



PHASE I
STREAM RESTORATION SERVICES FOR STRAIT CREEK OHIO
MITIGATION PROGRAM SITE

REQUEST FOR PROPOSALS

NOVEMBER 18, 2016

Proposals must be received by 5:00 pm on January 13, 2017

1. GENERAL ADMINISTRATIVE PROVISIONS

1.1. STATEMENT OF PURPOSE

It is the intention of The Nature Conservancy (“Conservancy” or “TNC”), to solicit Proposals for a Contractor that can provide services to design a stream mitigation restoration plan and implement said design plan for the Strait Creek Ohio Mitigation Program site.

The Conservancy is seeking proposals for Phase I of the Strait Creek Stream Restoration Project in Adams County, Ohio (“Project”) as described in the attached Exhibit B – Scope of Work. The contractor or team of contractors (collectively “Contractor”) shall furnish all necessary drawings, plans, permits, labor, facilities, materials, equipment, construction oversight services, and incidentals to complete the Project scope of services. as defined herein and the Design-Build Contract entered into between the Conservancy and the Contractor. The total amount of compensation sought for completion of Phase I of the Project shall not exceed **\$275,000**.

As further described in the attached Scope of Work, this is the first phase of a two phased Request for Proposal (RFP) process, in which the Contractor is selected first, starts the design, and works with the Conservancy to select a construction firm through another RFP to be part of the Design-Build Contract. The Conservancy 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.

A set of conceptual designs for the restoration Project are provided [here](#). The Conservancy does not have a topographic or other technical survey of the Project site. If desired, any such surveys shall be the Contractor’s responsibility and should be included within the Contractor’s pricing structure. The Conservancy does not have estimated cut and fill calculations. Contractors shall be solely responsible for any additional costs incurred due to underestimating the amount of cut and/or fill required for the Project.

THIS IS NOT AN ORDER.

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

This RFP is being issued as part of the 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 district engineers for the Huntington District, Buffalo District and Pittsburgh District, as well as agency representatives from the OEPA, US Environmental Protection Agency (USEPA), US 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.

1.2. CONSERVANCY’S PROCUREMENT PROCESS

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

1.3. CONSERVANCY'S OBLIGATIONS

Conservancy incurs 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 analyze and respond to all sections of this RFP providing sufficient information to allow Conservancy 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 Conservancy.

Contractor's proposal must match the order in which the RFP was submitted or clearly state where the information resides. If Conservancy 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 Conservancy.**

Conservancy 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, Conservancy has the right to rescind your organization as the award winner.*

1.5 DISPOSITION OF PROPOSALS

All material submitted in response to this RFP will become the property of Conservancy and may be returned only at the option of Conservancy and at the expense of the Contractor. Successful and unsuccessful contractors will be notified in writing or via email. Conservancy 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 CONSERVANCY INFORMATION

Any data, documentation or other business information furnished or disclosed to the Contractor shall be deemed the property of Conservancy and must be returned to Conservancy upon request.

1.8 DISCLOSURE STATEMENT

In order to eliminate any conflict of interest or perceived conflict of interest, it will be necessary to require the disclosure of the names of any of your employees that will be working, directly or indirectly, on the Project, that currently hold or have ever held, a position on the Conservancy's worldwide Board of Directors, or on a Conservancy state chapter Board of Trustees, or are or have been employed by the Conservancy. It will also be necessary to disclose what percent ownership, if any, these persons have in your business and whether or not they have a controlling interest in your business. If selected for this work, we will need the names, title, type of board on which they served, and the years they held that board or employment position.

The above mentioned employees of the successful contractor will be required to sign the attached Conservancy Disclosure Form (see Attachment D). Conservancy will evaluate all information based on its internal policies and procedures regarding conflict of interest, copies of which will be provided upon request. Conservancy reserves the right to reject any and all proposals if Conservancy, in its sole discretion, determines that there is a conflict of interest.

