



***VIRGINIA AQUATIC RESOURCES TRUST FUND
PROJECT BASIN NEEDS IN VIRGINIA***

***NONTIDAL WETLAND MITIGATION PROJECTS:
SHENANDOAH RIVER
MIDDLE JAMES RIVER***

AND

***STREAM MITIGATION PROJECTS:
CHESAPEAKE BAY
POTOMAC RIVER
LOWER JAMES RIVER***

REQUEST FOR PROPOSALS

SEPTEMBER 20, 2022

First Round Proposal Submissions due by November 30, 2022
(Refer to submittal schedule for subsequent due dates or as specified in any addenda to this RFP)

CONFIDENTIAL

Disclose and Distribute Solely to Employees of The Nature Conservancy having a need to know
and to Recipient's Employees with a need to know.

1. GENERAL ADMINISTRATIVE PROVISIONS

1.1. STATEMENT OF PURPOSE

It is the intention of The Nature Conservancy (“Conservancy” or “TNC”), to solicit Proposals for a Contractor or Contractors that can provide one or more **Design/Build or Full Delivery NONTIDAL WETLAND mitigation project(s) in the Shenandoah River and Middle James River basins and/or STREAM mitigation project(s) in the Chesapeake Bay, Potomac River, and Lower James River basins** within the Commonwealth of Virginia for which the Virginia Aquatic Resources Trust Fund (VARTF) was utilized as the compensatory mitigation. TNC will also consider lump sum **purchase of mitigation credits** from an approved mitigation bank or banks. Those receiving this Request for Proposal (RFP) are referred to as “Contractor.”

THIS IS NOT AN ORDER.

THE NATURE CONSERVANCY (TNC) is a District of Columbia, USA, non-profit corporation with its principal place of business in Arlington, Virginia, USA. TNC has offices across the U.S. and in over 79 countries and territories around the world.

Since 1951, The Nature Conservancy has been working with communities, businesses and people like you to protect more than 125 million acres of land and 5,000 miles of rivers worldwide. We also operate more than 100 marine conservation projects globally. Our mission is to conserve the lands and waters on which all life depends. Our vision is a world where the diversity of life thrives, and people act to conserve nature for its own sake and its ability to fulfill our needs and enrich our lives. Please see www.nature.org for more details on what TNC does and where we work.

1.2. TNC’S PROCUREMENT PROCESS

Procurement activities will be conducted in a nondiscriminatory manner with fair treatment given to all Contractors. TNC reserves the right to reject any and all offers for any reason whatsoever, to waive technicalities, and to pursue purchasing in a manner that is in the best interest of the organization.

1.3. TNC’S OBLIGATIONS

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

1.4. CONTRACTOR’S OBLIGATIONS

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

Contractor’s proposal must match the order in which the RFP was submitted 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 Contractor’s proposal. ***If Contractor is 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 Contractor’s organization as the award winner.***

Contractor shall not use the names, logos, images or any data or results arising from the anticipated contract for advertising without TNC's prior written consent.

1.5 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 evaluation process, all inquiries or other communications regarding this RFP shall be exclusively directed to TNC's authorized Agent, to the person and location specified in Article 2.1.1 of this RFP. Contractors are hereby expressly instructed not to otherwise communicate with TNC's officers or employees regarding this RFP. This prohibition is also applicable to Contractor's affiliates, officers, employees, agents, consultants, and subcontractors.

1.6 SUBCONTRACTING

No portion of the work shall be subcontracted without prior written consent of TNC. In the event that Contractor desires to subcontract some part of the work specified in the contract, Contractor shall furnish TNC the names, qualifications and experience of the proposed subcontractor(s). Contractor shall, however, remain fully liable and responsible for the work to be done by subcontractor(s) and shall assure compliance with all the requirements of the contract.

1.7 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 bidders will be notified in writing or via email. TNC shall not be obligated to detail any of the results of the evaluation.

1.8 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.

1.9 CONFIDENTIALITY

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.

1.10 DISCLOSURE STATEMENT

It is the policy of TNC to identify actual, potential or perceived conflicts of interest in any situation in which TNC has a significant business interest. To assist TNC in complying with this policy, we request that all individuals and/or organizations that will be involved in a proposed transaction with TNC complete our Conflict of Interest Disclosure Form. 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.

A completed Conflict of Interest Disclosure Form (Attachment G) should be included with the Contractor's RFP response. The information will be kept confidential and given out only on a "need to know" basis.

2. PROPOSAL SUBMISSION AND EVALUATION

2.1 PROPOSAL SUBMISSION REQUIREMENTS

2.1.1 Contractor will send its response to this RFP via Box link below.

Proposal Upload Box Link:

<https://tnc.app.box.com/f/1f4cb6afb391485fa3eefce596edadb2>

2.1.2 Contractor will provide all information required as outlined in Attachment A.

2.1.3 Contractor may contact TNC at the email address below.

Chris DuBois
Restoration Coordinator
Email: cdubois@tnc.org

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. Proposals should be as thorough and detailed as needed so that TNC may properly evaluate 1) the Contractor's capabilities to provide the required goods/services and 2) whether the proposed project meets TNC's mitigation and conservation goals. Contractors are asked to address each evaluation criterion listed in Attachment A and to be specific in presenting their qualifications. Selection of the successful contractor will be based upon evaluation of the proposals in relation to the selection criteria. One or more qualified applicants may also be interviewed. TNC will accept multiple proposals to address the mitigation needs and may select more than one Contractor to provide the services requested in this RFP.

2.2.2 TNC will determine if a project/proposal submitted through this RFP meets VARTF's mitigation requirements as well as the overall conservation goals of TNC. TNC reserves the right to make a site visit and request/collect any information that it deems necessary to determine the feasibility of a project. **TNC reserves the right to refuse or disqualify any project/proposal that does not meet its mitigation or conservation goals.**

2.3 QUESTIONS REGARDING THE RFP

Contractor may submit written questions regarding this RFP to TNC via email listed in 2.1.3. TNC will post a summary of all questions and answers as an addendum to the RFP on TNC's website on the VARTF page at www.nature.org/vartf. TNC will use its best efforts to answer questions to provide Contractor the information and time required to submit a complete and accurate proposal. 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 all questions that are not pertinent to the RFP or considered to be TNC's Proprietary information. Contractor also understands and agrees that it is responsible for continually checking the website for addenda to the RFP up until the last posted due date of proposals and assuring that all addenda have been reviewed and addressed as applicable in Contractor's proposal.

2.4 PROPOSAL DUE DATE

Proposals shall be delivered to TNC in accordance with Section 2.1 with a rolling deadline according to the schedule below or as specified in addenda to this RFP to be considered for each review period.

Proposals Due	TNC Potential Selection
November 30, 2022	December 31, 2022
March 31, 2023	April 30, 2023
July 31, 2023	August 31, 2023

TNC will review and select or reject proposals after each due date. TNC will post on the [VARTF website](#) on or around the potential selection date if proposals will continue to be accepted for the subsequent due dates. If TNC decides to extend the deadlines for submission of proposals, the new deadlines will be specified in addenda to this RFP posted on the [VARTF website](#) a minimum of two weeks prior to the deadline for acceptance of proposals. Contractor understands and agrees that it is responsible for continually checking the website for addenda to the RFP up until the last posted due date of proposals.

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3. ATTACHMENTS

- A Proposal Submission Requirements and Selection Criteria
- B Checklist of Required Information Related to Site Selection and Mitigation Approach
- C Scope of Work for Mitigation Projects
 - Exhibit 1. Site Selection Criteria USACE Norfolk District and Virginia Department of Environmental Quality Checklist
 - Exhibit 2. Norfolk District Prospectus Checklist
 - Exhibit 3. DHR Coordination Form
 - Exhibit 4. Species Conclusion Table
- D Watershed Maps
- E Contractor Questionnaire
- F TNC's Standard Contract for Services
- G TNC's Disclosure Form

ATTACHMENT A: PROPOSAL SUBMISSION REQUIREMENTS AND SELECTION CRITERIA

A.1 PURPOSE

TNC is seeking suitable projects to meet the mitigation liability generated by unavoidable impacts within the Commonwealth of Virginia for which the Virginia Aquatic Resources Trust Fund (VARTF) was utilized as the compensatory mitigation. The primary objectives are to restore, enhance and/or preserve stream, tidal, and/or nontidal wetland systems in the hydrologic unit basins where the impacts occurred. In general, stream mitigation is comprised of activities that stabilize stream banks, establish, or protect riparian buffer areas, improve water quality through reduction of erosion and sedimentation, or preserve pristine resources. Such activities can significantly reduce erosion and sedimentation, improve wildlife habitat, and improve water quality. In general, wetland mitigation is comprised of activities that create, restore, enhance, or preserve wetland resources. Such activities improve wetland functions and may result in gain of wetland acreage in the case of creation and restoration. This RFP seeks projects in the areas listed below.

NONTIDAL WETLAND Mitigation Projects

River Basin	Project Location (HUC)	Nontidal Wetland Credits Generated	Credit Type
Shenandoah	02070004, 02070006, or 02070007	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits
Middle James	2080205 or 2080207	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits

STREAM Mitigation Projects

River Basin	Project Location (HUC)	Stream (USM) Credits Generated	Credit Type
Chesapeake Bay	Priority HUC is 02080108, but project could also be within 02080102, 02080101, or 02080111	2,500+	A minimum of 50% of credits must be restoration/enhancement credits
Potomac	02070011 or 02070010	20,000+ Will consider projects with at least 10,000	A minimum of 50% of credits must be restoration/enhancement credits
Lower James	02080206 or 02080208	10,000+ Will consider projects with at least 5,000	A minimum of 50% of credits must be restoration/enhancement credits

The scope of work requires the Contractor to provide mitigation project(s) that will meet or exceed the standards for compensatory mitigation in Virginia and meet the requirements of the VARTF 2019 Program Instrument. The mitigation banking guidelines developed and provided by the Virginia Department of Environmental Quality (DEQ) and the United States Army Corps of Engineers – Norfolk District (Corps) should be used to guide the types of mitigation projects identified. General guidelines for wetland and stream mitigation within Virginia and includes the Unified Stream Methodology (USM)

for stream projects may be found on the DEQ website: <https://www.deq.virginia.gov/water/wetlands-streams/compensatory-mitigation>. This RFP seeks the following Contractor services.

SERVICES

Option	Contract Type
A	Design/Build
B	Full Delivery

A.1.1 Mitigation Bank Credits

TNC will consider a lump sum purchase of mitigation credits from approved mitigation banks that service the HUCs identified in this RFP. If the Contractor is proposing to sell bank credits to TNC, they should provide responses to all questions and requests for information as outlined in this RFP. The Contractor shall provide documentation necessary to evaluate the bank site, including but not limited to a letter of credit availability for the amount of credits that may be satisfied by the bank, the signed MBI, current credit ledger balance from RIBITS (if RIBITS is accurate and up to date), etc. Lastly, the Contractor must show that the bank site is in compliance with all terms of the MBI and is in good standing with the IRT.

A.1.2 Conversion of Bank Site

TNC will NOT consider proposals that convert approved mitigation bank sites to Trust Fund projects. Approved mitigation banks with signed MBIs should not present a proposal that terminates the MBI to allow pursuit of funding the project through VARTF.

A.2 PROPOSAL SUBMISSION REQUIREMENTS

Contractors are to make written proposals, which present detailed information on the proposed project(s) and Contractor's qualifications and understanding of the work to be performed. Proposals should be as thorough and detailed as needed so that TNC may properly evaluate the 1) Contractor's capabilities to provide the required goods/services and 2) whether the proposed project meets TNC's mitigation and conservation goals. Proposals will be evaluated in relation to the selection criteria in Section A.3. The Contractor shall address each of the selection criteria to aid TNC in its analysis and ranking of the proposal.

Preferred sites would align with VARTF's Conservation Planning Framework (CPF) which is used to select, secure, and implement aquatic resource restoration, establishment, enhancement, and/or preservation activities. The CPF can be found on the [VARTF website](#). As part of the CPF, VARTF has developed a spatial tool to focus strategy implementation where VARTF mitigation projects can provide the best return on investment and maximize benefits to nature and people at multiple scales. The M-PACT (Mitigation Priority Area Conservation Tool) incorporates TNC's regional and state conservation priority areas as well as state-identified priority areas to locate potential mitigation projects. M-PACT uses a two-tiered spatial prioritization approach designed to address both TNC and partner goals. Tier 1 Priority Areas are based on TNC's priority resilient and connected terrestrial, freshwater, and coastal networks (RCN) and the Active River Area (ARA). Areas within RCN and ARA that are also within a TNC Landscape Program or regional Focal Landscape will be the highest priority for potential projects. Tier 2 Priority Areas will be used when projects cannot be identified in Tier 1 Priority Areas. These include lands and waters depicted in the Commonwealth's ConserveVirginia map and already-protected lands throughout Virginia. Supporting GIS data may be found at the following links:

Tier 1 Priority Areas –

<https://tnc.maps.arcgis.com/home/item.html?id=6f53e08a3b58410081d1934855583c1d>

Tier 2 Priority Areas –

<https://vanhde.org/content/map>

Tier 1 and 2 Priority Area GIS data layers may be downloaded here:

<https://tnc.box.com/s/a0g4e65rdcjxclj75eesgsjkatl4whde>

The Contractor shall provide a minimum of the following information in the proposal. Contractors may provide additional information if desired.

1. Project Selection and Technical Approach

Detailed information on project selection and technical approach, addressing at a minimum the items in the checklist in Attachment B

2. Proposal to Complete Scope of Work (2 Options)

For proposed mitigation projects, a detailed proposal and technical approach for completing all tasks in one of two options (A or B) described in the Scope of Work (Attachment C), as listed below.

OPTION A: DESIGN/BUILD PROPOSAL

- Task 1. Conceptual Mitigation Work Plan
 - a. Historic Resources and/or T&E Species Surveys (if required)
 - b. Surface Water Delineation
 - c. Topographic/Geomorphologic Survey
 - d. Invasive Species Inventory
 - e. CMWP Deliverable
- Task 2. Final Mitigation Work Plan
- Task 3. Acquisition of Permits
- Task 4. Implementation of Construction and Planting
- Task 5. As-Built Survey and Report

OPTION B: FULL DELIVERY PROPOSAL

- Task 1. Pre-Application Process
- Task 2. Proposal Process
- Task 3. Site Development Plan Process
 - a. Historic Resources and/or T&E Species Surveys (if required)
 - b. Surface Water Delineation
 - c. Topographic/Geomorphologic Survey
 - d. Invasive Species Inventory
 - e. Conceptual Mitigation Work Plan
- Task 4. Establish Stewardship Endowment
- Task 5. Recordation of Long-Term Site Protection
- Task 6. Credit Delivery (Preservation, RTE or Watershed Adjustment Factor, Conservation Easement, as applicable)
- Task 7. Final Mitigation Work Plan

- Task 8. Implementation of Livestock Exclusion and Credit Delivery, as Applicable (Adjustment Factor Release)
- Task 9. Acquisition of Permits
- Task 10. Establish Long-Term Management Endowment
- Task 11. Establish Maintenance and Monitoring Fund
- Task 12. Implementation of Construction and Planting
- Task 13. As-Built Survey and Report and Credit Delivery (Construction Release)
- Tasks 14-19. Success Monitoring and Maintenance and Credit Delivery (Monitoring Release and Final Release)

3. Cost Proposal and Payment Schedule

- a. A cost proposal shall be provided as follows:

Credit Type	Credits Delivered	Total Cost	Cost/Credit	Service Option (A or B) Or (Bank Credit Purchase)
Nontidal Wetland Credits				
USM Stream Credits				

- b. For proposed mitigation projects, the Contractor shall also provide proposed payment amounts and due dates associated with the project milestones for each project proposed, per the format in the selected option table below. The cost proposal shall include all costs of implementing the Scope of Work in Attachment C.

OPTION A: Design/Build Payment Schedule

Task	Project Milestone	Delivery Date (# of days from Contract Execution)	Payment Amount
1	Conceptual Mitigation Work Plan		
	a. Historic Resources and/or T&E Species Surveys (if required)		
	b. Surface Water Delineation		
	c. Topographic/Geomorphic Survey		
	d. Invasive Species Inventory		
	e. CMWP Deliverable		
2	Final Mitigation Work Plan		
3	Acquisition of Permits		
4a	50% Implementation of Construction		
4b	100% Implementation of Construction		
4c	Completion of Planting		
5	As-Built Survey and Report		

OPTION B: Full Delivery Payment Schedule

Task	Project Milestone	Delivery Date (# of days from Contract Execution)	Payment Amount
1	Pre-Application Process		
2	Proposal Process		
3	Site Development Plan Process ^{1,2}		
	a. Historic Resources and/or T&E Species Surveys (if required) ¹		
	b. Surface Water Delineation		
	c. Topographic/Geomorphic Survey		
	d. Invasive Species Inventory		
	e. Conceptual Mitigation Work Plan		
4	Establish Stewardship Endowment		
5	Recordation of Long-Term Site Protection		
6	Credit Delivery (Preservation, RTE or Watershed Adjustment Factor, Conservation Easement, as applicable)		
7	Final Mitigation Work Plan		
8	Implementation of Livestock Exclusion and Credit Delivery, as applicable (Adjustment Factor Release)		
9	Acquisition of Permits		
10	Establish Long-Term Management Endowment		
11	Establish Maintenance and Monitoring Fund ¹		
12a	50% Implementation of Construction		
12b	100% Implementation of Construction		
12c	Completion of Planting		
13	As-Built Survey and Report and Credit Delivery (Construction Release)		
14a	Success Monitoring and Maintenance Year 1		
14b	Credit Delivery (Monitoring Release Year 1)		
15a	Success Monitoring and Maintenance Year 2		
15b	Credit Delivery (Monitoring Release Year 2)		
16a	Success Monitoring and Maintenance Year 3		
16b	Credit Delivery (Monitoring Release Year 3)		
17	Success Monitoring and Maintenance Year 5		
18	Success Monitoring and Maintenance Year 7		
19a	Success Monitoring and Maintenance Year 10		
19b	Credit Delivery (Final Release)		

¹The Contractor shall not proceed with tasks beyond this task until TNC provides written notice to proceed, which is contingent on the Corps providing approval to move forward. signing the SDP in Task 3 and providing written approval to move forward with construction following Task 11.

²Adjustments to the payment amounts for these tasks may be warranted following completion of Task 3 based on the final site budget in the SDP approved by the IRT, in which case the Contract shall be amended to reflect the new payment amounts.

- c. The Contractor shall specify expiration date of bid. Submitted bid pricing must be good through July 31, 2023.

NOTE: The option for a full delivery contract between TNC and the Contractor will include a monetary penalty for every credit or portion of a credit that is not delivered based on the cost/credit and crediting analysis approved in the Site Development Plan.

4. Contractor Qualifications

- a. Contractor Questionnaire (Attachment E)
- b. Provide the following for the Contractor:
 - Contact information for 3 references
 - Information on at least 3 mitigation projects Contractor has worked on that will demonstrate the Contractor’s ability to perform the tasks required in the Scope of Work in Attachment C
 - Information on Contractor’s experience conducting mitigation projects in Virginia
 - Names, qualifications, and experience of specific members of the project team
 - Previous experience of the Contractor and proposed subcontractors working together on similar projects

5. Subcontractors

- a. Any subcontractors must be identified along with the defined work they will perform. The names, qualifications and experience of the proposed subcontractor(s) must be provided. TNC will not refuse a proposal based on the use of subcontractors but does retain the right to refuse the subcontractors selected. Contractor shall remain solely responsible for all subcontracted work. Describe your rationale for using subcontractors.
- b. Provide the following for the proposed construction firm:
 - Contact information for 3 references
 - Information on at least 3 mitigation projects construction firm has worked on that will demonstrate the construction firm’s ability to perform the tasks required in the Scope of Work in Attachment C
 - Information on construction firm’s experience conducting mitigation projects in Virginia
 - Names, qualifications, and experience of specific members of the project team

6. Contracting

Do you agree to use attached TNC contract (Attachment F)? If not:

- 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.
- Attach a draft copy of your contract for TNC review.

7. Signed Disclosure Form (Attachment G)

A.3 SELECTION CRITERIA

Proposals will be evaluated in relation to the selection criteria below.

Selection Criteria Breakdown

- 30% - Project site selection and proposed mitigation activities (additional detail below)
- 25% - Cost (additional detail below)
- 20% - Qualification and relevant experience of the Contractor, construction firm, other subcontractors, and project team
- 20% - Technical approach for creating deliverable products
- 5% - Quality of proposal/presentation

➤ Project Site Selection and Proposed Mitigation Activities

- **Project Size**
 - The project must be of adequate size to achieve the initial mitigation goals and ensure long term success with an adequate buffer. A minimum buffer of 100 feet should be included. Projects that protect buffers 200 feet or larger will be considered.
- **Credits Generated and Geographic Location**
 - TNC is seeking mitigation projects that will deliver the following compensation credits (CC) in the following Hydrologic Unit Codes (HUCs) within the Commonwealth of Virginia:

NONTIDAL WETLAND Mitigation Projects

River Basin	Project Location (HUC)	Nontidal Wetland Credits Generated	Credit Type
Shenandoah	02070004, 02070006, or 02070007	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits
Middle James	2080205 or 2080207	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits

STREAM Mitigation Projects

River Basin	Project Location (HUC)	Stream (USM) Credits Generated	Credit Type
Chesapeake Bay	Priority HUC is 02080108, but project could also be within 02080102, 02080101, or 02080111	2,500+	A minimum of 50% of credits must be restoration/enhancement credits
Potomac	02070011 or 02070010	20,000+ Will consider projects with at least 10,000	A minimum of 50% of credits must be restoration/enhancement credits
Lower James	02080206 or 02080208	10,000 Will consider projects with at least 5,000	A minimum of 50% of credits must be restoration/enhancement credits

- Projects that will generate the credits stated above will be given priority in the selection process. Projects that provide more than the CC above will be considered if costs allow. Projects that provide less than the CC will be considered but will be given a lower ranking. Contractors may submit multiple projects to address the range of credits requested.
- Maps showing the areas encompassed by these HUCs are provided in Attachment D.
- **TNC Priority Areas/Compensation Planning Framework**
 - Projects within or immediately adjacent to TNC aquatic and terrestrial priority areas will be given preference in the selection process. Description and mapping of priority areas can be found in “The Nature Conservancy’s Watershed Approach to Compensation Planning for the Virginia Aquatic Resources Trust Fund” – Exhibit A of the Program Instrument (www.nature.org/vartf).
 - Tier 1 Priority Areas are based on TNC’s priority resilient and connected terrestrial, freshwater, and coastal networks (RCN) and the Active River Area (ARA). Areas within RCN and ARA that are also within a TNC Landscape Program or regional Focal Landscape will be the highest priority for potential projects. Supporting GIS data may be found at the following link:
<https://tnc.maps.arcgis.com/home/item.html?id=6f53e08a3b58410081d1934855583c1d>
or data layers may be downloaded from this link:
<https://tnc.box.com/s/a0g4e65rdcxclj75eesgsjkatl4whde>
 - Tier 2 Priority Areas will be used when projects cannot be identified in Tier 1 Priority Areas. These include lands and waters depicted in the Commonwealth’s Conserve Virginia map and already-protected lands throughout Virginia. Supporting GIS data may be found at the following link: <https://vanhde.org/content/map> or data layers may be downloaded from this link:
<https://tnc.box.com/s/a0g4e65rdcxclj75eesgsjkatl4whde>
- **Protected Lands**
 - Projects immediately adjacent to other protected lands will be given priority in the selection process.
- **Natural Heritage Resources**
 - Projects with Heritage Elements within or immediately adjacent to the project area will be given priority in the selection process. Any project that will directly benefit an Endangered, Threatened, and/or Sensitive species or community type will be given priority in the selection process.
- **Impaired Waters**
 - Projects that contribute to improved water quality for identified/designated impaired waters will be given priority in the selection process.
- **Watershed Based Approach**
 - Projects founded on a watershed approach will be given priority over other projects.
- **Mitigation Type**
 - Mitigation type (restoration, creation, enhancement, preservation) will be used in the selection process. Projects that provide restoration, creation, and enhancement opportunities are the priority. Preservation activities may be a component but should not be the focus of the project.
- **Ecological Benefits**
 - Projects that have higher ecological benefit (water quality, flood storage, habitat, etc.) will be given priority in the selection process.

- **Long-Term Site Protection**

- Projects that will be protected by a conservation easement will be given priority over projects protected by a deed restriction.



Cost

The budget for the project(s) should including ALL project costs, as described in the scope of work. For full delivery this includes items for land protection, long-term management, maintenance and monitoring, and financial assurances. If appropriate, more than one project may be awarded. Contractors shall provide with their proposals a total cost and a cost/credit for each proposed project and each credit type. Projects with a lower total cost and a lower cost per credit ratio will be given priority in the selection process.

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ATTACHMENT B: CHECKLIST OF REQUIRED INFORMATION RELATED TO SITE SELECTION AND MITIGATION APPROACH

1. General Property Information

- a. Landowner name and address, property address, tax map parcel numbers
- b. Property and proposed mitigation site acreage
- c. Information on any easements, liens, rights of way, reserved timber or mineral rights on the mitigation site or adjoining lands.
- d. Maps
 - Provide vicinity map of property
 - Provide maps showing the property boundary/mitigation site with aerial photograph and USGS topographic map
 - Map showing location of encumbrances or structures within the property (roads, utilities, and associated rights-of-way, culverts, or other structures, etc.)
 - Provide a GIS shapefile of the property boundary/mitigation site

2. Site Location

- a. Identify the geographic location of the mitigation site.
- b. Identify current zoning of the mitigation site and adjacent lands.
- c. Identify any current, planned, or foreseeable activities upstream or upgradient of the mitigation site that may adversely affect the project.
- d. Identify any areas upstream of, upslope of, or adjacent to the mitigation site that are zoned or identified for future development in the comprehensive plan, long-range plan, or zoning overlay.
- e. Does proposed riparian buffer protection provide greater protection than state or local requirements?
- f. Is mitigation site consistent with local planning requirements?
- g. Describe any eminent threats to the property

3. Existing Conditions

- a. Describe current site conditions including land use, vegetation (extent of natives, invasives, etc.), hydrology (streams, wetlands, ponds, etc.), buffers, and soils.
- b. Identify previous land uses of the site and adjacent properties.
- c. Summarize the historical hydrology of the site.
- d. Describe order(s) of streams on the mitigation site.
- e. Describe watersheds of project streams (drainage area size, land use and maps)
- f. Indicate whether a jurisdictional determination of “waters of the U.S.” has been made by the Corps.
- g. Provide photographs documenting existing conditions

4. Suitability

- a. Describe the ecological suitability of the site to achieve the objectives of the proposed mitigation site, including the physical, chemical, and biological characteristics of the site and how that site will support the planned types of aquatic resources/functions.
- b. Site Selection Criteria
 - Complete Site Selection Criteria USACE Norfolk District and Virginia Department of Environmental Quality Checklist (Attach C, Exhibit 1 of this RFP)

- c. Maps
 - Provide maps showing natural heritage elements, impaired waters, protected lands, TNC priorities, and aquatic resources on and in the vicinity of the property

5. Goals and Objectives

- a. Identify the objectives of the proposed mitigation site and the aquatic functions to be restored/enhanced (water quality improvement, flood storage, wildlife habitat, etc.).
- b. Identify any regional or local benefits derived from the mitigation site.
- c. Identify any potential threats to the mitigation site or resource type the site intends to provide and/or protect.

6. Concept Design Plan

- a. Identify the methods of proposed compensation (stream restoration, stream enhancement, stream preservation, wetland creation/restoration, wetland enhancement, wetland preservation, buffer restoration/enhancement, buffer preservation, etc.) that will be provided.
- b. Describe the work intended to accomplish site activities
- c. Describe why the proposed mitigation activities are warranted and how they will achieve project goals and ecological benefits.
- d. Identify the general need for and technical feasibility of the proposed mitigation site.
- e. Identify an estimated amount (acres/linear footage) of each compensation type that will be provided, and width of riparian buffer that will be protected.
- f. Provide mitigation credit analysis, including USM forms and wetland credit calculator.
- g. Provide mapping of proposed mitigation activities

7. Proposed Service Area

- a. Provide a map identifying the proposed service area of the mitigation site(s).
- b. Provide a rationale for determining the limits of the proposed service area.

8. Project Limitations

- a. T&E species
 - Identify any potential species surveys, time of year restrictions, or other limitations for T&E species that are likely to be required or might influence implementation or permitting of the project
- b. Cultural resources
 - Provide historical resources screening focusing on Section 106 permitting restrictions (<http://www.achp.gov/106summary.html>).
 - Identify potential 106 surveys or other limitations that are likely to be required or might influence permitting or implementation of the project
- c. Site constraints
 - Describe any site constraints such as encumbrances or structures (roads, utilities, and associated rights-of-way, culverts, or other structures), site access, etc.

9. Long-Term Protection & Management

- a. Identify the proposed future ownership arrangements for the site.
- b. Provide proof of the landowner's intent to participate according to the Contractor's plans for the project
- c. Identify the proposed site protection instrument (deed restriction, conservation easement, etc.) and the likely responsible parties.

- d. Provide proof of the conservation easement holder's intent to hold the easement if an easement will be the site protection instrument. TNC does not plan to serve in this capacity.
- e. Identify the proposed long-term management strategy and identify the likely Long-Term Steward that would be responsible for long-term management. TNC does not plan to serve in this capacity.
- f. Provide proof of the Long-Term Steward's intent to serve as the Long-Term Steward
- g. Provide a title report and copies of deeds (if any) for encumbrances on the property, such as rights-of-way associated with utilities or roads, and retained rights (mineral, timber, surface, subsurface, natural gas, water, etc.) If there are retained rights, provide a plan for extinguishing those rights.
- h. Provide proof that any liens will be subordinated to the easement.

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ATTACHMENT C: SCOPE OF WORK FOR VARTF MITIGATION PROJECTS

PURPOSE

The purpose of this project is to provide mitigation to offset unavoidable impacts for which the Virginia Aquatic Resources Trust Fund (VARTF) was utilized as the compensatory mitigation. The scope of work requires the Contractor to provide a **A) Design/Build or B) Full Delivery NONTIDAL WETLAND mitigation project(s) within the Shenandoah River and Middle James River basins and/or STREAM mitigation project(s) within the Chesapeake Bay, Potomac River, and/or Lower James River basins in Virginia** per the specifications herein that will meet or exceed the standards for compensatory mitigation in Virginia as determined by the United States Army Corps of Engineers (Corps), the Virginia Department of Environmental Quality (DEQ), and the Interagency Review Team (IRT). In completion of the tasks required in this Scope of Work, the Contractor shall follow the requirements of the [VARTF Program Instrument](#) available for download on the VARTF website.

CONTRACTOR TASKS AND DUTIES

Contractor shall select an option of proposed services A) Design/Build or B) Full Delivery with a credit type in a designated location of need as specified in the tables below. The specific tasks to be completed by the Contractor are detailed for both options following.

Services Proposed:

Option	Services
A	Design/Build
B	Full Delivery

Project Types and Locations:

NONTIDAL WETLAND Mitigation Projects

River Basin	Project Location (HUC)	Nontidal Wetland Credits Generated	Credit Type
Shenandoah	02070004, 02070006, or 02070007	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits
Middle James	2080205 or 2080207	10	A minimum of 50% of credits must be restoration/enhancement credits classified as no net loss credits

STREAM Mitigation Projects

River Basin	Project Location (HUC)	Stream (USM) Credits Generated	Credit Type
Chesapeake Bay	Priority HUC is 02080108, but project could also be within 02080102, 02080101, or 02080111	2,500+	A minimum of 50% of credits must be restoration/enhancement credits
Potomac	02070011 or 02070010	20,000+ Will consider projects with at least 10,000	A minimum of 50% of credits must be restoration/enhancement credits
Lower James	02080206 or 02080208	10,000+ Will consider projects with at least 5,000	A minimum of 50% of credits must be restoration/enhancement credits

OPTION A – DESIGN/BUILD TASKS

TASK 1. CONCEPTUAL MITIGATION WORK PLAN

The Contractor shall develop a Conceptual Mitigation Work Plan (CMWP) to provide a minimum of the credits described in the Contractor’s proposal. The CMWP must include all information required in the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan), and shall meet or exceed the standards for compensatory mitigation in Virginia as determined by the Corps, DEQ, and the IRT for this Project. The project shall be designed to ensure it will meet the success criteria for mitigation in Virginia. Exhibit D (Site Development Plan) of the VARTF Program Instrument provides the standard monitoring requirements and success criteria for VARTF mitigation projects.

As part of the development of the CMWP, the following 5 items contain further details on their inclusion in the work product.

a. Historic Resources and/or T&E Species Surveys (if required)

If required by the permitting agencies, the Contractor shall complete surveys of historic resources (Section 106) or T&E species. The Contractor shall follow the recommendations and requirements for field work and reporting provided by the Corps and other appropriate agencies (e.g., Virginia Department of Historic Resources, Virginia Department of Wildlife Resources, U.S. Fish and Wildlife Service, Virginia Department of Conservation and Recreation).

[Note: The Contractor shall not proceed with tasks beyond Task 1.a. until TNC provides written notice to proceed, which is contingent on the results of the historic resources survey and the Corps providing approval to move forward.]

b. Surface Water Delineation

The Contractor shall complete a detailed delineation of waters of the U.S. within the project area subject to jurisdiction by the Corps under Section 404 of the Clean Water Act and all surface

waters subject to jurisdiction under Virginia DEQ laws and regulations, and shall obtain confirmation of the delineation from the Corps. This delineation includes all open water, streams, wetlands, and drainage features. The Contractor shall utilize the Routine Determination Method as outlined in the 1987 *Corps of Engineers Wetland Delineation Manual* and methods described in the most recent regional supplement to the manual to identify and delineate the waters and wetlands in the project area.

The Contractor shall conduct a review of available information on aquatic features onsite, including available resources such as National Wetlands Inventory (NWI) maps, USGS topographic maps, aerial color infrared photography and soils maps. Site visits shall then be conducted to delineate and flag the boundaries of wetlands and other Waters of the U.S.

The Contractor shall provide a final surface water delineation report, including but not limited to, detailed wetland and stream boundary maps, copies of all field data sheets, a narrative describing delineation findings, and a copy of the Corps confirmation letter. The report shall also include a table that lists the acreage of wetlands (to the nearest 0.01 acre) and stream length (to the nearest linear foot) for each wetland and stream feature. The streams shall be categorized as perennial, intermittent, or ephemeral, and wetlands shall be categorized according to wetland type (emergent, scrub-shrub, forested). The Contractor shall also provide ArcGIS shapefiles of the wetland and stream delineation boundaries.

c. Topographic/Geomorphologic Survey

The Contractor shall establish survey control and datum for the project area and complete a detailed topographic survey to be used for mitigation design efforts.

The Contractor will complete the following activities within the project area:

- Establish survey control network, which will be tied to the Virginia Geodetic Survey grid system using N.A.D. 1983 State Plane Coordinates and NAVD 88 elevation datum.
- Provide detailed topography along stream corridors, wetlands, fields, and any intersecting ditches, drainageways and berms within the project area
- Field locate all trails, structures, fences, roads, utilities, and associated rights-of-way that are visible within survey area.
- Field locate culverts, including inverts and dimensions (pipe size and length), pipe types, cover over pipes and depth pipes are buried (if present).
- Field locate centerline and edge of pavement extending approximately 50' each side of culvert and stream crossings.
- Field locate edges of farm roads within project area.
- Field locate all trees 10" and greater within the project area.
- Map edge of vegetation.

The Contractor shall prepare a digital file (in AutoCAD or ArcGIS format) of the site survey and a sealed copy for the survey control points.

d. Non-native and Invasive Species Assessment

The Contractor shall identify and map non-native and invasive species in the project area. Native status shall be determined using the *Digital Atlas of the Virginia Flora*. Invasive status shall be determined using the Virginia Department of Conservation and Recreation's *Invasive*

Alien Plant Species of Virginia. Narrative descriptions of non-native and invasive species shall be provided, along with maps showing location and extent of species.

e. CMWP Deliverable

The CMWP shall include, but not be limited to as detailed in the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan)

- A. Site Description
- B. Objectives of the Site
- C. Baseline Existing Conditions
- D. Proposed Compensatory Mitigation Activities

The CMWP sheet set deliverables shall include, but not be limited to:

- Site Description
- Objectives of the Site
- Baseline Existing Conditions
- Proposed Compensatory Mitigation Activities
- Cover Sheet with Location and Vicinity Maps
- Master Plan Map of proposed mitigation activities for the entire proposed Site
- Phase Plan Map, if applicable
- Existing or Baseline Conditions for the entire proposed Site
- Hydrologic analyses
- Soils Map, soil test pit profiles and/or soil auger borings
- Water budget
- General location of known rare, threatened, and/or endangered species onsite
- Narrative descriptions of wetland and/or stream deficiencies, and how the objectives of the Site will address these deficiencies
- Identification of an overall seasonal hydroperiod for the targeted wetland type
- Wetland preliminary grading plan and profile
- Stream preliminary detailed cross-sections (riffle and pool only)
- Reference data from existing wetland, stream, and riparian buffer communities
- Preliminary proposed planting plan
- Proposed Invasive, Nuisance, and Undesirable Species (INU) Management Plan
- TIDAL WETLANDS: Grading plans at a scale of 1" = 100' or at a more detailed scale

The Contractor shall submit the draft CMWP in electronic version (Word, pdf, and CADD/GIS files as appropriate) to TNC for review. The Contractor shall attend and facilitate a meeting with TNC to review the draft CMWP and shall provide TNC with meeting notes following the meeting. Following TNC's review, the Contractor shall develop the final CMWP by incorporating comments received from TNC and prepare a response document to address each comment received. TNC will submit the final CMWP to the IRT for review as part of the Site Development Plan (SDP).

TASK 2. FINAL MITIGATION WORK PLAN

After the SDP is signed, the Contractor shall develop the Final Mitigation Work Plan (FMWP) sufficient to obtain IRT approval of the final design and support all required permitting and implementation of design activities. The FMWP shall follow the requirements of the VARTF Program Instrument available for download at www.nature.org/vartf. The FMWP must include all information required in

the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan), and shall meet or exceed the standards for compensatory mitigation in Virginia as determined by the Corps, DEQ, and the IRT for this Project. The project shall be designed to ensure it will meet the success criteria for mitigation in Virginia. Exhibit D (Site Development Plan) of the VARTF Program Instrument provides the standard monitoring requirements and success criteria for VARTF mitigation projects. All construction plans, technical specifications, and/or special construction specifications shall be prepared by or under the supervision of an engineer properly licensed to perform the Work.

The general components of the FMWP shall include, but are not limited to:

- Narrative describing the final mitigation work;
- Grading plans at a scale of 1"=50' and providing 0.5 ft. contour intervals in Restoration areas (or metric equivalent), or at a more detailed scale. Plans shall use the correct vertical datum, National Ocean Service (NOS) in tidal mitigation areas and NGVD 88 in non-tidal areas;
- Erosion and Sediment Control (ESC) Plans, designed in accordance with General ESC Specifications approved by the Virginia Soil and Water Conservation Board, or in accordance with the locality's ESC Program;
- A detailed location map, including the latitude and longitude and the Hydrologic Unit Code (HUC) at the center of the Site;
- Construction Methods and Details;
- Scheduled timing and sequence for construction;
- Updated Invasive, Nuisance, and Undesirable Species (INU) Management Plan;
- Credit analysis based on the FMWP for the subject Phase, utilizing the methodology described in Exhibit G of this SDP to estimate the expected number of Credits that will be generated by the FMWP;
- Soil amendments to include the supporting rationale for the soil amendments, the potential amendments to be utilized, and the recommended rates of application;
- A Geographic Information System (GIS) shapefile or similar exhibit depicting the location and extent of the Site.

The Wetland FMWP shall also include, but is not limited to:

- Vegetation schedule with plants and seeds selected based on habitat value, projected water elevation and duration, and ecoregion. Deviations from the approved plant list must meet the targeted wetland indicator status of the approved list. Schedule shall include, but not be limited to:
 - Expected zonation (i.e. Palustrine Open Water (POW), Palustrine Emergent (PEM), Palustrine Scrub-shrub (PSS), and Palustrine Forested (PFO))
 - Species names of herbaceous and woody species
 - Herbaceous seed mix that includes at least ten (10) native species (as shown for the locality in the Digital Flora of Virginia)
 - Woody species list that includes a minimum of four (4) native species (as shown for the locality in the Flora of Virginia)
 - Wetland indicator status as specified in the current version of the U.S. Army Corps of Engineers National Wetlands Plant List
 - Plant size and spacing

- Wildlife value assessment (such as those found in DCR's native plant brochures (<http://www.dcr.virginia.gov/natural-heritage/nativeplants>)).
- Soil mapping, planned soil handling, soil testing, and soil amendments to include the supporting rationale for the soil amendments, the potential amendments to be utilized, and the recommended rates of application.
- A surveyed delineation, in accordance with the Corps' 1987 Wetland Delineation Manual (Manual) and the appropriate Regional Supplement to the Manual of the existing wetland areas of each Phase. A Global Positioning System (GPS) survey is sufficient.
- Reference wetland data, where applicable, from existing wetland communities that are utilized for proposed wetland creation, restoration, and enhancement activities. Reference wetlands may, on a case-by-case basis, include but are not limited to reference location, watershed and land use composition, proximity to the Site, monitoring well data, and other field data and analysis of those data including hydrology and associated hydroperiod, vegetation, soils, wildlife, etc.

The Stream FMWP shall also include, but is not limited to:

- Narrative descriptions of the existing stream within the project limits and within the watershed, including existing watershed size, existing land uses, valley types, history, channel classification, and the estimated proposed land use for the watershed (percent residential, forested, commercial, agricultural, etc.). The stream deficiencies to be addressed, including a description of the causes of existing lateral and vertical instability, and the methods used to make determinations. A description of the existing riparian buffer (age of forested, shrub, and herbaceous strata present, utility easements, existing management (silviculture or other), if applicable, etc.);
- The proposed stream restoration design approach;
- Proposed detailed plan views and longitudinal profiles, overlaid on the existing grade, of the proposed stream segment restoration and/or enhancement locations;
- Proposed detailed cross-sections, overlaid on existing channel grade, located a minimum of every 500 feet within restoration/enhancement stream channels. Proposed typical cross-sections for each reach;
- Proposed structures and locations on plan views and longitudinal profiles. Plans should include a structure table for each reach, listing structure type, design methods, invert elevation, bank angle, computed scour depth, footer depth, and justification or reason for the structure in the design. Construction specifications should be included for each type of structure.
- Hydraulic assessment, including but not limited to, a quantification of discharge, stream stage, depth-averaged velocity, average boundary shear stress, unit stream power, and largest mobile particle size in a representative riffle cross section for each restoration reach, at the 2-year, bankfull, 10-year, and 100-year recurrence intervals. Please list computational tools and techniques used to model stream hydrodynamics and sediment transport.
- Data table comparison of existing, reference, and proposed design morphological characteristics, and phase of channel evolution;
- Reference stream data, if applicable, from existing stream and riparian buffer communities that were utilized for proposed stream restoration and enhancement activities. This may include but is not limited to: Reference location, watershed and land use composition, proximity to Site, stream classification, geomorphology, hydrology, vegetative and aquatic communities, etc.
- Anticipated project constraints;

- Plan-view location of proposed riparian buffer restoration, reestablishment, enhancement, and preservation areas;
- Vegetation schedule with plants and seeds selected based on habitat, water quality, and stream stability value. Schedule may include but should not be limited to:
 - Species name
 - Indicator status as specified in the current version of the U.S. Army Corps of Engineers National Wetlands Plant List
 - Plant size and spacing
 - Wildlife value assessment
 - Statement that all proposed species are shown for the locality in the Flora of Virginia
- Any stream crossings, roads, or other structures that will be removed, replaced, or left in place should be identified on the plans. Generally, crossings should be removed; if needed to be left in place, they should be stable and not adversely impact the stream
- For areas of proposed stream restoration, provide pre-restoration aquatic macroinvertebrate surveys and water quality measurements (as described in Exhibit K of this SDP) with the FMWP;
- For areas of proposed stream preservation downstream of stream restoration or enhancement, provide pre-restoration stream cross sections (as described in Exhibit K of this SDP) with the FMWP.

The Contractor shall submit the draft FMWP in electronic version (Word, pdf, and CADD/GIS files as appropriate) to TNC for review. Following TNC's review, the Contractor shall develop the final FMWP by incorporating comments received from TNC and prepare a response document to address each comment received. Following receipt of the final documents from the Contractor, TNC will submit the final FMWP to the Corps PM.

The Corps will forward the FMWP to the IRT for review. Following the comment period, the Corps will forward comments to TNC/the Contractor. The Contractor shall work with TNC as needed to address comments. Once comments are addressed to the satisfaction of the Corps, the Corps will provide approval of the FMWP.

TASK 3. ACQUISITION OF PERMITS

The Contractor shall be responsible for acquiring all required permits and authorizations, including the Joint Permit Application (JPA), needed to implement the mitigation 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 (including any survey or other costs associated with historic resources or T&E species review), 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 this 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 following execution of the final SDP and IRT approval of the final design plans for the project. The Contractor shall submit copies of all permit documents to TNC following issuance of permits/authorizations.

TASK 4. IMPLEMENTATION OF CONSTRUCTION AND PLANTING

Construction Oversight

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

The Contractor shall notify TNC at least 5 calendar days prior to beginning construction and within 5 calendar days prior to the anticipated demobilization date.

The Contractor shall be responsible for ensuring all components of the design (including all grading, seeding, stabilization, erosion and sediment control measures, invasive species management, planting, and construction tasks) are implemented according to the final design plans and specifications. During the field activities, the Contractor shall use best professional judgment to implement necessary changes to the approved design or technical specifications if site conditions warrant such a change. However, the Contractor shall notify TNC as soon as possible to discuss this change.

The Contractor shall be on-site as needed during the construction phase to ensure that the site is built in accordance with the design plans, specifications, and approved permits. The Contractor shall communicate regularly with the construction firm and shall meet with the construction firm on-site as needed regarding the progression of construction.

The Contractor shall submit reports at 50% and 100% completion of construction. The reports shall include adequate data to show that all components have been constructed and installed according to the final design plans and construction documents, or are within acceptable tolerances, and any changes or deviations from these documents have been approved by TNC. At a minimum, the reports shall include data sheets with built elevations of wetland outlets and wetland areas. The 50% construction complete report shall be submitted within 10 days of 50% completion of construction, and the 100% construction completion report shall be submitted within 10 days of 100% completion of construction and prior to demobilization, and in both cases such reports shall be submitted no later than submission of the invoices for Tasks 16(a) and 16(b) respectively.

Meetings shall be conducted on the site at pre-construction, 50% completion, and 100% completion with TNC and the Contractor to ensure that all activities are satisfactorily planned for and completed. A person qualified in each design phase of the project shall be available when required to support the necessary visits. The 100% construction meeting shall be held prior to demobilization.

Construction

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

The Contractor shall provide a payment bond and a performance bond in a penal sum equal to the cost of implementing the design including construction and planting. The bond shall be in a form acceptable to TNC and shall be issued by a corporate surety with an AM Best rating of A- or better. The performance bond shall be payable to TNC and its successors and assigns, shall be conditioned on the Contractor's faithful performance of the project required by this Contract, and shall be executed by a corporate surety acceptable to TNC that is authorized to do business in Virginia. The payment bond shall protect those who have a direct contractual relationship with the Contractor or its subcontractors and who supply labor or materials in connection with the project and shall be executed by a corporate surety acceptable to TNC that is authorized to do business in Virginia. Upon request of any person or entity appearing to be a potential beneficiary of the payment bond, Contractor shall promptly furnish a copy of the bond to such person or entity. The bond can be released upon TNC approval of Task 17 – As-built Survey and Report.

The Contractor shall be responsible for all coordination to locate and protect utilities present within the project corridor. The Contractor shall stakeout the location of the proposed wetlands prior to commencing excavation operations. The survey shall identify the general locations the wetland grading limits and existing wetlands. The Contractor shall be responsible for conducting construction activities in a manner that does not damage utilities, other structures, roads, or trails, and shall repair any damages to utilities, other structures, roads, or trails occasioned by such activities.

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

The Contractor shall apply a mix of temporary stabilizing native seed and permanent native seed to all disturbed areas. Invasive or non-native species shall not be included in any seed mix applied to the site. The Contractor shall also install erosion control matting per approved specifications on all disturbed streambanks immediately following construction. The Contractor shall restore all disturbed areas (including stockpile and staging areas) prior to demobilization. The Contractor 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 on-site.

Invasive Species Management

The Contractor shall implement the invasive species management activities as approved in the final design plan and shall provide all materials and labor to complete such activities. All herbicides used shall be safe for use in/near aquatic environments and shall be applied in a manner that is safe for the environment and consistent with product labeling. Herbicide applications shall be conducted under the appropriate weather conditions. Every precaution shall be taken to ensure that native non-target species are not harmed by spray drift or other management activities.

Planting

The Contractor shall implement the planting activities as approved in the final design plan and shall provide all materials and labor to complete such activities. The Contractor shall order the species and quantities indicated in the approved planting plan and these materials shall be installed during the dormant season in accordance with the approved plan. In the case that adequate planting stock is not available, or other stock may be more suitable, suggestions for additional or alternate species shall be coordinated with the IRT. All planting materials must be handled and installed in accordance with best management practices.

TASK 5. AS-BUILT SURVEY AND REPORT

The Contractor will be responsible for the delivery of an as-built survey and report for mitigation activities. The as-built survey shall be certified by a licensed land surveyor or a licensed professional engineer. The as-built report will include adequate data to show that all components have been constructed, installed, managed, and/or planted according to final design plans. The as-built report shall also be used for comparison during future success monitoring. The data collection and reporting shall be consistent with the approved monitoring plan and success criteria described in the approved SDP Exhibits F and J.

The Contractor shall install all monitoring equipment needed to complete the as-built survey and implement the monitoring program described in the approved SDP Exhibits F and J. Permanent monitoring stations shall be installed for geomorphic, hydrologic, vegetation, and photographic monitoring. The Contractor shall ensure that the monitoring stations are sufficient in number and location to meet the requirements of the monitoring program and enable determination of future conditions relative to the success criteria. The locations of the monitoring stations shall be determined by the Contractor. To document the occurrence of bankfull events (as well as larger events), the Contractor shall also provide and install a gage within the restored channel prior to the completion of the as-built survey.

The Contractor shall conduct pre-construction, construction, and post-construction photo monitoring to document the existing conditions, the progress of the construction, and the final site conditions. The directional orientation of the photos shall remain constant during all photo monitoring events.

Pre-Construction Photo Monitoring – Photographs shall be taken prior to commencing activities at the site to document existing site conditions.

Construction Photo Monitoring – The frequency of photographs taken during construction activities shall be at the discretion of the Contractor. However, the frequency should be sufficient to capture the milestones of the restoration activities (weekly, at a minimum).

Post-Construction Photo Monitoring – Following all site activities, photographs shall be taken to document the final stream channel and banks, in-stream structures, restored/created/enhanced wetland areas, buffer/floodplain, and overall site conditions.

The as-built report shall include all applicable items listed in SDP Exhibit J.

The Contractor shall submit the as-built report to the permitting agencies and TNC within 30 calendar days after 100% completion of construction activities. The Contractor shall deliver the as-built report in electronic version and provide TNC with the CADD or GIS data for the as-built. Depending on the schedule, if a delay is proposed between completion of construction and completion of planting, the

Contractor shall submit an as-built report documenting as-built conditions of construction following completion of construction and a second report documenting as-built conditions of planting following completion of planting.

[END OPTION A – DESIGN/BUILD TASKS]

OPTION B – FULL DELIVERY TASKS

TASK 1. PRE-APPLICATION PROCESS

The Contractor will complete the required pre-application review process. The current Corps-approved pre-application review process is outlined below.

1. The Contractor shall submit the following information for pre-application to TNC for review. Following TNC’s review, TNC will submit the pre-application package to the U.S. Army Corps of Engineers (Corps). A [sample completed pre-application submittal](#) is available for download on Box.
 - a. A pre-application request form signed by the landowner.
 - b. A brief description of the site location and existing conditions, project purpose, and proposed mitigation activities
 - c. Mapping to include location map, landscape assessment map, aerial map of mitigation area, proposed mitigation activities map, and proposed geographic service area map
 - d. Existing condition photographs
2. Upon receipt of a complete pre-application request, the Corps PM will schedule a site visit and invite the Virginia Department of Environmental Quality (DEQ) and TNC to attend.
3. The Contractor shall attend the pre-application site visit with TNC, the Corps, and DEQ to review the current site conditions and proposed mitigation activities.
4. Upon completion of the site visit, the Corps PM will provide the Contractor and TNC with:
 - a. A recommendation to move forward with submittal of a draft proposal, any applicable comments, a link to the Norfolk Page of RIBITS and instructions for submitting the draft proposal

OR

 - b. A recommendation to not move forward with submittal of a proposal and any applicable comments.

[Note: This process is anticipated to take 3-6 months from submittal of the pre-application to the Corps. The Contractor shall not proceed with tasks beyond Task 1 until TNC provides written notice to proceed, which is contingent on the Corps providing approval to move forward.]

TASK 2. PROPOSAL PROCESS

The Contractor shall complete the required proposal process. The proposal shall follow the requirements of the VARTF Program Instrument and must include all elements identified in the Final Rule at 33 CFR §332.8(d)(2) and any other information the IRT determines to be necessary. The Contractor shall keep the proposed budget separate from the proposal and submit it as a separate document at the time of proposal submission.

At a minimum, the Contractor shall include the following items in the proposal. Other items may be required.

- a. A completed Site Selection Criteria USACE Norfolk District and Virginia Department of Environmental Quality Checklist (Exhibit 1 of this Scope of Work)
- b. A completed Norfolk District Prospectus Checklist (Exhibit 2 of this Scope of Work)
- c. A completed Project Proposal that includes the following:
 - i. Vicinity map
 - ii. Description of the work proposed
 - iii. V-CRIS map
 - iv. Description of eminent threats to property
 - v. Potential crediting (wetland vs. stream and tidal vs. non-tidal) and USM forms

- vi. Updated VARTF watershed liability
- vii. Description of the current property owner
- viii. Discussion of whether the Contractor will be purchasing the land or just easements
- ix. Brief description of current site conditions
- x. VARTF Compensation Planning Framework map showing proposed project
- xi. Proposed mitigation activities map
- xii. Proposed Geographic Service Area
- xiii. Site photographs
- d. A completed DHR coordination package that includes the following:
 - i. A vicinity map with the project boundaries clearly marked
 - ii. A V-CRIS map
 - iii. A copy of the V-CRIS printouts for all known resources
 - iv. A completed DHR coordination form (Exhibit 3 of this Scope of Work)
 - v. A copy of any completed surveys
- e. A completed T/E coordination package that includes the following:
 - i. A review of the U.S. Fish and Wildlife Service (USFWS)
 - Information for Planning and Consultation (IPaC)
 - ii. A review of the Virginia Department of Wildlife Resources (DWR)
 - VA Fish and Wildlife Information Service (VAFWIS)
 - Wildlife Environmental Review Map Service (WERMS)
 - iii. A review of the Department of Conservation and Recreation (DCR) Natural Heritage Program
 - Natural Heritage Data Explorer (NHDE)
 - iv. A completed Species Conclusion Table (Exhibit 4 of this Scope of Work)
- f. **(SEPARATE DOCUMENT)** A proposed budget as a separate document from the proposal. The proposed budget shall include the following items (as applicable).
 - i. A Long-term management
 - ii. Monitoring and Maintenance
 - iii. Purchase costs
 - iv. Legal expenses
 - v. Environmental Assessment Form
 - vi. Survey
 - vii. Appraisal
 - viii. Title search and insurance
 - ix. Closing fees
 - x. Stewardship startup costs
 - xi. Stewardship endowment
 - xii. Delineation cost
 - xiii. Travel cost
 - xiv. Historic/Cultural resource survey costs
 - xv. Design and construction costs
 - xvi. Other

The Contractor shall prepare and submit a draft proposal, budget, and supporting material to TNC for review. Following TNC's review, the Contractor shall revise the draft proposal by incorporating comments received from TNC and prepare a response document to address each comment received. Following receipt of the final documents from the Contractor, TNC will submit the final proposal to the Corps PM.

Upon completion of the Corps' review of the proposal, the Corps PM will notify TNC of any deficiencies that are identified in the proposal, and TNC will forward the Corps' comments to the Contractor. The Contractor shall revise the proposal as needed to address the deficiencies and prepare a response document to address each comment received. The Contractor will submit the revised proposal and response document to TNC for review. Following TNC's review, the Contractor shall prepare the final revised proposal and response document by incorporating comments received from TNC. Following receipt of the final documents from the Contractor, TNC will submit the revised proposal and response document to the Corps PM.

If requested, the Contractor will coordinate a site visit for IRT members and present the project at an IRT meeting.

Following the Corps' determination that the proposal is complete, the Corps PM will move forward with a public notice. Following the public notice suspense date, the Corps PM will forward all comments received to the IRT and TNC. TNC will forward the comments received to the Contractor.

Following the public notice suspense date, the Corps PM will provide TNC an "Initial Evaluation Letter" (IEL). The IEL will provide TNC with one of the following:

- A recommendation of approval to move forward with development of the Site Development Plan AND approval of all/portion of the proposed budget.
- A recommendation of approval with changes to the original proposal. Once all outstanding issues are resolved an official decision on how to proceed will be provided by the Corps PM.

The Contractor may invoice for this subtask upon TNC receipt of the IEL.

[Note: This process is anticipated to take 6-12 months from submittal of the prospectus to the Corps. The Contractor shall not proceed with tasks beyond Task 2 until TNC provides written notice to proceed, which is contingent on the Corps providing approval to move forward.]

TASK 3. SITE DEVELOPMENT PLAN PROCESS

The Contractor shall develop a Site Development Plan (SDP) for the project and deliver to TNC a final fully executed SDP document. The SDP shall follow the requirements of the VARTF Program Instrument and must include the 12 elements identified in the Final Rule at 33 CFR §332.4(c)(2)-(14). The Contractor must track changes on the template VARTF SDP when creating the draft SDP. The template [VARTF SDP](#) is available on the VARTF website.

As part of the development of the 12 elements of an SDP, the following 5 items contain further details on their inclusion in the work product.

a. Historic Resources and/or T&E Species Surveys (if required)

If required by the permitting agencies, the Contractor shall complete surveys of historic resources (Section 106) or T&E species. The Contractor shall follow the recommendations and requirements for field work and reporting provided by the Corps and other appropriate agencies (e.g., Virginia Department of Historic Resources, Virginia Department of Wildlife Resources, U.S. Fish and Wildlife Service, Virginia Department of Conservation and Recreation).

[Note: The Contractor shall not proceed with tasks beyond Task 3.a. until TNC provides written notice to proceed, which is contingent on the results of the historic resources survey and the Corps providing approval to move forward.]

b. Surface Water Delineation

The Contractor shall complete a detailed delineation of waters of the U.S. within the project area subject to jurisdiction by the Corps under Section 404 of the Clean Water Act and all surface waters subject to jurisdiction under Virginia DEQ laws and regulations, and shall obtain confirmation of the delineation from the Corps. This delineation includes all open water, streams, wetlands, and drainage features. The Contractor shall utilize the Routine Determination Method as outlined in the 1987 *Corps of Engineers Wetland Delineation Manual* and methods described in the most recent regional supplement to the manual to identify and delineate the waters and wetlands in the project area.

The Contractor shall conduct a review of available information on aquatic features onsite, including available resources such as National Wetlands Inventory (NWI) maps, USGS topographic maps, aerial color infrared photography and soils maps. Site visits shall then be conducted to delineate and flag the boundaries of wetlands and other Waters of the U.S.

The Contractor shall provide a final surface water delineation report, including but not limited to, detailed wetland and stream boundary maps, copies of all field data sheets, a narrative describing delineation findings, and a copy of the Corps confirmation letter. The report shall also include a table that lists the acreage of wetlands (to the nearest 0.01 acre) and stream length (to the nearest linear foot) for each wetland and stream feature. The streams shall be categorized as perennial, intermittent, or ephemeral, and wetlands shall be categorized according to wetland type (emergent, scrub-shrub, forested). The Contractor shall also provide ArcGIS shapefiles of the wetland and stream delineation boundaries.

c. Topographic/Geomorphologic Survey

The Contractor shall establish survey control and datum for the project area and complete a detailed topographic survey to be used for mitigation design efforts.

The Contractor will complete the following activities within the project area:

- Establish survey control network, which will be tied to the Virginia Geodetic Survey grid system using N.A.D. 1983 State Plane Coordinates and NAVD 88 elevation datum.
- Provide detailed topography along stream corridors, wetlands, fields, and any intersecting ditches, drainageways and berms within the project area
- Field locate all trails, structures, fences, roads, utilities, and associated rights-of-way that are visible within survey area.
- Field locate culverts, including inverts and dimensions (pipe size and length), pipe types, cover over pipes and depth pipes are buried (if present).
- Field locate centerline and edge of pavement extending approximately 50' each side of culvert and stream crossings.
- Field locate edges of farm roads within project area.
- Field locate all trees 10" and greater within the project area.
- Map edge of vegetation.

The Contractor shall prepare a digital file (in AutoCAD or ArcGIS format) of the site survey and a sealed copy for the survey control points.

d. Non-native and Invasive Species Assessment

The Contractor shall identify and map non-native and invasive species in the project area. Native status shall be determined using the *Digital Atlas of the Virginia Flora*. Invasive status shall be determined using the Virginia Department of Conservation and Recreation’s *Invasive Alien Plant Species of Virginia*. Narrative descriptions of non-native and invasive species shall be provided, along with maps showing location and extent of species.

e. Conceptual Mitigation Work Plan (CMWP)

The Contractor shall develop a Conceptual Mitigation Work Plan (CMWP) to provide a minimum of the credits described in the Contractor’s proposal. The CMWP must include all information required in the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan), and shall meet or exceed the standards for compensatory mitigation in Virginia as determined by the Corps, DEQ, and the IRT for this Project. The project shall be designed to ensure it will meet the success criteria for mitigation in Virginia. Exhibit D (Site Development Plan) of the VARTF Program Instrument provides the standard monitoring requirements and success criteria for VARTF mitigation projects.

The CMWP shall include, but not be limited to as detailed in the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan)

- A. Site Description
- B. Objectives of the Site
- C. Baseline Existing Conditions
- D. Proposed Compensatory Mitigation Activities

The CMWP sheet set deliverables shall include, but not be limited to:

- Site Description
- Objectives of the Site
- Baseline Existing Conditions
- Proposed Compensatory Mitigation Activities
- Cover Sheet with Location and Vicinity Maps
- Master Plan Map of proposed mitigation activities for the entire proposed Site
- Phase Plan Map, if applicable
- Existing or Baseline Conditions for the entire proposed Site
- Hydrologic analyses
- Soils Map, soil test pit profiles and/or soil auger borings
- Water budget
- General location of known rare, threatened, and/or endangered species onsite
- Narrative descriptions of wetland and/or stream deficiencies, and how the objectives of the Site will address these deficiencies
- Identification of an overall seasonal hydroperiod for the targeted wetland type
- Wetland preliminary grading plan and profile
- Stream preliminary detailed cross-sections (riffle and pool only)
- Reference data from existing wetland, stream, and riparian buffer communities
- Preliminary proposed planting plan
- Proposed Invasive, Nuisance, and Undesirable Species (INU) Management Plan
- TIDAL WETLANDS: Grading plans at a scale of 1” = 100’ or at a more detailed scale

The Contractor shall submit the draft CMWP in electronic version (Word, pdf, and CADD/GIS files as appropriate) to TNC for review. The Contractor shall attend and facilitate a meeting with TNC to review the draft CMWP and shall provide TNC with meeting notes following the meeting. Following TNC's review, the Contractor shall develop the final CMWP by incorporating comments received from TNC and prepare a response document to address each comment received. TNC will submit the final CMWP to the IRT for review as part of the Site Development Plan (SDP).

Once all 12 elements of the SDP have been developed, the Contractor shall submit the draft SDP in electronic version (Word, pdf, and CADD/GIS files as appropriate) to TNC for review. Following TNC's review, the Contractor shall revise the SDP by incorporating comments received from TNC and prepare a response document to address each comment received. Following receipt of the final SDP from the Contractor, TNC will submit the final SDP to the Corps PM for coordination and review by the Interagency Review Team (IRT).

Upon completion of IRT review of the SDP, the Corps PM will notify TNC of any deficiencies that are identified in the SDP, and TNC will forward the IRT comments to the Contractor. The Contractor shall revise the SDP as needed to address the deficiencies and prepare a response document to address each comment received. The Contractor will submit the revised SDP and response document to TNC for review. Following TNC's review, the Contractor shall prepare the final revised SDP and response document by incorporating comments received from TNC. Following receipt of the final documents from the Contractor, TNC will submit the revised SDP and response document to the Corps PM.

The Contractor may submit an invoice for this subtask upon submittal to TNC of a fully executed SDP document.

[Note: This process is anticipated to take 12-18 months from submittal to the Corps. The Contractor shall not proceed with tasks beyond Task 3 until TNC provides written notice to proceed, which is contingent on the Corps signing the SDP.]

TASK 4. ESTABLISH STEWARDSHIP ENDOWMENT

The Contractor will be responsible for funding the Stewardship Endowment to ensure monitoring and enforcement of the real estate protection document. The Stewardship Endowment Fund monies will be placed into an endowment or other secure mechanism, in any case approved by the Corps/IRT, owned and managed by, and in the name of, the real estate protection document holder, to generate an annual return that is calculated to cover the anticipated annual expenses. The holder of the real estate protection document shall meet the requirements specified in Chapter 10.1 Virginia Conservation Easement Act of the Code of Virginia. Contractor may invoice for this task following submittal to the IRT and approval by the IRT of documentation that the endowment has been established. Such endowment monies may be transferred by TNC directly to the real estate protection document holder, in TNC's discretion.

TASK 5. RECORDATION OF LONG-TERM SITE PROTECTION

The Contractor will record the real estate protection document in the land records of the appropriate locality. The Contractor will provide a copy of the proposed protection document and current title commitment to TNC and the Corps for review, either with the SDP or prior to submittal of the SDP. The protection document and the SDP must be approved by TNC and the Corps, and ***the SDP must be signed before proceeding with recordation of the protection document.*** Contractor may invoice for this task following submittal to TNC of the recorded conservation easement and recording receipt.

TASK 6. CREDIT DELIVERY (PRESERVATION, RTE OR WATERSHED ADJUSTMENT FACTOR, CONSERVATION EASEMENT RELEASE, AS APPLICABLE)

The Contractor shall develop and obtain IRT approval of a credit release request for credits associated with preservation, RTE or watershed adjustment factors, or conservation easement, as applicable. The credit release request shall follow the approved SDP credit release schedule(s), unless otherwise agreed to by TNC. The approved SDP credit release schedule(s) are expected to follow the VARTF Program Instrument, Exhibit D (SDP), Exhibit H (Credit Release Schedules). The Contractor shall submit the draft credit release request to TNC for review prior to submittal to the IRT. **Payments for this task shall be reduced, for every credit or portion of a credit that is not delivered according to the credit release schedule(s) in Exhibit 6 of this Scope of Work, as adjusted in the SDP approved by the IRT and included in an amendment to the Contract, or as otherwise approved by TNC.**

TASK 7. FINAL MITIGATION WORK PLAN

After the SDP is signed, the Contractor shall develop the Final Mitigation Work Plan (FMWP) sufficient to obtain IRT approval of the final design and support all required permitting and implementation of design activities. The FMWP shall follow the requirements of the [VARTF Program Instrument](#) available for download on the VARTF website. The FMWP must include all information required in the VARTF Program Instrument, Exhibit D (Site Development Plan), Exhibit E (Mitigation Work Plan), and shall meet or exceed the standards for compensatory mitigation in Virginia as determined by the Corps, DEQ, and the IRT for this Project. The project shall be designed to ensure it will meet the success criteria for mitigation in Virginia. Exhibit D (Site Development Plan) of the VARTF Program Instrument provides the standard monitoring requirements and success criteria for VARTF mitigation projects. All construction plans, technical specifications, and/or special construction specifications shall be prepared by or under the supervision of an engineer properly licensed to perform the Work.

The general components of the FMWP shall include, but are not limited to:

- Narrative describing the final mitigation work;
- Grading plans at a scale of 1"=50' and providing 0.5 ft. contour intervals in Restoration areas (or metric equivalent), or at a more detailed scale. Plans shall use the correct vertical datum, National Ocean Service (NOS) in tidal mitigation areas and NGVD 88 in non-tidal areas;
- Erosion and Sediment Control (ESC) Plans, designed in accordance with General ESC Specifications approved by the Virginia Soil and Water Conservation Board, or in accordance with the locality's ESC Program;
- A detailed location map, including the latitude and longitude and the Hydrologic Unit Code (HUC) at the center of the Site;
- Construction Methods and Details;
- Scheduled timing and sequence for construction;
- Updated Invasive, Nuisance, and Undesirable Species (INU) Management Plan;
- Credit analysis based on the FMWP for the subject Phase, utilizing the methodology described in Exhibit G of this SDP to estimate the expected number of Credits that will be generated by the FMWP;
- Soil amendments to include the supporting rationale for the soil amendments, the potential amendments to be utilized, and the recommended rates of application;
- A Geographic Information System (GIS) shapefile or similar exhibit depicting the location and extent of the Site.

The Wetland FMWP shall also include, but is not limited to:

- Vegetation schedule with plants and seeds selected based on habitat value, projected water elevation and duration, and ecoregion. Deviations from the approved plant list must meet the targeted wetland indicator status of the approved list. Schedule shall include, but not be limited to:
 - Expected zonation (i.e. Palustrine Open Water (POW), Palustrine Emergent (PEM), Palustrine Scrub-shrub (PSS), and Palustrine Forested (PFO))
 - Species names of herbaceous and woody species
 - Herbaceous seed mix that includes at least ten (10) native species (as shown for the locality in the Digital Flora of Virginia)
 - Woody species list that includes a minimum of four (4) native species (as shown for the locality in the Flora of Virginia)
 - Wetland indicator status as specified in the current version of the U.S. Army Corps of Engineers National Wetlands Plant List
 - Plant size and spacing
 - Wildlife value assessment (such as those found in DCR's native plant brochures (<http://www.dcr.virginia.gov/natural-heritage/nativeplants>)).
- Soil mapping, planned soil handling, soil testing, and soil amendments to include the supporting rationale for the soil amendments, the potential amendments to be utilized, and the recommended rates of application.
- A surveyed delineation, in accordance with the Corps' 1987 Wetland Delineation Manual (Manual) and the appropriate Regional Supplement to the Manual of the existing wetland areas of each Phase. A Global Positioning System (GPS) survey is sufficient.
- Reference wetland data, where applicable, from existing wetland communities that are utilized for proposed wetland creation, restoration, and enhancement activities. Reference wetlands may, on a case-by-case basis, include but are not limited to reference location, watershed and land use composition, proximity to the Site, monitoring well data, and other field data and analysis of those data including hydrology and associated hydroperiod, vegetation, soils, wildlife, etc.

The Stream FMWP shall also include, but is not limited to:

- Narrative descriptions of the existing stream within the project limits and within the watershed, including existing watershed size, existing land uses, valley types, history, channel classification, and the estimated proposed land use for the watershed (percent residential, forested, commercial, agricultural, etc.). The stream deficiencies to be addressed, including a description of the causes of existing lateral and vertical instability, and the methods used to make determinations. A description of the existing riparian buffer (age of forested, shrub, and herbaceous strata present, utility easements, existing management (silviculture or other), if applicable, etc.);
- The proposed stream restoration design approach;
- Proposed detailed plan views and longitudinal profiles, overlaid on the existing grade, of the proposed stream segment restoration and/or enhancement locations;
- Proposed detailed cross-sections, overlaid on existing channel grade, located a minimum of every 500 feet within restoration/enhancement stream channels. Proposed typical cross-sections for each reach;
- Proposed structures and locations on plan views and longitudinal profiles. Plans should include a structure table for each reach, listing structure type, design methods, invert elevation, bank angle, computed scour depth, footer depth, and justification or reason for the structure in the design. Construction specifications should be included for each type of structure.

- Hydraulic assessment, including but not limited to, a quantification of discharge, stream stage, depth-averaged velocity, average boundary shear stress, unit stream power, and largest mobile particle size in a representative riffle cross section for each restoration reach, at the 2-year, bankfull, 10-year, and 100-year recurrence intervals. Please list computational tools and techniques used to model stream hydrodynamics and sediment transport.
- Data table comparison of existing, reference, and proposed design morphological characteristics, and phase of channel evolution;
- Reference stream data, if applicable, from existing stream and riparian buffer communities that were utilized for proposed stream restoration and enhancement activities. This may include but is not limited to: Reference location, watershed and land use composition, proximity to Site, stream classification, geomorphology, hydrology, vegetative and aquatic communities, etc.
- Anticipated project constraints;
- Plan-view location of proposed riparian buffer restoration, reestablishment, enhancement, and preservation areas;
- Vegetation schedule with plants and seeds selected based on habitat, water quality, and stream stability value. Schedule may include but should not be limited to:
 - Species name
 - Indicator status as specified in the current version of the U.S. Army Corps of Engineers National Wetlands Plant List
 - Plant size and spacing
 - Wildlife value assessment
 - Statement that all proposed species are shown for the locality in the Flora of Virginia
- Any stream crossings, roads, or other structures that will be removed, replaced, or left in place should be identified on the plans. Generally, crossings should be removed; if needed to be left in place, they should be stable and not adversely impact the stream
- For areas of proposed stream restoration, provide pre-restoration aquatic macroinvertebrate surveys and water quality measurements (as described in Exhibit K of this SDP) with the FMWP;
- For areas of proposed stream preservation downstream of stream restoration or enhancement, provide pre-restoration stream cross sections (as described in Exhibit K of this SDP) with the FMWP.

The Contractor shall submit the draft FMWP in electronic version (Word, pdf, and CADD/GIS files as appropriate) to TNC for review. Following TNC’s review, the Contractor shall develop the final FMWP by incorporating comments received from TNC and prepare a response document to address each comment received. Following receipt of the final documents from the Contractor, TNC will submit the final FMWP to the Corps PM.

The Corps will forward the FMWP to the IRT for review. Following the comment period, the Corps will forward comments to TNC/the Contractor. The Contractor shall work with TNC as needed to address comments. Once comments are addressed to the satisfaction of the Corps, the Corps will provide approval of the FMWP.

TASK 8. IMPLEMENTATION OF LIVESTOCK EXCLUSION AND CREDIT DELIVERY, AS APPLICABLE (ADJUSTMENT FACTOR RELEASE)

If applicable, the Contractor shall implement the livestock exclusion activities per the approved final design plans. Following implementation, the Contractor shall develop and obtain IRT approval of a credit release request for livestock exclusion adjustment factor credits. The credit release request shall follow the approved SDP credit release schedule, unless otherwise agreed to by TNC. The approved

SDP credit release schedule is expected to follow the VARTF Program Instrument, Exhibit D (SDP), Exhibit H (Credit Release Schedules). The Contractor shall submit the draft credit release request to TNC for review prior to submittal to the IRT. **Payments for this task shall be reduced, based on the crediting analysis and cost/credit approved in the Site Development Plan, for every credit or portion of a credit that is not delivered according to the credit release schedule in Exhibit 6 of this Scope of Work, as adjusted in the SDP approved by the IRT and included in an amendment to the Contract, or as otherwise approved by TNC.**

TASK 9. ACQUISITION OF PERMITS

The Contractor shall be responsible for acquiring all required permits and authorizations, including the Joint Permit Application (JPA), needed to implement the mitigation 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 (including any survey or other costs associated with historic resources or T&E species review), 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 this 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 following execution of the final SDP and IRT approval of the final design plans for the project. The Contractor shall submit copies of all permit documents to TNC following issuance of permits/authorizations.

TASK 10. ESTABLISH LONG-TERM MANAGEMENT ENDOWMENT

The Contractor will be responsible for funding the Long-Term Management Fund to implement the Long-Term Management and Maintenance Plan. The Long-Term Management Fund monies will be placed into an endowment or other secure mechanism, in any case approved by the Corps/IRT, to generate an annual return that is calculated to cover the anticipated annual expenses. The Long-Term Management Fund monies will be used and managed by the Long-Term Steward for the project site. Contractor may invoice for this task following submittal to the IRT and approval by the IRT of documentation that the endowment has been established.

TASK 11. ESTABLISH MAINTENANCE AND MONITORING FUND

The Contractor will be responsible for funding the Maintenance and Monitoring Fund and implementing corrective actions during the 10-year monitoring period as needed to ensure attainment of success criteria. The Maintenance and Monitoring Fund monies will be placed into an interest-bearing account or other mechanism approved by TNC. The Maintenance and Monitoring Fund will be used by the Contractor to conduct maintenance and monitoring activities during the 10-year monitoring period.

Contractor may invoice for this task following submittal to TNC and approval by TNC of documentation that the fund has been established.

[Note: The Contractor shall not proceed with tasks beyond Task 11 until TNC provides written notice to proceed, which is contingent on the Corps providing approval to proceed with implementation following easement recordation, IRT approval of final design plans, acquisition of permits, and establishment of the Stewardship Endowment, Long-Term Management Endowment, and Maintenance and Monitoring Fund.]

TASK 12. IMPLEMENTATION OF CONSTRUCTION AND PLANTING

Construction Oversight

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

The Contractor shall notify TNC at least 5 calendar days prior to beginning construction and within 5 calendar days prior to the anticipated demobilization date.

The Contractor shall be responsible for ensuring all components of the design (including all grading, seeding, stabilization, erosion and sediment control measures, invasive species management, planting, and construction tasks) are implemented according to the final design plans and specifications. During the field activities, the Contractor shall use best professional judgment to implement necessary changes to the approved design or technical specifications if site conditions warrant such a change. However, the Contractor shall notify TNC as soon as possible to discuss this change.

The Contractor shall be on-site as needed during the construction phase to ensure that the site is built in accordance with the design plans, specifications, and approved permits. The Contractor shall communicate regularly with the construction firm and shall meet with the construction firm on-site as needed regarding the progression of construction.

The Contractor shall submit reports at 50% and 100% completion of construction. The reports shall include adequate data to show that all components have been constructed and installed according to the final design plans and construction documents, or are within acceptable tolerances, and any changes or deviations from these documents have been approved by TNC. At a minimum, the reports shall include data sheets with built elevations of wetland outlets and wetland areas. The 50% construction complete report shall be submitted within 10 days of 50% completion of construction, and the 100% construction completion report shall be submitted within 10 days of 100% completion of construction and prior to demobilization, and in both cases such reports shall be submitted no later than submission of the invoices for Tasks 16(a) and 16(b) respectively.

Meetings shall be conducted on the site at pre-construction, 50% completion, and 100% completion with TNC and the Contractor to ensure that all activities are satisfactorily planned for and completed. A person qualified in each design phase of the project shall be available when required to support the necessary visits. The 100% construction meeting shall be held prior to demobilization.

Construction

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

The Contractor shall provide a payment bond and a performance bond in a penal sum equal to the cost of implementing the design including construction and planting. The bond shall be in a form acceptable to TNC and shall be issued by a corporate surety with an AM Best rating of A- or better. The performance bond shall be payable to TNC and its successors and assigns, shall be conditioned on the Contractor's faithful performance of the project required by this Contract, and shall be executed by a corporate surety acceptable to TNC that is authorized to do business in Virginia. The payment bond shall protect those who have a direct contractual relationship with the Contractor or its subcontractors and who supply labor or materials in connection with the project and shall be executed by a corporate surety acceptable to TNC that is authorized to do business in Virginia. Upon request of any person or entity appearing to be a potential beneficiary of the payment bond, Contractor shall promptly furnish a copy of the bond to such person or entity. The bond can be released upon TNC approval of Task 17 – As-built Survey and Report.

The Contractor shall be responsible for all coordination to locate and protect utilities present within the project corridor. The Contractor shall stakeout the location of the proposed wetlands prior to commencing excavation operations. The survey shall identify the general locations the wetland grading limits and existing wetlands. The Contractor shall be responsible for conducting construction activities in a manner that does not damage utilities, other structures, roads, or trails, and shall repair any damages to utilities, other structures, roads, or trails occasioned by such activities.

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

The Contractor shall apply a mix of temporary stabilizing native seed and permanent native seed to all disturbed areas. Invasive or non-native species shall not be included in any seed mix applied to the site. The Contractor shall also install erosion control matting per approved specifications on all disturbed streambanks immediately following construction. The Contractor shall restore all disturbed areas (including stockpile and staging areas) prior to demobilization. The Contractor 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 on-site.

Invasive Species Management

The Contractor shall implement the invasive species management activities as approved in the final design plan and shall provide all materials and labor to complete such activities. All herbicides used shall be safe for use in/near aquatic environments and shall be applied in a manner that is safe for the environment and consistent with product labeling. Herbicide applications shall be conducted under the appropriate weather conditions. Every precaution shall be taken to ensure that native non-target species are not harmed by spray drift or other management activities.

Planting

The Contractor shall implement the planting activities as approved in the final design plan and shall provide all materials and labor to complete such activities. The Contractor shall order the species and quantities indicated in the approved planting plan and these materials shall be installed during the dormant season in accordance with the approved plan. In the case that adequate planting stock is not

available, or other stock may be more suitable, suggestions for additional or alternate species shall be coordinated with the IRT. All planting materials must be handled and installed in accordance with best management practices.

TASK 13. AS-BUILT SURVEY AND REPORT AND CREDIT DELIVERY (CONSTRUCTION RELEASE) (Option A Task 9)

The Contractor will be responsible for the delivery of an as-built report for mitigation activities. The as-built survey shall be certified by a licensed land surveyor or a licensed professional engineer. The as-built report will include adequate data to show that all components have been constructed, installed, managed, and/or planted according to final design plans. The as-built report shall also be used for comparison during future success monitoring. The data collection and reporting shall be consistent with the approved monitoring plan and success criteria described in the approved SDP Exhibits F and J.

The Contractor shall install all monitoring equipment needed to complete the as-built survey and implement the monitoring program described in the approved SDP Exhibits F and J. Permanent monitoring stations shall be installed for geomorphic, hydrologic, vegetation, and photographic monitoring. The Contractor shall ensure that the monitoring stations are sufficient in number and location to meet the requirements of the monitoring program and enable determination of future conditions relative to the success criteria. The locations of the monitoring stations shall be determined by the Contractor. To document the occurrence of bankfull events (as well as larger events), the Contractor shall also provide and install a gage within the restored channel prior to the completion of the as-built survey.

The Contractor shall conduct pre-construction, construction, and post-construction photo monitoring to document the existing conditions, the progress of the construction, and the final site conditions. The directional orientation of the photos shall remain constant during all photo monitoring events.

Pre-Construction Photo Monitoring – Photographs shall be taken prior to commencing activities at the site to document existing site conditions.

Construction Photo Monitoring – The frequency of photographs taken during construction activities shall be at the discretion of the Contractor. However, the frequency should be sufficient to capture the milestones of the restoration activities (weekly, at a minimum).

Post-Construction Photo Monitoring – Following all site activities, photographs shall be taken to document the final stream channel and banks, in-stream structures, restored/created/enhanced wetland areas, buffer/floodplain, and overall site conditions.

The as-built report shall include all applicable items listed in SDP Exhibit J.

The Contractor shall submit the as-built report to the permitting agencies and TNC within 30 calendar days after 100% completion of construction activities. The Contractor shall deliver the as-built report in electronic version and provide TNC with the CADD or GIS data for the as-built. Depending on the schedule, if a delay is proposed between completion of construction and completion of planting, the Contractor shall submit an as-built report documenting as-built conditions of construction following completion of construction and a second report documenting as-built conditions of planting following completion of planting.

The Contractor shall develop and obtain IRT approval of a credit release request for wetland and buffer construction. The credit release request shall follow the approved SDP credit release schedule(s), unless otherwise agreed to by TNC. The approved SDP credit release schedule(s) are expected to follow the VARTF Program Instrument, Exhibit D (SDP), Exhibit H (Credit Release Schedules). The Contractor shall submit the draft credit release request to TNC for review prior to submittal to the IRT. **Payments for this task shall be reduced, based on the crediting analysis and cost/credit approved in the Site Development Plan, for every credit or portion of a credit that is not delivered according to the credit release schedule in Exhibit 6 of this Scope of Work, as adjusted in the SDP approved by the IRT and included in an amendment to the Contract, or as otherwise approved by TNC.**

TASKS 14-19. SUCCESS MONITORING AND MAINTENANCE AND CREDIT DELIVERY (MONITORING RELEASE AND FINAL RELEASE)

The Contractor will perform monitoring events on the site in years 1, 2, 3, 5, 7, and 10. Year-1 monitoring will be conducted during the first growing season after project construction and planting have been completed. The Contractor will follow the success criteria, monitoring requirements, and monitoring reporting requirements outlined in the approved SDP Exhibits F and J, which are expected to follow the IRT-approved SDP template (VARTF Program Instrument, Exhibit D (SDP)). Note that the IRT has stated that baseline preservation monitoring for stream preservation areas can be collected during Year-1 monitoring and baseline preservation monitoring for buffer preservation areas should be collected during design/SDP development; thus, a separate (“Year 0”) monitoring event to collect preservation data is not required. The Contractor will develop monitoring reports each year that present the results of the annual monitoring events, summary of corrective action completed at the site since the last monitoring event, recommendations for further corrective actions, and documentation of any coordination with the IRT in regard to the site.

The Contractor shall submit the monitoring reports to TNC by **November 15th** of each monitoring year. TNC shall review the monitoring report and provide comments to the Contractor. Based upon comments and agreed-to-items resulting from TNC’s review, the Contractor shall refine the monitoring report for final submission. Final reports shall be submitted to TNC no later than December 15th of each monitoring year. The Contractor shall deliver the report in electronic version (pdf and CADD/GIS files).

The Contractor will also be responsible for implementing all corrective actions during the 10-year monitoring period as needed to ensure attainment of success criteria.

The Contractor shall develop and obtain IRT approval of credit release requests associated with monitoring success. Following the end of the success monitoring period, the Contractor will deliver a report documenting the credits achieved through the project for presentation to TNC and the IRT for final approval and release of mitigation credits. The credit release requests shall follow the approved SDP credit release schedule(s), unless otherwise agreed to by TNC. The approved SDP credit release schedule(s) are expected to follow the VARTF Program Instrument, Exhibit D (SDP), Exhibit H (Credit Release Schedules). The Contractor shall submit the draft credit release request to TNC for review prior to submittal to the IRT. **Payments for this task shall be reduced, based on the crediting analysis and cost/credit approved in the Site Development Plan, for every credit or portion of a credit that is not delivered according to the credit release schedule, as adjusted in the SDP approved by the IRT and included in an amendment to the Contract, or as otherwise approved by TNC.**

[END TASKS FOR OPTION B – FULL DELIVERY]
[EXHIBITS 1 – 4 TO FOLLOW]

Attachment C: Exhibit 1.

**Site Selection Criteria USACE Norfolk District and
Virginia Department of Environmental Quality Checklist**
(Exhibit C: Site Selection Criteria USACE Norfolk District and
Virginia Department of Environmental Quality October 2018)

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Exhibit C

Site Selection Criteria

USACE Norfolk District and Virginia Department of Environmental Quality
October 2018

Bank/Site Name

ORM Number

Date

**1. Principal Criteria
(check all that apply)**

- a. Site activities will result in at least 80% of wetland credits obtained through wetland restoration/creation
- b. Site activities will result in at least 50% of stream credits obtained through stream restoration/enhancement
- c. Site is contiguous or connected to other aquatic resources
- d. Site contains minimal or no INU species
- e. Site has not been logged in the past 5 years
- f. Site abuts and/or adjoins an existing preservation/conservation area, etc.
- g. Site has no known encumbrances (ie easements, liens, rights of way, reserved timber, severed surface or subsurface mineral or natural gas rights, etc.) on the site, on adjacent properties or within the watershed of the site that will negatively affect the compensation goals
- h. Immediately adjacent land is less than 10% impervious cover
- i. Site does not contain any impoundments that are not proposed for removal
- j. Site is able to be protected long-term through the recordation of an appropriate site protection instrument or other mechanism that will support the long-term protection of the site
- k. Site is expected to provide in-kind compensation (similar hydrologic regime)

**2. Watershed Scale Features
(check all that apply)**

- a. Site activities will contribute to habitat diversity **
- b. Site activities will remove pollutants from waters **
- c. Site activities will remediate inputs of substantial amounts of sediment**
- d. Site will contribute to habitat connectivity

****Explanation required.
Provide supplemental
information in an attachment
to this Checklist**

3. Development Trends in the Watershed Where Site is Located
(check all that apply)

****Explanation required.**
Provide supplemental information in an attachment to this Checklist

- a. Site will address watershed needs for habitat protection as identified in a wildlife action plan, compensation planning framework, habitat Conservation Plan, etc. **
- b. Site will address watershed needs for water quality improvement/reduction in sediment loads as identified in the 303(d) list**
- c. Less than 50% of land use within the watershed is residential/commercial/industrial
- d. Less than 50% of land use within the watershed is agricultural
- e. Future land use plans (ie local comprehensive plans, conservation plans) show minimal or no change
- f. No water withdrawal permits issued within the vicinity of the site
- g. No point source permits within the vicinity of the site

4. Watershed vs. Site Specific Water Quality Goals
(check all that apply)

****Explanation required.**
Provide supplemental information in an attachment to this Checklist

- a. Site is likely to contribute to improved water quality within the watershed and not solely within the site boundaries**
- b. Site will include preservation/establishment/rehabilitation of the entire watershed upstream of the project to the drainage divide
- c. No downstream impoundments (excluding drinking water) that would limit the watershed benefits derived from site activities
- d. Site will improve water quality conditions of existing wetlands identified by VDEQ (WetCAT) as "Somewhat Severely Stressed" or "Severely Stressed"***

5. Site Compatibility with Adjacent Land Use
(check all that apply)

****Explanation required.**
Provide supplemental information in an attachment to this Checklist

- a. Site is within an area identified as meriting conservation in an approved watershed management plan, wildlife action plan, national forest management plan, or conservation plan**
- b. Site is not likely to be affected by current activities occurring on adjacent properties
- c. Site will not be affected by likely future activities occurring on adjacent properties
- d. Site activities will not affect adjacent properties**
- e. Site is not adjacent to silvicultural operations
- f. Site is not adjacent of agricultural land
- g. Properties adjacent to the site do not have the potential to spread INU species to the site**

6. Positive Effects Site will have on Ecological/Cultural Resources (check all that apply)

****Explanation required. Provide supplemental information in an attachment to this Checklist**

- b. Site activities will conserve/restore natural communities identified by VDCR as imperiled****
- c. Site activities will conserve/restore karst resources identified by VDCR as imperiled****
- d. Site activities are within areas that have been identified by VDGIF as meriting improvement****
- e. Site activities will conserve/restore areas designated by VDGIF as wild trout streams****
- d. Site activities will conserve/restore areas designated by VDGIF as anadromous fish use areas****
- e. Site activities will restores/preserve/enhance areas designated by VDGIF as Threatened and Endangered Species Waters****
- f. Site activities will protect state or federal threatened and/or endangered species****
- g. Site contains historical cultural resources that will be preserved****
- h. Site activities will establish new or expand existing wildlife corridors****
- i. Site activities will result in removal of barriers to fish passage****
- j. Site results in score of 1 or greater for potential wetland, riparian, or upland restoration or preservation as identified by the Watershed Resource Registry (WRR)****
- k. Site will improve habitat conditions of existing wetlands identified by VDEQ (WetCAT) as “Somewhat Severely Stressed” or “Severely Stressed”*****

7. Hydrologic Sources/ Ecological Features (check all that apply)

- a. Site activities do not consist of wetland creation in the uplands unless adjacent to existing streams or wetlands**
- b. Site activities do not consist of stream creation**
- c. Site activities do not entail impounding or diverting water from other areas to the project site**
- d. Site activities do not entail excavation to reach groundwater**

8. Physical/Chemical Characteristics
(check all that apply)

****Explanation required. Provide supplemental information in an attachment to this Checklist**

- a. Sites receiving waters are 303(d) listed**
- b. Site qualifies for preservation only, as 1) the resources provide important physical, chemical, or biological functions to the watershed, 2) the resource contribute significantly to the ecological sustainability of the watershed, 3) the IRT has determined that preservation is appropriate and practicable, 4) the resources are under threat of destruction or adverse modification, and 5) the site will be permanently protected through an appropriate real estate instrument****
- c. Site activities will not result in the construction of artificial or unnatural wetlands that will have limited opportunity to provide the desired functions**
- d. Past land use was PC crop or ditched wetlands**
- e. Past land use was agriculture/silviculture****
- f. Past land use was commercial or industrial****
- g. No impoundments exist upstream of the site that will cause thermal increases in water temperature, decreases in dissolved oxygen, erosion and degradation of the channel downstream from the impoundment, or dam failure from a storm event****
- h. Site activities will result in all onsite impoundments being removed and streams re-established/ rehabilitated**

Attachment C: Exhibit 2.

Norfolk District Prospectus Checklist

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ATTACHMENT C: Exhibit 2.

Norfolk District Prospectus Checklist [per 33CFR 332.8(d)(2)] October 2009

- 1) Contact information (name, address, telephone number, email address, etc.) for the Sponsor, the land owner and the agent.
- 2) Indicate whether the sponsor owns the land or is acquiring an interest in the proposed bank sites (fee simple acquisition, easement, etc).
- 3) Identify the objectives of the proposed mitigation bank.
 - a) Identify the method(s) of proposed compensation (wetland creation/restoration, stream restoration/enhancement, preservation, etc.) that will be provided.
 - b) Identify an estimated amount (acres/linear footage) of each compensation type that will be provided.
 - c) Identify the aquatic functions to be restored/enhanced (water quality improvement, flood storage, wildlife habitat, etc.).
- 4) Describe how the bank will be established.
 - a) Summarize the work intended to accomplish site activities.
 - b) Describe how the proposed work will meet identified goals and objectives.
 - c) Provide a vicinity map (USGS topographic map).
 - d) Provide a current aerial photograph identifying the area to be included within the bank limits.
 - e) Provide a conceptual development plan showing the proposed work.
- 5) Identify the proposed service area.
 - a) Provide a map identifying the proposed service area of the bank.
 - b) Provide a rationale for determining the limits of the proposed service area.
- 6) Identify the general need for and technical feasibility of the proposed mitigation bank.
 - a) Identify any watershed plans the mitigation project would accommodate.
 - b) Identify any regional or local benefits derived from the bank.
 - c) Identify any potential threats to the bank site or resource type the bank intends to provide and/or protect.
 - d) Discuss the proposed construction work required to develop the bank and its feasibility.
- 7) Describe the ecological suitability of the site to achieve the objectives of the proposed mitigation bank, including the physical, chemical, and biological characteristics of the bank site and how that site will support the planned types of aquatic resources/functions.
 - a) Summarize current site conditions including land use, vegetation, hydrology, and soils (forested, row-cropped, pasture, ditched and drained wetland, previously channelized streams, etc). Pictures are helpful.
 - b) If known, include information on rare or T/E species, historic properties, impaired waters (303(d) streams), etc.
 - c) Identify any known encumbrances (mortgages, liens, rights-of-way, servitudes, easements, etc.) on the property.

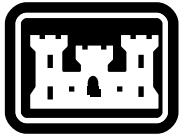
- d) Identify previous land uses of the site and adjacent properties.
 - e) Identify current zoning and any existing and/or proposed development adjacent to the bank site.
 - f) Identify current zoning of the bank site.
 - g) Summarize the historical hydrology of the site.
 - h) Indicate whether a jurisdictional determination of “waters of the U.S.” has been made by the Corps. This will be needed to support development of an MBI and mitigation plan
 - i) Identify which of the Virginia Off-site Mitigation Location Guidelines are met by the proposal and how they were met.
- 8) Identify the proposed future ownership arrangements and long-term management strategy for the proposed mitigation bank.
- a) Identify the proposed long-term management strategy.
 - b) Identify the likely party that would be responsible for long-term management.
 - c) Identify the proposed site protection instrument that would be utilized and the likely responsible parties.
- 9) Summarize the qualifications of the sponsor to successfully complete the type of mitigation project proposed. Including information describing past actions undertaken by the sponsor that demonstrate experience in the restoration, creation, preservation, or enhancement of aquatic resources.
- 10) Assurance of sufficient water rights and/or hydrological influences on the site to support the long-term sustainability of the mitigation bank.
- a) Describe any existing hydrologic disturbances on and adjacent to the site.
 - b) Identify any temporary or long-term structural management requirements (levees, weirs, culverts, etc.) needed to assure hydrologic/vegetative restoration.
 - c) Describe generally (a water budget is not required at this point):
 - i. Water source(s) and losses (precipitation, surface runoff, groundwater, stream, tidal, etc.)
 - ii. Hydroperiod (seasonal depth, duration, and timing of inundation and/or saturation)
 - iii. Approximate contributing drainage area (map and size).
- 11) Names and mailing addresses of all adjacent property owners (APOs). If there are more than 3 APOs, mailing labels should be provided with the prospectus.

