



**WETLAND, STREAM, AND BUFFER RESTORATION AND  
REHABILITATION SERVICES**

## **REQUEST FOR PROPOSALS**

### **OAK OPENINGS**

**OHIO MITIGATION PROGRAM SITE  
LUCAS COUNTY, OHIO  
41.570717°, -83.852439°**

***AND***

### **MOTTER METRO PARK**

**OHIO MITIGATION PROGRAM SITE  
ALLEN COUNTY, OHIO  
40.885244°, -83.908127°**

***September 9, 2021***

**Proposals must be received by 5:00 pm on December 3, 2021**

# **1. GENERAL ADMINISTRATIVE PROVISIONS**

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## **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](http://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 a stream and wetland mitigation design plan and implement said design plan for the Oak Openings and Motter Metro Park Ohio Mitigation Program sites.

TNC is seeking design/build proposals for two distinct projects under this RFP (the “Projects”) including 1) the Oak Openings Mitigation Project located southeast of the Village of Swanton in Lucas County, Ohio, as described in Attachment B; and 2) the Motter Metro Park Mitigation Project located southwest of the Village of Bluffton in Allen County, Ohio, as described in Attachment C. One bidder will be selected to complete both projects described in this RFP. Oak Openings and Motter Metro Park are each stand-alone projects. Separate contracts will be issued to outline the individual requirements, partners, and budgets for each project, respectively. **Contractors are requested to submit one proposal to address the requirements of both projects.**

The Contractor shall furnish all necessary drawings, plans, permits, labor, facilities, materials, equipment, and incidentals to complete the Project scope of work (the “Scope of Work”) as described in Attachments B and C and the Contract for Services in the form of Attachment D to be entered into between TNC and the Contractor. Contractor will include plans for initial vegetation management (invasive species management, planting, and seeding) for each Project. Conceptual designs and descriptions for each Project are included in Attachments B and C, respectively. The total amount of compensation sought for completion of each Project shall not exceed:

<b>Project</b>	<b>Cost</b>
Oak Openings	\$595,250
Motter Metro Park	\$232,750
<b>RFP Total</b>	<b>\$828,000</b>

As previously noted, each Project is stand-alone, including the budget and compensation. Funds from one Project may not be used to supplement the budget for the other. As further described in the attached Scope of Work, this Request for Proposals (RFP) is for a Design-Build Contract for each Project. TNC reserves the right to reject any and all proposals for any reason and to pursue purchasing in a manner that is in the best interest of the organization. In addition, TNC reserves the right to select one bidder for one Project and another bidder for the other Project.

The Oak Openings Project is located in the Oak Openings Metropark, owned by Metroparks Toledo, and will become subject to an Environmental Covenant. TNC will manage the Project on the property.

The Motter Metro Park Project is located on property owned by the Johnny Appleseed Metropolitan Park District and will become subject to an Environmental Covenant. TNC will manage the Project on the property.

Metroparks Toledo and the Johnny Appleseed Metropolitan Park District are sometimes collectively referred to herein as “Project Partners.”

## **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 2.1 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 2.1 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.**

TNC requests firm fixed pricing for your proposal. ***If you are chosen as an award winner and any additional costs are presented at the time of agreement negotiations or implementation, TNC has the right to rescind your organization as the award winner.***

TNC does not have a topographic or other technical survey of the Project sites. If desired, any such surveys shall be the Contractor’s responsibility and should be included within the Contractor’s pricing structure. TNC does not have estimated cut and fill calculations. Contractor shall be solely responsible for any additional costs incurred due to underestimating the amount of cut and/or fill required for the Project.

## **1.5 DISPOSITION OF PROPOSALS**

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. 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**

Any data, documentation or other business information furnished or disclosed to the Contractor 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 of Interest Disclosure Form (see Attachment E). 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**

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 One Million Dollars (\$1,000,000), per occurrence. For each of the awarded Contracts, TNC and TNC's Project Partner (Metroparks Toledo or the Johnny Appleseed Metropolitan Park District, as the case may be) shall be specifically named as an "additional insured" on all policies covering work under the 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.

### **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 and TNC's Project Partners 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. In addition, TNC reserves the right to select one bidder for one Project and another bidder for the other Project. 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. PROPOSAL SUBMISSION AND EVALUATION**

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### **2.1 BIDDER SUBMISSION REQUIREMENTS**

Submission of Proposal:

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

2.1.2 Email for Contractor's Submission of Proposal: [james.palus@tnc.org](mailto:james.palus@tnc.org)

2.1.3 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 Projects described in this RFP.
  - ii. Statement of qualifications must reference Contractor's experience conducting mitigation projects (preferably in Ohio).
- b. Proposal and technical approach for completing all tasks described in the Scope of Work provided in Attachment B and Attachment C. Candidates may provide discussion and comment on alternative approaches to achieve the restoration objectives identified for the sites, and to propose alternative and/or complimentary tasks to complete the Projects more economically.
- c. Delivery Schedule
- d. Pricing
  - i. Please list all **net pricing** (after discounts), based on the **Scope of Work provided in Attachment B and Attachment C**, for the task pricing schedule listed below. The Contractor may also include a budget narrative (no more than 1 page) if helpful to better support the budget.
  - ii. Specify expiration date of bid. Submitted bid pricing must be good through September 30, 2022.

#### **Task Pricing Schedule**

<b>Task</b>	<b>Deliverable</b>	<b>Cost</b>
<b>Design</b>		
1	Site Assessment	
2	Development of Preliminary Design Plans, that includes Initial Vegetation Mgt., and Cost Opinion	
3	Development of Final Design Plans	
4	Acquisition of Permits	
<b>Implementation</b>		

5	Invasive Plant Treatment, Restoration Planting and Seeding	
6	Construction	
7	Develop As-Built Report	
8	Corrective Action	

e. Contract

Do you agree to use our attached contract (see Attachment D)? 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.

f. Disclosure Form (Attachment E)

## 2.2 PROPOSAL EVALUATION/SELECTION PROCESS

2.2.1 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, but in any event at least greater than \$300,000 in contract amount and at least one project greater than \$500,000. 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.

2.2.2 The minimum selection criteria will include the following:

- Qualifications of Contractor;
- Demonstrated ability to understand and perform the Project;
- Technical solution for creating deliverable products;
- Quality of proposal/presentation;
- Evidence of sufficient insurance;
- Costs.

## 2.3 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 2.1.2 by **October 8, 2021**. 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 TNC's Proprietary information.

## **2.4 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 2.5 below.

## **2.5 CRITICAL DATES**

### **2.5.1 Proposal Due Date**

Proposals shall be delivered to TNC on or before December 3, 2021. See Section 2.1 for Submission Requirements.

<b>RFP Activities</b>	<b>Due Date</b>
Distribute RFP	September 9, 2021
Field Day	September 23, 2021
Communication Period Ends	October 8, 2021
Proposals Due	December 3, 2021

### **Suggested Schedule of Implementation**

The implementation schedules will be contingent upon TNC obtaining final approval from the IRT; however, the following schedule is suggested. The two Projects were chosen because they are in relatively close proximity, which is expected to provide some level of efficient field operations. It is understood that the schedules may need to be staggered to some degree in order to fully implement both. In proposing the suggested schedule, please describe the challenges and provide solutions.

<b>Idealized Project Schedule for Oak Openings and Motter Metro Park</b>	
Project Bidding and Award	January 2022
Site Assessment	April 2022
Design, Permitting and Engineering	July 2022
IRT final approval	March 2023
Start of Project Construction	Spring 2023
Seeding and Planting	Fall 2023
Project Construction Substantially Complete	Winter 2023

## 2.6 VISITING THE SITE

Contractors interested in submitting proposals are encouraged (but not required) to conduct a site visit to assess the conditions of the site to inform their responses to this RFP. Interested Contractors should contact TNC to schedule a site visit. Drones shall not be flown at the site without prior approval from TNC. Given the current COVID-19 situation, the following site visit protocols are in place (collectively, “COVID-19 Protocols”):

- No more than one (1) person per firm should attend the site visit.
- A maximum of twenty people, including TNC staff, will visit the site at a time. TNC will schedule as many site visit sessions as needed to give staff from all interested firms an opportunity to view the site. If the group for the scheduled field day of September 23<sup>rd</sup> exceeds 20 people, TNC will host a second field day on another date to be determined.
- Face coverings are strongly encouraged and must be worn when a minimum distance of six feet cannot be maintained between individuals. TNC will have hand sanitizer and face masks available for those attendees who do not bring their own.
- Anyone who is feeling unwell, displaying COVID-19-related symptoms, has tested positive for COVID-19, or has been directly exposed to someone who has tested positive for COVID-19, shall not attend.
- Anyone who receives a positive diagnosis within 14 days following the site visit must report that to TNC at [james.palus@tnc.org](mailto:james.palus@tnc.org), and TNC will then inform all attendees of the exposure.
- Any stricter requirements imposed by federal, state or local law shall be adhered to.

Anyone failing to adhere to these protocols will be asked to immediately leave the site visit and will be disqualified from consideration from this RFP at TNC’s discretion.

Please contact TNC through email at [james.palus@tnc.org](mailto:james.palus@tnc.org) to indicate your interest in attending the field day. We will plan the visit to the Oak Openings site for 10:00am and the visit to the Motter Metro Park site for 2:00pm. No restroom facilities are available at either site.

All visits and inspections of the site are at each Contractor’s sole risk and, by their visit to the site, each such Contractor releases TNC, Metroparks Toledo, and the Johnny Appleseed Metropolitan Park District from any injuries, illness, liability, or expenses incurred as a result of, or arising out of the site visit.

## ATTACHMENTS

- A Contractor Questionnaire
- B Scope of Work – Oak Openings
- C Scope of Work – Motter Metro Park
- D TNC’s Standard Contract for Services
- E TNC’s Disclosure Form



**ATTACHMENT A:**

**BIDDER QUESTIONNAIRE**

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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.

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**General Information:**

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone & Email: \_\_\_\_\_

Years in Business: \_\_\_\_\_

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**Contractor Information:**

Please indicate if you have done business with TNC, Metroparks Toledo, or the Johnny Appleseed Metropolitan Park District in the past and provide contact information below.

\_\_\_\_\_

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**Statement of Qualifications:**

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

\_\_\_\_\_

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**Employee and Project Team Information**

Number of Employees: \_\_\_\_\_

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

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**Service Information**

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

☐ YES ☐ NO

If yes, please list.

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**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.

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**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.

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**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:

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

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**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:**

**SCOPE OF WORK FOR WETLAND, STREAM,  
AND BUFFER MITIGATION SERVICES FOR**

**OAK OPENINGS:  
AN OHIO MITIGATION PROGRAM SITE**

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## B.1 PURPOSE

The purpose of this project is to provide wetland and stream mitigation to offset unavoidable impacts in the Lower Maumee watershed. To achieve this goal, TNC's Ohio Mitigation Program stream and wetland credits are utilized as the compensatory mitigation. The scope of work for this RFP requires the Contractor to develop and implement a design plan for wetland and stream restoration, rehabilitation, buffer establishment, and initial vegetation management (seeding, planting, and invasive species management) for the subject property per the specifications herein 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](#)).

## B.2 GENERAL PROJECT INFORMATION

<b>Project Type</b>	Wetland, Stream, and Buffer Restoration and Rehabilitation
<b>Project Name</b>	Oak Openings
<b>Landowner</b>	Metroparks Toledo
<b>Project Manager</b>	The Nature Conservancy
<b>Locality</b>	Swanton Township, Lucas County, Ohio
<b>HUC 8</b>	Lower Maumee Watershed (04100009)
<b>Resources</b>	Wetlands, Stream Channel, and Corresponding Buffers

Project Description: The Mitigation Plan, relevant GIS shapefiles, and any other pertinent documents may be found at the following link: <https://tnc.box.com/s/835yaith793xm1d18nuk9jg5fk98h83>.

## B.3 THE NATURE CONSERVANCY TASKS

TNC shall work with Contractor to secure access to the property for the activities specified within this Scope of Work, which may require the Contractor to execute a license and indemnity agreement separate from the contract. TNC shall coordinate with the Contractor regarding approval of task deliverables. TNC staff shall be onsite as needed during site activities. TNC shall provide the property boundary maps and access point(s) information to the Contractor.

## B.4 CONTRACTOR TASKS AND DUTIES

The specific tasks to be completed by the Contractor include: 1) site assessment, 2) development of preliminary design plans, cost opinion, and initial vegetation management plans, 3) development of final design plans, 4) acquisition of permits, 5) invasive plant treatment, restoration seeding and planting, 6) construction, 7) develop as-built report, and 8) corrective action.

## Design

### TASK 1. SITE ASSESSMENT

The Contractor shall conduct fieldwork to identify existing conditions within the project area. Note that a Waters of the U.S. assessment has been completed for the project site that includes the delineation, ORAM, and HHEI assessments. The Contractor shall identify appropriate reference stream reaches, wetlands, and buffers in the watershed and perform the necessary assessments for each relevant stream reach, wetland, or buffer area. Additionally, the Contractor will outline the initial vegetation management plans.

The Contractor shall also generate existing conditions mapping, utilizing, when possible, the figures and data already completed in the mitigation plan that includes all the waters of the U.S. identified during the delineation, National Wetland Inventory (NWI), National Hydrography Dataset (NHD), soils mapping, USGS quadrangle, aerial photography, mapped locations of invasive species and any other relevant data to provide the basis for potential wetland, stream, and buffer mitigation.

## **TASK 2. DEVELOPMENT OF PRELIMINARY DESIGN PLANS, COST OPINION AND INITIAL VEGETATION MANAGEMENT PLANS**

The Contractor shall design the project by utilizing the Oak Openings In-Lieu Fee Mitigation Plan, existing condition data and reference reach data to design the wetlands, stream, and buffers. The existing wetlands on-site are being incorporated into the project through rehabilitation. The Contractor should anticipate input from TNC staff throughout the design process, and incorporate feedback accordingly. Early and frequent communication between the Contractor and TNC staff will be required. TNC anticipates the following restoration efforts for this project:

### **Streams**

- Restore 1,596 linear feet (LF) of a perennial stream and an intermittent stream through channel enhancement using the incorporation of channel structures and addressing legacy effects from agricultural land use (Mitigation Type 1 – Activity Level 1).

### **Wetlands**

- Re-establish 3.6 acres (ac) of forested vernal pool (PFO) wetlands and 2.2 acres of emergent (PEM) sand prairie wetlands in areas that have existing hydric soils;
- Rehabilitate 0.8 ac of forested vernal pool (PFO) wetlands by removing invasive plants and planting native hydrophytes as replacements;
- Re-establish 7.5 acres of upland buffer for wetlands; and
- Re-establish 3.1 acres of extra upland forest buffer.

The Oak Openings region has seen significant disturbance from activities including logging, grazing, fire suppression, row crop agriculture, and an extensive drainage ditch network that has led to a lowered water table. Specific sources of water quality threats and impacts include channelization, urbanization, poor instream habitat, excessive sedimentation, riparian removal, poor stormwater management, and nutrient loading. The Oak Openings Project area includes three separate parcels, all part of the Oak Openings Metropark and each with a unique disturbance history. One of these remains covered by planted pines that will be removed by the Metroparks.

Stream 1 is a small, highly modified, intermittent channel. Stream 2, Bushnell Ditch, is a straightened perennial stream. Restoration efforts for both streams will include restoring sinuosity, reconnecting the streams to their floodplains, and constructing instream habitat features that are consistent with those in appropriately sized reference stream reaches within the watershed.

Re-establishment and rehabilitation of wetlands on site will focus on the existing pine plantation and the parcel directly across from Sager Rd. Supporting hydrology for the re-established wetlands will be obtained through precipitation and groundwater. Due to the topography, soils, and water table, wetland conditions should develop readily with minimal grading. Any require excavation and grading will likely be shallow (<1ft in depth). Where excavation and grading are needed, the topsoil will be removed, stockpiled for a short time, and reapplied. During the design phase of the project, additional wetland areas onsite will be analyzed and proposed when appropriate.

The re-established wetland areas will be planted according to the finished grading/topography of the wetland and hydrologic regime appropriate for the proposed species. For emergent areas, a locally native seed mix will be applied based on the anticipated hydrologic regime. For the wetter conditions of more permanently inundated areas, herbaceous plugs adapted to deeper and longer hydrologic regimes will be installed. High quality, native woody species will be selected for both the wetlands and buffers. Revegetation efforts will focus on creating vegetative interspersions and diversity within the wetlands.

Included in the design plans shall be all earthwork activities (including site preparation techniques, quantities to be moved, soil placement/disposal procedures, and final pre-planting site conditions), initial vegetation management plans, ingress/egress routes, erosion and sediment control plan, details for the tie-ins with drainages in the project area, results of the soils mapping and wetland delineation, and a phasing/timeline for all work to be completed on the site in detail. The submittal shall also include all design supporting data and documentation, including all information required to design the project such as, at a minimum, existing condition information, reference resource information, hydrologic information, and geotechnical information.

The Contractor shall design the project by utilizing TNC's Oak Openings Mitigation Plan and existing condition data that will allow the development of a design that will result in high quality, resilient wetlands and streams. TNC strongly advocates a natural approach to wetland re-establishment and rehabilitation. The re-established wetlands should be developed within the footprints of historical wetlands. This means that wetlands must be restored on areas of hydric soils or areas of hydric soil inclusions on non-hydric soils. Natural wetlands do not have berms or dams or other synthetic means for developing and maintaining their hydrologic regime. Therefore, TNC will not approve the use of berms or dams as acceptable methods for restoring hydrologic regimes in the designs for the re-established wetlands. Rehabilitation activities should be limited to addressing only those factors that have been degraded from their natural conditions.

Every effort shall be made during the design and construction phases to minimize disturbance to the existing natural areas. Sensitive areas of the project site that will not be part of the changes specified in the design plans will have their perimeters clearly delineated with orange fencing and will be off limits throughout the duration of construction activities. The Contractor shall be responsible for working with/around all infrastructure in the design of the project. Again, the design shall ensure and detail stable and appropriate tie-ins with all drainages in the project area and with the portions of streams/reservoirs up and downstream of the project area.

Soils are often unintentionally compacted during the construction process, resulting in decreased soil permeability, water-holding capacity, and plant root growth. The design shall include particular attention to avoiding soil compaction through best management practices, and remediating compaction where it is unavoidable. Suggestions regarding soil protection and remediation should be explained in the proposal, which could include a preliminary Soil Management Plan that indicates: areas to be protected, efforts to minimize soil disturbance (*i.e.*, minimize grading), stockpiling and reuse of topsoil, and efforts that would be used for the restoration of soils disturbed during construction including amending with compost as necessary and scarifying subsoil to achieve a total 12" uncompacted depth. This Soil Management Plan shall be applied to all areas disturbed by construction activities.

The Contractor shall use the appropriate Ohio EPA assessments to evaluate existing conditions and potential stream and wetland mitigation activities (re-establishment, rehabilitation, and enhancement) and determine the amount of potential stream, wetland, stream buffer and wetland buffer credits within the project site as defined by "[Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio](#)" and "[Guidelines for Wetland Mitigation Banking in Ohio Version 2.0, September 2020](#)".

The Contractor will also be responsible for providing the project's vegetation management plan, including the invasive species management and seeding and planting plans (including vegetation community types, species to be planted and quantities by area, application rates, and planting densities by area). This part of the design will include a wetland and upland/riparian buffer planting plan for the project area, including species densities and zonation. Only species native to the region, and preferably present in the reference wetlands, will be used in the planting plan. The minimum standards for the planting plan will follow specifications from the Ohio Interagency Review Team's "[Guidelines for Wetland Mitigation Banking and In-Lieu Fee Programs in Ohio Version 2.0](#)". The planting plan will also include the species names and application rates of the permanent and temporary seed mix to be used. TNC believes that proper planting preparation (including initial weed and invasive plant control), ecoregional species selection, and planting approaches are essential to the successful and cost-effective establishment of wetlands. The proposal should demonstrate and emphasize the contractor or sub-contractor's experience and expertise in these specific skills.

Utilizing the preliminary designs, the Contractor shall also provide estimated costs for the project implementation. The cost opinion shall include projected costs associated with implementation and shall include a breakdown of these costs for permitting, stream construction, wetland construction, buffer construction, planting, seeding, invasive species management, and all other implementation tasks identified in the design plans.

At the 60% design phase the Contractor shall also develop and submit to TNC a narrative on the wetland, stream, and buffer mitigation plan for inclusion in the Oak Openings Draft Amendment. The narrative should include a comprehensive overview of the mitigation plan details including: design objectives and re-establishment strategies; number of acres/linear feet and types of mitigation practices for all wetland, stream, and buffers; management and

treatment methods for invasive plant species; planting and seeding details for wetlands, streams, and buffers with species lists; a soil management plan; supporting tables and graphics; proposed performance standards for wetlands and streams; and any other important features necessary to complete the Draft Amendment. TNC will prepare the required Draft Amendment for submittal to the Interagency Review Team (IRT). Based on the current IRT-approved timeline there is a 90-day comment period. Following the comment period, the IRT will return comments to TNC. Once comments are received from the Interagency Review Team on the mitigation plan the Contractor will be responsible for making any requested design changes and redrafting the narrative, including the tables and graphics, for inclusion in the Final Amendment (see Task 3 below).

***Note: Following completion of Tasks 1 & 2, TNC will determine the extent of proposed mitigation activities to be included in remaining tasks of this Scope of Work. TNC may decide to reduce the extent of restoration activities from those depicted in the mitigation plan developed by TNC and provided to the Contractor as part of the RFP. Contractor understands and agrees that TNC makes no representations or guarantees about the amount of mitigation work to be included in Tasks 3 – 8 of this Scope of Work.***

### **TNC's Vision**

The Oak Openings Mitigation Plan is based on TNC's preliminary judgments on how the Oak Openings Project site might best be designed and restored to develop the wetlands, streams, and their associated buffers to comprise an integrated ecosystem of the highest ecological conditions possible. TNC is providing these suggestions so there is full understanding of the goals for the site and the potential ways to meet those goals. However, TNC understands that there may be better ways to reach these goals and encourages bidders to submit their own ideas where and when they believe additional benefit can be attributed to their approach. Please see design below for TNC's vision on how the streams and wetlands should be restored on the site.

TNC estimates approximately 3,192 stream restoration credits and approximately 8.4 wetland restoration credits will result from this project. The minimum credits needed (based on current credit sales) are 2,044 stream credits and 6.1 wetland credits. If the contractor proposes fewer credits than TNC's estimated stream and/or wetland credits, the amount of compensation may be reduced. Table 1 includes the estimated stream and wetland credits anticipated to be generated by the restoration project.