1.9 INSURANCE REQUIREMENTS

The Contractor shall provide Conservancy with a Certificate of Insurance verifying its limits for public liability, property damage, and automobile insurance in an amount not less than Two Million Dollars (\$2,000,000), per

occurrence. For the awarded Contract, Conservancy 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 Conservancy 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, in the performance of this agreement, shall act in an independent capacity and not as officers, employees, or agents of Conservancy. 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 Conservancy 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

Conservancy 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. Conservancy 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, Conservancy’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

2.1 BIDDER SUBMISSION REQUIREMENTS

Submission of Proposal:

2.1.1 Contractor will send its response to this RFP via email and provide 2 hard copies to the address below.

2.1.2 Address and email for Contractor's Submission of Proposal:

The Nature Conservancy

ATTN: Devin Schenk

6375 Riverside Drive, Suite 100

Dublin, Ohio 43017

Email: dschenk@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 project 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 this RFP
- c. Delivery Schedule
- d. Pricing
 - i. Please list all **net pricing** (after discounts) for Phase 1, based on the enclosed **Scope of Work**, for the following task pricing schedule. The Contractor may also include a budget narrative (no more than 1 page) if helpful in order to better support the budget.

Task	Deliverable	Cost
Phase 1 Design		
1	Site Assessment	
2	Development of Preliminary Design Plans and Cost Opinion	
3	Development of Final Design Plans	
4	Management of Phase 2 RFP Bidding Process	
5	Acquisition of Permits	
Phase 2 Implementation		
1	Construction Oversight	TBD*
2	Construction	TBD*

3	Invasive Species Management	TBD*
4	Planting	TBD*
5	Development of As-Built Report	TBD*
6	Corrective Actions	TBD*
<p><i>* Following completion of the bidding process, the Conservancy and the Contractor will implement a second RFP to choose a construction firm who will be responsible for the implementation of the design plans. Costs for the construction oversight, construction, planting, invasive species management, and any other implementation activities will be developed by Contractor in cooperation with the chosen construction firm.</i></p>		

ii. Specify expiration date of bid. Submitted bid pricing must be good through March 6, 2017.

e. Contract

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

g. Disclosure Form (Attachment D)

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. The Conservancy's preferred qualification for the Contractor includes the successful completion of at least 3 stream and/or wetland design-build projects greater than \$250,000 in contract amount. Proposals should be as thorough and detailed as possible so that Conservancy 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:

- a. Qualification of Contractor.
- b. Demonstrated ability to understand and perform the project.
- c. Technical solution for creating deliverable products.
- d. Quality of proposal/presentation.

- e. Costs.

2.3 QUESTIONS REGARDING THIS RFP

Contractor may submit questions regarding this RFP to Conservancy via email listed in 2.1.2 by ~~November 21, December 12, 2016~~. No phone calls, please. Questions and answers may be shared by e-mail with all Contractors that have expressed an interest in submitting a proposal. All Contractors interested in submitting a proposal and being included on the question and answer response distribution should notify the Conservancy by email. The Conservancy will use its best efforts to answer questions by ~~November 28~~December 20, 2016. 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. Conservancy, however, is not required to answer all questions that are not pertinent to the RFP or are considered to be Conservancy’s Proprietary information.

2.4 RESTRICTED COMMUNICATIONS

It is the policy of the Conservancy 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, Contractors will not be able to submit questions or otherwise communicate with the Conservancy after the Question period above closes.

2.5 CRITICAL DATES

1.4.1. Proposal Due Date

Proposals shall be delivered to The Conservancy on or before *January 13, 2017*). See Article 2.1 for Submission Requirements.

RFP Activities	Due Date
Distribute RFP	Nov. 18, 2016
Field Day	Dec. 5, 2016
Communication Period Ends	Dec. 12, 2016
Proposals Due	Jan. 13, 2017

Suggested Schedule of Implementation

The implementation schedule will be contingent upon the Conservancy obtaining final approval from the IRT; however, the following schedule is suggested in order to initiate construction by the fall of 2017:

Project Bidding and Award	Jan. 2017
Site Assessment	Jan-Feb 2017
Design, Permitting and Engineering	Jan-Aug 2017
IRT final approval	Sept 2017
Start of Project Construction	Sept 2017
Seeding and Planting	Oct-Nov 2017
Project Construction Substantially Complete	Nov 2017

2.6 VISITING THE SITE

Contractors interested in submitting proposals must conduct a site visit to assess the conditions of the site to inform their responses to this RFP. A field day is scheduled in which Contractors may tour the site with Conservancy staff (see table above for date). Contractors unable to attend the field day shall visit the site on their own, and must coordinate access with the contact listed in 2.1.2. Note that the site is an active farm and farm operations may be underway during site visits. All visits and inspections of the site are at each Contractor's sole risk and, by its visit to the site, each such Contractor releases the Conservancy from any injuries, liability or expenses incurred as a result of or arising out of the site visit.

