

REGIONAL CONSERVATION PARTNERSHIP PROGRAM WARRANTY EASEMENT DEED FOR WORKING LANDS

REGIONAL CONSERVATION PARTNERSHIP PROGRAM (RCPP) CONSERVATION EASEMENT

RCPP PPA NO. _____

EASEMENT NO. _____

THIS WARRANTY EASEMENT DEED (“Easement Deed”) is made by and between

_____ of _____

(hereafter referred to as the “Landowner”) and **the UNITED STATES OF AMERICA** and its assigns (hereafter referred to as the “United States”). The Landowner and the United States are jointly referred to as the “Parties.”

The United States of America is acquiring this property by and through the Commodity Credit Corporation and the acquiring agency of the United States is the Natural Resources Conservation Service (“NRCS”), United States Department of Agriculture.

Witnesseth:

Purposes and Intent. The purpose of this easement is to further the restoration, protection, management, maintenance, enhancement, and monitoring of the conservation values of the Easement Area described below in Part I consistent with the conservation benefits of a Regional Conservation Partnership Program project on the Easement Area (the “Conservation Values”). The Conservation Values specifically include: _____

Authority. This Easement Deed acquisition is authorized by Subtitle I of Title XII of the Food Security Act of 1985, as amended (16 USC 3871 et seq.).

NOW THEREFORE, for and in consideration of the terms of these mutual obligations and benefits recited herein to each party and the sum of _____ Dollars (\$ _____), paid to Landowner by the United States subject to commensurate reduction under 7 CFR Part 1400, the receipt of which is hereby acknowledged, Landowner hereby grants and conveys with general warranty of title to the UNITED STATES OF AMERICA and its assigns, in perpetuity, the lands comprising the Easement Area described in Part I and appurtenant rights of access to the

Easement Area, but reserving to the Landowner only those rights, title, and interest in the lands comprising the Easement Area expressly enumerated in Part II. It is the intention of the Landowner to convey and relinquish any and all other property rights not so reserved. This easement shall constitute a servitude upon the land so encumbered; shall run with the land for the duration of the easement; and shall bind the Landowner, their heirs, successors, assigns, lessees, and any other person claiming under them.

SUBJECT, however, to all valid rights of record, if any.

PART I. Description of the Easement Area. The lands encumbered by this Easement Deed, referred to hereafter as the Easement Area, are described on EXHIBIT A, which is appended to and made a part of this Easement Deed.

TOGETHER with a right of access for ingress and egress to the Easement Area across adjacent or other properties of the Landowner. Such a right-of-way for access purposes is described in EXHIBIT B, which is appended to and made a part of this Easement Deed.

PART II. Reservations in the Landowner on the Easement Area. Subject to the rights, title, and interest conveyed by this Easement Deed to the United States, including the restoration, protection, management, maintenance, enhancement, and monitoring of the Conservation Values, the Landowner reserves:

- A. Conservation Activities. The right to conduct specific activities that further the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values in accordance with the terms and conditions of EXHIBIT E, which is appended to and made part of this Easement Deed (“Conservation Activities”).
- B. Agricultural Production. The right to produce, process, and market agricultural products in a manner consistent with the terms of the Easement Deed and in accordance with EXHIBIT E.
- C. Renewable Energy Production. – The right to produce renewable energy within the Building Envelope(s) described in Part III-D (the “Building Envelopes”), for the purpose of generating energy for the agricultural and residential needs of the Easement Area, and to sell excess power generated in the operation of such renewable energy structures and associated equipment. Renewable energy sources must be built and maintained within impervious surface limits and consistent with the purposes of this Easement.
- D. Title. Record title, along with the Landowner’s right to convey, transfer, and otherwise alienate title to the Easement Area.
- E. Quiet Enjoyment. The right of the Landowner to enjoy the rights reserved on the Easement Area without interference from others.
- F. Control of Access. The right to prevent trespass and control access by the general public subject to the operation of State and Federal law.

