



## Board of County Commissioners - Staff Report

**Meeting Date:** October 19, 2021

**Presenter:** Ryan Hostetter

**Submitting Dept:** Planning & Building Services

**Subject:** EcoConnect Consulting LLC contract for Natural Resource Staff Assistance

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### **Statement / Purpose:**

Consideration of a contract for consultant services to review and recommend changes to Teton County's Land Development Regulations (LDRs) related to Comprehensive Plan Policy 1.1.b. by creating a tiered habitat mapping system with implementation measures to update the Natural Resources Overlay.

### **Background / Description:**

In September of 2018 a public review draft of the County's updated Natural Resource Land Development Regulations were released. Due in part to concerns raised from a subset of the stakeholder group regarding how some of the mapping information was characterized and proposed to be used moving forward, as well as subsequent turnover in the staff position serving as project manager, the draft was not formally adopted. That said, much of the work related to the data behind the effort, the focal species list, and the draft of the Land Development Regulations (LDRs) all remain extremely valuable and staff believes that the draft LDRs released could be very close to adoption given some modifications and updates.

In creating the 2018 draft LDR update, Alder Environmental completed the "Focal Species Habitat Mapping" document for Teton County (April 21, 2017) which includes the data behind how the tiers would be distinguished. Much of this work was completed by Megan Smith M.S. Senior Wildlife Biologist who was a part of the Alder Environmental team when that report was produced. Megan Smith M.S., as EcoConnect Consulting LLC, was subsequently hired by Teton County to refine this mapping effort inclusive of a "Focal Species Habitat Mapping for Teton County, WY Report Addendum" (June 22, 2018). The focal species list and the subsequent focal species habitat mapping work was vetted by stakeholders including a chosen citizen stakeholder group, Wyoming Game and Fish Department and the Natural Resources Technical Advisory Board (NRTAB).

Because of the amount of work invested in the "Focal Species Habitat Mapping" and due to her experience in this field in general, Planning Staff recommends that the County continue to contract with Megan Smith M.S. of EcoConnect Consulting LLC for the work in question. The County is looking to sole source this specific work for the following reasons:

- Existing data and reporting were produced by Megan Smith for the April 21, 2017 Focal Species Habitat Mapping report
- Megan Smith attended the stakeholder meetings and worked closely with the Wyoming Game and Fish Department
- Megan Smith produced an additional report addendum with updated information (June 22, 2018) based on work with Wyoming Game and Fish Department
- Megan Smith's historic knowledge on past work related to the Natural Resource LDR update
- Megan Smith's technical and professional expertise needed to provide Staff support

Due to these circumstances, and the need to efficiently dive back into the Natural Resources LDR update, staff recommends contracting with Megan Smith on this project. Specific work tasks are attached in the scope of work memo dated August 23, 2021. In summary, those tasks include:

- Research and background due to the time lapse since work was last conducted on this project
- Review and update of the 2018 draft LDR language
- Reprocess tiered GIS layer for an updated tiered map (convert raster dataset into polygon dataset)
- Provide staff technical expertise and attend meetings with staff

### **Stakeholder Analysis & Involvement:**

This project was initiated through the adoption of the joint Town of Jackson and Teton County FY 22 Work Plan. The County Commissioners expressed interest in completing the Natural Resource Land Development Regulations, including



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receiving updates from staff, at the October 5, 2020 and the December 28, 2020 Board of County Commissioners meetings and confirming the need to complete the effort. The 2018 draft released included review by many stakeholders including a citizen based stakeholder committee. Staff will continue to communicate any updates to this committee, however it is not staff's recommendation to reconvene the group; rather we propose to utilize the expertise of the group members individually to review draft updates and provide comment to staff. In addition, staff recommends reconvening the Natural Resources Technical Advisory Board (NRTAB) in order to more formally review and provide recommendation on any future draft language.

### **Fiscal Impact:**

The attached proposal includes a scope of work with associated costs. Additionally this project has been reviewed and included within the FY22 budget for the Department of Planning and Building Services in the amount of \$10,000.00. The consultant has proposed to complete the project in an amount not to exceed \$7,050.00

### **Staff Impact:**

This project is anticipated within the FY22 Town of Jackson and Teton County Workplan with an anticipation that work will be conducted mostly in FY23. Staff would like to enter this contract with Megan Smith, with the goal of potentially adopting updated regulations in FY23.

