



Protecting nature. Preserving life.

FULL-SERVICE DELIVERY WETLAND IN-LIEU FEE MITIGATION SERVICES

UPPER OHIO (05030101) SERVICE AREA

REQUEST FOR PROPOSALS

May 3, 2022

Proposals must be received by 5:00 pm on June 30, 2022

1. GENERAL ADMINISTRATIVE PROVISIONS

BACKGROUND

THE NATURE CONSERVANCY (“Conservancy” or “TNC”) is a District of Columbia, USA, non-profit corporation with its principal place of business in Arlington, Virginia, USA. TNC has offices across the U.S. and in over 30 countries around the world.

Since 1951, TNC has been working with communities, businesses and individuals to protect more than 119 million acres around the world. Our mission is to conserve the lands and waters on which all life depends. Please see www.nature.org for more details on what we do and where we work.

This Request for Proposals (this “RFP”) is being issued as part of TNC’s Ohio Stream and Wetland In-lieu Fee Mitigation Program (the “Mitigation Program”). An Interagency Review Team (“IRT”) provides oversight of the Mitigation Program and is comprised of the staff from the Huntington District, Buffalo District and Pittsburgh District of the Army Corps of Engineers, as well as agency representatives from the U.S. Environmental Protection Agency (USEPA), Ohio Environmental Protection Agency (Ohio EPA), U.S. Fish and Wildlife Service (FWS), Ohio Department of Natural Resources (ODNR), and Natural Resources Conservation Service (NRCS).

All responses to this RFP shall be consistent with the goals and objectives of the Mitigation Program and all underlying federal and state laws and regulations governing the implementation of the Project in furtherance of the Mitigation Program.

THIS IS NOT AN ORDER.

1.1. STATEMENT OF PURPOSE

It is the intention of TNC to solicit proposals for a contractor (“Contractor”) that can provide services to produce wetland mitigation credits in order to satisfy advanced credits that have been sold in the Upper Ohio (HUC 05030101) primary service area as described in Section 2. Potential bidders shall submit a site that is suitable to satisfy, at a minimum, the 13.6 wetland credits sold. One or more proposed sites will be selected to move forward and awarded a \$7,000 contract, per site, for an initial site assessment and mitigation feasibility assessment (the “Evaluation Contract”). Under the Evaluation Contract, the selected Contractor(s) will complete evaluations of the proposed site sufficient to determine the feasibility of completing wetland mitigation. The site that is deemed most feasible and of greatest conservation value consistent with The Nature Conservancy’s [Compensation Planning Framework](#) may be selected and the Contractor that evaluated the selected site may be awarded a separate contract for all phases of project implementation, which will be no less than \$540,000 (the “Implementation Contract”). This fee is based on the quantity of credits currently sold. An award of an Evaluation Contract to a Contractor shall not represent any commitment by TNC to enter into an Implementation Contract with that Contractor.

As further described in the attached Scope of Work, this Request for Proposals (RFP) is for an Evaluation Contract. TNC reserves the right to reject any and all proposals for any reason and to pursue other sites in a manner that is in the best interest of the organization.

Proposals will NOT be accepted for any of the following:

- a. Sites affected by acid mine drainage;
- b. Sites purchased through the Water Resources Restoration Sponsor Program (WRRSP);
- c. Property that is enrolled in the Conservation Reserve Enhancement Program, Conservation Reserve Program, Wetlands Reserve Program, or any other state or federal program that provides funds for any of the tasks outlined in this RFP;
- d. Properties that are currently in negotiation for Compensatory Mitigation needs; or
- e. Properties that are controlled by any Federal Agency.

1.2. TNC'S PROCUREMENT PROCESS

Procurement activities will be conducted in a nondiscriminatory manner with fair treatment given to all Contractors.

1.3. TNC'S OBLIGATIONS

TNC shall incur no obligation or liability whatsoever by reason of issuance of this RFP or action by anyone relative thereto.

1.4. BIDDER'S OBLIGATIONS

Contractor must review and analyze all sections of this RFP and submit all information and materials required under Section 3.1 of this RFP, providing sufficient information to allow TNC to evaluate the Proposal. Contractor, by submitting its proposal, agrees that any costs incurred by the Contractor in responding to this RFP are to be borne by Contractor and may not be billed to TNC.

Contractor's proposal must provide information in the order listed in section 3.1 of this RFP, or clearly state where the information resides. If TNC has any confusion or difficulty in retrieving the required information from a Contractor's proposal, it may result in disqualification of such proposal. **Contractor may not have the ability to resubmit its proposal to TNC.**

1.5 DISPOSITION OF PROPOSALS

In the absence of a non-disclosure agreement executed by TNC and the Contractor, all material submitted in response to this RFP will become the property of TNC and may be returned only at the option of TNC and at the expense of the Contractor. If Contractor desires that any materials submitted to TNC in response to this RFP be subject to a non-disclosure agreement, the Contractor must contact TNC to obtain a non-disclosure agreement prior to submitting any materials to TNC. Successful and unsuccessful contractors will be notified in writing or via email. TNC shall not be obligated to detail any of the results of the evaluation.

1.6 CONTRACTUAL COMMITMENT OF PROPOSAL

The contents of submitted proposals will be considered obligations of the successful Contractor. No information should be submitted that is not intended to be incorporated into the proposal and any contract that may result from such proposal. If there is any inconsistency between the terms herein and any of the other contract documents, the terms in the other contract documents shall prevail.

1.7 TNC INFORMATION

In the absence of a non-disclosure agreement executed by TNC and the contractor, any data, documentation or other business information furnished or disclosed to the Contractor in response to this RFP shall be deemed the property of TNC and must be returned to TNC upon request.

1.8 DISCLOSURE STATEMENT

It is the policy of TNC to identify actual, potential or perceived conflicts of interest in business transactions. To assist TNC in complying with this policy, it will be necessary that all individuals and/or organizations that will be involved in a proposed transaction with TNC complete and sign the attached Conflict Inquiry Form (see Attachment C). This relates to people who will be working, directly or indirectly, to respond to this RFP, as well as may be doing the resultant work if the Contractor receives the contract. TNC will evaluate all information based on its internal policies and procedures regarding conflict of interest, copies of which will be provided upon request. TNC reserves the right to reject any and all proposals if TNC, in its sole discretion, determines that there is a conflict of interest.

1.9 INSURANCE REQUIREMENTS

For the Evaluation Contract, the Contractor shall provide TNC with a Certificate of Insurance verifying its limits for public liability, property damage, and automobile insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000), per occurrence. For the awarded Evaluation Contract, TNC shall be specifically named as an

“additional insured” on all policies covering work under the Evaluation Contract and the required Certificate of Insurance shall show that TNC has been added to the policies. All insurance shall be endorsed so that it cannot be canceled in less than thirty (30) days. The insurance requirements for any Implementation Contract may be different.

1.10 APPLICABLE STATE AND FEDERAL REQUIREMENTS

Contractor shall comply with all applicable Ohio Governor Executive Orders; federal, state and local laws, regulations (rules), assurances, and orders, whether or not specifically referenced herein.

1.11 DRUG FREE WORKPLACE

The Contractor shall comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

1.12 INDEPENDENT CAPACITY OF CONTRACTOR

The parties hereto agree that the Contractor, and any agents and employees of the Contractor shall act in an independent capacity and not as officers, employees, or agents of TNC. Nothing herein or in the submitted proposal shall be construed so as to create a partnership, joint venture, or other relationship between the parties.

1.13 LIABILITY

The Contractor agrees to indemnify and to hold TNC harmless and immune from any and all claims for injury or damages arising from this RFP or any awarded Contract which are attributable to Contractor’s own actions or omissions or those of its trustees, officers, agents, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint ventures.

1.14 RIGHT TO REJECT

TNC reserves the right to reject, in its sole and absolute discretion, any and all proposals, for any reason, to waive technicalities, and to pursue purchasing that is in the best interest of the organization. TNC shall not be required to award a contract to any entity that responds to this RFP. Reasons for non-award of this contract may include, but are not limited to, TNC’s dissatisfaction of the submitted proposals, and/or the inability to get one or more permits necessary to complete the Project. The final award of the Project is conditional on Contractor executing a written contract acceptable to TNC, in its sole and absolute discretion.

2. SCOPE OF WORK

2.1 **PURPOSE**

The purpose of this project is to identify a site that is able to provide wetland mitigation to offset unavoidable impacts in the Upper Ohio watershed. To achieve this goal, TNC's Ohio Mitigation Program wetland credits are used as the compensatory mitigation. The scope of work for this RFP requires the Contractor to identify a site suitable for mitigating the impacts associated with credits sold in the Upper Ohio watershed, totaling 13.6 wetland credits. Sites that meet this minimum credit need and have the potential to be scaled up to produce additional wetland and stream credits are preferred. This property must be able to produce mitigation that will meet or exceed the standards for compensatory mitigation in Ohio ([Guidelines for Wetland Mitigation Banking in Ohio Version 2.0, September 2020](#), and [Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio, Version 1.1, March 2016](#)), which includes the ability to place the project area under permanent site protection in the form of a conservation easement or environmental covenant.

2.2 **GENERAL PROJECT INFORMATION**

Project Type	Site Identification - Wetland Mitigation
Project Name	Upper Ohio
Project Manager	The Nature Conservancy
HUC 8	Upper Ohio Watershed (05030101)
Resources	Wetlands, Streams, and Associated Buffers

2.3 **THE NATURE CONSERVANCY TASKS**

TNC shall coordinate with the Contractor regarding approval of task deliverables. Where appropriate, TNC will provide templates for documents that have already received IRT approval and align with TNC's internal requirements, which may include conservation easements, environmental covenants, Project Partnership Agreements, *etc.* TNC will work with the Contractor to present a project budget in the Draft Mitigation Plan, particularly with regard to financial assurances and long-term management endowments.

Note, a mitigation project cannot move forward unless title to the project area is acceptable to the IRT, which in most cases mean the project area must be free of all title encumbrances. TNC will work with the Contractor to evaluate a site's title, and as applicable work to remove encumbrances from title.

2.4 **CONTRACTOR TASKS AND DUTIES**

The specific tasks to be completed by the Contractor include: 1) complete a feasibility analysis to determine the potential for wetland restoration, 2) prepare a draft mitigation plan for submittal to the IRT, and 3) execute a project partnership agreement with the landowner.

TASK 1. COMPLETE FEASIBILITY ANALYSIS

The Contractor shall complete a preliminary feasibility analysis to determine the site's potential for developing the required wetland credits. This shall include, but not be limited to, an investigation of the site's soils, hydrology, and vegetation, an estimate of the existing wetland area and stream extents (note that a Waters of the U.S. assessment is not expected at this stage), interpretation of potential tile drainage, review of historical aerial imagery, description of pressure from invasive species, and any other relevant data to provide the basis for potential wetland, stream, and buffer mitigation.

TASK 2. PREPARE DRAFT MITIGATION PLAN

Using the data gathered in Task 1, the Contractor shall draft a conceptual design for wetland mitigation following the wetland guidelines provided. It is preferred that the proposed wetland mitigation credits be derived from wetland re-establishment and its associated buffer.

The Contractor shall prepare a Draft Mitigation Plan to be submitted to the IRT. This is a relatively short document (less than 10 pages) that must include:

- a. The proposed project name;
- b. Project contacts;
- c. General location map, address, and proposed mitigation property;
- d. Proposed property boundaries depicted on a 7.5-minute USGS map;
- e. Aerial photograph of the project site and surrounding properties;
- f. Soils map of the project site and surrounding properties;
- g. Map and description of the proposed project service area;
- h. Current project site conditions description including:
 - a. Potential wildlife habitats and species known or potentially present
 - b. Photos of the site
 - c. Description of potential wetlands and waters present on site, including acreage/linear feet
 - d. Hydrology description
 - e. Site history including past land uses
 - f. Surrounding land uses and zoning
 - g. Anticipated reasonably foreseeable future development in the area
 - h. Description of any known encumbrances on the property (*e.g.*, above- and below-ground mineral rights, utility easements, water easements)
- i. Conceptual site plan
- j. Preliminary Project Budget, including, but not limited to:
 - a. Site control
 - b. Pre-construction activities
 - c. Construction activities
 - d. Maintenance activities
 - e. Financial assurances
 - f. Long-term management funding
 - g. Potential credit generation estimate

The Contractor shall work with TNC to develop the project budget, as the long-term management endowments will still be held by TNC.

TASK 3. EXECUTE PROJECT PARTNERSHIP AGREEMENT

The Project Partnership Agreement (PPA) must include the landowner's willingness to either sell the property or to place a site protection instrument—which may include a conservation easement or an Environmental Covenant—across the area upon which mitigation will occur and provide interim site protection until the property is sold or the site protection instrument is recorded. If a site protection instrument will be recorded without purchasing the property in fee simple, the PPA must also document the landowner's agreement to allow project implementation. The Contractor shall produce a third-party appraisal to determine the fair market value of the property (or the Conservation Easement or Environmental Covenant, as applicable). The appraisal must meet at least USPAP appraisal standards and be acceptable to TNC.

3. PROPOSAL SUBMISSION AND EVALUATION

3.1 BIDDER SUBMISSION REQUIREMENTS

Submission of Proposal:

3.1.2 Contractor will send its response to this RFP via email.

3.1.3 Email for Contractor's Submission of Proposal: james.palus@tnc.org

3.1.4 At a minimum, the following must be included in proposals:

- a. Contractor Questionnaire (Attachment A)
 - i. Statement of qualifications must include descriptions of at least three (3) projects completed by the Contractor that are similar in size and scope to the project described in this RFP, including implementation.
 - ii. Statement of qualifications must reference Contractor's experience conducting and implementation mitigation projects (preferably in Ohio).
- b. Proposal and technical approach for completing all tasks described in the Scope of Work. Candidates may provide discussion and comment on alternative approaches to achieve the tasks identified for the site, and to propose alternative and/or complementary tasks to complete the project more economically.
- c. Proposed site for completing the required mitigation, including documented permission to access property, aerial imagery, site photos, GIS shapefiles of property boundary and proposed mitigation boundary, and proof of landowner's willingness to either sell the property or execute a conservation easement. The site must meet the following minimum criteria:
 - i. Permanent protection (the property is currently, or can be, protected in perpetuity)
 - ii. In-kind mitigation (the property will provide the same type and amount of resource needed)
 - iii. Primary service area (the property is in the HUC-8 watershed in which impacts occurred)
 - iv. Water resource impacts on the property can be restored onsite and are not the result of uncorrectable watershed-scale problems (*e.g.*, toxic inputs, combined sewer overflows, acid mine drainage).
 - v. Current ownership – identify the ownership of the site.
- d. Completed [Site Selection Checklist](#)
- e. Delivery Schedule
- f. Specify expiration date of bid. Submitted bid pricing must be good through December 31, 2022.
- g. Template for Evaluation Contract

Do you agree to use our attached contract (see Attachment B)? If not:

- i. Review attached contract and express any concerns you have regarding the terms of the Agreement using the following conventions:

Agreed - where the terms are acceptable as stated.