- G. Structures. The right to construct, maintain, repair, and replace structures, utilities, and related improvements used for residential and agricultural purposes within the Building Envelopes.
- H. Existing Utilities. The right to maintain, repair, or replace existing utilities located outside the Building Envelopes that service the agricultural and residential uses of the Easement Area, at the same size, scale, and location as identified in the Baseline Documentation Report described in Part III-A (“Report”).
- I. Existing Roads. The right to maintain, repair, or replace existing roads on the Easement Area at their current location as identified in the Report.
- J. Drainage and Irrigation. The right to construct, repair, and maintain drainage and irrigation systems used to support agricultural production and Conservation Activities on the Easement Area in a manner consistent with the purposes of the Easement.
- K. Recreational Uses. The right to undeveloped recreational uses, including undeveloped hunting and fishing and leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time. Undeveloped recreational uses may include use of hunting or observation blinds that will accommodate no more than four people and are temporary, nonpermanent, and easily assembled, disassembled, and moved without heavy equipment. Undeveloped recreational uses must be consistent with the long-term protection and enhancement of the Conservation Values.
- L. Temporary or Seasonal Activities. The right to use the Easement Area for temporary or seasonal outdoor activities or events that do not harm the purposes of the Easement.
- M. Subsurface Resources. The right to oil, gas, minerals, and geothermal resources underlying the Easement Area, provided that any drilling or mining activities are to be located outside the boundaries of the Easement Area, unless activities within the boundaries are approved by NRCS and are specified in accordance with the terms and conditions of EXHIBIT C, which is appended to and made a part of this Easement Deed. Limited mining activities for materials (e.g., sand, gravel, or shale) used to facilitate the agricultural operations on the Easement Area are allowed where the extraction of such materials is limited, localized, and small with a defined area and acreage identified in EXHIBIT C.
- N. Water Rights and Water Uses. The right to water uses and water rights identified as reserved to the Landowner in EXHIBIT D, which is appended to and made a part of this Easement Deed.
- O. Motorized Vehicle Use. The right to use motorized vehicles on the Easement Area in a manner consistent with the purposes of this Easement and as necessary to exercise reserved rights and uses authorized by the United States under Part IV and to access other adjacent land owned by Landowner.

- P. Fences. The right to repair, replace, and build new fences on the Easement Area if they are necessary for agricultural operations or other allowed uses on the Easement Area or to mark boundaries on the Easement Area. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the purposes of this Easement.

PART III. Obligations of the Landowner. The Landowner shall comply with all terms and conditions of this Easement Deed, including the following:

- A. Baseline Report. Baseline conditions of the Easement Area are set forth in a Baseline Documentation Report (“Report”), a copy of which is appended to this Easement Deed as EXHIBIT F. The Report describes the condition of the Easement Area as of the date of this Easement Deed. The Report may be used by the United States to assure that any future changes in the use of the Property are consistent with the terms of this Easement Deed. However, this Report is not intended to preclude the use of other evidence to establish the condition of the Property at the time this Easement Deed is executed.
- B. RCPP Easement Plan. An RCPP Easement Plan has been developed and will be maintained by the Landowner and NRCS. The RCPP Easement Plan, in conjunction with the terms of this Easement Deed, govern the restoration, protection, management, maintenance, enhancement, and monitoring of the Conservation Values. Landowner agrees to implement activities on the Easement Area in accordance with the terms and provisions of the RCPP Easement Plan. Subsequent to recording of this Easement Deed, the RCPP Easement Plan may be revised, if necessary, as determined and concurred upon by NRCS and the Landowner to reflect any changes in the management and use of the Easement Area that affect the viability of the Conservation Values. The terms of the RCPP Easement Plan shall be consistent with the Conservation Values and purposes of this Easement Deed. An executed copy of the RCPP Easement Plan is maintained in the files of the United States. Landowner agrees to exercise all reserved rights consistent with the terms of the RCPP Easement Plan.
- C. Prohibitions. Without otherwise limiting the rights of the United States acquired hereunder, it is expressly understood that the rights to carry out the activities and uses in Part III-C(1), (2), and (3) have been acquired by the United States, subject to specific conditions and limitations further described below.
1. The activities and uses described in this Part III-C(1) are prohibited on the Easement Area:
 - (a) Accumulating or dumping refuse, wastes, sewage, or other debris;
 - (b) Use of the Easement Area for developed recreation. These uses include but are not limited to: sports fields; camping facilities; recreational vehicle courses, trails, and tracks; sporting clay operations; skeet shooting operations; firearm range operations; and the infrastructure to raise, stock, and release captive raised waterfowl, game birds and other wildlife for hunting or fishing;
 - (c) Any activities which adversely impact or degrade the Conservation Values;
 - (d) Any activities to be carried out on the Landowner’s land that is immediately adjacent to, and functionally related to, the Easement Area if such activities will alter, degrade, or otherwise diminish the Conservation Values;

- (e) Signs, except for no trespassing signs, for sale signs, and signs identifying the owner of the Easement Area;
 - (f) Uses or activities that violate federal or state laws;
 - (g) Structures which could be used for residential purposes and waste management systems, including septic fields, outside the Building Envelopes; and
 - (h) Those additional prohibited activities set forth in Exhibit E.
2. The activities and uses described in this Part III-C(2) are prohibited on the Easement Area unless authorized by the United States through a compatible use authorization under Part IV:
- (a) Grading, blasting, filling, earth removal, deep ripping, or any other activity that will materially alter the topography, surface or subsurface water systems, or wetlands of the Easement Area;
 - (b) The introduction, cultivation, or use of exotic plant or animal species; and
 - (c) Those additional prohibited activities set forth in Exhibit E.
3. The activities and uses described in this Part III-C(3) are prohibited on the Easement Area unless authorized by the United States through a long-term use authorization under Part IV:
- (a) Commercial and industrial uses of the Easement Area, except as necessary to exercise reserved rights on the Easement Area and for commercial enterprises related to agriculture or forestry;
 - (b) Constructing any new road for access or other purposes outside the Building Envelopes, except as necessary to exercise reserved rights on the Easement Area;
 - (c) Installation or relocation of new public or private utilities outside the Building Envelopes and as necessary to service the agricultural and residential uses of the Easement Area;
 - (d) Paving or otherwise covering any portion of the Easement Area with concrete, asphalt, or any other impervious paving material outside the Building Envelopes;
 - (e) Structures used for agricultural purposes outside the Building Envelopes; and
 - (f) Those additional prohibited activities set forth in Exhibit E.
- D. Building Envelopes. Except as otherwise permitted in this Easement Deed, all structures and improvements on the Easement Area must be located within the Building Envelope(s), if applicable, as described in EXHIBIT G (“Building Envelopes”). Structures and improvements under this paragraph do not include temporary or seasonal structures without a permanent foundation that are consistent with the purposes of the Easement.
- E. Impervious surfaces. Impervious surfaces will not exceed two (2) percent of the Easement Area, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Easement Area, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to United States by this Easement Deed.

- F. Noxious Plants and Pests. The Landowner is responsible for noxious weed control and emergency control of pests as required by all Federal, State, and local laws. A plan to control noxious weeds and pests must be approved in writing by the NRCS prior to implementation by the Landowner.
- G. Fences. Except for costs voluntarily incurred by the United States or third-parties to support the Conservation Values, including potential replacement costs not due to the Landowner's negligence or malfeasance, all other costs involved in maintenance of fences are the sole responsibility of the Landowner.
- H. Restoration. The Landowner shall allow the restoration and management activities NRCS deems necessary for the Easement Area.
- I. Access Maintenance. The Landowner is responsible to maintain any non-public portions of the access route described in EXHIBIT B such that the access route can be traversed by a standard four-wheel all-terrain vehicle at least annually.
- J. Use of Water for Easement Purposes. The Landowner shall use water for easement purposes as set forth in EXHIBIT D, which is appended to and made a part of this Easement Deed.
- K. Protection of Water Rights and Water Uses. As set forth in EXHIBIT D, the Landowner shall undertake actions necessary to protect any water rights and water uses for easement purposes.
- L. Taxes. The Landowner shall pay any and all real property and other taxes and assessments, if any, which may be levied against the land.
- M. Reporting. The Landowner shall promptly report to the NRCS any conditions or events which may adversely affect the Conservation Values.
- N. Subsequent Conveyances. The Landowner agrees to notify NRCS in writing of the names and addresses of any party to whom the property subject to this Easement Deed is to be transferred at or prior to the time the transfer is consummated. Landowner and its successors and assigns shall specifically refer to this Easement Deed in any subsequent lease, deed, or other instrument by which any interest in the property is conveyed.

PART IV. Compatible Use Authorizations and Long-Term Use Authorizations.

- A. General. The United States may authorize, in writing and subject to such terms and conditions the NRCS may prescribe at its sole discretion, the temporary or long-term use of the Easement Area for uses that facilitate the practical administration and management of the land and further the Conservation Values.
- B. Compatible Use Authorizations for Temporary Uses. Compatible use authorizations for temporary uses will only be made if, upon a determination by NRCS in the exercise of its sole discretion and rights, the proposed use is consistent with the long-term protection, enhancement, maintenance, and management of the Conservation Values. The NRCS shall

prescribe the amount, method, location, frequency, timing, intensity, and duration of the compatible use. Compatible use authorizations do not vest any rights in the Landowner and can be revoked or modified by NRCS at any time.

- C. Long-Term Use Authorizations. Long-term use authorizations will be issued if, upon a determination by NRCS in the exercise of its sole discretion and rights, the proposed long-term use is consistent with the long-term protection, enhancement, maintenance, and management of the Conservation Values. The NRCS shall prescribe the amount, method, location, frequency, timing, intensity, and duration of the long-term use. Long-term use authorizations can be revoked or modified by NRCS at any time if NRCS determines that Landowner has failed to comply with the terms and conditions of the long-term use authorization.

PART V. Rights of the United States. The rights of the United States include:

- A. Restoration and Management Activities. The United States has the right to enter the Easement Area to undertake with the Landowner or other entity as determined by the United States, any activities to restore, protect, manage, maintain, enhance, and monitor the Conservation Values.
- B. Access. The United States has a right of reasonable ingress and egress to the Easement Area over the Landowner's property, whether or not the property is adjacent or appurtenant to the Easement Area, for the exercise of any of the rights of the United States under this Easement Deed. The authorized representatives of the United States may utilize vehicles and other reasonable modes of transportation for access purposes. To the extent practical, the United States shall utilize the access identified in EXHIBIT B. The United States may, in its discretion, conduct maintenance activities on the access route identified in EXHIBIT B to obtain physical access to the Easement Area for the exercise of any of the rights of the United States under this Easement Deed. The United States also has the right of reasonable ingress and egress across the Easement Area to other adjacent or appurtenant property in which the United States holds real property rights acquired by and through NRCS.
- C. Easement Management. The Secretary of Agriculture, by and through the NRCS, may delegate, from time to time in its sole discretion, through a written agreement all or part of the management responsibilities under this Easement Deed to any Federal or State agencies or nongovernmental organizations authorized by law that NRCS determines to have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities. Additionally, the Secretary of Agriculture, by and through the NRCS, may delegate all or part of monitoring or enforcement responsibilities under this Easement Deed to any Federal or State agencies authorized by law that the NRCS determines to have the appropriate authority, expertise and resources necessary to carry out such delegated responsibilities. State or Federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring, or enforcement responsibilities for this easement. The authority to modify, subordinate, exchange, or terminate this easement is reserved to the Secretary of Agriculture in accordance with

applicable law. If the United States at some future time acquires the underlying fee title in the property, the interest conveyed by this Easement Deed will not merge with fee title but will continue to exist and be managed as a separate estate.

D. Violations and Remedies – Enforcement. The Parties, Successors, and Assigns, agree that the rights, title, interests, and prohibitions created by this Easement Deed constitute things of value to the United States and this Easement Deed may be introduced as evidence of same in any enforcement proceeding, administrative, civil or criminal, as the stipulation of the Parties hereto. If there is any failure of the Landowner to comply with any of the provisions of this Easement Deed, the United States or other delegated authority shall have any legal or equitable remedy provided by law and the right:

1. To enter upon the Easement Area to perform necessary work for prevention of or remediation of damage to the Conservation Values; and,
2. To assess all expenses incurred by the United States (including any legal fees or attorney fees) against the Landowner, to be owed immediately to the United States.

E. Subdivision Restrictions. Separate conveyance of a portion of the Easement Area or division or subdivision of the Easement Area is prohibited. However, Grantee may approve the division of the Easement Area for reasons that Grantee determines, in its sole discretion, are sufficiently extraordinary to justify an exception to the prohibition and will not adversely impact the purposes of this Easement Deed. The terms of this Easement Deed shall apply to any approved, subdivided parcels.

PART VI. General Provisions.

A. Successors in Interest. The rights granted to the United States shall accrue to any of its agents or assigns. All obligations of the Landowner under this Easement Deed shall also bind the Landowner's heirs, successors, agents, assigns, lessees, and any other person claiming under them. All the Landowners who are parties to this Easement Deed shall be jointly and severally liable for compliance with its terms.

B. Rules of Construction and Special Provisions. All rights in the Easement Area not reserved by the Landowner shall be deemed acquired by the United States. Any ambiguities in this Easement Deed shall be construed in favor of the United States to further the Conservation Values and purposes for which this Easement Deed is being acquired. The property rights of the United States acquired under this easement shall be unaffected by any subsequent amendments or repeal of the Regional Conservation Partnership Program.

C. Environmental Warranty. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials or substance, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety,

building, and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Landowner warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Landowner warrants that there are no notices by any government authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Easement Area. Landowner further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials on, beneath, near, or from the Easement Area.

- D. General Indemnification by Landowner. Landowner shall indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and cost of actions, sanctions asserted by or on behalf of any person or government authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Easement Area, which may arise from, but is not limited to, Landowner’s negligent acts or omissions or Landowner’s breach of any representation, warranty, covenant, or agreements contained in this Easement Deed, or violations of any Federal, State, local or municipal laws, including all Environmental Laws.
- E. Survival. Irrelevant of any violations by the Landowner of the terms of this Easement Deed, this easement survives and runs with the land for its duration.
- F. Wetland Conservation and Highly Erodible Lands. All uses of the Easement Area shall be conducted in a manner consistent with the wetland conservation and highly erodible land conservation requirements of 7 CFR Part 12.

TO HAVE AND TO HOLD, this Easement Deed is granted to the United States of America and its assigns forever. The Landowner covenants that he, she, or they are vested with good title to the Easement Area and will warrant and defend the same on behalf of the United States against all claims and demands. The Landowner covenants to comply with the terms and conditions enumerated in this document for the use of the Easement Area and adjacent lands for access, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this Easement Deed.

Dated this _____ day of _____, 20_____.

Landowner(s): _____

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20_____, before me, the undersigned, a Notary Public in and for said State personally appeared _____, known or proved to me to be the person(s) described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as _____ free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Notary Public for the State of _____

Residing at _____

My Commission Expires _____

ACCEPTANCE BY THE UNITED STATES OF AMERICA:

I _____ (name), _____ (title), being the duly authorized representative of the United States Department of Agriculture Natural Resources Conservation Service, do hereby accept this Easement Deed with respect to the rights and duties of the United States of America.

Dated this _____ day of _____, 20_____.

Signature

Title

This instrument was drafted by the Natural Resources Conservation Service, U.S. Department of Agriculture, Washington, DC 20250-1400.

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (1202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 705-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.