Attachment C: Exhibit 3.

DHR Coordination Form

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ATTACHMENT C: Exhibit 3.



**U.S. Army Corps
Of Engineers**
Norfolk District

DATE SENT:

SUSPENSE DATE: *30 days plus 3 mail days*

VDHR COORDINATION FORM

AGENCY NAME: Corps of Engineers, Regulatory Branch

PROJECT NAME:

CORPS PROJECT NUMBER:

CORPS PROJECT MANAGER:

APPLICANT'S NAME AND ADDRESS:

CONSULTANT'S NAME AND ADDRESS:

PROJECT INFORMATION

PROJECT DESCRIPTION: *Brief description of the project including dimensions/acreages. Note if the site has been previously disturbed.*

PROJECT LOCATION:

PERMIT AREA/AREA OF POTENTIAL EFFECT: *State the dimensions/acreage of the permit area, including the area of ground disturbance.*

KNOWN HISTORIC PROPERTIES:

A) ARCHAEOLOGICAL SITES:

B) ARCHITECTURAL: *(include any structures likely to be 50 years or older within view shed of permitted structures)*

CORPS EFFECT DETERMINATION: *(If enough information available)*

Initial Coordination Only (effect unknown)

No Effect

No Adverse Effect

Adverse Effect

Comments:

Attachment C: Exhibit 4.

Species Conclusion Table

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ATTACHMENT C: Exhibit 4.

Project Name:

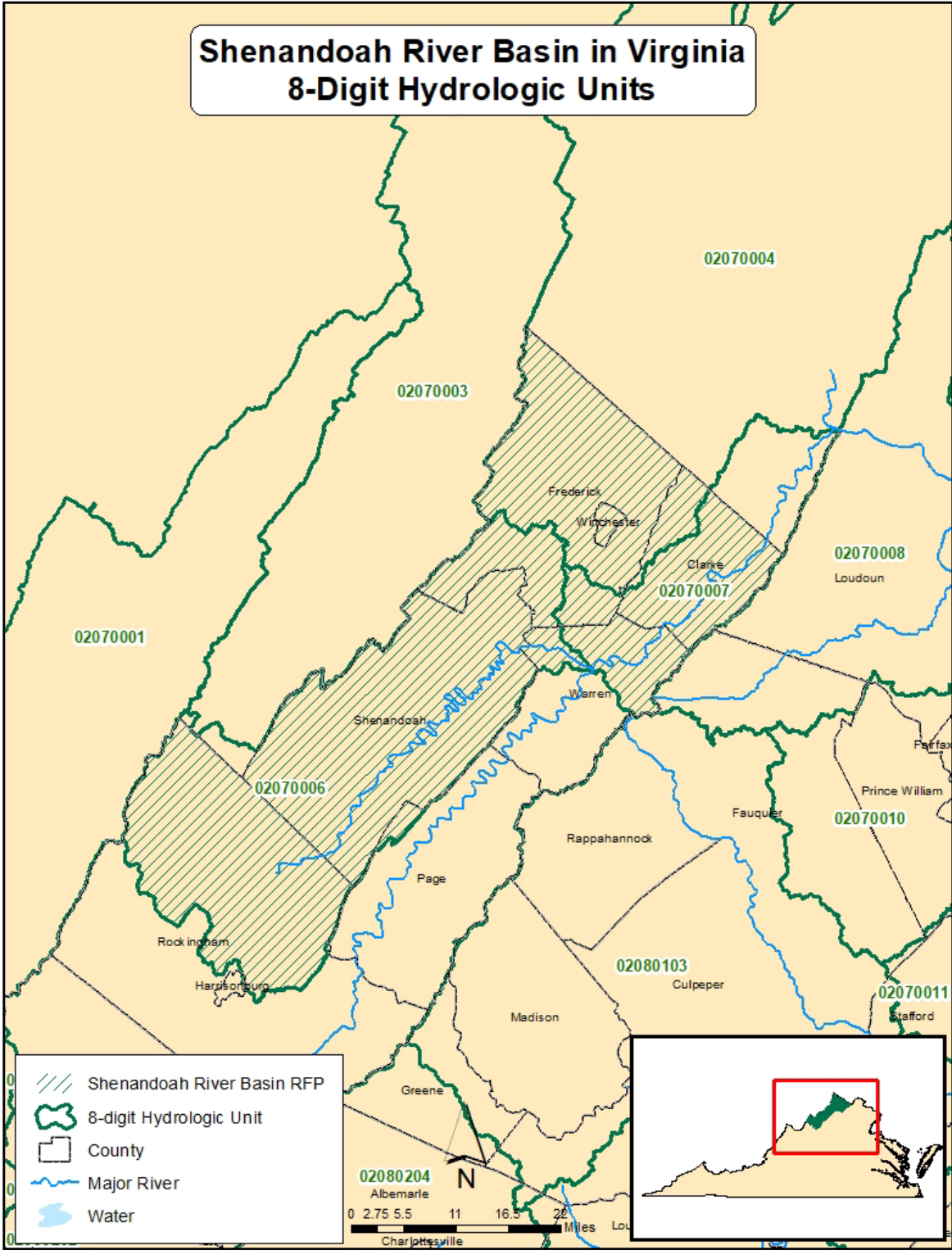
Date:

Species/Resource Name	Conclusion	ESA Section 7 / Eagle Act Determination	Species Info / Habitat Description	Notes / Determination
Eagles (<i>Haliaeetus leucocephalus</i>)				
Eagle Nests				
Eagle Concentration Areas				
Critical Habitat				
Other (other species not listed above or required coordination for NOAA, DCR, & VDGIF)				

**ATTACHMENT D:
WATERSHED MAPS**

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Shenandoah River Basin in Virginia 8-Digit Hydrologic Units









ATTACHMENT E: CONTRACTOR QUESTIONNAIRE

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

General Information:

Company Name: _____

Company Address: _____

Contact Name: _____

Phone & Email: _____

Years in Business: _____

Contractor Information:

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

Statement of Qualifications:

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

Employee Information

Number of Employees: _____

Service Information

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

_____ YES _____ NO

If yes, please list.

Minority and Women - Owned Business Enterprise

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

Legal

If your firm is bonded, please indicate type:

Performance Bond _____ YES _____ NO

Labor & Material Payment Bond _____ YES _____ NO

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

_____ YES _____ NO

If yes, please explain:

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

**ATTACHMENT F:
THE NATURE CONSERVANCY'S STANDARD CONTRACT FOR SERVICES**



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

CONTRACT FOR SERVICES

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

TNC Business Unit:	
Contact:	
Address:	
Telephone:	
Email Address:	

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

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

- Services.** TNC engages Contractor to provide the services, goods and/or deliverables (collectively, the “Services”) described in **Exhibit A** (“Description of Services”) in accordance with the terms and conditions of this Contract.
- Payment.** TNC will compensate Contractor for the Services by paying a “Contract Fee” as follows:
 - Contract Fee Amount** (inclusive of all taxes; exclusive of reimbursable expenses): US \$ [\$\$\$\$\$]
 - Contract Fee Payment Schedule:**

Credit Type	Credits Delivered	Total Cost	Cost/Credit	Service Option (A or B)
Nontidal Wetland Credits				
USM Stream Credits				

[INSERT APROPRIATE PAYMENT SCHEDULE OPTION A OR B]

Task	Deliverable	Due Date	Cost

- c. **Reimbursable Expenses:** N/A or TNC will reimburse the Contractor for eligible expenses as follows:

Maximum Amount for Reimbursable Expenses (including all taxes): US \$ 0.00

Description of expenses eligible for reimbursement: N/A

- d. **Invoices and Payments.** Unless additional acceptance criteria are defined in Exhibit A, TNC shall provide approval of Services and deliverables within 30 days of receipt. Requests for payment of the Contract Fee must be submitted to TNC in the form of an invoice itemizing the Services performed or delivered during the invoice period. Invoices will be subject to review and approval by TNC, and TNC may deny payment of requests received more than sixty (60) days after the final deadline for the completion of Services. TNC will make all payments either (i) by check, subject to TNC's receipt from Contractor of a properly completed IRS Form W-9, or (ii) via Vendor ACH, subject to Contractor's completion of TNC's Vendor ACH Enrollment Form. Expenses authorized for reimbursement by TNC must be: (i) substantiated by adequate documentation (such as receipts), unless waived in writing by TNC; (ii) reasonable in amount; (iii) related to and in furtherance of the Contract purposes; and (iv) submitted with Contractor's invoices for payment. In the event of early termination of the Contract and upon receipt of any termination notice, with or without cause, Contractor shall not incur any further expenses, without express written consent by TNC. Any unused materials or supplies paid for by TNC will remain the property of TNC and must be delivered to TNC by Contractor at the end of the Contract term. TNC shall not pay any expenses to third parties on behalf of the Contractor.

Invoices will not be submitted until TNC has verified successful completion of tasks involved in each invoice in accordance with the terms of this Contract. Contractor shall notify TNC upon completion of each milestone described in the payment schedule, and TNC shall verify completion of such milestone within ten (10) business days after such notification or within the timeframe otherwise indicated in this Contract. Any tasks that exceed or are outside the Services as described on Exhibit A must be submitted in writing to TNC for TNC's written approval before the task is performed if an increase in the Contract Fee is associated with such task. No claim for an adjustment from the payment amount specified in this Contract will be valid without such written authorization. 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. The order in which tasks are to be completed shall not be changed without the prior written consent of TNC. Time is of the essence with this Contract.

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

- f. **Release.** Should any subcontractor, supplier or other person make, record or file, or maintain any action on or respecting a claim of mechanic's lien, equitable lien, payment of performance bond, or another lien, relating to the Project, Contractor shall immediately and at its own expense procure, furnish, and record appropriate statutory release bonds which will extinguish or expunge such claim or lien.
 - g. **Effect of Payment.** 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 work 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 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. **Term.** This Contract will become effective upon the last signature date below and will expire automatically once all the Services have been completed and final payment by TNC has been made (the "Contract Term"). Contractor must comply with all deadlines in Exhibit A and finalize all Services on or before **[INSERT ANTICIPATED END DATE OF SERVICES]**. Any deadlines set forth herein may be extended only with TNC's prior written consent, which may be provided by email. Time is of the essence in the performance of this Contract.
4. **Termination.**
- a. **Without Cause.** TNC may terminate this Contract without cause at any time upon two weeks' written notice to Contractor. TNC will pay Contractor for the Services that have been satisfactorily performed, as determined by TNC, as of the termination date. Contractor shall submit a final invoice within fourteen days following termination of services.
 - b. **For Cause.** TNC may immediately terminate this Contract for cause by written notice to Contractor if Contractor fails to perform any duty, obligation, or covenant under this Contract, whether for circumstances within or beyond Contractor's control, or if TNC determines at any time that the Services cannot be performed in accordance with Applicable Laws (defined below) or TNC's policies or operating procedures. Should termination occur as a result of Contractor's default, TNC may, without limiting any other remedies available to it under Applicable Laws, recover damages from Contractor

resulting from Contractor's default and may offset any amounts payable to Contractor against such damages.

- c. **Refund of Advanced Payments.** Regardless of the reason for termination, to the extent the balance of any advance payments made by TNC exceeds the total payments due to Contractor for Services satisfactorily completed, Contractor must promptly return the excess advance payments.
5. **Conflict of Interest Determination.** Contractor represents and warrants that, to the best of Contractor's knowledge, the information Contractor has provided on TNC's Conflict of Interest Inquiry Form (attached as Exhibit B) is true and correct. If any of the information Contractor has provided changes during the term of this Contract, Contractor agrees to promptly notify TNC in writing of such change. The parties acknowledge that publicly traded companies engaging in the normal course of business, government agencies, and universities are exempt from this requirement.
6. **Independent Contractor Status**

The parties intend this Contract to create an independent contractor-client relationship and not an employee-employer relationship. Contractor is solely responsible for the conduct and control of the Services and fulfilling Contractor's duties and obligations under this Contract. Contractor is not an agent or employee of TNC, and no partnership, joint venture, or principal-agent relationship exists. Neither party will have any right, power, or authority by virtue of this Contract to create any obligation, express or implied, on behalf of the other party.
7. **Taxes.** Contractor is responsible for filing and paying its own taxes and for complying with the requirements of any applicable tax laws. TNC will not withhold or pay on behalf of Contractor or any of Contractor's employees any U.S. Federal, state, or local income tax, payroll tax, or any excise, sales, or use tax of any kind. TNC will report to the IRS on Form 1099 all fees paid to Contractor, as and to the extent required by Applicable Laws.
8. **Performance of Work.** Contractor represents and warrants that Contractor is qualified and will perform the Services in accordance with the highest standards of Contractor's profession or craft. Contractor is responsible for the complete performance of the Services notwithstanding the use of any subcontractors or work performed by anyone else under Contractor's direction or control. Contractor will not be paid for any Services found by TNC to be unsatisfactory.
 - a. **Protection of Work.** 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, Contractor shall protect all work likely to be damaged and shall secure the premises. Any work damaged by failure to provide protection as required above shall be replaced with new work at Contractor's expense.
 - b. **Tests and Inspections.** The Contractor shall schedule all required tests, approvals and inspections of the Services or portions thereof at appropriate times so as not to delay the progress of the Services or other work related to the Project. The Contractor shall give proper written notice to TNC's Project Manager and all other required parties of such tests, approvals, and inspections. Required certificates of testing, approval or inspection shall be furnished to the Contractor and to TNC.
 - c. **Materials.** All manufactured materials used in the Services shall be new. The Contractor shall anticipate material needs and ensure that sufficient materials are available on-site to prevent labor and equipment downtime. In the event the Services include installation of materials or equipment furnished by others, it shall be the responsibility of the Contractor to examine the items so provided and thereupon handle, store, and install the items with such skill and care as to ensure a satisfactory and proper installation. Loss or damage shall be the responsibility of the Contractor until final completion (except as otherwise provided herein) and may be deducted from any amounts due or to become due the Contractor under this Contract.

- d. **Uncovering Work.** TNC's Project Manager may direct the Contractor to uncover portions of the work for inspection at any time. In such event, the Contractor shall uncover such work for inspection and then restore the uncovered work to its original condition. The Contractor shall be responsible for the time and expense for the uncovering, correction and restoring such work, unless the work so inspected proves to be installed in accordance with this Contract (provided TNC's Project Manager had not previously instructed the Contractor to leave the work uncovered).
- e. **Safety.** The Contractor shall perform the Services in a safe manner and shall give all required notices and comply with all applicable rules, regulations, orders, and other lawful requirements established to prevent injury, loss or damage to persons or property. The Contractor shall be responsible for implementing appropriate safety measures pertaining to the Services, including establishing safety rules, posting appropriate warnings and notices, erecting safety barriers, and establishing proper notice procedures to protect persons and property at the site and adjacent thereto from injury, loss, or damage. At all times, Contractor shall use properly qualified individuals or entities to carry out the Services in a safe manner. The Contractor shall give prompt notice to TNC of any accident involving personal injury, property damage, or any failure that could have resulted in serious personal injury. A detailed written report of said accident or failure shall be furnished to TNC's Project Manager.
- f. **Subcontractors.** The Contractor shall submit the names of subcontractors for written approval of TNC. Any approved subcontracted work, shall be performed only by subcontractors sufficiently skilled and, when required, licensed to perform the subcontracted work. All work performed for the Contractor by a subcontractor shall be pursuant to a written agreement between the Contractor and the subcontractor (and where appropriate, between subcontractors and sub-subcontractors). All such agreements shall require performance by the subcontractors in conformity with the terms of this Contract and shall include all the terms of this Contract which are applicable to subcontractors. The approval of subcontractors in no way relieves the Contractor from full responsibility for the Services or from full compliance with the Contract.

The Contractor shall promptly pay each subcontractor an amount equal to the percentage of completion allowed to the Contractor on account of such subcontractor's work, less the percentage retained from payments to the Contractor. The Contractor shall also require each subcontractor to make similar payments to its subcontractors. Upon the final completion of a subcontractor's work prior to the final completion of Contractor's Services, Contractor shall forward to TNC's Project Manager a subcontractor's executed release of lien accompanying Contractor's request for full payment including retainage for such subcontractor's work. TNC shall not have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law. Contractor shall be as fully responsible to TNC for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by the subcontractors, as he is for acts and omissions of persons directly employed by himself.

- g. **Change Orders.** By issuing a written order, TNC may require the Contractor to make changes in the Services which are within the general scope of this Contract. Adjustments in the Contract Fee, if any, resulting from such changes shall be set forth in a Change Order signed by TNC and the Contractor stating their agreement upon the change in the scope of the Services, adjustment in the Contract Price and contract time.

TNC's Project Manager may by written order direct the Contractor to perform incidental changes in the Services which do not involve adjustments in the Contact Price or contract time. The Contractor shall promptly implement written orders for such incidental changes.

- h. **Damage to work and property on site.** All damage or loss to any property or improvements on or near the site (other than incidental damage to the property at the site, such as disturbance of grass and soil) caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the

Contractor, at his expense, except damage or loss attributable to the acts or omissions of TNC, and not attributable to the fault or negligence of the Contractor.

9. **Liability; Indemnification.** Contractor agrees that it is entering into this Contract and performing the Services entirely at Contractor's own risk. Contractor, on behalf of Contractor and Contractor's employees, subcontractors, and agents, agrees to indemnify, defend, and hold harmless TNC and its directors, officers, employees, agents, and assigns (collectively, the "Indemnified Parties") from and against any and all liabilities, demands, damages, claims, losses, costs, settlements, judgments, fines, penalties, or expenses, including reasonable attorneys' fees and costs, (collectively, "Claims") that directly or indirectly arise out of, relate to, or result in any way from the performance of this Contract, whether or not the Claims have merit, involve third parties, or are caused or alleged to be caused by Contractor or any of the Indemnified Parties; provided, however, that Contractor will not be responsible for Claims arising from the sole negligence, gross negligence, or willful misconduct of any of the Indemnified Parties.
10. **Insurance.** Prior to commencing the Services and during the Contract Term, Contractor must have and maintain the following insurance policies: (a) workers' compensation insurance coverage as required by Applicable Laws; (b) commercial general liability insurance (including contractual liability if the Contract Fee is \$100,000 or more or if requested by TNC) of at least \$1,000,000 per incident, written on an occurrence basis, and covering the Services that are the subject of this Contract, including any related claims; (c) automobile liability insurance, covering all owned and non-owned vehicles used in performing the Services, with a liability limit of at least \$1,000,000 per occurrence; (d) professional liability insurance in the amount of at least \$1,000,000 if Contractor is providing professional services (such as consulting, engineering, design, appraisal, or surveying services); (e) builder's risk insurance in an amount not less than the Contract Fee; and (f) umbrella coverage of at least \$4,000,000 if the Contract Fee is \$100,000 or more, or if requested by TNC. Contractor's insurance policies must be primary to TNC's insurance policies. Before any of the Services commence, the foregoing requirements must be evidenced by one or more Certificates of Insurance, showing TNC as an additional named insured and requiring at least 30 days advance written notice to TNC of any cancellation, renewal, reduction in limits, or coverage or other material change of the policies. TNC reserves the right to request additional documentation, such as one or more policy endorsements, deemed reasonably necessary to ensure such requirements have been met. The Contractor shall also obtain and maintain, or cause the construction subcontractor to obtain and maintain, for the term of this Contract a payment and performance bond in the amount of [\$\$\$] covering the cost of project construction. The bond, issued to the Contractor or the construction subcontractor by an insurer or indemnity company licensed to do business in Virginia and reasonably satisfactory to TNC and the landowner, shall be provided to TNC prior to the start of construction.
11. **Work Product; Intellectual Property.** Contractor retains all right, title, and interest in works, inventions, and other intellectual property original to or owned by Contractor prior to the execution of this Contract or created outside the scope of this Contract. If the Services involve the creation of intellectual property including, but not limited to, inventions, concepts, processes, reports, derivative works, studies, photographs, software (including in both object code and source code form), drawings, designs, writings, related drafts, supporting materials, or data (collectively, the "Works"), TNC will own all right, title, and interest, including copyrights, and, if applicable, patent rights, in and to the Works. Contractor agrees that all copyrightable Works are "works made for hire" as defined under the copyright laws of the United States. To the extent that any of the Works are not works made for hire, Contractor unconditionally assigns to TNC and TNC's successors and assigns all right, title, and interest, including copyright, and other intellectual property rights, in and to the Works in all media (whether now known or later developed) worldwide and in perpetuity. Contractor grants to TNC a worldwide, non-exclusive, royalty-free, perpetual license to use, reproduce, distribute, modify, exercise, practice, perform, and exploit any assets subject to Contractor's patents, copyrights, or other intellectual property rights, to the extent that such license is necessary for TNC to enjoy all rights associated with ownership of the Works. Upon request of TNC, Contractor will deliver to TNC all tangible copies (including digital copies) of the Works and will execute and

complete all documentation necessary to establish TNC's ownership of the Works. Contractor warrants and covenants that the Works will not infringe on the patent rights, copyrights, or other intellectual property rights of Contractor or third parties.

12. **Use of TNC Name and Logo.** Unless expressly authorized in writing in this Contract or in a separate written agreement, Contractor may not use TNC's name, logo, or other intellectual property in any manner, whether in conjunction with the Services or otherwise, except (a) to deliver invoices or other notices to TNC and (b) within acknowledgements of TNC funding, as authorized in writing by TNC.
13. **Confidential Information.** In performing the Services, Contractor might have access to information, whether verbal, in writing, in electronic format, or in any other tangible form, disclosed by TNC, directly or indirectly, to Contractor that is (a) identified as confidential, or (b) disclosed in a manner in which TNC reasonably communicates, or that Contractor should reasonably have understood, should be treated as confidential, whether or not designated as "confidential" (collectively, "Confidential Information"). Confidential Information includes, without limitation, data sets, personal data (including donor data), marketing plans, research, products, technologies, software source code, software object code, data collection functionalities, trade secrets, pre-publication patent applications, research and development, know-how, and other information relating to TNC and its operations, programs, or systems. Contractor may not, without TNC's prior written consent, use, copy, publish, or divulge any Confidential Information, and agrees to use Confidential Information solely in furtherance of the Services and for no other reason. Contractor must use appropriate security procedures to safeguard Confidential Information. Contractor acknowledges and agrees that in the event Contractor receives any personal identifying information (i.e., information that identifies or can be used to identify an individual or that relates to an identified individual), Contractor (i) will be subject to a TNC IT Security review prior to such transfer or exchange and (ii) Contractor will comply with all Applicable Laws relating to the protection of personal identifying information. In addition, Contractor must comply with any additional requirements relating to protection of data as set forth in this Contract and/or as specified in any exhibits to this Contract.
14. **Compliance with Laws.** Contractor represents, warrants, and agrees that Contractor:
 - a. can lawfully work in the United States and/or the countries where the Services will be performed;
 - b. has or will obtain at Contractor's expense (except to the extent otherwise explicitly stated in this Contract) any permits, licenses, or authorizations required to perform the Services. This includes, without limitation, a property owner's prior permission to enter upon private property and any related permissions to and ensure TNC has any future permissions necessary for completion of the project, if applicable;
 - c. will take affirmative steps to inform TNC, prior to signing this Contract, if it is a privately-held entity in which a Government Official¹ has equity ownership or, in the case of an individual person providing services as an independent contractor, if the Contractor is a Government Official for any government *other than* a U.S. local, state, or federal government agency;
 - d. will comply with all statutes, laws, ordinances, executive orders, rules, regulations, court orders, and other governmental requirements for the jurisdiction(s) in which the Services are performed and any other jurisdiction(s) in which Contractor is organized or authorized to do business;
 - e. will comply with all applicable anti-bribery or anti-corruption laws and regulations. To that end, Contractor shall not either directly or indirectly, pay, offer, promise to pay, or give anything of value (including any amounts paid by TNC) to any person, including an employee or official of a government,

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

with the reasonable knowledge that it will be used for the purpose of obtaining any improper benefit or to improperly influence any act or decision by such person for the purpose of obtaining, retaining, or directing business. Any amounts paid by TNC to Contractor will be for services actually rendered in accordance with the terms of this Contract. Contractor shall not accept bribes or kickbacks in any form. The Contractor further represents, warrants, and agrees that it has not committed any of the acts prohibited herein or been accused of making or authorizing any acts prohibited herein.

- f. will comply with all applicable counterterrorism, anti-money laundering and economic sanctions laws. To that end, the Contractor represents and warrants that, to the best of Contractor's knowledge, Contractor and Contractor's subsidiaries, principals, and beneficial owners, if any:
 - i. are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any government agency;
 - ii. (A) are not included on the Specially Designated Nationals and Blocked Persons lists maintained by the U.S. Treasury's Office of Foreign Assets Control, the United Nations Security Council Consolidated List, or similar lists of proscribed entities identified as associated with terrorism; and (B) will not engage in transactions with, or provide resources or support to, any such individuals or organizations or anyone else associated with terrorism;
 - iii. are not a person or entity with whom transacting is prohibited by any trade embargo, economic sanction, or other prohibition of law or regulation; and
 - iv. have not conducted, and will not conduct, their operations in violation of applicable money laundering laws, including but not limited to, the U.S. Bank Secrecy Act and the money laundering statutes of any and all jurisdictions to which they are subject, and no action or inquiry concerning money laundering by or before any authority is pending;
- g. will comply with all applicable human rights laws, statutes, regulations, and codes as well as any human rights policy, standard operating procedure, guideline, or procedure adopted by TNC and shared with Contractor. Furthermore, in performing the Services, the Contractor shall respect human rights by: (a) identifying, preventing, and mitigating any potential or actual adverse human rights impacts resulting from its activities or the activities of its subcontractors, suppliers, or similar third parties; and (b) remediating any actual adverse human rights impacts which it causes or to which it contributes as soon as is practicable. Finally, the Contractor represents and warrants that neither Contractor nor any of its employees has been found at fault or penalized for any human rights violations or creating an adverse impact on human rights;
- h. will not discriminate against any individual or group on the basis of race, religion, age, sex, national origin, citizenship, disability, sexual orientation, genetic information, or veterans/national guard/military reserve status. If any U.S. government funds are transferred under this Contract, Contractor is also subject to Title VI of the Civil Rights Act of 1964 and related statutes, which prohibit discrimination on the basis of race, color, national origin, age, or disability in federally funded programs;
- i. will not take any actions that might cause TNC to be in violation of the laws, statutes, regulations, or similar rules mentioned in this Section (collectively, "Applicable Laws");
- j. will immediately notify TNC in writing if any of the representations, warranties, certifications, statements, or agreements in this Section change before or during the Contract Term; and
- k. will include provisions at least as restrictive as these in all permitted subcontracts (except for subcontracts purchasing commercially available, off-the-shelf goods or services).

If TNC determines that any of the representations, warranties, certifications, statements, or agreements in this Section are false, no longer valid, or have materially changed, whether or not the Contractor is at fault,

TNC may terminate this Contract effective immediately upon written notice to Contractor, with no further obligation by TNC under this Contract, including payment, and TNC may pursue all available remedies under Applicable Laws.

15. **Governing Law; Forum.** This Contract and claims relating to this Contract will be interpreted, construed, and governed by the laws of the state in which the TNC Business Unit set forth on the first page this Contract is located (excluding such state's choice of law principles, if any). In the event of any litigation over the interpretation or application of any of the terms of this Contract, litigation will be conducted in the state in which the TNC Business Unit set forth on the first page of this Contract is located.
16. **Miscellaneous Terms and Conditions.**
 - a. **Notices.** Any notice, request, or demand made by either party to this Contract must be in writing and must be sent and deemed delivered as follows: (i) in person – delivered immediately; (ii) by mail, postage prepaid, certified (return receipt requested) – delivered three business days after sending; (iii) by a nationally recognized, next-day delivery service with tracking information and requesting next-business day delivery – delivered the next business day; or (iv) email – delivered the next business day.
 - b. **Assignment; Subcontracting.** Contractor may not assign this Contract or subcontract any portion of the Services without TNC's prior written consent, which may be granted via email or by the inclusion of the subcontract description in Exhibit A. TNC's consent may be granted or withheld in TNC's sole discretion.
 - c. **Code of Conduct; Helpline.** TNC expects itself and everyone with whom it does business to conduct themselves in ways that are consistent with its TNC's Code of Conduct found at www.nature.org/codeofconduct. Anyone (whether an employee of TNC or not) may contact the TNC Helpline (anonymously, if desired) with questions, concerns, or suspected violations at www.nature.org/tchelpine.
 - d. **Entire Agreement; Amendments; Order of Precedence.** This Contract will become binding when signed by both parties and, together with its exhibits, which are hereby incorporated into and made a part of this Contract, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous communications, both oral and written, between the parties relating to the Services described in this Contract. Unless explicitly stated otherwise in this Contract, no amendment to this Contract, including a change in the Description of Services, will be effective unless in a writing signed by both parties. In the event of a conflict, priority will be given to documents in the following order: (i) provisions in the main body of this Contract; (ii) provisions of any exhibit pursuant to Section 17 below, if applicable; (iii) Description of Services set forth in Exhibit A; and (iv) any additional exhibits or attachments to this Contract.
 - e. **Severability; No Waiver.** If any provision of this Contract is found to be invalid by a court of competent jurisdiction, the other provisions will not be affected by that finding. No delay in exercising any right or remedy under this Contract by either party will constitute a waiver of that right or remedy or of any other right or remedy under this Contract or under Applicable Laws.
 - f. **Joint and Several Liability.** If two or more persons or entities are identified as Contractor in this Contract, their obligations under this Contract are and will be joint and several.
 - g. **Counterparts.** This Contract may be executed in one or more counterparts, each of which will be deemed an original and all of which will constitute the complete Contract.
 - h. **Consent to electronic signatures.** Facsimile or scanned signatures on this Contract and any related documents, and digital or electronic signatures where authorized under Applicable Laws, will be fully binding for all purposes.

- i. **Authorization to Sign.** Contractor represents and warrants that the person signing this Contract on behalf of Contractor is duly authorized to sign this Contract on Contractor’s behalf.
 - j. **Force Majeure.** This Contract may be immediately terminated by either party by providing written notice to the other party, and TNC shall pay Contractor for all Services that have been satisfactorily performed as of the date of termination, if acts of God, war, terrorism, widespread pandemics, or other similar circumstances make performance of the Contract illegal, commercially impractical, unsafe, or inadvisable.
 - k. **Survival.** The “Liability; Indemnification,” “Confidential Information,” and “Intellectual Property” Sections of this Contract will survive the expiration or earlier termination of the Contract.
17. **Additional Terms and Conditions.** This Contract is further subject to the additional terms and conditions set forth in the following Exhibit C (and subsequent exhibits, in the event more than one option is selected):
- Additional Service Terms and Conditions Exhibit
 - Data and Information Security Exhibit
 - U.S. Government Laws and Regulations Exhibit
 - State/Local Government Terms and Conditions Exhibit
 - Private Funder Terms and Conditions
 - Other: _____
 - None

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

The Nature Conservancy

[Contractor’s Name]

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

- Exhibits:**
 Exhibit A: Description of Services
 Exhibit B: Conflict of Interest Inquiry Form

EXHIBIT A
Description of Services

SEE SCOPE OF WORK FOR THIS RFP

[This space intentionally left blank]

**ATTACHMENT G:
THE NATURE CONSERVANCY CONFLICT OF INTEREST DISCLOSURE FORM**

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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>	
Type of Transaction (select one):	<input checked="" type="checkbox"/> Contract for Services <input type="checkbox"/> Grant Agreement <input type="checkbox"/> Purchase Order <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Real Estate Transaction <input type="checkbox"/> Other
If you selected "Other" or "Real Estate," include description here (for real estate, describe property, size, and type of deal (sale, gift, lease, etc.)):	

STEP 2: DEFINITIONS & QUESTIONS (Complete <u>only</u> the section relevant to your organization)
<p>(1) TNC Key Employees and Board of Directors: Please refer to the attached list 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) TNC Trustee: Individuals serving as a Trustee or Advisor to TNC.</p> <p>(3) 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>(4) Family Members and Close Relatives: Family members of any individual listed above, such as spouse, domestic partner, parent, sibling, child, dependent, other progeny and ancestors.</p>

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

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

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

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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 (if for an organization):	
Address:	
Date of Signature:	

TNC COVERED PERSONS

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

List Current as of April 22, 2022

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

*Current TNC Employee; No longer considered Key Employee.

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

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