



The State of New Hampshire MAY 06 '20 AM 10:57
Department of Environmental Services



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Robert R. Scott, Commissioner

April 29, 2020

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to amend a Drinking Water and Groundwater Trust Fund grant (PO# 1068144) to the Town of Salem (VC# 177472-B001), Salem, NH, by increasing the grant amount by \$2,388,000 from \$8,650,000 to \$11,038,000 for water system capital improvements under the provisions of RSA 485:F, effective upon Governor & Council approval through June 1, 2021. The original grant was approved by Governor and Council on June 19, 2019, Item #188. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the following account:

03-44-44-442010-3904-073-500580	<u>FY 2020</u>
Dept. Environmental Services, Drinking Water and Groundwater Trust, Grants: Non-Federal	\$2,388,000

EXPLANATION

We are requesting approval of this amendment in order to provide the Town of Salem additional funds to complete the agreed upon scope of services for capital improvements including water transmission mains and associated facilities to deliver water from the Town of Derry to the Towns of Windham and Salem and to transmit flow required by downstream water systems participating in the Southern New Hampshire Regional Water Interconnection Project. Additional funding was requested because actual bid pricing exceeded preliminary engineering estimates as a result of a competitive bidding climate, schedule constraints, and additional permit requirements among other factors. The Drinking Water and Groundwater Advisory Commission approved the increase in grant funding on September 16, 2019. The Town will use the grant funds to complete the construction of the water transmission mains and associated facilities. To date, \$3,250,803.68 of the grant funds have been spent.

In the event that other funds become no longer available, General funds will not be requested to support this program. This grant amendment has been approved by the Attorney General's Office as to form, substance and execution.

We respectfully request your approval of this item.

Robert R. Scott
Commissioner

**Grant Agreement with the Town of Salem
Drinking Water and Groundwater Trust Fund Grant
Amendment No. 1**

This Agreement (hereinafter called the Amendment) dated this 4th day of May, 2020, 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 Town of Salem acting by and through the Town Manager, Christopher Dillon (hereinafter referred to as the Grantee).

WHEREAS, pursuant to an Agreement (hereinafter called the Agreement) approved by the Governor and Council on June 19, 2019, 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

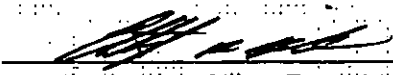
WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

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:
 - (A) The Grant Limitation as set forth in sub-paragraph 1.8 of the Agreement shall be changed from \$8,650,000 to \$11,038,000.
 - (B) The grant award as set forth in the third paragraph of Exhibit B shall be changed from \$8,650,000 to \$11,038,000.
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.

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

Town of Salem

By 
Christopher Dillon, Town Manager

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

On this the 28 day of April, before the undersigned officer, personally appeared Christopher Dillon who acknowledged himself 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.



My Commission Expires:

MAUREEN R. WITLEY
Notary Public - New Hampshire
My Commission Expires January 8, 2025

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By:  4 May 20
Robert R. Scott, Commissioner Date

Approved by Attorney General this 5th day of May, 2020, as to form, substance and execution.

OFFICE OF ATTORNEY GENERAL

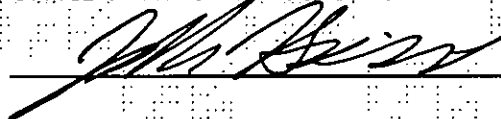


EXHIBIT A
SCOPE OF SERVICES

Town of Salem:

The Town of Salem will use the grant funds to complete water system improvements directly related to and necessitated by the Southern New Hampshire Regional Water Interconnection Project (the Project). Grant funds will cover eligible construction phase costs, including engineering, construction and land and easement costs for the following tasks:

- Approximately 16,000 linear feet of 20-inch and 16-inch transmission water main along Route 28 from a point near the intersection of Route 28 and Northland Road south of the Derry-Windham town line to the existing Salem water system;
- A meter station including pressure reducing valve (PRV) and chemical feed system on Route 28 in Windham near the intersection of Northland Road and Route 28;
- A meter station on Route 111 in Windham;
- A meter station including PRV and chemical feed system on Route 28 near the Windham-Salem town line;
- Approximately 4,000 linear feet of 12-inch water main to connect the existing Salem water system in Salem to the Hampstead Area Water Company water system in Atkinson; and
- Approximately 4,500 linear feet of 12-inch water transmission main to be located along Route 111 from Route 28 to the intersection of Route 111 and Route 111A in Windham.

EXHIBIT B
BUDGET & PAYMENT METHOD

The NHDES shall pay to the Grantee the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made by the Grantee using the Drinking Water and Groundwater Trust Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain adequate documentation to substantiate all Project related costs. All work shall be performed to the satisfaction of the NHDES before payment is made. The total reimbursement shall not exceed the grant award of \$11,038,000. Requests for grant funds will be no more than monthly.

Grantee Initials CS
Date 7/29/2010

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services require NHDES approval in advance. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.6).

Grantee Initials CKS
Date 4/29/2022

Certificate of Vote of Authorization

**Town of Salem
33 Geremonty Drive
Salem, NH 03079**

I, Susan M. Wall, Town Clerk of the Town of Salem, NH do hereby certify that at a meeting of the Board of Selectmen held on April 27, 2020, the Board of Selectmen voted to amend the Drinking Water and Groundwater Trust Fund grant agreement (DWGT-34), dated 06/19/2019, with the NH Department Environmental Services for the design, engineering, and construction of Salem's Portion of the Southern New Hampshire Regional Water Interconnection Project. This amendment increases the grant award from \$8,650,000 to \$11,038,000.

The Town of Salem Board of Selectmen further voted to authorize the Town Manager Christopher Dillon to execute any documents, including future grant amendments to accept additional funds, which may be necessary to complete the Southern New Hampshire Regional Water Improvement Project.

IN WITNESS WHEREOF, I have hereunto set my hand as the Town Clerk of the Town of Salem, New Hampshire on this 28th day of April 2020.

Signature: Susan M. Wall
Susan M. Wall, Town Clerk

STATE OF NEW HAMPSHIRE

County of Rockingham

On this 28 day of April 2020, before me Maureen R. Witley (Notary Public) the undersigned Officer, personally appeared Susan M. Wall, who acknowledged herself to be the Town Clerk of the Tow of Salem, New Hampshire, being authorized so to do, execute the foregoing instrument for the purpose therein contained.

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

Notary Public Maureen R. Witley
My commission expires: _____

MAUREEN R. WITLEY
Notary Public - New Hampshire
My Commission Expires January 8, 2025



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims, paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of Salem 33 Geremonty Drive Salem, NH 03079		Member Number: 285	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624		
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits: NH Statutory Limits May Apply, If Not:		
<input checked="" type="checkbox"/> General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2019	7/1/2020	Each Occurrence	\$ 5,000,000	
			General Aggregate	\$ 5,000,000	
			Fire Damage (Any one fire)		
			Med Exp (Any one person)		
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)		
			Aggregate		
<input type="checkbox"/> Workers' Compensation & Employers' Liability			<input type="checkbox"/> Statutory		
			Each Accident		
			Disease - Each Employee		
			Disease - Policy Limit		
<input checked="" type="checkbox"/> Property (Special Risk Includes Fire and Theft)	7/1/2019	7/1/2020	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000	
Description: Proof of Primex Member coverage only.					

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex³ - NH Public Risk Management Exchange		
State of New Hampshire Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095			By: <i>Mary Beth Purcell</i>		
			Date: 4/15/2020 mpurcell@nhprimex.org		
			Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax		



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of Salem 33 Geremonty Drive Salem, NH 03079		Member Number: 285	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits: NH Statutory, Limits May Apply, If Not:	
<input type="checkbox"/> General Liability (Occurrence Form) <input type="checkbox"/> Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence	
			General Aggregate	
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident) Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	1/1/2020	1/1/2021	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease – Each Employee	\$2,000,000
			Disease – Policy Limit	
<input type="checkbox"/> Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	
Description: Proof of Primex Member coverage only.				

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex³ – NH Public Risk Management Exchange By: <i>Mary Beth Purcell</i> Date: 4/28/2020 mpurcell@nhprimex.org Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax
State of NH, Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302			



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

May 30, 2019

Erin Holmes



APPROVED G & C
DATE 6/19/19
ITEM # 188

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to award a grant to the Town of Salem (VC# 177472 B001), Salem, NH in the amount not to exceed \$8,650,000 for water system capital improvements under the provisions of RSA 485:F, effective upon Governor & Council approval through June 1, 2021. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the account as follows:

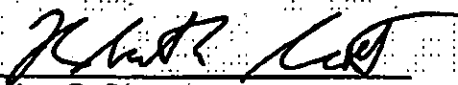
03-44-44-442010-3904-073-500580	<u>FY 2019</u>
Dept Environmental Services, Drinking Water and Groundwater Trust, Grants Non-Federal	\$8,650,000

EXPLANATION

The Drinking Water and Ground Water Trust Fund was created in 2016, using \$276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On April 16, 2019, the Advisory Commission voted to authorize \$8,650,000 as a grant to the Town of Salem for payment for capital improvements including water transmission mains and associated facilities required to deliver water from the Town of Derry to the Towns of Windham and Salem and to transmit flow required by downstream water systems participating in the Southern New Hampshire Regional Water Interconnection Project. This agreement has been approved by the Attorney General's Office as to form, substance and execution.

Respectfully submitted,


Robert R. Scott
Commissioner

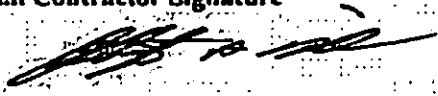
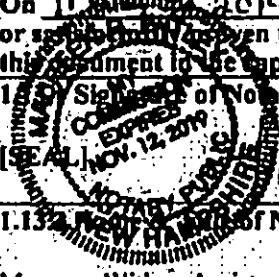

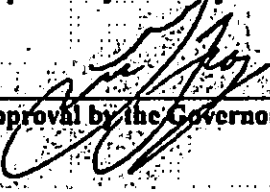
Subject: Town of Salem

AGREEMENT

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

GENERAL PROVISIONS

I. Identification.

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03301	
1.3 Contractor Name Town of Salem		1.4 Contractor Address 21 Cross Street, Salem, NH 03079	
1.5 Effective Date Upon G&C approval	1.6 Completion Date June 1, 2021	1.7 Audit Date N/A	1.8 Contract Limitation \$8,650,000
1.9 Contract Officer for State Agency Erin Holmes, Drinking Water & Groundwater Bureau, NH Department of Environmental Services		1.10 State Agency Telephone Number 603-271-8321	
1.11 Contractor Signature 		1.12 Name & Title of Contractor Signor Christopher A. Dillon Town Manager	
1.13 Acknowledgment: State of <u>New Hampshire</u> County of <u>Rockingham</u>			
On <u>March 1, 2019</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or said person's authorized representative, who acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.14 Signature of Notary Public or Justice of the Peace  <u>Mauren Witley</u>			
1.15 Signature of Notary Public or Justice of the Peace Mauren Witley, Assistant to Town Manager, Town of Salem, NH			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Robert R. Scott, Commissioner NH Department of Environmental Services	
1.16 Approval by Attorney General (Form, Substance and Execution) By:  On: <u>6/5/19</u>			
1.17 Approval by the Governor and Executive Council By: _____ On: _____			

2. SCOPE OF WORK. In exchange for contract 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 contractor identified in block 1.3 (hereinafter referred to as "the Contractor"), 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 Contractor 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 (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. CONTRACT AMOUNT; LIMITATION ON AMOUNT; PAYMENT.

5.1 The Contract 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 Contractor the Contract Amount.

5.4 The payment by the State of the Contract amount shall be the only, and the complete, compensation to the Contractor for all expenses, of whatever nature, incurred by the Contractor in the performance hereof, and shall be the only, and the complete, compensation to the Contractor for the Project. The State shall have no liabilities to the Contractor other than the Contract 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 Contract limitation set forth in block 1.8 of these general provisions.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS.

In connection with the performance of the Project, the Contractor 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 Contractor, 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 Contractor 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 Contractor's normal business hours, and as often as the State shall demand, the Contractor shall make available to the State all records pertaining to matters covered by this Agreement. The Contractor 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, "Contractor" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Contractor in block 1.3 of these general provisions.

8. PERSONNEL.

8.1 The Contractor shall, at its own expense, provide all personnel necessary to perform the Project. The Contractor 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 Contractor shall not hire, and it shall not permit any subcontractor, subcontractor, 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 Contractor officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Contractor 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 Contractor shall contract 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 Contractor notice of such termination.

11. EVENT OF DEFAULT; REMEDIES.

11.1 Any one or more of the following acts or omissions of the Contractor 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 Contractor 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 Contractor notice of termination; and

11.2.2 give the Contractor 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 contract amount which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor; and

11.2.3 set off against any other obligation the State may owe to the Contractor 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 Contractor shall deliver to the Contract Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Project Work performed, and the Contract 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 Contractor to receive that portion of the Contract 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 Contractor from any and all liability for damages sustained or incurred by the State as a result of the Contractor's breach of its obligations hereunder.

Contractor Initials *MS*
Date *5/21/15*

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

13. **CONFLICT OF INTEREST.** No officer, member or employee of the Contractor 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. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor, its employees, and any subcontractor or subcontractor of the Contractor are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Contractor nor any of its officers, employees, agents, members, subcontractors or subcontractors, shall have authority to bind the State nor are they entitled to any of the benefits, workers' compensation or emoluments provided by the State to its employees.

15. **ASSIGNMENT AND SUBCONTRACTS.** The Contractor 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 subcontractor by the Contractor other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Contractor 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 Contractor, Subcontractor, or subcontractor or other agent of the Contractor. 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 Contractor shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, 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 workers' 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 or modification of the policy earlier than ten (10) days after written notice thereof 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 Contractor.

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.

Contractor Initials

Date

AS
5/21/19

EXHIBIT A
SCOPE OF SERVICES

Town of Salem:

The Town of Salem will use the grant funds to complete water system improvements directly related to and necessitated by the Southern New Hampshire Regional Water Interconnection Project (the Project). Grant funds will cover eligible construction phase costs, including engineering, construction and land and easement costs for the following tasks:

- Approximately 16,000 linear feet of 20-inch and 16-inch transmission water main along Route 28 from a point near the intersection of Route 28 and Northland Road south of the Derry-Windham town line to the existing Salem water system;
- A meter station including pressure reducing valve (PRV) and chemical feed system on Route 28 in Windham near the intersection of Northland Road and Route 28;
- A meter station on Route 111 in Windham;
- A meter station including PRV and chemical feed system on Route 28 near the Windham-Salem town line;
- Approximately 4,000 linear feet of 12-inch water main to connect the existing Salem water system in Salem to the Hampstead Area Water Company water system in Atkinson; and
- Approximately 4,500 linear feet of 12-inch water transmission main to be located along Route 111 from Route 28 to the intersection of Route 111 and Route 111A in Windham.

EXHIBIT B
BUDGET & PAYMENT METHOD

The NHDES shall pay to the Grantee the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made by the Grantee using the Drinking Water and Groundwater Trust Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain adequate documentation to substantiate all Project related costs. All work shall be performed to the satisfaction of the NHDES before payment is made. The total reimbursement shall not exceed the grant award of \$8,650,000. Requests for grant funds will be no more than monthly.

Grantee Initials MS
Date 5/2/13

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services require NHDES approval in advance. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.6).

Grantee Initials *CAS*
Date *SP/11/13*

Certificate of Vote of Authorization

**Town of Salem, NH
33 Geremonty Drive
Salem, NH 03079**

I, Susan M Wall, Town Clerk of the Town of Salem, NH do hereby certify that at a meeting of the Board of Selectmen held on May 20, 2019, the Board of Selectmen voted to accept a grant in the amount of \$12,650,000 from the New Hampshire Department of Environmental Services, Drinking Water and Groundwater Bureau (\$8,650,000), and MBE Remediation Bureau (\$4,000,000) for the design, engineering, and construction of the Salem Portion of the Southern New Hampshire Regional Water Interconnection Project; and further voted to authorize Town Manager Christopher Dillon to execute any and all documents necessary to effectuate this grant.

IN WITNESS WHEREOF, I have hereunto set me hand as the Town Clerk of Salem, New Hampshire on this 21st day of May, 2019.

Susan M Wall
Susan M. Wall, Town Clerk

NOTARIZATION

**STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM**

On this 21st day of May, 2019, before me Maureen Witley the undersigned Officer, personally appeared Susan M. Wall, who acknowledged herself to be the Town Clerk of Salem, NH, being authorized so to do, execute the foregoing instrument for the purpose therein contained.

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



Notary Public Maureen Witley
My commission expires 11/12/19



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex is entitled to the categories of coverage set forth below. In addition, Primex may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of Salem 33 Geremonty Drive Salem, NH 03079		Member Number: 285	Company Affording Coverage: NH Public Risk Management Exchange - Primex ² Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, if Not:	
<input checked="" type="checkbox"/> General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2018	7/1/2019	Each Occurrence	\$ 5,000,000
			General Aggregate	\$ 5,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input type="checkbox"/> Workers' Compensation & Employers' Liability			Statutory	
			Each Accident	
			Disease - Each Employee	
			Disease - Policy Limit	
<input checked="" type="checkbox"/> Property (Special Risk Includes Fire and Theft)	7/1/2018	7/1/2019	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000
Description: Proof of Primex Member coverage only.				

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex ² - NH Public Risk Management Exchange
			By: <i>Way East Period</i>
State of New Hampshire Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095			Date: 4/25/2019 mpurcel@nhprimex.org
			Please direct inquiries to: Primex ² Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax