



Memorandum

Date: 9/20/2022
Meeting of: City Council

File No. AM No. 22-137
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney

DEPARTMENT DIRECTOR CONTACT(S):

Planning and Community Development	Carol Helland	425-556-2107
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DEPARTMENT STAFF:

Planning and Community Development	Cathy Beam, AICP	Principal Planner
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TITLE:
Approval of Keller Farm Mitigation Banker Contract Changes

OVERVIEW STATEMENT:

The City executed a Consulting Services Agreement with Habitat Bank, LLC in January 2015, for design, establishment, development, operation, and management of a wetland mitigation bank on the former Keller Farm. Minor changes are proposed to the Agreement for consistency with the official Mitigation Banking Instrument (MBI).

Additional Background Information/Description of Proposal Attached

REQUESTED ACTION:

Receive Information **Provide Direction** **Approve**

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
N/A
- **Required:**
N/A
- **Council Request:**
N/A
- **Other Key Facts:**
Habitat Bank has changed the name on the official Mitigation Banking Instrument to “Keller Farm Mitigation Partners, LLC” strictly for business purposes. It does not affect the management or operation of the bank. The name change on the contract would provide consistency with the Mitigation Banking Instrument, which is the legally binding document approved and executed by the US Army Corps of Engineers, the Washington State Department of Ecology, and the City of Redmond.

Section 4 of the Consulting Services Agreement, Schedule - Term of Agreement, has a time specified when the agreement will no longer be in effect. It states, “This Agreement shall continue in effect thereafter until (a) that

date which is ten years after construction of the Certified Wetland Mitigation Bank is completed, i.e., that date on which the ten-year operational life of the Certified Wetland Mitigation Bank is completed, or (b) twelve years from the date this agreement is executed by both parties, whichever is sooner.” Because of the time it took to get the bank certified, this statement would mean the agreement ends before the bank establishment/operational phase ends and before all of the mitigation credits are sold. The MBI specifically defines the “Operational Life of the Bank,” therefore it is more appropriate, and advantageous for the City, to use MBI term and definition to define the length of the agreement.

Similarly, Section 5 of the Consulting Services Agreement - Compensation of Habitat Bank (Keller Farm Mitigation Partners, LLC) states, “Habitat Bank will pay the City twenty percent (20%) of the gross revenue received from each credit sale, derived from the Keller Farm Property until the City is fully reimbursed for the City’s \$2,520,000.00 purchase price for the Keller Farm Property. Thereafter, the City will receive ten percent (10%) of the gross revenue from each credit sale for the remaining term of the Agreement, or until all credits are sold, whichever occurs sooner.” This would be the same scenario as above, with the agreement ending prior to the establishment period and all potential credits are released or sold. A change to the MBI definition of Operational Life of the Bank is recommended.

OUTCOMES:

The proposed changes will provide consistency between the MBI and the Consulting Services Agreement. The changes also ensure the City is appropriately reimbursed from bank credit sales.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:

There is no fiscal impact associated with this change to the Keller Farm Mitigation Bank contract. Staff working on this amendment are funded through the adopted budget.

Approved in current biennial budget: **Yes** **No** **N/A**

Budget Offer Number:
000244 - Development Services

Budget Priority:
Vibrant and Connected

Other budget impacts or additional costs: **Yes** **No** **N/A**

If yes, explain:
N/A

Funding source(s):

The City's acquisition of the Keller Farm was made with stormwater funds. All mitigation credit sales revenue the City receives are allocated back to this fund.

Budget/Funding Constraints:

N/A

Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s):

Date	Meeting	Requested Action
9/6/2022	Committee of the Whole - Planning and Public Works	Receive Information

Proposed Upcoming Contact(s):

Date	Meeting	Requested Action
	None proposed at this time	N/A

Time Constraints:

None

ANTICIPATED RESULT IF NOT APPROVED:

The existing Consulting Services Agreement will be inconsistent with the Mitigation Banking Instrument and the City might not receive all the revenue available from the sale of mitigation bank credits.

ATTACHMENTS:

Attachment A: Existing Consulting Services Agreement with Habitat Bank showing proposed changes.