Modification Proposed - where Contractor is unable to accept the terms as stated but will accept a modification of the terms. Contractor must provide: (1) the reason for its inability to accept the term as stated and (2) modified language, which would be acceptable to the Contractor.

Not Agreed - where the term is completely unacceptable and no modification is possible. Please state the reason such term is unacceptable.

- ii. Attach a draft copy of your contract for our review.
- h. Conflict Inquiry Form (Attachment C)

3.2 PROPOSAL EVALUATION/SELECTION PROCESS

3.2.2 Contractors are to make written proposals, which present Contractor's qualifications and understanding of the work to be performed. Contractors are asked to address each evaluation criterion and to be specific in presenting their qualifications. TNC's preferred qualification for the Contractor includes the successful completion of at least 3 stream and wetland design-build projects of similar size and scope to the current request, and not less than \$300,000 in contract amount. Proposals should be as thorough and detailed as possible so that TNC may properly evaluate Contractor's capabilities to provide the required goods/services. Selection of the successful contractor will be based upon submission of proposals meeting the selection criteria.

3.2.3 The minimum selection criteria will include the following:

- 3.2.3.1 Qualifications of Contractor;
- 3.2.3.2 Demonstrated ability to understand and perform the project;
- 3.2.3.3 Technical solution for creating deliverable products;
- 3.2.3.4 Quality of proposal/presentation;
- 3.2.3.5 Evidence of sufficient insurance;

3.3 QUESTIONS REGARDING THIS RFP

Contractor understands and agrees that it has a duty to inquire about and clarify any RFP questions that the Contractor does not fully understand or believes may be interpreted in more than one way. Contractor may only submit questions regarding this RFP to TNC via email listed in Section 3.1.2 by **May 27, 2022**. No phone calls, please. Questions and answers may be shared by e-mail with all Contractors that have been approached with this RFP. TNC, however, is not required to answer any questions that are not pertinent to the RFP or are considered to be proprietary information.

3.4 RESTRICTED COMMUNICATIONS

It is the policy of TNC to avoid situations which (1) place it in a position where its judgment may be biased; (2) create an appearance of conflict of interest with respect to rendering an impartial, fair, technically sound, and objective decision prior to selection; or (3) give an unfair competitive advantage to competing Contractors. Therefore, to ensure an ethical RFP process, bidders will not be able to submit questions or otherwise communicate with TNC after the date listed in the table in Section 3.5 below.

3.5 CRITICAL DATES

RFP Activities	Due Date
Distribute RFP	May 2022
Communication Period Ends	May 27, 2022
Proposals Due	June 30, 2022
TNC Notifies Selected Contractors	July 8, 2022
Submit Draft Mitigation Plan	October 7, 2022
Written Landowner Agreement for Project Implementation and Site Protection	December 9, 2022

ATTACHMENTS

- A Bidder Questionnaire
- B TNC's Standard Contract for Services
- C TNC's Conflict Inquiry Form

ATTACHMENT A:

BIDDER QUESTIONNAIRE

Please answer each of the following questions in the space provided. If additional space is required, please continue on a separate sheet and attach it to this form.

General Information:

Company Name: _____
Company Address: _____
Contact Name: _____
Phone & Email: _____
Years in Business: _____

Contractor Information:

Please indicate if you have done business with TNC in the past and provide contact information below.

Statement of Qualifications:

Please provide a statement of qualifications below. This statement of qualifications must include information pertaining to the attached scope of work.

Employee and Project Team Information

Number of Employees: _____

Please identify the key personnel who will be committed to this project, their roles and their qualifications for this project.

Service Information

Are there any geographical areas that your company is not able to serve?

YES NO

If yes, please list.

Safety Information

Does your company have a written safety plan, including one that addresses COVID-19?

YES NO

If yes, please include the plan with your proposal.

Minority and Women - Owned Business Enterprise

Please indicate below if your firm is at least 51% minority or women owned, controlled and operated. Identify the % of minority or women ownership.

Legal

If your firm is bonded, please indicate type:

Performance Bond YES NO

Labor & Material Payment Bond YES NO

Are there any judgments, suits or claims pending against your firm?

YES NO

If yes, please explain:

Has your firm operated under a different name? (Please provide)

References

Please provide up to three references with contact name and phone number. Projects for the references included should be of similar size and scope to the current request.

ATTACHMENT B:

COPY OF TNC STANDARD CONTRACT

The contract will be in a form similar to the form below. However, terms may be added or changed to the final form by TNC based on the proposal received, the requirements of the IRT or OMP, requirements of the landowner, public health and safety requirements, or to comply with TNC’s internal requirements or applicable law.



Contract Number:	
TNC Accounting Information	
Project Name:	
Project-Award-Activity #:	
Source of funds:	<input type="checkbox"/> Public Funds <input checked="" type="checkbox"/> Private funds <input type="checkbox"/> Private funds with donor restrictions <input type="checkbox"/> Private funds as match for public funds

CONTRACT FOR SERVICES

This Contract for Services (the “**Contract**”) is entered into by and between **The Nature Conservancy**, a District of Columbia non-profit corporation (“**TNC**”), through the following U.S. office:

TNC Business Unit:	Ohio
Contact:	Jim Palus
Address:	6375 Riverside Drive, Suite 100
Telephone:	614-717-2770
Email Address:	james.palus@tnc.org

and the following person or entity (“**Contractor**”):

Name of Contractor: (Include DBA, if any)	
Address:	
Telephone:	
Email Address:	
<i>For Entities Only (individuals leave blank):</i>	
Name of Representative:	
Type of Entity:	
State of Incorporation:	

1. **Services.** TNC engages Contractor to provide the services, goods and/or deliverables (collectively, the “Services”) described in **Exhibit A** (“Description of Services”) in accordance with the terms and conditions of this Contract.
2. **Payment.** TNC will compensate Contractor for the Services by paying a “Contract Fee” as follows:
 - a. **Contract Fee Amount** For all of the Services, TNC will pay Contractor a fee of \$5,000 (Five Thousand Dollars) (the “Contract Fee”), which is inclusive of all taxes, once all of the Services have been fully performed, delivered, and accepted by TNC.
 - b. **Reimbursable Expenses:** N/A:

- c. **Invoices and Payments.** Requests for payment of the Contract Fee must be submitted to TNC in the form of an invoice itemizing the Services performed or delivered during the invoice period. Invoices will be subject to review and approval by TNC, and TNC may deny payment of requests received more than sixty (60) days after the final deadline for the completion of Services. TNC will make all payments either (i) by check, subject to TNC's receipt from Contractor of a properly completed IRS Form W-9, or (ii) via Vendor ACH, subject to Contractor's completion of TNC's Vendor ACH Enrollment Form. Expenses authorized for reimbursement by TNC must be: (i) substantiated by adequate documentation (such as receipts), unless waived in writing by TNC; (ii) reasonable in amount; (iii) related to and in furtherance of the Contract purposes; and (iv) submitted with Contractor's invoices for payment. In the event of early termination of the Contract and upon receipt of any termination notice, with or without cause, Contractor shall not incur any further expenses, without express written consent by TNC. Any unused materials or supplies paid for by TNC will remain the property of TNC and must be delivered to TNC by Contractor at the end of the Contract term. TNC shall not pay any expenses to third parties on behalf of the Contractor.
3. **Term.** This Contract will become effective upon the last signature date below and will expire automatically once all the Services have been completed and final payment by TNC has been made (the "Contract Term"). Contractor must comply with all deadlines in Exhibit A and finalize all Services on or before **[INSERT ANTICIPATED END DATE OF SERVICES]**. Any deadlines set forth herein may be extended only with TNC's prior written consent, which may be provided by email. Time is of the essence in the performance of this Contract.
4. **Termination.**
- a. **Without Cause.** TNC may terminate this Contract without cause at any time upon two weeks' written notice to Contractor. TNC will pay Contractor for the Services that have been satisfactorily performed, as determined by TNC, as of the termination date. Contractor shall submit a final invoice within fourteen days following termination of services.
- b. **For Cause.** TNC may immediately terminate this Contract for cause by written notice to Contractor if Contractor fails to perform any duty, obligation, or covenant under this Contract, whether for circumstances within or beyond Contractor's control, or if TNC determines at any time that the Services cannot be performed in accordance with Applicable Laws (defined below) or TNC's policies or operating procedures. Should termination occur as a result of Contractor's default, TNC may, without limiting any other remedies available to it under Applicable Laws, recover damages from Contractor resulting from Contractor's default and may offset any amounts payable to Contractor against such damages.
- c. **Refund of Advanced Payments.** Regardless of the reason for termination, to the extent the balance of any advance payments made by TNC exceeds the total payments due to Contractor for Services satisfactorily completed, Contractor must promptly return the excess advance payments.
5. **Conflict of Interest Determination.** Contractor represents and warrants that, to the best of Contractor's knowledge, the information Contractor has provided on TNC's Conflict of Interest Inquiry Form (attached as Exhibit B) is true and correct. If any of the information Contractor has provided changes during the term of this Contract, Contractor agrees to promptly notify TNC in writing of such change. The parties acknowledge that publicly traded companies engaging in the normal course of business, government agencies, and universities are exempt from this requirement.
6. **Independent Contractor Status**
- The parties intend this Contract to create an independent contractor-client relationship and not an employee-employer relationship. Contractor is solely responsible for the conduct and control of the Services and fulfilling Contractor's duties and obligations under this Contract. Contractor is not an agent or employee of TNC, and no partnership, joint venture, or principal-agent relationship exists. Neither party will have any right, power, or authority by virtue of this Contract to create any obligation, express or implied, on behalf of the other party.
- a. **Independent Contractor.** The parties intend this Contract to create an independent contractor-client relationship and not an employee-employer relationship. Contractor is solely responsible for the conduct and control of the Services and fulfilling Contractor's duties and obligations under this Contract. Contractor is not an agent or employee of TNC, and no partnership, joint venture, or principal-agent relationship exists. Neither party will have any right, power, or authority by virtue of this Contract to create any obligation, express or implied, on behalf of the other party. Contractor warrants and represents that Contractor (i) shall timely file and pay all self-employment taxes and other amounts due with respect to payments received hereunder; (ii) may perform work for other clients during this

engagement; and (iii) is customarily engaged in an independently-established trade, occupation, profession, or business.

- b. **No Benefits.** Contractor acknowledges and agrees, and it is the intent of the parties that neither Contractor nor any employees or subcontractors of Contractor be eligible for or receive any TNC-sponsored benefits as either a contractor or employee. Such non-eligible benefits include, but are not limited to, paid vacation, sick leave, holiday leave, notice prior to dismissal, severance, garden leave, overtime pay, medical insurance, and 401(k) participation. If Contractor is reclassified by a state or federal agency, local authority, or court as an employee, Contractor will become a reclassified employee and will receive no benefits except those mandated by U.S. state or federal law, even if by the terms of TNC's benefit plans in effect at the time of such reclassification Contractor would otherwise be eligible for such benefits on a retroactive or prospective basis.
 - c. **Disclosure.** TNC will not provide unemployment compensation coverage for Contractor. Contractor is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Contractor or some other entity.
7. **Taxes.** Contractor is responsible for filing and paying its own taxes and for complying with the requirements of any applicable tax laws. TNC will not withhold or pay on behalf of Contractor or any of Contractor's employees any U.S. Federal, state, or local income tax, payroll tax, or any excise, sales, or use tax of any kind. TNC will report to the IRS on Form 1099 all fees paid to Contractor, as and to the extent required by Applicable Laws.
 8. **Performance of Work.** [Contractor represents and warrants that Contractor is qualified and will perform the Services in accordance with the highest standards of Contractor's profession or craft.](#) Contractor is responsible for the complete performance of the Services notwithstanding the use of any subcontractors or work performed by anyone else under Contractor's direction or control. Contractor will not be paid for any Services found by TNC to be unsatisfactory.
 9. **Liability; Indemnification.** Contractor agrees that it is entering into this Contract and performing the Services entirely at Contractor's own risk. Contractor, on behalf of Contractor and Contractor's employees, subcontractors, and agents, agrees to indemnify, defend, and hold harmless TNC and its directors, officers, employees, agents, and assigns (collectively, the "Indemnified Parties") from and against any and all liabilities, demands, damages, claims, losses, costs, settlements, judgments, fines, penalties, or expenses, including reasonable attorneys' fees and costs, (collectively, "Claims") that directly or indirectly arise out of, relate to, or result in any way from the performance of this Contract, whether or not the Claims have merit, involve third parties, or are caused or alleged to be caused by Contractor or any of the Indemnified Parties; provided, however, that Contractor will not be responsible for Claims arising from the sole negligence, gross negligence, or willful misconduct of any of the Indemnified Parties.
 10. **Insurance.** Prior to commencing the Services and during the Contract Term, Contractor must have and maintain the following insurance policies: (a) workers' compensation insurance coverage as required by Applicable Laws; (b) commercial general liability insurance (including contractual liability if the Contract Fee is \$100,000 or more or if requested by TNC) of at least \$1,000,000 per incident, written on an occurrence basis, and covering the Services that are the subject of this Contract, including any related claims; (c) automobile liability insurance, covering all owned and non-owned vehicles used in performing the Services, with a liability limit of at least \$1,000,000 per occurrence; (d) professional liability insurance in the amount of at least \$1,000,000 if Contractor is providing professional services (such as consulting, engineering, design, appraisal, or surveying services); and (e) umbrella coverage of at least \$4,000,000 if the Contract Fee is \$100,000 or more, or if requested by TNC. Contractor's insurance policies must be primary to TNC's insurance policies. Before any of the Services commence, the foregoing requirements must be evidenced by one or more Certificates of Insurance, showing TNC as an additional named insured and requiring at least 30 days advance written notice to TNC of any cancellation, renewal, reduction in limits, or coverage or other material change of the policies. TNC reserves the right to request additional documentation, such as one or more policy endorsements, deemed reasonably necessary to ensure such requirements have been met.
 11. **Work Product; Intellectual Property.** Contractor retains all right, title, and interest in works, inventions, and other intellectual property original to or owned by Contractor prior to the execution of this Contract or created outside the scope of this Contract. If the Services involve the creation of intellectual property including, but not limited to, inventions, concepts, processes, reports, derivative works, studies, photographs, software (including in both object code and source code form), drawings, designs, writings, related drafts, supporting materials, or data (collectively, the "Works"), TNC will own all right, title, and interest, including copyrights, and, if applicable, patent rights, in and to the Works. Contractor agrees that all copyrightable Works are "works made for hire" as defined under the copyright laws of the United States. To the extent that any of the Works are not works made for hire, Contractor unconditionally assigns to

TNC and TNC's successors and assigns all right, title, and interest, including copyright, and other intellectual property rights, in and to the Works in all media (whether now known or later developed) worldwide and in perpetuity. Contractor grants to TNC a worldwide, non-exclusive, royalty-free, perpetual license to use, reproduce, distribute, modify, exercise, practice, perform, and exploit any assets subject to Contractor's patents, copyrights, or other intellectual property rights, to the extent that such license is necessary for TNC to enjoy all rights associated with ownership of the Works. Upon request of TNC, Contractor will deliver to TNC all tangible copies (including digital copies) of the Works and will execute and complete all documentation necessary to establish TNC's ownership of the Works. Contractor warrants and covenants that the Works will not infringe on the patent rights, copyrights, or other intellectual property rights of Contractor or third parties.

12. **Use of TNC Name and Logo.** Unless expressly authorized in writing in this Contract or in a separate written agreement, Contractor may not use TNC's name, logo, or other intellectual property in any manner, whether in conjunction with the Services or otherwise, except (a) to deliver invoices or other notices to TNC and (b) within acknowledgements of TNC funding, as authorized in writing by TNC.

13. **Confidential Information.** In performing the Services, Contractor might have access to information, whether verbal, in writing, in electronic format, or in any other tangible form, disclosed by TNC, directly or indirectly, to Contractor that is (a) identified as confidential, or (b) disclosed in a manner in which TNC reasonably communicates, or that Contractor should reasonably have understood, should be treated as confidential, whether or not designated as "confidential" (collectively, "Confidential Information"). Confidential Information includes, without limitation, data sets, personal data (including donor data), marketing plans, research, products, technologies, software source code, software object code, data collection functionalities, trade secrets, pre-publication patent applications, research and development, know-how, and other information relating to TNC and its operations, programs, or systems. Contractor may not, without TNC's prior written consent, use, copy, publish, or divulge any Confidential Information, and agrees to use Confidential Information solely in furtherance of the Services and for no other reason. Contractor must use appropriate security procedures to safeguard Confidential Information. Contractor acknowledges and agrees that in the event Contractor receives any personal identifying information (i.e., information that identifies or can be used to identify an individual or that relates to an identified individual), Contractor (i) will be subject to a TNC IT Security review prior to such transfer or exchange and (ii) Contractor will comply with all Applicable Laws relating to the protection of personal identifying information. In addition, Contractor must comply with any additional requirements relating to protection of data as set forth in this Contract and/or as specified in any exhibits to this Contract.

14. **Compliance with Laws.** Contractor represents, warrants, and agrees that Contractor:
 - a. can lawfully work in the United States and/or the countries where the Services will be performed;
 - b. has or will obtain at Contractor's expense (except to the extent otherwise explicitly stated in this Contract) any permits, licenses, or authorizations required to perform the Services. This includes, without limitation, a property owner's prior permission to enter upon private property and any related permissions to and ensure TNC has any future permissions necessary for completion of the project, if applicable;
 - c. will take affirmative steps to inform TNC, prior to signing this Contract, if it is a privately-held entity in which a Government Official¹ has equity ownership or, in the case of an individual person providing services as an independent contractor, if the Contractor is a Government Official for any government *other than* a U.S. local, state, or federal government agency;
 - d. will comply with all statutes, laws, ordinances, executive orders, rules, regulations, court orders, and other governmental requirements for the jurisdiction(s) in which the Services are performed and any other jurisdiction(s) in which Contractor is organized or authorized to do business;

¹ For purposes of this Contract, TNC defines a "Government Official" as any official or employee of any government, political party, or public international organization, and any candidate for political office, regardless of whether the person purports to act in a private capacity or serves without compensation. For purposes of this definition, the "government" means any agency, department, embassy, instrumentality, or other governmental entity, including any company or other entity owned or controlled by the government.

- e. will comply with all applicable anti-bribery or anti-corruption laws and regulations. To that end, Contractor shall not either directly or indirectly, pay, offer, promise to pay, or give anything of value (including any amounts paid by TNC) to any person, including an employee or official of a government, with the reasonable knowledge that it will be used for the purpose of obtaining any improper benefit or to improperly influence any act or decision by such person for the purpose of obtaining, retaining, or directing business. Any amounts paid by TNC to Contractor will be for services actually rendered in accordance with the terms of this Contract. Contractor shall not accept bribes or kickbacks in any form. The Contractor further represents, warrants, and agrees that it has not committed any of the acts prohibited herein or been accused of making or authorizing any acts prohibited herein.
- f. will comply with all applicable counterterrorism, anti-money laundering and economic sanctions laws. To that end, the, Contractor represents and warrants that, to the best of Contractor's knowledge, Contractor and Contractor's subsidiaries, principals, and beneficial owners, if any:
 - i. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any government agency;
 - ii. (A) are not included on the Specially Designated Nationals and Blocked Persons lists maintained by the U.S. Treasury's Office of Foreign Assets Control, the United Nations Security Council Consolidated List, or similar lists of proscribed entities identified as associated with terrorism; and (B) will not engage in transactions with, or provide resources or support to, any such individuals or organizations or anyone else associated with terrorism;
 - iii. are not a person or entity with whom transacting is prohibited by any trade embargo, economic sanction, or other prohibition of law or regulation; and
 - iv. have not conducted, and will not conduct, their operations in violation of applicable money laundering laws, including but not limited to, the U.S. Bank Secrecy Act and the money laundering statutes of any and all jurisdictions to which they are subject, and no action or inquiry concerning money laundering by or before any authority is pending;
- f. will comply with all applicable human rights laws, statutes, regulations, and codes as well as any human rights policy, standard operating procedure, guideline, or procedure adopted by TNC and shared with Contractor. Furthermore, in performing the Services, the Contractor shall respect human rights by: (a) identifying, preventing, and mitigating any potential or actual adverse human rights impacts resulting from its activities or the activities of its subcontractors, suppliers, or similar third parties; and (b) remediating any actual adverse human rights impacts which it causes or to which it contributes as soon as is practicable. Finally, the Contractor represents and warrants that neither Contractor nor any of its employees has been found at fault or penalized for any human rights violations or creating an adverse impact on human rights;
- g. will not take any actions that might cause TNC to be in violation of the laws, statutes, regulations, or similar rules mentioned in this Section (collectively, "Applicable Laws");
- h. will immediately notify TNC in writing if any of the representations, warranties, certifications, statements, or agreements in this Section change before or during the Contract Term; and
- i. will include provisions at least as restrictive as these in all permitted subcontracts (except for subcontracts purchasing commercially available, off-the-shelf goods or services).

If TNC determines that any of the representations, warranties, certifications, statements, or agreements in this Section are false, no longer valid, or have materially changed, whether or not the Contractor is at fault, TNC may terminate this Contract effective immediately upon written notice to Contractor, with no further obligation by TNC under this Contract, including payment, and TNC may pursue all available remedies under Applicable Laws.

15. **Governing Law; Forum.** This Contract and claims relating to this Contract will be interpreted, construed, and governed by the laws of the state in which the TNC Business Unit set forth on the first page this Contract is located (excluding such state's choice of law principles, if any). In the event of any litigation over the interpretation or application of any of the terms of this Contract, litigation will be conducted in the state in which the TNC Business Unit set forth on the first page of this Contract is located.

16. **Miscellaneous Terms and Conditions.**

- a. **Notices.** Any notice, request, or demand made by either party to this Contract must be in writing and must be sent and deemed delivered as follows: (i) in person – delivered immediately; (ii) by mail, postage prepaid, certified

(return receipt requested) – delivered three business days after sending; (iii) by a nationally recognized, next-day delivery service with tracking information and requesting next-business day delivery – delivered the next business day; or (iv) email – delivered the next business day.

