

**2015 LOCAL AGRICULTURAL EASEMENT PURCHASE PROGRAM (LAEPP)**  
**COOPERATIVE AGREEMENT**  
**BETWEEN**  
**THE OHIO DEPARTMENT OF AGRICULTURE**  
**AND**  
**<<LOCAL SPONSOR>>**

This Cooperative Agreement (hereinafter “Agreement”), effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, is between the <<LOCAL SPONSOR>>, <<Address>> (hereinafter “Local Sponsor”) and the **OHIO DEPARTMENT OF AGRICULTURE**, 8995 East Main Street, Reynoldsburg, OH 43068 (hereinafter “ODA”) for the implementation of Local Agricultural Easement Purchase Program (“LAEPP”) as authorized under Ohio Revised Code (“ORC”) § 901.21, et. seq.

**RECITALS**

ORC § 901.21 authorizes the Director of Agriculture to facilitate funding received from the Clean Ohio fund for the purpose of purchasing agricultural easements in conjunction with eligible governmental and non-profit entities for the purpose of protecting the agricultural uses of eligible land by limiting the non-agricultural uses of the land. To be eligible, the farm land must meet the criteria and further the purposes as provided in ORC § 901.22 and Ohio Administrative Code (“OAC”) § 901-2-01, et seq.

WHEREAS, the Local Sponsor and ODA have mutual interests in maintaining land in agricultural production and preventing the conversion of agricultural lands to non-agricultural uses; and

WHEREAS, ODA administers the LAEPP through its Office of Farmland Preservation;

WHEREAS, Local Sponsor administers a farmland protection program and is a certified local sponsor for the purposes of the LAEPP with opportunities to acquire agricultural easements from landowners (“Landowners” or “Landowner”) within the Counties of <<Certification Counties>> in the State of Ohio, and ODA and Local Sponsor have agreed to combine their resources to assure that such areas are protected from conversion to nonagricultural uses.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

**AGREEMENT**

**I. BENEFITS**

1.1 The funding allocated to the Local Sponsor by ODA in this Agreement will be used for the protection of Ohio farm lands against conversion to non-agricultural use.

**II. SCOPE OF WORK**

2.1 The Local Sponsor shall be responsible for the duties and obligations set forth in Exhibit A, Scope of Work, attached hereto and incorporated herein by reference, in connection with the use of ODA funds identified in Section IV of this Agreement for the acquisition of agricultural easements on the real estate (“Property” or “Properties”) described in the

attached Exhibit B, attached hereto and incorporated herein by reference. Exhibit B shall be amended from time to time as Properties are selected in accordance with Exhibit A. For the purposes of this Agreement, “agricultural easement” shall be defined as provided in ORC § 901.21, et seq. Local Sponsor hereby represents and warrants that it will comply with all applicable federal and state laws, specifically including but not limited to OAC § 901-2-01, et seq. in performing its described obligations herein.

- 2.2 Local Sponsor represents and warrants it has the necessary background, training, and skills to perform the required responsibilities and obligations under this Agreement and will provide its best efforts in the performance of the Scope of Work of this Agreement. Best efforts shall be defined as being efforts performed in a workmanlike manner according to the highest professional standard for the purpose intended. There will be no breach of this covenant if Local Sponsor is prevented from maintaining this standard by causes wholly beyond its control and without any default on its part. Local Sponsor further represents and warrants that it has no outstanding final judgments against it by the State, including tax liabilities; and agrees that any payments provided to the Local Sponsor by the State pursuant to this Agreement may be applied against such liabilities currently owing or incurred in the future.
- 2.3 Local Sponsor warrants it is not listed with the Secretary of State for unfair labor practices, pursuant to ORC § 121.23, and is or shall become a registered vendor with the State.
- 2.4 All deeds will be drafted by ODA. Local Sponsor shall ensure that no changes are made to the deed at closing without the express knowledge and the prior written permission of ODA.
- 2.5 The closing ("Closing") for the agricultural easements in connection with each Property shall occur on a time and date mutually agreed to by the parties, but in no event later than June 30, 2015. Local Sponsor may receive an extension to this deadline with the prior written approval of ODA.
- 2.6 ODA may, from time to time as it deems appropriate, communicate specific instructions and requests to the Local Sponsor concerning the performance of the Scope of Work described in this Agreement, including the performance of Closing Instructions which an example of is provided in Exhibit C, and which is attached hereto and incorporated herein by reference. Upon such notice, the Local Sponsor shall comply with such instructions and fulfill such requests to the satisfaction of ODA. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the Scope of Work described in this Agreement. The Local Sponsor shall retain responsibility for the management of the Scope of Work, including the exclusive right to control or direct the manner or means by which the work described herein is performed. ODA retains the right to ensure that the work of the Local Sponsor is in conformity with the terms and conditions of the Agreement. Local Sponsor is to accept direction only from ODA in the performance of work contained in this Agreement and set forth in Exhibits A and C, unless explicitly waived in writing by ODA.
- 2.7 Nothing in this Agreement obligates ODA to complete the acquisition of an agricultural easement. There may be problems or issues which in the sole opinion of ODA require

modifications, additions, or deletions to Exhibit B depending on the ability to obtain good and clear title and local input regarding the implementation of an agricultural easement. Additions to Exhibit B must have the written pre-approval from ODA. The additions and deletions must be made by a formal written amendment to this Agreement and must contain the same deadlines for closing for the acquisition of the agricultural easements and the request for payment.

### III. TIME OF PERFORMANCE

- 3.1 The services as stated in Exhibit A, Scope of Work, shall be concluded by the Local Sponsor on or before June 30, 2015. Prior to the expiration of this Agreement, the parties may mutually agree to renew this Agreement as indicated in Section 3.1(b) below.
- a. This Agreement shall remain in effect until the work described in Exhibit A, Scope of Work, is completed to the satisfaction of ODA or until terminated as provided in Article VIII, Termination of Local Sponsor's Services, whichever is sooner. However, in no event will this Agreement continue beyond June 30, 2015, unless renewed as provided for herein.
  - b. As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 2015. This contract may be renewed, at ODA's option, for a period of one (1) year upon the same terms contained herein.
  - c. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of ORC §3517.13, ORC § 127.16, or ORC § 102.

### IV. ODA'S OBLIGATION TO FUND

- 4.1 Subject to the terms and conditions of this Agreement, upon execution of this Agreement, ODA shall obligate the sum of \_\_\_\_\_ **(SPELL OUT DOLLAR AMOUNT and 00/100 Dollars)** for the acquisition by Local Sponsor of agricultural easements for the parcels approved by the Director of ODA and added by amendment to Exhibit B.
- 4.2 ODA's contribution for the acquisition of each agricultural easement to be acquired by the Local Sponsor shall be up to but not more than seventy-five percent (75%) of the points-based appraised value of the subject agricultural easement as provided in the Landowner Program Application.
- 4.3 If agricultural easements for all properties listed on Exhibit B are not closed, or payment for the agricultural easement is not requested by the mutually agreed closing date as provided in Exhibit A, any remaining funds may be released from this obligation unless a written request to extend the closing or payment date is sent to ODA 30 days or less before such date, and approved in writing by ODA.

## V. LOCAL SPONSOR CONTRIBUTION AND RESPONSIBILITIES

- 5.1 Local Sponsor must disburse one hundred percent (100%) of the payment minus any permitted cost or expense by the OAC § 901-2 *et seq*, representing the agricultural easement purchase price, to the landowner at the time of Closing, as that term is hereinafter defined. Local Sponsor shall pay all costs of the agricultural easement procurement and will operate and manage each agricultural easement in accordance with the Local Sponsor's program, this Agreement, and any relevant federal or state laws, regulations or codes.
- 5.2 Local Sponsor shall not use ODA funds to acquire an easement on a property in which the Local Sponsor employee or board member, with decision-making involvement in matters related to easement acquisition and management, or such employee or board member's immediate family member or household member has a property interest. Local Sponsor agrees to generally conduct itself in a manner so as to protect the integrity of agricultural easements which it holds as well as avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of agricultural easements.
- 5.3 Local Sponsor agrees that it will not at any time, when the Local Sponsor is named as a Grantee in the agricultural easement, seek to acquire the remaining fee interest in the Property or otherwise enter into a partnership or joint venture wherein a partner has a fee interest in the Property.
- 5.4 When an agricultural easement violation is reported to Local Sponsor by ODA or when observed by Local Sponsor, after appropriate administrative and appeal rights, Local Sponsor shall enforce the terms and conditions of the agricultural easement pursuant to all available enforcement procedures, including legal and equitable remedies. In the event that Local Sponsor should decide to utilize any legal or equitable remedies involving the filing of a lawsuit, such use shall be subject to the mutual consent of the parties prior to filing. The Local Sponsor agrees to completely and fully support the ODA, and work with ODA in the enforcement of this Agreement and any agricultural easement, as well as any agreement with a Landowner arising out of this Agreement. Failure to do so shall be a default by the Local Sponsor of this Agreement.
- 5.5 Local Sponsor agrees to include ODA in any public news releases, events, brochures, fact sheets, or any other information distributed to the media ("Media Release") related to the acquisition of an agricultural easement on the Property listed in Exhibit B acquired with ODA funds under this Agreement. Local Sponsor agrees to provide any Media Release to ODA for review and comment at least three (3) business days prior to its publication.
- 5.6 Local Sponsor agrees to comply with ODA guidelines and requirements regarding the disclosure of any confidential and potentially sensitive information about governmental and landowner issues, and such information shall not be disclosed without the prior written consent of ODA.
- 5.7 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture – Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program – Agricultural

Land Easement (ACEP-ALE) program, Local Sponsor is responsible for completion of all requested documents and services outlined in Cooperative Agreement with NRCS.

- 5.8 Any ODA funds received by Local Sponsor under this Agreement may not be utilized for reimbursement by Local Sponsor under any federal or state program, including ACEP-ALE.

## **VI. PAYMENT AND CERTIFICATION OF FUNDS**

- 6.1 The Local Sponsor shall notify ODA when the funds for the agricultural easement are to be paid. Funds shall be paid to Local Sponsor via an escrow agreement in the form substantially as provided in Exhibit H and approved by ODA with the title company as arranged by Local Sponsor. Local Sponsor shall, upon receipt of the funds from ODA, deposit and endorse over the funds to the title agent pursuant to the escrow agreement. Such escrow agreement shall specifically provide that 1) ODA is a third party beneficiary of the escrow agreement; 2) funds shall be returned to ODA if not disbursed to Landowner within 90 calendar days of funds by title agent unless otherwise agreed in writing by ODA; and 3) any other requirements as specified by ODA. Local Sponsor shall provide ODA notice of the scheduled Closing not less than 90 calendar days prior to said Closing to ensure timely delivery of the funds. In the event that funds are requested and placed with the title company in escrow, and that said funds are not disbursed at Closing within 90 calendar days of such deposit, the use of said funds shall be de-obligated and returned to ODA by the title agent unless the title agent has received an amendment to the escrow agreement which consents to holding the funds longer than 90 days. In the event that any funds sent to the Local Sponsor are not endorsed or otherwise provided to the title agent pursuant to the requirements of this paragraph within 5 days of receipt, such check shall be returned to ODA unless written permission is provided by ODA to continue to hold the check. Any periods of time longer than 90 calendar days to hold the funds shall require prior written amendment of this Agreement by the parties.
- 6.2 It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the ORC, including but not limited to ORC § 126.07, have been complied with, and until such time as all necessary funds are available, encumbered and forthcoming from the appropriate state agencies or responsible third party entities, and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio.

## **VII. AGRICULTURAL EASEMENT REQUIREMENTS**

- 7.1 The Local Sponsor shall ensure that agricultural easements acquired under this Agreement meet the following requirements:
- a. Run with the land in perpetuity.
  - b. Protect agricultural use and related conservation values by limiting nonagricultural uses of the land and specify prohibited uses along with permitted uses;
  - c. Provide for the administration, management, and enforcement of the agricultural easement by the Local Sponsor or its successors;

- d. Include a provision that if this Easement is extinguished, terminated or condemned, in whole or in part, Grantor shall reimburse the State Grantee for the amount equal to the proportionate share of the fair market value of the Protected Property unencumbered by this Easement as required by ORC § 901.22(A)(2)(b), and which is further specified in the terms of that certain Deed of Agricultural easement; and
  - e. All other provisions as requested by ODA.
- 7.2 The form of any deed of agricultural easement used under this Agreement shall be approved and provided by ODA. Any revisions or modifications thereto must be approved by ODA in writing prior to the Closing.

## **VIII. TERMINATION OF LOCAL SPONSOR'S SERVICES**

- 8.1 ODA and Local Sponsor may mutually agree to terminate this Agreement at any time. ODA shall be entitled, by written or oral notice, to cancel this Agreement in its entirety or in part, for breach of any of the terms, and to have all other rights against Local Sponsor by reason of Local Sponsor's breach. A breach shall mean, but shall not be restricted to, any one or more of the following events:
- a. Local Sponsor fails to perform the services by the date required or if no date is specified, in a timely manner;
  - b. Local Sponsor breaches any representation and warranty, or fails to perform or comply with any term of this Agreement;
  - c. Local Sponsor makes any general assignment for the benefits of creditors;
  - d. In ODA's sole opinion, Local Sponsor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
  - e. Local Sponsor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization or relief from debtors; or
  - f. Any receiver, trustee or similar official is appointed for Local Sponsor or any of Local Sponsor's property.
- 8.2 Upon notice of termination, Local Sponsor shall cease all work on the terminated activities under this Agreement, terminate all subcontracts relating to the terminated activities, take all necessary steps to limit disbursements and minimize costs, and if requested by ODA, furnish a report, as of the date of receipt of notice of termination, describing the status of all work under this Agreement, including, without limitation, results, conclusions resulting therefrom, and any other matters ODA requires. If the Local Sponsor materially fails to comply with the terms of this Agreement, ODA reserves the right to wholly or partially recapture funds provided hereunder in accordance with applicable regulations.
- 8.3 ODA cannot make commitments in excess of funds authorized by law or made administratively available. If ODA cannot fulfill its obligations under this Agreement

because of insufficient funds, this Agreement will automatically terminate with no further obligation by ODA. The Local Sponsor understands and agrees that no action arising out of or related to this Agreement may be brought by the Local Sponsor more than one (1) year after the cause of action accrued, regardless of the form of action.

- 8.4 In the event this Agreement is terminated prior to its completion, Local Sponsor shall deliver to ODA all work products and documents which have been prepared by Local Sponsor in the course of providing the Scope of Work under this Agreement. All such materials shall become and shall remain the property of ODA, to be used in such manner and for such purpose as ODA may choose.
- 8.5 Local Sponsor agrees to waive any right to, and shall make no claim for, additional compensation against ODA by reason of such termination.

## **IX. RELATIONSHIP OF PARTIES**

- 9.1 ODA and Local Sponsor agree that Local Sponsor shall be engaged by ODA solely on an independent contractor basis, and Local Sponsor shall therefore be responsible for all of its own business expenses, including, but not limited to, computers, phone service and office space. Local Sponsor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent. It is fully understood and agreed that the Local Sponsor is an independent contractor and is not an agent, servant or employee of ODA or the State of Ohio.

## **X. RELATED AGREEMENTS**

- 10.1 The Scope of Work contemplated in this Agreement is to be performed by Local Sponsor, who may subcontract without ODA's approval for the purchase of articles, supplies, components, or special mechanical services which are required for its satisfactory completion. All work subcontracted shall be at Local Sponsor's expense.

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

- 11.1 No personnel of Local Sponsor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is in compatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work. This includes the involvement of any personnel of Local Sponsor to place an easement on a property in which a person who is an immediate

family member or household member of an employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. Further, the Local Sponsor agrees to generally conduct itself in a manner so as to protect the integrity of Agricultural Easements which it holds as well as avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of agricultural easements, and shall implement a conflict of interest policy as approved by ODA.

- 11.2 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 ODA in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless ODA shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- 11.3 Local Sponsor 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. Local Sponsor further represents, warrants, and certifies that neither Local Sponsor nor any of its employees will do any act that is inconsistent with such laws.
- 11.4 Charitable organizations shall continue to meet the requirements specified in OAC § 901-2-04.

## **XII. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE**

- 12.1 ODA shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Local Sponsor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Local Sponsor by ODA shall be subject to copyright by Local Sponsor in the United States or any other country.
- 12.2 Local Sponsor agrees that all deliverables or original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by ODA. Any requests for such materials received by Local Sponsor should be referred to ODA.

## **XIII. CONFIDENTIALITY**

- 13.1 Subject to ORC § 121.22 and § 149.43, Local Sponsor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of ODA.
- 13.2 All provisions of this Agreement relating to “confidentiality” shall remain binding upon Local Sponsor in the event this Agreement is terminated.

#### **XIV. CAMPAIGN CONTRIBUTIONS**

- 14.1 Local Sponsor hereby certifies that neither Local Sponsor nor any of Local Sponsor's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC § 3517.13(I) and (J).

#### **XV. LIABILITY**

- 15.1 The Local Sponsor agrees to indemnify and to hold ODA and the State of Ohio, its employees, officials, agents, and assigns, harmless and immune from any and all claims for injury or damages, losses, expenses, fines, fees, penalties, actions, sanctions or judgments arising out of or in connection with this Agreement which are attributable to the past, present or future respective actions or omissions of Local Sponsor or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Local Sponsor, or joint venturers while acting under this Agreement. Such claims shall include but are not limited to any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks. In no event shall ODA or its employees or agents be liable in contract, tort, strict liability, warranty or otherwise, for any special, incidental or consequential damages, such as, but not limited to, delay, disruption, or loss of anticipated profits or revenue.
- 15.2 The Local Sponsor shall bear all costs associated with defending ODA and the State of Ohio against any claims for Local Sponsor's own respective acts or omissions.
- 15.3 In no event shall any party to this Agreement be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.
- 15.4 If Local Sponsor enters into a Cooperative Agreement with the United States Department of Agriculture – Natural Resources Conservation Service (USDA-NRCS) to receive matching funds under its Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE) program, and to which ODA shall be obligated to act as party to or secondary beneficiary to that certain Cooperative Agreement and associated rights and responsibilities, Local Sponsor agrees to indemnify and to hold ODA and the State of Ohio, its employees, agents, and assigns, harmless and immune from any and all claims for injury or damages, losses, expenses, fines, fees, penalties, actions, sanctions or judgments arising from Cooperative Agreement with NRCS which are attributable to the past, present or future actions or omissions of Local Sponsor or those of its trustees, officers, employees, subcontractors, supplies, third parties utilized by Local Sponsor, or joint venturers while acting under the Cooperative Agreement with NRCS.

#### **XVI. REPORTS AND NOTICES**

- 16.1 All reports, notices, copies, requests, consents, approvals and other communication required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given if hand delivered or sent by U.S.

registered or certified mail, postage prepaid; or email with proof of delivery and read receipt:

a. with respect to ODA:

Ohio Department of Agriculture  
Office of Farmland Preservation  
8995 E. Main Street  
Reynoldsburg, Ohio 43068-3342  
Attn: Executive Director, Farmland Preservation  
Telephone: 614-728-6210  
Email: denise.king@agri.ohio.gov

b. with respect to Local Sponsor:

<<LOCAL SPONSOR>>  
<<ADDRESS>>

- 16.2 Any and all notices and other documents and communications required to be given pursuant to this Agreement shall be deemed duly given: (a) upon actual delivery, if delivery is by hand or courier service; (b) upon receipt by the transmitting party of confirmation or answer back if delivery is by facsimile or electronic means; or (c) upon the third day following delivery into the U.S. mail if delivery is by regular U.S. mail. Each such notice shall be sent to the respective party at the address indicated first above or at any other address as the respective party may designate by notice delivered pursuant hereto.

## **XVII. MISCELLANEOUS:**

- 17.1 Counterparts. This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument.
- 17.2 Entire Agreement/Waiver. 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 all prior and contemporaneous letters, correspondences, discussions and agreements among the parties with respect to all matters contained herein. A waiver by any party of any breach or default by another party, or failure of either party to enforce any provision of this Agreement or any course of conduct or industry standard shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder. Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Agreement.
- 17.3 Governing Law. This Agreement and the rights of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Ohio. The parties agree to venue in the Ohio courts located in Franklin County, Ohio, and both parties irrevocably waive any objections to convenience of forum. In the event that this

Agreement should become subject to the jurisdiction of the Court of Claims, the parties agree that such jurisdiction shall be binding and take precedence over any other forum selection clauses of this Agreement.

- 17.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part without the prior written consent of ODA.
- 17.5 Record Keeping. During the performance of the services required by this Agreement and for a period of three years after its completion, Local Sponsor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to ODA as ODA may reasonably require.
- 17.6 Nondiscrimination. Pursuant to ORC § 125.111, Local Sponsor agrees that Local Sponsor, any subcontractor, and any person acting on behalf of Local Sponsor or subcontractor, will not discriminate, by reason of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry against any citizen of this state in the hiring of any person qualified and available to perform the work under this Agreement and shall post notices regarding this provision. Local Sponsor further agrees that Local Sponsor, any subcontractor, and any person acting on behalf of Local Sponsor or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry.
- 17.7 Compliance with Laws. Local Sponsor, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state, and local laws, rules, regulations and ordinances. Local Sponsor affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the Agreement period Local Sponsor, for any reason, becomes disqualified from conducting business in the State of Ohio, Local Sponsor will immediately notify ODA in writing and will immediately cease performance of Agreement activities.
- 17.8 Drug Free Workplace. Local Sponsor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- 17.9 Findings for Recovery. Local Sponsor warrants that it is not subject to an "unresolved" finding for recovery under ORC § 9.24. If this warranty is deemed to be false, this Agreement is void ab initio and the Local Sponsor must immediately repay to the ODA any funds paid under this Agreement.
- 17.10 Headings. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

- 17.11 Severability. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable.
- 17.12 Debarment. Local Sponsor represents and warrants that it is not debarred from consideration for contract awards by the Director of ODA of Administrative Services, pursuant to either ORC § 153.02 or ORC § 125.25. If this representation and warranty is found to be false, this Agreement is void ab initio and Local Sponsor shall immediately repay to ODA any funds paid under this Agreement.
- 17.13 Executive Order 2011-12K Compliance. The Local Sponsor, including its officers and employees, hereby affirms to have read and understands Executive Order 2011-12K and agrees to abide by those requirements in the performance of this Agreement. Local Sponsor shall perform no services required under this Agreement outside the United States and agrees to immediately notify the State of any Change or shift in the location(s) of services performed by the Local Sponsor or its subcontractors under this Agreement, and no services shall be changed or shifted to a location(s) that are outside the United States. By signing this Agreement, Local Sponsor certifies that it is in, and will remain in, compliance with Executive Order 2011-12K and will not assign or subcontract the work under this Agreement to an entity outside the United States. Local Sponsor's representative has completed and signed the Affirmation and Disclosure Form available at <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf> and will return it to ODA along with this Agreement.
- 17.14 Execution. This Agreement is not binding upon ODA unless executed in full.
- 17.15 Antitrust Agreement. Local Sponsor agrees to assign to ODA all state and federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.
- 17.16 Conflict. In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.
- 17.17 Delay. ODA shall be excused from failures or delays in delivery or performance hereunder if such failure or delay is attributable to causes beyond the reasonable control of ODA which makes such performance or delivery commercially impractical and such failure or delay could not have prevented through reasonable precautions. In the event of any such delay, the time of delivery or performance or time of payment shall be extended for a period of time equal to the time lost by reason of such delay.
- 17.18 Court of Claims. Under ORC § 2743 the State of Ohio has waived its immunity from liability and consented to be sued and have its liability determined in its Court of Claims in accordance with the same rules of law applicable to suits between private parties, except to the extent the determination of the State of Ohio's liability is subject to limitations set forth in ORC § 2743.

A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature.

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized agents as of the Effective Date.

**LOCAL SPONSOR**

Date:

By: \_\_\_\_\_

Printed Name:

\_\_\_\_\_

<<LOCAL SPONSOR>>

<<ADDRESS>>

**OHIO DEPARTMENT OF AGRICULTURE**

Date:

By: \_\_\_\_\_

**David T. Daniels**  
**Director**

Approved:

Date:

By: \_\_\_\_\_

**Counsel**

\_\_\_\_\_

Ohio Department of Agriculture  
8995 East Main Street  
Reynoldsburg, Ohio 43068-3342

This instrument was prepared by:  
Ohio Department of Agriculture  
8995 East Main Street  
Reynoldsburg, Ohio 43068-3342

**EXHIBIT A**  
**SCOPE OF WORK**

- A. Selection of Landowners Eligible for Purchase: The Local Sponsor shall perform all necessary legal and administrative actions to ensure the proper acquisition of and recordation of valid agricultural easements. The Local Sponsor shall follow the appropriate phases for the determination of eligible landowners and their properties for purchase as outlined in Ohio Administrative Code (“OAC”) § 901-2-06, within the following timeline:
1. In the event Local Sponsor opts to provide its own requirements for points in Step 14 of the ODA online landowner application, Local Sponsor shall follow the Instructions for Preparing LAEPP 2015 Localized Questions and submit required information for approval no later than fourteen (14) days before the opening of the online landowner application.
  2. Online applications from potential landowners in conformance with OAC § 901-2-04 shall be solicited and accepted beginning on January 15, 2015 and shall end no later than April 15, 2015.
  3. Local Sponsor shall review and rank each received application based on the farmland ranking system as previously approved by ODA and further specified in OAC § 901-2-05.
  4. Local Sponsor shall submit the hardcopy applications of the farms selected for easement purchase and any alternate applications no later than **April 30, 2015** (hereinafter known as the “Application Submission Deadline”). Local Sponsor shall also provide a summary of all electronically-submitted applications received and ranked to ODA in the same form as the example provided in Exhibit D.
  5. Within **ninety (90) days of the Application Submission Deadline** and after receiving notice of approval by ODA of the landowner applications selected for funding, Local Sponsor shall notify selected landowners of their acceptance into the program, and shall send the Notice of Selection created on their organization’s letterhead to the Landowner. An example of the Notice of Selection is provided in Exhibit E to the Cooperative Agreement. Local Sponsor shall provide the **original** Signed Notice of Selection to ODA no later than within one hundred twenty (120) days of the Application Submission Deadline. After receipt of the executed Notice of Selection by the Landowner, ODA shall provide an Amended Exhibit B with the Properties identified for Local Sponsor’s execution.
  6. Local Sponsor shall complete all required due diligence and remaining steps in this Agreement to complete purchase of the selected Property pursuant to Section 2.5 of this Cooperative Agreement unless otherwise agreed in writing by ODA.
  7. Local Sponsor shall obtain the following documents for each selected Property at the landowner’s expense as provided in Sections B – O of this Exhibit:
    - a. Title search and commitment shall be provided to ODA within one hundred and eighty(180) days of the Application Submission Deadline;
    - b. Property survey and appraisal if requested by ODA; and
    - c. Subordination of all mortgages, leases, liens, restrictions or legal or equitable interests present on the title of the Property unless otherwise exempted by ODA as outlined in the ODA Closing Instructions in a form similar as provided in the example in Exhibit C.

**EXHIBIT A**  
**SCOPE OF WORK**

(continued)

- d. Present Condition Report (PCR) using a template provided by ODA as specified in OAC § 901-2-08.
8. Local Sponsor shall complete the following after supplying documents in the previous paragraph of this Exhibit:
- a. Local Sponsor shall request ODA to send the Purchase Agreement prepared by ODA to the Landowner. Landowner must return a signed Purchase Agreement to Local Sponsor and/or ODA within thirty (30) calendar days of postmark. Local Sponsor must request and provide a signed Purchase Agreement at least ninety (90) days prior to the date the deed of easement is scheduled to be executed and funds exchanged (“Closing”).
  - b. Local Sponsor shall provide an original signed escrow agreement which complies with Section 6 of the Cooperative Agreement and closing protection coverage no later than forty-five (45) days prior to Closing.
  - c. Local Sponsor shall forward all preliminary Closing documents for review and final closing approval to ODA after receipt of the Purchase Agreement for final review of clear title and any further actions to ensure clear title to the Property at least thirty (30) days prior to Closing. Upon receipt of the documents and approval by ODA, ODA shall forward to the Local Sponsor the Deed of Agricultural Easement and final ODA Closing Instructions for use at Closing.
- B. Title Search: The Local Sponsor shall select a title agency in good standing with the Ohio Secretary of State. The title agency must be able to conduct the title search, prepare the title commitment, issue owner’s policy, provide escrow services and facilitate closing and recordation. The title agency shall provide a title search of the public records concerning the titles to the parcels of such real estate as delineated in the Property attached hereto as Exhibit B. The Local Sponsor shall submit a written report (also known as the title commitment), as to each parcel, each of which shall include the factual information enumerated below, to the extent that such information can be ascertained from a search of the public records relating to the title of said real estate. The search shall cover a period sufficient to satisfy the State that all matters presently affecting the title have been found, but in no event for a period less than ninety (90) years. The search shall be provided in a commitment for the owner’s title policy of insurance, which should include at a minimum the following:
- 1. The name, address, and marital status of record holder or holders of title.
  - 2. The name, address of spouse, if any, a record holder or holders of title.
  - 3. List of the combined actual total acreage for the entire interest in land being acquired in the Deed of Easement.
  - 4. The names, and if it appears of record, the address, of the owners of any encumbrances upon or interest in the real estate, such as mortgages, land contract, leases, easements, rights-of-way, mineral rights or reservations, together with the recording references and dates thereof.

**EXHIBIT A**  
**SCOPE OF WORK**

(continued)

5. Unsatisfied executions and lien judgments, foreign or domestic, or pending suits of record in the courts of records and on file in the Sheriff's office and the Clerk of Court's office of said county, which may affect the title to the real estate examination.
  6. Any other tax liens, mechanics liens, recognizance liens, unemployment compensation liens, workers compensation liens or any other infirmity, encumbrances, liens, or cloud on title disclosed by the public records of the County where the real estate is located.
  7. The tax duplicate description, auditor's parcel number, current agricultural recoupment or use valuation, if applicable, and current tax valuation, including statement of taxes, assessment liens, penalties, and interest which have not been paid and are a lien.
  8. The gross acres of all parcels, minus highway rights-of-way and all other exclusions or transfers, in order to provide a net acreage of all parcels for the agricultural easement.
  9. Attach a complete copy of recorded deed of the land or parcels of land which make up an owner's property which are used as a unit of land acquired for ODA purposes, together with the recording reference and dates thereof, and a statement of the total acreage to be acquired by ODA easement.
  10. The Local Sponsor shall provide to ODA a copy of the title commitment, all source documentation, and any other requested documentation related to title within one hundred eighty (180) days after the Application Submission Deadline so the legal office may review the title commitment and issue a title opinion for ODA prior to closing. ODA will then issue preliminary Closing Instructions to the Local Sponsor.
  11. Local Sponsor shall secure recording services surrounding the agricultural easement acquisition in the most cost effective manner on behalf of ODA subject to the pre-approval of ODA, and provide an update of title on the parcels immediately prior to recordation.
  12. The Local Sponsor shall secure closing protection coverage as well as an owner's policy of title insurance on the parcels delineated in Exhibit B, naming the Director of ODA as the sole owner insured. Evidence of closing protection coverage shall be provided no later than forty-five (45) days prior to Closing.
- C. Purchase Agreement: After obtaining all the documents in Paragraph 7 of Section A of this Exhibit, Local Sponsor shall request ODA send the Purchase Agreement prepared by ODA to the Landowner. Such Purchase Agreement shall substantially follow the example provided in Exhibit F. In order to participate in the program, Landowner must return a signed Purchase Agreement to Local Sponsor and/or ODA within thirty (30) calendar days of postmark. Local Sponsor must request and provide a signed Purchase Agreement at least ninety (90) days prior to the date the deed of easement is scheduled to be executed and funds exchanged ("Closing") or the Closing shall be rescheduled by the Local Sponsor.
- D. Appraisal: If required by the Director, ODA may obtain a comparable land appraisal at Landowner's expense by a certified general appraiser with experience with the Uniform Standards of Professional Appraisal Practices (USPAP).

**EXHIBIT A**  
**SCOPE OF WORK**

(continued)

- E. Preparation for Closing: Local Sponsor shall forward all preliminary Closing documents for review and final closing approval to ODA after receipt of the Purchase Agreement for final review of clear title and any further actions to ensure clear title to the Property at least thirty (30) days prior to Closing. Upon receipt of the documents and approval by ODA, ODA shall forward to the Local Sponsor the Deed of Agricultural Easement and final ODA Closing Instructions for use at Closing. No changes may be made to the Deed of Agricultural Easement without the express consent of ODA in writing.
- F. Date and Place of Closing: The parties shall mutually agree to a closing date, but in no event later than June 30, 2015 unless otherwise agreed in writing by ODA.
- G. Settlement or Closing Statement: A settlement or closing statement reflecting the amount to be paid for the agricultural easement, as well as any costs and expenses as incurred by the parties, which complies with Section 5 of this Cooperative Agreement, shall be submitted to ODA prior to Closing, and signed by the Ohio Department of Agriculture, the Local Sponsor, the Landowner, and the title agent.
- H. Persons Required at Closing Conference: The following persons must attend the closing conference, if possible: Landowner(s) and a representative of the Local Sponsor. At ODA's discretion, a representative from the Office of Farmland Preservation may attend the closing conference.
- I. Local Sponsor to Hold Easement and All Documents Relating to Title: Local Sponsor, through the services of a title agency in good standing, shall have all of the necessary documents relating to title in Property and the granting of the agricultural easement executed, which include but are not limited to the Notice of Selection, Purchase Agreement, Agricultural Easement Deed, Commitment/binder, Owner's Title Insurance Policy/ies naming ODA, Closing Coverage Policy/ies, Subordination Agreement(s), if applicable; and Title Commitment, Title Insurance, Recording, Appraisal Invoices. The Local Sponsor shall perform all necessary legal and administrative actions to ensure proper closing and recordation of a valid agricultural easement which is in accordance with LAEPP Policies and Guidelines and this Agreement. The LAEPP Policies and Guidelines are attached hereto as Exhibit G and are incorporated herein, and are subject to revision at any time in the sole discretion of ODA. Local Sponsor shall determine if all documents include the proper designation of ODA's name and manner of holding the agricultural easement on the Property. Further, the Local Sponsor shall ensure that the agricultural easement acquired under this Agreement (i) runs with the land in perpetuity or the maximum allowable under State law; (ii) protects agricultural use and related conservation values by limiting nonagricultural uses of the land; (iii) provides for the administration, management, and enforcement of the agricultural easement by the Local Sponsor; (iv) requires implementation of a conservation plan; (v) includes the appropriate right of enforcement and general indemnification provisions for the benefit of ODA; and (vi) include the appropriate environmental warranty, permitted uses and prohibited uses for the Property as provided in the LAEPP Policies and Guidelines as available from ODA's Office of Farmland Preservation.
- J. Treatment of Existing Liens and Mortgages: On the date of Closing, the Property shall be free of any liens or mortgages which encumber the Property, or such liens and mortgages have been subordinated to the agricultural easement interest of ODA as required by OAC § 901-2-02(A)(3) or which ODA deems could affect the intent of the easement. Landowner and/or Local Sponsor

**EXHIBIT A**  
**SCOPE OF WORK**

(continued)

shall be held responsible for obtaining and recording all such subordinations, lien releases and/or mortgage releases and provide such releases and/or subordinations to ODA prior to the Closing.

- K. Conditions of Title: Landowner must have good and marketable title to the Property with an unbroken chain of title of record for at least ninety years prior to the date the title search was conducted. For the purposes of this Agreement, a "good and marketable title" shall be defined as a title that is free and clear of all liens, easements, restrictions, and encumbrances other than current taxes due. In addition, Landowner's title must not be subject to any interests other than those interests specifically described in the title search or Landowners application. If the title is encumbered by outstanding or reserved interests, the Local Sponsor shall ensure that any outstanding interests are subordinated to the agricultural easement or that any exceptions from this subordination requirement are approved by ODA, and are consistent with the purposes of the LAEPP.
- L. Conservation Plan: The Grantor, the Grantor's heirs, successors and assigns, shall conduct all farming operations in accord with applicable federal and state laws and using best management practices approved by the US Department of Agriculture, Natural Resources Conservation Service, Soil and Water Conservation District or another qualified professional approved by the Grantee. Prior to payment at Closing, the Local Sponsor shall ensure that each Property on which an agricultural easement will be acquired has a conservation plan prepared or approved by the Natural Resources Conservation Service or Soil and Water Conservation District to maintain the agricultural productivity of the farm for this and future generations.
- M. Local Sponsor to Record Easement, Subordination, and Other Documents: If all conditions of title are met, including update of title on the parcels immediately prior to recordation, the Local Sponsor shall record the agricultural easement and if applicable, any other executed documents, releases and agreements which must be recorded (including but not limited to: subordinations, trust agreements, etc.) in the office of the recorder of the county in which the property is located. Local Sponsor shall ensure that cross references to existing Deed(s) for the property are included on recorded documents.
- N. Disbursement of Funds: After recordation of the Easement and upon determination by Local Sponsor, through the services of a title agency in good standing, and in good faith that all instructions and conditions specified in the final ODA Closing Instructions and escrow agreement have been satisfied, title agent shall pay all costs as itemized in ODA's signed Settlement Statement out of the funds held in the escrow account. Once all other costs are paid, from the terms and requirements of the signed escrow agreement, the remainder of the funds held in the escrow account shall then be disbursed to the landowner entitled to payment.
- O. Original Documents to ODA: After the Closing, as soon as possible, but in any event no later than 90 days after the Closing, Local Sponsor shall present ODA with the original copy of the Deed of Easement and, if applicable, any other executed agreements to be recorded in the county recorder's office (including but not limited to: subordinations, trust agreements, etc.). Local Sponsor shall also present ODA with the title insurance policy and any other documents requested on the Closing Instructions.
- P. Monitoring: The Local Sponsor shall monitor the use and management of the Property covered by the agricultural easement on an annual basis to ensure that the Property is being managed and used according to the provisions in the agricultural easement agreement entered into by the Local

**EXHIBIT A**  
**SCOPE OF WORK**  
(continued)

Sponsor and the landowner. An annual report of the status of the acquired Agricultural Easements shall be submitted annually by the Local Sponsor. ODA will define the format of this report and provide any revisions or changes to the report format annually to Local Sponsor.

**EXHIBIT B**  
**PROPERTY / FUNDS**  
(TEMPLATE)

Farm ID: Farm ID from Landowner Application

Owner: Landowner Name

Main Contact Information: Primary Contact Name  
Primary Contact Mailing Address

Property Location: Property Location

County: County Name of Easement

Township: Township Name of Easement

Parcel Number - Acres: Parcel ID – Acres ac

ODA Contribution: \$###,###

**EXHIBIT C**  
**SAMPLE ODA CLOSING INSTRUCTIONS**

**CLOSING INSTRUCTIONS**

**DATE**

**LOCAL SPONSOR**

**LOCAL SPONSOR ADDRESS**

Dear Local Sponsor:

Pursuant to the Cooperative Agreement between the Local Sponsor and the Ohio Department of Agriculture (ODA) for the purchase of an agricultural easement on the **FARM NAME** farm under the Local Agricultural Easement Purchase Program (LAEPP), please find herein the preliminary Closing Instructions for the final steps to convey the agricultural easement. ODA is in receipt of the title commitment for this property, and agrees to co-hold an Agricultural Easement on this property once the following steps have been taken:

**Title Review:**

Below is a summary of ODA's review of Title Commitment **NUMBER** issued by **[INSERT TITLE COMPANY]** Title Insurance Company after the effective date of **EFFECTIVE DATE**.

Items from Schedule A of said commitment that requires attention:

- No action required

Items from Schedule B, Section I (Requirements) of said commitment that requires attention:

- Ensure that local sponsor meets all requirements as stated

Items from Schedule B, Section II (Exceptions) that require action by the local sponsor:

#10, 11: These exceptions are mortgages that must be subordinated or released in favor of the Agricultural Easement prior to closing. Provide a Subordination Agreement to the landowner to execute with their lender and have the document recorded at closing. Template Subordination Agreements may be obtained by contacting our office, or you may create your own. **Prior to closing, provide Subordination Agreement to ODA for review.**

#13, 14, and 15: These exceptions are oil and gas leases presently existing but are no longer functioning or paying royalties or other payments on the title to the property. ODA requests that an Affidavit is completed describing the status of each of these leases and then recorded at closing. The landowners are the only individuals required to execute the Affidavit, and a template Affidavit may be obtained by contacting our office. **Prior to closing, provide Affidavit to ODA for review.**

Exceptions #1-9, 12, and 16-20 have been reviewed by ODA Legal and are considered acceptable to remain as exceptions in ODA's Owner's Policy for Title Insurance (to be provided to ODA after closing). If you have any questions regarding the clearing of title exceptions, please do not hesitate to contact our office. Actions related to clearing the above title exceptions should happen concurrently while preparing the Present Condition Report and reviewing the Deed of Agricultural Easement.

**EXHIBIT C**  
**SAMPLE ODA CLOSING INSTRUCTIONS**  
(continued)

Exhibit A (Legal Description): The legal description provided with the title commitment has been reviewed and approved for use as Exhibit A to the Deed of Agricultural Easement. Acreage will be stated within the Deed of Agricultural Easement as **XXX.XX** acres.

**Present Condition Report:**

As outlined in the Cooperative Agreement between Local Sponsor and ODA, the Local Sponsor shall complete a Present Condition Report (“PCR”) of the farm. The PCR should contain a narrative section, maps, and photos to collectively describe the farm’s history, its present features, and to document the property’s existing buildings, structures, and agricultural activities. The PCR is recorded as Exhibit B to the Deed of Agricultural Easement (“Deed”) and can be utilized by monitors in the future to ensure compliance with the agricultural easement.

If not yet completed, please submit to ODA the PCR for this property, so that ODA may review and request revisions if necessary. A template PCR can be found on our website. Once complete, please email the PCR to Amanda Bennett at [abennett@agri.ohio.gov](mailto:abennett@agri.ohio.gov). If the file is too large to send via email, please contact us.

**Purchase Agreement:**

When Local Sponsor has addressed the items outlined under Title Review, Local Sponsor shall request ODA to send the Purchase Agreement (prepared by ODA) to the landowner. The landowner will have thirty (30) calendar days from the date of postmark to return the signed Purchase Agreement to ODA. A signed Purchase Agreement is necessary for ODA to begin the process of securing ODA’s purchase funds for closing.

**Deed of Agricultural Easement:**

ODA will begin work on the Deed for the **FARM NAME** farm utilizing information gathered in the title commitment. A Deed will be completed and emailed to you to disseminate to the landowner for review. Any questions or corrections regarding the Deed should be emailed to Amanda Bennett at [abennett@agri.ohio.gov](mailto:abennett@agri.ohio.gov). Once ODA, Local Sponsor, and the Landowner agree to the content of the Deed, a final approved Deed will be printed and mailed to you for the closing.

**Requesting Easement Funds:**

The Local Sponsor shall notify ODA when the funds are to be paid. Funds will be paid via an approved escrow agreement with the title company as arranged by the local sponsor, the original of which is to be provided by the Local Sponsor to ODA no less than forty-five (45 days) prior to closing. Note that the Purchase Agreement must be signed by the landowner and received by ODA no less than ninety (90 days) prior to said closing to ensure timely delivery of funds.

**Closing and Recordation:**

Once all title exceptions have been cleared or addressed, and the final Deed is mailed to you as the Local Sponsor, please work with your title vendor to complete closing and recordation of the Deed. Local Sponsors shall ensure that all of the following has occurred:

**EXHIBIT C**  
**SAMPLE ODA CLOSING INSTRUCTIONS**

(continued)

- (1) Any modification of the attached closing documents prior to recordation without prior written approval of ODA is expressly prohibited.
- (2) Closing agent has deposited ODA's enclosed purchase funds (\$xxx,xxx) as described in the enclosed escrow agreement naming the Ohio Department of Agriculture as a third party beneficiary. Per the escrow agreement, within ten (10) business days of placing the deposit in the escrow account, escrow agent shall provide written notice (email acceptable) to the Local Sponsor and ODA confirming the deposit.
- (3) Closing agent shall deduct landowner's title expenses from the landowner's check and provide the Settlement Statement (HUD-1) to ODA prior to closing for approval and signature by the Director. Costs expected to be deducted on ODA's Settlement Statement include:
  - a. Title search, ODA commitment, and updates to ODA commitment
  - b. Closing agent's settlement or closing fee
  - c. Recording costs for Deed of Agricultural Easement and approved curative documents (i.e. subordination agreements, consents to easement, affidavits, etc.)
  - d. ODA's closing protection coverage
  - e. ODA's Owner's Policy for Title Insurance
  - f. Other items only with written approval of ODA
- (4) Ensure no new encumbrances will be recorded against the property according to Title Commitment **NUMBER** issued by [INSERT TITLE COMPANY] Title Insurance Company after the effective date of **EFFECTIVE DATE**. Conduct a title update immediately prior to recording the easement. If any new encumbrances have been recorded against the property since the date of the above referenced title commitment/binder, notify ODA immediately and do not proceed until instructions are provided.
- (5) Ensure that all taxes, homeowner's assessments, etc. are paid up to the date the Deed is recorded.
- (6) Ensure the Deed with an Exhibit A describing the easement area, Exhibit B containing the "Baseline Documentation" aka Present Condition Report, and Exhibit C listing existing easements and rights-of-way has been properly executed and duly recorded.
  - a. This includes that the proper signatory authority documentation has been provided for anyone signing the Deed.
  - b. Local Sponsor shall ensure that cross references to the Deed of Agricultural Easement are included on recorded documents.
  - c. Purchase funds are not to be disbursed to the landowner until the final title update has been performed and the Deed of Agricultural Easement filed of record.
- (7) Ensure the approved subordination agreements have been recorded.
- (8) Ensure the approved Affidavit(s) have been recorded.
- (9) Ensure that an Owner's Policy for Title Insurance in the amount of [XXXX,XXX] listing ODA as the primary insured has been obtained.
- (10) Closing Protection Coverage will be required for ODA. Please provide ODA with proof of this coverage prior to the check being mailed to the closing agent.
- (11) Ensure that the description of the easement area is the same on the Agricultural Easement Deed, the Title Insurance Policy, and any Subordination Agreement(s).
- (12) Ensure that the Commitment for Title Insurance and Title Insurance Policy includes Exhibit A describing the easement area.
- (13) With regard to the Owner's Policy for Title Insurance, the following requirements must be met:
  - a. The date of the policy must match the recorded date and time from the county recorder's office that the Deed of Agricultural Easement was filed for public record.
  - b. The estate or interest in the land that is covered by the policy must be easement interest.
  - c. The title vested in the interest being acquired by the Grantees should be as stated on the first page of the Deed of Agricultural Easement.

**EXHIBIT C**  
**SAMPLE ODA CLOSING INSTRUCTIONS**  
(continued)

After the Deed and associated documents such as Affidavits and Subordination Agreements are recorded in **Co. NAME** County, submit the following to ODA no later than 90 days after closing/recordation:

- Final title commitment update (occurs immediately prior to recordation of the Deed of Agricultural Easement)
- Owner's Policy for Title Insurance (ODA)
- Recorded Deed and associated curative documents (i.e. Affidavits, Subordination Agreements)
- Final executed Settlement Statement(s) (HUD-1)
- Copy of these instructions with signed acknowledgement by Local Sponsor

**Please see the attached checklist for items that need to be completed, executed, and or recorded, and returned.**

If you should have any questions on this process, please do not hesitate to contact me or my staff at (614) 728-6210.

Sincerely,

Denise Franz King  
Executive Director

cc: **NAME**, Landowners (*just cover letter*)

**Acknowledgement**

Local Sponsor: **ENTITY NAME**

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

Printed Name: \_\_\_\_\_

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

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

**EXHIBIT D**  
**SAMPLE SUMMARY OF APPLICATIONS RECEIVED**

(Enter Local Sponsor Name Here)  
**2015 Clean Ohio Local AEPP Applications Received**  
**by Rank**

**Landowner Payment Plan**

Farm ID*	County	Landowner Name	Total Score	% of Donation	Acres	Points-Based Max Purchase Price **	ODA Contribution	Local Sponsor Contribution	Projected ACEP-ALE	Total Planned Payment
103FRH2	Lincoln	Smith	99.99	25%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###
11D7EBC	Clay	Jones	88.88	60%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###
11TI8NI	Grant	Wilson	77.77	40%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###
121NOVQ	Douglas	Abbott	66.66	60%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###
12242A6	Johnson	Brown	55.55	60%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###
122NCPN	Polk	Moore	44.44	25%	###.##	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###	\$ ###,###

**EXHIBIT E**  
**SAMPLE NOTICE OF SELECTION**  
(On Local Sponsor Letterhead)

**NOTICE**  
(LAEPP 2015)

DATE

LANDOWNER FIRST NAME/LAST NAME  
LANDOWNER STREET ADDRESS  
CITY, STATE ZIP

Dear LANDOWNER:

Congratulations on the selection of your 20\_\_ Clean Ohio Local Agricultural Easement Purchase Program (“LAEPP”) application in this year’s funding round. Your application is now eligible to proceed to Phase 3, in accordance with Ohio Administrative Code (“OAC”) § 901-2-06.

***DRAFTING NOTE: For single-contributor (ODA-only) purchases, use OPTION A for the next paragraph. For multi-contributor purchases, use OPTION B or OPTION C as the next paragraph:***

***OPTION A (ODA-only):***

The purchase price of your agricultural easement is expected to be *[TOTAL AG EASEMENT PURCHASE PRICE IN DOLLAR FORMAT ex. \$78,345.00] [(PURCHASE PRICE WRITTEN OUT ex. Seventy-eight thousand three hundred and forty-five 00/100 dollars)]*. This price is based on the acreage stated in your 20\_\_ LAEPP application, which the *[LOCAL SPONSOR]* shows as *[NUMBER OF ACRES]* acres. This price may be adjusted if the subsequent title search and survey (if necessary) show less acreage than what was submitted on your application.

***OPTION B (multi-contributor, NRCS as additional contributor):***

The purchase price of your agricultural easement is expected to be *[TOTAL AG EASEMENT PURCHASE PRICE IN DOLLAR FORMAT ex. \$78,345.00] [(PURCHASE PRICE WRITTEN OUT ex. Seventy-eight thousand three hundred and forty-five 00/100 dollars)]*. Of these funds \$*[Insert ODA contribution in dollar format, ex. \$26,115.00]* will be awarded from ODA through the LAEPP and the remaining \$*[Insert other contribution in dollar format, ex. \$52,230.00]* will be awarded by the Natural Resources Conservation Service (NRCS)’s Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE) program. This price is based on the acreage stated in your 20\_\_ LAEPP application, which the *[LOCAL SPONSOR]* shows as *[NUMBER OF ACRES]* acres. This price may be adjusted if the subsequent title search and survey (if necessary) show less acreage than what was submitted on your application. Additionally, this price may be adjusted based on the Fair Market Value of the Agricultural Easement (FMEV) as determined by the subsequent appraisal required by ACEP.

***OPTION C (multi-contributor, non-NRCS):***

The purchase price of your agricultural easement is expected to be *[TOTAL AG EASEMENT PURCHASE PRICE IN DOLLAR FORMAT ex. \$78,345.00] [(PURCHASE PRICE WRITTEN OUT ex. Seventy-eight thousand three hundred and forty-five 00/100 dollars)]*. Of these funds \$*[Insert ODA contribution in dollar format, ex. \$26,115.00]* will be awarded from ODA through the LAEPP and the remaining \$*[Insert other contribution (other grant, local sponsor contribution, etc.) in dollar format, ex. \$52,230.00]* will be awarded by the *[ADDITIONAL CONTRIBUTOR]*. This price is based on the acreage stated in your 20\_\_

**EXHIBIT E**  
**SAMPLE NOTICE OF SELECTION**  
*(On Local Sponsor Letterhead)*  
(continued)

LAEPP application, which the *[LOCAL SPONSOR]* shows as *[NUMBER OF ACRES]* acres. This price may be adjusted if the subsequent title search and survey (if necessary) show less acreage than what was submitted on your application.

**Upon exercise of this NOTICE:**

1. *[LANDOWNER]* (“Landowner”) acknowledges that the *[LOCAL SPONSOR]* shall obtain, on the Ohio Department of Agriculture (“ODA”)’s behalf, a title guaranty, attorney’s certificate or title insurance as evidence of the title to be conveyed.
  - a. Costs incurred by *[LOCAL SPONSOR]* for the above items will be reimbursed to *[LOCAL SPONSOR]* through the title insurance company, as escrow agent, at closing by deducting these costs from the Agricultural Easement purchase price.
  - b. *[LOCAL SPONSOR]* will review the previously mentioned documentation for compliance with LAEPP requirements, and if *[LOCAL SPONSOR]* and ODA determines that the documentation is in compliance, Landowner will receive written notice that it has been selected to proceed to Phase 4, which consists of ODA and Landowner signing a Purchase Agreement.
  - c. If, after costs are incurred by *[LOCAL SPONSOR]* for the above items, Landowner becomes ineligible for any reason or withdraws from receiving funding, Landowner shall be held completely responsible and shall reimburse *[LOCAL SPONSOR]* for all such costs.
  - d. ODA may require that the property be surveyed by a duly licensed surveyor at Landowner’s expense, if ODA determines that the boundaries of the easement property are not sufficiently described to enforce the easement or if a survey is required to record the easement.
2. Title to the application property shall not be subordinate to any other legal or equitable interest, the exercise of which would result in a conversion of the land from predominately agricultural use. Landowner shall provide subordination agreement(s) from any party that has a legal or equitable interest in the land identified in the application, or in the title search, that *[LOCAL SPONSOR]* and/or ODA determines is not conducive to keeping the land in agriculture.

**NOTE: Any liens, encumbrances, mortgages and easements allowed to remain must be subordinated in accordance with the policies of ODA before payment of the purchase price is permitted.**

3. Landowner acknowledges that subdividing of an agricultural easement is prohibited. All parcels that make up the application property will be bound together by one permanent agricultural easement. In the future, if the land under easement is sold or transferred, all parcels must be conveyed as one unit and cannot be sold or transferred separately.

**EXHIBIT E**  
**SAMPLE NOTICE OF SELECTION**  
*(On Local Sponsor Letterhead)*  
(continued)

4. Landowner acknowledges that no additional house(s) may be added to the property if homes already exist. If no housing currently exists, landowner acknowledges that they will be permitted to reserve a home site for one future single-family residence.
  
5. Landowner acknowledges and consents that *[LOCAL SPONSOR]* may submit Landowner's application to the United States Department of Agriculture's ("USDA") Natural Resource Conservation Service ("NRCS") for partial reimbursement under the Agricultural Conservation Easement Program – Agricultural Land Easement ("ACEP-ALE") program for the purchase of the Agricultural Easement.
  
6. Landowner acknowledges that if *[LOCAL SPONSOR]* submits Landowner's application to USDA/NRCS, compliance with the ACEP requirements will be required by the Landowner and *[LOCAL SPONSOR]*.
  
7. Landowner acknowledges that any award is public record and such information may be released to the media in accordance with the requirements of Ohio law.
  
8. Landowner acknowledges that any funding is contingent upon the availability of funds from the Clean Ohio Agricultural Easement Fund.
  
9. Landowner further acknowledges that this Notice does not guarantee the receipt of funding, but is an agreement by Landowner to abide by the terms of this Notice and proceed to Phase 3 of the Local Agricultural Easement Purchase Program.

Sincerely,

*[LOCAL SPONSOR]*

*[LOCAL SPONSOR TITLE]*

CC: Ohio Department of Agriculture, Office of Farmland Preservation (*via email*)

**EXHIBIT E**  
**SAMPLE NOTICE OF SELECTION**  
*(On Local Sponsor Letterhead)*  
(continued)

*[LANDOWNER NAME]* - LAEPP 20\_\_ Notice of Selection

**ALL Landowners/Partners/Trustees** must return this **SIGNED NOTICE** to *[LOCAL SPONSOR]* within 10 business days after the date of this Notice, if they desire to proceed to Phase 3. If no response is received within 10 business days, the application will not proceed to Phase 3.

If all landowners agree to proceed to Phase 3 of the application process, please sign and date below.

**ACKNOWLEDGEMENT AND ACCEPTANCE**

**MY SIGNATURE INDICATES THAT I HAVE READ, UNDERSTAND, AND AGREE TO ABIDE BY THE PROVISIONS/TERMS AND CONDITIONS ABOVE.**

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

Printed Name: \_\_\_\_\_

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

\*If more than four signatures are required, please attach a sheet with remaining signatures.

**(Notice of Selection Template Date: 12/10/2014)**

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*

**STATE OF OHIO**  
**DEPARTMENT OF AGRICULTURE**  
**PURCHASE AGREEMENT FOR EASEMENT**  
**(LAEPP 2015)**

This Purchase Agreement (“Agreement”) is entered into by **[SELLER’S NAME]** (hereinafter “**Seller**”), **[SELLER’S ADDRESS]**, and the State of Ohio, acting by and through the **Department of Agriculture** (“**ODA**”), and the **[LOCAL SPONSOR’S NAME]** (“**Local Sponsor**”).

1. **PURCHASE.** Upon the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell and ODA and Local Sponsor agree to purchase (“Purchase”), under the terms and conditions hereinafter set forth, an Agricultural Easement (“Easement”) in the approximately \_\_\_\_\_ acre(s) of land which is located in \_\_\_\_\_ County, **[STREET ADDRESS]** in **[CITY, STATE]** and which is further described in the legal description attached hereto as Exhibit A (“Property”). It is the purpose of this Easement to assure that the Property will be retained in agricultural use, as that term is defined by Ohio Revised Code (“ORC”) § 5713.30, by preserving and protecting its agricultural soils identified in Exhibit A and agricultural viability through a perpetual restriction on the use of the Property. For the purposes of this Agreement, Property will be deemed to refer to not only the described land but also all rights and interests in said land, including without limitation all water and mineral rights, development rights, rights-of-way, utility agreements and improvements located on or related in any way to such land.
2. **PURCHASE PRICE:** The purchase price of the Easement is expected to be **[\$\_\_\_\_\_]** (**WRITTEN OUT DOLLAR AMOUNT and 00/100 Dollars**), or **[\$\_\_\_\_\_]** per acre. Of the total purchase price, ODA shall contribute **[\$\_\_\_\_\_]** (**WRITTEN OUT DOLLAR AMOUNT and 00/100 Dollars**). The expected purchase price is based on a calculation of the expected contribution from the Agricultural Conservation Easement Program Agricultural Land Easement (ACEP-ALE) program administered by the Natural Resources Conservation Service (NRCS). Landowner must complete all requirements of the ALE program in addition the requirements provided by ODA in order to qualify for the purchase price specified above. After ODA receives an executed copy of this Agreement, ODA will verify the information which was submitted by the Seller. The final purchase price will be based upon ODA’s policies as applied to the verifiable facts in Seller’s application.

It is expressly understood by Seller that this Purchase is contingent upon the availability and receipt of all necessary funds from the appropriate State and Federal Agencies and all necessary approvals by the General Assembly and by the Controlling Board of the State of Ohio, when required, and is further contingent on the acquisition of any necessary funds from other non-state financing sources for purchase monies. Further the Purchase is contingent on Seller’s performance of all of its obligations under this Agreement.

3. **DUE DILIGENCE PERIOD:** ODA shall have such time to perform due diligence on the Property to review title work and any other aspects of the property to determine the property’s suitability for Purchase. ODA shall be granted until June 30, 2015, with the option of renewal for two, one (1) year terms in the sole discretion of ODA, commencing upon the execution of this Agreement by both parties. Seller agrees not to sell or transfer, or negotiate to sell or transfer the Property; or otherwise offer the Property for sale for grant any type of license, option, easement or other rights in and to the Easement during the option period. No modifications to this Agreement are permitted unless otherwise agreed to in writing by both parties.

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

4. **EXERCISE OF PURCHASE:** For the purpose of inducing ODA to enter into this Agreement, Seller agrees, represents, and warrants:
- (A) That Seller is legally bound and has full right, power and authority to convey the Easement in said Property to the State of Ohio, Department of Agriculture and Local Sponsor in accordance with the terms of this entire agreement as set out herein, and has marketable fee simple title to the Property.
  - (B) Seller has not received any notice of, nor has knowledge concerning, any adverse parties in possession of the Property, proceedings (including but not limited to eminent domain and foreclosure) against the Property or Seller, or public improvements or utilities contemplated to be placed on the Property, or any petitions now or in the future to subdivide or split off the Property.
  - (C) That the Property is free of all liens and encumbrances except as shown on the title commitment or disclosed to ODA, and Seller has not and will not take any action which would result in any liens or encumbrances against the Property prior to the Closing, including but not limited to any type of mortgage, easement, permits, rights-of-way, or any other license against any right in the Property. This includes but is not limited to any rights granted to utilities and septic systems or for the building of roads or other improved surfaces.
  - (D) That all laws, ordinances, rules, regulations and court orders (including, but not limited to, those relating to zoning, building, fire, health, safety, taxes, and environmental conditions and protection) of any applicable governmental agency or other party bearing on the Seller's ownership, operation or use of the Property or any part thereof, have been or will, prior to Closing, complied with by Seller.
  - (E) That the Property is not currently used and will not be used for industrial or commercial activity beyond the production of agricultural products from the Property, and no further buildings other than for agricultural production are currently planned or will be built without further permission from ODA.
  - (F) That Seller has consulted with legal counsel or has otherwise settled any estate planning matters regarding the disposition of the Property upon his death, and no further transfer or conveyance of the Property in furtherance of such planning is anticipated at this time. Seller acknowledges upon execution of this Agreement the Property, cannot be split off or otherwise broken apart, and must be conveyed as a single piece in any transfer or conveyance.
  - (G) That there are no hazardous materials (including but not limited to any chemical, pollutant, contaminant, waste, toxic substance or petroleum product regulated by law or regulation) located on the Property and neither Seller, nor any previous owner of the Property, has ever violated or received any notice of the claimed violation of any federal, state, or local law or regulation relating to the health, safety or environment, including without limitation, the Clean Air Act, the Clean Water Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act. Seller agrees that it will hold ODA and Local Sponsor harmless from any and all liability or expense arising from violation of environmental laws and regulations.

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

- (H) Prior to the Closing, and with prior notice to Seller, ODA or its agents may enter the Easement at reasonable times for the purpose of preparing the Present Condition Report, conducting investigations, surveys, tests, and inspections as ODA may desire.
- (I) The acts of obtaining a prepared Easement and obtaining the evidence of title will be done by ODA or its agent. The cost of the Easement preparation and obtaining the evidence of title shall be borne by the Seller. The Seller will be responsible for all closing costs. Seller will cooperate with ODA and Local Sponsor in their efforts to obtain the Easement and timely respond to any requests for information.
- (J) Seller certifies that it has not given nor promised to give anything of value to any public official or employee of ODA or any other board, commission, or agency of the State of Ohio. Seller also certifies that it is in compliance with and will remain in compliance with all of the provisions of Ohio Ethics Law as provided by ORC §102.03 and §102.04.

If ODA exercises the Purchase, then each of the representations and warranties set forth in this Paragraph will be deemed to have remade by Seller as of the Closing Date. ODA's remedies for Seller's breach before Closing shall be provided elsewhere in this Agreement.

5. **TERM AND CONDITION OF SALE:** Upon execution of this Agreement, the sale of the Easement will be completed as follows:

- (A) **Conveyance:** Seller shall convey the Easement on the Property to the Director of the Ohio Department of Agriculture by a deed of easement with release of dower, if any. The Property which the Easement will be on must also be free and clear of any and all liens, encumbrances, mortgages and other easements that affect this Easement, other than those permitted by ODA. Once the above requirements are met and the Easement interest is recorded, Seller shall receive payment of the purchase price. Seller shall indemnify, defend and save harmless ODA, Local Sponsor, and their respective agents and employees, from any claims, demands, injuries, suits, actions, proceedings, losses, costs and damages and attorney fees arising out of the actions and omissions of Seller, its employees and/or agents or contractors, in the completion of the activities under this Agreement or relating to this Agreement. This Article shall survive any termination of this Agreement.

**NOTE: Any liens, encumbrances, mortgages and easements allowed to remain must be subordinated in accordance with the policies of the Department of Agriculture before payment of the purchase price is permitted.**

- (B) **Taxes:** The Seller shall remain obligated for the payment of real estate taxes and assessments on the described Property as determined by the Auditor of the County. However, the Seller may apply to the County Auditor for any reduction in real estate taxes that may result from the execution of the Easement. Taxes shall not be apportioned between the Seller and ODA. The risk of loss to the Property shall remain with Seller before and after the sale of the Easement.

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

(C) **Title, Appraisal and Survey:** ODA will obtain, at the Seller's expense, a title guaranty, title insurance as evidence of the title to be conveyed hereunder, and if necessary, an appraisal. ODA may require the Seller to have the Property surveyed by a duly licensed surveyor at the Seller's expense, if ODA determines that the boundaries of the Property are not sufficiently described to enforce the Easement or if a survey is required to record the Easement. Release of payment is subject to approval by ODA's Legal Section of the title information contained hereunder, including restrictions, reservations, conditions, agreements and easements of record, if any, and zoning ordinances, if any. If the title commitment or survey discloses any exception to title which ODA in the exercise of its reasonable judgment finds unacceptable, the Seller shall have a reasonable time period, not to exceed one hundred and eighty days (180) to cure the exception to title. If Seller fails to cure the exception, then Seller shall be considered in breach of this Agreement, and this Agreement shall terminate. ODA's remedies for breach are described in Paragraph 6 of this Agreement.

The Seller's application may be submitted to the United States Department of Agriculture's ("USDA") Natural Resource Conservation Service ("NRCS") for partial reimbursement under the Agricultural Conservation Easement Program - Agricultural Land Easement ("ACEP-ALE") program for the purchase of the Agricultural Easement. If Seller's application is submitted to USDA/NRCS, compliance with ACEP-ALE requirements will be required.

(D) **Signs:** ODA may, at the State's expense, provide one or more signs to the landowner to erect on the property designating the farmland as being preserved with an agricultural easement.

6. **CONTINGENCY AND BREACH:** Seller may, upon thirty (30) days written notice, terminate this Agreement at any time prior to execution of the deed of Easement. In the event that Seller breaches or otherwise terminates this Agreement, ODA shall be entitled to return and/or payment by Seller of all its costs expended under this Agreement, including but not limited to any title search or other title costs, surveys or any other cost or expense incurred as related to this Agreement. ODA's obligation to purchase the Property is contingent upon the Seller's performance of all its obligations under this Agreement, that the Property is suitable for ODA's intended use, and all of Seller's representations and warranties being true and correct as of the date of the Closing.

Breach for the purposes of this Agreement shall specifically include but is not limited to any violation of any representations or warranties herein or any other material provision of this Agreement. No term or provision of this Agreement shall be deemed waived and no breach excused unless the waiver of consent is in writing and signed by both parties to this Agreement.

7. **CLOSING:** The closing will occur, if at all, at such specific date, time and place as are mutually agreed to by ODA and Seller. At the option of ODA, the closing of the transaction contemplated hereunder may be affected by the delivery by Seller and ODA of all closing documents and other required deliveries into escrow with an appointed Escrow Agent, and the Escrow Agent's holding, recordation and disbursement of all such closing documents and deliveries in accordance with escrow instructions.

8. **CLOSING OBLIGATIONS:** Seller's sale of the Easement to ODA will be effected by Seller and ODA taking the following described obligatory actions at Closing:

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

- (A) **Purchase Price Payment:** ODA will pay the Purchase Price to Seller. The amount of such payment will be adjusted in the manner contemplated in Paragraph 2 of this Agreement.
- (B) **Transfer of Easement:** Seller will execute and deliver to ODA a general deed of easement free and clear of liens and encumbrances other than as agreed by ODA.
- (C) **Entity Resolutions:** If Seller is an entity (such as a corporation, limited liability company, or partnership), then Seller will execute an entity resolution affirming the authority of such party to enter into the transaction contemplated in this Agreement and further authorizing an individual officer or representative of such party to execute this Agreement and all closing documents in the name and on behalf of such party.
- (D) **Closing Statement:** Seller and ODA will execute and deliver to the other a closing statement which sets forth the economics of ODA's purchase of the Easement from Seller, including the amount of the purchase price and all those closing credits, charges and other adjustments specified herein. Seller will execute and deliver to each other such other documents as are reasonably requested by ODA to further evidence or effect the sale of the Easement to ODA in the manner contemplated in this Agreement.
- (E) **Closing Costs:** Seller will pay all of the following closing costs:
  - a. All premiums and other charges required to permit the title company to issue the title insurance policy;
  - b. All costs required to permit the surveyor to issue and certify the survey;
  - c. All recording fees associated with the recording of the general easement deed; and
  - d. All costs associated with due diligence as conducted by Local Sponsor and/or ODA.

9. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement of the parties and no prior oral or implied agreements or representations shall be binding on the parties hereto, and all rights and obligations shall accrue to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto. Seller may not assign this Agreement at any time. This Agreement may be executed in counterparts, each of which will be deemed an original, and all such counterparts will collectively constitute a single agreement. This Agreement shall be construed in accordance with the laws of Ohio, and the parties irrevocably agree to venue in Franklin County, Ohio, or the Ohio Court of Claims, as applicable, and waive any claims as to convenience of forum. Any notices required or permitted to be given under this Agreement must be in writing and delivered to Seller or ODA at the address set forth above, and must be sent by certified mail, personally delivered, or by email or facsimile transmission with proof of delivery. A facsimile signature or other similar electronic reproduction of a signature shall have the force and effect of an original signature, and in the absence of an original signature, shall constitute the original signature. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable. The headings of this Agreement, including the name of this Agreement, are for informational purposes only and should not be construed against either party or otherwise used to determine the meaning of any section of this Agreement.

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

**ACKNOWLEDGEMENTS:**

IN WITNESS WHEREOF, the Seller, who hereby further agrees to release all right and expectancy of dower in said premises, have hereunto set his/her/their hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SELLER:**

\_\_\_\_\_  
[NAME OF SELLER]

\_\_\_\_\_  
[NAME OF SELLER]

**STATE OF OHIO,**

County of \_\_\_\_\_, Ohio, ss

I certify that on this date before me, a notary public duly authorized in the state and county named above to take acknowledgements, personally appeared \_\_\_\_\_, who is/are known to me and who executed the foregoing instrument, and who acknowledged before me that he/she/they executed the same as his/her/their own free act and deed, for the use and purpose stated therein. IN TESTIMONY WHEREOF, I have hereunto subscribed my name at \_\_\_\_\_, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT F**  
**SAMPLE PURCHASE AGREEMENT**  
*(Prepared by ODA)*  
(continued)

**OHIO DEPARTMENT OF  
AGRICULTURE (ODA):**

\_\_\_\_\_  
David T. Daniels, Director

**STATE OF OHIO,**

County of \_\_\_\_\_, Ohio, ss

I certify that on this date before me, a notary public duly authorized in the state and county named above to take acknowledgements, personally appeared David T. Daniels, who is known to me to be the Director of the Ohio Department of Agriculture and who executed the foregoing instrument on behalf of the Ohio Department of Agriculture.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at \_\_\_\_\_, Ohio, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

**(Purchase Agreement Template Date: 12/10/2014)**

**EXHIBIT G**  
**LAEPP POLICIES AND GUIDELINES**

**Clean Ohio Local Agricultural Easement Purchase Program**

**2015 Policies and Guidelines for Landowner Application  
Through Certified and Funded Local Sponsor**

Ohio Department of Agriculture (ODA)  
Office of Farmland Preservation

The Ohio Department of Agriculture’s Office of Farmland Preservation anticipates distributing \$7 million in this round of the Clean Ohio Local Agricultural Easement Purchase Program (LAEPP). The funds will be used to purchase agricultural easements from Ohio farmland owners.

In addition to reading through the following 2015 Policies which are listed below, please review the following documents and share them with the farmland owner:

- Sample Deed of Agricultural Easement
- Ohio Revised Code (ORC) § 901.22 and Ohio Administrative Code (OAC) § 901-2
- Clean Ohio LAEPP Application Handbook

**Complete Application** – Any application may be deemed incomplete and ineligible for funding if all required information and attachments are not submitted with the application as required by the Local Sponsor. Data must be accurate as of the day of electronic application submission. If changes occur, contact the Local Sponsor.

Note to Local Sponsors: Top-ranking applications submitted for approval for funding must include all required attachments and signatures as of the closing date of the Local Sponsor’s landowner application period.

**Farm** – An application must consist of parcel(s) held by the same legal interest. Each applicant farm must be a minimum of 40 acres unless the land is located adjacent to property with an agricultural easement or is adjacent to **permanently protected** land compatible with agriculture, including natural resource, open space, or forested land protected by conservation easements, as well as wetlands, public parks, open spaces, forests, airports, military bases, wildlife areas, natural preserves, prison farms, historic or archaeological sites, conservancy parks, reservoirs, well fields, battlefields, flood pools and other normally undevelopable waterbodies, publicly-owned agricultural research lands, and well heads. In this case, the land may be a minimum of 25 acres. All contiguous parcels owned by the same legal interest must be submitted; no contiguous parcels under the same ownership can be withheld from the application. See OAC § 901-2-01 (GG) for “contiguous parcels” definition.

**Eligibility and Scoring Criteria** – An application property’s enrollment in all eligibility criteria (e.g., “Agricultural District” § 929 of ORC, “Current Agricultural Use Valuation (CAUV)” § 5713.30 of ORC) must be in place by the application deadline as set by the Local Sponsor. Furthermore, an application property’s enrollment, designation, or other submitted data within the application (e.g., “Agricultural Security Area (ASA)” § 931 of ORC, ODA Century Farm, Historical Designation) must also be in place and documented accurately as of the closing date of the Local Sponsor’s landowner application period.

**EXHIBIT G**  
**LAEPP POLICIES AND GUIDELINES**

(continued)

**No Subdividing Policy** – All parcels that make up an application will be bound together by one permanent agricultural easement. In the future, if the land under easement is sold or transferred, all parcels must be conveyed as one unit and cannot be sold or transferred separately. The purpose of this policy is to preserve entire farms.

**Farmstead/Homestead Policy** – ODA's farmstead policy permits one homestead to be reserved if no housing currently exists on the applicant property. The reservation allows for one-single family home to be built in the future. If housing exists on the property at the time of application, then no additional residences may be built. Any future or existing house on the preserved farm may not be subdivided from the farm. The purpose of this policy is to promote farm families living on the land they work.

**Large or Small Farm Exception Policy** – A large or small farm exception allows the landowner to request one of the following exceptions based on the farm value or the farm size. The Director of ODA, at his discretion, shall determine whether to grant this exception. The Director's approval must be obtained prior to the submission of an application during the Local Sponsor's landowner application period and a copy of such approval shall be submitted with the other required attachments to the application.

To request a Large or Small Farm Exception, write to the Director of ODA and the Executive Director of Farmland Preservation. The letter may be submitted through mail or email ([farmlandpres@agri.ohio.gov](mailto:farmlandpres@agri.ohio.gov)). The Local Sponsor conducting the local application process should be copied on the letter. The letter should indicate which exception is requested (Large (size or value) or Small), and include aerial or topographic maps distinguishing the property and associated parcel numbers.

Large Farm Exception: If an exception is granted, the landowner has the option to submit one or both halves of the farm as individual applications.

- Large Farm **Size** Exception: Farms comprised of no less than 400 acres may request the one-time option to apply the farm in two applications of approximately equal size.
- Large Farm **Value** Exception: If the applicant farm's points-based appraisal is greater than \$1 million, the landowner may request the one-time option to apply the farm in two applications of approximately equal size.

Small Farm Exception: If an exception is granted by the Director, the landowner has the ability to submit a farm of 10-24 acres so long as it shares a substantial border with permanently protected land compatible with agriculture, including natural resource, open space, or forested land protected by conservation easements, as well as wetlands, public parks, open spaces, forests, airports, military bases, wildlife areas, natural preserves, prison farms, historic or archaeological sites, conservancy parks, reservoirs, well fields, battlefields, flood pools and other normally undevelopable waterbodies, publicly-owned agricultural research lands, and well heads.

**Title Costs** – If selected for funding, the Local Sponsor (on behalf of ODA) may initiate a title examination and purchase title insurance. The costs incurred for these services – along with escrow, closing, and recording services – will be deducted from the agricultural easement purchase payment at closing.

**EXHIBIT G**  
**LAEPP POLICIES AND GUIDELINES**

(continued)

**Funding Caps** – The maximum dollar amount per acre is set at \$2,000 and the total dollar amount per farm is set at \$500,000. No individual may sell more than one easement in this round of funding. The Director also reserves the right to adopt additional guidelines according to OAC §901-2-05 (D).

**Multi-County Farm** – If a landowner requests to apply a farm that is located within more than one county, the landowner must apply under the county with the majority of the farm's acreage. This majority-acreage county must be a part of the Local Sponsor's landowner application area. The applicant must answer landowner application questions based on the majority-acreage county. A multi-county farm will have a deed and Present Condition Report recorded in each county in which the applicant property is located. Note: Under the LAEPP, only one Local Sponsor may co-hold an easement with ODA.

The following additional steps for a multi-county farm need to be addressed before the farm is selected for funding:

- Local Sponsors that are political subdivisions: Obtain your own organization's resolution (per Attachment A) as well as resolutions supporting the agricultural easement from all other townships and counties in which the farm sits. (Example: Smith County SWCD is the Local Sponsor, submitting an application for a farm that sits in both Smith County (Roberts Township) and Jones County (Wilson Township). They must attach 1) Smith SWCD resolution, 2) Jones County resolution, and 3) Wilson Township resolution).
- Local Sponsors that are charitable organizations: Obtain resolutions supporting the agricultural easement from all counties and townships in which the farm sits (per Attachment H), along with your own organizational resolution (per Attachment A). (Example: Able Land Trust is the Local Sponsor, submitting an application for a farm that sits in both Smith County (Roberts Township) and Jones County (Wilson Township). They must attach 1) Able Land Trust resolution, 2) Smith County resolution, 3) Roberts Township resolution, 4) Jones County resolution, and 5) Wilson Township resolution)

Note: Only one Local Sponsor may co-hold an easement with ODA and be named on the Deed. Therefore, Resolutions from minority-acreage entities must include a reference that the funded Local Sponsor will be holding the easement with ODA.

The Adjusted Land Value may have different values for the multiple portions of the farm. If this is the case, Step 19 will need to be calculated by hand in order to recognize the different values of the land. A calculation worksheet and example is available online or contact ODA for assistance.

**(Policies and Guidelines Template Date: 12/10/2014)**

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

**ESCROW AGREEMENT**  
(LAEPP 2015)

This Escrow Agreement (hereinafter “Agreement”), effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, (“Effective Date”) is between **INSERT TITLE AGENT/AGENCY NAME, [Insert Title Agent/Agency Address]** (hereinafter “Escrow Agent”), **INSERT LANDOWNER'S NAME, [Insert Signee's Address]** (hereinafter “Landowner”) and the **INSERT LOCAL SPONSOR'S NAME, [Insert Local Sponsor/Local Sponsor's Address]** (hereinafter “Local Sponsor”). The **OHIO DEPARTMENT OF AGRICULTURE**, as located at 8995 East Main Street, Reynoldsburg, OH 43085 (hereinafter “ODA”) shall be considered a third party beneficiary of this Agreement.

**RECITALS**

WHEREAS, Local Sponsor and ODA intend to purchase a perpetual Easement from the Landowner for the property more fully described in the Purchase Agreement, attached hereto and incorporated herein as Exhibit A;

WHEREAS, ODA requires an escrow agent to perform escrow and closing services for deposits (hereinafter “Deposit”) received through the Local Sponsor from ODA; and

WHEREAS, Escrow Agent desires to perform such services and act as escrow agent pursuant to the terms and conditions contained in this Agreement, and Landowner and Local Sponsor desire to have Escrow Agent act in such capacity;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

**AGREEMENT**

**I. NATURE OF CONTRACT**

- 1.1 Escrow Agent shall be employed as an independent contractor to fulfill the terms of this Agreement. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that the Local Sponsor is the sole judge of the adequacy of such services.
- 1.2 The Local Sponsor and Landowner into this Agreement in reliance upon Escrow Agent's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Escrow Agent warrants that it does possess the necessary expertise and experience.
- 1.3 Escrow Agent shall perform the services to be rendered under this Agreement and the Local Sponsor shall not hire, supervise, or pay any assistants to Escrow Agent in its performance under this Agreement. The Local Sponsor shall not be required to provide any training to Escrow Agent to enable it to perform services required hereunder.

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**  
(continued)

**II. SCOPE OF WORK**

- 2.1 Escrow Agent has established an escrow account for the purpose of holding the Deposit to be made by Local Sponsor pursuant to the Purchase Agreement referenced herein at \_\_\_\_\_ Bank, a bank authorized to do business in the State of Ohio (“Escrow Account”).
- 2.2 All Deposits received from the Local Sponsor prior to closing shall be placed in the Escrow Account within five (5) business days of receipt of the Deposit by the Escrow Agent.
- 2.3 Within ten (10) business days of placing the Deposit in the Escrow Account, Escrow Agent shall provide written notice to the Local Sponsor and ODA confirming the Deposit. Failure to provide confirmation of the deposit may subject the instrument conveying the Deposit to cancellation by ODA.
- 2.4 Under no circumstances shall Local Sponsor or Landowner seek or accept release of the Deposit made by the Local Sponsor on behalf of ODA until after consummation of the Purchase Agreement, completion of any accompanying Closing Instructions as issued by ODA, completion of a final title review prior to the closing, delivery of an executed Deed of Agricultural Easement as signed by the Landowner, and consent has been provided by the Local Sponsor and ODA for release. After recordation of the Easement and in good faith that all instructions and conditions specified in the final ODA Closing Instructions and this agreement have been satisfied, Escrow Agent shall pay all costs as itemized in ODA’s signed Settlement Statement out of the funds held in the escrow account. Once all other costs are paid, the remainder of the funds held in the escrow account shall then be disbursed to the landowner entitled to payment.
- 2.5 If Escrow Agent is not directed to release the Deposit pursuant to the paragraph above, and Escrow Agent receives a request by either Local Sponsor or Landowner to release the Deposit, then Escrow Agent must give both Local Sponsor and ODA prior written notice of not fewer than thirty (30) days before releasing the Deposit. If Escrow Agent has not received notice of objection to release of the Deposit prior to the expiration of the thirty (30) day period, the Deposit shall be released and the Escrow Agent shall provide further written notice to the Local Sponsor and ODA of the release. If an objection is received within the thirty (30) day period, Escrow Agent shall continue to hold the Deposit until otherwise directed by the Local Sponsor and ODA pursuant to paragraph 2.4 above.
- 2.6 *The closing shall occur within ninety (90) days after receipt of the Deposit by the Escrow Agent.*
- 2.7 Local Sponsor may, from time to time as it deems appropriate, communicate specific instructions and requests to the Escrow Agent concerning the performance of the work described in this contract. Upon such notice, the Escrow Agent shall comply with such instructions and fulfill such requests to the satisfaction of Local Sponsor. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this contract. The Escrow Agent shall retain responsibility for the management of the work, including the exclusive right to control or direct the manner or

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

means by which the work described herein is performed. Local Sponsor retains the right to ensure that the work of the Escrow Agent is in conformity with the terms and conditions of the Agreement.

**III. TIME OF PERFORMANCE**

- 3.1 The services described in the Scope of Work above (“Services”) shall be commenced on <<Begin Date>> and concluded on <<End Date>>.
- a. This Agreement shall remain in effect until the work described is completed to the satisfaction of the Local Sponsor and until Escrow Agent is paid in accordance with Article IV, Compensation, or until terminated as provided in Article VI, Termination of Escrow Agent’s Services, whichever is sooner.
  - b. As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall expire no later than June 30, 20\_\_.
  - c. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio Revised Code (“ORC”) § 3517.13, ORC § 127.16, or ORC § 102.

**IV. COMPENSATION**

- 4.1 The Local Sponsor shall pay Escrow Agent for services rendered no more than \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_). Escrow Agent shall be paid at the closing out of the proceeds paid by the Local Sponsor to the grantee of the agricultural easement. In the event that the closing does not take place after the Escrow Agent has completed the services, the Local Sponsor shall pay the Escrow Agent directly.
- 4.2 Escrow Agent shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of this Agreement.
- 4.3 Escrow Agent shall submit an invoice for the services performed at least thirty (30) days prior to closing consistent with this Article IV, Compensation. The invoice shall contain a description of the services performed and the sum due at that time pursuant to this Agreement.

**V. CERTIFICATION OF FUNDS**

- 5.1 It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the ORC, including but not limited to § 126.07, have been complied with, and until such time as all necessary funds are available, encumbered and forthcoming from the appropriate state agencies or responsible third party entities,

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio.

**VI. TERMINATION OF ESCROW AGENT'S SERVICES**

- 6.1 The Local Sponsor may, at any time prior to the completion of services by the Escrow Agent under this Agreement, terminate this Agreement with or without cause by giving written notice to the Escrow Agent.
- 6.2 Upon notice of termination, Escrow Agent shall cease all work on the terminated activities under this Agreement, terminate all subcontracts relating to the terminated activities, take all necessary steps to limit disbursements and minimize costs, and if requested by the Local Sponsor, furnish a report, as of the date of receipt of notice of termination, describing the status of all work under this Agreement, including, without limitation, results, conclusions resulting therefrom, and any other matters the Local Sponsor requires.
- 6.3 Escrow Agent shall be paid for services rendered up to the date the Escrow Agent received notice of termination, less any payments previously made, provided Escrow Agent has supported such payments with detailed factual data containing services performed and hours worked. In the event of termination, any payments made by the Local Sponsor for which Escrow Agent has not rendered services shall be refunded.
- 6.4 In the event this Agreement is terminated prior to its completion, Escrow Agent, upon payment as specified, shall deliver to Local Sponsor all work products and documents which have been prepared by Escrow Agent in the course of providing services under this Agreement. All such materials shall become and remain the property of the Local Sponsor, to be used in such manner and for such purpose as the Local Sponsor may choose.
- 6.5 Escrow Agent agrees to waive any right to, and shall make no claim for, additional compensation against the Local Sponsor by reason of such termination.

**VII. RELATIONSHIP OF PARTIES**

- 7.1 The Local Sponsor and Escrow Agent agree that Escrow Agent shall be engaged by the Local Sponsor solely on an independent Escrow Agent basis, and Escrow Agent shall therefore be responsible for all of its own business expenses, including, but not limited to, computers, phone service and office space. Escrow Agent will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.
- 7.2 While Escrow Agent shall be required to render services described hereunder for the Local Sponsor during the term of this Agreement, nothing herein shall be construed to imply, by reason of Escrow Agent's engagement hereunder as an independent Escrow

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

Agent, that the Local Sponsor shall have or may exercise any right of control over Consultant with regard to the manner or method of Escrow Agent's performance of services hereunder.

- 7.3 Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.
- 7.4 It is fully understood and agreed that the Escrow Agent is an independent contractor and is not an agent, servant or employee of the Local Sponsor or the State of Ohio.

**VIII. RELATED AGREEMENTS**

- 8.1 The work contemplated in this Agreement is to be performed by Escrow Agent, who may subcontract without the Local Sponsor's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in the Scope of Work but which are required for its satisfactory completion. Escrow Agent shall not enter into other subcontracts related to the work described in this Agreement without prior written approval by the Local Sponsor. All work subcontracted shall be at Escrow Agent's expense.
- 8.2 Escrow Agent shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind the Local Sponsor to terms inconsistent with, or at variance from, this Agreement.
- 8.3 Escrow Agent warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of the Local Sponsor, to perform substantially identical work such that the product contemplated hereunder duplicates the work called for by the other agreements.
- 8.4 Escrow Agent shall furnish to the Local Sponsor a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

**IX. CONFLICTS OF INTEREST AND ETHICS COMPLIANCE**

- 9.1 No personnel of Escrow Agent or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is in compatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.
- 9.2 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 Local Sponsor in writing. Thereafter, he or she shall not participate in any

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

action affecting the work under this Agreement, unless the Local Sponsor shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

**X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE**

10.1 The Local Sponsor shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Escrow Agent pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Escrow Agent by the Local Sponsor shall be subject to copyright by Escrow Agent in the United States or any other country.

10.2 Escrow Agent agrees that all deliverables or original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by the Local Sponsor. Any requests received by Escrow Agent should be referred to the Local Sponsor.

**XI. CONFIDENTIALITY**

11.1 Escrow Agent shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the Local Sponsor.

11.2 All provisions of this Agreement relating to “confidentiality” shall remain binding upon Escrow Agent in the event of cancellation.

**XII. LIABILITY**

12.1 The Escrow Agent and Landowner each agree to indemnify and to hold ODA, the State of Ohio, and Local Sponsor harmless and immune from any and all claims for injury or damages arising from this Agreement which are attributable to the respective actions or omissions of Escrow Agent or Landowner or those of its or their respective trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Escrow Agent and Landowner, or joint venturers while acting under this Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.

12.2 The Escrow Agent and Landowner shall bear all costs associated with defending the Local Sponsor and the State of Ohio against any claims for their own respective acts or omissions.

12.3 In no event shall any party of this Agreement be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

**XIII. REPORTS, NOTICES**

13.1 All reports, notices, copies, requests, consents, approvals and other communication required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given if hand delivered or sent by U.S. registered or certified mail, postage prepaid:

a. with respect to ODA:

Ohio Department of Agriculture  
Office of Farmland Preservation  
8995 E. Main Street  
Reynoldsburg, Ohio 43068-3342  
Attn: Executive Director, Office of Farmland Preservation  
Telephone: 614-728-6210

b. with respect to Local Sponsor:

Insert Local Sponsor/Agency Name  
Insert Local Sponsor/Agency Contact  
Insert Local Sponsor/Agency Address  
Insert Local Sponsor/Agency Phone Numbers

c. with respect to Landowner:

Insert Landowner's Name  
Insert Signee's Address  
Insert Signee's Phone

d. with respect to Escrow Agent:

Insert Title Agent/Agency Name  
Insert Title Agent/Agency Contact  
Insert Title Agent/Agency Address  
Insert Title Agent/Agency Phone Numbers

**XIV. MISCELLANEOUS**

14.1 Counterparts - This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

14.2 Entire Agreement/Waiver - This Agreement contains the entire agreement between the parties hereto regarding escrow activities 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 all prior and contemporaneous letters, correspondences, discussions and agreements among the parties with respect to all matters contained herein. A waiver by any party of any breach or default by another

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

- 14.3 Governing Law - This Agreement and the rights of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Ohio. The parties agree that only Ohio courts shall have jurisdiction over any action or proceeding concerning this Agreement and/or performances thereunder.
- 14.4 Successors and Assigns - This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties, provided, however, that Landowner shall have no right to assign any rights hereunder or with respect to the Purchase Price except as permitted with respect to assignment of Landowner's rights under the Purchase Agreement and/or Section 1031 exchange which must be completed prior to the closing date. Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part without the prior written consent of ODA.
- 14.5 Record Keeping - During the performance of the services required by this Agreement and for a period of three years after its completion, Escrow Agent shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to the parties as the parties may reasonably require.
- 14.6 Nondiscrimination - Pursuant to ORC §125.111, Escrow Agent agrees that Escrow Agent, any subcontractor, and any person acting on behalf of Escrow Agent or subcontractor, will not discriminate, by reason of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry against any citizen of this state in the hiring of any person qualified and available to perform the work under this Agreement. Escrow Agent further agrees that Escrow Agent, any subcontractor, and any person acting on behalf of Escrow Agent or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, disability as defined in ORC § 4112.01, national origin, sexual orientation, military status, or ancestry.
- 14.7 Compliance with Laws - Escrow Agent, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state, and local laws, rules, regulations and ordinances. Escrow Agent affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the contract period Escrow Agent, for any reason, becomes disqualified from conducting business in the State of Ohio, Escrow Agent will immediately notify the Local Sponsor in writing and will immediately cease performance of contract activities.
- 14.8 Drug Free Workplace - Escrow Agent agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- 14.9 Findings for Recovery - Escrow Agent warrants that it is not subject to an "unresolved" finding for recovery under ORC § 9.24. If this warranty is deemed to be false, this

**EXHIBIT H**  
**SAMPLE ESCROW AGREEMENT**

(continued)

Agreement is void ab initio and the Escrow Agent must immediately repay to the Landowner any funds paid under this Agreement.

- 14.10 Headings - The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.
- 14.11 Severability - The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless, be binding and enforceable.
- 14.12 Debarment - Escrow Agent represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC § 153.02 or ORC § 125.25. If this representation and warranty is found to be false, this Agreement is void ab initio and Escrow Agent shall immediately repay to ODA any funds paid under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized agents as of the Effective Date.

**LANDOWNER**

**LOCAL SPONSOR**

\_\_\_\_\_  
Insert Signature Info  
Insert Signee's Address  
Date: \_\_\_\_\_

\_\_\_\_\_  
Insert Signature Info  
Insert Signee's Address  
Date: \_\_\_\_\_

**LANDOWNER**

\_\_\_\_\_  
Insert Signature Info  
Insert Signee's Address  
Date: \_\_\_\_\_

**ESCROW AGENT**

\_\_\_\_\_  
Insert Title Agent/Agency Name  
Insert Title Agent/Agency Contact  
Insert Title Agent/Agency Address  
Date: \_\_\_\_\_

**(Escrow Agreement Template Date: 12/10/2014)**

**Cooperative Agreement (Entire Agreement Template): 02/09/2015**