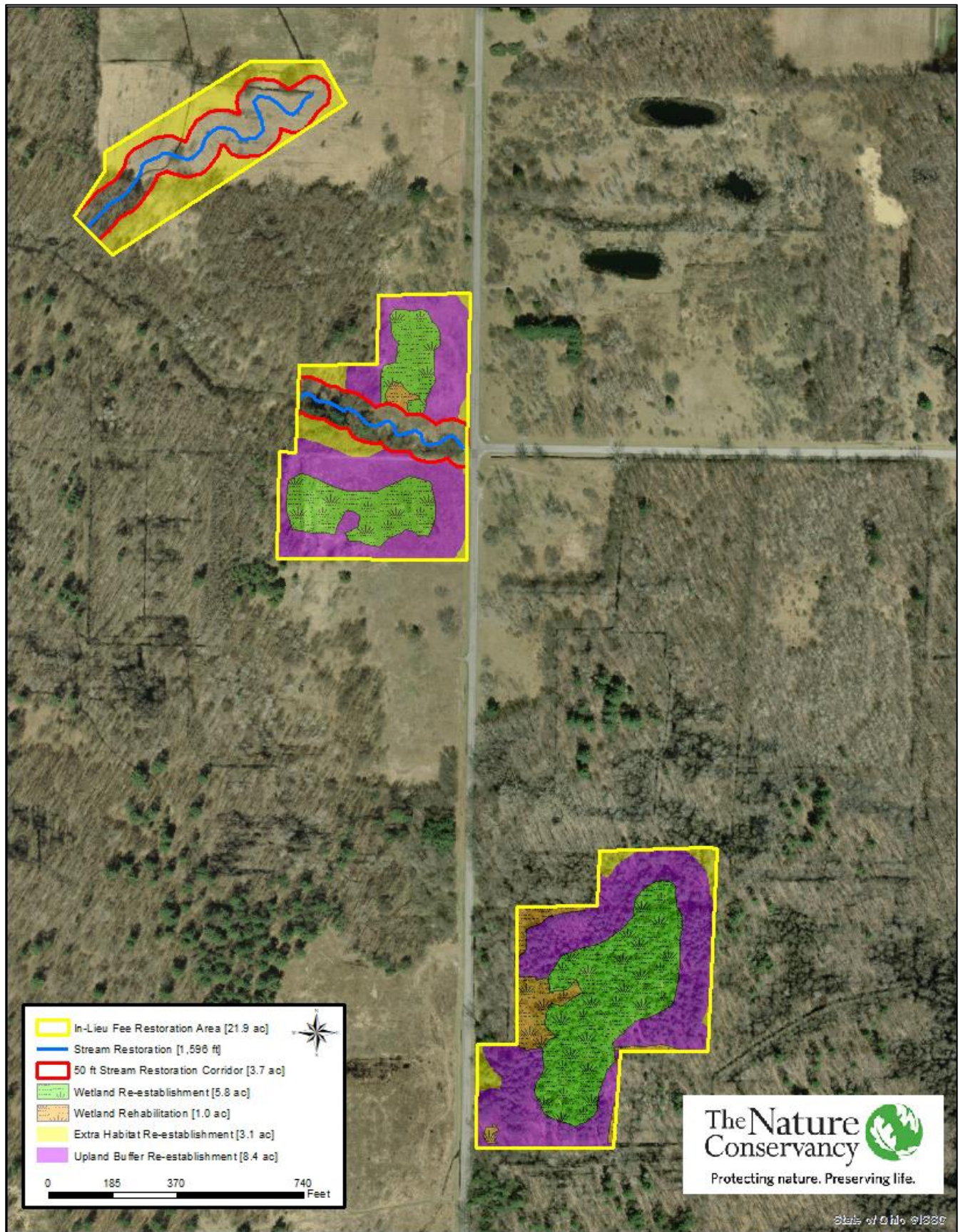
TNC also encourages the bidder to include in their proposal any suggestions they have for cost saving approaches in either the design or implementation of the project. Funds for this project are limited, and such cost savings approaches will weigh importantly in the selection of the contractor.



**Table 1. Anticipated Stream and Wetland Crediting**

Stream or Wetland (Type)	Method of Compensation	Acres /LF	Estimated Credit Ratio	Estimated Stream Credits	Estimated Wetland Credits
Stream Restoration	Type 1: Level 1	1,596	2:1	3,192	--
Vernal Pool Wetlands (PFO)	Re-establishment	3.6	1:1	--	3.6
	Rehabilitation	0.8	1:2	--	0.4
Oak Openings Sand Prairie Wetlands (PEM)	Re-establishment	2.2	1:1	--	2.2
	Rehabilitation	0.2	1:2	--	0.1
Wetland Buffer (100 ft)	Re-establishment	8.4	1:4	--	2.1 <sup>‡</sup>
Extra Wetland Buffer (>100 ft)	Re-establishment	3.1	--	--	--
			<b>TOTAL:</b>	<b>3,192</b>	<b>8.4<sup>‡</sup></b>

<sup>‡</sup> Beyond 50 feet from edge of stream channel.



## Oak Openings Restoration Plan

### **TASK 3. DEVELOPMENT OF FINAL DESIGN PLANS**

Following receipt of comments from the IRT on the Draft Amendment Mitigation Plan, TNC will provide comments to the Contractor. The Contractor shall refine the preliminary plans to develop the final design plans. The final design plans shall be sufficient to support all required permitting and implementation of design activities. The final design plans must also contain all construction plans and specifications necessary for the construction firm. TNC must approve all design components before any implementation activities can go forward. The Contractor shall deliver the final design plans in both hardcopy (2 sets) and electronic version (pdf and GIS files).

The Final Design Plans will include the following in addition to preliminary mitigation design information from Task 2:

- Technical specifications
- General notes and construction sequence and schedule
- Narrative description of proposed mitigation activities
- Final credit calculations and tables
- Stream and wetland existing conditions data, reference reach and database data, reference wetland data, and design criteria
- Stream and floodplain plans showing proposed alignment, grading limits, and in-stream structure types and locations
- Grading plans
- Typical sections for the stream and floodplain
- In-stream structure and bio-engineering details
- Design stream planform view and profiles showing proposed thalweg and bankfull
- Invasive species management plans
- Planting plans, details, and proposed vegetation species lists
- Erosion and sedimentation control measures
- Soil management plan
- Ingress/egress routes

### **TASK 4. ACQUISITION OF PERMITS**

The Contractor shall be responsible for acquiring all required federal, state and local permits and authorization in the name of the Contractor, needed to implement the final design. This task includes filling out and signing all necessary permit applications, providing all necessary information (plans, contact info, etc.) to acquire the permits, paying all fees required to acquire the necessary permits, coordinating and attending any necessary site visits or other meetings required to secure permits or authorizations, and addressing agreed upon comments resulting from the permitting agencies' review. Note that this does not include State Historic Preservation Office or USFWS coordination, which will be conducted by TNC.

The Contractor shall be responsible for complying with all conditions of all federal, state, and local permits and requirements for the duration of the project and the contract. Any ramifications (fines, fees, delay in work, etc.) related to the violation of the requirements of the permits shall be the responsibility of the Contractor. The Contractor shall inform TNC immediately of any permit issues/violations that occur on the site.

The Contractor shall notify TNC of any permit conditions and/or restrictions imposed or recommended by the permitting agencies during the permitting process. The Contractor shall not proceed with discussions with the permitting agencies regarding permit conditions and/or restrictions until TNC and the Contractor have agreed on a response to the agencies.

The Contractor shall submit applications for all required permits to complete the implementation of the design to the appropriate agencies following TNC's approval of the final design. The Contractor shall submit copies of all permit documents to TNC following issuance of permits/authorizations.

*Note: Following completion of the final design, TNC will prepare the required Final Amendment Mitigation Plan for submittal to the IRT. TNC will include the final design plans and permits as part of the Final Amendment to the IRT for review, comment, and approval (45 day period). The IRT will review and may provide additional comments, for which the Contractor shall work with TNC as needed to address comments and adjust the Final Design Plans and permits. Once comments are addressed to the satisfaction of the IRT, the Corps will provide final approval which authorizes TNC to move forward with project implementation. The Contractor shall not proceed with tasks beyond Task 4 until TNC (i) receives the final IRT approval, and (ii) provides written notice to proceed.*

## **Implementation**

### **TASK 5. INVASIVE PLANT TREATMENT, RESTORATION SEEDING, AND PLANTING**

The Contractor shall implement the initial invasive species management activities and planting activities as approved in the Final Mitigation Design Plans. The Contractor shall provide TNC with proof of certification to apply herbicides in the state of Ohio prior to any herbicide treatment. All herbicides used shall be approved by TNC, shall be safe for use in/near aquatic environments, and shall be applied in a manner that is safe for the environment and consistent with product labeling. Herbicide applications shall be conducted under the appropriate weather conditions. The Contractor shall take every precaution to ensure that native non-target species are not harmed by vegetation management activities such as cutting, land disturbance, spray drift, or other management activities. The Contractor shall be liable to TNC for the cost of replacement of non-target woody native plant species that are impacted due to vegetation management activities such as cutting, land disturbance, spray drift, or other management activities resulting in greater than 5% mortality. The cost of replacement for mature, non-target woody native species will be determined by a professional tree appraisal prepared by an appraiser selected by TNC, and the cost of which shall be paid by the Contractor. The Contractor shall not be responsible for long-term invasive species management following completion of construction.

The Contractor shall also implement the planting activities as approved in the Final Mitigation Design Plans and shall provide all materials and labor to complete such activities. The Contractor shall order the species and quantities indicated in the approved planting plan and these materials shall be installed in accordance with the approved plan. In the case that adequate planting stock is not available, or other stock may be more suitable, suggestions for additional or alternative species shall be coordinated with TNC. All planting materials must be handled and installed in accordance with best management practices. Culling of damaged or inferior planting stock is the responsibility of the Contractor. Mortality due to poor workmanship (e.g., improper planting technique or handling) shall be replaced at the sole expense of the Contractor. The planting of buffer and native habitat vegetation and live stakes shall occur during the dormant season; exceptions shall be coordinated with TNC.

### **TASK 6. CONSTRUCTION**

The Contractor shall be responsible for the implementation of the project in accordance with the final design plans, including managing and overseeing all implementation activities, and all subcontractors. The Contractor shall be responsible for the quality and completion of the project and the work of all subcontractors and for adhering to applicable regulations, permits, plans, and specifications.

The Contractor shall notify TNC at least 5 calendar days prior to any mobilization to the site. The Contractor shall provide an estimated schedule for the number of days required to complete each task. The Contractor shall also provide an estimated demobilization date for construction and notify TNC within 5 calendar days prior to the anticipated demobilization date.

The Contractor shall be responsible for ensuring all components of the design (including all grading, seeding, stabilization, erosion and sediment control measures, invasive species management, planting, establishment of permanent photographic stations, and construction tasks) are implemented according to the final design



plans and specifications. The Contractor shall be responsible for the activities of any and all subcontractors hired by the Contractor to complete the implementation of the design plan. During the field activities, the Contractor shall use best professional judgment to implement necessary changes to the approved design or technical specifications if site conditions warrant such a change. However, the Contractor shall notify TNC as soon as possible to discuss this change. The failure to respond by TNC shall not be construed as a waiver of TNC's right to reject the changes or approval of a change order. All changes shall be submitted and approved in writing.

The Contractor shall be responsible for all usual and customary coordination to locate and protect utilities present within the project corridor. The Contractor shall be responsible for conducting construction activities in a manner that does not damage utilities, other structures, roads or trails, and shall repair or pay for repair of any damages to utilities, other structures, roads or trails occasioned by such activities.

Finished grades must not deviate by more than  $\pm 0.1$  feet for wetlands and wetland and riparian buffers from elevations shown on final design plan. The Contractor, with TNC's approval, may determine that elevations need to be adjusted to ensure proper stream, wetland or buffer function and/or fit with surrounding field conditions. The Contractor shall then re-grade these areas to meet the appropriate elevations. If finished grades deviate more than  $\pm 0.1$  feet for wetlands and buffers from the plan elevations and the Contractor and construction firm, with TNC approval, determine that the deviation does not compromise the channel, wetland, or buffer stability or function, additional grading or refilling shall not be required. The Contractor and construction firm shall construct and install all stream, wetland, and buffer structures in accordance with the final design plans and specifications.

A mix of temporary stabilizing seed and permanent native seed shall be applied to all disturbed areas. Biodegradable erosion control matting shall also be installed per approved specifications on all disturbed streambanks, and other areas where needed, immediately following construction.

Soil compaction best management practices will be followed and all disturbed areas (including stockpile and staging areas) shall be restored prior to demobilization to provide a final soil condition suitable for planting including loose soil 12-inches minimum depth, and minimal surface soil clods.

The Contractor shall be responsible for the off-site transport and disposal of all unused construction materials (e.g., rock, fill, tree trunks and branches, etc.) not properly used or properly disposed of with TNC's approval on-site.

The Contractor shall provide weekly updates (either written reports or conversations) to TNC on the implementation of the design during the construction activities. These updates may include discussions of where activities are in the phasing of the project, what components have been completed, photographs of project progress, description of changes to the approved design or technical specifications, description of site visits conducted by permit-issuing agencies or discussions with permitting agencies regarding project elements, and the status and projection of completion times for components that are currently being implemented. As part of the updates, the Contractor shall summarize the site activities completed during that week and the anticipated activities for the coming week.

In addition to weekly reporting, the Contractor shall submit reports at 50% and 75% completion of construction. The reports shall include adequate data to show that all project components have been constructed and installed according to the final design plans and construction documents, or are within acceptable tolerances, and any changes or deviations from these documents have been approved by TNC. At a minimum, the reports shall include data sheets with built elevations of wetlands and wetland and stream buffers. The reports shall also include data sheets with built elevations of wetlands and wetland and riparian buffers. These construction reports shall be submitted within 10 days after 50% or 75% completion of construction.

Meetings shall be conducted on the site at pre-construction, 50% completion, and 100% completion with

TNC and the Contractor to ensure that all activities are satisfactorily planned for and completed. A person qualified in each design phase of the project shall be available when required to support the necessary visits. **All in-person meetings shall adhere to the COVID-19 Protocols outlined in section 2.6 of this RFP.** The 100% construction meeting shall be held prior to demobilization. The Contractor shall prepare punch lists for the meetings as needed. Punch lists will be provided to TNC for review and final approval. The Contractor shall be appropriately compensated for adjustments that TNC determines are needed to ensure project success but that are outside of the original scope of work. Adjustments necessary due to poor workmanship or conflict with the approved plans and specifications shall be performed at no additional cost to TNC.

#### **TASK 7. DEVELOPMENT OF AS-BUILT REPORT**

The Contractor shall be responsible for the delivery of an as-built report for mitigation activities. The as-built report shall include adequate data to show that all components have been constructed, installed, managed, and/or planted according to final design plans. The as-built report shall also be used for comparison during future success monitoring.

For wetlands, the Contractor shall determine the location and number of, and shall install staff gauges which can be used to determine levels and fluctuations in wetland water depths. Staff gauges shall be placed across the slope of each wetland's substrates that will allow for the recording of water depths at those locations throughout the growing season.

The Contractor shall conduct pre-construction, construction, and post-construction photo monitoring to document the existing conditions, the progress of the construction, and the final site conditions. Permanent photo stations shall be installed to be used for the as-built survey and future monitoring, and the GPS coordinates of their locations shall be recorded. The photo stations shall be sufficient in number and location to conduct future monitoring (e.g., able to document the condition of wetlands and streams including the channel and banks, structures, wetland and riparian buffer, etc.).

The as-built survey shall be certified by a licensed land surveyor or a licensed professional engineer. The survey shall include the following:

- A. Plan view of the wetlands, stream and their adjacent buffers. Plan view shall show:
  - 1. Location of all permanent photo stations;
  - 2. Location of all wetlands;
  - 3. Contours of wetland substrates;
  - 4. Identification of limits of restoration and enhancement activities;
  - 5. Former, filled channel, if any;
  - 6. Live stake and wetland and riparian buffer planting areas (to be provided by the Vegetation Contractor);
  - 7. Invasive species management areas (to be provided by the Vegetation Contractor); and
  - 8. Any Crossings and Access Roads.
- B. Planting area details including species planted, total planting density, and quantity planted by species within each planting area will be provided.
- C. Photographs (dated and labeled, including directional orientation) taken from permanent photo stations to document pre-construction, construction, and post-construction phases of the project for all wetlands, the stream, and their buffers.
- D. Detailed information on the elevations of wetland substrates and microtopography features resulting from the wetland constructions involved in re-establishment and rehabilitation, and installed stream structures (structure location, elevation, anchoring, etc.) Show comparison to design profiles and discuss comparison.

- E. Detailed stream and wetland cross-sections taken from permanent locations. For wetlands, items on the cross section shall include measurements every foot for transects on both a north/south and east/west orientation as well as a calculation of the ratio of their slopes. For streams, items on the cross-section shall include streambanks, streambed, water surface, bankfull, and adjacent floodplain elevations. Contractor should show comparison to design cross-sections and discuss comparison.
- F. A table indicating the estimated stream, wetland, and buffer credits generated by the project.
- G. In addition to the wetland cross-sections, include a brief narrative/discussion of the comparison and/or discrepancies from the design or from unstable conditions, in general.

The Contractor shall submit the draft as-built report for construction within 30 calendar days of 100% completion of construction activities. TNC shall review the draft as-built report and provide comments to the Contractor. Based upon comments and agreed-to-items resulting from TNC's review, the Contractor shall refine the draft as-built report for final submission. TNC and the Contractor shall give written approval of all agreed-to-items that shall be incorporated into the draft as-built report for the final report. The Contractor shall deliver the as-built report in both hardcopy (2 sets) and electronic (pdf, GIS and CAD) version.

#### **TASK 8. CORRECTIVE ACTION**

Contractor shall provide a warranty against design and construction-related failures that occur within the first 2 years after substantial completion of construction.

**ATTACHMENT C:**

**SCOPE OF WORK FOR WETLAND, STREAM,  
AND BUFFER MITIGATION SERVICES FOR**

**MOTTER METRO PARK:  
AN OHIO MITIGATION PROGRAM SITE**



### C.1 PURPOSE

The purpose of this project is to provide wetland and stream mitigation to offset unavoidable impacts in the Blanchard watershed. To achieve this goal, TNC's Ohio Mitigation Program stream and wetland credits are utilized as the compensatory mitigation. The scope of work for this RFP requires the Contractor to develop and implement a design plan for wetland and stream restoration, rehabilitation, buffer establishment, and initial vegetation management (seeding, planting, and invasive species management) for the subject property per the specifications herein 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](#)).

### C.2 GENERAL PROJECT INFORMATION

<b>Project Type</b>	Wetland, Stream, and Buffer Re-establishment and Rehabilitation
<b>Project Name</b>	Motter Metro Park
<b>Landowner</b>	Johnny Appleseed Metropolitan Park District
<b>Project Manager</b>	The Nature Conservancy
<b>Locality</b>	Richland Township, Allen County, Ohio
<b>HUC 8</b>	Blanchard Watershed (04100008)
<b>Resources</b>	Wetlands, Wetland Buffer, Stream Buffer

Project Description: Project Description: The Mitigation Plan, relevant GIS shapefiles, and any other pertinent documents may be found at the following link: <https://tnc.box.com/s/kzr9loxzuzvmi3pjl22zsommt4qakuz>.

### C.3 THE NATURE CONSERVANCY TASKS

TNC shall work with Contractor to secure access to the property for the activities specified within this Scope of Work, which may require the Contractor to execute a license and indemnity agreement separate from the contract. TNC shall coordinate with the Contractor regarding approval of task deliverables. TNC staff shall be onsite as needed during site activities. TNC shall provide the property boundary maps and access point(s) information to the Contractor.

### C.4 CONTRACTOR TASKS AND DUTIES

The specific tasks to be completed by the Contractor include: 1) site assessment, 2) development of preliminary design plans, cost opinion, and initial vegetation management plans, 3) development of final design plans, 4) acquisition of permits, 5) invasive plant treatment, restoration seeding and planting, 6) construction, 7) develop as-built report, and 8) corrective action.

## Design

### TASK 1. SITE ASSESSMENT

The Contractor shall conduct fieldwork to identify existing conditions within the project area. Note that a Waters of the U.S. assessment has been completed for the project site that includes the delineation, ORAM, and HHEI assessments. The Contractor shall identify appropriate reference stream reaches, wetlands, and buffers in the watershed and perform the necessary assessments for each relevant stream reach, wetland, or buffer area. Additionally, the Contractor will outline the initial vegetation management plans.

The Contractor shall also generate existing conditions mapping, utilizing, when possible, the figures and data already completed in the mitigation plan that includes all the waters of the U.S. identified during the delineation, National Wetland Inventory (NWI), National Hydrography Dataset (NHD), soils mapping, USGS quadrangle, aerial photography, mapped locations of invasive species and any other relevant data to provide the basis for potential

wetland, stream, and buffer mitigation.

## **TASK 2. DEVELOPMENT OF PRELIMINARY DESIGN PLANS, COST OPINION AND INITIAL VEGETATION MANAGEMENT PLANS**

The Contractor shall design the project by utilizing the Motter Metro Park In-Lieu Fee Mitigation Plan, existing condition data and reference reach data to design the wetlands, stream, and buffers. The existing wetlands on-site are being incorporated into the project through rehabilitation. The Contractor should anticipate input from TNC staff throughout the design process, and incorporate feedback accordingly. Early and frequent communication between the Contractor and TNC staff will be required. TNC anticipates the following restoration efforts for this project:

### **Streams**

- Re-establish and rehabilitate 1.7 acres (ac) of riparian buffer (Mitigation Type 3); and
- Re-establish and rehabilitate 3.1 ac of extra riparian buffer (Mitigation Type 4).

### **Wetlands**

- Re-establish 9.5 ac of forested (PFO) wetlands in areas that have existing hydric soils;
- Rehabilitate 0.5 ac of PFO wetlands;
- Re-establish 4.4 ac of buffer within 50 meters of wetlands; and
- Re-establish 2.2 ac of extra buffer beyond 50 meters of wetlands.

Historical high-intensity land use including row cropping and, presumably, drainage tiles have created hydrological disruptions and a sparse riparian area. Restoration will involve re-establishment of floodplain wetlands and forested buffer along Little Riley Creek through subtle grading and potentially capturing overbank flooding from Little Riley Creek. Any subsurface drainage tiles, if present, will be disrupted and potentially removed. The re-established wetlands will be designed and planted to emulate reference, high-quality wetlands in the Blanchard watershed. The riparian buffer will also be improved through invasive species treatments and tree plantings.

Wetlands to be rehabilitated within the mitigation site are of low quality and primarily occur adjacent to Little Riley Creek. These wetlands will be rehabilitated through minor soil grading to restore pre-disturbance topography, control of invasive plant species, planting of high-quality native species, improvements to the hydrological regime, and the establishment of adjacent forested upland buffers. Invasive plants within the mitigation site will be treated using a TNC-approved herbicide suitable for use in and near aquatic resources. Additionally, the PEM wetland areas will be further rehabilitated by seeding and/or planting native trees and shrubs and plugs of other desirable wetland plants specific to the area.

Re-establishment of wetlands on-site will focus on locations with hydric soils. The supporting hydrology for the re-established wetlands will come from precipitation, groundwater, and seasonal flooding events. Because of the conducive topography and soils, wetland conditions should be easily developed with minimal grading and the disruption of any existing field tiles; any required excavation will likely be shallow (0.25-0.5ft in depth). Where grading is needed, the topsoil will be removed, stockpiled for a short time, and reapplied. All topsoil stockpile locations will be coordinated with the Johnny Appleseed Metropolitan Park District. During the design phase of the project, additional hydric soils and wetland areas on-site will be analyzed and proposed for re-establishment or rehabilitation when appropriate.

The re-established wetland areas will be planted according to the finished grading/topography of the wetland and hydrologic regime appropriate for the proposed species. For emergent areas, a native seed mix will be applied based on the anticipated hydrologic regime of lower levels of standing water and saturation. For the wetter conditions of more permanently inundated areas, herbaceous plugs adapted to deeper and longer hydrologic regimes will be installed. In addition, high quality, native woody species will be selected for both the wetlands and their buffers. The revegetation will focus on creating vegetative interspersions and diversity typical for wetlands within the watershed and connection of the wetlands and buffers into one large, highly functional ecosystem.

Included in the design plans shall be all earthwork activities (including site preparation techniques, quantities to be moved, soil placement/disposal procedures, and final pre-planting site conditions), initial vegetation management

plans, ingress/egress routes, erosion and sediment control plan, details for the tie-ins with drainages in the project area, results of the soils mapping and wetland delineation, and a phasing/timeline for all work to be completed on the site in detail. The submittal shall also include all design supporting data and documentation, including all information required to design the project such as, at a minimum, existing condition information, reference resource information, hydrologic information, and geotechnical information.

The Contractor shall design the project by utilizing TNC's Motter Metro Park Mitigation Plan and existing condition data that will allow the development of a design that will result in high quality, resilient wetlands and streams. TNC strongly advocates a natural approach to wetland re-establishment and rehabilitation. The re-established wetlands should be developed within the footprints of historical wetlands. This means that wetlands must be restored on areas of hydric soils or areas of hydric soil inclusions on non-hydric soils. Natural wetlands do not have berms or dams or other synthetic means for developing and maintaining their hydrologic regime. Therefore, TNC will not approve the use of berms or dams as acceptable methods for restoring hydrologic regimes in the designs for the re-established wetlands. Rehabilitation activities should be limited to addressing only those factors that have been degraded from their natural conditions.

Every effort shall be made during the design and construction phases to minimize disturbance to the existing natural areas. Sensitive areas of the project site that will not be part of the changes specified in the design plans will have their perimeters clearly delineated with orange fencing and will be off limits throughout the duration of construction activities. The Contractor shall be responsible for working with/around all infrastructure in the design of the project. Again, the design shall ensure and detail stable and appropriate tie-ins with all drainages in the project area and with the portions of streams/reservoirs up and downstream of the project area.

Soils are often unintentionally compacted during the construction process, resulting in decreased soil permeability, water-holding capacity, and plant root growth. The design shall include particular attention to avoiding soil compaction through best management practices, and remediating compaction where it is unavoidable. Suggestions regarding soil protection and remediation should be explained in the proposal, which could include a preliminary Soil Management Plan that indicates: areas to be protected, efforts to minimize soil disturbance (*i.e.*, minimize grading), stockpiling and reuse of topsoil, and efforts that would be used for the restoration of soils disturbed during construction including amending with compost as necessary and scarifying subsoil to achieve a total 12" uncompacted depth. This Soil Management Plan shall be applied to all areas disturbed by construction activities.

The Contractor shall use the appropriate Ohio EPA assessments to evaluate existing conditions and potential stream and wetland mitigation activities (re-establishment, rehabilitation, and enhancement) and determine the amount of potential stream, wetland, stream buffer and wetland buffer credits within the project site as defined by "[Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio](#)" and "[Guidelines for Wetland Mitigation Banking in Ohio Version 2.0, September 2020](#)".

The Contractor will also be responsible for providing the project's vegetation management plan, including the invasive species management and seeding and planting plans (including vegetation community types, species to be planted and quantities by area, application rates, and planting densities by area). This part of the design will include a wetland and upland/riparian buffer planting plan for the project area, including species densities and zonation. Only species native to the region, and preferably present in the reference wetlands, will be used in the planting plan. The minimum standards for the planting plan will follow specifications from the Ohio Interagency Review Team's "[Guidelines for Wetland Mitigation Banking and In-Lieu Fee Programs in Ohio Version 2.0](#)". The planting plan will also include the species names and application rates of the permanent and temporary seed mix to be used. TNC believes that proper planting preparation (including initial weed and invasive plant control), ecoregional species selection, and planting approaches are essential to the successful and cost-effective establishment of wetlands. The proposal should demonstrate and emphasize the contractor or sub-contractor's experience and expertise in these specific skills.

Utilizing the preliminary designs, the Contractor shall also provide estimated costs for the project implementation. The cost opinion shall include projected costs associated with implementation and shall include a breakdown of these costs for permitting, stream construction, wetland construction, buffer construction, planting, seeding, invasive species management, and all other implementation tasks identified in the design plans.

At the 60% design phase the Contractor shall also develop and submit to TNC a narrative on the wetland, stream, and buffer mitigation plan for inclusion in the Motter Metro Park Draft Amendment. The narrative should include a comprehensive overview of the mitigation plan details including: design objectives and re-establishment strategies; number of acres/linear feet and types of mitigation practices for all wetland, stream, and buffers; management and treatment methods for invasive plant species; planting and seeding details for wetlands; stream, and buffers with species lists; a soil management plan; supporting tables and graphics; proposed performance standards for wetlands and streams; and any other important features necessary to complete the Draft Amendment plan. TNC will prepare the required Draft Amendment for submittal to the Interagency Review Team (IRT). Based on the current IRT-approved timeline there is a 90-day comment period. Following the comment period, the IRT will forward comments to TNC. Once comments are received from the Interagency Review Team on the mitigation plan the Contractor will be responsible for making any requested changes and redrafting the narrative, including the tables and graphics, for inclusion in the Final Amendment (see Task 3 below).

***Note: Following completion of Tasks 1 & 2, TNC will determine the extent of proposed mitigation activities to be included in remaining tasks of this Scope of Work. TNC may decide to reduce the extent of restoration activities from those depicted in the mitigation plan developed by TNC and provided to the Contractor as part of the RFP. Contractor understands and agrees that TNC makes no representations or guarantees about the amount of mitigation work to be included in Tasks 3 – 8 of this Scope of Work.***

#### **TNC's Vision**

The Motter Metro Park Mitigation Plan is based on TNC's preliminary judgments on how the Motter Metro Park Project site might best be designed and restored to develop the wetlands, stream, and their associated buffers to comprise an integrated ecosystem of the highest ecological conditions possible. TNC is providing these suggestions so there is full understanding of the goals for the site and the potential ways to meet those goals. However, TNC understands that there may be better ways to reach these goals and encourages bidders to submit their own ideas where and when they believe additional benefit can be attributed to their approach. Please see Figure 1 for TNC's vision on how the stream and wetlands should be restored on the site.

TNC estimates that the project site could generate approximately 167.7 stream restoration credits and approximately 10.9 wetland restoration credits. The minimum credits needed (based on current credit sales) are 167.7 stream credits and 10.7 wetland credits. If the contractor proposes fewer credits than TNC's estimated stream and/or wetland credits, the amount of compensation may be reduced. Table 1 includes the estimated stream and wetland credits anticipated to be generated by the restoration project.

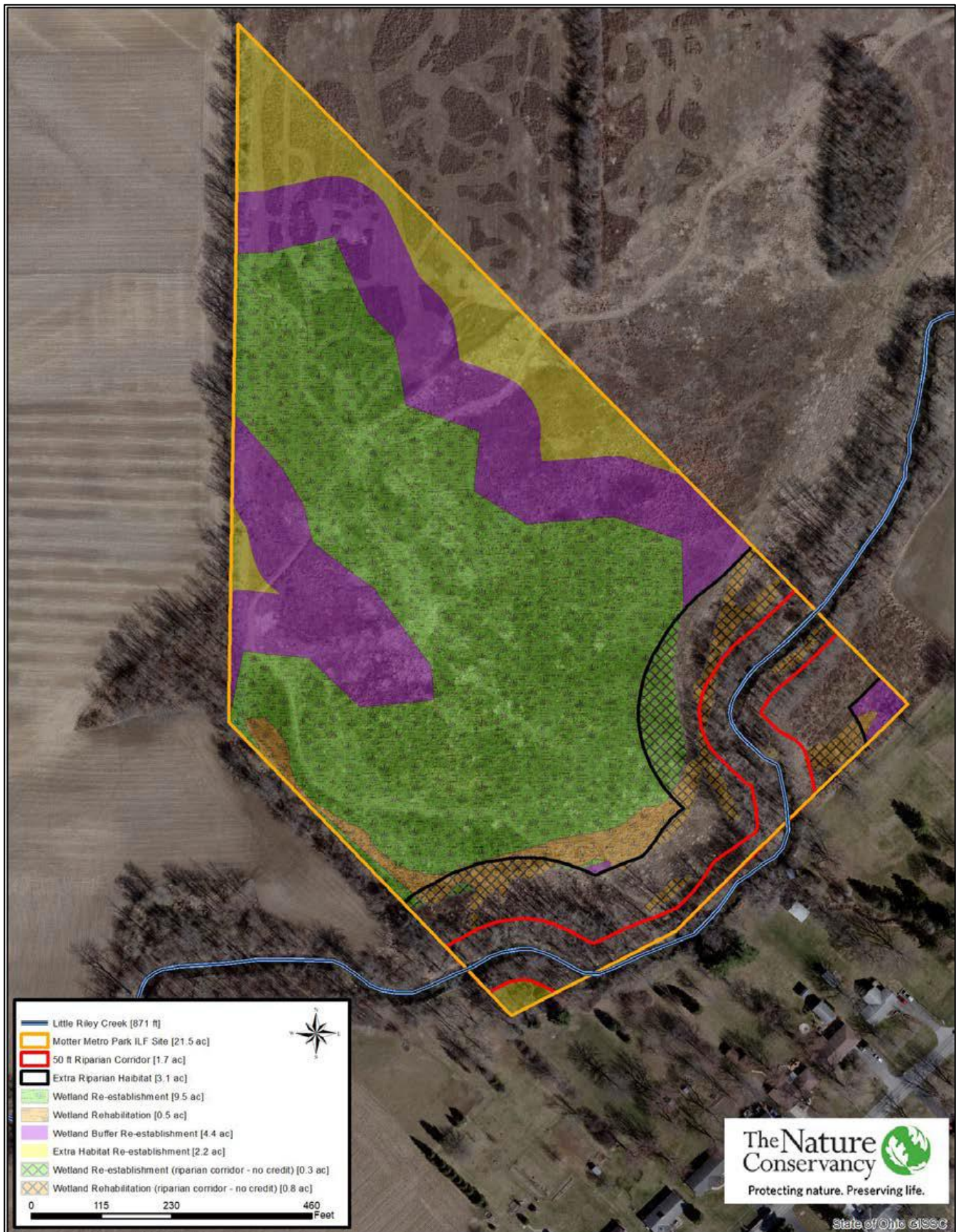
TNC also encourages the bidder to include in their proposal any suggestions they have for cost saving approaches in either the design or implementation of the project. Funds for this project are limited, and such cost savings approaches will weigh importantly in the selection of the contractor. Additionally, TNC has recently sold an additional 668 stream credits in this service area. Contractors are encouraged to propose additional stream restoration or enhancement activities on Little Riley Creek that could generate these credits and estimate costs for this additional work.

**Table 1. Estimated Stream and Wetland Crediting**

<b>Stream or Wetland (Type)</b>	<b>Method of Compensation</b>	<b>Acres /LF</b>	<b>Estimated Credit Ratio</b>	<b>Estimated Stream Credits</b>	<b>Estimated Wetland Credits</b>
Riparian Forest Buffer	Re-establishment/Rehabilitation	1.7 (ac)	1:6	114.3	--
Extra Riparian Forest Buffer	Re-establishment/Rehabilitation	3.1 (ac)	1:10	53.4	--
Forested Wetland (PFO)	Re-establishment	9.5 (ac)	1:1	--	9.5
Forested Wetland (PFO)	Rehabilitation	0.5 (ac)	1:2	--	0.3

Upland Buffer for Wetlands (50 Meter)	Re-establishment	4.4 (ac)	1:4	--	1.1
Extra Habitat	Re-establishment	2.2 (ac)	--	--	--
			<b>TOTAL:</b>	<b>167.7</b>	<b>10.9</b>





## Motter Metro Park Restoration Plan

### **TASK 3. DEVELOPMENT OF FINAL DESIGN PLANS**

Following receipt of comments from the IRT on the Draft Amendment Mitigation Plan, TNC will provide comments to the Contractor. The Contractor shall refine the preliminary plans to develop the final design plans. The final design plans shall be sufficient to support all required permitting and implementation of design activities. The final design plans must also contain all construction plans and specifications necessary for the construction firm. TNC must approve all design components before any implementation activities can go forward. The Contractor shall deliver the final design plans in both hardcopy (2 sets) and electronic version (pdf and GIS files).

The Final Design Plans will include the following in addition to preliminary mitigation design information from Task 2:

- Technical specifications
- General notes and construction sequence and schedule
- Narrative description of proposed mitigation activities
- Final credit calculations and tables
- Stream and wetland existing conditions data, reference reach and database data, reference wetland data, and design criteria
- Stream and floodplain plans showing proposed alignment, grading limits, and in-stream structure types and locations
- Grading plans
- Typical sections for the stream and floodplain
- In-stream structure and bio-engineering details
- Design stream planform view and profiles showing proposed thalweg and bankfull
- Invasive species management plans
- Planting plans, details, and proposed vegetation species lists
- Erosion and sedimentation control measures
- Soil management plan
- Ingress/egress routes

### **TASK 4. ACQUISITION OF PERMITS**

The Contractor shall be responsible for acquiring all required federal, state and local permits and authorization in the name of the Contractor, needed to implement the final design. This task includes filling out and signing all necessary permit applications, providing all necessary information (plans, contact info, etc.) to acquire the permits, paying all fees required to acquire the necessary permits, coordinating and attending any necessary site visits or other meetings required to secure permits or authorizations, and addressing agreed upon comments resulting from the permitting agencies' review. Note that this does not include State Historic Preservation Office or USFWS coordination, which will be conducted by TNC.

The Contractor shall be responsible for complying with all conditions of all federal, state, and local permits and requirements for the duration of the project and the contract. Any ramifications (fines, fees, delay in work, etc.) related to the violation of the requirements of the permits shall be the responsibility of the Contractor. The Contractor shall inform TNC immediately of any permit issues/violations that occur on the site.

The Contractor shall notify TNC of any permit conditions and/or restrictions imposed or recommended by the permitting agencies during the permitting process. The Contractor shall not proceed with discussions with the permitting agencies regarding permit conditions and/or restrictions until TNC and the Contractor have agreed on a response to the agencies.

The Contractor shall submit applications for all required permits to complete the implementation of the design to the appropriate agencies following TNC's approval of the final design. The Contractor shall submit copies of all permit documents to TNC following issuance of permits/authorizations.

*Note: Following completion of the final design, TNC will prepare the required Final Amendment Mitigation Plan for submittal to the IRT. TNC will include the final design plans and permits as part of the Final Amendment to the IRT for review, comment, and approval (45 day period). The IRT will review and may provide additional comments, for which the Contractor shall work with TNC as needed to address comments and adjust the Final Design Plans and permits. Once comments are addressed to the satisfaction of the IRT, the Corps will provide final approval which authorizes TNC to move forward with project implementation. The Contractor shall not proceed with tasks beyond Task 4 until TNC (i) receives the final IRT approval, and (ii) provides written notice to proceed.*

## **Implementation**

### **TASK 5. INVASIVE PLANT TREATMENT, RESTORATION SEEDING, AND PLANTING**

The Contractor shall implement the initial invasive species management activities and planting activities as approved in the Final Mitigation Design Plans. The Contractor shall provide TNC with proof of certification to apply herbicides in the state of Ohio prior to any herbicide treatment. All herbicides used shall be approved by TNC, shall be safe for use in/near aquatic environments, and shall be applied in a manner that is safe for the environment and consistent with product labeling. Herbicide applications shall be conducted under the appropriate weather conditions. The Contractor shall take every precaution to ensure that native non-target species are not harmed by vegetation management activities such as cutting, land disturbance, spray drift, or other management activities. The Contractor shall be liable to TNC for the cost of replacement of non-target woody native plant species that are impacted due to vegetation management activities such as cutting, land disturbance, spray drift, or other management activities resulting in greater than 5% mortality. The cost of replacement for mature, non-target woody native species will be determined by a professional tree appraisal prepared by an appraiser selected by TNC, and the cost of which shall be paid by the Contractor. The Contractor shall not be responsible for long-term invasive species management following completion of construction.

The Contractor shall also implement the planting activities as approved in the Final Mitigation Design Plans and shall provide all materials and labor to complete such activities. The Contractor shall order the species and quantities indicated in the approved planting plan and these materials shall be installed in accordance with the approved plan. In the case that adequate planting stock is not available, or other stock may be more suitable, suggestions for additional or alternative species shall be coordinated with TNC. All planting materials must be handled and installed in accordance with best management practices. Culling of damaged or inferior planting stock is the responsibility of the Contractor. Mortality due to poor workmanship (e.g., improper planting technique or handling) shall be replaced at the sole expense of the Contractor. The planting of buffer and native habitat vegetation and live stakes shall occur during the dormant season; exceptions shall be coordinated with TNC.

### **TASK 6. CONSTRUCTION**

The Contractor shall be responsible for the implementation of the project in accordance with the final design plans, including managing and overseeing all implementation activities, and all subcontractors. The Contractor shall be responsible for the quality and completion of the project and the work of all subcontractors and for adhering to applicable regulations, permits, plans, and specifications.

The Contractor shall notify TNC at least 5 calendar days prior to any mobilization to the site. The Contractor shall provide an estimated schedule for the number of days required to complete each task. The Contractor shall also provide an estimated demobilization date for construction and notify TNC within 5 calendar days prior to the anticipated demobilization date.

The Contractor shall be responsible for ensuring all components of the design (including all grading, seeding, stabilization, erosion and sediment control measures, invasive species management, planting, establishment of permanent photographic stations, and construction tasks) are implemented according to the final design plans and specifications. The Contractor shall be responsible for the activities of any and all subcontractors hired by the



Contractor to complete the implementation of the design plan. During the field activities, the Contractor shall use best professional judgment to implement necessary changes to the approved design or technical specifications if site conditions warrant such a change. However, the Contractor shall notify TNC as soon as possible to discuss this change. The failure to respond by TNC shall not be construed as a waiver of TNC's right to reject the changes or approval of a change order. All changes shall be submitted and approved in writing.

The Contractor shall be responsible for all usual and customary coordination to locate and protect utilities present within the project corridor. The Contractor shall be responsible for conducting construction activities in a manner that does not damage utilities, other structures, roads or trails, and shall repair or pay for repair of any damages to utilities, other structures, roads or trails occasioned by such activities.

Finished grades must not deviate by more than  $\pm 0.1$  feet for wetlands and wetland and riparian buffers from elevations shown on final design plan. The Contractor, with TNC's approval, may determine that elevations need to be adjusted to ensure proper stream, wetland or buffer function and/or fit with surrounding field conditions. The Contractor shall then re-grade these areas to meet the appropriate elevations. If finished grades deviate more than  $\pm 0.1$  feet for wetlands and buffers from the plan elevations and the Contractor and construction firm, with TNC approval, determine that the deviation does not compromise the channel, wetland, or buffer stability or function, additional grading or refilling shall not be required. The Contractor and construction firm shall construct and install all stream, wetland, and buffer structures in accordance with the final design plans and specifications.

A mix of temporary stabilizing seed and permanent native seed shall be applied to all disturbed areas. Biodegradable erosion control matting shall also be installed per approved specifications on all disturbed streambanks, and other areas where needed, immediately following construction.

Soil compaction best management practices will be followed and all disturbed areas (including stockpile and staging areas) shall be restored prior to demobilization to provide a final soil condition suitable for planting including loose soil 12-inches minimum depth, and minimal surface soil clods.

The Contractor shall be responsible for the off-site transport and disposal of all unused construction materials (e.g., rock, fill, tree trunks and branches, etc.) not properly used or properly disposed of with TNC's approval on-site.

The Contractor shall provide weekly updates (either written reports or conversations) to TNC on the implementation of the design during the construction activities. These updates may include discussions of where activities are in the phasing of the project, what components have been completed, photographs of project progress, description of changes to the approved design or technical specifications, description of site visits conducted by permit-issuing agencies or discussions with permitting agencies regarding project elements, and the status and projection of completion times for components that are currently being implemented. As part of the updates, the Contractor shall summarize the site activities completed during that week and the anticipated activities for the coming week.

In addition to weekly reporting, the Contractor shall submit reports at 50% and 75% completion of construction. The reports shall include adequate data to show that all project components have been constructed and installed according to the final design plans and construction documents, or are within acceptable tolerances, and any changes or deviations from these documents have been approved by TNC. At a minimum, the reports shall include data sheets with built elevations of wetlands and wetland and stream buffers. The reports shall also include data sheets with built elevations of wetlands and wetland and riparian buffers. These construction reports shall be submitted within 10 days after 50% or 75% completion of construction.

Meetings shall be conducted on the site at pre-construction, 50% completion, and 100% completion with TNC and the Contractor to ensure that all activities are satisfactorily planned for and completed. A person qualified in each design phase of the project shall be available when required to support the necessary visits. **All in-person meetings shall adhere to the COVID-19 Protocols outlined in section 2.6 of this RFP.** The 100% construction meeting shall be held prior to demobilization. The Contractor shall prepare punch lists for the meetings as needed. Punch lists will

be provided to TNC for review and final approval. The Contractor shall be appropriately compensated for adjustments that TNC determines are needed to ensure project success but that are outside of the original scope of work. Adjustments necessary due to poor workmanship or conflict with the approved plans and specifications shall be performed at no additional cost to TNC.

#### **TASK 7. DEVELOPMENT OF AS-BUILT REPORT**

The Contractor shall be responsible for the delivery of an as-built report for mitigation activities. The as-built report shall include adequate data to show that all components have been constructed, installed, managed, and/or planted according to final design plans. The as-built report shall also be used for comparison during future success monitoring.

For wetlands, the Contractor shall determine the location and number of, and shall install staff gauges which can be used to determine levels and fluctuations in wetland water depths. Staff gauges shall be placed across the slope of each wetland's substrates that will allow for the recording of water depths at those locations throughout the growing season.

The Contractor shall conduct pre-construction, construction, and post-construction photo monitoring to document the existing conditions, the progress of the construction, and the final site conditions. Permanent photo stations shall be installed to be used for the as-built survey and future monitoring, and the GPS coordinates of their locations shall be recorded. The photo stations shall be sufficient in number and location to conduct future monitoring (e.g., able to document the condition of wetlands and streams including the channel and banks, structures, wetland and riparian buffer, etc.).

The as-built survey shall be certified by a licensed land surveyor or a licensed professional engineer. The survey shall include the following:

H. Plan view of the wetlands, stream and their adjacent buffers. Plan view shall show:

1. Location of all permanent photo stations;
  2. Location of all wetlands;
  3. Contours of wetland substrates;
  4. Identification of limits of restoration and enhancement activities;
  5. Former, filled channel, if any;
  6. Live stake and wetland and riparian buffer planting areas (to be provided by the Vegetation Contractor);
  7. Invasive species management areas (to be provided by the Vegetation Contractor); and
  8. Any Crossings and Access Roads.
- I. Planting area details including species planted, total planting density, and quantity planted by species within each planting area will be provided.
- J. Photographs (dated and labeled, including directional orientation) taken from permanent photo stations to document pre-construction, construction, and post-construction phases of the project for all wetlands, the stream, and their buffers.
- K. Detailed information on the elevations of wetland substrates and microtopography features resulting from the wetland constructions involved in re-establishment and rehabilitation, and installed stream structures (structure location, elevation, anchoring, etc.) Show comparison to design profiles and discuss comparison.
- L. Detailed stream and wetland cross-sections taken from permanent locations. For wetlands, items on the cross section shall include measurements every foot for transects on both a north/south and east/west orientation as well as a calculation of the ratio of their slopes. For streams, items on the cross-section shall include streambanks, streambed, water surface, bankfull, and adjacent floodplain elevations. Contractor should show comparison to design cross-sections and discuss comparison.

M. A table indicating the estimated stream, wetland, and buffer credits generated by the project.

N. In addition to the wetland cross-sections, include a brief narrative/discussion of the comparison and/or discrepancies from the design or from unstable conditions, in general.

The Contractor shall submit the draft as-built report for construction within 30 calendar days of 100% completion of construction activities. TNC shall review the draft as-built report and provide comments to the Contractor. Based upon comments and agreed-to-items resulting from TNC's review, the Contractor shall refine the draft as-built report for final submission. TNC and the Contractor shall give written approval of all agreed-to-items that shall be incorporated into the draft as-built report for the final report. The Contractor shall deliver the as-built report in both hardcopy (2 sets) and electronic (pdf, GIS and CAD) version.

#### **TASK 8. CORRECTIVE ACTION**

Contractor shall provide a warranty against design and construction-related failures that occur within the first 2 years after substantial completion of construction.

**ATTACHMENT D:**

**COPY OF TNC STANDARD CONTRACT**

The contract for each Project 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.

<b>Contract Number:</b>	
<b>Accounting Information –</b>	
<b>Project Name:</b>	
<b>Project-Award-Activity Number:</b>	
<b>Source of funds:</b>	U.S. Government <input type="checkbox"/> State Government <input type="checkbox"/> Private <input checked="" type="checkbox"/> Private as Gov't Match <input type="checkbox"/>

## CONTRACT FOR SERVICES

This Contract is entered into by and between **The Nature Conservancy**, a nonprofit corporation ("TNC"), through the following U.S. office:

TNC Business Unit:	Ohio
Contact:	Devin Schenk
Address:	6375 Riverside Drive, Suite 100
Telephone:	614-717-2770, ext. 135
Email Address:	<a href="mailto:dschenk@tnc.org">dschenk@tnc.org</a>

and the following person or entity ("**Contractor**"):

Name of Contractor:	
Contact:	
Address:	
Telephone:	
Email Address:	

**1. Services.** Contractor agrees to perform the services described in the Scope of Work attached as **Exhibit A** for the Project described therein, including any deliverables cited (collectively, the "Services" or the "Work"), in accordance with the "Standard Terms and Conditions" attached as **Exhibit B** and any other exhibits or attachments to this Contract, all of which are incorporated by reference into this Contract. *Following completion of Tasks 1 & 2 of the Scope of Work, TNC will determine the extent of proposed mitigation activities to be included in remaining tasks of the Scope of Work. Contractor understands and agrees that TNC makes no representation or guarantees about the amount of mitigation work to be included in Tasks 3 – 8 of the Scope of Work. Further, the Contractor shall not proceed with tasks beyond Task 4 until TNC (i) receives the final approval from the US Army Corps of Engineers under TNC's "Ohio Stream and Wetland In-Lieu Fee Mitigation Program," and (ii) TNC provides the Contractor with written notice to proceed.*

Unless otherwise noted, in the event of a conflict between the terms of the Scope of Work and any other terms of this Contract, including any other Exhibit, such other terms will control. The Services are to be performed on land that is owned by \_\_\_\_\_ (the "Landowner"), and which will be subject to an environmental covenant held by TNC. TNC has obtained permission for the Services to be performed on the land.

**2. Payments.** TNC will compensate Contractor for the Services as follows:

- a. Contract Fee. For all of the Services, TNC will pay Contractor a fee (the “Contract Fee”) not exceeding \$\_\_\_\_\_ subject to and in accordance with the terms set forth in **Exhibit A**.

The pricing amounts set forth below for Tasks 3-8 are based on conceptual design information, which may not accurately reflect the approved final design, and the extent of proposed activities agreed to by TNC and the IRT. Following the completion of Tasks 1-2, Contractor shall refine pricing for Tasks 3-8. If a reduction of pricing is warranted, the Contract will be amended to reflect the reduced pricing and Contract Fee.

- b. Payment Milestones. Payments will be made according to the following pricing and schedule. Invoices may be submitted to TNC monthly per the below tasks, which shall be paid after TNC has verified successful completion of the work items involved in each invoice in accordance with the terms of this Contract. Notwithstanding anything in this Contract to the contrary, TNC shall retain ten percent (10%) of each payment made to the Contractor for any implementation tasks pursuant to each invoice. After TNC has verified successful completion of all tasks TNC shall release such retainage, or portion thereof remaining pursuant to this Contract, to the Contractor upon TNC’s final payment to the Contractor. The Contractor shall notify TNC upon completion of each milestone described below, and TNC shall verify completion of such milestone within ten (10) business days after such notification. Any tasks that exceed or are outside the Scope of Work must be submitted in writing to TNC for TNC’s written approval in accordance with Section 3.5 of this Contract. No claim for an adjustment from the payment amount specified in this Contract will be valid without such written authorization. TNC shall have the right at all times to inspect the work, all materials and workmanship; to reject any defects in any of the above; and/or to require that any such defects be corrected.

#### **Design**

- Task 1. Site Assessment
- Task 2. Preliminary Design Plans
- Task 3. Final Design Plans
- Task 4. Acquisition of Permits

#### **Implementation**

- Task 5. Invasive Plant Treatment, Restoration Seeding, and Planting
- Task 6. Construction
- Task 7. As-Built Report
- Task 8. Corrective Action

Time is of the essence for this Contract. Contractor shall indemnify and hold TNC and its directors, officers, employees and agents from and against any and all liabilities, demands, damages, claims, actions, 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 Contractor’s failure to adhere to the schedule of deliverables set forth above. However, Contractor shall not be responsible for failure to perform or for delays in the performance of services which arise out of causes beyond the control and/or without the fault or negligence of Contractor.

- (c) No Expense Reimbursement. Unless explicitly stated otherwise in this Contract, Contractor will not be reimbursed for any expenses it incurs in performing the Services.

- (d) Invoices and Payments. Requests for payment of the Contract Fee must be submitted to TNC in the form of an invoice summarizing the work performed 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 completion of the 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, if requested by Contractor and subject to Contractor’s completion of TNC’s Vendor ACH Enrollment Form. TNC shall pay Contractor within thirty (30) days after TNC receives an invoice and accepts the service(s) performed by Contractor.

(e) Withholding by the Conservancy. Contractor shall provide TNC with a list of all subcontractors and laborers working on the Project, as well as all suppliers of material or equipment for the Project (whether purchased or rented), and shall update such list promptly in the event of any changes, no later than one business day after the change. TNC, on the basis of reasonable and verifiable evidence, may withhold from any payment otherwise due to Contractor under this Contract such amounts as may be necessary for protection against loss caused by defective work not remedied, reasonable evidence that the work cannot be completed for the then remaining unpaid portion of the amount payable hereunder, damages and/or delays caused by Contractor, and for any legitimate set-off TNC may have (including, but not limited to, any which may result from any notice of mechanic's lien that TNC or the current landowner may receive with respect to the Project). If any claim of lien or other demand for payment or security therefor is made or filed with TNC or as to the Project by any person claiming that Contractor or any subcontractor or supplier, or any other person claiming under any of them, has failed to perform its contractual obligations or to make payment for any labor, materials, equipment or other item furnished or obligation incurred in connection with the Project, or if at any time there shall be evidence of such nonperformance or nonpayment of any claim of lien or other demand for which, if established, TNC, the landowner and/or the property on which the Project is located might become liable, then TNC shall have the right to retain from any payment then due or thereafter to become due under this Contract or to be reimbursed to Contractor an amount sufficient to: (1) satisfy, discharge and defend against any such claim of lien or other demand, or any action or proceeding thereon which may be brought to judgment or award; (2) make good any such nonpayment, nonperformance, damage, failure or default; and/or (3) compensate TNC and/or the current landowner for and indemnify both of them against any and all loss, liability, damage, cost and expense (including attorneys' and consultant's fees and costs) which may be sustained or incurred in connection therewith. If appropriate, TNC may also elect to make any given payment due under this Contract jointly to Contractor and any person or entity which may make any such claim of lien or other demand.

(f) Release Bonds. Should any subcontractor, supplier or other person make, record or file, or maintain any action on or respecting a claim of mechanic's lien, equitable lien, payment of performance bond, or another lien, relating to the Project, Contractor shall immediately and at its own expense procure, furnish and record appropriate statutory release bonds which will extinguish or expunge such claim or lien.

### **3. General Conditions.**

3.1 Payment & Performance Bond. Contractor shall post a payment and performance bond for the Implementation tasks. The bond shall be in favor of Contractor and TNC, be in an amount equal to the anticipated cost of the work, and be issued by an issuer and otherwise be in form and substance reasonably acceptable to the Contractor and TNC.

3.2 Clean-Up. The Contractor shall follow TNC's clean-up directions and shall at all times ensure that the project site and premises are free from debris resulting from the Work.

3.3 Safety. The Contractor shall ensure the Work is performed in a safe manner and shall give all required notices and comply with all applicable rules, regulations, orders, public health recommendations and other lawful requirements related to health and safety, and/or established to prevent injury, loss or damage to persons or property. The Contractor shall be responsible for implementing appropriate safety measures pertaining to the Work, including establishing safety rules, posting appropriate warnings and notices, erecting safety barriers, and establishing proper notice procedures to protect persons and property at the site and adjacent thereto from injury, loss or damage. At all times, Contractor shall use properly qualified individuals or entities and subcontractors to carry out the Work in a safe manner. The Contractor shall give prompt notice to TNC of any accident involving personal injury, property damage, or any failure that could have resulted in serious personal injury. A detailed written report of said accident or failure shall be furnished to TNC.

The Contractor must have a written COVID-19 safety plan applicable to all employees and subcontractors which is enforced at all times. At any time that Contractor (including its employees and subcontractors) is engaging

with TNC, the following minimum safety standards are required unless stricter standards are required by law, executive order or public health recommendations:

- Face masks must be worn indoors when TNC staff are present, and are strongly encouraged for outdoor meetings
- Maintain physical distance of at least 6 feet between individuals
- Meetings and other communications to be conducted by video conference, phone, text or other means instead of in person when possible
- No physical contact with TNC employees is permitted.
- Notification to TNC in the event any of any positive diagnosis of any of Contractor's employees or subcontractors have a positive diagnosis within 14 days following any in-person engagement with TNC.

3.4 Subcontractors. All subcontracted work shall be performed only by subcontractors sufficiently skilled and, when required, licensed to perform the subcontracted work. All work performed by a subcontractor shall be pursuant to a written agreement between the Contractor and the subcontractor (and where appropriate, between subcontractors and sub-subcontractors). All such agreements shall require performance by the subcontractors in conformity with the terms of this Contract, and shall include all the terms of this Contract which are applicable to subcontractors. The use of subcontractors in no way relieves the Contractor from full responsibility for the Work or from full compliance with the Contract.

The Contractor shall promptly pay each subcontractor. Upon the final completion of a subcontractor's work prior to the final completion of Contractor's Work, Contractor shall forward to TNC a subcontractor's executed release of lien. TNC shall not have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law.

Contractor shall be as fully responsible to TNC for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by the subcontractors, as he is for acts and omissions of persons directly employed by himself.

### 3.5 Change Orders.

(a) ***TNC Issues Change Order***. By issuing a written order, TNC may require the Contractor to make changes in the Work which are within the general scope of this Contract. Adjustments in the Contract Price, if any, resulting from such changes shall be set forth in a change order signed by TNC and the Contractor stating their agreement upon the change in the scope of the Work, adjustment in the Contract Price and contract time. TNC may by written order direct the Contractor to perform incidental changes in the Work which do not involve adjustments in the Contract Price or contract time. The Contractor shall promptly implement written orders for such incidental changes.

(b) ***Contractor Issues Change Order***. If Contractor desires to propose work, materials, or other services outside the scope of the Work, the Contractor shall issue a written order to TNC and receive written approval from TNC for any such work, materials, or other services that exceed or are outside the scope of the Work. The request from Contractor for a written order for a change in the scope of the Work shall contain the following information: (i) a detailed summary of the additional work proposed and the basis therefor; (ii) the increase in the Contract cost associated with the task; (iii) the amount of time expected to complete such task; and (iv) any impact in the projected date for completion of the Services arising from such proposed change order.

3.6 Damage to work and property on site. All damage or loss to any property or improvements on or near the site (other than incidental damage to the property at the site, such as disturbance of grass and soil) caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for



whose acts any of them may be liable, shall be remedied by the Contractor at Contractor's expense.

3.7 Effect of Payment. Notwithstanding anything herein to the contrary, TNC's acceptance of and/or payment for the completed work performed by Contractor, and payment therefor by TNC, shall not relieve Contractor of its obligation to TNC, which obligation is hereby acknowledged, to complete the Services in accordance with the highest standards of Contractor's profession or craft and to the satisfaction of TNC, and to discharge any and all liens for the benefit of subcontractors or materialmen 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.

3.8 Warranty as to Work. The Contractor shall guarantee all Work performed under this Contract against defective design, materials or workmanship for a period of two (2) years from the date of project completion, or for such longer time period as may be prescribed by law or by the terms of any applicable special guarantee or warranty. The Contractor at Contractor's cost shall remedy any defects appearing within that time period and pay for any damage resulting therefrom. It should be noted that nominal adjustments to the stream system that do not adversely affect stream function or the achievement of the required performance standards (each as solely determined by TNC in its reasonable discretion) will not be considered failure for purposes of warranty.

3.9 Title free of liens at time of each progress payment. The Contractor warrants and guarantees that title to all work, materials, and equipment covered by an invoice for payment, whether incorporated in the project or not, will pass to TNC upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests, or encumbrances. Notwithstanding such passage of title, Contractor shall continue to be solely responsible for protecting and replacing, if necessary, such work, materials, and equipment without expense to TNC until final completion and acceptance.

3.10 Unconditional Final Lien Waiver. Prior to TNC's final payment to Contractor pursuant to Section 2 of this Contract, Contractor shall deliver to TNC an unconditional final lien waiver from the Contractor, together with a sworn statement from the Contractor covering all Work.

#### **4. Conduct on the Property.**

4.1 There will be no smoking, no open burning, no alcohol use or use of controlled substances, and no hunting or fishing on the job site or anywhere else on the land by the Contractor or its employees or subcontractors. Any smoking by employees of the Contractor or subcontractors shall occur on breaks and only in the personal vehicles of the employees, and all butts and other residues including all matches shall remain inside such vehicles and shall be properly disposed of offsite. It is extremely important that no butts and matches be tossed out of vehicles anywhere on the property.

4.2 There shall be no harassment or killing of animals on the Property.

**5. Contract Commencement and Expiration.** Unless otherwise indicated in **Exhibit A**, Contractor must begin performing the Services promptly after this Contract has been signed by both parties and the above Conditions have been met, and must complete all of the Services no later than \_\_\_\_\_ or, as to specific tasks, such earlier date(s) as may be specified in **Exhibit A** (provided that no work may commence before the later signature date below). Any deadline(s) set forth in **Exhibit A** may be extended only with TNC's prior written consent. This Contract will expire automatically once all the Services have been completed and final payment by TNC has been made. Upon such expiration, the parties will have no further rights or obligations under this Contract, except as otherwise provided in **Exhibit B**.

At any time during the term of this Contract, TNC reserves the right to suspend the Work due to public health guidance or recommendations, in which event the suspended days shall be added to the completion date.

**The Nature Conservancy**

By:

\_\_\_\_\_  
(signature)

Print Name: \_\_\_\_\_

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

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

**[Contractor]**

By:

\_\_\_\_\_  
(signature)

Print Name: \_\_\_\_\_

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

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

**Exhibit A**  
**Scope of Work**

See (Attachment B or Attachment C) in the Request for Proposals

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## 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, the Landowner, 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 for a period of three (3) years after the 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 \$1,000,000 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 \$1,000,000 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 Contractor's performance of the Services. Contractor must have TNC and the Landowner 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.

**13. 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.

**14. 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.

**15. 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.

**16. 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.

**17. 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.

**18. 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).

**19. 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.

**20.** 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 E**

## **Disclosure Form**



# DISCLOSURE FORM

## The Nature Conservancy

### CONFLICT OF INTEREST DISCLOSURE FORM

It is the policy of The Nature Conservancy ("TNC") to identify actual, potential or perceived conflicts of interest in any situation in which TNC has a significant business interest. To assist TNC in complying with this policy, we request that all individuals and/or organizations that will be involved in a proposed transaction with TNC complete this form.

#### TRANSACTION

For **Real Estate transactions**, describe the property, its size and the type of deal (e.g., purchase or sale, gift, fee, easement, or other).

For **all other transactions**, describe the type of agreement (e.g., service contract, grant from TNC to grantee, etc.).

Total dollar value of transaction: \$ \_\_\_\_\_

[For cashless barter transactions, provide the value of the benefits being provided each party.]

#### STEP 1: ORGANIZATION TYPE

Please check the box to indicate the type of party for which this form is being completed, list all individuals and/or organizations that will be involved in this transaction. An "organization" includes a for profit corporation, partnership, trust, estate, joint venture, limited liability corporation, professional corporation or unincorporated entity of any kind, a foundation, public board, commission, and a 501(c)(3) or other charitable organization.

- ☐ **Individuals (list all, then complete Section 1):** \_\_\_\_\_
- ☐ **For Profit Organizations (list all, then complete Section 2):** \_\_\_\_\_
- ☐ **Not for Profit Organizations (list all, then complete Section 3):** \_\_\_\_\_

#### STEP 2: QUESTIONS

Complete the applicable section of questions below. Individuals complete Section 1. For Profit Organizations complete Section 2. Not for Profit Organizations complete Section 3. **Note:** Please refer to the attached list of TNC key employees and current and prior members of TNC's Board of Directors when completing the rest of this form.

##### Section 1. INDIVIDUALS: Please check all that apply and attach an explanation for any "Yes" answers.

	Yes	No
a. Are you now, or have you been at any time since July 1, 2013, a <b>TNC "key employee"</b> or a <b>member of the TNC Board of Directors</b> as identified on the attached list?		
b. Are you now or have you been in the last 12 months a <b>TNC employee</b> (other than a key employee), a <b>Chapter Trustee</b> or member of a <b>Country Program Advisory Council</b> ?		
c. Have you <b>contributed to TNC</b> U.S. \$5 million or more during the current fiscal year (July 1 – June 30), or U.S. \$25 million or more, cumulatively, in the current fiscal year and the prior four fiscal years?		
d. To your knowledge, are you a <b>Family Member</b> of any individual identified in paragraph a, b or c above? (For these purposes, the term "Family Member" includes the individual's spouse, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren; and any person with whom the covered person shares living quarters under circumstances that closely resemble a marital relationship or who is financially dependent upon the covered person.)		

**Section 2. FOR PROFIT ORGANIZATIONS:**

Please check all that apply and attach an explanation for any “Yes” answers.

	Yes	No
a. Has the organization made total aggregate contributions to TNC (i) U.S. 5 million or more during the current fiscal year (July 1 – June 30), or (ii) U.S. \$25 million or more, cumulatively, during the current fiscal year and the prior four fiscal years?		
b. Now or at the time of the proposed transaction, does or will any <b>Substantial Contributor</b> (as defined in 1.c.); <b>TNC employee (includes former TNC employee who left within the last 12 months); member of TNC’s Board of Directors or key employees (see list attached); or TNC Chapter Trustee, Related Entity Board of Director or Advisory Council member (includes former ones who served within the last 12 months)</b> , individually or collectively with other such persons (including <b>Family Members</b> of such persons; see Section 1(d) above for definition of Family Members), <b>own more than 35% of the stock or value of the organization</b> (directly or indirectly), or have the legal or <i>de facto</i> <b>power to exercise a controlling influence over the organization’s management or policies</b> , e.g., as an officer, key management employee, board member or partner?		
c. Now, or at the time of the proposed transaction, have or will any members of <b>TNC’s current Executive Team or Board of Directors</b> (see attached list) serve as: <ul style="list-style-type: none"> <li>an officer, director, trustee, key employee, or partner; or</li> <li>if the entity is a limited liability corporation, a member; or</li> <li>if the entity is a professional corporation, a shareholder?</li> </ul>		

**Section 3. NOT FOR PROFIT ORGANIZATIONS**

Please check all that apply and attach an explanation for any “Yes” Answers.

	Yes	No
a. Now or at the time of the proposed transaction, have or will any <b>Substantial Contributor</b> (as defined in 1.c.); <b>TNC employee (includes former TNC employee who left within the last 12 months); member of TNC’s Board of Directors or key employees (see list attached); Chapter Trustee or Advisory Council member (includes former ones who served within the last 12 months)</b> , or <b>Family Members</b> of any of these, individually or collectively, <b>have the ability to control management of the entity?</b> See Section 1(d) above for definition of Family Members.		

**STEP 3: COMMENTS**

Please explain any “Yes” answers checked above.

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**Individuals who in the current fiscal year (FY22) are or during the preceding five fiscal years have been a Conservancy “key employee” or a member of the Board of Directors:**

<b><u>Key Employees</u></b> Keith Arnold Nathalie Augustin David Banks Michelle Beistle Matt Brown Michael Doane Jan Glendering Meg Goldthwaite Katharine Hayhoe Charlotte Kaiser Marianne Kleiberg Leonardo Lacerda William McGoldrick Tom Neises Bola Olusanya James Page Jeffrey Parrish Lynn Scarlett Theresa Shaw Michael Sweeney Michael Tetreault Ian Thompson (interim) Bill Ulfelder Joni Ward Leonard Williams	<b><u>Other/Former Key Employees</u></b> Justin Adams Kacky Andrews James Asp Charles Bedford Karen Berky Giulio Boccaletti Mark Burget Mario D'Amico Maria Damanaki William Ginn Elizabeth Gray Santiago Gowland Sherri Hammons Wisla Heneghan Steve Howell Jack Hurd Joe Keenan Richard Loomis Robert McKim Brian McPeck Pascal Mittermaier Seema Paul Hugh Possingham Glenn Prickett Aurelio Ramos Heather Tallis Mark Tercek Marc Touitou Peter Wheeler Janine Wilkin Heather Wishik Heather Zichal
<b><u>Current Board of Directors</u></b> Amy Batchelor John Bernstein Michelle DePass William Frist Joseph H. 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 J. Thiry Frances A. Ulmer Kevin Weil Ying Wu	<b><u>Prior Board Members</u></b> 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

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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](http://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/tnchelpline](http://www.nature.org/tnchelpline).

#### STEP 4: SIGNATURES

The undersigned certifies that the information in the disclosure form is true and correct to the best of his/her knowledge.

##### Signatures for For Profit or Not for Profit Organizations:

Name of Organization: \_\_\_\_\_

Organization Address: \_\_\_\_\_

\_\_\_\_\_

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

Printed name of person: \_\_\_\_\_

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

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

##### Signatures for Individuals:

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

Individual's Address: \_\_\_\_\_

\_\_\_\_\_

Printed name: \_\_\_\_\_

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

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

Individual's Address: \_\_\_\_\_

\_\_\_\_\_

Printed name: \_\_\_\_\_