



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner

December 5, 2014

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

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (DES) to amend a grant agreement (PO#1033910) with the Francestown Land Trust, Inc., (Vendor Code #254289), Francestown, NH to provide an Aquatic Resource Mitigation (ARM) Fund grant by extending the end date to December 30, 2015 from December 30, 2014, effective upon Governor and Council approval. The original grant agreement was approved by the Governor and Council on November 6, 2013, (Item #92). No additional funding is requested as part of this amendment. 100% Aquatic Resource Mitigation Funds.

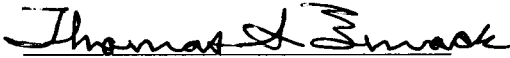
EXPLANATION

The grant with the Francestown Land Trust will provide ARM funds to remove an undersized culvert and replace it with an appropriately sized crossing on the Miller property. The grant presently expires on December 30, 2014. This proposed grant extension is requested to extend the grant to December 30, 2015. The extension is needed to complete the portion of the grant involving the stream crossing replacement.

Francestown Land Trust utilized its ARM funds to protect approximately 182 acres of high value wildlife habitat which was completed in the first year of the grant. The project includes the removal of a perched culvert that carries Avery Brook through the property ultimately improving the area for eastern brook trout habitat. The permit for the new crossing is underway but not completed. The additional year will allow the permit to be obtained and for the work to be completed during low flow conditions.

This amendment has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.


 Thomas S. Burack, Commissioner

Agreement for Services with the Francestown Land Trust, Inc.
Amendment No. 1

This Agreement (hereinafter called the "Amendment") dated this 26th day of November, 2014, 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 Francestown Land Trust, Inc., acting by and through its Director, Barry Wicklow (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Council on November 6, 2013, 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 Completion Date as set forth in sub-paragraph 1.6 of the agreement shall be changed from December 30, 2014 to December 30, 2015.
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.

Grantee Initials WR
Date: 12-2-14

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

Francestown Land Trust

By Christopher Rogers, Chair
name and office of signee

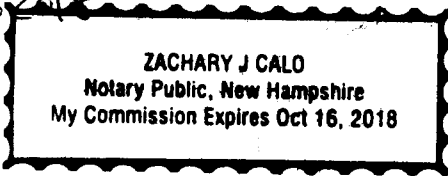
STATE OF NEW HAMPSHIRE
COUNTY OF NH Hillsborough New Hampshire

On this the date day of month, year, before the undersigned officer, personally appeared name and office of signee 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.

Christopher Rogers for Zachary J. Calo
enter name notary public/OP select title

My Commission Expires: date OCT 16 2018



THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By Thomas S. Burack
Thomas S. Burack, Commissioner

Approved by Attorney General this 10 day of December, 2014

OFFICE OF ATTORNEY GENERAL

By [Signature]

Grantee Initials [Signature]
Date: 12-2-14



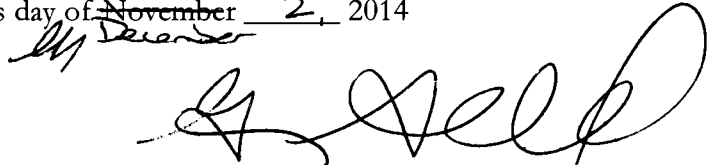
RE: NH DES Aquatic Mitigation Fund Program

I, Greg Neilley Vice-Chairman of the Francestown Land Trust, Inc., do hereby certify that the Board of Directors of the Francestown Land Trust, Inc. 1) has authorized Christopher Rogers, Chairman of FLT, to enter into an agreement with the New Hampshire Department of Environmental Services to execute any documents which may be necessary to effectuate this agreement, and 2) 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 3) Christopher Rogers has been elected to and now occupies the office of Chairman of the Board of Directors.



Christopher Rogers

In witness whereof, I have hereunto set my name as Vice-Chairman of the Board of Directors of the Francestown Land Trust, Inc. this day of ~~November~~ December 2, 2014

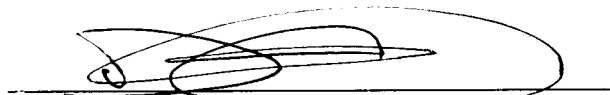


Greg Neilley

State of New Hampshire
County of Hillsborough

On the 2nd day of ~~November~~ December 2014, before me Pamela Finnell, the undersigned officer, personally appeared Greg Neilley who acknowledged himself as the Vice-Chairman of the Francestown Land Trust, Inc. and that he, as such being authorized to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof I hereunto set my hand an official seal.



Justice of the Peace/Notary Public

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 FRANCESTOWN LAND TRUST, INC. is a New Hampshire nonprofit corporation formed December 1, 1986. 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 8th day of December A.D. 2014

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



FRANLAN-01

SHOU

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/4/2014

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 License # 0C36861 Chantilly-Alliant Ins Svc Inc. 4530 Walney Rd Ste 200 Chantilly, VA 20151-2285	CONTACT NAME: Andrew Schmechel PHONE (A/C, No, Ext): (703) 397-0977 FAX (A/C, No): (703) 397-0995 E-MAIL ADDRESS: aschmechel@alliant.com														
INSURED Francestown Land Trust PO Box 132 Francestown, NH 03043	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : Federal Insurance Company</td> <td style="text-align: center;">20281</td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Federal Insurance Company	20281	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			35750376	06/21/2014	06/21/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ 0			79769194	06/21/2014	06/21/2015	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 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)

Cancellation of, or reduction in, coverage by the policy earlier than ten (10) days after written notice has been received by the State of NH is prohibited.

CERTIFICATE HOLDER

Dept. of Environmental Services, State of NH
 Attn: Lori Sommer
 29 Hazen Drive, Box 95
 Concord, NH 03302-0095

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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The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



Lori Sommer

October 15, 2013

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

APPROVED G&C
DATE 11/6/2013
ITEM # 92

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (DES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the Francestown Land Trust, Inc, Francestown, NH (VC #254289) in the amount of \$237,000 to purchase a conservation easement on approximately 182 acres of land in Francestown, effective upon G&C approval through December 30, 2014. 100% Aquatic Resource Mitigation Funds.

Funding is available in the account as follows:

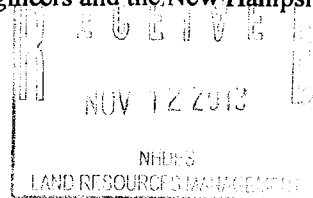
03-44-44-442010-38710000-073-500580 FY'14
\$237,000
Dept. Environmental Services, In-Lieu Wetland Mitigation, Grants – Non - Federal

EXPLANATION

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable.

The DES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current department rules spell out ratios for wetland compensation that include creating a new wetland, restoring a former wetland site, or protecting a high-quality aquatic resource by preserving adjacent upland habitat. The newest improvement to the mitigation options is commonly referred to as an *in-lieu fee program*. This mitigation option is ideal for projects that have difficulty in locating an appropriate mitigation site. The Aquatic Resource Mitigation Fund (ARM) authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application. The ARM program was authorized in legislation that became effective in August, 2006.

The Department issued the request for proposals for ARM Funds available in the Merrimack River watershed in April, 2012. Ten proposals were received and on November 27, 2012 DES announced the decision to fund seven projects. The project proposed by the Francestown Land Trust was recommended for funding by the ARM Fund Site Selection Committee. Attachment A notes the proposals received and Committee members involved in the decision. The review of the awards by the Army Corps of Engineers and the New Hampshire Wetland Council resulted in full support of the recommendations.



Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council

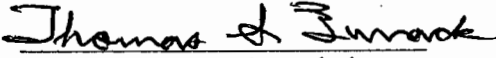
Page 2

Francestown Land Trust will utilize its ARM funds to protect approximately 182 acres of high value wildlife habitat in Francestown. The project will protect the Avery Brook watershed including 35 acres of wetlands, and 1,700 linear feet of riparian habitat along the South Branch of the Piscataquog River. Restoration activities will involve the removal of a perched culvert that carries Avery Brook through the property ultimately improving the area for eastern brook trout habitat. Attachment B includes a map of the property.

In the event that other funds no longer become available, general funds will not be requested to support this program. Exhibit A describes the scope of services. Exhibit B provides the budget and payment terms. Exhibit C addresses special provisions.

This agreement has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.


Thomas S. Burack, Commissioner

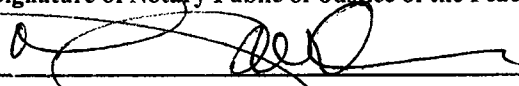

Subject: Grant agreement for a NHDES Aquatic Resource Mitigation Fund Award

GRANT AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATIONS

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Grantee Name: Francestown Land Trust, Inc.		1.4 Grantee Address P.O. Box 132, Francestown, NH	
1.5 Effective Date Upon G&C approval	1.6 Completion Date December 30, 2014	1.7 Audit Date N/A	1.8 Grant Limitation \$237,000
1.9 Grant Officer for State Agency Lori Sommer		1.10 State Agency Telephone Number (603) 271- 4059	
1.11 Grantee Signature <i>Christopher Rogers</i>		1.12 Name & Title of Grantee Signor <i>Board Member</i> CHRISTOPHER ROGERS	
1.13 Acknowledgment: State of <u>NH</u> , County of <u>Hillsborough</u> On <u>7/15/2013</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.			
1.13.1 Signature of Notary Public or Justice of the Peace (Seal) 			
1.13.2 Name & Title of Notary Public or Justice of the Peace DAWN M. CONDRA, Notary Public My Commission Expires December 8, 2015			
1.14 State Agency Signature(s) <i>Thomas S. Burack</i>		1.15 Name/Title of State Agency Signor(s) Thomas S. Burack, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By:  Attorney, On: <u>7/22/13</u>			
1.17 Approval by the Governor and Council 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-c.

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

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

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.** In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

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

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee'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, 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, "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, worker'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 or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE AND BOND.

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, 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 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 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

1. The State of New Hampshire, its successors and assigns, represented by the Department of Environmental Services (DES), agree to grant the Francestown Land Trust (FLT) the amount of \$237,00.00 for the purpose of acquiring a conservation easement on land owned by Richard O. Miller, with a principal residence at 1288 2nd NH Turnpike South, Town of Francestown, County of Hillsborough, State of New Hampshire, Steven H. Miller with a principal residence at 93 Peter King Road, Town of Francestown, County of Hillsborough, State of New Hampshire, Leann G. Miller with a principal residence at 94 Rainbow Drive, City of Loudon, County of Merrinack, State of New Hampshire, and Mary E. Miller with a principal residence at 8905 Hempstead Avenue, City of Bethesda, County of Montgomery, State of Maryland, a 182 +/- acre parcel of land located on Avery Road in the Town of Francestown, County of Hillsborough, State of New Hampshire, identified on the Francestown tax records as Map 3, lots 70, 70.1 and 71. This agreement shall be performed in accordance with New Hampshire RSA 482-A; all applicable sections of the Administrative Rules, Env-Wt 100-800, and all other pertinent New Hampshire laws.
2. The FLT shall use their grant funds to acquire a conservation easement on the Property with additional funding from the Francestown Land Trust, Francestown Conservation Commission, Piscataquog Land Conservancy, The Gilbert Verry Foundation, Fields Pond Foundation, The Gordon and Barbara Russell Foundation, Trout Unlimited and individual donors and an Executory Interest to be held by DES.
3. As Grantee of the Conservation Easement on the Property, the FLT accepts the following conditions or restrictions:
 - a. To utilize the funds herein provided by the State of New Hampshire, acting through DES, for the acquisition and recordation of a conservation easement on the Property as soon as possible, time being of the essence. The project shall be completed within 12 months of the notification of the award.
 - b. To utilize the funds herein provided by the State on New Hampshire, acting through DES, to defray in part the acquisition and associated transaction costs incurred in securing a Conservation Easement on the Property.
 - c. To return to DES ARM Fund Program any funds herein provided to the extent of any loss due to any title that proves to be less than clear and marketable for all properties protected under this contract;
 - d. To return to DES ARM Fund Program any funds if the FLT fails to complete the Conservation Easement acquisition.
 - e. To limit the use of the Property as hereinafter defined to conservation purposes in perpetuity.
 - f. That the Property acquired through this project will be monitored on an annual basis in accordance with the *Standards and Practices* for stewardship of the Land Trust Alliance, to ensure that the terms of the Conservation Easement are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Property. The FLT agrees to submit a copy of the annual monitoring report to DES to document the actions taken.
 - g. The FLT agrees to place a sign, subject to its acceptability to the DES, at a prominent location on or near the Property. The sign should contain as a minimum the DES logo and the following statement: "This Avery Brook Conservation property has been protected with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the FLT agrees to work with the Department to repair or replace it with identical signage and to share any costs associated with that

repair or replacement to the extent reasonably practicable. The FLT also agrees that where significant signage is placed at major access points, the ARM Fund program will be identified as a contributing partner to the acquisition of easement interests and the long-term protection of the Property;

h. That any materials produced after the time of closing to promote or publicize the Property will include the following statement: "This property (name of property may be used) has been protected with assistance from the Department of Environmental Services, ARM Fund Program." The Francestown Land Trust agree to include the DES logo or appropriate mention of DES participation on significant signage placed at major access points and on major written material in which the logos of other contributing organizations are used;

4. That all public access provided for in the terms of the Conservation Easement will be in accordance with all federal and state policies of non-discrimination in public accommodation.

5. This Agreement and all obligations of the parties hereunder shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve this Agreement ("Effective date") and shall end on December 28, 2013. If the provision of services by the FLT precedes the Effective date, all services performed by the FLT shall be performed at the sole risk of the FLT and in the event this Agreement does not become effective, DES shall be under no obligation to pay the FLT for costs incurred or services performed; however, if this Agreement becomes effective, all costs incurred prior to the Effective date that would otherwise be allowable shall be paid under the terms of this Agreement.

6. Restoration activities associated with the replacement of a culvert on the Property to be completed according to the restoration plan labeled Avery Brook Restoration Plan prepared by Barry J. Wicklow, Ph.D., and dated August 31, 2013.

EXHIBIT B
BUDGET & PAYMENT METHOD

The FLT shall submit requests for payment after completing each task. Upon receipt and approval by DES of the invoices, DES shall issue payment to the FLT in accordance with the following:

Acquisition of the Conservation Easement	\$ 235,290 Award upon closing
Stream Restoration Work on Property	\$ 1,710 Award upon completion of work
TOTAL DES ARM FUNDS	\$237,000
<u>Total amount to be authorized following approval by the Governor and Executive Council:</u>	<u>\$237,000.</u>

Payments shall be made by DES to the FLT upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. DES will pay the FLT within 30 days of receiving the invoice.

The payments listed above are inclusive of project labor and expenses. Invoices shall be formatted to note completion of services.

The billing address shall be as follows:

NH Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095
ATTN: Lori Sommer, Wetlands Bureau

Invoices shall be approved by the Contract Officer before payment is processed.

EXHIBIT C
SPECIAL PROVISIONS

This section is intentionally left blank.



RE: NH DES Aquatic Resource Mitigation Fund Program

I, Gregory Neilley, Vice-Chairman of the Francestown Land Trust, Inc., do hereby certify that the Board of Directors of the Francestown Land Trust, Inc. 1) has authorized Christopher Rogers, Chairman of FLT, to enter into an agreement with the New Hampshire Department of Environmental Services to execute any documents which may be necessary to effectuate this agreement, and 2) this authorization has not been revoked, annulled or amended in manner whatsoever, and remains in full force and effect as of the date hereof, and 3) Christopher Rogers has been elected to and now occupies the office of Chairman of the Board of Directors.

Christopher Rogers

In witness whereof, I have hereunto set my name as Vic-Chairman of the Board of the Directors of the Francestown Land Trust, Inc. this day of September 9th 2013.

Gregory Neilley

State of New Hampshire
County of Hillsborough

On the 9th day of September, 2013, before me ELAINE T. McCLARY, the undersigned officer, personally appeared Gregory Neilley who acknowledged himself to be the Vice-Chairman of the Francestown Land Trust, Inc. and that he, ELAIN T. McCLARY authorized so to do, executed the forgoing instrument for the purpose thereof.

In witness whereof I hereunto set my hand and official seal.

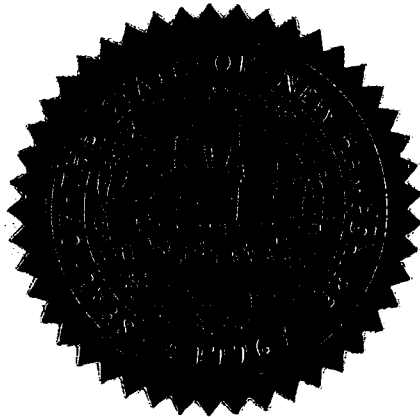


Elaine T. McClary
Justice of the Peace/Notary Public

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 FRANCESTOWN LAND TRUST, INC. is a New Hampshire nonprofit corporation formed December 1, 1986. 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 6th day of September A.D. 2013

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

William M. Gardner
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

FRANLAN-01

MXU

DATE (MM/DD/YYYY)
9/6/2013

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 License # 0C36861
Chantilly-Alliant Ins Svc Inc
4530 Wayne Rd Ste 200
Chantilly, VA 20151-2285

CONTACT NAME: **Bruchillica Jones**
PHONE (A/C No., Ext): **(703) 397-0977** FAX (A/C, No): **(703) 397-0995**
E-MAIL ADDRESS: **bjones@alliant.com**

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Federal Insurance Company	20281
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED

Fracestown Land Trust
PO Box 132
Fracestown, NH 03043

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 SUBR INSR WVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY		35750376	6/21/2013	6/21/2014	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ Included
							\$
	GENL AGGREGATE LIMIT APPLIES PER:						
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	\$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR	79769194	6/21/2013	6/21/2014	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE	\$ 1,000,000
	<input checked="" type="checkbox"/> DED	<input type="checkbox"/> RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					<input type="checkbox"/> WC STATUTORY LIMITS	<input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A			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)

Cancellation of, or reduction in, coverage by the policy earlier than ten (10) days after written notice has been received by the State of NH is prohibited.

CERTIFICATE HOLDER

Dept. of Environmental Services, State of NH
Attn: Lori Sommer
29 Hazen Drive, Box 95
Concord, NH 03302-0095

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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September 19, 2013

Lori Sommer
NHDES Mitigation Coordinator
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Dear Lori,

I am writing in regard to Workman's Compensation Insurance under Exhibit C of the Grant Agreement for the Avery Brook NHDES Aquatic Mitigation Fund Award. Fracestown Land Trust is an all-volunteer organization and does not have employees. Therefore, it does not carry Workman's Compensation Insurance.

Sincerely,



Christopher Rogers, Chair
Fracestown Land Trust

FRANCESTOWN LAND TRUST, INC. PO BOX 132, FRANCESTOWN, NH 03043

Chris Rogers, Chair Greg Neilley, Vice-Chair Abigail Arnold, Treasurer Herb Bromberg, Secretary
Ted Graham, Director Ben Haubrich, Director Paula Hunter, Director Ray James, Director Barry Wicklow, Director

**Attachment A
2012 Aquatic Resource Mitigation Fund Grants**

Applications and Funding Amounts

Grant Applicant	Location/Town	Funding Amount	Score
Bear-Paw Regional Greenways	Hinman Pond Project, Hooksett	\$507,800	69
Francetown Land Trust	Avery Brook Watershed Project, Francetown	\$237,000	59
Bear-Paw Regional Greenways	Crooked Run Project, Barnstead/Pittsfield/Strafford	\$361,600	56
Town of Hooksett, Conservation Commission	Merrimack Riverfront Project, Hooksett	\$150,000	55
The Society for the Protection of New Hampshire Forests	Pennichuck Brook Project, Merrimack	\$737,170	52
Southeast Land Trust of New Hampshire	Plaistow Town Forest Project, Plaistow	\$100,000	51
Five Rivers Conservation Trust	Soucook River Headwaters Ames Road Forest, Canterbury	\$68,830	45
Society for the Protection of New Hampshire Forests	Olsen Pond Project, Boscawen	\$0	37
Town of Salem	Haigh Avenue Project, Salem	\$0	0
Friends of Moeckel Pond	Moeckel Pond Restoration Project, Windham	\$0	0

(Note: Each Committee member scores the projects and their scores are combined to create the total score.)

Site Selection Committee List

Name	Agency/Organization	Title	Years of Experience
Tim Drew	NHDES, Public Information & Permitting Office	Administrator	31
Melissa Coppola	NH Dept. of Resources & Economic Development	Environmental Information Specialist	13
Nancy Rendall	NH Association of Natural Resource Scientists	Charter Member	29
Michael Marchand	NH Fish and Game Department	Senior Biologist	13
Tracey Boisvert	Office of Energy and Planning	CLSP Director	23
Peter Steckler	The Nature Conservancy	Director Freshwater Science & Conservation	13
Rick Vande Poll	New Hampshire Association of Conservation Commissions	Town of Sandwich	33

ATTACHMENT B:

Avery Brook Watershed Project; Frankestown, NH

