

Howard Island

Nutrient Reduction and Fish Passage Feasibility Study,

(Grand Rapids, Ohio)

Request for Proposals

July 28, 2023

Proposals must be received by 4:00pm Eastern on August 21, 2023.

SUMMARY:

The Black Swamp Conservancy (the “Conservancy”) is soliciting proposals for a Contractor to conduct a feasibility study on nutrient reduction and fish passage opportunities on Howard Island. Howard Island is a 9-acre island in the Maumee River at Grand Rapids, Ohio. This is one of the few remaining Maumee River Islands in private ownership. The Grand Rapids and Providence dam lies on either side of the island, with footers and some hardened shoreline installed on the property. The Conservancy holds fee title to Howard Island and is seeking a consultant to conduct a two-part feasibility study on opportunities for a) nutrient reduction and b) fish passage on and/or around the island.

The ideal contractor will conduct both the nutrient reduction and fish passage components of the study, allowing for easy consideration of how options to achieve nutrient reduction goals and fish passage goals may impact one another. However, we are also open to proposals from firms bidding on one part of the study (nutrient reduction *or* fish passage). In this case, the Conservancy will consider hiring two contractors and serving in a coordination role between them.

SECTION A: SUPPLIES OR SERVICES AND PRICES/COSTS

The contractor or team of contractors (collectively “Contractor”) shall furnish necessary research tools, plans, labor, facilities, materials, and equipment to complete the Project scope of services.

The Contractor must be able to demonstrate the successful completion of at least four nutrient reduction studies greater than \$10,000 and one fish passage study of any 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 Thirty Five Thousand Dollars (\$35,000.00). The maximum amount of Thirty Five Thousand Dollars (\$35,000.00) 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.*

An aerial map of the Project Site is attached as Exhibit A to this Request for Proposals (“RFP”). 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.

SECTION B: 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. 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 The Black Swamp Conservancy (the “Grantee”).

A copy of the “Grant Agreement” between the Conservancy and ODNR is attached as Exhibit C. *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 Project is located in the Maumee River at Grand Rapids, OH (the “Site”), a nature preserve newly owned and managed by the Conservancy. Maps showing the general location of the Site are attached to this RFP as Exhibit A.

PROJECT DESCRIPTION

Howard Island is a 9-acre island in the Maumee River at Grand Rapids, Ohio. This is one of the few remaining Maumee River Islands in private ownership. The property is wooded, with a relatively mature woodland community typical of floodplain properties. The Grand Rapids and Providence dams lie on either side of the island, with footers and some hardened shoreline installed on the property. The site is immediate to the Village of Grand Rapids and Mary Jane Thurston State Park. A preliminary list of species of concern, rare, threatened or endangered species on the island is included in Exhibit B: Howard Island Draft Management Plan. An active bald eagle nest has been reported on the island.

The objectives of this project are to:

- Identify and assess potential nutrient reduction strategies that can be implemented on the Project Property to reduce nutrients in Maumee River water flowing past the island. Estimate load reductions associated with the strategies.
- Assess the feasibility of creating fish passage within the Howard Island property to allow fish access upstream of the Grand Rapids and Providence dams, which would expand spawning to Independence dam in Defiance (~ 30 river miles).

Section C: Contractor Scope of Services includes the Conservancy’s expectations for the feasibility study in order to guide contractors’ responses. Contractors may suggest alternative approaches to the feasibility study if they can provide a justification, remain within budget, and incorporate the minimum Project requirements, as discussed in Section C: Contractor Scope of Services.

A technical advisory committee will be formed to review proposals and advise the selected firm during project implementation.

SECTION C: CONTRACTOR SCOPE OF SERVICES & SCHEDULE

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 to two Contractors will be selected to conduct the Howard Island feasibility study. The Conservancy shall select Contractors 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. A summary of the Contractor scope of services and schedule instructions are as follows:

CONTRACTOR SCOPE OF SERVICES

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

Task 1: Site Assessment

Through site visits and desktop review, identify and characterize existing conditions in the Project Area to support development of alternatives for nutrient reduction and fish passage. At minimum, conditions to be assessed include: topography, soil, flora, fauna, forest progression, land use change, and hydrology. Include a history of flooding and flood impacts over time (from start of flood record to present). Include discussion of any ecological and hydrologic connectivity between Howard Island and the adjacent properties of Mary Jane Thurston State Park and Providence Metropark. A Hydrologic and Hydraulic (H&H) study will likely be needed to understand how water flows around and through the island, and affects surrounding lands, during high and low flow events. Since the island is immediately upstream of the 295/Grand Rapids Road Bridge over the Maumee River, there may be a recent HEC-RAS or similar H&H model available from ODOT. Contractors are encouraged to reach out to ODOT's Office of Hydraulic Engineering to inquire.

Task 1 Deliverables:

- Site assessment summary report (7-10 pgs plus appendix on the H&H study)

Task 2: Assess Feasibility of Nutrient Reduction

Step 1: Develop a list of alternatives for nutrient reduction.

Compile a list of nutrient reduction alternatives for further exploration based on:

- Consultant's expertise and findings of the site assessment;
- Initial ideas proposed by the Conservancy, including phosphorus socks and wetlands creation; and
- Desktop research and 6-8 expert interviews (to be conducted by the Consultant) to identify relevant case studies and additional reduction alternatives. Interviews and research should include (at minimum): a) a review of island restoration projects at Clark and Horseshoe Islands (funded by Maumee AOC) and in the Mississippi River; and b) a discussion with USACE ERDC on their recommendations for the most innovative nutrient reduction approaches for river islands.

If potential alternatives at Howard Island are limited, develop potential nutrient reduction alternatives for the adjacent properties (Mary Jane Thurston State Park and Providence Metropark). Work with Conservancy staff to develop a plan to collaborate with the State Park and Metropark staff.

Step 2 Develop summaries for each alternative. Develop a summary of each alternative, including:

- Description and photo of the alternative;
- Sites where it has been successfully implemented and estimated nutrient reduction at those sites;
- Justification for potential applicability in the Howard Island area;
- Any concerns about resilience of the alternative to high energy during high flow events;
- Research questions and gaps for better understanding application at Howard Island; and
- Proposed methods for filling those research gaps and estimated level of efforts (time, cost) for conducting the research.

Conservancy staff will review the summaries and support the Consultant in: a) determining a short list of alternatives for further research and exploration; and b) making decisions on specific research methodologies to implement.

Step 3: Assess feasibility of nutrient reduction alternatives. Carry out the research according to decisions made in Task 2, Step 2 above. Develop a report (<30 pages plus appendices) and slide deck with talking points (~30 min presentation) on nutrient reduction feasibility that includes, at minimum:

- Methods for evaluating and comparing alternatives;
- Findings for each alternative, including estimation of load reduction potential; site applicability ranking; relative cost; and key partners required to implement the alternative; and
- Conclusion: which alternative(s) are most applicable?

In determining the report outline, refer to 9-element plan requirements. Ideally, this feasibility assessment report can be readily adapted for use in a future 9-element plan.

Task 2 Deliverables:

- Table of nutrient reduction concepts for further exploration;
- Summary of each nutrient reduction concept;
- Report on feasibility of nutrient reduction alternatives; and
- Slide deck on the nutrient reduction feasibility assessment.

Task 3: Assess Feasibility of Fish Passage

Step 1: Fish Community and Habitat Quality Assessment Above and Below Dams

The consultant will collect and review relevant data on fish species present upstream and downstream of the dams and summarize available data on historic and current species presence. Potential data sources to explore include Toledo Metroparks, Mary Jane Thurston State Park, USGS, Ohio EPA, US Fish & Wildlife Service, Lake Erie Sturgeon Working Group and Ohio Department of Natural Resources. The consultant will consider potential gaps on species presence and propose study methods for capturing:

- Current state of the fish community (taking into account spawning and migration cycles), including species presence and abundance.
- Habitat quality: Consultants should suggest a habitat index that will help us understand if improved passage will allow specific species to access new areas that meet their habitat needs.

Potential tools for collecting species data include Adaptive Resolution Imaging Sonar (ARIS) and Dual-frequency Identification Sonar (DIDSON) cameras. Consultants are encouraged to include their initial ideas on methods and tools for collecting the fish community assessment data in their response to this RFP. The consultant will develop a Fish Community and Habitat Quality Assessment report (8-12 pages) summarizing their findings and identifying fish species that are most likely to benefit from improved passage over the long- and short-term. We expect that sturgeon will benefit.

Step 2: Evaluation of Existing Passage

If Step 1 indicates that some species may be able to migrate over/around the dams (e.g., grass carp), conduct a brief evaluation of how that migration is happening. This evaluation is likely to include discussions with Toledo Metroparks and Mary Jane Thurston State Park staff to collect:

- H&H modeling or observational data on flows between their respective canal system and the Maumee River
- Research or anecdotes on movement of fish in and out of the canals and/or fish swimming over the dam

The goal of the evaluation is two-fold: 1) produce ideas on how altered canal management might provide increased fish passage; 2) understand the extent to which invasive/non-target species may already be moving up and downstream. It is important to consider the impact of improved passage on both target fish (e.g., native, endangered, sport fish) and invasive species (e.g., grass carp). For example, if grass carp are already moving up and downstream of the dams, improved passage for grass carp is less of a concern. The consultant will produce a memo (4-8 pages) on what they have learned on migration around the dams and suggestions for management practices that may expand passage.

Step 3: Develop Fish Passage Alternatives

Building on Steps 1 and 2, conduct interviews with experts (at least 6-8) around the country who have implemented or studied fish passage projects on rivers or fisheries with similar hydrology, species, or ecology. The project team will prioritize investigation of alternatives that can be implemented on Howard Island itself. However, consultants should also consider and propose alternatives that might be best implemented at Toledo Metroparks and Mary Jane Thurston State Park.

Develop a summary of each alternative, including:

- Description and photo of the alternative;
- Case studies where the alternative has been successfully implemented and estimated impacts to fish movement and abundance.
- Justification for potential applicability in the Howard Island area;
- Any concerns about resilience of the alternative to high energy during high flow events;
- Research questions and gaps for better understanding application at Howard Island; and
- Proposed methods for filling those research gaps and estimated level of efforts (time, cost) for conducting the research.

Conservancy staff will review the summaries and support the Consultant in: a) determining a short list of alternatives for further research and exploration; and b) making decisions on specific research methodologies to implement.

Step 4: Assess feasibility of the fish passage alternatives. Carry out the research according to decisions made in Task 3, Step 3 above. Develop a report (<20 pages plus appendices) and slide deck with talking points (~20 min presentation) on fish passage feasibility that includes, at minimum:

- Methods for evaluating and comparing alternatives;
- Findings for each alternative, including estimation of fisheries benefits; site applicability; relative cost; and key partners required to implement the alternative;
- Evaluation of invasive species impacts: Is there a risk that increased passage will increase range and abundance of invasive species like grass carp and sea lamprey? Will such concerns lead to permitting hurdles? What steps can be taken to limit movement of invasive species?
- Conclusion: which alternative(s) are most applicable?

Task 3 Deliverables:

- Fish Community and Habitat Quality Assessment Report
- Memo on existing connectivity
- Summary of each fish passage alternative
- Report on feasibility of fish passage alternative
- Slide deck on the fish passage feasibility assessment

Task 4: Interactions Among Nutrient Reduction and Fish Passage Alternatives

Develop a memo (2-4 pages) on potential interactions among the recommended nutrient reduction and fish passage alternatives. Describe negative and positive interactions among the alternatives, especially those that may be readily coupled. Quantify the interactions to the extent possible.

Task 4 Deliverables:

- Memo on interactions among alternatives

DELIVERABLES

In addition to the deliverables above, deliver to the Conservancy: digital copies of all data collected, analyses run, maps produced and research outputs in a format acceptable to the Conservancy.

SCHEDULE

All Project activities must be completed no later than March 28, 2024. The Contractor should provide a schedule of its planned activities for completing all tasks. Contractor should assume a commencement date of September 12, 2023. Include within the schedule a proposed payment schedule.

SECTION D: INSTRUCTION FOR OFFERERS

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

1. A cover letter including an executive summary of the key proposal elements, not to exceed one page in length. The cover letter shall be signed by a person legally authorized to bind the Contractor.
2. 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. Discussion of any additional observations, concept design alterations, cost-saving strategies, etc.
3. A detailed budget. The Contractor may also include a budget narrative (no more than one page) to support the budget.

4. A proposed Project schedule with completion of all Project activities no later than March 28, 2024. The Project schedule should include key milestones, deliverables, coordination meetings, and a proposed payment schedule.
5. A summary of the Contractor's qualifications. This section should include the following:
 - a. List and describe each entity, including proposed subcontractors, if any that are a part of the Contractor's Project team, including each entity's experience with similar projects. If proposed subcontractors are not identified in the proposal, a rationale for how those subcontractors will be selected should be provided.
 - b. A summary of at least four nutrient reduction or fish passage feasibility studies, preferably performed within the Western Lake Erie Basin.
 - c. Identify all of the key Project team personnel, including key subcontractor personnel, who will be involved in the Project, including the experience, knowledge, technical expertise, certifications and licenses (including state of licensure), and resumes of key personnel.
6. Three (3) References, including contact information and brief Project descriptions. At least two of the references must be from among the nutrient reduction or fish passage feasibility studies provided in Section 5(b) above.
7. A completed Conflict of Interest Disclosure Form, a blank copy of which is attached as Exhibit D
8. A completed Non-Collusion Affidavit, a blank copy of which is attached as Exhibit E.

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 C of this RFP. *The Conservancy's receipt of the grant funds shall be a **condition precedent** to the Conservancy's obligation to make any payment to the Contractor.*

VISITING THE SITE

To allow interested Contractors to assess the conditions of the site to inform their responses to this RFP, the Conservancy will provide site access, upon request, to all firms interested in submitting a proposal. The Site is not open to the public, so do not conduct a site visit without first notifying and getting approval from the Conservancy. Email your access request to director@blackswamp.org.

QUESTIONS AND RESPONSE TO THIS RFP MUST BE EMAILED TO:

Rob Krain director@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 a large file transfer service or they may be mailed to the Conservancy at P.O. Box 332, Perrysburg, OH 43552-0332.

Questions must be received by August 3rd. Not later than August 9th, the Conservancy will distribute all questions received and its responses to those questions to all firms that have expressed an interest in submitting a proposal. All firms interested in submitting a proposal and being included on the question and response distribution list should notify Rob Krain by email at director@blackswamp.org.

Submissions, including submissions that are mailed or shipped to the above P.O. Box, must be received no later than 4:00 pm on August 16th. Proposals received after this date will not be accepted. The Conservancy expects to award the contract in early September. Work will commence after successful execution of a contract for services between the Contractor and the Conservancy.

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 thirty (30) days.
4. The Contractor shall also meet any further insurance requirements set forth in the Contract and/or the Grant Agreement.

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.

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.

SECTION E: APPLICABLE 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 C.

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 Rob Krain as directed in Section D above. 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.

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.

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.

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.

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.

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).

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.

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 F. 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.

SIZE OF PROPOSAL

The total size of the proposal submitted to the Conservancy under this RFP should be no more than 50 pages, double sided, in length. The proposal should be in Times New Roman 12 point font on 8.5" x 11" paper. If concept plans are provided in conjunction with the proposal, such concept plans can be sized for 11"x17" paper and will count for only 1 page, but cannot be double-sided.

EXHIBITS

- Exhibit A: Project Site Location
- Exhibit B: Howard Island Draft Management Plan
- Exhibit C: Grant Agreement between Black Swamp Conservancy and Ohio DNR
- Exhibit D: Conflict of Interest Disclosure Form
- Exhibit E: Non-Collusion Affidavit
- Exhibit F: Draft Contract

Exhibit A: Project Site Location Map



Figure 1: Aerial Map of Site



Figure 2: Access to Howard Island from Mary Jane Thurston State Park Campground

Black Swamp Conservancy
Land Management Plan
Howard Island



Date of Plan: 7/21/2023

Location: Front Street, Grand Rapids Township, Wood County, Ohio

Size: Approximately 9 acres and 3,200 feet of shoreline

Legal Description: Island #1 in Section 7, Town 5 North, Range 9 East, in the Village of Grand Rapids, Wood County, Ohio.

Improvements: None other than dam footers and associated hardened shoreline.

Property Description: Howard Island is a 9-acre island in the Maumee River at Grand Rapids, Ohio. This is one of the few remaining Maumee River Islands in private ownership. The property is wooded, with a relatively mature woodland community typical of floodplain properties. The Grand Rapids and Providence dams lie on either side of the island, with footers and some hardened shoreline installed on the property. The site is immediate to the Village of Grand Rapids and Mary Jane Thurston State Park.

Conservation Values Present:

Biodiversity Hotspots: Howard Island is one of few remaining private islands in the Maumee River and often harbor unique and diverse ecosystems, providing habitats for a variety of plant and animal species. They can be refuge areas for rare or endangered species and contribute to overall biodiversity in the region.

Water Quality Improvement - Maintaining natural vegetation along the shoreline can act as a buffer, filtering pollutants and sediment before they reach the water. This helps to improve water quality and protect aquatic ecosystems.

Erosion Control – Vegetation along the 3,200 feet of shoreline can help stabilize the soil and prevent erosion caused by water movement, wave action, and storm events. River islands can help stabilize the riverbanks and prevent erosion. The vegetation and soil on the island hold the riverbanks in place, reducing the risk of land loss and maintaining the river's natural course. This is vital in protecting both the shoreline and adjacent lands from erosion damage.

Research and Education – Islands in the Maumee River offer unique opportunities for scientific research and environmental education. Studying these ecosystems can lead to a better understanding of river dynamics, wildlife behavior, and ecological processes.

Potential Future Conservation Values:

In addition to preserving and protecting the property that the Conservancy holds a fee title to, the Conservancy is seeking a consultant to conduct a two-part feasibility study on opportunities for a) nutrient reduction and b) a fish passage around the island.

The objectives of this project are to:

- Identify and assess potential nutrient reduction strategies that can be implemented on the Project Property to reduce nutrients in Maumee River water flowing past the island.
- Assess the feasibility of creating fish passage within the Howard Island property to allow fish access upstream of the Grand Rapids and Providence dams, which would expand spawning to Independence dam in Defiance (~ 30 river miles).

Species of Concern, Rare, Threatened, or Endangered: An active bald eagle nest has been reported on the property. Other species that have been identified on Howard Island include: White Snakeroot (*Ageratina aromatica*, Ohio Endangered), Ironweed (*Vernonia fasciculata*, Ohio Threatened), and Black-crowned Night Heron (*Nycticorax nycticorax*, Ohio Threatened). A variety of freshwater mussels has also been observed around the island including: Fragile Papershell (*Potamilus fragilis*), Mapleleaf (*Quadrula quadrula*), Plain Pocketbook (*Lampsilis cardium*), Threeridge (*Amblema plicata*), and Wabash Pigtoe (*Fusconaia flava*). A recorded species list is attached.

Management Goals:

Short-Term Goals: Short-term management goals include conducting a comprehensive assessment of Howard Island to determine the extent of trespass, litter and the distribution of invasive species. Currently, the island has a small population of invasive honeysuckle that can be controlled with methods such as manual removal or targeted herbicide application. Cleanup of litter on the island will also be implemented.

Long-Term Goals: Continued management of Howard Island will increase biodiversity in the area and the property will be monitored for invasive species which will be controlled or removed. Pending findings of the nutrient removal and fish passage feasibility study, long-term goals may include implementation of one or both projects.

Restrictions Placed on Property: Restricted public access and access to the site is by permit only. Development on the island is also restricted and the land must remain as natural habitat. Per the terms of the H2Ohio grant that funded acquisition, this property will be protected and uses will be restricted by an environmental covenant held by ODNR. This covenant document will be attached to the Management Plan once it is executed.

Allowances to the Property: No allowances for public access, fishing, hunting, trails, development, etc. are planned.

Surrounding Area: Property is immediate to the Village of Grand Rapids and Mary Jane Thurston State park. The surrounding area along the Maumee River is mostly residential and developed land, but the island itself is bounded by the Mary Jane Thurston State Park to the South and Providence Metropark to the North.

Brief History: Howard Island has been in a natural state for much of its history. The oldest historic aerial photo from 1930 shows the island almost entirely cleared of trees. The 1950 to 1963 aerial photos show the upstream half of the island being used for row crops. The mature woods on the island now seem to be at least 60 years old, with the downstream half of the island having a more mature forest, growing since at least 1930.

In 1838 to 1840 the Providence and Grand Rapids dams were built to create a water supply for the Miami & Erie Canal. The dams were initially built as rock-crib dams and then rebuilt and bolstered with concrete in 1907 & 1908. In the mid-1960s concrete dam footers were installed on the upstream end of the island.

The island has been in private ownership and, since its use as a farm in the 1950s, has mostly been used as a spot for fishing and even some hunting. There is no known history of buildings or other development besides the dams on the island.

Invasive Species Concerns:

Honeysuckle: *Lonicera maackii*

A small population of honeysuckle was observed. The island will be managed for invasive honeysuckle by using the cut-stump method. This requires cutting the trunk and dabbing the cut area with herbicide to prevent regrowth.

Wild Grape Vine: *Vitis vinifera*

While not invasive, in abundance, wild grape vines can outcompete overstory trees for sunlight and reduce the growth rate of the tree or even cause death. If evidence of this occurs, removal of the plant using the cut-stump method is required.

Monitoring Schedule: Annual

Habitat Assessment: Howard Island spans approximately 9 acres and is characterized by a densely wooded landscape. The habitat consists of a relatively mature woodland community, which is typical of floodplain properties. The well-established trees and vegetation in this wooded environment create a diverse ecosystem supporting a wide variety of flora and fauna. Native species such as sycamores, hackberries, and maples thrive on the island, accompanied by an undergrowth of shrubs, ferns, and wildflowers. This diverse habitat provides a suitable home for numerous wildlife species including birds, mammals, reptiles, and amphibians. Due to its location in a floodplain, the island benefits from periodic flooding events, which contribute to the richness of its ecosystem. Floods can deposit nutrient-rich sediments, fostering the growth of various plant species and providing habitat for aquatic organisms. Conservation efforts should focus on minimizing disturbances, preventing invasive species encroachment, and promoting sustainable land management practices to ensure the island's continued ecological health.

Site Information

Site Location: Front Street, Grand Rapids Township, Ohio, immediate to the village of Grand Rapids.

Directions to Site: Only accessible by boat. Use Conservancy's canoe/kayak to access. The closest boat launch is Mary Jane Thurston State Park. If water is low, you can walk the river by parking at the State Park.

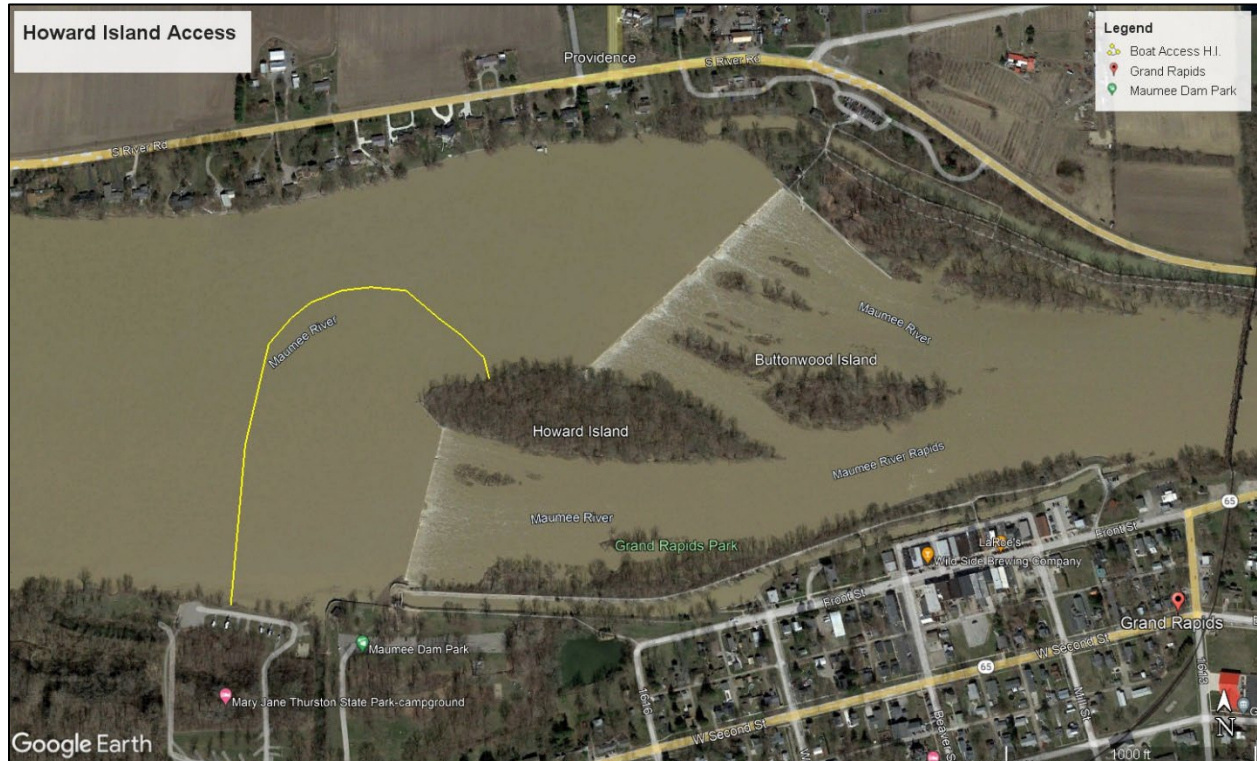


Figure 1: Access to Howard Island from Mary Jane Thurston State Park Campground

Howard Island Species List

Black willow (*Salix nigra*)
Black-crowned Night Heron (*Nycticorax nycticorax*, Ohio Threatened)
Box Elder (*Acer negundo*)
Elm (*Ulmus Americana*)
False nettle (*Boehmeria cylindrical*)
Fragile Papershell (*Potamilus fragilis*)
Greenbrier (*Smilax rotundifolia*)
Hackberry (*Celtis occidentalis*)
Honeysuckle (*Lonicera maackii*)
Ironweed (*Vernonia fasciculata*, Ohio Threatened)
Japanese stiltgrass (*Microstegium vimineum*)
Mapleleaf (*Quadrula quadrula*)
Pawpaw (*Asimina triloba*)
Plain Pocketbook (*Lampsilis cardium*)
Poison ivy (*Toxicodendron radicans*)
Riverbank grape (*Vitis vinifera*)
Sandbar willow (*Salix exigua*)
Silky dogwood (*Cornus amomum*)
Silver maple (*Acer saccharinum*)
Swamp mallow (*Hibiscus moscheutos*)
Sycamore (*Plantanus occidentalis*)
Sycamore (*Platanus occidentalis*)
Threeridge (*Amblema plicata*)
Virginia creeper (*Parthenocissus quinquefolia*)
Virginia Tiger Moth (*Spilosoma virginica*)
Wabash Pigtoe (*Fusconaia flava*)
Walnut (*Juglans* ssp.)
Wild ginger (*Asarum canadense*)

Wing Stem (*Verbesina alternifolia*)

Woolly Bear (*Pyrrharctia Isabella*)

Yellow buckeye (*Aesculus flava*)

**H2Ohio Grant Agreement Between
The 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 The 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 One Hundred and Fifty-Two Thousand and Fifty-Seven Dollars and No Cents (\$152,057.00) has been redirected and awarded to the Grantee for costs associated with the Howard Island Acquisition 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 One Hundred and Fifty-Two Thousand and Fifty-Seven Dollars and No Cents (\$152,057.00) via qualifying reimbursement to be used toward the total cost of the Project.
 - a. Project Costs:
 - i. Consistent with Exhibit A, grant funds will be used to acquire Howard Island, a nine-acre island in the Maumee River at Grand Rapids, Ohio and prepare a feasibility study to identify potential nutrient reduction benefits to restoration work. (“Project Property”);
 - ii. It is mutually agreed that Grantee will complete the Project by June 30, 2023. (“Completion Date”).

H2Ohio Grant Award Agreement Between the Black Swamp Conservancy and ODNR
Legal Contract ID No. 2022-1361

b. Invoicing.

- i. Grantee will submit invoices for qualifying reimbursement via Ohio's Shared Services Supplier Operations website.
 - ii. ODNR will review and process invoices in a timely manner. If needed, ODNR may request additional information from Grantee as a condition of payment.
2. In no event shall ODNR's payment to Grantee exceed One Hundred and Fifty-Two Thousand and Fifty-Seven Dollars and No Cents (\$152,057.00). 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 3 below.
3. 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.

4. Grantee agrees that the Project will be completed by the Completion Date and in accordance with Exhibit A. Upon Completion, 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.
5. 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 Property, 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 in accordance with Exhibit A.

H2Ohio Grant Award Agreement Between the Black Swamp Conservancy and ODNR
Legal Contract ID No. 2022-1361

6. The Grantee shall be responsible for the administration of the Project. The Grantee shall have the full authority to contract with appropriate persons to complete the Project. The Grantee shall secure all necessary permits for the Project. If the issuance of one or more such permits is delayed, ODNR may extend the Completion Date to the extent necessary to allow Grantee to complete the Project once such permits are issued.
7. Grantee shall provide routine status reports to ODNR in a format and on a timeframe as set forth by ODNR. These reports shall include updates related to Project progress and fiscal expenditures.
8. Use of the Project Property shall be limited to wetland restoration and nutrient reduction activities; however, use of the property may also include public education and recreation and activities that achieve other ecological goals that do not result in increasing nutrient loads to the Maumee River. Grantee specifically reserves the right to manage invasive species, make habitat improvements and alter the Project Property to create fish passage over the Grand Rapids Dam insomuch as such activities do not directly increase nutrient loading in the Maumee River.
9. Monitoring Access. For a period of no less than fifteen (15) years after the Completion Date, Grantee shall permit or ensure ODNR and its representatives or agents to access the Project Area for the purpose of conducting nutrient related monitoring. Upon completion of the project, the parties shall agree upon reasonable access terms, including, but not limited to data and sample collection at the project site, use of equipment to conduct monitoring, and timing of monitoring.
10. ODNR's only liability under this Agreement shall be for the advancement of the grant funds described herein. 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.
11. 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.
12. 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.

H2Ohio Grant Award Agreement Between the Black Swamp Conservancy and ODNR
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13. 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

The Grantee agrees that it will fully comply with Ohio's prevailing wage laws pursuant to Ohio Revised Code Chapter 4115.

b. Worker's Compensation

The Grantee agrees that it will fully comply with Ohio's Worker's Compensation Laws.

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

To the extent applicable, the Grantee agrees to comply with Ohio Revised Code 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.

14. 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.

H2Ohio Grant Award Agreement Between the Black Swamp Conservancy and ODNR
Legal Contract ID No. 2022-1361

15. 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 to be awarded state funds.
16. 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. During this thirty (30) day period, Grantee shall not incur any additional expenses on the Project unless and until the Default is cured.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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,

H2Ohio Grant Award Agreement Between the Black Swamp Conservancy and ODNR
Legal Contract ID No. 2022-1361

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.

22. 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.
23. 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.
24. 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.
25. 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.
26. This Agreement is not binding upon ODNR unless executed in full. This Agreement is effective as of the last date of signature by ODNR.
27. 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:
Kevin Nemer
Division of Natural Areas and Preserves
952 Lima Ave
Findlay, Ohio 45840
614-381-1929
Kevin.Nemer@dnr.ohio.gov

For Grantee:
Rob Krain
Director

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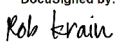
PO Box 332
Perrysburg, Ohio 43552-0332
419-833-1025
director@blackswamp.org

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.

- 28. 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.
- 29. 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 GRANTEE


DocuSigned by:


8EACC2894EA6476...
 Rob Krain
 Director

September 6, 2022

 Date

FOR ODNR

DocuSigned by:


6DC82A2DBC484A7...
 Mary Mertz
 Director

September 6, 2022

 Date

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.).

Restoration 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 (FY23) are or during the preceding five fiscal years have been a Conservancy “key employee” or a member of the Board of Directors:

Key Employees

Other/Former Key Employees

Current Team

Elisabeth Anderson

Melanie Coulter

Freya Berntson

Rob Krain

Christopher Collier

Scarlet Rice

Julie Pompa

Laura Rodriguez

Sarah Williams

Ellie Schiappa

Linda Wegman

Current Board of Directors (FY '23)

Prior Board Members (FYs '18-'22)

Steve Bowe

Paul Croy

Eric Britton

Virginia Keller

Mary Fedderke

Mary Krueger

Brian Kennedy

Dani Kusner

Will Lewis

Tom Reed

Tim Minning

Katie Rousseau

Rachael Niemer

Tim Schetter

David Nunn

Dana Reising

Karen Ranney-Wolkins

Josh Unice

Anne Yager

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 E: Non-Collusion Affidavit

City of _____

County of _____

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 F: Example Contract
CONTRACT FOR FEASIBILITY STUDY

This Contract is dated, made, and entered into as of the ____ day of _____, 2020. BETWEEN:
The Black Swamp Conservancy ("BSC")
P.O. Box 332
Perrysburg, OH 43552

AND:

CONTRACTOR NAME ("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 the following funds: H2Ohio Fund (Fund 6H20 725681). A Grant Agreement was entered into by and between ODNR and BSC on January 8, 2020 ("Grant") (Exhibit A). All terms, conditions, restrictions and documents constituting the Grant are incorporated into this Agreement and, to the extent there is any conflict between this Agreement and the Grant documents, the terms of the Grant documents shall prevail.

Sec. 2. Services and Scope to be Performed. Presumption that Duty is Contractor's.

BSC requires a feasibility study on nutrient reduction and fish passage opportunities on Howard Island. Howard Island is a 9-acre island in the Maumee River at Grand Rapids, Ohio., as detailed in (i) "Howard Island Nutrient Reduction and Fish Passage Feasibility Study Request for Proposals" dated July _____, 2023 ("RFP") (Exhibit B) and (ii) the CONTRACTOR NAME Proposal dated DATE, 2023 ("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 invoice to BSC upon completion of the Work. All Work on the Project shall be completed prior to May 31, 2023. Any penalties, fines or other payments assessed to BSC as a result of any delay beyond May 31, 2023, shall be paid by Contractor. Prior to payment, Contractor shall provide lien waivers for all labor and materials furnished to complete the Project. **Upon completion of all Work as defined herein and on the Exhibits attached hereto on or before May 31, 2023, BSC shall pay to the Contractor, the sum of \$35,000.00. The entire \$35,000 will be paid with funds from the H2Ohio award. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, CONTRACTOR ACKNOWLEDGES AND AGREES THAT BSC'S ACTUAL RECEIPT OF THE GRANT FUNDS FROM ODNR IS A *CONDITION PRECEDENT* TO PAYMENT BY OWNER TO CONTRACTOR FOR THAT WORK. THE CONTRACTOR EXPRESSLY AND UNEQUIVOCALLY ASSUMES THE RISK OF NON-PAYMENT OF THE GRANT FUNDS TO BSC.**

Sec. 6.

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

Sec. 7. Bonding.

The Contractor shall provide a performance and payment bond for 100% of the performance price. This performance and payment bond is intended to secure fulfillment of the Contractor's obligations under

this Contract. The bond shall be obtained from a company holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

Sec. 8. Insurance.

The Contractor shall maintain insurance not less than the following:

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

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

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

(b) Automobile Liability Insurance, covering owned, hired or borrowed vehicles and boats, employee vehicles and boats, 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 affect 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: (only Exhibit D is included in this Draft version of the Contract)

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

Exhibit B - “Howard Island Nutrient Reduction and Fish Passage Feasibility Study Request for Proposals” dated July [REDACTED], 2023.

Exhibit C – CONTRACTOR NAME Proposal dated February 28, 2020, which includes:

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

Exhibit D - Ohio Department of Natural Resources Requirements

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

Sec. 11. Notice.

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:

Rob Krain
Black Swamp Conservancy
P.O. Box 332
Perrysburg, Ohio 43552-0332
419-883-1025
director@blackswamp.org

To the Contractor:

PROJECT MANAGER’S NAME
CONTRACTOR NAME
ADDRESS
CITY, STATE ZIP
PHONE NUMBER
EMAIL ADDRESS

(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.

(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 Rob Krain, BSC’s Executive Director and 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 Rob Krain, BSC’s Executive Director and 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 Rob Krain, BSC's Executive Director and Project Manager on behalf of BSC. Contractor shall accept as payment such prices as authorized by written agreement of both parties signed by Rob Krain, BSC's Executive Director and 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 Rob Krain, BSC's Executive Director and 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 of the Ohio Department of Natural Resources for the Project as set forth in Exhibit D hereto.

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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.

ATTEST: Black Swamp Conservancy

_____ By: _____ Rob Krain, Executive Director

CONTRACTOR NAME

By: _____ (SEAL)

Title of officer: _____

STATE OF OHIO, WOOD COUNTY, SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of the Black Swamp Conservancy on behalf of the corporation.

My commission expires: _____

Notary Public

STATE OF OHIO, _____ COUNTY, SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of

Davey Resource Group, Inc.

My commission expires: _____

Notary Public

**EXHIBIT D to the Contract
(Ohio Department of Natural Resources Requirements)**

1. STEEL PRODUCTS MADE IN THE UNITED STATES

Domestic steel use requirements as specified in Ohio Revised Code §153.011 apply to this project. Copies of §153.011 can be obtained from any of the offices of the department of administrative services or through <http://codes.ohio.gov/orc/153.011>.

2. PREVAILING WAGES ON STATE PROJECTS WITH NO FEDERAL-AID (Should this project contain Federal-aid funds then Federal Prevailing Wages must be paid. Contact the appropriate Federal funding agency for language.)

This contract is subject to Ohio Prevailing Wage Laws, Chapter 4115 of the Ohio Revised Code and the Contractor and all subcontractors shall comply with all provisions contained therein or as otherwise provided by this note. The Contractor guarantees that the prevailing wage scale to be paid to all laborers and mechanics employed on this contract shall be in accordance with the schedule of the prevailing hourly wage and fringe benefits as determined by the Ohio Department of Commerce for the county in which the work is being performed. The failure to pay prevailing wages to all laborers and mechanics employed on this project shall be considered a breach of contract. Such a failure may result in the revocation of the contractor's and/or subcontractor's certificate of qualification and debarment. A schedule of the most current prevailing wage rates may be accessed by logging in/registering with the Ohio Department of Commerce, Labor and Worker Safety Division, Wage and Hour Bureau at the following web address: <http://198.234.41.198/w3/webwh.nsf/wrlogin/?openform>

The Contractor and all subcontractors shall compensate the employees on this contract at a pay rate not less than the hourly wage and fringe rate listed on the website noted above, for the applicable job classification or as may be modified by the Ohio Department of Commerce, Division of Labor and Worker Safety Wage and Hour Bureau, when new prevailing rates are established.

Overtime shall be paid at one and one-half times the basic hourly rate for any hours worked beyond forty hours during a pay week. The Contractor and all subcontractors shall pay all compensation by company check to the worker and fringe benefit program.

The wage and fringe rates determined for this project or as may be later modified, shall be posted by the Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers or otherwise made available to the workers. On the first pay date of contract work the Contractor and all subcontractors shall furnish each employee covered by prevailing wage a completed form (WHPW-1512) in accordance with section 4115.05 of the Ohio Revised Code, showing the classification, hourly pay rate, and fringes, and identifying the public authority's Prevailing Wage Coordinator, if such employees are not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor. These forms shall be signed by the Contractor or subcontractor and the employee and kept in the Contractor's or subcontractor's payroll files.

The Contractor and all subcontractors shall submit to the Prevailing Wage Coordinator, certified payrolls on form WHPW-1512 or equivalent, in accordance with sections 4115.07 and 4115.071 (C) of the Ohio Revised Code, three weeks after the start of work and every subsequent week until the

completion of the contract. Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted, for all apprentices working on this project. Upon completion of the contract and before the final payment, the Contractor shall submit to the Prevailing Wage Coordinator a final wage affidavit in accordance with section 4115.07 of the Ohio Revised Code stating that wages have been paid in conformance with the minimum rates set forth in the contract. Please be aware that it is ultimately the responsibility of the Contractor to ensure that all laws relating to prevailing wages in Chapter 4115 of the Ohio Revised Code are strictly adhered to by all subcontractors.

The Contractor and all subcontractors shall make all of its payroll records available for inspection, copying or transcription by any authorized representative of the contracting agency. Additionally, the Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

3. UNRESOLVED FINDING FOR RECOVERY

The Contractor affirmatively represents to the local contracting authority that it is not subject to a finding for recovery under Ohio Revised Code §9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The Contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately repaid to the local contracting authority, or an action for recovery may be immediately commenced by the local government and/or for recovery of said funds.

4. OHIO WORKERS' COMPENSATION COVERAGE

The Contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by the local contracting authority. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the local contracting authority before the contract is executed. The Contractor must immediately notify the local contracting authority, in writing, if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Contractor must notify the local contracting authority, in writing, if it's or any of its subcontractors' workers' compensation policies are canceled, terminated or lapse. The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the Contractor or subcontractor being removed from the project, withholding of pay estimates and/or termination of the contract.

5. DRUG-FREE WORKPLACE PROGRAM

In accordance with Ohio Revised Code §153.03 and during the life of this project, the Contractor and all its Subcontractors that provide labor on the Project site must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation ("OBWC") Drug-Free Workplace Program ("DFWP") or a comparable program approved by the OBWC.

6. OHIO PREFERENCE

In accordance with Ohio Revised Code §164.05 (A)(6), to the extent practicable, the Contractor and subcontractor shall use Ohio products, materials, services and labor in connection with this project.

7. OHIO ETHICS LAW

Contractor agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Sections 102.03, 102.04, 2921.42 and 2921.43 of the Ohio Revised Code.

8. ENVIRONMENTAL AND HISTORICAL PRESERVATION LAWS AND REGULATIONS Contractor assures compliance with all applicable Federal, State and local environmental and historic preservation laws and regulations pertaining to the Project.

9. LAWS OF PROFESSIONAL DESIGN

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

10. STATE OF OHIO EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS The provisions of the Ohio Administrative Code (OAC) 123:2-3-02 through 124:2-9 regarding Equal Employment Opportunity on State Construction Contracts and State-assisted Construction Contracts, and OAC 123:2-3-02 through 123:2-9 regarding Equal Employment Opportunity and Female Utilization Goals are applicable to this project, and each contractor will be required to comply in all aspects of these provisions.

Only a bidder possessing a valid certificate will be awarded a contract pursuant to Chapter 153 of the Revised Code by an owner referred to in section 153.01 of the Revised Code. Application shall be made at least ten working days prior to the date that the bidder expects to receive the certificate. The bidder's failure to elect one of the two Bidder's Affirmative Action Requirements, adopt the Bidder's EEO Covenants, and complete the certification may cause the bidder's proposal to be rejected as being non responsive to the State's Equal Employment Opportunity Requirements and in non-compliance with the State Equal Employment Opportunity Bid Conditions. In addition, the bidder must, prior to the execution of a contract, submit to the local subdivision a valid Certificate of Compliance for Equal Employment Opportunity purposes.

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