**Legal Review:** Gingery

### **Staff Input / Recommendation:**

Staff recommends approval of the contract.

### **Attachments:**

1. Proposed Contract with EcoConnect Consulting LLC. for Staff support on the Natural Resource LDR update, including Scope of Work (Exhibit A)
2. Sole Source Justification Form

### **Suggested Motion:**

I move to approve the sole source Consultant Agreement between Teton County and EcoConnect Consulting LLC for staff and technical support on the Natural Resource LDR updates in an amount not to exceed \$7,500.00.

# NATURAL RESOURCE LDR CONSULTING CONTRACT

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## AGREEMENT

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 (hereinafter referred to as the effective date of the agreement) by and between Teton County, a duly organized county of the State of Wyoming (hereinafter referred to as **County**) and EcoConnect Consulting, LLC (hereinafter referred to as **Consultant**).

### Witnesseth

WHEREAS, the Teton County Board of County Commissioners have determined the need for consultant services to review and recommend changes to the Teton County Land Development Regulations (LDRs) related to Comprehensive Plan Policy 1.1.b. by creating a tiered habitat mapping system with implementation measures to update the Natural Resources Overlay; and

WHEREAS, Consultant is an expert with many years of experience in such matters and is willing to assist Teton County. This is a sole source contract without bidding because Megan Smith, the owner of EcoConnect Consulting, LLC, has the existing data since she produced the original focal species habitat map and has historic knowledge on past work related to the Natural Resource LDR update; and

WHEREAS, the County desires to hire Consultant and Consultant desires to provide to the County such services; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Consultant agree to the terms and conditions set forth herein.

### Article 1. Scope of Work

The Consultant agrees to perform the work as outlined in Consultant's Proposal dated August 23, 2021.

### Article 2. Compensation

The County will pay the Consultant at an amount not to exceed \$7,050.00, as full compensation for the services rendered to the County under the terms of this agreement. The amount of compensation shall not vary in any way whatsoever as a result of the time of day the services are performed or the number of hours during which services are performed in any given time period. Contractor shall not receive compensation in excess of \$7,050.00 without the prior written approval of the County. Contractor shall submit invoices to the County for services on a monthly basis, which shall be supported by prior receipt of the reports invoiced as documentation of services performed. Upon receipt of a satisfactory invoice, the County will remit payment to the

Contractor within thirty (30) days. County may examine all records and accounts of Contractor during reasonable hours for the period ending one (1) year after termination of this agreement in order to audit and verify aforementioned charges.

### **Article 3. Payment**

The County shall pay the Consultant as described in Article 2, Compensation.

### **Article 4. Independent Contractor Status**

It is understood and agreed that Consultant will provide the services under this Agreement on a professional basis and as an independent contractor and that during the performance of the services under this Agreement, Consultant will not be considered an employee of the County within the meaning or the applications of any federal, state, or local laws or regulations including, but not limited to, laws or regulations covering unemployment insurance, old age benefits, worker's compensation, industrial accident, labor, or taxes of any kind. Consultant shall not be entitled to benefits that may be afforded from time to time to County employees, including without limitation, vacation, holidays, sick leave, worker's compensation, and unemployment insurance. The County shall not be responsible for withholding or paying any taxes or social security on behalf of Consultant. Consultant shall be fully responsible for any such withholding or paying of taxes or social security.

### **Article 5. Trademark and Trade Name**

This Agreement does not give either Party (County or Consultant) any ownership rights or interest in the other Party's trade name or trademarks.

### **Article 6. Term of the Contract and Completion of Work**

The term of this contract shall be from the date of execution as herein written and shall continue until December 31, 2021.

### **Article 7. Extension**

This contract may be modified and extended in upon written agreement of the parties as described above.

### **Article 8. County Records**

In conjunction with this agreement, the County shall make every reasonable effort to provide consultant with available existing records, or adequate copies thereof, relative to the Scope of Work.

