



The State of New Hampshire
Department of Environmental Services

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Robert R. Scott, Commissioner

December 2, 2019

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

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a **Sole Source** Memorandum of Agreement with the Department of Natural and Cultural Resources, Concord, NH (DNCR) (VC# 177887-B001) in the amount of \$105,000 for projects to conduct research and develop tools related to characterizing wetlands for assessment, permitting or resource protection purposes, effective upon Governor and Council approval through September 30, 2021. 100% Federal Funds.

Funding is available in the accounts as follows:

	<u>FY 2020</u>
03-44-44-442010-1882-102-500731	\$105,000
Dept. Environmental Services, Wetland Improvement Grants, Contracts for Program Services	

EXPLANATION

DES was awarded a federal grant from the U.S. Environmental Protection Agency (EPA) for the implementation of a project entitled: "Advancing Education, Wetland Functional Assessments and Data Systems." This agreement is sole source because the EPA-approved work plan directs \$105,000 to DNCR-Natural Heritage Bureau as a term and condition of the grant award. The attached Memorandum of Agreement outlines the scope of work for DNCR to utilize the portion of grant funds identified above.

The DNCR-Natural Heritage Bureau (NHB) helps to protect NH's biodiversity by analyzing data on the status, location and distribution of rare or declining native plant species and natural communities (types of forests, wetlands, grasslands, etc.). NHB's mission, as mandated by the Native Plant Protection Act of 1987 (RSA 217-A), is to develop and recommend measures for the protection, conservation, enhancement and management of NH's native plant species and exemplary natural communities.

Under this grant, the DNCR-Natural Heritage Bureau will:

- Survey exemplary wetlands with outdated records and assess the condition of these priority wetlands using the Ecological Integrity Assessment (EIA) and Floristic Quality Assessment (FQA) methods.
- Conduct a quantitative comparison of the two condition assessment methods to inform development of metrics and protocols to prioritize wetland restoration and protection projects in New Hampshire. Updating these records in NHB's database will aid in the protection of wetland complexes of high ecological value.

In the event that federal 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
Department of Environmental Services



Sarah L. Stewart, Commissioner
Department of Natural and Cultural Resources



**MEMORANDUM OF AGREEMENT
BETWEEN THE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
NATURAL HERITAGE BUREAU
AND THE
DEPARTMENT OF ENVIRONMENTAL SERVICES**

PROJECT: Advancing Education, Wetland Functional Assessments and Data Systems

This Memorandum of Agreement (hereinafter called the "Agreement") describes a project that has been agreed to by the Department of Natural and Cultural Resources, Natural Heritage Bureau (DNCR-NHB) and the New Hampshire Department of Environmental Services (DES) Wetlands Bureau, which includes work related to characterizing wetlands for assessment, permitting, or resource protection purposes.

This project is funded from the following Federal Clean Water Act section 104(b)(3) wetland grant awarded to DES by the U.S. Environmental Protection Agency (EPA) on September 24, 2019.

Federal Assistance ID No. CD-00A00292: *Advancing Education, Wetland Functional Assessments and Data Systems* (CFDA# 66.461)

DNCR-NHB agrees to conduct the following work. A description of each work task is followed by the grant funding and the Federal fiscal year in which the work is anticipated to be completed. Year 1 begins upon Governor and Council approval and ends September 30, 2020. Year 2 begins October 1, 2020 and ends September 30, 2021. Grant task and product numbers correspond to those in the EPA-approved grant application work plan.

Table 1. Grant component descriptions and timelines.

Task and Grant funded amount	Product description	Timeline/Due Date
EPA's Quality Assurance Project Plan	Before assessing outdated NHB records, NHB will review text for component-related elements of Quality Assurance Project Plan (QAPP) for incorporation into grant QAPP and respond to related EPA comments, as needed for EPA's approval of the QAPP, no less than 60 days before field data collection or data review activity is scheduled to start.	Upon G&C approval--provide input for draft QAPP and provide review of and comment on draft QAPP within 15 days of receipt of draft QAPP.

