



Department of Environmental Services



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Robert R. Scott, Commissioner

August 19, 2019

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

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (DES) to amend an Aquatic Resource Mitigation grant (PO #1066138) to the Cheshire County Conservation District, Walpole, NH (Vendor Code #154649) by revising Exhibit B. No additional funding is involved in this amendment. The original agreement was approved by Governor and Executive Council on February 20, 2019, item #80. 100% Aquatic Resource Mitigation ("ARM") Funds.

EXPLANATION

We are requesting approval of this amendment to the agreement due to an increase in the construction costs and the need to revise the original budget. Cheshire County Conservation District ("CCCD") will use the ARM funds to complete construction and the post construction monitoring and reporting. Other matching funds that CCCD has received will be used to address the remaining budget items that are not related to construction and monitoring. The total of \$74,195 of the original award remains available.

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 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 and then issues the funds to wetland restoration and preservation projects across the nine watershed areas.

The Department issued the request for proposals for ARM Funds available in the Lower Connecticut River watershed in April, 2016. The project proposed by the UVLT was recommended for funding by the ARM Fund Site Selection Committee to purchase 110 acres of forested property in Lebanon and place a permanent conservation easement on it. This project also included restoration work in a location near the Mascoma River.

We respectfully request your approval.

Robert R. Scott, Commissioner

**Agreement for Services with Cheshire County Conservation District
Amendment No. 1**

This agreement (hereinafter called the "Amendment") dated this 13th day of August, 2019, 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 Cheshire County Conservation District, acting by and through its chair, Andrew Pressman, (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Council on February 20, 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 are hereby amended as follows:

(A) The Method of payment as set forth in Exhibit B shall be amended as follows, and will include payment for the items payable upon completion, review, and approval of deliverables and/or scope and budget change orders by the State as specified:

Item	Description	Original Budget	Revision	Revised Budget
1	Establish design and monitoring plan	\$2,000	(\$2,000)	\$0
2	Hydrologic modeling	\$0	\$0	\$0
3	Design plans	\$0	\$0	\$0
4	Permit application	\$3,750	(\$3,750)	\$0
5	Construction	\$48,200	\$12,550	\$60,750
6	Post construction monitoring	\$7,500	(\$800)	\$6,700
7	Long-term maintenance	5,000	(\$5,000)	\$0
8	Financial administration and reporting	\$7,745	(\$1,000)	\$6,745
Totals		\$74,195	\$0	\$74,195

- 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.

Cheshire County Conservation District

By [Signature]
District Manager, Amanda Littleton

STATE OF NEW HAMPSHIRE
MERRIMACK COUNTY

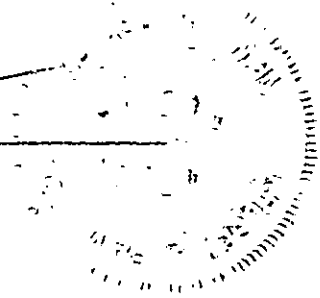
On this the 13th day of August 2019, before the undersigned officer, personally appeared Amanda Littleton, District Manager who acknowledged herself to be the person who executed the foregoing instrument for the purpose therein contained.

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

My Commission Expires:

KELSEY L. HAMILTON, Notary Public
State of New Hampshire
My Commission Expires September 27, 2022

[Signature]



THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By [Signature]
Robert R. Scott, Commissioner

Approved by Attorney General this 3 day of September, 2019

OFFICE OF ATTORNEY GENERAL

By [Signature]
Contractor Initials AL
Date 8/13/19

CERTIFICATE

I Andrew Pressman, Chair of the Cheshire County Conservation District, do hereby certify that:

- (1) I am the duly elected Chair of the Board of Supervisors;
- (2) at the meeting held on November 29, 2018, the Cheshire County Conservation District Board of Supervisors unanimously agreed to accept NH Department of Environmental Services funds and to enter into a contract with the NH DES;
- (3) the Cheshire County Conservation District further authorized the District Manager to execute any documents which may be necessary for this contract;
- (4) the authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
- (5) the following person has been hired and now occupies the position in (3) above: Amanda Littleton

IN WITNESS WHEREOF, I have hereunto set my hand as the Chair of the Cheshire County Conservation District, this 7th day of August 2019.

Andrew Pressman

Andrew Pressman, Chair of the Cheshire County Conservation District

STATE OF NEW HAMPSHIRE

County of Cheshire

On this the 7th day of August 2019, Before Janine LaClair (name of Notary Public) the undersigned officer, Andrew Pressman, personally appeared and acknowledged himself to be the Chair of the Cheshire County Conservation District and being authorized so to do, executed the foregoing instrument for the purpose therein contained.

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

Janine M. LaClair

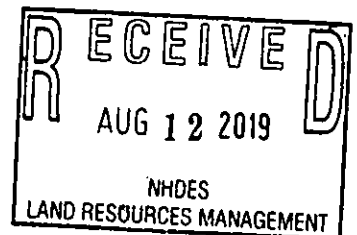
Printed name Notary Public:

(signature above line)

JANINE M. LACLAIR, Notary Public
My Commission Expires October 15, 2019

Commission Expiration Date:

(SEAL)





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.

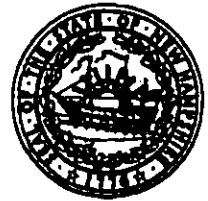
Participating Member: Cheshire County Conservation District 11 Industrial Park Dr Walpole, NH 03608		Member Number: 466	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624			
Type of Coverage		Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not		
<input checked="" type="checkbox"/>	General Liability (Occurrence Form)	7/1/2019	7/1/2020	<input type="checkbox"/>	Each Occurrence	\$ 5,000,000
<input type="checkbox"/>	Professional Liability (describe)			<input type="checkbox"/>	General Aggregate	\$ 5,000,000
<input type="checkbox"/>	Claims Made			<input type="checkbox"/>	Fire Damage (Any one fire)	
<input type="checkbox"/>	Occurrence			<input type="checkbox"/>	Med Exp (Any one person)	
<input type="checkbox"/>	Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			<input type="checkbox"/>	Combined Single Limit (Each Accident)	
<input type="checkbox"/>				<input type="checkbox"/>	Aggregate	
<input checked="" type="checkbox"/>	Workers' Compensation & Employers' Liability	7/1/2019	7/1/2020	<input checked="" type="checkbox"/>	Statutory	
<input type="checkbox"/>				<input type="checkbox"/>	Each Accident	\$2,000,000
<input type="checkbox"/>				<input type="checkbox"/>	Disease – Each Employee	\$2,000,000
<input type="checkbox"/>				<input type="checkbox"/>	Disease – Policy Limit	
<input type="checkbox"/>	Property (Special Risk includes Fire and Theft)			<input type="checkbox"/>	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
NH Department of Environmental Services 29 Hazen Dr Concord NH 03301			By: <i>Mary Beth Purcell</i>
			Date: 7/31/2019 mpurcell@nhprimex.org
			Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



January 25, 2019

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

APPROVED G & C

JATE

2/20/19

TFM #

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (DES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the Cheshire County Conservation District (CCCD), Walpole, NH (Vendor Code #154649) in the amount of \$74,195 for the purpose of conserving a 515-acre parcel of land in Stoddard, effective upon Governor and Council approval through December 31, 2024. 100% ARM Funds.

Funding is available in the account as follows:

03-44-44-442010-38710000-073-500581

FY19
\$74,195

Dept. Environmental Services, In-Lieu Wetland Mitigation, Grants – Non - Federal

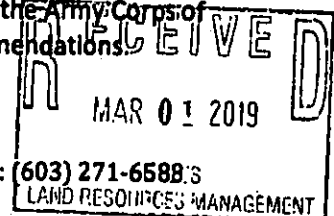
EXPLANATION

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, begun in 2006, 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 Department issued the request for proposals for ARM Funds available in the Lower Connecticut River watershed in April, 2018. The CCCD application was received and on November 28, 2018, DES announced the decision to fund the CCCD project in the Lower Connecticut River watershed. The project proposed by the CCCD was recommended for funding by the ARM Fund Site Selection Committee. Attachment A lists 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.

www.des.nh.gov
29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1-800-735-2964



His Excellency, Governor Christopher T. Sununu
and the Honorable Council

Page 2

The CCCD will use the funds to reconnect an excellent coldwater tributary within the Thompson Brook drainage area that provides reliable coldwater thermal refugia for aquatic organisms residing within the mainstem Ashuelot River. Instream restoration modifications will involve recreating a stable step pool configuration that will backwater the box culvert and eliminate the current perch, allowing full aquatic organism passage. The project will directly benefit the Eastern Brook Trout population identified on the site by NHFG by enhancing instream habitat structure and opening up access to coldwater tributaries. 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. This agreement has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.



Robert R. Scott, Commissioner


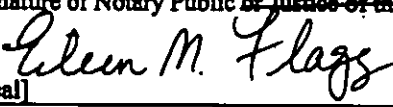
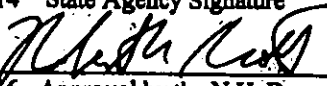


Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095	
1.3 Contractor Name Cheahire County Conservation District		1.4 Contractor Address 11 Industrial Park Drive, Walpole, NH 03608	
1.5 Contractor Phone Number 603-756-2988	1.6 Account Number 03-44-44-442010-38710000-073-500581	1.7 Completion Date December 31, 2024	1.8 Price Limitation \$74,195
1.9 Contracting Officer for State Agency Lori L. Sommer, DES Wetlands Bureau		1.10 State Agency Telephone Number 603-271-4059	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Amanda Littleton, District Manager	
1.13 Acknowledgement: State of <i>NH</i> , County of <i>Cheshire</i> On <i>1/2/19</i> , 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 and Title of Notary or Justice of the Peace Eileen M. Flagg Notary Public			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Robert R. Scott, Commissioner Date: <i>2-1-19</i>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <i>2/5/19</i>			
1.18 Approval by the Governor and Executive Council (if applicable) By:  On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated 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. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement 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 Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision 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 Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or
8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

8.2.1 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;

8.2.2 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 price 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;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

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

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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 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 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.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. **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 or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions 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 in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **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 of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default 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 Event of Default on the part of the Contractor.

17. **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 given in blocks 1.2 and 1.4, herein.

18. **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 Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. **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.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **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.

PROJECT AGREEMENT

Between the
STATE OF NEW HAMPSHIRE, Department of Environmental Services
and the
Cheshire County Conservation District

1. This Project Agreement (hereinafter "Agreement") is entered into by the State of New Hampshire, Department of Environmental Services, (hereinafter "DES"), and the Cheshire County Conservation District (hereinafter "CCCD"), for the purpose of undertaking a project of mutual interest.
2. 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 31, 2024. If the provision of services by the CCCD precedes the Effective date, all services performed by the CCCD shall be performed at the sole risk of the CCCD and in the event this Agreement does not become effective, DES shall be under no obligation to pay the CCCD 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.
3. The work to be performed under the terms of this Agreement is described in the proposal identified below and attached to this document as Exhibit A, the content of which is incorporated herein as part of this Agreement.
4. That the Property involved in the project will be monitored on an annual basis for five years post construction to ensure the success of the activities taken and to ensure that no actions are occurring which could be detrimental to the attributes of the Property. The CCCD agrees to submit a copy of the annual monitoring report to DES to document the property conditions and any remedial measures taken.
5. Total funds in the amount of \$74,195.00 have been allocated and are available for payment of allowable costs incurred under this Agreement. DES will not reimburse the CCCD for costs exceeding the amount specified in this paragraph.
6. The CCCD 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 project has been completed with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the CCCD 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.

EXHIBIT A
SCOPE OF SERVICES

- A. Project Title: 2018 Lower CT Thompson Brook Restoration Project_Surry
- B. Project Period: February 2019-December 2024
- C. Objective:
Improving aquatic organism passage, particularly of the Eastern Brook Trout, in the Ashuelot River Watershed. Native brook trout are listed as a "species of concern" in NH's Wildlife Action Plan.
- D. Proposed Result:

Contractor Initials AL
Date 1/22/19

1. The priority number three aquatic organism barrier in the Ashuelot River watershed will be removed; and
2. Over two and a half miles of interconnected high-quality aquatic habitat will be reopened resulting in an increase of brook trout throughout this cold-water tributary.

E. Scope of Work & Deliverable Schedule:

1. Establish a plan for removing the barrier at the Route 12A bridge in partnership with NH DOT and the Town of Surry NH for review and approval by DES and Army Corps
 - o Responsible Party: CCCD
 - Technical support from NRCS, TU, NH DOT and NHFG
 - o Timeline: May 2018- June 2019 for initial planning, though communications will be ongoing through project completion
2. Perform hydrologic modeling of existing condition and proposed conditions
 - o Responsible Party: TU
 - Technical support from TU, hired contractors, and NHFG
 - o Timeline: December 2018-March 2019
3. Develop design and monitoring plan in coordination with the DES and Army Corps
 - o Responsible Party: CCCD
 - Technical support from TU, hired contractors, NRCS, and NHFG
 - o Timeline: February 2019-March 2019
4. Prepare and submit NHDES wetlands permit application
 - o Responsible Party: TU
 - Technical support from hired contractors, NRCS and NHFG
 - o Timeline: March 2019-April 2019
5. Perform construction to address removal of aquatic organism barrier
 - o Responsible Party: TU
 - Construction done through hired contractors and technical support from NRCS and NHFG
 - o Timeline: July 2019-October 2019
6. Carry-out post construction monitoring in accordance with ****insert monitoring plan name**** and reporting to DES and Army Corps
 - o Responsible Party: TU and CCCD
 - Technical support from NHFG and NRCS
 - o Timeline: December 2019-October 2024
7. Address maintenance issues during the monitoring period
 - o Responsible Party: TU and CCCD with hired contractors as needed
 - o Timeline: August 2019-October 2024
8. Provide financial administration and reporting
 - o Responsible Party: CCCD
 - o Timeline: December 2018- December 2024

Contractor Initials

Date 1/22/19

EXHIBIT B
BUDGET & PAYMENT METHOD

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

- | | |
|--|----------|
| 1. Establish design and monitoring plan in partnership with NH DOT and the Town of Surry, NH | |
| o Budget: | \$2,000 |
| 2. Hydrologic modeling of existing condition and proposed conditions | |
| o Budget: (funding from matching grant) | \$0 |
| 3. Design plans | |
| o Budget: (funding from matching grant) | \$0 |
| 4. NHDES wetlands permit application | |
| o Budget: | \$3,750 |
| 5. Construction | |
| o Budget: | \$48,200 |
| 6. Post construction monitoring | |
| o Budget: | \$7,500 |
| 7. Long-term maintenance | |
| o Budget: | \$5,000 |
| 8. Financial administration and reporting | |
| o Budget: (10% of project costs) | \$7,745 |

TOTAL DES ARM FUNDS **\$74,195**

Total amount to be authorized following approval by the Governor and Executive Council: **\$74,195**

Payments shall be made by DES to the CCCD upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. DES will pay the CCCD 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.

Contractor Initials

Date

AL
1/22/19

EXHIBIT C
SPECIAL PROVISIONS

This section is intentionally left blank.

Contractor Initials AL
Date 1/22/19

CERTIFICATE

I Andrew Pressman, Chair of the Cheshire County Conservation District, do hereby certify that:

- (1) I am the duly elected Chair of the Board of Supervisors;
- (2) at the meeting held on November 29, 2018, the Cheshire County Conservation District Board of Supervisors unanimously agreed to accept NH Department of Environmental Services funds and to enter into a contract with the NH DES;
- (3) the Cheshire County Conservation District further authorized the District Manager to execute any documents which may be necessary for this contract;
- (4) the authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
- (5) the following person has been hired and now occupies the position in (3) above: Amanda Littleton

IN WITNESS WHEREOF, I have herunto set my hand as the Chair of the Cheshire County Conservation District, this 7th day of December 2018.

Andrew Pressman

Andrew Pressman, Chair of the Cheshire County Conservation District

STATE OF NEW HAMPSHIRE

County of Cheshire

On this the 7th day of December 2018, Before the Diane M Schillinger (name of Notary Public) the undersigned officer, Andrew Pressman, personally appeared and acknowledged himself to be the Chair of the Cheshire County Conservation District and being authorized so to do, executed the foregoing instrument for the purpose therein contained.

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

Diane M. Schillinger

Printed name Notary Public: Diane M Schillinger

(signature above line)

Commission Expiration Date:

(SEAL)

DIANE M. SCHILLINGER, Notary Public
New Hampshire
My Commission Expires March 13, 2020



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/30/2018

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 Clark - Mortenson Insurance P.O. Box 808 Keene NH 03431	CONTACT NAME: PHONE (AG, Ho, Ext): 603-352-2121 FAX (AG, Ho): 603-357-8491 E-MAIL ADDRESS: car24@clark-mortenson.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED CHESHIRECOUNTYS Cheahire Cty Conservation Dist 11 Industrial Park Drive Walpole NH 03608	INSURER A: Central Insurance Companies	
	INSURER B: FirstComp 27626	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES	CERTIFICATE NUMBER: 2017659271	REVISION NUMBER:
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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.

INER LTR	TYPE OF INSURANCE	ADDITIONAL INER LTR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC		CLP8612735	8/17/2018	8/17/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000 \$
	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 type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DEED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE		CX88182847	8/17/2018	8/17/2019	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 <input type="checkbox"/> N/A				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 600,000
B			WC012448708	8/23/2018	8/23/2019	

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

CERTIFICATE HOLDER NH Dept of Environmental Services 29 Hazen Drive Concord NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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**Attachment A
2018 Aquatic Resource Mitigation Fund Grants**

Applications and Funding Amounts

Grant Applicant	Location/Town	Requested Funding Amount	Score	Approved for Funding
New Hampshire Fish & Game Department	Croydon, Grantham and Newport	\$475,000	57	Yes – full funding
Upper Valley Land Trust	Hanover	\$299,644.75	51	Yes – full funding
Harris Center for Conservation Education	Stoddard	\$200,000	46	Yes – full funding
Town of Winchester	Winchester	\$215,488	45	Yes – full funding
Monadnock Conservancy	Jaffrey and Rindge	\$142,000	40	Yes – full funding
Cheshire County Conservation District	Surry	\$74,195	33	Yes – full funding
NH Department of Transportation	Fitzwilliam	\$250,000	31	No
Town of Winchester	Winchester	\$263,270	38	No

(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
Craig Rennie	NHDES, Land Resource Management Program	Land Resource Specialist	22
Pete Bowman	NH Dept. of Resources & Economic Development	Ecological Information Specialist	20
Michael Marchand	NH Fish and Game Department	Nongame and Endangered Species Coordinator	16
Stephen Walker	Office of Strategic Initiatives	CLSP Director	25
Nancy Rendall	NH Association of Natural Scientists	Wetland Scientist	36
Rick Van de Poll	NH Association of Conservation Commissions	Town of Sandwich	40
Brian Hotz	Society for the Protection of NH Forests	Vice President for Land Conservation	23

ATTACHMENT B

Thompson Brook Restoration/Surry