## **Article 9. Notices**

Any notices required under this contract shall be sufficient if sent by certified mail, return receipt requested, to the County at the following address:

Teton County Clerk  
P.O. Box 1727  
Jackson, WY 83001

And to the Consultant at the following address:

EcoConnect Consulting, LLC  
P.O. Box 13259  
Jackson, WY 83002

## **Article 10. Use of Work Product**

Except as specifically set forth in writing and signed by both the Consultant and the County, the County shall retain all ownership in all work product and final product developed by the Consultant.

## Article 11. General Provisions

A.	<u>Entire Agreement:</u>	This Agreement represents the entire and sole agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior negotiations, understandings, representations, or consulting agreements whether written or oral. This Agreement cannot be modified, changed, or amended, except in writing signed by the Parties.
B.	<u>Waiver:</u>	The failure of either Party to require performance by the other of any provision hereof shall in no way affect the right to require performance at any time thereafter, nor shall the waiver of a breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy available at law or in equity.
C.	<u>Relationship:</u>	Nothing herein contained shall be construed to imply a joint venture, partnership, or principal-agent relationship between Consultant and the County; and neither Party shall have the right, power, or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing.
D.	<u>Assignment and Delegation:</u>	Neither Party shall assign or delegate this Agreement or any rights, duties, or obligations hereunder without the express written consent of the other. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the successors, legal representatives, and assignees of the Parties hereto. Contractor may utilize the services of qualified sub-contractors, subject to approval by the County, and the sub-contractors shall operate under the sole direction and control of the Consultant.
E.	<u>Severability:</u>	If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.
F.	<u>Governing Law:</u>	This Agreement shall be governed by, and construed in accordance with, the laws of the State of Wyoming.
G.	<u>Paragraph Headings:</u>	The paragraph headings set forth in this Agreement are for the convenience of the Parties, and in no way define, limit, or describe the scope or intent of this Agreement and are to be given no legal effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

The Board of County Commissioners hereby ratifies this Agreement on behalf of Teton County, Wyoming this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**THE BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, WYOMING**

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Natalia D. Macker, Chairwoman

(Seal)

Attest:

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Maureen E. Murphy, Teton County Clerk

**CONSULTANT**

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Megan Smith  
EcoConnect Consulting, LLC

**To:** Ryan Hostetter, Principal Long Range Planner, Teton County Planning Department

**From:** Megan A. Smith, Owner/ Wildlife Ecologist, EcoConnect Consulting LLC

**Date:** August 23, 2021

**Re:** Proposed Scope of Services for Natural Resource Staff Assistance

*sent via email*

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The following was prepared as a possible scope of services for EcoConnect Consulting to assist Teton County's Long Range Planning Department with updating Teton County's natural resource land development regulations (Divisions 5.1 and 5.2) and completing the creation of a tiered system of protection as is called for in the Teton County Comprehensive Plan (Policy 1.1.b).

#### **TECHNICAL ASSISTANCE**

**Research and background** – EcoConnect will work with staff on a technical approach to move forward with the work begun in 2018. This effort will not re-envision the Natural Resources Overlay tiered mapping project or the focal species list. This work will include reviewing previous materials and meeting with planning staff to assist bringing staff up to speed on the mapping work, the past process and possible steps forward. This step is anticipated to take approximately 8 hours not to exceed a budget of \$1200.

**Review the 2018 LDR draft** – EcoConnect will provide comments/ edits/ suggestions to staff on the 2018 LDR draft beginning with the attached version and including other associated documents. This review will include revisiting the tiers and create a process for public predictability that includes the use of options to simplify the application requirements when proposals beneficial to existing natural resources are proposed. This step is anticipated to take approximately 16 hours not to exceed a budget of \$2400.

**Process a Generalized NRO Layer** – EcoConnect will complete the original intent of the NRO Tiered mapping effort by generalizing the layer to a form applicable at the landscape level of analysis. This will include working with County staff to convert the current raster dataset to a polygon dataset thereby updating the current NRO to a tiered tool. This process will be reviewed and approved by County Staff and may necessitate reconvening of the NRTAB group for review and comment. This step is anticipated to take approximately 20 hours not to exceed a budget of \$3000.

**Provide Guidance as to Future Updates** – EcoConnect Consulting will provide guidance as to future updating of maps and at what intervals in the future updates should be processed based on underlying data. This step is anticipated to take approximately 3 hours (including a written summary) not to exceed a budget of \$450.

#### **MEETINGS**

**Attend Public Hearings** – As requested by staff, EcoConnect will attend two (2) public meetings (approx. 1 hr each) to provide background and technical support of the process (either virtually or in-person). Additional meetings will be billed on a time and materials basis.

**Meetings and/ or Workshops with Staff** – EcoConnect Consulting will meet with staff and accompany staff at other meetings, as needed and requested, to coordinate efforts throughout the contract (either virtually or in-person). This is anticipated to include bi-weekly meetings as needed) over the next three months or until the contract is concluded.

**Stakeholder Group** - County Staff will send any updated information to remaining members of the Stakeholder Group for review and feedback. County Staff will facilitate any comments of the

Stakeholder group through email. If particular members would like to meet with staff that can be coordinated.



## Sole Source Justification

*According to Teton County Rules and Regulations 2-2-5 SOLE SOURCE PROCUREMENT, any purchase above \$5,000 without competition must have this form completed and submitted to the Board of County Commissioners with a staff report for final approval.*

Department: Planning and Building Services

Name: Ryan Hostetter

Title: Principal Long Range Planner

Phone (307) 732-8414

Email: rhostetter@tetoncountywy.gov

Purchase or contract description:

Contract with EcoConnect LLC for technical services related to the County's Natural Resource LDR update. Description of specific tasks are attached to this document in the "Proposed Scope of Services" memo (EcoConnect August 23, 2021).

Tasks include research and background, review and comment on draft Land Development Regulations (LDR) language, process an updated Natural Resources Overlay (NRO) layer (create updated landscape level layers), provide staff technical support, and attend meetings and hearings.

Estimated Expense: \$7,500.00 outlined in scope and contract. County budgeted \$10,000.00 which if needed a contract amendment will be submitted to the Board of County Commissioners.

Explain why competitive bidding or RFP process is not feasible:

This particular vendor has specific working knowledge and experience with this project for which the County is requesting assistance.

- Existing data and reporting were produced by Megan Smith for the April 21, 2017 Focal Species Habitat Mapping report
- Megan Smith attended the stakeholder meetings and worked closely with the Wyoming Game and Fish Department
- Megan Smith produced an additional report addendum with updated information (June 22, 2018) based on work with Wyoming Game and Fish Department
- Megan Smith's historic knowledge on past work related to the Natural Resource LDR update
- Megan Smith's technical and professional expertise needed to provide Staff support

Explain why the vendor has been chosen for procurement of goods, services, or construction item:

This particular effort has included past contracts to complete tasks related to the "Focal Species Habitat Mapping" document which were completed by Megan Smith under Alder Environmental. Megan Smith has particular working knowledge and history of the technical data that went into the report, and has put together the GIS files for the maps which correspond to the data. Because of the uniqueness of this particular project, and her years of working knowledge with the technical data which went into the effort,

County Staff recommends bringing Ms. Smith on through a sole source contract to assist Planning Staff with completing the update to the Natural Resource LDRs. In addition, much of the County Staff is new since the 2018 draft LDRs were released for public review, and Ms. Smith's historic knowledge behind all of the technical working meetings is invaluable to County Staff which will assist with a more efficient review of any updated information moving forward.

Provide reasoning for Sole Source Request:

Megan Smith M.S. has a working knowledge of the information needed by the County in order to update the Natural Resource LDRs because of her work on the "Focal Species Habitat Mapping" as well as additional work which included a "Report Addendum" dated June 22, 2018 through EcoConnect LLC. Ms. Smith attended the citizen stakeholder meetings which led up to and followed the release of the 2018 draft LDRs which ultimately were not adopted. Her experience working with Wyoming Game and Fish within some of the stakeholder meetings on this project is necessary for the effort to move forward in a more efficient manner.

Authorized Signature of Department Director or Elected Official:   
Title: Planning Director Date: October 12, 2021