



The State of New Hampshire  
**Department of Environmental Services**

OCT 15 12:32 DAS



**Thomas S. Burack, Commissioner**

September 28, 2015

Her Excellency, Governor Margaret Wood Hassan  
and The Honorable Council  
State House  
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to amend an agreement (PO# 1030281) with the Blue Ocean Society for Marine Conservation, Inc., Portsmouth NH, (VC #159192), for the *Hodgson Brook Watershed Restoration Plan Implementation, Phase 3: Holly Lane Retrofit, and Pease Buffer Enhancement Project* by changing the completion date to December 31, 2016 from December 31, 2015, effective upon Governor and Council approval through December 31, 2016. The original agreement was approved by G&C on June 19, 2013, Item #178. No additional funding is requested in this amendment. 100% Federal Funds.

EXPLANATION

DES is requesting approval of this amendment to the agreement to provide the Grantee with additional time to complete this project. The Grantee needs additional time to complete the project because site selection, designs, and construction planning for several of the planned stormwater management practices took longer than anticipated due to unanticipated physical site constraints that need to be overcome in order for construction to move forward. Please see Attachment A for a copy of the original grant agreement.

Hodgson Brook is a seven mile urban stream that flows through Portsmouth, New Hampshire. Untreated stormwater flowing from impervious areas into the brook has led to amplified stream flows carrying high levels of pollutants and sediments into its receiving waters, the North Mill Pond. Because of this pollution, the Brook is listed on the 2010 DES Surface Water Quality Assessment report as being impaired for aquatic life use, secondary contact recreation, and chloride. This project represents the third phase of implementation of the recommended actions listed within the 2004 Watershed Restoration Plan for Hodgson Brook, and is designed to make progress toward restoration of the waterbody and removal from the impaired waters list.

During this phase, the project partners are implementing stormwater retrofit installations to improve infiltration and filtration of stormwater, and disconnect the flow of stormwater from impervious surfaces into the brook. The installations include infiltration and bio-retention areas, rain gardens, and rain barrels in the Holly Lane neighborhood. Additionally, a pollutant analysis of the lower Hodgson Brook subwatershed using canine detection will identify hot spot locations for additional targeted bacteria surveys to resolve identified high bacteria levels. A stream buffer enhancement project will help stabilize 700 feet of stream bank, provide habitat, increase stormwater absorption, and lower stream temperatures. Finally, dedicated instrumentation will be used to monitor individual subwatersheds for

[www.des.nh.gov](http://www.des.nh.gov)


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(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

Page 2

chloride loading and flow patterns to document results over time as chloride pollution mitigation efforts progress. Each part of the project includes outreach activities designed to further engage local stakeholders in the watershed restoration project. To date, the grantee has installed more than ten stormwater management practices in the watershed that have removed 3,000 lbs. of sediment, 10 lbs. of phosphorus, and 50 lbs. of nitrogen from stormwater runoff.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program. This amendment has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.

  
Thomas S. Burack, Commissioner

**Agreement for Services with the Blue Ocean Society for Marine Conservation, Inc.**  
Amendment No. 1

This Agreement (hereinafter called the "Amendment") dated this 2<sup>nd</sup> day of September, 2015, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and the Blue Ocean Society for Marine Conservation, Inc., acting by and through its Executive Director, Jennifer Kennedy (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Council on June 19, 2013, the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:

The Completion Date as set forth in sub-paragraph 1.6 of the agreement shall be changed from December 31, 2015 to December 31, 2016.

2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Initial JK  
Date 9/22/15

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

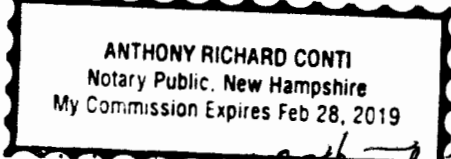
Blue Ocean Society for Marine Conservation Inc.

By Jennifer Kennedy  
Jennifer Kennedy, Executive Director

STATE OF NEW HAMPSHIRE  
COUNTY OF Rockingham

On this the 22<sup>nd</sup> day of September, 2015, before the undersigned officer, personally appeared Jennifer Kennedy, Executive Director, who acknowledged him/herself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Anthony Richard Conti Esq.  
Anthony Richard Conti, Esq., Notary Public

My Commission Expires: 28<sup>th</sup> Feb. 2019

THE STATE OF NEW HAMPSHIRE  
Department of Environmental Services

By Thomas S. Burack  
Thomas S. Burack, Commissioner

Approved by Attorney General this 12<sup>th</sup> day of October, 2015

OFFICE OF ATTORNEY GENERAL

By [Signature]  
Sr. Assistant Attorney General

# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BLUE OCEAN SOCIETY FOR MARINE CONSERVATION, INC. is a New Hampshire nonprofit corporation formed September 6, 2002. I further certify that it is in good standing as far as this office is concerned, having filed the return(s) and paid the fees required by law.

In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 16<sup>th</sup> day of September A.D. 2015



A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

CERTIFICATE of AUTHORITY

I, Dianna Schulte, President of the Blue Ocean Society for Marine Conservation, Inc., do hereby certify that:

- (1) I am the duly elected President;
- (2) at the meeting held on 9/10/15, the Blue Ocean Society for Marine Conservation, Inc. voted to accept DES funds and to enter into a contract with the Department of Environmental Services;
- (3) the Blue Ocean Society for Marine Conservation, Inc. further authorized the Executive Director to execute any documents which may be necessary for this contract;
- (4) this authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
- (5) the following person has been appointed to and now occupies the office indicated in (3) above:

Jennifer L. Kennedy

IN WITNESS WHEREOF; I have hereunto set my hand as the President of the Blue Ocean Society for Marine Conservation, Inc., this 22<sup>nd</sup> day of September, 2015.

  
\_\_\_\_\_  
Dianna Schulte, President

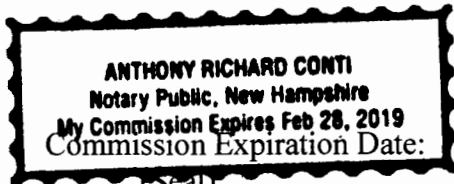
STATE OF NEW HAMPSHIRE

County of Rockingham


On this the 22<sup>nd</sup> day of September, 2015, before me

Anthony Richard Conti, Esq. the undersigned officer, personally appeared Dianna Schulte who acknowledged himself to be the President of the Blue Ocean Society for Marine Conservation, Inc. 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.~~



(Seal)

  
\_\_\_\_\_  
Name of Notary Public (signature above)



# CERTIFICATE OF LIABILITY INSURANCE

AHB  
R045DATE (MM/DD/YYYY)  
9/11/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> E & S INSURANCE SERVICES LLC 041160 P: (603) 293-2791 F: (603) 293-7188 21 MEADOWBROOK LANE SUITE 11 GILFORD NH 03247	CONTACT NAME:		FAX (A.C. No.): (603) 293-7188		
	PHONE (A.C. No. Ext): (603) 293-2791				
<b>INSURED</b> BLUE OCEAN SOCIETY FOR MARINE CONSERVATION 143 PLEASANT ST PORTSMOUTH NH 03801	E-MAIL ADDRESS:				
	INSURER(S) AFFORDING COVERAGE				NAIC#
	INSURER A: Hartford Casualty Ins Co				
	INSURER B:				
	INSURER C:				
	INSURER D:				
INSURER E:					
INSURER F:					

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR HYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<b>COMMERCIAL GENERAL LIABILITY</b>			04 SBA PQ3455	05/06/2015	05/06/2016	EACH OCCURRENCE	\$2,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
	<input checked="" type="checkbox"/> General Liab						MED EXP (Any one person)	\$10,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	\$2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						GENERAL AGGREGATE	\$4,000,000
	OTHER:						PRODUCTS - COMP/OP AGG	\$4,000,000
	<b>AUTOMOBILE LIABILITY</b>						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS							\$
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR						AGGREGATE	\$
	<b>EXCESS LIAB</b>							\$
	<input type="checkbox"/> CLAIMS-MADE							\$
	DED							\$
	RETENTION \$							\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below			N/A			E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

Those usual to the Insured's Operations.

<b>CERTIFICATE HOLDER</b> New Hampshire Department of Environmental Services 29 HAZEN DR CONCORD, NH 03301	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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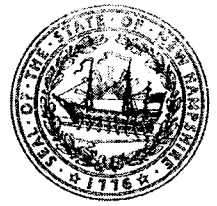




**Attachment A: Copy of Original Agreement**



The State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 21, 2013

Her Excellency, Governor Margaret Wood Hassan  
and The Honorable Council  
State House  
Concord, NH 03301

APPROVED G & C  
DATE 6/19/13  
ITEM # 178

REQUESTED ACTION

Authorize the Department of Environmental Services to enter into an agreement with the Blue Ocean Society for Marine Conservation, Inc., Portsmouth NH, (VC # 159192) in the amount of \$116,120 to complete the *Hodgson Brook Watershed Restoration Plan Implementation, Phase 3: Holly Lane Retrofit, and Pease Buffer Enhancement Project*, effective upon Governor and Council approval through December 31, 2015. 100% Federal funds.

Funding is available in the account as follows:

03-44-44-442010-2035-072-500575 FY 2013  
Dept. Environmental Services, NPS Restoration Program, Grants-Federal \$116,120

EXPLANATION

The Department of Environmental Services (DES) issued a Request For Proposals (RFP) for the 2013 Watershed Assistance Grants program. Fifteen proposals were received. The proposals were ranked based on the criteria included in the RFP: water quality improvement or protection; cost/benefit ratio; local capacity to complete the project; relative value or significance of the water body; and, general quality and thoroughness of the proposal. Bonus points were available for projects that: implemented a watershed management plan; reduced nitrogen loading to Great Bay; or, addressed waters impaired by hydro-modification. Based on results of the selection process and available federal grant funding levels, the nine highest ranked projects were selected to receive funding. Please see Attachment B for a list of project rankings and review team members.


The Watershed Assistance Grants focus on the reduction of nonpoint source (NPS) pollution. NPS pollution occurs when rainfall, snowmelt, or irrigation water runs over land or through the ground, transporting materials which are then deposited into rivers, lakes, and coastal waters, or introduced into the groundwater. Pollutants can include chemicals, sediments, nutrients, and toxics. These materials can have harmful effects on drinking water supplies, recreation, fisheries, and wildlife. Land development or changes in land use can also cause NPS pollution by disrupting the natural hydrology of a water body, increasing impervious surfaces, and contributing to the loss of aquatic habitat. Watershed Assistance programs address NPS pollution by managing land use and drainage on a watershed scale.

Hodgson Brook is a seven mile urban stream that flows through Portsmouth, New Hampshire. Untreated stormwater flowing from impervious areas into the brook has led to amplified stream flows carrying high levels of pollutants and sediments into its receiving waters, the North Mill Pond. Because of this the Brook is listed on the 2010 DES Surface Water Quality Assessment report as being impaired for aquatic life use, secondary contact recreation, and chloride. This project represents the third phase of implementation of the recommended actions listed within the 2004 Watershed Restoration Plan for Hodgson Brook, and is designed to make progress toward restoration of the waterbody and removal from the impaired waters list.

During this phase, the project partners will implement stormwater retrofit installations to improve infiltration and filtration of stormwater, and disconnect the flow of stormwater from impervious surfaces into the brook. The installations will include infiltration and bio-retention areas, rain gardens, and rain barrels in the Holly Lane neighborhood. Additionally, a pollutant analysis of the lower Hodgson Brook subwatershed using canine detection will identify hot spot locations for additional targeted bacteria surveys to resolve identified high bacteria levels. A stream buffer enhancement project will help stabilize 700 feet of stream bank, provide habitat, increase stormwater absorption, and lower stream temperatures. Finally, dedicated instrumentation will be used to monitor individual subwatersheds for chloride loading and flow patterns to document results over time as chloride pollution mitigation efforts progress. Each part of the project will include outreach activities designed to further engage local stakeholders in the watershed restoration project.

The total project costs are budgeted at \$193,572. DES will provide \$116,120 (60%) of the project costs through a federal grant and the Blue Ocean Society for Marine Conservation, Inc. will provide the remaining costs through cash and in-kind services. A budget breakdown is provided in Attachment A. As required by Section 319 of the Clean Water Act, federal funds provided to this project must be matched by a local, state, or private share of at least 40 percent. In the event that federal funds become no longer available, general funds will not be requested to support this program.

The agreement has been approved by the Office of the Attorney General as to form, execution, and content. We respectfully request your approval.

  
\_\_\_\_\_  
for Thomas S. Burack, Commissioner

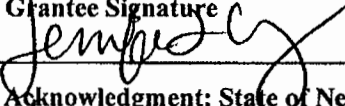
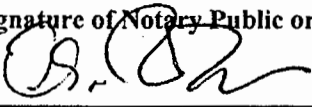
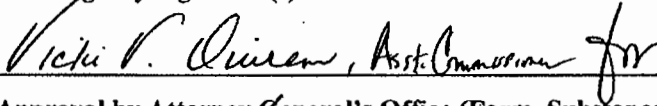
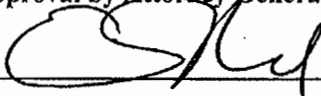
## GRANT AGREEMENT

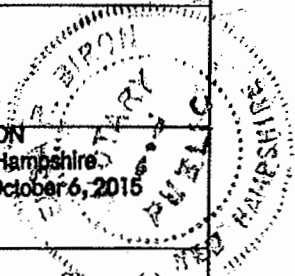
**Subject:** Hodgson Brook Watershed Restoration Plan Implementation, Phase 3. Holly Lane Retrofit, Pease Buffer Enhancement.

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

### GENERAL PROVISIONS

#### I. IDENTIFICATIONS AND DEFINITIONS

<b>1.1 State Agency Name</b> Department of Environmental Services		<b>1.2 State Agency Address</b> 29 Hazen Drive Concord, NH 03301	
<b>1.3 Grantee Name</b> Blue Ocean Society for Marine Conservation, Inc.		<b>1.4 Grantee Address</b> 143 Pleasant St Portsmouth, NH 03801	
<b>1.5 Effective Date</b> Upon G&C approval	<b>1.6 Completion Date</b> December 31, 2015	<b>1.7 Audit Date</b> N/A	<b>1.8 Grant Limitation</b> \$116,120
<b>1.9 Grant Officer for State Agency</b> Eric Williams, Watershed Assistance Section Supervisor		<b>1.10 State Agency Telephone Number</b> 603-271-2358	
<b>1.11 Grantee Signature</b> 		<b>1.12 Name &amp; Title of Grantee Signor</b> Jennifer Kennedy, Exec. Director	
<b>1.13 Acknowledgment:</b> State of New Hampshire, County of <u>Rockingham</u> On <u>4/12/2013</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> (Seal) 			
<b>1.13.2 Name &amp; Title of Notary Public or Justice of the Peace</b> ELSA R BIRON Notary Public My Commission Expires October 6, 2015			
<b>1.14 State Agency Signature(s)</b> 		<b>1.15 Name/Title of State Agency Signor(s)</b> Thomas S. Burack, Commissioner	
<b>1.16 Approval by Attorney General's Office (Form, Substance and Execution)</b> By:  Attorney, On: <u>6/4/13</u>			
<b>1.17 Approval by the Governor and Council</b> By: _____ On: <u> / /</u>			



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; VOUCHERS; 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.

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's 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, payroll, 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, "Grantee" 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 Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant 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 OF 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 Grant 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.

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 or 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, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, work'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, resulting from, arising out of (or which may be claimed to arise out of) the acts 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, subgrantee 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 worker'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 amount 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 171 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 or modification of the policy earlier than ten (10) days after written notice 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 to 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.

**Exhibit A**  
**Scope of Services**

The Blue Ocean Society for Marine Conservation, Inc. (BOS) shall perform the following tasks as described in the detailed proposal titled *Hodgson Brook Watershed Restoration Plan Implementation, Phase 3. Holly Lane Retrofit, Pease Buffer Enhancement* revised version submitted by the BOS, dated January 9, 2013:

**Objective 1:** Enhance 800 feet of Stream buffer on the Pease Tradeport.

Measures of Success: Plantings are installed, final planting plan is developed, and restoration is photo documented.

**Deliverable 1:** Final planting plan, photo documentation, and operation and maintenance agreement for completed buffer enhancement is provided to DES.

Task 1: Identify appropriate plantings and sources. Work with UNH Cooperative Extension to determine appropriate root stock and suppliers and create planting plan. Recruit Master Gardeners and Natural Resource Steward volunteers to assist with developing the planting plan. Coordinate with buffer owner on final plan. Provide final planting plan to buffer owner and DES.

Task 2: Obtain plantings and supplies following a State and Federally approved procurement procedure, and host an installation day event to install plantings.

Task 3: Develop operation and maintenance (O & M) agreement for the buffer enhancement and obtain signatures for the agreement from the buffer owner. Provide final agreement to buffer owner and DES.

Task 4: Using DES SOPs, photo document the final buffer enhancement and provide documentation to DES.

Task 5: Check plant health and record condition of plantings during the project period. Develop follow-up measures if plantings are not surviving.

**Objective 2:** Install two bioretention best management practices (BMPs) in the Holly Lane neighborhood

Measures of Success: Two Holly Lane BMPs are installed and functioning

**Deliverable 2:** Provide final designs and photo documentation of Holly Lane BMPs to DES.

Task 6: Evaluate drainage area and impervious area to be treated and determine appropriate sizing for BMPs at the two sites and design appropriate BMPs for the two sites. Provide final designs to the City of Portsmouth and DES.

Task 7: Develop supply list and order supplies for the Holly Lane BMPs following a State and Federally approved procurement procedure

Task 8: Install BMPs at Holly Lane - Pannaway Manor including: excavate area, plumb into stormdrain system, replace soil with bioretention mix, and provide construction oversight as needed.

Task 9: Design plantings, and obtain plant material following a State and Federally approved procurement procedure. Meet with project partners to determine plant needs and design planting beds.

Task 10: Recruit neighborhood participants for planting event, install plantings. Provide planting plan to the City and DES.

Task 11: Using DES SOPs, photo document raingardens once installation is complete and provide

documentation to DES.

Task 12: Visually assess and document performance of Holly Lane raingardens during selected rain events through weather observation and discussion with neighborhood homeowners, and city employees.

**Objective 3:** Install one tree box filter on Holly Lane

Measures of Success: Tree box filter (TBF) is installed and functioning

**Deliverable 3:** Provide final designs and photo documentation of Holly Lane TBF to DES.

Task 13: Evaluate drainage area and impervious area to be treated, and determine appropriate sizing for the Holly Lane TBF and design appropriate TBF for the location. Provide final design to the City and DES.

Task 14: Develop supply list and order supplies for the Holly Lane TBF following a State and Federally approved procurement procedure

Task 15: Install TBF in Holly Lane, including: excavate site, plumb tree box filters, mix and install soil, provide construction oversight, install plantings and do touchups as needed.

Task 16: Using DES SOPs, photo document tree box filter once it is installed and provide photo documentation to DES.

Task 17: Assess performance of Holly Lane TBF installation during selected rain events including wet weather event observation, discussion with neighborhood residents and city employees.

**Objective 4:** Install one infiltration basin on Holly Lane

Measures of Success: Infiltration basin is installed and functioning properly

**Deliverable 4:** Provide final design and photo documentation for Holly Lane infiltration basin to DES.

Task 18: Evaluate drainage area and impervious area to be treated and determine appropriate sizing for Holly Lane infiltration basin and design and engineer appropriate infiltration basin for the location. Provide final design to the City and DES.

Task 19: Develop supply list and order supplies for the Holly Lane infiltration basin following a State and Federally approved procurement procedure

Task 20: Install infiltration basin on Holly Lane, including: excavate site, and install drainage materials, install edging, provide construction oversight, and do touchups as needed.

Task 21: Using DES SOPs, photo document final BMP installation and provide photo documentation to DES.

Task 22: Assess performance of installation of Holly Lane infiltration basin during selected rain events through wet weather event observation and discussion with neighborhood residents and city employees.

**Objective 5:** Develop O & M agreements for all Holly Lane BMPs.

Measures of Success: The O & M agreements are developed and signed by BMP owners.

**Deliverable 5:** Provide a copy of the signed O & M agreement for all Holly Lane BMPs to DES.

Task 23: Develop O & M plans and agreements for each Holly Lane BMP, obtain signatures for the agreement from BMP owners, and provide copies of the final, signed O & M agreement to BMP owners and DES.



**Objective 6:** Calculate pollutant load reductions and percent Impervious Cover (IC) reductions for Holly Lane and Pease BMPs.

Measures of Success: Pollutant load reductions and IC reductions are calculated and documented.

**Deliverable 6:** Provide documentation to DES for pollutant load and IC reductions achieved for each BMP.

Task 24: Develop a Site Specific Project Plan (SSPP) for pollutant load modeling. Write and seek approval for site specific project plan for Region 5 and Simple Method modeling to estimate pollutant load reductions from installed BMPs.

Task 25: Calculate pollutant load and IC reductions for Holly Lane and Pease buffer BMPs. The Simple Method will be used to calculate pollutant reductions for Holly Lane BMPs and Region 5 – Streambank Stabilization model will be used for the Pease buffer enhancement; provide pollutant load and IC reduction documentation to DES. .

**Objective 7:** Implement outreach and education activities for the watershed and Holly Lane neighborhood project area; including homeowners and businesses.

Measures of Success: Homeowner BMPs are installed including raingardens are installed and rainbarrels; newsletter distributed; press releases have been published; a minimum of 2 LID tours in project areas held; presentations to public groups, and website is updated.

**Deliverable 7:** Provide DES with copies of newsletters, press releases, survey results, map showing location of homeowner BMPs (raingardens and rainbarrels), and documentation from cleanup events.

Task 26: Purchase eight rainbarrels following State and Federally approved procurement process.

Task 27: Write and print newsletters; send newsletters out to project area residents; maintain website; write and distribute press releases. Provide materials to DES for review prior to publication.

Task 28: Host two public rainbarrel/raingarden informational events for homeowners and distribute rainbarrels to homeowners, provide assistance with installation as requested, and conduct a follow-up survey of barrel owners.

Task 29: Host Holly Lane residential raingarden project kick-off meeting for homeowners; develop Holly Lane contact list; secure meeting location; send invitations to residents.

Task 30: Identify locations for residential raingarden installations, including: Offer residents a stormwater audit of their property, ask them to fill-out an interest form, evaluate properties for raingarden suitability.

Task 31: Install six residential raingardens for homeowners in the Holly Lane neighborhood. Recruit locations through the stormwater audit process, work with homeowners to design the raingardens, hold two one day raingarden installation events as part of the fall United Way Day of Caring.

Task 32: Develop operation and maintenance (O & M) agreements for rainbarrels and residential raingardens and obtain O & M agreement signatures from BMP owners.

Task 33: Engage local businesses in yearly trash survey and cleanup events. Provide documentation of events to DES.

**Objective 8:** Chloride trend monitoring.

Measures of Success: Chloride impairment documented and outreach to property owners to reduce salt imports.

**Deliverable 8:** Provide DES with documented chloride loading data from subwatershed areas.

Task 34: Develop SSPP for use of HOBO (brand) data loggers in subwatersheds. Send to DES for review and approval.

Task 35: Maintain HOBO loggers in subwatersheds. Download data monthly and share with DES and Plymouth State University.

Task 36: Use data generated by HOBO loggers to develop a report on subwatershed chloride loading.

Task 37: Identify applicators, methods and cooperative actions to reduce import on the Pease Tradeport. Survey, maintain database of applicators, and conduct meeting with Pease Development Authority and the City.

**Objective 9:** Conduct ongoing monitoring to evaluate effectiveness of implementation efforts over time  
Measures of success: All established sites monitored, data submitted to VRAP - DES.

**Deliverable 9:** Provide DES with copies of monitoring data in a publishable form.

Task 38: Conduct DES Volunteer River Assessment Program (VRAP) monitoring at eight sites on Hodgson Brook (flow and water quality). Recruit and train VRAP volunteers in data collection and protocols and use DES SOP for flow monitoring.

Task 39. Transfer VRAP data and information to DES.

Task 40. Review monitoring results and use information to evaluate implementation efforts.

**Objective 10:** Connect to other NH watershed organizations to identify potential joint watershed projects and leverage additional financial and educational resources to support ongoing work  
Measures of Success: The number of organizations contacted and engaged in shared planning and implementation efforts.

**Deliverable 10:** Provide DES with a list of potential partner organizations, and potential joint watershed projects.

Task 41: Identify at least four other watershed organizations with similar goals and objectives through networking, meetings, online blogging.

Task 42: Deliver a minimum of 4 presentations to other groups with similar objectives, through presentations, newsletter submissions.

Task 43: Identify meetings and training opportunities most likely to provide desired results, and then attend at least seven trainings or watershed group meetings.

**Objective 11:** Administrative duties are preformed to carry out requirements of the project.  
Measures of Success: partnership agreement is developed; reports are submitted (including cost and match documentation).

**Deliverable 11:** Reports, costs and match documents, agreements

Task 44: Meet with Stormwater Center staff, and develop partnership agreement with UNH Stormwater Center.

Task 45: Host Hodgson Brook Technical Advisory Board meetings: Schedule meetings quarterly, create

agenda and minutes, post minutes to Hodgson Brook website.

Task 46: Submit electronic semi-annual reports documenting all work performed on the project at the end of each June and December of the project period. The semi-annual reports will include a Pollutants Controlled Report when structural BMPs have been implemented during the reporting period.

Task 47: Submit a comprehensive final report in both electronic and hard-copy to DES on or before the project completion date. The final report shall include load reduction estimates, design sets for proposed BMPs, O & M plans for proposed BMPs, and comply with the DES and EPA requirements found in the final report guidance documents.

### **Additional Requirements of the Agreement**

#### **Quality Assurance**

All project activities which are to be guided by a Quality Assurance document such as a Quality Assurance Project Plan (QAPP) or Site Specific Project Plan (SSPP) must not begin prior to DES/EPA approval of that QA document. In the event that sampling, modeling, or other such activities precede QA document approval, the data will not be considered valid, and the grantee will forfeit the ability to receive payment for those activities.

#### **Outreach Materials**

All materials produced for public distribution shall be reviewed and approved by DES prior to distribution and shall include the DES logo and the following citation: "Funding for this project was provided in part by a Watershed Assistance Grant from the NH Department of Environmental Services with Clean Water Act Section 319 funds from the U.S. Environmental Protection Agency."

#### **Operations and Maintenance**

Management practices implemented as agreed upon in the scope of services of this grant agreement and with grant funds or matching funds under a Section 319 Watershed Grant, shall be properly operated and maintained for the intended purposes during the life span of the project. The life span of a project shall be determined by the Grantee, tailored to the types of practices expected to be funded in this project, and agreed upon by DES. The Grantee shall provide DES with an engineering estimate of the design life of the best management practice(s) (BMPs), or in the case of small-scale BMPs which do not have a design life estimation completed by an engineer, the design life of that practice shall be estimated to be ten years.

Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. The Grantee shall obtain written operation and maintenance (O&M) agreements from landowners of properties where BMPs are implemented. The Grantee shall assure that any O&M agreement or sub-award of Section 319 funds shall likewise include the same O&M requirements and conditions as this Agreement. Additionally, both EPA and DES reserve the right to periodically inspect a practice during the life span of the project to ensure that operation and maintenance are occurring. If it is determined that the participants are not operating and maintaining these practices in an appropriate manner, DES may request a refund for that practice supported by the grant.

**Exhibit B**  
**Contract Price and Method of Payment**

No Tasks shall be eligible for payment until the Grantee receives written notification from DES that project work may begin. All services shall be performed to the satisfaction of DES before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of an associated invoice. Documentation of match costs (including the value of volunteer labor) shall be provided with each payment request. The final invoice shall include total match cost documentation of \$77,452. Payment shall be made in accordance with the following schedule based upon completion of specific tasks described in Exhibit A (see following page):

Funding is provided through a Watershed Assistance Grant from the NH Department of Environmental Services with Clean Water Act Section 319 funds from the U.S. Environmental Protection Agency.

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Upon completion and DES approval of Task 1	\$2,000
Upon completion and DES approval of Task 2	\$3,000
Upon completion and DES approval of Tasks 3 - 5	\$2,277
Upon completion and DES approval of Task 6	\$8,100
Upon completion and DES approval of Task 7	\$7,000
Upon completion and DES approval of Task 8	\$5,000
Upon completion and DES approval of Task 9	\$1,500
Upon completion and DES approval of Task 10	\$1,300
Upon completion and DES approval of Tasks 11 and 12	\$400
Upon completion and DES approval of Task 13	\$4,150
Upon completion and DES approval of Task 14	\$5,150
Upon completion and DES approval of Task 15	\$1,712
Upon completion and DES approval of Tasks 16 & 17	\$530
Upon completion and DES approval of Task 18	\$4,200
Upon completion and DES approval of Task 19	\$5,000
Upon completion and DES approval of Task 20	\$1,579
Upon completion and DES approval of Tasks 21 & 22	\$730
Upon completion and DES approval of Task 23	\$1,588
Upon completion and DES approval of Tasks 24 and 25	\$793
Upon completion and DES approval of Task 26	\$1,442
Upon completion and DES approval of Task 27	\$2,600
Upon completion and DES approval of Task 28	\$3,100
Upon completion and DES approval of Tasks 29 & 30	\$2,700
Upon completion and DES approval of Task 31	\$5,700
Upon completion and DES approval of Task 32	\$854
Upon completion and DES approval of Task 33	\$1,700
Upon completion and DES approval of Task 34	\$100
Upon completion and DES approval of Task 35	\$1,600
Upon completion and DES approval of Tasks 36 & 37	\$3,000
Upon completion and DES approval of Tasks 38 & 39	\$2,000
Upon completion and DES approval of Task 40	\$3,400
Upon completion and DES approval of Tasks 41 & 42	\$3,000
Upon completion and DES approval of Task 43	\$2,400
Upon completion and DES approval of Task 44	\$14,815
Upon completion and DES approval of Task 45	\$1,700
Upon completion and DES approval of Task 46	\$5,000
Upon completion and DES approval of Task 47	\$5,000
Total	\$116,120

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**Exhibit C**  
**Special Provisions**

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

Federal Funds paid under this agreement are from a Grant Agreement to the State from the US Environmental Protection Agency, Impaired Waters Restoration Grant under CFDA # 66.460. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant Agreement are hereby adopted in full force and effect to the relationship between this Department and the grantee. Additionally, the Grantee shall comply with the terms of the Federal Funding Accountability and Transparency Act (FFATA) by providing DES with their Data Universal Numbering System (DUNS) number. Grantee's DUNS number is: 390684690000

Requirements of Paragraph 17.1.2 Insurance and Bond shall be \$1,000,000 for general liability any one incident and \$2,000,000 aggregate as allowed under RSA 211:13, XIV. The grantee shall ensure that any subcontractors maintain insurance which meets the requirements of Paragraph 17.

In addition to the General Provisions of Paragraph 1 through 23, the following provisions as required by federal regulations apply to this Agreement:

I) **Nondiscrimination.** The Grantee shall comply with 40 CFR part 7 which prohibits discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or gender, and 40 CFR part 12 which prohibits discrimination based on handicap.

II) **Financial management.** The Grantee shall comply with 40 CFR 31.20 and the specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management outlined therein.

III) **Allowable costs.** All costs charged to this Agreement shall be eligible, necessary, and reasonable for performing the tasks outlined in the approved project scope of services. The costs, including match, shall be incurred during the period of performance of the project, and shall be allowable, meaning that the costs must conform to specific federal requirements detailed in 40 CFR part 31.22; and OMB Circular A-87.

IV) **Matching funds.** All matching funds contributed by the Grantee shall conform to the same laws, regulations, and grant conditions as the federal funds in the Agreement and referenced in 40 CFR 31.24 and OMB Circular A-87.

V) **Property Management.** The Grantee shall comply with the property management and procedures detailed in 40 CFR 31.32 and 40 CFR 31.33.

VI) **Debarment and Suspension.** The grantee shall comply with 40 CFR part 31.35. By signing and submitting the Agreement, the Grantee certifies that they have not been debarred or suspended by a government agency. The Grantee will not make any award or permit any award (subgrant or subcontract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

VII) **Procurement.** When purchasing goods or services with grant or match funds, the Grantee shall comply with procurement regulations as detailed in 40 CFR 31.36 which include procurement standards, competition, methods of procurement, contract cost and price, agency review, bonding requirements, and contract provisions.

a. Assignment of Subcontracts. The Contractor shall not assign, or otherwise transfer any interest in this

contract without the prior written consent of the Contract Owner and the State.

**b. Subcontracts.** The Contractor shall:

- i. Ensure that every subcontract includes provisions for compliance with Federal and State standards applicable to the contract;
- ii. Ensure that every subcontract includes any clauses required by Federal statute and executive orders and their implementing regulations; and
- iii. Ensure that subcontractors are aware of requirements imposed upon them by State and Federal statutes and regulations.

**c. Payment to consultants.** Grant payments to individual consultants retained by the Contractor (excluding overhead) are limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS8). Maximum daily rates may change annually or more often. As of January 1, 2010, the limit is approximately \$598 per day and \$74.75 per hour. This amount does not include transportation and subsistence costs, in accordance with normal travel reimbursement practices. The Contractor may pay consultants more than this amount, but the excess amount shall not be paid with federal grant funds. Contracts with firms for services which are awarded using the procurement requirements in 40 CFR 31.36 are not affected by this limitation.

**VIII) Participation by Disadvantaged Business Enterprises.** The Grantee shall comply with the terms of 40 CFR Part 33 Subpart C, which requires that organizations conduct a competitive procurement process making a good faith effort to utilize goods and services provided by disadvantaged businesses.

**IX) New Restrictions on Lobbying: Interim Final Rule.** The Grantee shall comply with the terms of 40 CFR part 34 and OMB Circular A-87 which prohibit the use of federal grant funds to influence (or attempt to influence) a federal employee and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if nonfederal funds have been used to influence (or attempt to influence) a federal employee.

**X) Drug-Free Workplace.** The Grantee shall comply with the terms of 40 CFR Part 36 which require that as a condition of the Agreement, certification that they maintain a drug free workplace. By signing and submitting the Agreement, the Grantee certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.

**XI) Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (currently \$100,000), the minimum requirements shall be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**XII) Additional contract provisions.** The Grantee shall comply with the following as applicable:

- a. Comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their subcontractors)
- b. Comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subcontracts for construction or repair)


CERTIFICATE of AUTHORITY

I, Dianna Schulte, President of the Blue Ocean Society for Marine Conservation, Inc., do hereby certify that:

- (1) I am the duly elected President;
- (2) at the meeting held on March 19, 2013, the Blue Ocean Society for Marine Conservation, Inc. voted to accept DES funds and to enter into a contract with the Department of Environmental Services;
- (3) the Blue Ocean Society for Marine Conservation, Inc. further authorized the Executive Director to execute any documents which may be necessary for this contract;
- (4) this authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
- (5) the following person has been appointed to and now occupies the office indicated in (3) above:

Jennifer L. Kennedy

IN WITNESS WHEREOF, I have hereunto set my hand as the President of the Blue Ocean Society for Marine Conservation, Inc., this 2nd day of May, 2013


  
\_\_\_\_\_  
Dianna Schulte, President

STATE OF NEW HAMPSHIRE

County of Rockingham

On this the 2<sup>nd</sup> day of May, 2013, before me Matthew Lonek the undersigned officer, personally appeared Dianna Schulte who acknowledged him/herself to be the President of the Blue Ocean Society for Marine Conservation, Inc. 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.

  
\_\_\_\_\_  
Name of Notary Public (signature above)

Commission Expiration Date: Nov 19 2017  
(Seal)

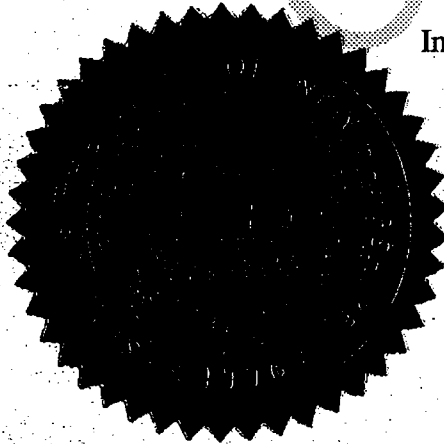




State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BLUE OCEAN SOCIETY FOR MARINE CONSERVATION, INC. is a New Hampshire nonprofit corporation formed February 6, 2002. I further certify that it is in good standing as far as this office is concerned, having filed the return(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 27<sup>th</sup> day of March A.D. 2013

*William M. Gardner*

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DZ  
R001DATE (MM/DD/YYYY)  
04-12-2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> BEAN INSURANCE AGENCY INC 040355 P: (603) 926-3830 F: (603) 926-0283 151 WINNACUNNET ROAD HAMPTON NH 03842		<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): (603) 926-3830 FAX (A/C, No): (603) 926-0283 E-MAIL ADDRESS:	
<b>INSURED</b> BLUE OCEAN SOCIETY FOR MARINE CONSERVATION 143 PLEASANT ST PORTSMOUTH NH 03801		INSURER(S) AFFORDING COVERAGE NAIC #	
		INSURER A : Hartford Casualty Ins Co	
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			04 SBA PQ3455	05/06/2013	05/06/2014	EACH OCCURRENCE	\$ 1,000,000
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 10,000
	<input checked="" type="checkbox"/> General Liab						PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	ANY AUTO						BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED							\$
	RETENTION \$						WC STATU-TORY LIMITS	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101. Additional Remarks Schedule, if more space is required)

Those usual to the Insured's Operations.

CERTIFICATE HOLDER

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES  
29 HAZEN DR  
CONCORD, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/17/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER SMITHWICK & MARINERS PO BOX 250  SOUTH HAMPTON 785YM NH 03827	CONTACT NAME:		
	PHONE (A/C No, Ex):	FAX (A/C No):	
	EMAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		
	INSURER A:	TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA	
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMBOP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> HIRED AUTOS  <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ AGGREGATE \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			(6JUB-4636P89-9-13)	04-29-13	04-29-14	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ 100,000 EL DISEASE - EA EMPLOYEE \$ 100,000 EL DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
3A: NH;

CERTIFICATE HOLDER NH DEPARTMENT OF ENVIRONMENTAL SERVICES 29 HAZEN DR PO BOX 95 CONCORD NH 03302	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREFO, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

**Attachment A  
Budget Estimate**

<b>Budget Item</b>	<b>Grant Funding</b>	<b>Match</b>	<b>Total</b>
Salaries & Wages	\$49,720.00	\$0.00	\$49,720.00
Indirect costs	\$21,000.00	\$0.00	\$21,000.00
Supplies	\$2,000.00	\$11,000.00	\$13,000.00
Equipment	\$23,000.00	\$25,000.00	\$48,000.00
Travel and training	\$400.00	\$0.00	\$400.00
Contractual	\$20,000.00	\$41,452.00	\$61,452.00
<b>Subtotals</b>	<b>\$116,120.00</b>	<b>\$77,452.00</b>	<b>\$193,572.00</b>
<b>Total Project Cost</b>			<b>\$193,572.00</b>

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### Attachment B: Watershed Assistance and Restoration Grant Ranking

Organization	Project Title	Overall Score	Technical	Financial	Management	Community	Outreach	Education	Monitoring	Reporting	Proposal Score	Rank
New Hampshire Rivers Council	McQuestion Brook and Pond Watershed Restoration Plan - Phase 2 Implementation: Dam Removals	83	95	98	93	98	98	99	96	99	843.5	1
City of Dover	Barry Brook/Cocheo River Watershed Management Plan Implementation Phase 3: Getting to 10% Watershed Restoration through Low Impact Development Retrofits in an Urban Environment	85	105	89	92	99	99	81	95	81	839	2
Town of Farmington	Mad River Restoration Project Phase 1: Implementation of the Mad River Preliminary Assessment and Conceptual River Restoration Plan	95	89	88	89	91	78	81	84	81	771	3
Blue Ocean Society for Marine Conservation	Hodgson Brook Watershed Restoration Plan Implementation, Phase 3: Holly Lane Retrofit, Pease Buffer Enhancement, Little River Watershed Management Plan Implementation, Phase 1: Demonstration Stormwater BMPs and Septic System Database and Outreach	63	102	83	81	86	74	75	92	83	749	4
Town of North Hampton	Ossipee Lake Watershed Management Plan Phase 1: Watershed Plan for Danforth Pond and the Lower Bays of Ossipee Lake	76	101	72	82	65	90	88	90	88	731.5	5
Green Mountain Conservation Group	Waukegan Watershed Management Plan Implementation, Phase 1: Septic System Improvement Initiative	75	85	82	83	87	80	73	81	79	725	6
Lake Winnepesaukee Watershed Association	Lake Winnepesaukee Black Brook BMP Implementation, Sites 18 and 19	82	96	65	74	92	80	63	78	80	710	7
Town of Sanborn	Peary Pond Watershed Management Plan Development	82	81	77	72	70	72	83	78	73	688	8
Franklin Pierce University	Soak Up the Rain Great Bay Implementation of the Great Bay Non-Point Source Study - Phase One	72	66	63	71	72	82	62	81	69.5	638.5	9
Conservation Law Foundation	Implementation of the Great Bay Nonpoint Source Pollution Study: Development of a GIS Based Analysis and Tool to Assess the Effects of Local Stormwater Management Regulations on Future Nitrogen Loads in the Oyster River Watershed	76	69	73	55	75	76	74	70	88	636	Not Selected
Town of Durham	Lake Winnepesaukee Shannon Brook Watershed Management Plan, Phases 1 and 2: Identifying Phosphorus Sources and Implementing BMP-based Solutions	74	70	84	71	65	57	68	82	61	632	Not Selected
Lakes Region Planning Commission	Lake Winnepesaukee Watershed Management Plan Phase 2: Sanitary Brookhead BMPs	85	75	56	56	88	76	68	72	75	631	Not Selected
Belknap County Conservation District	Mascoma River Watershed - Based Plan Development	62	58	60	65	30	58	55	56	76	521	Not Selected
Town of Canaan	French Pond, Watershed-Based Plan, Phase 1: Plan Development	60	87	40	61	33	42	49	77	58	497	Not Selected
New England College		47	45	28	56	35	45	37	52	62.5	405.5	Not Selected

#### Review Team Members

Andy Chapman	15 years experience, Clean Lakes Program Coordinator, aquatic biologist, project management and coordination, lakes management expertise
Steve Landry	16 years experience, Merrimack Watershed Coordinator, aquatic biologist, project management, Merrimack watershed expertise
Rob Livingston	23 years experience, Nonpoint source pollution specialist, BMP, pollution source investigation expertise, Field training of local municipalities in watershed pollution source tracking and identification
Jeff Marcoux	7 years experience, Watershed Assistance Specialist, grant and contract expertise
Jillan McCarthy	7 years experience, Nonpoint source pollution specialist, quality assurance, and stormwater BMP expertise
Barbara McMillan	12 years Watershed Assistance Outreach Coordinator, outreach and education expertise
Sally Soule	13 years experience, Coastal Watershed Coordinator, project management, Coastal watershed expertise
Wendy Waskin	20+ years experience, Watershed Coordinator, budgeting, planning expertise
Eric Williams	23 years experience, Watershed Assistance Section Supervisor, environmental planner, general project management expertise, VIAS section and 319 program supervisor.