3. ATTACHMENTS

- A Contractor Questionnaire
- B Scope of Work
- C The Conservancy's Standard Contract for Services
- D The Conservancy's Disclosure Form

ATTACHMENT A: BIDDER QUESTIONNAIRE

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

General Information:

Company Name: _____

Company Address: _____

Contact Name: _____

Phone & Email: _____

Federal ID or SSN # _____

Years in Business: _____

Contractor Information:

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

Statement of Qualifications:

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

Employee Information

Number of Employees: _____

Service Information

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

_____ YES _____ NO

If yes, please list.

Minority and Women - Owned Business Enterprise

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

Legal

If your firm is bonded, please indicate type:

Performance Bond _____ YES _____ NO

Labor & Material Payment Bond _____ YES _____ NO

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

_____ YES _____ NO

If yes, please explain:

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

ATTACHMENT B: SCOPE OF WORK FOR STREAM MITIGATION SERVICES FOR STRAIT CREEK AN OHIO MITIGATION PROGRAM SITE

B.1 PURPOSE

The purpose of this project is to provide stream mitigation to offset unavoidable impacts in the Ohio Brush Creek watershed for which the Ohio Mitigation Program is utilized as the compensatory mitigation. The scope of work for this RFP requires the Contractor to develop a stream restoration design plan and implement said design plan for the subject property per the specifications herein that will meet or exceed the standards for compensatory mitigation in Ohio.

B.2 GENERAL PROJECT INFORMATION

Project Type	Stream Restoration
Project Name	Strait Creek Preserve
Owner	The Nature Conservancy
Locality	Sinking Spring, Adams County, Ohio
HUC 8	05090201
Waterway	Un-named Tributary of Strait Creek

Project Description:

(Please see Strait Creek Concept Plan at this website: <https://tnc.box.com/s/nw4qz6xpr96c42s6c8cu4ht5n93fekbr>)

B.3 THE NATURE CONSERVANCY TASKS

The Conservancy shall work with Contractor to secure access to the property for the activities specified within this Scope of Work. The Conservancy shall coordinate with the Contractor regarding approval of task deliverables. Conservancy staff shall be onsite as needed during site activities. The Conservancy shall provide the property boundary maps and access point(s) information to the Contractor.

B.4 BIDDER TASKS AND DUTIES

The specific tasks to be completed by the Contractor include: 1) Site Assessment, 2) development of preliminary design plans and cost opinion, 3) Management of Phase 2 RFP bidding process, 4) development of final design plans, and 5) acquisition of permits. In Phase 2, the Contractor will be responsible for: 1) construction oversight, 2) construction by the selected construction subcontractor, 3) invasive species management, 4) planting, 5) development of as-built report, and 6) corrective actions.

Phase 1 Design

TASK 1. SITE ASSESSMENT

The Contractor shall conduct fieldwork to identify existing conditions within the project area. They will perform stream assessments and wetland delineations as needed. The Contractor shall characterize the existing condition of the streams and riparian buffers using the standard Ohio procedures as specified in the Ohio Interagency Review Team (IRT) "Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio" version 1.1, and other assessments as needed, and identify appropriate reference reaches (with review and approval from the Conservancy). Contractor should demonstrate in the proposal that they have staff who are qualified to perform such assessments. Assessments shall be completed for each relevant reach.

The Contractor shall also generate existing conditions mapping, utilizing, when possible, the figures and data already completed in the concept plan, that could include wetlands and other waters of the U.S. identified during the delineation, NWI, NHD, soils mapping, USGS quadrangle, aerial photography, geomorphic controls,

characterization of channel-bed materials and sediment, in-stream habitat types, mapped locations of invasive species and any other relevant data to provide the basis for potential stream mitigation.

TASK 2. DEVELOPMENT OF PRELIMINARY DESIGN PLANS AND COST OPINION

The Contractor shall design the project by utilizing the Strait Creek concept plan, existing condition data and reference reach data to design stable stream channels using natural channel design principles, or similar approach. The preliminary design plans shall include a narrative describing the stream mitigation activities, and detailed plan view maps, cross-sections, stream profiles, streambank bioengineering techniques, and in-stream structures consistent with stream type and bedform characteristics. Included in the plans shall be all earthwork activities (including site preparation techniques, quantities to be moved, soil placement/disposal procedures, detailed erosion and sedimentation control plans, and final pre-planting site conditions), ingress/egress routes, invasive species management plans, erosion and sediment control plan, all seeding and planting plans (including vegetation community types, species to be planted and quantities by area, application rates, and planting densities by area), details for tie-ins with drainages in the project area and portions of streams up- and downstream of the project area, results of the BEHI/NBS survey, soils mapping, stream 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 using natural channel design. This shall include, at a minimum, existing condition information, reference reach information, geomorphologic design information for dimension, pattern and profile parameters, hydrologic information, hydraulic information, and geotechnical information.

Buffer enhancement activities shall include removal of invasive species and enhancement with native plantings as required to meet the stream mitigation requirements and success criteria for compensatory mitigation in Ohio. Invasive plant species of particular interest should be those identified in Appendix 7 Invasive Plant List for Ohio Mitigation of the “USACE Guidelines for Wetland Mitigation Banking in Ohio, March 2011”.

The design shall include a riparian buffer and streambank planting plan for the project area, including species, densities, and zonation described in more detail in Phase 2 - Task 4. Only species native to the same ecoregion shall be used in the planting plan. The planting plan shall use specifications from the IRT “Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio” version 1.1. The planting plan shall also include the species mix and application rate of the permanent and temporary seed mix to be used. The planting plan shall also include planting of native live stakes along the streambanks. Live stakes shall be planted at a minimum of two rows deep with three foot centers in locations called for in the design.

Every effort shall be made during the design and construction phases to minimize disturbance to the existing natural areas. The Contractor shall be responsible for working with/around all infrastructure in the design and implementation of the project. The design shall ensure and detail stable and appropriate tie-ins with all drainages in the project area and with the portions of streams 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 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 (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 and scarifying subsoil, for 12” uncompacted depth.

The Contractor shall use the standard Ohio procedures as specified in the IRT “Guidelines for Stream Mitigation Banking and In-Lieu Fee Programs in Ohio” version 1.1 to evaluate existing conditions and potential stream mitigation activities (restoration, enhancement, and preservation) and determine the amount of potential stream credits within the project site.

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, planting, invasive species management, and all other implementation tasks identified in the concept plan. Such costs will be modified and confirmed once the Construction firm is selected in Task 3 below.

TASK 3. MANAGEMENT OF PHASE 2 RFP BIDDING PROCESS

The Contractor, coordinating with the Conservancy, shall manage the RFP process to select a Construction Firm or Firms to complete the implementation of the stream mitigation design plans, including construction, planting, invasive species management, and other activities identified by the Contractor, and the Contractor shall enter into contract with the selected firm(s).

The Contractor shall develop an RFP for selecting an implementation subcontractor, once the preliminary design plans are developed and before working on the final design plans. The RFP should at a minimum evaluate the qualifications of the subcontractor, their demonstrated ability to understand and perform the project, their technical ability for creating deliverable products, the quality of proposal/presentation, and the proposed costs.

The RFP will be submitted to the Conservancy for review and approval prior to release of the RFP. The Contractor shall develop a list of firms that will be sent the RFP, and shall submit the list to the Conservancy for review and approval prior to release of the RFP. Following approval of the RFP by the Conservancy, the Contractor shall send the RFP to at least 3 firms qualified in completing the activities detailed in the design plans each of whom shall be required to provide satisfactory insurance as well as payment and performance bonds for the work.

The Contractor shall conduct a mandatory pre-bid meeting for candidate construction firms. A representative of the Contractor qualified in each design phase of the project shall participate in the meeting.

The Contractor shall submit all bids received to the Conservancy. The Contractor shall evaluate the bids received and answer questions raised by contractors, as appropriate. The Contractor shall be responsible for representing the best interests of the Conservancy during the bidding process. The Contractor shall develop a bid scoring matrix which evaluates proposals based on qualifications, cost, schedule, and other criteria relevant to the scope of work. The Conservancy will be particularly interested in subcontractors that have completed projects which maximize biological lift, demonstrate their understanding of restoration techniques that enhance QHEI factors, maintain uncompacted soils, and exhibit a high level of expertise with native plant revegetation.

Following bid evaluation, the Contractor shall make a recommendation to the Conservancy on the firm(s) to be selected for implementation of the mitigation plans. The Conservancy will review the recommendation and retain the right to reject the Contractor's selection. If not rejected by the Conservancy, the Contractor shall contract with the firm(s) to implement the mitigation design plans.

Upon selection of the firm(s), joint meetings shall be conducted on the preliminary design and cost opinion both with the Construction Firm and the Conservancy to ensure that all activities are satisfactorily planned, designed and budgeted for. The Contractor shall deliver the draft preliminary design plans and cost opinion in both hardcopy (2 sets) and electronic version (pdf and GIS files). The Conservancy shall review the preliminary design plans and provide comments to the Contractor. **The Conservancy and the Contractor shall then enter into a contract amendment to include costs for implementation of the design plans.** Costs for these activities will be based on the Construction Firm's review and feedback firms on the design, construction, planting, invasive species management, and any other implementation activities identified by the Contractor.

Based upon comments and agreed-to-items resulting from the Conservancy's review, the Contractor shall refine the draft preliminary plans for final submission.

TASK 4. DEVELOPMENT OF FINAL DESIGN PLANS

Following receipt of comments from the IRT on the mitigation plan, the Conservancy 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, and shall contain all construction plans and specifications necessary for the construction firm. The Conservancy 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).

TASK 5. 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 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 or other meetings required to secure permits or authorizations, and addressing agreed upon comments resulting from the permitting agencies' review.

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 the Conservancy immediately of any permit issues/violations that occur on the site.

The Contractor shall notify the Conservancy 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 the Conservancy 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 the Conservancy's approval of the final design. The Contractor shall submit copies of all permit documents to the Conservancy following issuance of permits/authorizations.

Note: The Conservancy will submit the final design plans as part of the mitigation plan to the IRT for review, comment and approval. The Contractor shall not proceed with tasks beyond Phase 1 - Task 5 until the Conservancy (i) receives the final IRT approval, and (ii) provides written notice to proceed.

Phase 2 Implementation

TASK 1. CONSTRUCTION OVERSIGHT

The Contractor shall be responsible for management of the project and for oversight of all mitigation activities, the Construction Firm, and all subcontractors hired to implement mitigation activities. The Contractor shall retain the responsibility for the quality and completion of their work and the work of the Construction Firm and all subcontractors and for adhering to applicable regulations, permits, plans, and specifications.

The Contractor shall notify the Conservancy at least 5 calendar days prior to any mobilization to the site. The Contractor shall provide an estimate schedule for the number of days required to complete each task. The Contractor shall also provide an estimated demobilization date for construction and notify the Conservancy 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. This includes the oversight of all implementation activities. The Contractor shall be responsible for the activities of any and all subcontractors hired by the Contractor or the construction firm 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 the Conservancy as soon as possible to discuss this change. The failure to respond by the Conservancy shall not be construed as a waiver of the Conservancy'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 on-site as-needed, at a minimum two days per week, during the construction phase to ensure that the site is built in accordance with the design plans, specifications and approved permits. The Contractor shall communicate regularly with the construction firm and shall meet with the construction firm on-site as-needed, at a minimum one day per week, regarding the progression of construction.

The Contractor shall provide weekly written updates to the Conservancy on the implementation of the design during the construction activities. These updates may include a discussion 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 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 the Conservancy. At a minimum, the reports shall include data sheets with built elevations of in-stream structures and data collected and plotted for channel cross sections located approximately every 500 feet of channel length to verify correct channel dimensions. The construction complete reports shall be submitted within 10 days of 50% or 75% completion of construction.

Meetings shall be conducted on the site at pre-construction, 50% completion, and 100% completion with the Conservancy 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. The 100% construction meeting shall be held prior to demobilization. The Contractor shall prepare punchlists for the meetings as needed. Punchlists will be provided to the Conservancy for review and final approval. The Contractor shall be appropriately compensated for adjustments that the Conservancy 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 the Conservancy.

TASK 2. CONSTRUCTION

The Contractor and subcontractor shall implement the construction activities as approved in the final design plan, and shall provide all materials and labor to complete such activities.

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

Finished grades must not deviate by more than +/- 0.3 feet from elevations shown on final design plan. The Contractor or subcontractor, with the Conservancy approval, may determine that elevations need to be adjusted to ensure proper stream function and/or fit with surrounding field conditions. The Contractor or subcontractor shall then re-grade these areas to meet the appropriate elevations. If finished grades deviate more than +/- 0.3 feet from the plan elevations and the Contractor or subcontractor, with the Conservancy approval, determines that the deviation does not compromise the channel stability or function, additional grading shall not be required. The Contractor or subcontractor shall construct and install in-stream structures in accordance with the final design plans and specifications.

The Contractor or subcontractor shall apply a mix of temporary stabilizing native seed and permanent native seed to all disturbed areas. The Contractor or subcontractor shall also install biodegradable erosion control matting per approved specifications on all disturbed streambanks 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 providing a final soil condition suitable for planting including loose soil 24-inches minimum depth, and minimal surface soil clods.

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

TASK 3. INVASIVE SPECIES MANAGEMENT

The Contractor or subcontractor shall implement the invasive species management activities as approved in the final design plan focused on, and shall provide all materials and labor to complete such activities.

The Contractor or subcontractor shall provide the Conservancy with proof of certification to apply pesticides in the state of Ohio prior to any herbicide treatment. All herbicides used 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.

Every precaution shall be taken to ensure that native non-target species are not harmed by spray drift or other management activities.

The Contractor or subcontractor shall supply a report on site conditions, progress and recommendations for future site management after treatment activities are completed. The report shall include a list of treated invasive species, their extent, mapped locations of the treated areas, and photographs as well as chemicals used, including dosages and chemical labels. The Contractor or subcontractor shall deliver the report in electronic version (pdf and GIS files).

TASK 4. PLANTING

The Contractor or subcontractor shall implement the planting activities as approved in the final design plan, and shall provide all materials and labor to complete such activities. The Contractor or subcontractor shall order the species and quantities indicated in the approved planting plan and these materials shall be installed in accordance with this document or other guidance. In the case that adequate planting stock is not available, or other stock may be more suitable, suggestions for additional or alternate species shall be coordinated with the Conservancy. The plantings used shall be native species common to the area, which are suitable for growth in local riparian conditions and from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as the project site. Exceptions may be suggested, but must be approved by the Conservancy.

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 during the first year due to poor workmanship (e.g., improper planting technique, soil preparation or handling) shall be replaced at the sole expense of the Contractor. The planting of buffer vegetation and live stakes shall occur during the dormant season.

TASK 5. DEVELOPMENT OF AS-BUILT REPORT

The Contractor or subcontractor 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.

The Contractor or subcontractor shall determine the location and number of, and shall install permanent cross-sections to be used for the as-built surveys and future success monitoring. Cross-sections shall be sufficient in

number to show that all design aspects (riffles, pools, etc.) were constructed to design parameters. The cross-sections shall be clearly marked with rebar endpins, stakes (minimum 4 feet tall) identifying the cross-section number/station, and flagging. The cross-sections shall include elevations of channel features such as the thalweg, inner-berm (if present), and bankfull, and shall characterize the floodplain for a reasonable distance.

The Contractor or subcontractor shall also install permanent markers at the upstream and downstream termini of the longitudinal profile for the as-built survey and future monitoring. The locations shall be clearly marked with rebar endpins, and stakes (minimum 4 feet tall) identifying the number/station of terminus points.

The Contractor or subcontractor 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. The Contractor or subcontractor shall install permanent photo stations to be used for the as-built survey and future monitoring and record the GPS coordinates of their locations. The Contractor or subcontractor shall ensure that the photo stations are sufficient in number and location to conduct future monitoring (e.g., able to document the condition of the channel and banks, structures, 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 stream and adjacent buffers. Plan view shall show:
 1. Location of all permanent photo stations.
 2. Location of all in-stream and streambank structures.
 3. Location of all permanent cross-sections and longitudinal profile termini.
 4. All stream design features including channel pattern.
 5. Identification of limits of restoration and enhancement activities.
 6. Former, filled channel.
 7. Live stake and riparian buffer planting areas.
 8. Invasive species management areas.
 9. Crossings.
- B. Planting area details including species planted, total planting density, and quantity planted by species within each planting area. Show comparison of planting details to design planting plan and discuss comparison.
- 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.
- D. Detailed information on installed structures (structure location, elevation, anchoring, etc.) Show comparison to design profile and discuss comparison.
- E. Detailed cross-sections taken from permanent cross-sections. Items on the cross-section shall include streambanks, streambed, water surface, bankfull, and adjacent floodplain elevations. Show comparison to design cross-sections and discuss comparison.
- F. Longitudinal profile of the stream. Items on the profile shall include the thalweg, water surface, bankfull, and top of lowest bank elevations at the head of each feature. Show comparison to design longitudinal profile and discuss comparison.
- G. A table indicating the estimated credits generated by the project.
- H. Summary table of geomorphological data. Geomorphological data shall include at a minimum – bankfull width, bankfull mean depth, width/depth ratio, bankfull cross-sectional area, max riffle depth ratio, max

riffle depth, width of flood prone area, entrenchment ratio, meander length ratios, radius of curvature ratios, meander width ratios, sinuosity, valley slope, average stream slope, riffle slope ratio, riffle length ratio, pool slope ratio, pool depth ratio, max pool depth, pool area ratio, pool length ratio, pool width ratio, pool to pool spacing.

- I. In addition to the summary table, 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 stream construction within 30 calendar days of 100% completion of construction activities. The Conservancy shall review the draft as-built report and provide comments to the Contractor. Based upon comments and agreed-to-items resulting from the Conservancy's review, the Contractor shall refine the draft as-built report for final submission. The Conservancy 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 and CAD) version.

TASK 6. CORRECTIVE ACTION

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

ATTACHMENT C: COPY OF TNC STANDARD CONTRACT



Contract Number:	
Accounting Information –	
Project Name:	
Project-Award-Activity Number:	
Source of funds:	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:	dschenk@tnc.org

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”), 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. 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. If any of the Services are to be performed on land that is not owned by Contractor or TNC, Contractor must obtain the landowner’s permission before entering upon such 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”) in accordance with the terms set forth in **Exhibit A**.

(b) **Expense Reimbursement.** In addition to the Contract Fee, TNC will reimburse Contractor for the expenses authorized in **Exhibit A** to the extent reasonably incurred by Contractor in performing the Services, the total cost of which must not exceed \$_____ (the “Reimbursable Cap”) without TNC’s prior written consent. Any unused materials or supplies paid for by TNC will remain the property of TNC and must be delivered to TNC at the end of the Contract term.

(c) Payment Milestones. Payments will be made according to the following pricing and schedule. Invoices will not be submitted until the Conservancy has verified successful completion of tasks involved in each invoice in accordance with the terms of this Contract. The Contractor shall notify the Conservancy upon completion of each milestone described below, and the Conservancy 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 the Conservancy for the Conservancy's written approval before the task is performed if an increase in the Contract cost is associated with such task. No claim for an adjustment from the payment amount specified in this Contract will be valid without such written authorization. The Conservancy 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.

- Task 1. _____
- Task 2. _____
- Task 3. _____
- etc.

(d) Withholding by the Conservancy. Contractor shall provide the Conservancy 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. The Conservancy, 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 the Conservancy may have (including, but not limited to, any which may result from any notice of mechanic's lien that the Conservancy 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 the Conservancy 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, the Conservancy, the landowner and/or the property on which the Project is located might become liable, then the Conservancy 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 the Conservancy 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, the Conservancy 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.

(e) 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. **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 must complete all of the

Services no later than _____, 20__ 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**.

The Nature Conservancy

[Contractor]

By:

By:

(signature)

(signature)

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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. The Conservancy's acceptance of and/or payment for the completed work performed by the Contractor, and payment therefor by the Conservancy, shall not relieve the Contractor of its obligation to the Conservancy 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 the Conservancy therein.

4. Assignment; Subcontract. Contractor must not assign this Contract or subcontract any portion of the

Services without TNC's prior written consent, except to the extent otherwise contemplated in the Scope of Work.

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 and its 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 \$2,000,000 per occurrence; (c) motor vehicle liability insurance, covering all owned and non-owned vehicles used in performing the Services, with a liability limit of at least \$2,000,000 per occurrence; and (d) if Contractor is providing consulting services, professional liability insurance written on a claims made basis. Contractor's policy(ies) must be primary insurance to any other valid and collectible insurance available to TNC with respect to any claim arising out Contractor's performance of the Services. If requested by TNC, Contractor must have TNC 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, ordinances, rules, regulations, court orders, and other governmental requirements of the United States, the state(s) in which the Services are performed (and the state in which the TNC Business Unit set forth on the first page of this Contract is located, if different), and any other U.S. jurisdiction(s) in which Contractor is organized or authorized to do business. Contractor must not take any actions that might cause TNC to be in violation of any such laws.

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

12. Notices. Any formal notice, request, or demand made by one of the parties pursuant to this Contract (each, a "Notice") must be in writing and given to the respective named contact above by at least one of the following delivery methods, unless another form of delivery is explicitly required elsewhere in this Contract: (a) in person, (b) certified mail (return receipt requested, postage prepaid), (c) nationally recognized next day delivery service, or (d) electronic mail ("email"). A Notice will be deemed given: (1)

immediately, if delivered in person; (2) if sent by certified mail, on the earlier to occur of: (i) the date of first attempted delivery; or (ii) the third business day after being deposited in the mail; (3) if sent by next day delivery service, on the following business day; and (4) if sent by email, on the date it is transmitted, unless the transmission is completed on a non-business day or after 5:00 p.m. in the recipient's time zone, in either of which cases it will be deemed given on the next following business day.

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

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

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

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

17. Counterparts; Facsimile Signatures. This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which, taken together, constitute the complete

Contract. Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under applicable law, will be fully binding for all purposes under this Contract, although any documents that are to be recorded must be executed by both parties with original signatures (and delivered promptly to the party responsible for recording).

18. Compliance with Anti-Terrorism Laws.

Contractor must not use any funds received under this Contract in violation of any applicable antiterrorist financing and asset control laws, regulations, rules and executive orders, including the USA Patriot Act of 2001 and Executive Order 13224.

[End of Exhibit B]

ATTACHMENT D: 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, etc.).

_____Service contract for a design-build stream restoration project _____

Total dollar value of transaction: \$ _____

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

PARTIES

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, then complete the applicable section that follows. 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):** _____

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.

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, 2011, a TNC “key employee” or a member of the TNC Board of Directors as identified on the attached list?		
b. Are you now or have you been in the last 12 months a TNC employee (other than a key employee), a Chapter Trustee or member of a Country Program Advisory Council ?		
c. Have you contributed to TNC 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 Family Member 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.)		
---	--	--

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 Substantial Contributor (as defined in 1.c.); 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 or Advisory Council member (includes former ones who served within the last 12 months) , individually or collectively with other such persons (including Family Members of such persons; see Section 1(d) above for definition of Family Members), own more than 35% of the stock or value of the organization (directly or indirectly), or have the legal or <i>de facto</i> power to exercise a controlling influence over the organization’s management or policies , 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 TNC’s current Executive Team or Board of Directors (see attached list) serve as: <ul style="list-style-type: none"> • an officer, director, trustee, key employee, or partner; or • if the entity is a limited liability corporation, a member; or • if the entity is a professional corporation, a shareholder? 		

3. NON 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 Substantial Contributor (as defined in 1.c.); 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) , or Family Members of any of these, individually or collectively, have the ability to control management of the entity? See Section 1(d) above for definition of Family Members.		

Individuals who in the current fiscal year (FY17) are or during the preceding five fiscal years have been a Conservancy “key employee” or a member of the Board of Directors:

Key Employees

Current Executive Team

Jim Asp
Justin Adams
David Banks
Charles Bedford
Giulio Boccaletti
Mark Burget
Maria Damanaki
William Ginn
Wisla Heneghan
Steve Howell
Joe Keenan
Brian McPeck
Pascal Mittermaier
Glenn Prickett
Aurelio Ramos
Lynn Scarlett
Heather Tallis
Mark Tercek
Michael Tetreault
Peter Wheeler
Janine Wilkin
Heather Wishik

Other/Former Key Employees

Karen Berky
Rebecca Bowen
John Cook
Mario D’Amico
Addison Dana
Santiago Gowland
Peter Kareiva
Michelle Lakly
Russell Leiman
Robert McKim
Catherine Nardone
Craig Neyman
Karen Poiani
Lois Quam
Geof Rochester
Angela Sosdian
Michael Sweeney
Philip Tabas

Current Board of Directors (FY ‘17)

Shona L. Brown
Gretchen C. Daily
Laurence Fink
Joseph H. Gleberman
William Frist
Calestous Juma
Jane Lubchenco
Jack Ma
Claudia Madrazo

Craig McCaw
Thomas J. Meredith
Ana M. Parma
Stephen Polasky
James E. Rogers
Vincent Ryan
Rajiv Shah
Brenda Shapiro
Mark Tercek
Thomas J. Tierney
Moses Tsang
Frances A. Ulmer
P. Roy Vagelos
Margaret C. Whitman
Ying Wu

Prior Board Members (FYs ’12-’16)

Teresa Beck
David Blood
Gordon Crawford
Steven A. Denning
Jeremy Grantham
Frank E. Loy
Thomas Middleton
Roger Milliken, Jr.
James C. Morgan
Roberto Hernández Ramirez
John P. Sall
Cristián Samper
Muneer A. Satter
Shirley Young

SIGNATURES

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

Signatures for Organizations:

Name of Organization: _____

Signature: _____

Printed name of person: _____

Title: _____

Date: _____

Signatures for Individuals

Signature:

Printed name:

Date:

Signature:

Printed name: