

The Rural Legacy Program Grants Manual

December 2001 Revision

I. MISSION, AUTHORITY AND STRUCTURE

A. Mission

To protect Rural Legacy Areas, regions rich in a multiple of agricultural, forestry, natural and cultural resources that, if conserved, will promote resource based economies, protect green belts and greenways, and maintain the fabric of rural life. The Rural Legacy Program provides the focus and funding necessary to protect large contiguous tracts of land and other strategic areas from sprawl development and enhance natural resource, agricultural, forestry and environmental protection through cooperative efforts among State and local governments and land trusts. Protection is provided through the acquisition of easements and fee estates from willing landowners and the supporting activities of Rural Legacy Sponsors and local governments.

B. Statutory Authority

Natural Resources Article, § 5, Subtitle 9A - Rural Legacy Program, Annotated Code of Maryland

C. Structure

The Rural Legacy Board administers the Rural Legacy Program with assistance and advice from an Advisory Committee. Rural Legacy Board members include:

- The Secretary of the Department of Natural Resources (Chair)
- The Secretary of the Department of Agriculture
- The Secretary of the Department of Planning

Advisory Committee members are appointed by the Governor with the advice and consent of the Senate and include:

- a Trustee of the Maryland Agricultural Land Preservation Foundation,
- a Trustee of the Maryland Environmental Trust,
- a representative of the agriculture industry,
- a representative of a non-profit land conservation organization,
- a representative of a non-profit environmental organization,
- a representative of the forest industry,
- a representative of a county government Department of Parks and Recreation,
- a representative of a business organization,
- a private land owner,
- a representative of the mineral resources industry, and
- a representative of a municipal corporation

Staff for the Rural Legacy Program is provided by the Department of Natural Resources with assistance from the Department of Agriculture and the Department of Planning.

II. DEFINITIONS

The following is a list of key words that will appear throughout this document.

- A. **"Program"** - The Rural Legacy Program established by §5-9A, Natural Resources Article, Annotated Code of Maryland.
- B. **"Board"** - The Rural Legacy Board.
- C. **"BPW"** - The Board of Public Works.
- D. **"Sponsor"** - A local government, group of local governments, or a qualified land trust which submits an application.
- E. **"Local Government"** - Any county or municipal government.
- F. **"Land Trust"** - A qualified conservation organization that:
 - 1. is a qualified organization under § 170(H)(3) of the Internal Revenue Code and regulations adopted under § 170 (H)(3); and
 - 2. has executed a cooperative agreement with the Maryland Environmental Trust.
- G. **"State Land Conservation Organization"** - The Maryland Agricultural Land Preservation Foundation (MALPF), the Maryland Environmental Trust (MET), Program Open Space (POS), or another State organization approved by the Rural Legacy Board.
- H. **"Application"** - An application to the Rural Legacy Board to designate a Rural Legacy Area.
- I. **"Rural Legacy Area" (Area)** - A region within or outside a metropolitan area designated by the Rural Legacy Board as rich in a multiple of agricultural, natural, forestry, and cultural resources.
- J. **"Rural Legacy Plan" (Plan)** - A plan accepted by the Rural Legacy Board for acquisition of easements and fee estates in Rural Legacy Areas.
- K. **"Grant Agreement" (Grant)** - An agreement between the Rural Legacy Board and a Sponsor to implement a Rural Legacy Plan in a designated Rural Legacy Area. The Rural Legacy Program staff will prepare a standard Grant Agreement based upon an approved Rural Legacy Area and Plan. The Grant Agreement will indicate the total amount of Rural Legacy Program funds that the Board will submit to the BPW for final approval. It will also specify the duration of the Grant Period within which this funding shall be available and all work to be completed by the Sponsor.

- L. **“Grant Period”** - Each Grant Agreement shall establish a Grant Period, for one or more years, to be approved by the Board and the BPW. A grant must be expended within the Grant Period unless modified by the Board with BPW approval. The beginning date of the Grant Period shall be when the Grant Agreement, signed by the Sponsor, is approved by the Chairman of the Board. The ending date of the Grant Period shall be established in the Grant Agreement.
- M. **“Project Agreement”** - An agreement between the Board and an approved Sponsor for the acquisition of a specific parcel of land or partial interests in a parcel of land as identified in an approved Grant Agreement.
- N. **“Project Period”** - A project must be completed within the project period. The beginning and ending dates for a project period will be identified in the Project Agreement.

III. OVERVIEW OF THE RURAL LEGACY PROCESS

Sponsors may apply to the Board for participation in the Program. The Board will submit the application to the Advisory Committee for review and comment and then select those applications that will receive funding. Sponsors for Areas that have been designated by the Board and BPW that are applying for additional funds to continue implementation of their plans may submit an abbreviated application as described in Section V. B. and the Grant Application Section XII. Sponsors for Area applications that have not previously received grant funds and sponsors that are proposing major expansions of existing Areas must submit full applications as described in the New Rural Legacy Area Application Section V. C. and Section XIII.

Applications selected for funding by the Board will be presented to the BPW for final approval of the Rural Legacy Area designation, the Plan, and the Grant amount. Once approved by the BPW, the Sponsor will:

- (1) sign a Grant Agreement and submit to the Chairman of the Board for approval within 90 days of receipt, outlining the terms of the funding;
- (2) begin to implement its Plan as described in the Grant Agreement;
- (3) submit Project Agreements and the required attachments, along with all signed contracts for easements or fee estate acquisitions to the Board or their designee for review and approval and then for final approval by the BPW; and
- (4) upon BPW approval of the Project Agreement, seek payment for acquisition costs, including administrative and monitoring expenses as stated in the Grant Agreement from the Program and submit annual and quarterly reports to the Board.

IV. CRITERIA FOR THE EVALUATION OF APPLICATIONS

The following is an outline of criteria that will be used by the Board to evaluate the quality of Area applications and Plans. The Board shall evaluate and compare applications in accordance with these criteria in order to select those that best carry forward the goals and objectives of the program set forth in The Annotated Code of Maryland, Natural Resources Article, § 5-9A-01. Applications for continued funding of existing approved Areas will be reviewed primarily on the basis of criteria for Plans outlined in section B below and progress made in protecting resources in approved Areas with prior grants and complementary programs. Applications for new Areas and Plans will be evaluated on the basis of all criteria outlined in sections A and B below.

A. Rural Legacy Areas will be evaluated under the criteria described in §§ 5-9A-05(C)(1) through 5-9A-05(C)(4), Natural Resources Article, Annotated Code of Maryland and in the Grant Application.

B. Rural Legacy Plans will be evaluated under the criteria described in §§ 5-9A-05(C)(5) through 5-9A-05(C)(8), Natural Resources Article, Annotated Code of Maryland. The Plan shall describe in detail the methodology by which the Sponsor will attempt to obtain interests in land, and shall include a map identifying location, priority and significance of the property interests to be acquired. A revised Plan shall be substituted for the original Plan only after being approved by both the Board and the BPW.

V. APPLICATION AND REVIEW PROCEDURES: RURAL LEGACY AREAS, RURAL LEGACY PLANS, GRANT RENEWALS, AND GRANT AGREEMENTS

This section provides information on the procedures and requirements for the development, application, review, approval and implementation of Rural Legacy Areas and Plans. Abbreviated procedures and requirements for the application, review and approval of renewed grant requests for existing Areas are provided under Section XII.

A. Pre-Application Process

1. Before submitting an application to the Board, potential Sponsors of Areas should:
 - a. Review law and regulations (Appendix II and III), and any information provided by the Board.
 - b. Evaluate potential Areas in accordance with the criteria outlined in Section IV;

- c. Initiate public participation procedures, as described in paragraph 4 below;
 - d. Develop partnerships as needed among federal, State and local governments and land trusts for implementing a Plan;
 - e. Consult with each local government in the Area as described in paragraphs 8 and 12 below;
 - f. Identify existing protected lands in the Area and the anticipated level of initial landowner participation in the Program; and
 - g. Prepare a Plan for the Area or Areas for which Program funds will be applied.
2. In evaluating potential Areas under A.1., Sponsors should seek to limit the size of the Areas to those lands that are protected and can reasonably be protected within the Plan's proposed implementation time frame with Rural Legacy purchases, other State, local and private land conservation programs, the local jurisdiction's land use controls, and other measures to manage growth and protect resources. The Area should be large enough to provide significant protection for multiple resource values, yet small enough to achieve preservation objectives within the Plan's proposed implementation time frame. The Sponsor's Plan should clearly document how the lands within the Area are to be preserved and in what time frame. In general, Areas may be relatively larger in jurisdictions with large expanses of existing protected lands, less development pressure, and stronger local land and resource preservation programs, including planning and zoning controls to prevent development that is incompatible with or detrimental to the purposes of the Area.
 3. Sponsors should seek to focus or target their easement or fee purchases with Rural Legacy funds to protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors, rather than scattered parcels of land that may be individually significant, but which could be surrounded or otherwise adversely affected (e.g., agricultural production may be compromised) in the future by development on unprotected lands.
 4. The Board has not established a limit on the number of Areas that may be approved in the State or in any local jurisdiction. No limits have been placed on the number of Plan applications that may be submitted by a Sponsor or within any region or local jurisdiction. When more than one application has been submitted within the same local jurisdiction, the elected government of that jurisdiction shall, upon approval of the applications or in writing to the Board before the Board's selection, state their recommended priority for

which applications should be funded. The Board will consider multiple applications from the same jurisdiction incomplete without the government's statement of priority. No limits have been placed on the number of Grant Agreements that may be approved for a single Sponsor or within an approved Area. All applications submitted each grant cycle will be reviewed on a competitive basis, and these matters and those listed below may be considered by the Board in addition to the criteria.

5. Applications may be developed and submitted by co-sponsors. If an application has co-sponsors, they must select a lead Sponsor for administration of the program, including communication and correspondence with the Board, distribution of written agreements, guidelines or information from the Board or staff, organization of presentations to or meetings with the Board or Advisory Committee, and submission of easement or fee purchase contracts for approval. Co-sponsors however may enter into agreements with property owners or land trusts for the acquisition of property interests in their own name as provided in paragraph C. Each co-sponsor of the application will assume legal responsibility under the Grant Agreement for the grant conditions and implementation in their own local jurisdictions.

In developing partnerships pursuant to 1.d. above, Sponsors should consider that the strength and quality of partnerships created for land conservation are not more important than other criteria established for the Program. A partnership should be a means to implement a Plan rather than a goal of the Sponsor's application. The number and role of co-sponsors or partners should be determined by the resources, location and desired size of the Area and by the degree to which additional partners will help to achieve the objectives of the Plan.

6. A Sponsor may obtain information about the Program from the Rural Legacy Program Staff. Written information may be requested from the Rural Legacy Program, Department of Natural Resources, 580 Taylor Avenue E-4, Annapolis, MD 21401, or by telephone at 410-260-8403. The staff will provide information about the Rural Legacy Program and may hold regional public workshops, a statewide conference, or other outreach programs to encourage statewide participation in the Program. The staff will facilitate direct technical assistance from various offices of the Departments of Natural Resources, Agriculture and Planning to potential Sponsors of applications. Information or technical assistance provided from staff will not influence or bind any agency staff in reviewing applications or limit the Board or Advisory Committee in ranking or prioritizing applications or selecting Areas for approval. Staff directly contributing to the preparation of applications or guiding the policy decisions of local Sponsors are prohibited from participating in their review.

7. A Sponsor shall assure adequate public participation in the development of an application and provide the Board with a brief summary of that participation. If an application proposes that an Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before it is submitted to the Board. The Sponsor shall submit to the Board with the completed application a summary of comments from the municipal corporation, together with copy of the Sponsor's response to these comments. The Board reserves the right to exclude from an Area land within a municipal growth boundary or Priority Funding Area or other parts of a proposed Area objected to by a municipality. This provision does not otherwise restrict the Board's general authority to designate the size or location of an Area.
8. After initial selection of a potential Area, a sponsor may wish to use an inventory of landowner interest to assist in selecting and focusing on a final Area with the best probability for success. After determining the Area boundaries and identifying the properties to be protected to implement the Plan for this Area, the sponsor shall describe in the application the anticipated level of initial landowner participation in the Plan. The options the Sponsor may use to determine this level of participation are not limited, but include:
 - a. signed contracts for real property interests obtained in anticipation of approval of an Area, Plan, and Grant application submitted by a Sponsor. Expenses incurred by a Sponsor in advance of a Grant Period, however, may not be reimbursed. Landowners who enter into formal contracts of sale should be fully informed that their Area and acquisition funds may not be approved and, therefore, their contract may not be completed unless the Sponsor has alternative sources for funds for settlement.
 - b. identification of properties enrolled in recorded Agricultural Preservation Districts, as defined by MALPF, if the owners of these properties express an interest in writing, as described below, in protecting multiple resources on the property.
 - c. affirmative responses from individual landowners to written questionnaires explaining the purpose of the Program and asking if the landowner is willing to sell an interest in real property. The response should describe the nature of the real property interest to be acquired (attached to a copy of the standard easement, where appropriate) and a range of values expected to be offered for the real property interests as determined by an approved point system, prevailing rates for MALPF easements, or other methods used in estimating the total grant request.
 - d. Signed petitions or response forms from willing landowners included in the Plan, collected during property owner briefings, where the purposes,

easement terms, and estimated values were explained as described in paragraph c. above.

Landowners may condition their initial expression of interest in participating in the Program on specific easement terms, purchase values, government approvals, and family or co-owner decisions, which may only be available after a Grant Agreement is approved. Initial landowner interest is not intended to be binding on either the Sponsor or the landowner. It will be used by the Board in assessing the likelihood of each Plan's success, especially in relationship to applications submitted by other Sponsors.

The anticipated level of initial landowner participation in the Program shall be documented as part of the Grant Application by the date that applications are due.

Sponsors are not required or expected to identify Area boundaries solely on the basis of where landowners express interest in participating in selling interests in their land. Parcels owned by interested property owners should be identified as part of the lists or maps of potential acquisition properties submitted with the application. While Sponsors should maintain files of documentation obtained pursuant to this subsection, they should submit with their applications only a summary of landowner interest with the maps or lists of properties to be protected, not detailed survey forms, letters or petitions. Sponsors may also identify separately other properties where they have reasonable confidence that landowner interest will develop later during the grant period.

Sponsors may identify properties for protection in the Plan even though the landowners have not expressed an interest in participating in the Program by the time the application is due if they have reasonable confidence that they will obtain the landowner's interest during the Grant period.

9. The Board does not wish to restrict local government planning outside of Area boundaries or prevent the delineation of areas that in some way support the purposes of the Area or Plan by applying land-use policies or incentives that protect or buffer the Rural Legacy acquisitions. However, these areas should avoid the use of the term "Rural Legacy" to minimize confusion with the designated Rural Legacy Area.
10. An application shall identify existing protected lands in the Area. Protected lands may include, among others, those protected by easements held by the Maryland Environmental Trust, MALPF, or other local, State or federal agencies or private land conservation organizations, or lands held in fee estate by federal, State or local organizations or private land conservation organizations for agricultural, forestry, natural or cultural resource, or educational uses. A proposed Area may include both

- existing protected lands and unprotected lands for which the Sponsor may seek Rural Legacy funds to acquire real property interests.
11. A Land Trust shall consult with each local government in an Area prior to filing an application. While local government approval is not a prerequisite for submitting an application, it is required before the Board can approve an application.
 12. When the protection of a proposed Area would involve more funding than is currently available in a given fiscal year, implementation may be accomplished in phases over more than one year by:
 - a. submitting applications to expand an already approved Area, or
 - b. submitting applications for additional Areas.
 13. Each Area Application is to be submitted together with the Plan and grant request and, if future applications are planned, a projected staging of additional Plans or Area expansions. It should be understood that future allocations for expanded or new areas will be reviewed competitively with other applications and are not guaranteed. Each application will be reviewed based upon the quality of the individual Plan.
 14. After identifying an Area and completing a Plan, Sponsors shall submit a completed Application with Cover Sheet, Executive Summary, Maps and Property Lists, Application description, and Grant Request using the forms provided, as described below, to the following address.

**Chairman, Rural Legacy Board
c/o Pamela F. Bush, Director
Rural Legacy Program
Department of Natural Resources, E-4
580 Taylor Avenue
Annapolis, MD 21401**

Submissions shall be received by the date established by the Board. Yearly application submission date may be found on the website.
(<http://www.dnr.state.md.us/rurallegacy>)

B. Applications for continued grant funds for existing approved Areas.

1. The Program is designed to provide continued funding for protection of the resources of Maryland's best Areas until the contiguous blocks of land identified by the Sponsors are permanently protected with Rural Legacy grants, complementary land conservation programs, or other federal, State and local contributions of matching funds. Until this level of protection is achieved, protection through local planning, zoning and other growth

management policies is important to prevent sprawl development within and around parcels targeted for protection and development that would threaten the integrity of the Area and jeopardize the State's investment.

2. To streamline the process for repeat Applications and minimize distractions from Sponsors' main tasks of negotiating easement or fee purchases, the form and content of these Applications are abbreviated, as described under *Required Documentation for Grant Renewal Application*, Section XII.
3. Each request for a new grant will be reviewed by Rural Legacy staff and Advisory Committee and forwarded to the Board and the BPW for approval. Sponsors will be required to enter into a new Grant Agreement as defined in Section II, K. for each approved grant. Since Grant Agreements are now written for an 18-month performance period and Sponsors have up to 90 days to sign, many Sponsors will be implementing more than one Grant Agreement at the same time for the same Area. In their decisions to award new Grant Agreements, the Board will consider the progress made by Sponsors in completing their earlier Grant Agreements, together with the progress made by Sponsors and participating local governments in addressing all criteria of the law.
4. During the review of repeat funding requests, the Advisory Committee and Board may choose not to schedule formal presentations from Sponsors or make site visits to these Areas, except for the benefit of new members of the Advisory Committee or Board or to fully assess progress being made by existing Sponsors. Except for Section 3. a. and b. below, and the differences described above, the process for review of Grant Renewal Applications will generally follow the same process as described in C below for new Areas.

C. Application Review for New Rural Legacy Areas

1. Upon receipt of each Application, the Board will forward the Application to designated review staff of each of the agencies represented on the Board, appropriate State agencies as determined from time to time by the Board, and to the Maryland State Clearinghouse at the discretion of the Department of Planning. The Board may request additional information from a Sponsor. The Board shall notify State legislators from districts that have submitted Applications upon receipt of all Applications for the year. Interagency staff will evaluate the degree to which proposals address the criteria as stated in Section IV, summarize, compare, and forward the applications, together with staff comments, to the Board and the Advisory Committee for their review. However, staff will not rank, prioritize, or make recommendations for the selection of Applications.
2. The Board may screen out Applications that do not meet the basic purposes and criteria of the program and may choose not to forward these to the

Advisory Committee for review. The Board will provide a brief description of any Application not forwarded, together with their reasons for not asking for Advisory Committee review. With a request from the Chairman and at least one other member, an Application not forwarded by the Board may be reviewed by the Advisory Committee.

3. The Advisory Committee and the Board will review the applications and staff summary and comparisons. The Advisory Committee may choose, either as a Committee or together with the Board, to ask Sponsors to give oral presentations explaining their proposed Areas and Plans. In addition, with the approval of the Board and the Sponsor, the Advisory Committee may choose, either as a Committee or together with the Board and the Sponsor, to:
 - a. hold the meeting for any presentation of the application within the proposed Area, or
 - b. visit the proposed Area as part of their review.
4. Upon completion of their review, the Advisory Committee may summarize their comments about each of the applications, rank or prioritize applications in the order that best meet the criteria and requirements of the Program, and/or make their recommendations to the Board.
5. The Board, prior to making its decision, shall review any comments from staff and State agencies and the recommendations of the Advisory Committee. The Board, with or without the presence of the Advisory Committee, may make site visits or receive Sponsor presentations. The Board may negotiate the terms of a Sponsor's proposed Area, Plan or Grant Application. Visits by the Board or the Committee to any private property within an Area shall require consent of the owners.
6. The Board may not approve or amend an Application without local government approval. Each local government whose jurisdiction is encompassed in whole or in part by the Area shall approve each Application, and each local government whose jurisdiction is encompassed in whole or in part by a proposed amendment shall approve the amendment. Local government approval of amendments may be in the form of approval of the Grant Agreement.
7. The Board may negotiate with the Sponsor to make revisions to the Application, including changes to the proposed Area and Plan. The Board may amend the boundaries to respond to comments from the Advisory Committee or to focus Rural Legacy funds consistent with the criteria.

D. New Area Designation, Plan, and Grant Approval

1. Following any changes negotiated with the Sponsor under Subsection B -3 above, the Board may:
 - a. approve or reject Area designations;
 - b. approve or reject Plans for these Areas;
 - c. recommend that applications not selected or funded in the year proposed be submitted for consideration in future years, subject to available funds;
 - d. forward these decisions to the BPW for final approval, through the Assistant Secretary for Capital Grants and Loans, Department of Natural Resources; and
 - e. prepare and sign Grant Agreements to implement approved Plans and Grants.
2. The Assistant Secretary for Capital Grants and Loans will submit the Board's decision for Area designations, Plans and Grant approvals for BPW approval. The Director or his or her designee shall also notify the Sponsors within the selected Areas of the Board's decisions.
3. Upon the final decision of the BPW, the Chairman of the Board or Assistant Secretary for Capital Grants and Loans or designated staff shall notify the Sponsor and the legislative delegation from the selected Areas of the decision. Other applicants for the Program will also be notified of the Board's and BPW's decisions, with a summary of the reasons used in their decisions, as well as any recommended changes or suggestions for future submission of the application.
4. After the BPW approves the Grant, the Board, through the Department of Natural Resources staff, will transmit a Grant Agreement to the Sponsor for approval. The Chairman of the Board will sign the Grant Agreement upon approval by the Sponsor.

VI. ACQUISITION PROCEDURES AND PROJECT AGREEMENTS

This section deals with the acquisition process once a Grant Agreement has been approved. It provides guidelines and procedures for the negotiation of acquisition contracts between Sponsors and landowners and for the review of Project Agreements submitted to the Board. The Board encourages and promotes innovation and creativity in the way Sponsors protect land in Rural Legacy Areas. These guidelines and procedures are therefore intended to provide flexibility for each Sponsor in order to achieve the goals of the Program.

A. Methods of Acquisition - Rural Legacy funds may be used to acquire interests in real property by any method approved by the Board, including but not limited to the following:

1. **Conservation Easement Purchase** - A conservation easement is a recorded land-use agreement or contract in which the property owner conveys to a governmental unit or a qualified charitable conservation organization; i.e., Grantee, certain rights to be enforced by the Grantee for public benefit. The conservation easement assures that the agricultural, forestry, natural, scenic or other resources that make the property significant are identified and protected against destruction by specific restrictions in the deed of easement. A conservation easement acquired under the Program must be perpetual and may not be extinguished or released. All easement acquisitions must be recorded among the land records of the county where the real property is located.
2. **Fee Estate Purchase** - Fee estate purchase involves the acquisition by the Grantee of title, structures, and all development rights associated with real property.
3. **Tax-Exempt Installment Purchase** - An installment purchase agreement is entered into with a landowner to buy a conservation easement, whereby the Sponsor or the Board would pay interest-only payments annually or semi-annually for a period of years with a balloon principal payment at the end of this period, such as 30 years.

The Program allows up to \$2 million of the real estate transfer tax funds transferred to the Program each fiscal year to be used to purchase Zero Coupon bonds (Zeros) for easements. In addition, § 5-9A-01 (D) provides that when negotiating and awarding grants, the Board shall encourage Sponsors to utilize Zeros in the implementation of the Plan in order to reduce the utilization of general obligation bonds in funding the grants.

If Sponsors choose to utilize tax-exempt installment purchase agreements for easements using Zeros, a bond counsel and the Board should be consulted, and this method should be described in detail in the Grant Application.

The Board may develop further rules, procedures and guidelines for the use of Zeros and installment purchase agreements using Rural Legacy funds.

4. **Donation of Fee Estate or Easement Rights** - Both easements and fee estate interests in real property may be voluntarily donated by property owners to Sponsors or the State. For the purposes of this program, a donation is a gift given by the donor with charitable intent, and not a dedication of land required by subdivision ordinance or other government regulation. Donations of land to the State will follow existing gift acceptance

procedures. The value of donations of interests in real property may be applied toward the Sponsor's financial support for the Plan, as provided in § 5-9A-05(C)(6).

5. **Fee Estate Purchase and Resale with Conservation Easement** - The Sponsor may submit as part of their Plan or Project Agreement a strategy for the subsequent disposition of any portion of real property acquired with Rural Legacy funds. When disposing of property the Sponsor shall impose conservation easements as proposed in their approved Plan or otherwise needed to protect the agricultural, forestry, or natural resources on the property. Funds received from disposal of property acquired with General Obligation bond funds shall be deposited in the State Bond Annuity Fund. During the Grant Agreement Period any funds derived from the disposition of property acquired with Rural Legacy transfer tax funding may be used by the Sponsor for acquisition of rights in other property as indicated in the Plan and Grant Agreement. If disposition of the property occurs after the Grant Agreement Period, transfer tax funds derived from the sale will be distributed to the Program and the Sponsor in proportions equal to their initial participation in the fee estate purchase. Excess transfer tax funds may be distributed to the Program and the Sponsor in proportions equal to their initial participation in the fee estate purchase or distributed solely to the Program at the discretion of the Board.
6. **Acquisition of Development Rights** - As further provided in Section XI, and with the approval of the landowner, Program funds may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.

B. Limitations on Acquisition - The use of Rural Legacy funds is limited by the following factors:

1. **Condemnation Authority** - State or local condemnation authority may not be used to acquire real property interests.
2. **Right of Public Access** - The right of public access may not be required by a Sponsor or the Board as a condition of the purchase of a conservation easement, but a landowner may voluntarily agree to provide public access as part of an easement agreement, and Rural Legacy funds may be used to acquire such interests in the property. However, the provision of public access, or lack thereof, may not be used to prioritize or rank easements by the Sponsor or the Board.
3. **Acquisition of Historic or Archaeological Sites** - Funds may only be used for the protection of historic sites or significant archaeological areas that meet the goals of this program if the Sponsor is acquiring real property rights

through a fee estate purchase. While easements may be purchased with Rural Legacy funds on property of historical or archaeological significance, and on property with historic structures, no part of the value paid for these easements may be attributable to the historic structures or archaeological assets of the property or to any restrictions on these assets voluntarily included in the deed of easement.

4. **Reservation of Rights not Acquired** - A land or mineral owner who participates in this program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition. Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit. Consistent with these provisions of §§ 5-9A-04 (C), and 5-9A-05 (N), the following limitations on reservations of rights shall apply:
 - a. The reservation of rights by Grantors shall be permitted only if it is determined by the Board that the purposes of the Program would not be adversely affected.
 - b. Such reservations must be described in the Project Agreement and the deed of transfer or easement deed where applicable, along with the means by which the Sponsor shall protect the interests of the Rural Legacy Program.

C. The Acquisition Process

1. Sponsors of Areas have the primary responsibility for negotiating purchase contracts for real property interests within approved Plan areas, but may be aided by a participating local unit of government, one or more Maryland State land conservation organizations, or by participating land trusts. When a Plan has more than one Sponsor, Rural Legacy funds for acquisition of real property interests in more than one local jurisdiction will be distributed to one Sponsor as described in the Grant Agreement.
2. Contracts for real property interests will be negotiated in a timely manner in the order of priority proposed in the Plan and Grant Agreement, except where otherwise explained in the Project Agreement or otherwise permitted by the Board.
3. Sponsors or their agents may solicit, negotiate, process, and hold conservation easements acquired with Rural Legacy funds in several ways, including but not limited to the following options:
 - a. Purchase and hold easements in the name of the local government participating as a Sponsor or co-sponsor, or jointly with a private land trust organization. Where local governments within the Area have their own

easement purchase and stewardship programs or agree to establish such programs, they may hold the easements in the name of the local government or jointly with a co-grantee land trust. Easements held jointly with a land trust or State land conservation organization must be approved by all co-grantees before being submitted to the BPW. Since the State of Maryland will have provided necessary funding for acquisition of Rural Legacy easements held by local governments, such easements shall include provisions recognizing the State as a third party beneficiary under the easement, and the Board and the Office of the Attorney General shall have the right to enforce all terms and conditions of the easement against both the Grantor and the Grantees. Any amendments to locally held easements shall be approved by the Grantees and the Board.

- b. Solicit and negotiate easement contracts to be held and monitored by a qualified State land conservation organization. With this option, the Sponsor will assign the contracts obtained from landowners to the State organization and may seek assistance from the Department of General Services for closing after they have been approved by the easement Grantee and the BPW.
- c. Solicit and negotiate contracts for the purchase of easements in land as co-grantee with a qualified State conservation organization. In Areas where a State conservation organization is proposed as a co-grantee, the Sponsor may work directly with their representatives in soliciting easements. These representatives would process the proposed easement acquisition through their Trustees or administration, the Board, and the BPW.

The Grant application submitted by a Sponsor shall indicate whether the Sample easement and Optional provisions recommended by the Board will be used as the standard easement within the proposed Area or, if the Sponsor elects to use a different easement than the Board's sample, shall include a sample of the conservation easement proposed to be used, together with any modifications needed to meet the requirements of the Program.

- 4. A Land Trust may not hold exclusive title to real property interests acquired with Program funding:
 - a. Land purchased with Rural Legacy funds in fee estate by a land trust shall be protected by a conservation easement held by a qualified federal, State, county, or municipal conservation unit. A land trust shall not use tax-exempt bond funds authorized for the Program to purchase and hold fee estate interests in land.
 - b. Conservation easements held by a land trust shall be jointly held by a qualified federal, State, or local conservation organization as co-grantee.

5. Sponsors will use contract forms approved by the Board.
6. Grantees and co-grantees of conservation easements acquired with Rural Legacy funds shall maintain baseline documentation which describes and illustrates the condition of the property at the time of the signing of the easement on file with a copy of the recorded easement deed.
7. Sponsors and their agents will use due diligence in acquiring interests in real property with Rural Legacy funds. At a minimum, an environmental site assessment is required in a form acceptable to the Board. Owners of property interests acquired with Rural Legacy funds will be insured by title companies in a form and content of title policy approved by the Board. Each deed of easement or fee estate acquired with Rural Legacy funds must have adequate description of property boundaries; i.e., metes and bounds or property survey, as approved by the Board and the title-holder of property interests acquired with Rural Legacy funds.
8. Sponsors will complete and submit Project Agreements for approval by the Board and BPW. The Project Agreement will identify the interests to be acquired in a property, the estimated costs associated with the acquisition, and the project period within which the project will be completed.
9. Each contract for the purchase of real property interests will be submitted to the Board, together with a Project Agreement and, where applicable, the conservation easement agreement or restrictive covenants for the property.
10. Sponsors are encouraged to submit multiple Project Agreements to the Board at one time and to prioritize them in relationship to their importance in meeting the goals of the Plan and the criteria of the Program. Sponsors are encouraged to use experts in agriculture, forestry, natural and cultural resources to review these Project Agreements and prioritize them for consideration by the Board before they are submitted. Once prioritized, the Sponsor may submit them to the Board for review and approval on a quarterly or semi-annual basis. Contracts obtained on property that is eminently threatened with development may be submitted directly to the Board when obtained, separate and apart from other Project Agreements.

D. Review Process for Project Agreements

1. Project Agreements may not be approved by the Board until approval of the Area, the Plan and Grant amount by the Board and the BPW, and the signing of a Grant Agreement by the Sponsor and the Chairman of the Board.
2. Upon receipt of a Project Agreement or group of Project Agreements, the Board will ensure that the entities that will hold and administer all property interests shall review and approve all deeds.

3. Upon approval, the Board will submit the Project Agreement to the BPW at its next regularly scheduled meeting for review and final action on the Project Agreements.
4. In the event that a State land conservation organization is to be the contract purchaser of the easement or fee interest in property on behalf of the Sponsor, the Grantee may seek the assistance of the Department of General Services in settlement of the contract.

VII. PERMITTED PROJECT COSTS

A. Overview - Each project represents a separate transaction for purposes of determining the amount of the State's share of the costs. Allowable project costs include the direct (contract) cost for consideration in the purchase of interests in real property, incidental costs associated with each project transaction and, where approved by the Board and the BPW, administrative costs for each project and the costs of monitoring easements when the Sponsor serves as Grantee. The Sponsor is eligible for assistance of up to 100 percent of the allowable project costs as further specified below and in the Grant and Project Agreements. Rural Legacy funds in combination with all other available funds shall not exceed 100 percent of a project's cost.

B. Classification of Costs

1. **Direct Costs** - Direct costs are the actual costs of the real property interests acquired in accordance with the appraisal methodology approved by the Board.
2. **Incidental Costs** - Incidental costs are costs relating to the acquisition of real property and interests in real property, such as the costs of surveys, appraisals, title search and legal fees, and preparation of soil and water quality or forest stewardship plans where applicable. These costs may be eligible for reimbursement if they are obtained in accordance with approved Plans.
3. **Administrative Costs** - A portion of the Grant may be used to pay for administrative costs, not to exceed 3 percent of the Grant amount, as approved by the Board and the BPW in each Project Agreement. Administrative costs may include planning where real property interests are to be acquired, building and maintaining partnerships, mapping protected lands and communicating or negotiating with property owners who may sell interests in their property. These and other planning costs may qualify for reimbursement as part of each Project Agreement if the costs are:
 - a. incurred within the Grant Period,

- b. prorated among the projects, itemized and included as part of the 3 percent of costs for administration in the Project Agreement, and
 - c. approved by the Board and the BPW. The Grant Agreement and each Project Agreement must list these costs, including estimated or actual expenditures and the dates incurred. Administrative costs incurred by the Sponsor in advance of approval of Project Agreements are only reimbursable at time of settlement on the projects, except when otherwise approved by the Board in the Grant or Project Agreement. When a Plan has co-sponsors, administrative costs will be distributed to the co-sponsors that incur costs of negotiating the contracts as described in the Grant Agreement.
4. **Program Compliance Costs** - A portion of the Grant, not to exceed 1½ percent (.015) of each easement purchase cost, may be used to pay for program compliance costs for monitoring easements as stated in the Grant Agreement. Sponsors and easement Grantees may contribute all or a portion of these costs as part of their financial support for an application under criterion IV.B.2.a. Program compliance costs may not be paid from bond sale proceeds. Easements purchased with Program funds and held in perpetuity by a Sponsor as Grantee or co-grantee, must be administered and enforced by the Sponsor. To be eligible, Sponsors must document that payments for monitoring costs will be placed in an endowment or other special account to be made available only to the Grantee for the purpose of monitoring the specific easements acquired with Rural Legacy funds. Fees charged for program compliance for easement monitoring will be invested in a long-term managed investment program where the principal will never be withdrawn without the approval of the Board.

The Board will allow program compliance costs for monitoring easements held by State or county conservation organizations as Grantees or co-grantees, including the Maryland Environmental Trust (MET), MALPF, or the Department of Natural Resources, if they deposit the funds in a long-term managed investment program as required above, and the interest on the principal is only used to monitor the easements acquired with Rural Legacy funds. No part of the principal of any endowment established with such program compliance fees may be used to pay for litigation expenses without the prior approval of the Board.

Failure of a Grantee organization to adequately monitor the easements purchased with Rural Legacy funds will be cause for repayment of the easement monitoring fees to the Board for reassignment to a successor organization willing to carry out the monitoring responsibilities for this easement.

Co-grantees of easements may share program compliance fees for easement monitoring proportional to their respective duties and responsibilities for stewardship defined in the deed of conservation easement and explained in the Project Agreement for each property. Each share of the fees shall be administered consistent with the above guidelines.

VIII. PROCESS FOR REIMBURSEMENT OR ADVANCE PAYMENT OF PROJECT COSTS

A. Timing of Administrative and Incidental Costs

1. **General** - The Sponsor should, as a general rule, pay for all administrative and incidental costs and then submit requests for reimbursement to the Program.
2. **Frequency and Timing of Payment / Reimbursement** - A Sponsor may submit reimbursement requests as often as once a month or may choose to wait until the project is complete and submit one final reimbursement request.
3. **Advance Administrative Payments** - Under special conditions approved by the Board in the Grant Agreement, for Sponsors that may be unable to initiate or implement a Plan without pre-payment of certain administrative or planning costs, a Sponsor may request a portion of their allowed administrative costs in advance. This portion shall be deducted from any future requests for reimbursement of the allowable 3 percent of the direct costs.
4. **Incidental Cost Payments** - Incidental costs associated with acquisition or attempted acquisition of real property interests identified in an approved Plan and Grant Agreement may be reimbursed by the Board or their designated representatives upon submission of invoices by the Sponsor and approval by designated representatives of the Board.

B. Timing of Direct Costs

1. **Project Period** - The acquisition of property interests must occur during the project Period. The project period is the span of time, stipulated in the Project Agreement, during which funds for approved direct costs will be encumbered by the BPW.

The beginning date is the date specified in the Project Agreement, or in unusual circumstances where timing is critical to the success of the project, the date established by a Letter of Concurrence sent to the Sponsor as described below in paragraph 4. The ending date is the date by which all acquisition costs are to be incurred, such as when the deed is to be signed or other appropriate conveyance is to be taken by the Sponsor to settle the

property. To be eligible for reimbursement or advance payment, direct costs must be incurred within the project period, except when specifically permitted by the Board.

2. **Project Period Extension** - If, during the conduct of a project, it becomes apparent that completion will not be possible within the project period, the applicant must submit a request to extend the period. Requests for project period extensions submitted after the expiration date will be considered only in exceptional circumstances.
3. **Advance Payment of Direct Costs** - A Sponsor may pay for all direct costs and then submit requests for reimbursement to the Program. A Sponsor may also request an advance payment of funds to cover a portion or all of the anticipated direct costs of an acquisition itemized in a Project Agreement and approved by the Board and BPW to be available for payment at settlement.
4. **Letter of Concurrence** - When immediate action is necessary and the time needed to compile and submit a Project Agreement would result in a significant opportunity being lost, a Sponsor may request in writing that the Board or their designee grant concurrence to proceed with acquisition of a project, subject to reimbursement if the Board and the BPW approve the project. The Sponsor must explain the proposed project and give justification for the immediate action.

If the Board grants concurrence and the project qualifies for assistance at a later date, the beginning of the project period will be the date specified in the Letter of Concurrence, and direct and incidental costs incurred after that date will be eligible for reimbursement. A letter of Concurrence is not approval of the project. Direct costs incurred prior to approval of the Project Agreement are incurred solely at the Sponsor's risk.

A Project Agreement must be submitted within 90 days of the date of the Letter of Concurrence or the concurrence is void, and costs incurred prior to the submission of the Project Agreement will not be reimbursed.

C. Timing of Program Compliance Costs

Program Compliance costs, not to exceed 1½ percent of the easement purchase price, shall be submitted as part of each Project Agreement and approved by the Board and the BPW, and paid at the time of payment of Administrative costs.

D. Payment Process

1. **Requests for Reimbursement** - The Sponsor will submit all reimbursement requests on the preprinted "Request for Reimbursement" form available from the Program. The Sponsor shall include copies of all required documentation with each request. The request will be reviewed by Program staff for its applicability to the approved project and for accuracy.
2. **Requests for Advance Payment** - The Sponsor will submit all prepayment requests on the preprinted "Request for Advance Payment" form available from the Program. The Sponsor shall include copies of all required documentation with each request. The request will be reviewed by Program staff for its applicability to the approved project and for accuracy.
3. **Documentation** - Each expenditure submitted for payment or reimbursement consideration must be supported by a purchase contract, invoice, canceled check, settlement sheet, or similar documentation which verifies expenditures or contract obligations. The Sponsor shall maintain satisfactory financial accounts, documents, and records, and shall make them available to staff of the Board for auditing at reasonable times. Such accounts, documents and records shall be retained by the Sponsor for 3 years following project termination.
4. **Payment** - The Program will submit a transmittal list to the Comptroller of the Treasury for a check made payable to the Sponsor or the Grantor of the real property interest. The Sponsor will be notified of this action by the Program, and the check will be mailed directly from the Comptroller's office.

E. Restrictions and Administration of Payment

1. **Retroactivity** - Costs incurred prior to the Grant period are not allowed.
2. **Time Limitation on Funds** - The Board reserves the right to monitor the timely expenditure of funds within the Grant period and to reallocate any unused funds. The Board may also establish time limitations on the use of funds within the Grant period. Any requests for reimbursement after the expiration of such a time limit may be denied.
3. **Cost Overruns and Amendments of Scope** - During the execution of a project, there may be unforeseen changes which cause the cost of Plan implementation to be greater than that approved in the Grant Agreement or the cost of a project to be greater than that approved in the Project Agreement. In other cases, it may be necessary or desirable to alter the scope of the Grant or project by adding, deleting or modifying some of its parts. The Sponsor is required to notify the Board when such changes are anticipated and to submit an amendment.

IX. PROJECT COMPLETION RESPONSIBILITIES

This section outlines the responsibilities and obligations that an applicant should expect to fulfill once an application has been approved by the Board. Many of these obligations exist in perpetuity.

- A. Applicability** - This section applies to all property interests acquired with Program funds.
- B. Sponsor's Responsibility** - Responsibility for enforcement of the provisions of this section rests with the Sponsor. Program staff will inspect assisted areas and facilities from time to time to assure compliance with these provisions or will request the Sponsor to conduct inspections periodically.
- C. Penalties** - Failure to comply with the provisions of this section shall be cause for the Board to take one or more of the following actions to rectify the situation and bring the project back into compliance, in addition to those specified in the restrictive covenants or deed of easement recorded for the project:
 - 1. **Withhold approval** - The Board may withhold approval of any grant request submitted by the Sponsor to the Program.
 - 2. **Withhold payment** - The Board may withhold funds for the costs of any or all outstanding approved projects of the Sponsor until the project is brought into compliance.
 - 3. **Maintain, operate, or repair** - The Board may assume responsibility to maintain, operate or repair a project to protect it from further damage and then charge the cost to the Sponsor as a debt due the State.
 - 4. **Enforce compliance** - The Board may initiate legal action in order to enforce the terms of the Grant Agreement, the conservation easement, or the restrictive covenants on property acquired with Rural Legacy funds.

D. General Obligations

- 1. The Sponsor shall comply with the terms of the Grant Agreement, carry out the Plan, and adhere to the regulations adopted by the Board.
- 2. During the term of the grant agreement, the Sponsor shall submit quarterly and annual reports to the Board. Submission dates of the reports are based on execution of the Grant Agreement.
- 3. All Areas must appropriately display a permanent acknowledgment sign on the major approach routes to the Area. The cost of the sign is an allowable cost for assistance. The acknowledgment sign will include the following:
 - a. "This area is protected by the Maryland Rural Legacy Program;"

- b. Any other information the applicant considers appropriate.
4. Local governing bodies applying for Program grant assistance, or the holder of real property interests on behalf of the Sponsor, must conform to all environmental, cultural and planning laws applicable to the implementation of Program-assisted projects. If rights to public access are provided, the Sponsor or the holder of real property interests on their behalf must also comply with State and federal laws regarding disabled persons.
5. Local governments are encouraged to reflect Rural Legacy Plans in their comprehensive land use plans as updated and revised.

