



Protecting nature. Preserving life.

PHASE I
STREAM AND WETLAND RESTORATION, REHABILITATION
AND BUFFER DEVELOPMENT SERVICES

GIFFORD STATE FOREST
OHIO MITIGATION PROGRAM SITE
ATHENS COUNTY, OHIO

REQUEST FOR PROPOSALS

MARCH 2023

Proposals must be received by five pm on May 18th, 2023

1. GENERAL ADMINISTRATIVE PROVISIONS

BACKGROUND

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

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

This Request for Proposals (this “RFP”) is being issued as part of TNC’s Ohio Stream and Wetland-In-lieu Fee Mitigation Program (the “Mitigation Program”). An Interagency Review Team (“IRT”) provides oversight of the Mitigation Program and is comprised of the district engineers for the Huntington District, Buffalo District and Pittsburgh District, as well as agency representatives from the Ohio EPA, U.S. Environmental Protection Agency (USEPA), 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 design a stream and wetland mitigation design plan and implement said design plan for the Gifford State Forest Program site.

TNC is seeking design/build proposals for Phase I of the Gifford State Forest located north of State Route 377 in Bern Township, Athens County Ohio (“Project”) as described in attachment B. The “Contractor” shall furnish all necessary drawings, plans, permits, labor, facilities, materials, equipment, and incidentals to complete the Phase 1 of the Project scope of work (the “Scope of Work”) as described in the attached Attachment B and the Contract for Services in the form of Attachment C attached hereto to be entered into between TNC and the Contractor. The total amount of compensation sought for completion of Phase 1 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 Proposals (RFP) process, in which the Contractor is selected first, starts the design, and works with TNC to select a construction firm through another request for proposals to be part of the Design-Build Contract. 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.

The Project will be located on properties owned by TNC and the Ohio Department of Natural Resources (ODNR) Division of Forestry TNC will manage the Project on the property.

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 or 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 match the order in which the requirements of this RFP are presented 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 site. 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 D). 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

If selected the Contractor shall provide TNC with a Certificate of Insurance verifying its limits for public liability, property damage, and automobile insurance in an amount not less than Five Million Dollars (\$5,000,000), per occurrence. For the awarded Contract, TNC 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 ODNR harmless and immune from any and all claims for injury or damages arising from this RFP or any awarded Contract which are attributable to Contractor's own actions or omissions or those of its trustees, officers, agents, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint ventures.

1.14 RIGHT TO REJECT

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

2. 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. Contact the e-mail address listed below for instruction on electronic submittal of files too large to email at least one week in advance of the proposal deadline.
- 2.1.2 Email for Contractor’s Submission of Proposal: j.m.mcdonald@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 the Scope of Work attached as Attachment B
 - c. Proposals shall include estimates for the amount of potential stream, wetland, stream buffer and wetland buffer credits available 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](#)”.
 - d. Delivery Schedule
 - e. Pricing
 - i. Please list all **net pricing** (after discounts), based on the **Scope of Work attached as Attachment B**, 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 December 31, 2023.

Task Pricing Schedule

Task	Deliverable	Cost
Phase 1 Design		
1	Site Assessment	
2	Development of Preliminary Design Plans that includes Initial Vegetation Mgt., and Cost Opinion Development of plan and cost option for farm dump removal	

3	Management of Phase 2 RFP Bidding Process	
4	Development of Final Design Plans	
5	Acquisition of Permits	
Phase 2 Implementation*		
1	Construction Oversight	TBD
2	Construction	TBD
3	Restoration Planting, Initial Vegetation Mgt, and Seeding	TBD
4	Development of As-Built Report	TBD
5	Corrective Actions	TBD
<p><i>* As part of Phase 1, Task 2, TNC and the Contractor will implement a RFP to choose a construction firm who will be responsible for the implementation. Costs for the implementation and construction during Phase 2 will be developed with the chosen construction firm. The Contractor's cost for Phase 2 will be negotiated between TNC and the contractor selected for that work and are not part of this RFP, but bidders are encouraged to provide estimates of their Phase 2 costs. Notwithstanding anything to the contrary in this RFP, (i) TNC is under no obligation to hire the successful bidder under this RFP for the Phase 2 work and (ii) TNC will determine in its sole discretion to proceed with the Phase 2 work.</i></p>		

f. 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.

f. 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. TNC'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 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:

- 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
- g. Evidence of sufficient insurance.

2.3 QUESTIONS REGARDING THIS RFP

Contractor may only submit questions regarding this RFP to TNC via email listed in Section 2.1.2 by **April 20th, 2023**. 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 TNC by email. TNC will use its best efforts to answer questions by **April 27th, 2023**. 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. 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 Section 2.3 above.

2.5 CRITICAL DATES

2.5.1 Proposal Due Date

Proposals shall be delivered to TNC on or before *May 18th, 2023*. See Section 2.1 for Submission Requirements.

RFP Activities	Due Date
Distribute RFP	March 14 th , 2023
Field Day	April 6 th , 2023
Communication Period Ends	April 27 th , 2023
Proposals Due	May 18 th , 2023

Suggested Schedule of Implementation

The implementation schedule will be contingent upon the TNC obtaining final approval from the IRT; however, the following schedule is suggested in order to initiate construction by the Summer of 2024:

Project Bidding and Award	May-June 2023 July-August 2019
Site Assessment	June- August 2023 August-September 2019
Design, Permitting and Engineering	August 2023- January 2024

Construction RFP	October 2023
IRT final approval	June 2024
Start of Project Construction	July 2024
Seeding and Planting	September-October 2024
Project Construction Substantially Complete	October 2024

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 TNC staff (see the table in Section 2.5 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 Section 2.1.2. 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 TNC and ODNR from any injuries, liability or expenses incurred as a result of or arising out of the site visit.

2.7 ADDITIONAL INFORMATION

- 2.7.1 TNC is a non-profit organization. We strive to minimize administrative costs to ensure that maximum dollars go to our mission. If the Contractor can aid in our efforts by a donation or special pricing, it would be greatly appreciated.
- 2.7.2 Minority and women owned businesses, as well as contractors from Labor Surplus Areas, are encouraged to apply. Qualified proposers will receive consideration without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- 2.7.3 Laws of Professional Design: Contractor will comply with all laws that may require approval of the work by a registered professional engineer, surveyor, architect, or landscape architect.

ATTACHMENTS

- A Contractor Questionnaire
- B Scope of Work
- C TNC’s Standard Contract for Services
- D TNC’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: _____
Years in Business: _____

Contractor Information:

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

Statement of Qualifications:

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

Employee and Project Team Information

Number of Employees: _____

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

Service Information

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

_____ YES _____ NO

If yes, please list.

Minority and Women - Owned Business Enterprise

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

Legal

If your firm is bonded, please indicate type:

Performance Bond _____ YES _____ NO

Labor & Material Payment Bond _____ YES _____ NO

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

_____ YES _____ NO

If yes, please explain:

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

References

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

**ATTACHMENT B:
SCOPE OF WORK FOR STREAM AND WETLAND MITIGATION SERVICES FOR
GIFFORD STATE FOREST AN OHIO MITIGATION PROGRAM SITE**

B.1 PURPOSE

The purpose of this project is to provide wetland and stream mitigation to offset unavoidable impacts in the Hocking 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 a design plan for stream and wetland restoration, rehabilitation, and buffer establishment 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](#)). Note that design considerations for invasive species management and restoration planting and seeding are part of this RFP and contract.

B.2 GENERAL PROJECT INFORMATION

Project Type	Stream and Wetland Restoration, Rehabilitation, and Buffer Development
Project Name	Gifford State Forestry
Landowner	Ohio Department of Natural Resources, Division of Forestry
Project Manager	The Nature Conservancy
Locality	Bern Township, Athens County, Ohio
HUC 8	Hocking (HUC 05030204)
Resources	Streams, wetlands and associated buffers

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 will require the Contractor to execute a license and indemnity agreement. 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 and cost opinion, 3) cooperation with TNC and assistance on the Phase 2 RFP process and selection of construction contractor, 4) development of final design plans, and 5) acquisition of permits. The foregoing constitute Phase 1 of the project and are the subject of this RFP. If TNC elects to proceed with Phase 2 of the project, that phase will consist of: 1) construction oversight, in cooperation with TNC, 2) construction, 3) development of as-built report, and 4) corrective actions. TNC will engage a contractor and a construction firm to perform the tasks for Phase 2, but Phase 2 is not part of this RFP. TNC will determine in its sole discretion whether to proceed with Phase 2.

Phase 1 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, QHEI, and HHEI assessments <https://tnc.box.com/s/93modcr1z2gi58tp36brzt65qtd03mrt>. The Contractor shall identify appropriate reference stream reaches, wetlands, and buffers (with assistance from TNC) and perform the necessary assessments for each relevant stream reach, wetland, or buffer area.

The Contractor shall also generate existing conditions mapping, utilizing, when possible, the figures and data already completed by TNC, that include all the 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, wetland and buffer mitigation. The following box link includes relevant project shape files: <https://tnc.box.com/s/9y90klbmlhnuoj4kb0w8inoq9cpq8bpbk>

TASK 2. DEVELOPMENT OF PRELIMINARY DESIGN PLANS AND COST OPINION

Based on the results of the site assessment, the Contractor shall prepare preliminary design plans. The Contractor shall design the project by using the existing condition data and reference reach data to design the wetlands, stream, and buffers. In addition to a pre-design kickoff, the Contractor shall at a minimum submit design plans at 30%, 60%, and 90% completion to solicit TNC feedback. The Contractor should anticipate input from TNC staff throughout the design process and incorporate feedback accordingly.

The Gifford State Forest Project shall involve the following:

- Restore approximately 8,800 LF unnamed tributaries to Opossum Run and 6,200 LF of Opossum Run to provide high quality aquatic habitat, improve water quality, regulate watershed hydrology, and attenuate runoff.
- Restore and enhance riparian buffers to increase aquatic habitat quality, improve water quality, regulate watershed hydrology, and attenuate runoff.
- Re-establish forested (PFO) wetlands in areas that have existing hydric soils or the ability to re-establish wetland hydrology.
- Rehabilitate PFO and PEM wetlands by improving hydrology, removing invasive plants and planting native hydrophytes as replacements.
- Re-establish upland forest buffers for streams and wetlands.
- Separate cost estimate and plan for the removal of farm dump sites

Task 2.1. Separate Cost Estimate and Plan for Removal of Farm Dump Sites.

Lawhon & Associates, Inc., conducted a Phase 1 &2 Environmental Site Assessment of the Gifford and Spaulding properties. The following link contains a map to the location of the farm dump sites and complete Phase ESA 1&2 reports for the property. <https://tnc.box.com/s/trdb2ko7yu5jo6bouhx1ab0jksvc04qo>

In summary, numerous small quantity containers and paint cans were observed dumped on the southern portion of the subject property, the contents of which are unknown. Considering the unknown quantity of the dumped materials, the landfilling is considered a recognized environmental condition. Additionally, miscellaneous nonhazardous trash, debris and used tires were also observed dumped on the southern portion of the Spaulding property.

Removal of the dumped material (all trash, debris, used tires, paint can etc..) will be highly beneficial for the restoration of the project area. The contractor shall provide a separate work plan and cost estimate for the removal of the farm dump sites. The work plan should outline how dumped material will be removed from the property and disposed of in accordance with appropriate state and local regulation. It should be noted that the removal of dumped material will occur in coordination with the ODNR.

The decision to incorporate the dump site removal into the final design will be contingent on TNC's evaluation of the additional cost estimate and work plan.

Task 2.2. 30% Design Plans

The 30% design plans shall define the major elements of the project to align both the Contractor's and TNC's vision for the site, including a general site plan. At the 30% design stage, the Constructor shall depict areas of stream and wetland mitigation (re-establishment, rehabilitation, enhancement, and/or preservation) using the appropriate OHIO EPA assessments. The contractor will 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 shall deliver the 30% plan and anticipated mitigation credits in both pdf and GIS files forms and attend a meeting with the Conservancy in reference to the 30% design and concept plan. TNC will provide significant feedback at this stage, to be addressed and provided to TNC for review before beginning the development of the 60% design. Based upon the 30% design plan and the outcomes of the meeting with the Conservancy, as it relates to the scope of the stream and wetland mitigation project, the Contractor shall provide estimated costs of project implementation. The cost option shall include all costs, inclusive of all taxes, associated with implementation and shall include a breakdown of these costs for stream and wetland construction, planting, invasive species management and all other implementation tasks identified in the 30% design plan.

At the 30% design stage the contractor shall also provide a plan and cost option for a site-specific vegetation management plan for the initial control of non-native, invasive vegetation within the Gifford State Forest Mitigation Project Area. The contractor will provide a cost option for the labor and materials for the vegetation control efforts within the entire project area.

Task 2.3. 60% Design Plans

At the 60% design stage, all expectations and objectives of the project shall be finalized, and design drawings should be advanced to a point of constructability. The Conservancy shall review the 60% design and provide comments to the Contractor.

At the 60% design phase the Contractor shall also develop and submit to TNC a narrative on the stream and buffer mitigation plan for inclusion in the Gifford State Forest Project 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 streams and buffers; planting and seeding details as appropriate; a soil management plan; supporting tables and graphics; and any other important features necessary to complete the Draft Amendment plan. Contractors are expected to measure baseline conditions of streams and determine appropriate performance standards using standard natural channel design measurements (bank height ratio, width depth ratio, BEHI, near-bank stress, entrenchment ratio, pool-to-riffle spacing, etc.). Contractors may propose to use performance standards other than these, but adequate justification for using alternative methods must be provided. Heavy emphasis will also be placed on data gathered on reference streams, which should also be documented in the design and shall be used to guide the restoration design and the development of performance standards. Contractors are expected to identify reference sites and to collect data necessary to incorporate into the design.

Using the 60% design plan set, 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 to the design and redrafting the narrative, including the tables and graphics, for inclusion in the Final Amendment (see Task 3 below).

Task 2.4. 60% Design Plans

The 90% design shall be considered final, including plans and specifications, subject to review comments by the IRT. Early and frequent communication between the Contractor and TNC staff will be required.

Included in the design plans shall be all earthwork activities (including site preparation techniques, quantities to be moved, soil placement/disposal procedures, soil management, 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. This shall include, at a minimum, existing condition information, reference resource information, hydrologic information, and geotechnical information.

General Guidance for Development of Preliminary Design Plans and Cost Options.

The Contractor shall design the project by using existing condition data that will allow the development of a design that will result in high quality, resilient streams. TNC strongly advocates a stream restoration design approach in which the stream is considered

more than simply a hydraulic channel and instead part of an integrated ecosystem. All geomorphic attributes of the designed streams should closely resemble reference streams, including variability in sinuosity, substrate composition, and the design and use of in-stream habitat.

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, access routes to concentration equipment access, 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.

The Contractor will also be responsible for providing the project's vegetation management plan, including the 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 plant communities, 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. 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, buffer construction, planting, seeding, and all other implementation tasks identified in the design plans.

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 change 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 Phase 2 of the project or whether Phase 2 of the project will proceed in any manner.

TNC's Vision

The long-term goals of this project are to develop and manage a site that contains high quality aquatic and wetland resources and buffers. TNC's goal is to maximize ecological lift to the site while also generating in-kind mitigation credits to replace advanced mitigation credits that have been sold in the Hocking watershed. A predeveloped restoration map or credit projection for this project is not provided because TNC is unsure of the amount of re-established forested (PFO) wetlands that can be achieved on site. By removing this limitation, TNC is hoping to encourage bidders to propose creative, ecologically sound, well developed, and feasible restoration plans for the Gifford State Forest Mitigation site.

TASK 3. MANAGEMENT OF PHASE 2 RFP BIDDING PROCESS

Once the 30% design has been developed and TNC's review has been complete the Contractor, coordinating with TNC, shall manage the Phase 2 RFP process to select a construction firm or firms to implement the mitigation design plans, including construction, planting, invasive species management, and other activities identified by the Contractor.

The Contractor shall develop a request for proposals for selecting an implementation subcontractor, once the preliminary design plans are developed and approved by TNC. The Phase 2 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 Phase 2 RFP will be submitted to the TNC for review and approval prior to release of the Phase 2 RFP. The Contractor shall develop a list of firms that will be sent the Phase 2 RFP and shall submit the list to the TNC for review and approval prior to release of the Phase 2 RFP. Following approval of the Phase 2 RFP by the TNC, the Contractor shall send the Phase 2 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 TNC. 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 TNC 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.

Following bid evaluation, the Contractor shall make a recommendation to the TNC on the firm(s) to be selected for implementation of the mitigation plans. The TNC will review the recommendation and retain the sole right to accept or reject the Contractor's selection, or chose a different firm(s) for implementation. Once the firm(s) for implementation are selected, the Contractor shall contract with the selected firm(s) to participate in Phase 1 Tasks 4 and 5 disclosed below. This subcontracting cost should be included in bid proposals.

Upon selection of the firm(s), joint meetings shall be conducted on the preliminary design and cost opinion both with the construction firm and TNC to ensure that all activities are satisfactorily planned and designed as well as adequately budgeted. The Contractor shall deliver the draft preliminary design plans and cost opinion in electronic version (pdf and GIS files). The TNC shall review the preliminary design plans and provide comments to the Contractor.

Based upon comments and agreed-to-items resulting from the TNC's review, the Contractor shall refine the draft preliminary plans and work with TNC on the submittal of the Draft Final Amendment Mitigation Plan to the IRT.

TASK 4. DEVELOPMENT OF FINAL DESIGN PLANS

Following receipt of comments from the IRT on the Draft Final Amendment Mitigation Plan, TNC will provide comments to the Contractor. With input from the implementation firm(s), 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 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 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. Note that the Corps has indicated that the PCN should not be submitted until the Final Amendment is submitted to the IRT. The Contractor shall submit copies of all permit documents to TNC following issuance of permits/authorizations.

During Tasks 3, 4 and 5, the Contractor will procure a contractor ("Phase 2 Contractor") to perform the services outlined in Phase 2 below. This "Phase 2 Contractor" will act as subcontractor for the general contractor.

Costs for the Phase 2 activities will be based on the implementation firm(s)'s review and feedback on the design, construction, planting, invasive species management, and any other implementation activities identified by the Contractor. If the Contractor is selected to be the Phase 2 Contractor, TNC and Contractor will enter into a contract amendment to add the Phase 2 services to the then existing contract between TNC and the Contractor for the Phase 1 work. Notwithstanding anything to the contrary in this RFP, (i) TNC is under no obligation to hire the successful bidder under this RFP for the Phase 2 work and (ii) TNC will determine in its sole discretion whether to proceed with the Phase 2 work.

Note: TNC will submit the final design plans as part of the Final Amendment Mitigation Plan to the IRT for review, comment, and approval. The Contractor shall not proceed with tasks beyond Task 5 until (i) TNC receives the final IRT approval, (ii) Contractor and TNC have executed agreement for Contractor provide the Phase 2 work and (iii) TNC provides Contractor written notice to proceed.

Phase 2 Implementation

TASK 1. CONSTRUCTION OVERSIGHT

The Phase 2 Contractor shall be responsible for the implementation of the project in accordance with the final design plans, including contracting with the construction firm, and managing and overseeing all implementation activities, the construction firm, and all subcontractors. The Phase 2 Contractor shall retain the responsibility for the quality and completion of the project and the work of the construction firm and all subcontractors and for adhering to applicable regulations, permits, plans, and specifications.

The Phase 2 Contractor shall notify TNC at least 5 calendar days prior to any mobilization to the site. The Phase 2 Contractor shall provide an estimate schedule for the number of days required to complete each task. The Phase 2 Contractor shall also provide an estimated demobilization date for construction and notify TNC within 5 calendar days prior to the anticipated demobilization date.

The Phase 2 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 Phase 2 Contractor shall be responsible for the activities of any and all subcontractors hired by the Phase 2 Contractor or the construction firm to complete the implementation of the design plan. During the field activities, the Phase 2 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 Phase 2 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 Phase 2 Contractor shall be on-site as-needed, at a minimum two days per week (10 hours (5 hours per day) minimum), during the construction phase to ensure that the site is built in accordance with the design plans, specifications, and approved permits. The Phase 2 Contractor shall communicate regularly with the construction firm and when on-site shall meet with the construction firm on-site as-needed, at a minimum one day per week, regarding the progression of construction.

The Phase 2 Contractor shall provide weekly written updates 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 Phase 2 Contractor shall summarize the site activities completed during that week and the anticipated activities for the coming week.

In addition to weekly reporting, the Phase 2 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. Additionally, they shall include 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 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 Phase 2 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 Phase 2 Contractor shall prepare punch lists for the meetings as needed. Punch lists will be provided to TNC for review and final approval. The Phase 2 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 2. CONSTRUCTION

The Phase 2 Contractor and construction firm shall implement the construction activities as approved in the final design plan and shall provide all materials and labor to complete such activities.

The Phase 2 Contractor and construction firm shall be responsible for all usual and customary coordination to locate and protect utilities present within the project corridor. The Phase 2 Contractor and construction firm 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 +/- 0.3 feet for streams and +/-0.1 feet for wetlands and wetland and riparian buffers from elevations shown on final design plan. The Phase 2 Contractor and construction firm, 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 Phase 2 Contractor and construction firm shall then re-grade these areas to meet the appropriate elevations. If finished grades deviate more than +/- 0.3 feet for streams or +/-0.1 feet for wetlands and buffers from the plan elevations and the Phase 2 Contractor and construction firm, with TNC approval, determines that the deviation does not compromise the channel, wetland, or buffer stability or function, additional grading shall not be required. The Phase 2 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 native 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 providing a final soil condition suitable for planting including loose soil 24-inches minimum depth, and minimal surface soil clods.

The Phase 2 Contractor and construction firm 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 TNC's approval on-site.

TASK 3. RESTORATION SEEDING, PLANTING AND INITIAL VEGETATION MAGEMENT

The Phase 2 Contractor shall implement the planting activities as approved in the Final Mitigation Design Plans and shall provide all materials and labor to complete such activities. The Phase 2 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. The Phase 2 Contractor shall coordinate a custom seed mix subject to TNC review. 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 Phase 2 Contractor. Mortality due to inferior planting stock or poor workmanship (e.g., improper planting technique or handling) shall be replaced at the sole expense of the Phase 2 Contractor. The planting of buffer and native habitat vegetation and live stakes shall occur during the dormant season; exceptions shall be coordinated with TNC. When used for streambank stabilization, live stakes shall be planted at no wider than a 3' spacing. **Note that invasive species management after construction will be completed by others and is not part of this contract.**

The Phase 2 Contractor will provide control for initial non-native vegetation within the project area to assist with meeting the Project's mitigation performance standards. The Phase 2 Contractor will provide labor and materials for initial vegetation control efforts within the entire project area. The Phase 2 Contractor will adhere to the site-specific vegetation management plan proposed in Phase 1 Task 2.

TASK 4. DEVELOPMENT OF AS-BUILT REPORT

The Phase 2 Contractor and construction firm 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 streams, the Phase 2 Contractor and construction firm shall determine the location, 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.

Permanent markers shall be installed 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.

For wetlands, the Phase 2 Contractor and construction firm shall determine the location, 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 wetland's substrates that will allow estimates of water depths at those locations throughout the growing season.

The Phase 2 Contractor and construction firm 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 stream and adjacent buffers. Plan view shall show:

1. Location of all permanent photo stations;

2. Location of all wetlands;
 3. Contours of wetland substrates;
 4. Location of all in-stream and streambank structures;
 5. Location of all permanent cross-sections and longitudinal profile termini;
 6. All stream design features including channel pattern;
 7. Identification of limits of restoration and enhancement activities;
 8. Former, filled channel;
 9. Live stake and wetland and riparian buffer planting areas
 10. Invasive species management areas
 11. 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 by the Vegetation Contractor.
- 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 streams, wetlands, and their buffers.
- D. Detailed information on installed structures (structure location, elevation, anchoring, etc.) Show comparison to design profile and discuss comparison.
- E. 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.
- F. Detailed stream and wetlands 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. Show comparison to design cross-sections and discuss comparison.
- G. 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.
- H. A table indicating the estimated stream, wetland, and buffer credits generated by the project.
- I. Summary table of stream 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.
- J. In addition to the stream geomorphological data summary table and wetland cross-sections, include a brief narrative/discussion of the comparison and/or discrepancies from the design or from unstable conditions, in general.

The Phase 2 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 Phase 2 Contractor. Based upon comments and agreed-to-items resulting from TNC's review, the Phase 2 Contractor shall refine the draft as-built report for final submission. TNC and the Phase 2 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 Phase 2 Contractor shall deliver the as-built report in both hardcopy (2 sets) and electronic (pdf and CAD) version.

TASK 5. CORRECTIVE ACTION

Phase 2 Contractor shall provide a warranty against defective design, materials, or workmanship for a period of two (2) years from the date of project substantial completion, or for such longer time period as may be prescribed by law or by the terms of any applicable special guarantee or warranty. If any corrective actions are identified within the 2-year period that are not attributable to defective design, materials, or workmanship, TNC and Phase 2 Contractor will work together to develop a corrective action plan to be carried out by the Contractor. No funds associated with this line item will be spent until the action plan is approved by TNC.

**ATTACHMENT C:
COPY OF TNC STANDARD CONTRACT**

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

Contract Number:	
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:	Jennifer McDonald
Address:	6375 Riverside Drive, Suite 100
Telephone:	614-717-2770, ext. 135
Email Address:	j.m.mcdonald@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” 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.

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 Knox County Park District, and which will be subject to a conservation easement 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, inclusive of all taxes (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 Change Orders Section 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.

2.1.1. Design

Task 1. Site Assessment

Task 2. Preliminary Design Plans

Task 3. Management of Phase 2 RFP Bidding Process

Task 3. Final Design Plans

Task 4. Acquisition of Permits

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 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 Services, as well as all suppliers of material or equipment for the Services (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 Services). If any claim of lien or other demand for payment or security therefor is made or filed with TNC or as to the Services 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 Services, 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 Services 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 Services, 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.

(g) Prevailing Wage. Ohio prevailing wage requirements shall apply to all applicable Work. In that regard:

- i. the determination of the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Ohio Revised Code for the class of work called for by the Project, in the locality where the work is to be performed, shall be attached to and made part of the Contract.
- ii. the Contractor must pay at least the wage rates listed in the wage determinations.
- iii. The Contractor must submit properly executed copies of the Contractor's and subcontractor's payrolls to TNC in accordance with the requirements of Section 4115.071 of the Ohio Revised Code.

3. General Conditions.

3.1 Payment & Performance Bond. Prior to commencing any of the Implementation tasks (i.e., Tasks 5 through Task 8), Contractor shall (or shall cause a permitted subcontractor) to 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 for the Implementation tasks (including Task 8), and be issued by an issuer and be in form and substance reasonably acceptable to TNC.

3.2 Safety. The Contractor must have a written COVID-19 safety plan applicable to all employees and subcontractors which is enforced at all times.

3.3 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.

3.4 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 final acceptance by TNC, 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.

4. Contract Commencement and Expiration. This Contract will become effective upon the last signature date below and will expire automatically once all the Services have been completed and final payment by TNC has been made (the “Contract Term”). 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 at the end of the Contract Term and 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

[Contractor]

By:

By:

(signature)

(signature)

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A
Scope of Work

See Attachment B in the Request for Proposals

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, Community Services, TLPA 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 \$5,000,000 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**

CONFLICT INQUIRY FORM

STEP 1: DESCRIPTION OF PARTIES & TRANSACTION	
Name of individual or organization entering into transaction with TNC:	
Legal identity of individual or organization* entering into transaction with TNC (select one):	<input type="checkbox"/> Individual <input type="checkbox"/> For-Profit Organization <input type="checkbox"/> Non-Profit Organization
<small>**"Organization" includes a for profit corporation, partnership, trust, estate, joint venture, limited liability corporation, professional corporation, an unincorporated entity, a foundation, public board, commission, 501(c)(3) or other charitable organization.</small>	
Total dollar value of transaction: <small>Include type of currency. Also, if no cash is involved, provide the value of the benefits to be exchanged between the parties.</small>	\$
Type of Transaction (select one):	<input type="checkbox"/> Contract for Services <input type="checkbox"/> Grant Agreement <input type="checkbox"/> Purchase Order <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Real Estate Transaction <input type="checkbox"/> Other
If you selected "Other" or "Real Estate," include description here (for real estate, describe property, size, and type of deal (sale, gift, lease, etc.)):	

STEP 2: DEFINITIONS & QUESTIONS (Complete <u>only</u> the section relevant to your organization)
<p>(1) TNC Key Employees and Board of Directors: Please refer to the <u>attached list</u> of Key Employees and members of Board of Directors (includes individuals who have left relevant TNC positions within the past five (5) years).</p> <p>(2) Substantial Contributors: Individuals or organizations who have made total aggregate contributions to TNC of (i) ≥ US \$5 million during the current fiscal year or (ii) ≥ US \$25 million within the last five (5) fiscal years. Fiscal years run from July 1st through June 30th.</p> <p>(3) Family Members and Close Relatives: Family members of any individual listed above, such as spouse, domestic partner, parent, sibling, child, dependent, other progeny and ancestors.</p>

SECTION 1. INDIVIDUALS (explain any “yes” answers in Step 3):	Yes	No
a. Are you now, or have you been in the last five (5) fiscal years, (i) a TNC “Key Employee” or (ii) a member of the TNC Board of Directors?		
b. Are you now, or have you been in the last twelve (12) months, (i) a TNC Employee, (ii) a Chapter Trustee, or (iii) a member of a Country Program Advisory Council or a similar advisory group?		
c. Are you a Substantial Contributor to TNC?		
d. To your knowledge, are you a family member or close relative of any individual identified in paragraphs a, b, or c above?		

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

<p>a. Now, or at the time of the proposed transaction, do any of the following (individually or collectively with other such persons) have the ability to influence management of the entity:</p> <ul style="list-style-type: none"> • TNC employee (or former employee who left within the last twelve (12) months); • TNC Key Employee; • TNC Board Member; • Substantial Contributor to TNC; • TNC Chapter Trustee or Advisory Council Member for TNC or TNC’s related entities (or former trustees/members who left within the last twelve (12) months; and/or • Family members or close relatives of the above individuals. 		
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STEP 3: COMMENTS (Explain any “yes” answers checked above. Attach additional pages as necessary.)

STEP 4: NOTICE OF TNC CODE OF CONDUCT & SIGNATURES

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

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

Signature:	
Printed Name:	

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

