



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Thomas S. Burack, Commissioner



Burack  
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February 7, 2013

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to award a Local Source Water Protection grant to the Lakes Region Planning Commission, (Vendor Code #154653), Meredith, NH in the amount of \$12,475.00 to complete a project to protect public drinking water systems, effective upon Governor and Council approval through May 31, 2014. 100% Federal Funds.

Funding is available in the account as follows:

03-44-44-442010-4718-072-500574

Dept Environmental Services, DWSRF Administration, Grants- Federal

FY 2013

\$12,475.00

EXPLANATION

The Department of Environmental Services issued a request for proposals for 2013 Local Source Water Protection Grants. These grants are funded by set-asides under the Drinking Water State Revolving Loan Fund. They can be used to develop and implement protection plans for active sources of public drinking water. Sixteen proposals were received. The proposals were evaluated and ranked based on criteria included in the request for proposals such as whether the project fulfills a component of a source water protection program, that the proposed project addresses appropriate threats, and that the project will deliver a valuable and useful product. Based on the available federal funding, the Department determined that it could offer grants to seven source protection planning projects and three source security projects. The Department intends to support the remaining eligible projects through separate requests. See attachment A for the proposal rankings and list of reviewers.

The Lakes Region Planning Commission will use the grant funds to assist the City of Laconia with installing a vegetated bio-retention basin and associated catch basin within the Paugus Bay watershed which is the City's drinking water supply source. The bio-retention basin will treat stormwater to reduce contaminants entering the lake and reduce erosion.

In the event that federal funds no longer become available, general funds will not be requested to support this program.

We respectfully request your approval.

Thomas S. Burack  
Commissioner

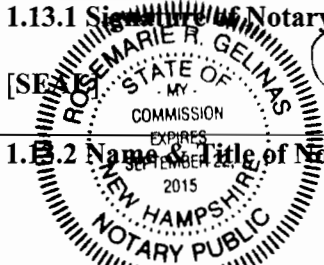
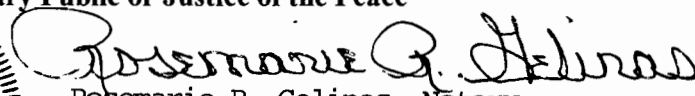
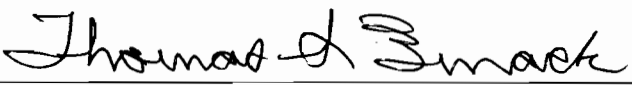
**Subject: Lakes Region Planning Commission**

**GRANT AGREEMENT**

The State of New Hampshire and the Grantee hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. Identification and Definitions.**

<b>1.1 State Agency Name</b> NH Department of Environmental Services		<b>1.2 State Agency Address</b> 29 Hazen Drive, Concord, NH 03301	
<b>1.3 Grantee Name</b> Lakes Region Planning Commission		<b>1.4 Grantee Address</b> 103 Main Street, Suite #3, Meredith, NH 03253	
<b>1.5 Effective Date</b> Upon G&C Approval	<b>1.6 Completion Date</b> May 31, 2014	<b>1.7 Audit Date</b> N/A	<b>1.8 Price Limitation</b> \$12,475.00
<b>1.9 Grant Officer for State Agency</b> Johnna McKenna NH Department of Environmental Services		<b>1.10 State Agency. Telephone Number</b> 603-271-7017	
<b>1.11 Grantee Signature</b> 		<b>1.12 Name &amp; Title of Grantee Signor</b>  Kimon Koulet, Executive Director	
<b>1.13 Acknowledgment: State of <u>New Hampshire</u>, County of <u>Belknap</u></b>			
On <u>01-14-13</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
<b>1.13.1 Signature of Notary Public or Justice of the Peace</b>   Rosemarie R. Gelinas, Notary			
<b>1.13.2 Name &amp; Title of Notary Public or Justice of the Peace</b>  Rosemarie R. Gelinas, Notary			
<b>1.14 State Agency Signature(s)</b> 		<b>1.15 Name/Title of State Agency Signor(s)</b>  Thomas S. Burack, Commissioner NH Department of Environmental Services	
<b>1.16 Approval by Attorney General (Form, Substance and Execution)</b>  By:  On: <u>2-20-13</u>			
<b>1.17 Approval by the Governor and Council</b>  By: _____ On: _____			

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

4. **EFFECTIVE DATE: COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as the "Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as the "Completion Date").

5. **GRANT AMOUNT: LIMITATION ON AMOUNT: PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.**

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities, which shall impose any obligations, or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, Cont includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grantee officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grantee Officer, and his/her decision on any dispute, shall be final.

9. **DATA: RETENTION OF DATA; ACCESS.**

9.1 As used in this Agreement, the word data shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OR AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grantee Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. **TERMINATION.**

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the Termination Report) describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

Grantee Initials *KK*  
Date *1/14/13*

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. **CONFLICT OF INTEREST.** No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. **GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, or subcontractors, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

15. **ASSIGNMENT AND SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

17. **INSURANCE AND BOND.**

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory workmen's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation of modification of the policy earlier than ten (10) days after written notice the of has been received by the State.

18. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. **NOTICE.** Any notice by a party hereto the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. **AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. **CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

Grantee Initials *KK*  
Date *1/14/13*

**EXHIBIT A**  
**SCOPE OF WORK**

Lakes Region Planning Commission:

The Lakes Region Planning Commission (LRPC) will use the grant funds to assist the City of Laconia with installing a vegetated bio-retention basin and associated catch basin within the Paugus Bay watershed which is the City's drinking water supply source. The stormwater system will be installed at the intersection of Weirs Boulevard and White Oaks Road which lies less than 400 feet from Paugus Bay. The system will treat the stormwater to reduce contaminants entering into the lake and reduce erosion. The City will be responsible for maintenance and repair of the stormwater system as stated in the December 14, 2012 *Operations and Maintenance Agreement* submitted by the City. Specifically, the following tasks, as described in the application submitted to DES, will be accomplished:

1. Design bio-retention system. Submit design to DES for review and approval.
2. Obtain all applicable local and state permits.
3. Excavate and install surface substrate.
4. Install bio-retention basin plantings.
5. Install catch basin.
6. Install catch basin snout BMP water quality insert.
7. Laconia DPW will conduct final inspection with DES and LRPC confirming practices are properly installed and functional. Prepare as-built plan and submit to DES.

**Quarterly progress report forms must be completed by grant recipients or their subcontractor and submitted to DES every three months beginning with the first full 3 month quarter after grant approval from Governor & Council.**

**EXHIBIT B**  
**BUDGET & PAYMENT METHOD**

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of associated invoice. **If invoice is less than initial estimate only the amount on the invoice will be paid.** Payments shall be made in accordance with the following schedule based upon completion of specific tasks:

<b>Task Number/Description</b>	<b>Source Water Protection Grant</b>
Project Administration (to include project management, coordination to procure services and materials, and city liaison for all invoicing and reporting)	\$2,475.00
Design Bio-retention basin	\$4,000.00
Install plants and surface substrate	\$2,000.00
Install Catch basin	\$2,500.00
Install Snout catch basin and water quality BMP insert	\$1,500.00
Inspection and As-built submittal	
<b>TOTAL</b>	<b>\$12,475.00</b>

**EXHIBIT C**  
**SPECIAL PROVISIONS**

Subparagraphs 1.7 of the General Provisions shall not apply to this Agreement.

Changes to the Scope of Services or reallocation of grant funds require DES approval in advance. Payments will be made based on submitted invoices.

Work must be completed by the completion date listed on the grant agreement (section 1.6). Requests for payment along with required proof of work must be submitted no later than 90 days after the completion date or the grant will be closed out and funds will no longer be available.

If a deadline extension is requested the grantee must make that request for approval at least two months before the completion date. Failure to do so may result in lower rankings of future grant applications.

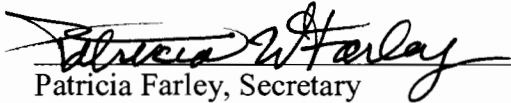
Federal Funds paid under this agreement are from a Grant to the State from the U.S. Environmental Protection Agency, Drinking Water State Revolving Fund Set-Asides under CFDA #66.468. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant are hereby adopted in full force and effect to the relationship between this Department and the grantee.

Certificate of Authority

I, Patricia Farley, do hereby certify that 1) I am the duly elected Secretary of Lakes Region Planning Commission, a regional planning agency established pursuant to the laws of the State of New Hampshire (RSA 36:45-53); 2) I sign and maintain or cause to be maintained and am familiar with the minutes of the commission; 3) I am duly authorized to issue certificates with respect to the contents of such minutes; 4) at the regular board meeting held on January 9, 2013 the commission voted to allow Kimon Koulet, Executive Director, to accept monies and execute any documents which may be necessary to effectuate contracts; 5) this authorization remains in full force and effect until revoked, and 6) the following person has been appointed to and now occupies the office indicated in (4) above:

Kimon Koulet, Executive Director

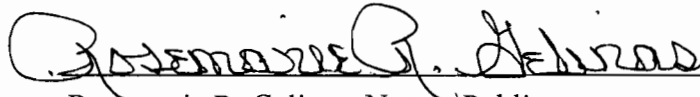
IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Lakes Region Planning Commission, this 14 day of January, 2013.

  
Patricia Farley, Secretary

State of New Hampshire  
County of Belknap

On this the 14 day of January, 2013, before me Rosemarie R. Gelinas the undersigned officer, personally appeared Patricia Farley who acknowledged him/herself to be the Secretary of the Lakes Region Planning Commission being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.

  
Rosemarie R. Gelinas, Notary Public

Commission Expiration Date:







**Attachment A  
2013 Local Source Water Protection Grants**

**Grant Reviewer List**

<b>Name</b>	<b>Department</b>	<b>Bureau</b>	<b>Title</b>	<b>Justification (Experience)</b>
Paul Susca	NHDES	Drinking Water & Groundwater Bureau	Administrator III	Source Water Protection Program Manager (8 years)
Johnna McKenna	NHDES	Drinking Water & Groundwater Bureau	Supervisor VII	Grant Program Manager (14 years)
Pierce Rigrod	NHDES	Drinking Water & Groundwater Bureau	Environmentalist IV	Grant Project Management (8 years)

**Applications and Rankings**

*Source Protection Planning Projects*

<b>Grant Applicant</b>	<b>Project Location</b>	<b>Grant Amount</b>	<b>Rank</b>	<b>Notes</b>
Lake Winnepesaukee Watershed Association	Lake Waukewan-Meredith	\$11,740	1	
NH Lakes Association	Canobie Lake-Salem	\$18,606	2	
Lakes Region Planning Commission	Paugus Bay-Laconia	\$12,475	3	
Plymouth Water & Sewer	Plymouth	\$15,000	4	
Strafford Regional Planning Commission	Oyster River	\$10,065	5	
City of Rochester	Rochester	\$9,150	6	
Monadnock Tenants Coop	Rindge	\$4,640	7	
Southern NH Planning Commission	Londonderry	\$19,055	8	Unable to fund
UNH-PREP	Seacoast	\$18,963	9	Unable to fund
Pennichuck Water Works	Nashua	\$20,000	10	Unable to fund
Sunray Shores Water Dist.	Belmont	\$19,841	11	Unable to fund
City of Portsmouth	Portsmouth	\$17,108	12	Unable to fund

*Source Security Projects*

<b>Grant Applicant</b>	<b>Project Location</b>	<b>Grant Amount</b>	<b>Rank</b>	<b>Notes</b>
City of Claremont	Claremont	\$5,297	1	
Village District of Eastman	Grantham	\$18,570	2	
Town of Troy Water & Sewer	Troy	\$2,529	3	
Monadnock Tenants Co-op	Rindge	\$9,685	4	Unable to fund