E. Retention and Use of Property Interests

1. Property interests acquired with Program funds shall be retained and used for those purposes as described in the Grant Agreement, Project Agreement, conservation easement, or restrictive covenants to the project. Any property interest acquired shall be in perpetuity and may not be converted to another use or modified without the approval of the Grantee, the Board, and the Department of Budget and Management.
2. All fee estate deeds shall include a restrictive covenant on the property limiting its use to the original purpose of the Program. The deed to any tract of land purchased with Program funds shall contain the following clause setting forth such restrictions on use:

“Land acquired under a State grant from the Rural Legacy Program may not be converted without written approval of the Rural Legacy Board from that use indicated in its respective approved Project Agreement. Any conversion in land use may be approved only after the Sponsor, cosponsor or titleholder replaces the land with land in the same Rural Legacy Area of at least equivalent area capable of supporting the originally intended use. The appraised monetary value of the land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted under the proposed new use of the converted land.”

The Board may provide additional guidelines and conditions in funding Project Agreements regarding the review of requests for conversion of fee estate purchases with Rural Legacy funds.

F. Inspection - Properties and facilities acquired with Program assistance shall be available for inspection by representatives of the Program and Grantee at reasonable times.

G. Compliance - The Sponsor agrees to protect, indemnify and save harmless DNR, its officers, agents, and employees from and against any and all claims,

demands, causes of action, and liability of any kind arising out of the operation and use of the project.

H. Certification - The Sponsor further certifies to the following:

1. That the information contained in the Plan, Grant, and Project Agreements are true and correct.
2. That all costs for which Grant assistance is being requested will be incurred during the Grant period.
3. Funds are available or will be available within 12 months of the date of submission of the Plan and Grant Agreement to pay the Sponsor's share of the project costs.
4. That the Program Regulations and Application terms and conditions have been complied with.
5. The project conforms to the intent of the Program as provided in § 5-9A of the Natural Resources Article of the Annotated Code of Maryland.

I. Successors - Each Grant Agreement shall include the following statement:

"This Grant Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, including assigns and successors by way of privity of estate and contract. Nothing in this Grant Agreement, expressed or implied, is intended to confer upon or against any other person, corporation or government unit, any right or remedy under or by reason of this Grant Agreement."

X. EASEMENT VALUATION AND APPRAISAL FORMAT

A. Easement Acquisitions

Section 5-9A-04 C provides that the Board shall establish a method for appraisal of real property interests acquired under the Program. Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit.

Acquisition of land in fee estate with Rural Legacy Funds shall be appraised following the requirements of paragraph X. B. Several counties have established point systems for valuing and prioritizing agricultural easements to be purchased with limited funds, based on the agricultural values most important to these counties. At least two counties have established point systems that serve to both prioritize and to determine the per-acre value that the counties are willing to pay

property owners for their easements for agricultural preservation. The Board has developed a model easement valuation system (adapted from the point systems of these counties) that may be used to set easement prices and rank easements for acquisition.

The Board's model easement valuation system (EVS) will be more comprehensive than the counties' systems, in that it is intended to ensure that easement costs reflect natural and forestry resources, in addition to agricultural resources, on property to be protected with Rural Legacy funds. The Board's model EVS will serve as a framework for establishing easement values based on the goals of the Program. It may also be adjusted to fit the individual Plans submitted by each Sponsor. Each Sponsor may elect to use the Board's easement valuation methodology, adjust the system to meet their own Plan's objectives, or adjust their own existing point system to fit the goals of their Plan and the goals of the Program, as approved by the Board. Sponsors may also elect to use a separate point system for ranking or prioritizing easement offers from the point system used for easement valuation.

Sponsors should apply their EVS to the list of properties proposed for funding in their Application and Grant Agreement prior to their submission to determine the ranking of these properties in three levels of priority and to demonstrate the effectiveness of the System in addressing the criteria of the Program.

Sponsors may also elect to use independent appraisals to determine easement values. Sponsors doing so must show how their approach will achieve the purposes and reflect the values of an easement valuation system, as provided in paragraphs 1 and 2 below.

1. Purposes of an Easement Valuation System: The following purposes must be served by an easement valuation system used to purchase easements under the Program:

- a. to pay for easements commensurate with the resource qualities of the property and the easement conditions necessary to preserve them,
- b. to identify the most desirable properties for easement acquisition, and
- c. to streamline the easement acquisition process relative to traditional appraisal-based systems.

2. Easement Values: Easement values must:

- a. Reflect the agricultural, forestry and natural resource qualities the easement is designed to protect,
- b. Reflect fair market values (FMVs) of properties in the Area, and

- c. Relate to the range of easement values paid by MALPF and other easement purchase programs.
3. **Easement valuation methodologies:** An easement valuation methodology approved by the Board must:
- a. Place value on the following characteristics of a property and the associated easement restrictions and requirements necessary to preserve them:
 - (1) real estate development rights,
 - (2) agricultural and commercial forestry qualities (may include stewardship of these resources and a measure of the contribution of the property to agricultural or forest resource-based economies);
 - (3) natural resource qualities, and
 - (4) features unique or specific to the objectives of and conditions within each Area. These may include, for example:
 - (a) measures of the contributions of a property to resource-based economies other than agriculture and forestry;
 - (b) measures of development pressure on properties; and
 - (c) location within an Area.
 - b. Reflect each of these property attributes or features based on their relative importance in the Area or to the Plan.
4. **Alternative Sponsor methodologies:** If a Sponsor chooses to submit an easement valuation system that is not adapted from the Board's model system, the Sponsor must demonstrate or explain the following:
- a. how their proposed methodology ensures that easement values will reflect:
 - (1) the property characteristics enumerated under 3 (above), and the associated easement restrictions necessary to protect the resource attributes of the property; and
 - (2) prevailing fair market values in the Area of the principal types of land use and land cover comprising the property;

- b. how the easement values resulting from their proposed methodology will relate to easement purchase prices paid by the MALPF or other easement purchase programs active in the Area;
- c. how upper and lower limits for easement values will be established and maintained;
- d. how the easement valuation system will reflect contributions of the property to the resource-based economy in the area;
- e. how the easement valuation system will reflect stewardship of agricultural, natural, or other resources or attributes of the property;
- f. how the easement valuation methodology will ensure that easement restrictions that will protect more than one resource quality or attribute on the same acreage are not double-counted for purposes of easement valuation.

5. Easement Valuation System and Purchase Policies

- a. The Board's Policies for Reservation of Residential Lot Rights on Rural Legacy Easements will apply to easements being acquired with funds awarded by the BPW after November 1, 1999. Easements acquired with funds awarded prior to that date will be reviewed for consistency with these policies, but with more flexibility. This is intended to support on-going negotiations and established understanding between Sponsors and groups of landowners.
- b. Sponsors and applicants shall describe in their Application and proposed EVS (which shall correspond to their standard Rural Legacy easement) their policies for allowing landowners to reserve the rights to residential lots to be created on Rural Legacy easement properties. Policies shall address:
 - (1) the number, size, locations, and valuation of such rights to be allowed;
 - (2) the purposes and explanation of residential density policies related to the proposed uses of the easement properties, typical farm size, topography, and other factors;
 - (3) the effect of rights retained on easement price;
 - (4) sponsor's process for reviewing compliance with this policy and any exemptions thereto to ensure consistency of Application and accomplishment of the Plan's protection goals; and

- (5) any policies that further restrict reserved residential lots to family members of the easement Grantor, tenants of the property, or others, including how such policies are to be enforced.
- c. For the purpose of valuing easements for properties retaining residential rights, Sponsors may choose to utilize two independent appraisals from qualified appraisers selected from the State's approved list in order to determine easement values. If independent appraisals are to be used in lieu of EVS values, Sponsors shall determine in their Rural Legacy policies who will pay for the appraisals within the overall Rural Legacy grant amount awarded. The Board reserves the right to have appraisals reviewed by the Department of General Services prior to submission of Project Agreements and easement contracts to the BPW for approval.
- d. The Board will review residential lot right policies proposed by Sponsors for consistency with the following guidelines:
- (1) Sponsor policies for residential lots permitted on easement properties acquired through the Program must limit the number, size, type, location, and any other relevant feature of such lots so that they do not adversely affect the rural character of the property, the natural, agricultural or cultural resources on the property, or any resource-based uses of the property;
 - (2) Before easement values and documents are finalized, landowners must declare the number of lot rights they wish to retain. The cost to landowners of retaining development rights must be reflected in the easement value paid to the landowner at settlement. If easement value is determined through an EVS, lot value(s) must be deducted from the calculated easement value to determine the easement value paid at settlement. If easement value is determined through appraisals, the appraisals must reflect the lot rights retained.
 - (3) The cost of retaining rights for residential lots that can be subdivided should approximate a percentage of the prevailing fair market value of marketable residential lots in the area (equal to the percentage of the EVS fair market reference or fair market value, whichever is used for easement valuation of the easement), minus the typical development costs (site preparation, percolation tests, etc.) for such lots. The Sponsor may use whatever means he or she wishes to calculate values for retained lot rights. However, Sponsors must show the Board how these values compare to this guideline.
 - (4) The cost of retaining rights for residential dwellings that cannot be subdivided should reflect the capitalized value of the residential use of the property; i.e., capitalized rental value, rather than fee simple value of a

sub-dividable residential lot, and the easement must prohibit subdivision of these residential units from the easement property.

- (5) Residential lots created on Rural Legacy properties that can be subdivided should be small enough to have a negligible effect on resource integrity of the mother parcel. If the right to any residential lot larger than 2 acres is proposed, Sponsors must justify the exception for each easement and demonstrate that deed restrictions for location, design, and resource conservation on the subdivided lot will ensure that resource integrity and use will not be compromised.
- e. The Model EVS approved by the Board will require Sponsors to deduct the current value of reserved development rights from the easement purchase price. Sponsors shall include in their application or EVS policies an explanation of how current values of reserved development rights are to be determined. In addition to other resource protection values, all EVSs approved by the Board shall reflect the number of development rights to be acquired or extinguished from an easement property, the number existing on the property, and those reserved for future use on the property or transferable to other properties under a local Transferable Development Rights (TDR) ordinance.
- f. As may be amended by the Board from time to time, this policy shall apply to all Rural Legacy easements obtained with Grants approved by the BPW after November 1, 1999 and with any subsequent grants approved by the BPW. A policy variance may be approved by the Board on request from a Sponsor for any specific project that is otherwise consistent with the purposes of a Plan and the Program.
- g. The Board reserves the right to request Sponsors to conduct two independent appraisals on any Rural Legacy easement submitted to the Board and the BPW for approval when either Board believes that the values offered under an approved Plan or EVS policy may be questionable or inconsistent with prevailing rates for State purchased easements in the area.

B. Fee Estate Acquisitions

1. Requirements of the Appraisal Report

- a. The total land cost of an acquisition project is determined by the sum total of the FMV of each parcel of land to be acquired. The FMV for each parcel must be substantiated by two original appraisal reports. If the project contains one or more parcels whose individual value is \$25,000 or more, then the following format for the formal appraisal must be followed.

However, if the individual parcel value is less than \$25,000, the appraiser should use the abbreviated appraisal report guidelines that follow.

- b. The Appraisal Report must be prepared by a qualified appraiser and be an analytical narrative report following current professional appraisal practices involving the application of standard techniques, such as comparative or market value, cost less depreciation, and income approaches to value. A qualified appraiser is one listed by the Department of General Services for use in state land acquisitions or one approved by the Department for local Program Open Space grants. The Appraisal Report must have been dated within the 12-month period prior to the project's submission to the Board.
 - c. The Sponsor will supply two independent appraisal reports. Each report must be an original copy with original photographs. If the appraisals vary by more than 20 percent, the Board may require a third appraisal.
 - d. The incidental cost relating to appraisal fees will be eligible for reimbursement under the Program.
2. **Formal Appraisal Report Requirements** : The following outlines the format that the formal appraisal must follow. Acquisition costing \$25,000 or more must cover all items that have been designated by an asterisk (*). It is important that each appraiser be given a copy of the following format:
- a. **Qualifications*** Statement of qualifications of all appraisers and/or technicians contributing to the report.
 - b. **Statement of Limiting Conditions*** The appraiser should state that he assumes the title to be marketable, that he assumes no responsibility for legal matters, that all data furnished him by others are presumed to be correct, and that any other assumptions he has made are correct.
 - c. **Purpose of the Appraisal*** This shall include a definition of all values required and appraised.
 - d. **Identification of Property***
 - e. **City and Area Data*** This data (mostly social and economic) should be kept to a minimum and should include only such information as directly affects the property being appraised.

f. Property Data*

- (1) **Site** Describe soil, topography, mineral deposits, easements, etc. If there is an indication that mineral deposits have more than a nominal commercial value, this fact shall be clearly stated.
 - (2) **Improvements** This shall be by narrative description including dimensions of principal buildings and/or improvements.
 - (3) **Equipment** This shall be by narrative description, including the condition.
 - (4) **Condition** The current physical condition and relative use and obsolescence shall be stated for each item or group appraised and, whenever applicable, the repair or replacement requirements to bring the property to useable condition.
 - (5) **Assessed Value and Annual Tax Load** Include the current assessment and dollar amount of real estate taxes. If the property is not taxed, the appraiser shall estimate the tax.
 - (6) **Utilities** Availability of water, sewer, electricity, etc.
 - (7) **Zoning** Describe the zoning for subject and comparable properties and, if rezoning is imminent, discuss under Item (g) below.
- g. **Analysis of Highest and Best Use*** The report shall state the highest and best market use that can be made of the property (land and improvements and, where applicable, machinery and equipment) for which there is a current market. The valuation shall be based on this use. There can be **only one** highest and best use.
- h. **Land Value*** The appraiser's opinion of the value of the land shall be based upon its highest and best use, regardless of any existing structures, and shall be supported by confirmed current factual data (sales and offerings) of comparable, or nearly comparable, lands having like optimum uses. Differences shall be weighed and explained to show how they influence the value of the land being appraised.
- i. **Value Estimates by Cost Approach** (Optional) This section shall be in the form of computed data, arranged in sequence, beginning with reproduction or replacement cost, and shall state the source (book and page if a national service) of all figures used. The dollar amounts of physical deterioration and functional economic obsolescence, or the omission of same, shall be explained in narrative form. This procedure may be omitted on improvements, with real and potential for which only a salvage or scrap value is estimated.

- j. **Value Estimate by Income Approach** (Optional) This shall include adequate factual data to support each figure and factor used and shall be arranged in detailed form to show at least (a) estimated gross rent or income; (b) allowance for vacancy and credit losses; and an itemized estimate of total expenses, including reserves for replacements. Capitalization of net income shall be at the rate prevailing for this type of property and location. The capitalization technique, method, and rate used shall be explained in narrative form supported by a statement of sources of rates and factors.
- k. **Value Estimate by Comparative (Market Approach)*** All comparable sales used shall be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale. Each comparable shall be weighed and explained in relation to the subject property to indicate the reasoning behind the appraiser's final value estimate from this approach.
- l. **Interpretation and Correlation of Estimates*** The appraisal shall interpret the foregoing estimate and shall state the reasons why one or more of the conclusions reached in items i, j and k are indicative of the market value.
- m. **Tabulation of History of Conveyance** (Property sales and transfers)* A history of transactions is required for each project. The history shall include the following items for the prior 5-year period.
 - (1) parties to the transactions,
 - (2) dates of purchase, and
 - (3) the amounts of consideration.

This tabulation may be submitted separately or incorporated by the appraiser in his/her report. The State would prefer the tabulation as a part of the appraiser's report. Similar information for sales between the date of appraisal and the acquisition date shall be ascertained by the Sponsor.

- n. **Certification of Appraiser, to wit***
 - (1) has personally inspected the property,
 - (2) has no present or contemplated interest in the property,
 - (3) that in his/her opinion the market value of the property is of a particular value at the time of acquisition, and

(4) is licensed in the State of Maryland.

3. **The Abbreviated Appraisal Report Requirements** : An abbreviated appraisal report, compiled by a qualified appraiser and adequately related to comparable sales, is acceptable for parcels with a value estimate up to \$25,000. The abbreviated report must include all six items listed below:
- a. an adequate description of the real property and a plat,
 - b. the date the value estimate applies,
 - c. supporting data, including three comparable real property sales, a brief analysis of those sales, and a map showing their location relative to the land appraised,
 - d. an analysis and statement of the property's highest and best use,
 - e. a statement of the appraiser's experience and qualifications, and
 - f. the appraiser's license and signature.

XI. TRANSFERABLE DEVELOPMENT RIGHTS

- A.** With the approval of a landowner, funds under this program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board, and may be sold only within the same jurisdiction, pursuant to local law.
- B.** The following provisions shall govern the purchase, stewardship, and resale of TDRs acquired with Rural Legacy funds:
- C.** Transferable Development Rights may be acquired through the purchase or donation of both land in fee estate and conservation easements. As a general rule, the purchase of a conservation easement will typically extinguish from a property those development rights that a landowner is willing to sell. However, where a local government has established a TDR program by ordinance, a Sponsor (titleholder) may acquire TDRs in the process of purchasing an easement.
- D.** In the event that a Sponsor acquires TDRs, with the landowner's consent in the process of acquiring an easement or land with Rural Legacy funds, the title to the TDRs shall be recorded jointly in the name of the Sponsor or the Grantee of the easement; i.e., titleholder, and the Board, and shall be described in detail in the Project Agreement.

- E. The titleholder and the Board shall record all TDRs in the land records of the local jurisdiction where they were purchased, with a copy filed in the Maryland State Archives within 30 days of purchase.
- F. The Board will establish additional rules, forms and limitations for the purchase of TDRs with Rural Legacy funds as needed. Rules and limits governing their purchase shall be specified in each conservation easement deed and TDR agreement. Such rules may include, among others:
 - 1. the form of the TDR easement,
 - 2. the deed of transfer,
 - 3. a registration or serial number system for each TDR acquired, and
 - 4. requirements for title reports on TDRs acquired.

XII. REQUIRED DOCUMENTATION FOR RURAL LEGACY RENEWAL GRANT APPLICATIONS

A. Cover Sheet

Complete the provided **Cover Sheet for Rural Legacy Application** and submit it along with all attachments.

B. Executive Summary

Complete the provided **Executive Summary** forms which request basic information about your Area and Application allowing comparisons with others, and list criteria used for Grant Application review. This is an opportunity to summarize the strengths of the Sponsor's implementation plan, the progress made to date with prior grants, and the importance of future acquisitions planned with the grant requested in this Application. Sponsors should summarize progress being made by the county or counties to support protection of the approved Area and its resources with matching funds, other federal, State or local land conservation programs, local planning, zoning and land use regulations, and other growth management policies or programs.

Since the Area has been approved and the approved plan is being implemented for approved Areas, Sponsors are permitted to submit only an Executive Summary and Progress Report along with a Grant Request for continued funding. Emphasis should be on explaining changes in the status of these resources and their threats, and progress made by the Sponsor and participating local governments to protect these resources with Rural Legacy grant funds and complementary programs and management tools. References to descriptions of the Area or its resources in prior Applications may be noted in lieu of repeating these descriptions in this summary.

1. Executive Summary - Narrative

Following instructions in Appendix I, complete a two-page (**maximum**) narrative description of changes in the Area or threats to it, the long term goals of the Plan, progress made in implementing the Plan with prior grants, the properties proposed for protection with the proposed grant, the likelihood of success and major problems and obstacles encountered in the prior grant period.

2. Executive Summary - Numbers

Using the form provided in the Appendix I, describe the Application in quantified terms that are comparable to other applications. These numbers will be used by Rural Legacy staff and the Advisory Committee to compare Applications during their review, estimate prospects for success in protecting the approved areas and the long term need for funds for all applications over time.

3. Executive Summary - Grant Renewal Application Form

Sponsors are permitted to use only the Executive Summary forms required, but may choose to provide back-up information where the space in the Executive Summary forms is insufficient.

C. Maps and Property Lists

Submit with each copy of the application one updated 8 ½" by 11" color map of the approved Area, identifying the boundaries in relationship to major roads, towns and key resources. It should include information on the properties protected in the Plan to date, including those protected with prior Rural Legacy grant funds, and the proposed acquisition properties requested, showing all three priority level properties under the current Application. In a separate envelope, submit 40 extra copies of the 8 ½ " by 11" color map.

Sponsors are requested to submit **digital geographic information (GIS data)** identifying the approved Area boundaries, the parcels of existing protected lands and those proposed with requested grant funds. This digital map should be e-mailed or sent on computer disk directly to the DNR GIS unit responsible for managing application of spatial data products. It will be used by DNR in presenting each acquisition submitted to the BPW for approval. Sponsors should contact the DNR GIS unit in advance of submission of this data to coordinate the format for data use. Sponsors that do not have the local capability to submit digital map data with their application should contact the Program to arrange for substitute methods of preparing this database.

D. Proposed Acquisitions

Using the **Proposed Acquisitions** form, provide a list of properties proposed for funding under the Plan and requested grant, in three levels of priority based on location, significance, contiguous pattern of land to be protected, and other criteria identified in the Plan. Sponsors may use an updated version of the same Proposed Acquisitions form submitted with prior grant applications, where applicable. Priority

one should include a sufficient number of parcels to reflect the current and previous grant requests as well as a percentage of additional properties to cover potential unsuccessful negotiations. Additional parcels listed as “priority two” or “priority three” should be considered contingency acquisitions the Sponsor proposes to acquire if the “priority one” parcels are unavailable, either because the landowner is unwilling to sell within the grant period or other reasons.

E. Funding Request

Complete the provided **Rural Legacy Application Funding Request** identifying the amount of Rural Legacy funds requested as well as all other funds available.

XIII. REQUIRED DOCUMENTATION FOR NEW RURAL LEGACY AREA APPLICATIONS

A. Cover Sheet

Complete the provided **Cover Sheet for Rural Legacy Application** and submit it along with all attachments.

B. Executive Summary

Complete the provided **Executive Summary** forms described below. This is an opportunity for the Sponsor to summarize key conclusions to be drawn from the Application Description and other attachments. General observations and opinions can be expressed which have their basis in the more detailed information contained in the attachments.

1. Executive Summary - Narrative

Following instructions in Appendix I, complete a two-page (**maximum**) narrative description of the Area, threats to the Area, the Plan, properties proposed for protection with the proposed grant, and the likelihood of success.

2. Executive Summary - Numbers

Using the form provided in Appendix I, describe the Application in quantified terms that are comparable to other applications. These numbers will be used by Rural Legacy Staff and the Advisory Committee to compare applications during their review, to estimate the prospects for success in protecting the approved areas, and to determine the long-term need for funds for all applications.

3. Executive Summary - New Rural Legacy Area Application Form

Lists criteria used for Rural Legacy Application review.

C. Application Description

Complete the information requested in the attachment. Back-up information may be provided where the space in the Executive Summary form is insufficient.

D. Maps, Property Lists and Photographs

1. Submit with each copy of the Application one 8 ½" by 11" color map of the proposed Area, identifying the boundaries in relationship to major roads, towns and key resources for each Application suitable for review of the Applications by the Advisory Committee and Board. It should include information on the key features and resources of the Area, and the proposed acquisition properties, showing all three priority levels, requested under the Plan below. In a separate envelope, submit 40 extra copies of the 8 ½" by 11" color map.
2. Sponsors are requested to submit **digital geographic information (GIS data)** identifying the approved Area boundary, the parcels of existing protected lands and those proposed with requested grant funds. This digital map should be e-mailed or sent on computer disk directly to the DNR GIS unit responsible for managing application of spatial data products. It will be used by DNR in presenting each acquisition submitted to the BPW for approval. Sponsors should contact the DNR GIS unit in advance of submission of this data to coordinate the format for data use. Sponsors that do not have the local capability to submit digital map data with their Application should contact Rural Legacy Program to arrange for substitute methods of preparing this database.
3. New Applications are requested to **include** at least 10 color slides of the proposed Area illustrating its overall character and resources. Slides should be included in a plastic pocket at the end of one copy of the application binder.

E. Proposed Acquisitions

Using the **Proposed Acquisitions** form, provide a list of properties proposed for funding under the Plan, in three levels of priority, based on location significance, contiguous pattern of land to be protected, and other criteria identified in the Plan. Priority one should include a sufficient number of parcels to reflect the current and previous grant requests as well as a percentage of additional properties to cover potential unsuccessful negotiations. Additional parcels listed as "priority two" or "priority three" should be considered contingency acquisitions the Sponsor propose to acquire if the "priority one" parcels are unavailable, either because the landowner is unwilling to sell within the grant period or other reasons.

F. Funding Request

Complete the provided **Rural Legacy Application Funding Request** identifying the amount of Rural Legacy funds requested as well as all other funds available.

XIV. TO APPLY.

After identifying an Area and completing a Plan, Sponsors shall submit a completed Application with Cover Sheet, Executive Summary, Maps and Property Lists, Application description, and Grant Request using the forms provided, to the following address.

**Chairman, Rural Legacy Board
c/o Pamela F. Bush, Director
Rural Legacy Program
Department of Natural Resources, E-4
580 Taylor Avenue
Annapolis, MD 21401**

Submissions shall be received by the date established by the Board. Yearly application submission date may be found on the website.
(<http://www.dnr.state.md.us/rurallegacy>)

Submission of Applications or additional information, including maps and enhanced parts of the application, will be prohibited after the due date, unless specifically requested by the Board or Advisory Committee.

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