

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING ) RESOLUTION NO. 95-2227  
THE EXECUTIVE OFFICER TO EXECUTE )  
CONTRACT NO. 904542 IN THE AMOUNT ) Introduced by Mike Burton,  
OF \$20,000 WITH THE WETLANDS CON- ) Executive Officer  
SERVANCY FOR TECHNICAL ASSISTANT )  
SERVICES TO THE GREENSPACES )  
RESTORATION GRANTS PROGRAM )

WHEREAS, The Metropolitan Greenspaces Master Plan has outlined the restoration and enhancement of degraded natural areas as priority; and

WHEREAS, The U.S. Fish and Wildlife Service has provided Metro with funding to carry out such restoration and enhancement projects; and

WHEREAS, Metro has awarded Greenspaces Restoration Grants to 51 local projects since Fiscal Year 1991-92; and

WHEREAS, Terms of a prior contract to provide technical assistance service have been fulfilled and the contract expired; and

WHEREAS, Metro and the U.S. Fish and Wildlife Service will produce an evaluation document to ascertain successes and failures of the Restoration Grants Program; and

WHEREAS, Continued technical assistance maintains a strong program and will facilitate an evaluation to the program including suggestions for further improvement; now, therefore,

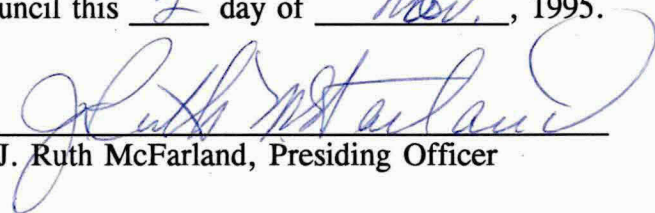
BE IT RESOLVED,

1. That the Metro Council hereby authorizes the Executive Officer to execute Contract No. 904542 for Technical Assistant Services for the Greenspaces Restoration Grant

Program.

2. That the Metro Council authorizes the Executive Officer to execute extensions of time and minor modifications to the Scope of Work as may be necessary to facilitate objectives of the contract.

ADOPTED by the Metro Council this 2 day of Nov., 1995.

  
\_\_\_\_\_  
J. Ruth McFarland, Presiding Officer

Approved as to Form:

  
\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, OR 97232-2736, and The Wetlands Conservancy, referred to herein as "Contractor," located at PO Box 1195, Tualatin, Oregon, 97062.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective September 1, 1995 and shall remain in effect until and including December 31, 1996, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed TWENTY THOUSAND AND 00/100THS DOLLARS (\$20,000.00).
4. Insurance.
  - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
    - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
    - (2) Automobile bodily injury and property damage liability insurance.
  - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
  - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDs. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax

status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the state of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor 30 days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

The Wetlands Conservancy

Metro

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

**EXHIBIT A**  
**SCOPE OF WORK / TERMS OF PAYMENT**

**I. Technical Assistance Services will include:**

- A. Participate and present information in October 16, 1995 workshop from 6:30-8pm for local jurisdictions and nonprofit organization on how to put together appropriate restoration and enhancement projects.
- B. Review proposals/grant applications submitted to Metro for funding during the time period of October 31, 1995 and November 7, 1995.
- C. Tour and provide technical evaluation of potential project sites on November 8 and 9, 1995 and submit brief written evaluation on each site viewed.
- D. Participate in interviews on November 13 and 14, 1995 and advise Metro as to the technical merits and deficiencies of projects and how projects can be improved to better meet the objectives of the Greenspaces program.
- E. Provide guidance and projects management advice to Metro and project managers on the implementation of the restoration and enhancement projects.
- F. Assist Metro in 3x a year meetings with the local project managers.
- G. Submit a monthly itemized summary of work accomplished and the time spent on each project. Approximately two thirds of consultants time will be spent on restoration and enhancement projects in an advisory role to Metro and project managers and one third of consultants time will be spent on research and preparation of presentation/evaluation document (see II Evaluation Booklet/Documentation section).
- H. Provide written documentation upon request of project site reviews and recommendations.
- I. Consultants must be available through out the calendar year in a timely fashion to advise and consult with Metro and project managers upon request.

**II. Evaluation Booklet/Documentation will include:**

- A. Aid in documentation of restoration projects funded through the first three years of restoration grants program (approximately 51). Incorporate the nine projects that were withdrawn or terminated.

B. Interview grantees to see where the program can grow and improve and where the grants program is sound, also interview key contact persons of grants that were not completed to assist with compiling suggestions for improving the program.

C. Develop document format with the US Fish and Wildlife Service and Metro staff.

D. Compile all reports and available data including photos on each restoration project for inclusion in evaluation booklet.

E. Assist with interviews of project managers, visit sites, etc. to acquire additional information to complete characterization of individual projects for report.

## II. Timeline

October 1, 1995 through December 1996

## III. Project Managers

Metro: Lynn Wilson

Contractor: Ester Lev and Dennis O Connor

## IV. Budget and Method Payment

A. Contract shall not exceed TWENTY THOUSAND AND NO/100ths (\$20,000.00) Billed at an hourly rate of \$40.00 an hour for Ester Lev and \$35.00 an hour for Dennis OConnor.

B. Payment shall be on a reimbursement basis. Metro will accept billings from the contractor on a monthly basis. Payment will be issued upon approval of the Metro Project Manager and Department Director but not prior to Metro receiving federal funding reimbursement for services from the Fish and Wildlife service.

## STAFF REPORT

CONSIDERATION OF RESOLUTION NO 95-2227 AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE CONTRACT NO 904542 IN THE AMOUNT OF \$20,000 WITH THE WETLANDS CONSERVANCY FOR TECHNICAL ASSISTANT SERVICES TO THE GREENSPACES RESTORATION GRANT PROGRAM.

Date: October 24, 1995

Presented by: Lynn Wilson

### PROPOSED ACTION

This resolution authorizes the Executive Officer to execute a contract for Technical Assistance to the Greenspaces Restoration Program. Although the adopted budget identifies this as a "B" contract, council approval is needed because the contract will cross fiscal years.

### FACTUAL BACKGROUND AND ANALYSIS

Requests for Qualifications for Technical Support were advertised in the Daily Journal of Commerce and the Scanner on August 9, 1995 with the deadline being August 23, 1995. Four RFQ's were submitted and the Wetlands Conservancy was most responsive and the lowest bid.

There are two main tasks included in the scope of work as follows:

1. Technical assistance on restoration projects funded by the Metro grants program. This includes working with prospective grantees in development of projects and review of new grant sites. Review of the technical merits of grant applications. Provide technical assistance to successful applicants implementing grant projects. Work with ongoing projects and offer technical advice.
2. Assist in developing an evaluation document of the first four years of the Restoration Grants Program. It will be used to document successes and failures of the program and suggest potential changes that could improve the program.

### BUDGET IMPACT

All funding for this contract comes from the US Fish and Wildlife Service. The FY 1995-96 budget specifically delineated a \$15,000 contract for the Technical Assistance component. Allocation for the preparation of the evaluation document although included in the budget was not specifically called out in the contract list because it was under \$10,000. Cost efficiencies are expected in combining the two components into one contract.

### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2227