- b. **Assignment; Subcontracting.** Contractor may not assign this Contract or subcontract any portion of the Services without TNC’s prior written consent, which may be granted via email or by the inclusion of the subcontract description in Exhibit A. TNC’s consent may be granted or withheld in TNC’s sole discretion.
- c. **Code of Conduct; Helpline.** TNC expects itself and everyone with whom it does business to conduct themselves in ways that are consistent with its TNC’s Code of Conduct found at www.nature.org/codeofconduct. Anyone (whether an employee of TNC or not) may contact the TNC Helpline (anonymously, if desired) with questions, concerns, or suspected violations at www.nature.org/tnc Helpline.
- d. **Entire Agreement; Amendments; Order of Precedence.** This Contract will become binding when signed by both parties and, together with its exhibits, which are hereby incorporated into and made a part of this Contract, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous communications, both oral and written, between the parties relating to the Services described in this Contract. Unless explicitly stated otherwise in this Contract, no amendment to this Contract, including a change in the Description of Services, will be effective unless in a writing signed by both parties. In the event of a conflict, priority will be given to documents in the following order: (i) provisions in the main body of this Contract; (ii) provisions of any exhibit pursuant to Section 17 below, if applicable; (iii) Description of Services set forth in Exhibit A; and (iv) any additional exhibits or attachments to this Contract.
- e. **Severability; No Waiver.** If any provision of this Contract is found to be invalid by a court of competent jurisdiction, the other provisions will not be affected by that finding. No delay in exercising any right or remedy under this Contract by either party will constitute a waiver of that right or remedy or of any other right or remedy under this Contract or under Applicable Laws.
- f. **Joint and Several Liability.** If two or more persons or entities are identified as Contractor in this Contract, their obligations under this Contract are and will be joint and several.
- g. **Counterparts.** This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which will constitute the complete Contract.
- h. **Consent to electronic signatures.** Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under Applicable Laws, will be fully binding for all purposes.
- i. **Authorization to Sign.** Contractor represents and warrants that the person signing this Contract on behalf of Contractor is duly authorized to sign this Contract on Contractor’s behalf.
- j. **Survival.** The “Liability; Indemnification,” “Confidential Information,” and “Intellectual Property” Sections of this Contract will survive the expiration or earlier termination of the Contract.

17. **Additional Terms and Conditions.** This Contract is further subject to the additional terms and conditions:

- Additional Service Terms and Conditions Exhibit
- Data and Information Security Exhibit
- U.S. Government Laws and Regulations Exhibit
- State/Local Government Terms and Conditions Exhibit
- Private Funder Terms and Conditions
- Other: _____
- None

In consideration of the above, TNC and Contractor execute this Contract effective as of the later date of signature below.

The Nature Conservancy

[Contractor's Name]

By: (signature) _____
Print Name: _____
Title: _____
Date: _____

By: (signature) _____
Print Name: _____
Title (if applicable): _____
Date: _____

Exhibits:

Exhibit A: Description of Services

Exhibit B: Conflict of Interest Inquiry Form

EXHIBIT A
Description of Services

Based on Section 2 in the RFP.

Exhibit B

Standard Terms and Conditions

1. Conflict of Interest Determination. Contractor represents that to the best of its knowledge the information it has provided on TNC's Disclosure Form, now or up to two years prior to the commencement date of this Contract, is true and correct.

2. Independent Contractor. The parties intend this Contract to create an independent contractor-client relationship and Contractor is solely responsible for the conduct and control of the Services and fulfilling its duties and obligations under this Contract. Contractor is not an agent or employee of TNC, and no joint venture or principal-agent relationship exists. Contractor and its employees, if applicable, are not entitled to any of the benefits that TNC provides for its employees. Neither TNC nor Contractor will have any right, power, or authority by virtue of this Contract to create any obligation, express or implied, on behalf of the other.

3. Performance of Work. Contractor represents that it is qualified and willing to perform the Services in accordance with the highest standards of Contractor's profession or craft. Contractor will not be paid for any Services found by TNC to be unsatisfactory. The Contractor shall at all times provide protection from weather conditions so as to maintain all work, materials, apparatus and fixtures free from damage. At the end of a day's work, all work likely to be damaged shall be protected and the premises secured. Any work damaged by failure to provide protection as required above shall be replaced with new work at Contractor's expense. TNC's acceptance of and/or payment for the completed work performed by the Contractor, and payment therefor by TNC, shall not relieve the Contractor of its obligation to TNC and the current landowner, which obligation is hereby acknowledged, to discharge any and all liens for the benefit of subcontractors, laborers, material persons, or any other persons performing labor upon, or furnishing material or machinery for, the work covered by this Contract, which have attached or may subsequently attach to the property on which the work has been performed or to any interest of TNC therein.

4. Assignment. Contractor must not assign this Contract without TNC's prior written consent

5. Termination; Remedies. TNC may terminate this Contract at any time, in its sole discretion, upon two

(2) weeks' notice to Contractor. Should this occur, Contractor must cease all work immediately upon receipt of the termination notice and TNC will pay Contractor for the Services that have been satisfactorily completed, as determined by TNC, as of the termination date. In addition, if Contractor defaults in the performance of any duty, obligation, or covenant under this Contract, whether for circumstances within or beyond Contractor's control, or if TNC determines at any time that the Services cannot be performed in accordance with applicable law and/or TNC's policies and standard operating procedures, then TNC may immediately terminate this Contract by notice to Contractor. Should termination occur as a result of Contractor's default, TNC may, without limiting any other remedies available to it under applicable law, recover damages from Contractor resulting from Contractor's default and may offset any amounts payable to Contractor against such damages. TNC will pay to Contractor any remaining balance of such payable amounts.

6. Liability; Indemnification; Insurance.

Contractor acknowledges and agrees that it is performing the Services entirely at its own risk, and agrees to indemnify, defend, and hold TNC, West Creek Conservancy, and their respective directors, officers, employees and agents harmless from and against any and all liabilities, demands, damages, claims, losses, costs, or expenses, including reasonable attorneys' fees, to the extent that they arise out of or result, directly or indirectly, from the negligence, misconduct, breach of warranty, representation, or covenant, or any act or omission by Contractor or any of its employees or agents (including any permitted subcontractors) in performing the Services. Contractor's indemnity and defense obligations under this Contract will survive expiration or earlier termination of this Contract with respect to any matters that occurred, or rights that accrued, prior to such expiration or earlier termination. Contractor must also carry, throughout the term of this Contract, one or more insurance policies providing: (a) workers' compensation insurance, as and to the extent required by applicable law; (b) commercial liability insurance written on an occurrence basis, with a liability limit of at least

\$2,000,000 per occurrence; (c) motor vehicle liability insurance, covering all owned and non-owned vehicles used in performing the Services, with a liability limit of at least \$2,000,000 per occurrence; and (d) if Contractor is providing consulting services, professional liability insurance written on a claims made basis. Contractor's policy(ies) must be primary insurance to any other valid and collectible insurance available to TNC with respect to

any claim arising out of Contractor's performance of the Services. Contractor must have TNC and West Creek Conservancy each named as an additional insured on Contractor's commercial liability insurance policy on a primary, non-contributory basis and provide TNC with evidence that the required coverage is in effect before any work under the Contract commences.

7. Intellectual Property Rights.

A. Works Made for Hire. With the exception of works that are original to or otherwise owned by Contractor prior to the commencement date of this Contract, all right, title, and interest, including copyright, in any reports, studies, photographs, software (including programming codes), drawings, designs, writings, or other works or documents produced in performing the Services, along with all related drafts, versions, and other material created as part of the Services (collectively the "Works"), are "works made for hire" as defined under the copyright laws of the United States. To the extent that any of the Works are not works made for hire, Contractor, through this Contract, unconditionally assigns to TNC and its successors and assigns all right, title, and interest, including copyright and other intellectual property rights, in and to the Works in all media (whether now known or later developed) throughout the world in perpetuity. Contractor further assigns to TNC all rights in any supporting data and material used in creating the Works, if and to the extent that the copyright is not held by others. Contractor also grants to TNC a worldwide, non-exclusive, royalty-free, perpetual license to use any works created or otherwise owned by Contractor prior to the commencement date of this Contract that are used to produce, or are otherwise incorporated into, the Works.

B. Delivery of Works and Other Documentation. Upon request from TNC, Contractor must deliver to TNC (i) all tangible copies (including digital copies) of the Works or any portion of the Works, supporting data, or material not previously delivered to TNC, and (ii) any further documentation of TNC's ownership of the Works as provided under this Contract as may be requested by TNC.

C. Authorized Use by Contractor. Contractor may use the Works, supporting data and material only with TNC's prior written consent, and any such use must include an acknowledgment that the Works, supporting data, and material used are the

property of TNC. Unless otherwise provided in this Contract, to the extent that any portion of the Works consists of research reports or studies, Contractor may use, publish or distribute that portion of the Works in academic papers and scientific or academic journals, with or without co-authors, provided that Contractor acknowledges that funding for such research reports or studies was provided by TNC.

D. Warranty. Contractor warrants to TNC and covenants that (i) the Works will be original to Contractor alone and will not infringe the intellectual property rights of others, and (ii) to the extent that the Works contain any intellectual property owned by others, Contractor has been authorized, by license or otherwise, to assign to TNC the rights described in this Contract.

8. **Use of TNC Name and Logo**. Contractor must not use TNC's name, logo or other intellectual property in any manner, whether in conjunction with the Services or otherwise, except (a) to the extent reasonably necessary in order to perform the Services; (b) in order to deliver invoices or other notices to TNC; and (c) if and to the extent otherwise explicitly stated in this Contract.

9. **Confidential Information**. In performing the Services, Contractor might have access to materials, data, strategies, trade secrets, proprietary information, systems, or other information relating to TNC and its programs that are intended for internal use only. Contractor must not, without TNC's prior written consent, use, publish, or divulge any such information to any person, firm, or corporation, or use it in any advertising or promotion regarding Contractor or Contractor's services, unless required to do so by law or by a court of competent jurisdiction or if such information becomes part of the public domain. Contractor must return to TNC promptly upon completion of the Services any and all TNC confidential information Contractor has in its possession.

10. **Taxes**. Contractor is responsible for filing and paying its own taxes and for complying with the requirements of any applicable tax laws. TNC will not withhold or pay on behalf of Contractor or any of its employees any U.S. Federal, state, or local income tax or payroll tax of any kind.

11. **Compliance with Laws**. Contractor represents, warrants and agrees as follows, wherever applicable to the performance of the Services: (a) Contractor can lawfully work in the United States; (b) Contractor will obtain, at its own expense (except to the extent otherwise explicitly stated in this Contract) any permits or licenses required to perform the

Services; and (c) Contractor will comply with all applicable Ohio Governor Executive Orders; Federal, state and local statutes, laws, executive orders, ordinances, rules, regulations, court orders, public health recommendations, and other governmental requirements of the United States, the state(s) in which the Services are performed (and the state in which the TNC Business Unit set forth on the first page of this Contract is located, if different), and any other U.S. jurisdiction(s) in which Contractor is organized or authorized to do business. Contractor must not take any actions that might cause TNC to be in violation of any such laws.

12. Drug Free Workplace. The Contractor shall comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

12. Notices. Any formal notice, request, or demand made by one of the parties pursuant to this Contract (each, a "Notice") must be in writing and given to the respective named contact above by at least one of the following delivery methods, unless another form of delivery is explicitly required elsewhere in this Contract: (a) in person, (b) certified mail (return receipt requested, postage prepaid), (c) nationally recognized next day delivery service, or (d) electronic mail ("email"). A Notice will be deemed given: (1) immediately, if delivered in person; (2) if sent by certified mail, on the earlier to occur of: (i) the date of first attempted delivery; or (ii) the third business day after being deposited in the mail; (3) if sent by next day delivery service, on the following business day; and (4) if sent by email, on the date it is transmitted, unless the transmission is completed on a non-business day or after 5:00 p.m. in the recipient's time zone, in either of which cases it will be deemed given on the next following business day.

13. Binding Effect; Amendments. This Contract will become binding when signed by both parties. This Contract supersedes all prior or contemporaneous communications and negotiations, both oral and written, and constitutes the entire agreement between the parties relating to the activities described in this Contract. No amendment will be effective except in writing signed by both parties.

14. Governing Law; Forum. This Contract and claims relating to this Contract, whether based on

contract, tort, or other law, will be interpreted, construed and governed by the laws of the state in which the TNC Business Unit set forth on the first page of this Contract is located (excluding such state's choice of law principles, if any), and such other U.S. laws as are applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Contract, the parties agree that litigation will be conducted in the state in which the TNC Business Unit set forth on the first page of this Contract is located.

15. Severability; No Waiver. If any provision of this Contract is found to be invalid by a court of competent jurisdiction, the other provisions will not be affected by that finding. No delay in exercising any right or remedy under this Contract will constitute a waiver of that right or remedy or of any other right or remedy under this Contract or under applicable law.

16. Joint and Several Liability. If two or more persons or entities are identified as Contractor in this Contract, their obligations under this Contract are and will be joint and several.

17. Counterparts; Facsimile Signatures. This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which, taken together, constitute the complete Contract. Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under applicable law, will be fully binding for all purposes under this Contract, although any documents that are to be recorded must be executed by both parties with original signatures (and delivered promptly to the party responsible for recording).

18. Counterterrorism, Anti-Money Laundering & Economic Sanction Laws. Contractor certifies that, to the best of its knowledge, Contractor and its subsidiaries, principals and beneficial owners, if any:

- A. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any government agency;
- B. (i) are not included on the Specially Designated Nationals and Blocked Persons lists maintained by the U.S. Treasury's Office of Foreign Assets Control, the United Nations Security Council Consolidated List, or similar lists of proscribed entities identified as associated with terrorism, and (ii) will not engage in transactions with, or provide resources or support to, any such individuals or organizations or anyone else associated with terrorism; and

- C. are not a person or entity with whom transacting is prohibited by any trade embargo, economic sanction, or other prohibition of law or regulation.
- D. have not conducted, and will not conduct, its operations in violation of applicable Money Laundering Laws, including but not limited to, the U.S. Bank Secrecy Act and the money laundering statutes of any and all jurisdictions to which the Contractor or any Contractor subsidiary, principal or beneficial owner is subject, and no action or inquiry concerning money laundering by or before any authority involving the Contractor or any Contractor subsidiary, principal or beneficial owner is pending.

19. Should Contractor become aware that Contractor or any Contractor subsidiary, principal or beneficial owner is subject to any of the above conditions during the term of this Contract, Contractor must notify TNC immediately. If TNC determines that Contractor or any such subsidiary, principal or beneficial owner is subject to any of the above conditions TNC may terminate this Contract effective immediately, with no further obligation hereunder, including payment. In the case of an intentional material misrepresentation, TNC may, at its option, recover damages resulting from the termination. The terms of this Section must be included in all permitted subcontracts.

[End of Exhibit B]

ATTACHMENT C:
CONFLICT INQUIRY FORM



CONFLICT INQUIRY FORM

STEP 1: DESCRIPTION OF PARTIES & TRANSACTION	
Name of individual or organization entering into transaction with TNC:	
Legal identity of individual or organization* entering into transaction with TNC (select one):	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> For-Profit Organization <input type="checkbox"/> Non-Profit Organization
<small>**Organization* includes a for profit corporation, partnership, trust, estate, joint venture, limited liability corporation, professional corporation, an unincorporated entity, a foundation, public board, commission, 501(c)(3) or other charitable organization.</small>	
Type of Transaction (select one):	<input checked="" type="checkbox"/> Contract for Services <input type="checkbox"/> Grant Agreement <input type="checkbox"/> Purchase Order <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Real Estate Transaction <input type="checkbox"/> Other
If you selected "Other" or "Real Estate," include description here (for real estate, describe property, size, and type of deal (sale, gift, lease, etc.)):	

STEP 2: DEFINITIONS & QUESTIONS (Complete <u>only</u> the section relevant to your organization)		
<p>(1) TNC Key Employees and Board of Directors: Please refer to the <u>attached list</u> of Key Employees and members of Board of Directors (includes individuals who have left relevant TNC positions within the past five (5) years).</p> <p>(2) Substantial Contributors: Individuals or organizations who have made total aggregate contributions to TNC of (i) ≥ US \$5 million during the current fiscal year or (ii) ≥ US \$25 million within the last five (5) fiscal years. Fiscal years run from July 1st through June 30th.</p> <p>(3) Family Members and Close Relatives: Family members of any individual listed above, such as spouse, domestic partner, parent, sibling, child, dependent, other progeny and ancestors.</p>		
SECTION 1. INDIVIDUALS (explain any "yes" answers in Step 3):	Yes	No
a. Are you now, or have you been in the last five (5) fiscal years, (i) a TNC "Key Employee" or (ii) a member of the TNC Board of Directors?		
b. Are you now, or have you been in the last twelve (12) months, (i) a TNC Employee, (ii) a Chapter Trustee, or (iii) a member of a Country Program Advisory Council or a similar advisory group?		
c. Are you a Substantial Contributor to TNC?		
d. To your knowledge, are you a family member or close relative of any individual identified in paragraphs a, b, or c above?		

SECTION 2. FOR-PROFIT ORGANIZATIONS (explain any “yes” answers in Step 3):	Yes	No
a. Is your organization a Substantial Contributor to TNC?		
<p>b. Now, or at the time of the proposed transaction, to the best of your knowledge, do any of the following (individually or collectively with other such persons) (i) own more than 35% of the stock or value of your organization (directly or indirectly) and/or (ii) have a controlling influence over the organization’s management or policies (ex. key management or board member):</p> <ul style="list-style-type: none"> • TNC employee (or former employee who left within the last twelve (12) months); • TNC Key Employee; • TNC Board Member; • Substantial Contributor to TNC; • TNC Chapter Trustee or Advisory Council Member for TNC or TNC’s related entities (or former trustees/members who left within the last twelve (12) months); and/or • Family members or close relatives of the above individuals. 		
<p>c. Now, or at the time of the proposed transaction, have or will any TNC Key Employees or members of the Board of Directors serve in the following positions of your organization?</p> <ul style="list-style-type: none"> • Officer, director, trustee, key employee, or partner; • Member (if your organization is a limited liability corporation); and/or • Shareholder (if your organization is a professional corporation). 		
SECTION 3. NON-PROFIT ORGANIZATIONS (explain any “yes” answers in Step 3):	Yes	No
<p>a. Now, or at the time of the proposed transaction, do any of the following (individually or collectively with other such persons) have the ability to influence management of the entity:</p> <ul style="list-style-type: none"> • TNC employee (or former employee who left within the last twelve (12) months); • TNC Key Employee; • TNC Board Member; • Substantial Contributor to TNC; • TNC Chapter Trustee or Advisory Council Member for TNC or TNC’s related entities (or former trustees/members who left within the last twelve (12) months); and/or • Family members or close relatives of the above individuals. 		

STEP 3: COMMENTS (Explain any “yes” answers checked above. Attach additional pages as necessary.)

STEP 4: NOTICE OF TNC CODE OF CONDUCT & SIGNATURES

TNC expects itself and everyone with whom it does business to conduct themselves in ways that are consistent with TNC's Code of Conduct found at www.nature.org/codeofconduct. Anyone (whether a part of TNC or not) may contact the TNC Helpline (anonymously, if desired) with questions, concerns, or suspected violations at www.nature.org/tnc Helpline.

The undersigned certifies the information in the inquiry form is true and correct to the best of their knowledge.

Signature:	
Printed Name:	
Title <i>(if for an organization):</i>	
Address:	
Date of Signature:	

TNC COVERED PERSONS

The following are individuals who are currently or have been, during the preceding five (5) fiscal years, a TNC “Key Employee” or a member of the Board of Directors.

List Current as of January 10, 2022

<u>Current Key Employees</u>	<u>Former Key Employees*</u>		<u>Current Board of Directors</u>	<u>Prior Board Members</u>
Keith Arnold Matt Arnold Nathalie Augustin David Banks Matt Brown Jan Glendening Meg Goldthwaite Katharine Hayhoe Tom Neises James Page Michael Tetreault Leonard Williams Hazel Wong	Justin Adams Kacky Andrews James Asp Charles Bedford Michelle Beistle* Karen Berky Giulio Boccaletti Mark Burget Mario D’Amico Maria Damanaki Michael Doane* William Ginn Elizabeth Gray Santiago Gowland Wisla Heneghan Sherri Hammons Steve Howell Jack Hurd Charlotte Kaiser* Joe Keenan Marianne Kleiberg* Leonardo Lacerda* Richard Loomis	William McGoldrick* Robert McKim Brian McPeek Pascal Mittermaier Bola Olusanya* Jeffrey Parrish* Seema Paul Hugh Possingham Glenn Prickett Aurelio Ramos Lynn Scarlett Theresa Shaw* Michael Sweeney* Heather Tallis Mark Tercek Ian Thompson* Marc Tuitou Bill Ulfelder* Joni Ward* Peter Wheeler Janine Wilkin Heather Wishik Heather Zichal	James Attwood, Jr. Amy Batchelor John Bernstein Michelle DePass William Frist Joseph Gleberman Harry Hagey Margaret Hamburg Shirley Ann Jackson Sally Jewell Nancy Knowlton Edwin Macharia Claudia Madrazo Craig McCaw Jennifer Morris Ana M. Parma Douglas Petno Vincent Ryan Brenda Shapiro Kent Thiry (on leave) Frances A. Ulmer Kevin Weil Ying Wu	David Blood Shona L. Brown Gretchen C. Daily Steven A. Denning Laurence Fink Andrew Liveris Jane Lubchenco Jack Ma Thomas J. Meredith Thomas Middleton Stephen Polasky Rajiv Shah Mark Tercek Thomas J. Tierney Moses Tsang P. Roy Vagelos Margaret C. Whitman

***Current TNC Employee; No longer considered Key Employee.**

TNC’s [Related Entities](#) (If applicable)

Key Employees (members of Related Entity leadership team):	Current Fiduciary Board Members, if applicable: