footbridges, platforms and railings; and wildlife observation stations.

Cutting and Other Control of Vegetation: Any cutting of trees, ground cover or vegetation, or destroying by means of herbicides or pesticides on the Covenant Area is prohibited, other than the removal or control of invasive and noxious species. Notwithstanding the foregoing, BSC retains the right to cut trees and other vegetation as may be reasonably necessary to remedy an emergency or an unsafe, unsanitary or unhealthy condition, to control or prevent nuisances, hazard, disease, or fire, in connection with the maintenance of structures, paths according to the reasonable practice of the principles of conservation applicable to the Covenant Area.

Land Surface Alteration: The removal of soil, sand, gravel, rock, minerals or other materials from the Covenant Area, or doing any action that would alter the topography of the Covenant Area shall be prohibited;

Dumping: Waste, garbage and unsightly or offensive materials are not permitted and may not be accumulated on the Covenant Area;

Water Courses: Natural water courses and streams and adjacent riparian buffers may not be dredged, straightened, filled, channelized, impeded, diverted or otherwise altered on the Covenant Area, subject to Federal and State Law which might require such activities.

Recreational Trails and Vehicles: Recreational uses that disturb or compact the soils or destroy or inhibit growth of vegetation are prohibited on the Covenant Area; provided, however, that the operation of motor vehicles shall be permitted to the extent reasonably necessary for activities related to the maintenance, restoration, enhancement, or preservation of the Property.

Utilities: BSC shall not grant any easements or rights-of-way after the recording of this Environmental Covenant that would permit construction of utilities within the Covenant Areas.

Other Activities: Each and every other activity or construction project which might endanger the natural, scenic, biological, ecological integrity of the Property shall be prohibited on the Covenant Area.

4. Running with the Land. This Environmental Covenant shall be binding upon BSC and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to O.R.C. § 5301.85, subject to amendment or termination as set

forth herein. The term "Transferee" as used in this Environmental Covenant, shall mean any future owner of any interest in the Covenant Area or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

5. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to O.R.C. § 5301.91 or other applicable law. Failure to timely enforce compliance with the Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any provision of this Covenant. Nothing in this Environmental Covenant shall restrict the Director of the Ohio EPA from exercising any authority under applicable law in order to protect public health or safety or the environment. Nothing in this Environmental Covenant shall permit ODNR to be removed and replaced without the express, written consent of ODNR.
6. Rights of Access. BSC hereby grants to Ohio EPA, its agents, contractors, and employees and ODNR, its agents, contractors, and employees the right of access to the Covenant Area in connection with the implementation or enforcement of the Environmental Covenant.
7. Compliance Reporting. BSC and any Transferee shall submit to Ohio EPA, upon request, written documentation verifying that the activity and use limitations remain in place and are being complied with.
8. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Covenant Area or any portion of the Covenant Area shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 20____, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE _____ COUNTY RECORDER ON _____, 20____, IN [DOCUMENT _____, OR BOOK _____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

[In the notices, restate restrictions from Paragraph 3 of this Covenant]

At least 60 days prior to any proposed conveyance, BSC shall notify ODNR of such proposed conveyance. BSC's notice shall include the name, address and telephone

number of the Transferee, and a copy of the original document that imposed restrictions on the Covenant Area.

9. Representations. BSC hereby represents:

- a. That BSC is the sole owner of the Covenant Area;
- b. That BSC holds fee simple title to the Covenant Area that is free, clear and unencumbered and, for example, is not subject to any utility, road or other easement;
- c. That BSC has the power and authority to enter into this Environmental Covenant, to grant the rights and interest herein provided and to carry out all obligations hereunder; and
- d. That this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which BSC is a party or by which BSC may be bound or affected.

10. Amendment or Termination. This Environmental Covenant may be amended or terminated only by consent of all the following: BSC or a Transferee, ODNR, and Ohio EPA, pursuant to O.R.C. § 5301.89 or 5301.90 and other applicable law. "Amendment" means any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the eliminations of one or more activity and use limitations when there is at least one limitation remaining. "Termination" means the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by Ohio EPA, ODNR, and BSC or Transferee of the Covenant Area or portion thereof, as applicable. Within thirty (30) days of signature by all required parties on any amendment or termination of this Environmental Covenant, BSC or Transferee shall file such instrument for recording with the _____ County Recorder's Office, and shall provide a true copy of the recorded instrument to Ohio EPA.

11. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
12. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

13. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, BSC shall file this Environmental Covenant for recording, in the same manner as a deed to the property, with the _____ County Recorder's Office.
14. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Covenant Area with the _____ County Recorder's Office.
15. Distribution of Environmental Covenant. BSC shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to Ohio EPA, ODNR, each person holding a recorded interest in the Property, and any other person designated by the Ohio EPA.
16. Notice. Unless otherwise notified in writing by or on behalf of BSC or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:
- [INSERT]
17. Counterparts. The Covenant may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Covenant.

The undersigned representatives of BSC and ODNR represent and certify that they are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

The Black Swamp Conservancy (Owner)

By: _____

Its: _____

Date: _____

State of _____)

) ss:

County of _____)

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of The Black Swamp Conservancy, who acknowledged to me that ___ did execute the foregoing instrument on behalf of The Black Swamp Conservancy.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 20__.

Notary Public

Ohio Department of Natural Resources (Holder)

By: _____

Its: _____

Date: _____

State of _____)

) ss:

County of _____)

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of The Ohio Department of Natural Resources, who acknowledged to me that _____ did execute the foregoing instrument on behalf of The Ohio Department of Natural Resources.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 20____.

Notary Public

EXHIBIT E

CONTRACT FOR DESIGN-BUILD

This Contract is dated, made, and entered into as of the ____ day of _____, 2022.

BETWEEN:

The 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 133rd 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 September 15, 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 upland restoration project on Fox-Shank Living Laboratory in Wood County, Ohio, as detailed in (i) “Otsego School District Living Laboratory Design-Build Project Request for Proposals” dated April 26, 2022 (“RFP”) (Exhibit B) and (ii) the CONTRACTOR Proposal dated May 24, 2022 (“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 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 June 15, 2023. Any penalties, fines or other payments assessed to BSC as a result of any delay beyond June 15, 2023, 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, \$292,700 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 June 15, 2023. The entire \$292,700 will be paid with funds from the Grant. 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 UNLESS NON-PAYMENT IS A RESULT OF ACTS OR OMISSIONS ON THE PART OF 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 – Otsego School District Living Laboratory Design-Build Project Request for Proposals dated April 26, 2022, which includes:

- map of location where restoration will be done

Exhibit C – CONTRACTOR Proposal dated May 24, 2022, 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 mcoulter@blackswamp.org
Black Swamp Conservancy
P.O. Box 332
Perrysburg, Ohio 43552-0332
419-883-1025

To the Contractor: CONTACT NAME EMAIL
COMPANY NAME
ADDRESS
CITY, STATE, ZIP
PHONE

(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 are 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, Conservation 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 Conservancy “key employee” or a member of the Conservancy’s Board of Directors as identified on the attached list?		
b. Are you now or have you been in the past 12 months a Conservancy employee (other than a key employee) or member of an Advisory Council ?		

c. Have you contributed to the Conservancy 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 Family Member 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 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) , individually or collectively with other such persons (including Family Members of such persons; see Section 1 (d) above for definition of Family Members), own more than 35% of the stock or value of the organization (directly or indirectly), or have the legal or <i>de facto</i> power to exercise a controlling influence over the organization’s management or policies , 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 the Conservancy’s current Executive Team or Board of Directors (see attached list) serve as: <ul style="list-style-type: none"> • An officer, director, trustee, key employee, or partner; or • If the entity is a limited liability corporation, a members; or • If the entity is a professional corporation, a shareholder? 		

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 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) , or Family Members of any of these, individually or collectively, have the ability to control management of the entity? 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

Christopher Collier
Christopher Dickey
Julie Pompa
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
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: _____

Signature: _____

Printed name: _____

Date: _____

Signature: _____

Printed name: _____

Date: _____

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

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: _____

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	11 to 14 acres	
Emergent and/or Shrub-Scrub Wetland	5 to 10.5 acres	
New Forested Riparian Buffer	2.5 acres	
Other Habitat Types Restored / Created	n/a	
Improve Existing Wooded Riparian Zone	n/a	
Remove / Disable Drainage Tile	5 to 13 acres	
Post-Restoration Invasive Plant Treatments	2 years	
Coordination with Otsego Schools to Incorporate Living Lab elements into Design	required, design only	
Other:		