Task and Grant funded amount	Product description	Timeline/Due Date
<p>Task 5 Resurvey exemplary wetlands with outdated records and assess the condition of these priority wetlands using the Ecological Integrity Assessment (EIA) and Floristic Quality Assessment (FQA) methods.</p> <p>Year 1 Grant: \$52,500 Match: \$19,250</p> <p>Year 2 Grant: \$52,500 Match: \$19,250</p>	<p>Product 1) Assessments of outdated NHB records using the EIA and FQA methods to provide science-based determination of ecological significance of wetlands. In the summers of 2020 and 2021, NHB will survey approximately 40 of the highest-priority exemplary wetlands using the EIA method.</p> <p>2) Updated wetland records, mapped extent, and ecological integrity rank in the NHB database. The geo-referenced data on plant communities that is gathered will be used to calculate the Floristic Quality Assessment (FQA) index to conduct a comparison between the EIA and FQA scores.</p> <p>3) Report on comparison of EIA and FQA scores. A quantitative comparison of the two condition assessment methods will inform development of metrics and protocols to prioritize wetland restoration and protection projects.</p> <p>4) Refinement of FQA performance criteria for applicable wetland types in New Hampshire.</p> <p>5) Final Report.</p> <p>Outcome: Updates to the NHB database will provide accurate data to inform permit decisions, mitigation site selection and conservation to maintain current wetland condition and protect and restore wetlands of high ecological value.</p>	<p>Upon G&C approval – 09/30/2021</p> <p>10/30/2020 - 09/30/2021</p> <p>08/30/2021 - 09/30/2021</p> <p>09/30/2021</p> <p>09/30/2021</p>

For the purpose of the Agreement, DNCR-NHB and DES agree to cooperate as follows:

Unless otherwise authorized by DES, the DNCR-NHB agrees to:

1. Assign appropriate staff and complete the work as described in this agreement.
2. Receive payment of no more than \$52,500 until notified by DES that second-year funds for DNCR-NHB have been received from EPA (by October 1, 2020).
3. Complete work in accordance with the schedule shown in Table 1. Due dates shown in Table 1 may be extended with prior written approval from DES.

4. As a minimum, complete half of Task 5, Product 1 with first-year federal funding. Complete remaining products when subsequent year funding is awarded to DES.
5. Provide \$38,500 of match for grant (\$19,250 per year of funding received).
6. Meet with DES semi-annually to review progress on tasks and any technical issues, report on work underway and work remaining to be completed.
7. Submit semi-annual reports to DES by April 15 and October 15 of each year, starting with April 15, 2020. The reports shall include:
 - Project Brief - Work progress and status, work completed during the reporting period, including preliminary data results (if applicable) and the estimated percent complete for each workplan component;
 - Status of Key Personnel changes - Changes to be noted if any;
 - Activities Performed - A detailed description of how activities were performed (i.e. methodologies used) and difficulties encountered (if applicable);
 - Timeline Evaluation - A comparison of accomplishments to date with anticipated outputs/ outcomes specified in the original workplan, and explanation of why anticipated outputs and outcomes were not met;
 - Status of Expenditures – A status relative to approved budget;
 - Anticipated Activities - A statement of activities anticipated during the subsequent reporting period; and
 - Other Information—Any pertinent information related to the work to be noted.
8. Notify DES as soon as possible of problems, delays, or adverse conditions which affect the ability to meet the outputs/outcomes specified in the proposed work plan.
9. Provide additional information on project details to DES, as requested.
10. Submit all products, including reports and supporting data and information, to DES in electronic format (such as MS-Word or pdf for text documents, MS-Excel for spreadsheets, or shape files for GIS).
11. Submit invoices to DES at least semi-annually. Invoices shall be accompanied by the semi-annual report – current or last submitted – described in item 7 of this section. NHB agrees that they will receive no more than 80 percent of the total amount of federal funding received for this project (i.e., \$40,000 if only \$50,000 is received, and \$80,000 if \$100,000 is received) until the final report is submitted to and approved by DES.

The Department of Environmental Services agrees to:

1. Assign responsible staff to serve as the contact person with DNCR-NHB regarding any provision of this agreement.
2. Conduct timely reviews of draft reports and draft QAPP text, and provide comments and respond to questions in a timely manner.
3. Meet with DNCR-NHB at least semi-annually to review status of tasks and any technical issues, receive reports on work underway and work remaining to be completed.

4. Respond in writing to requests for changes to the schedule that are mutually agreeable.
5. Notify DNCR-NHB if DES receives the additional \$52,500 of second year EPA funding for DNCR-NHB.
6. Transfer funds not to exceed \$25,000 from DES to DNCR-NHB after Governor and Council approval of this Agreement, based on costs incurred and billed and in accordance with the schedule and terms of payment specified in this Agreement. If DES receives additional funds from EPA for DNCR-NHB, DES will transfer the additional funds from DES to DNCR-NHB based on the costs incurred and billed and in accordance with the schedule and terms of payment specified in this Agreement.

Termination of any paragraph, part or section of this Agreement per the conditions described herein shall not be interpreted as termination of the entire Agreement. The period of this Agreement shall be from the date of Governor and Council approval to September 30, 2021 or as agreed by written extension and signed by the parties to this agreement.

Special Provisions

Federal funds paid under this agreement are from a grant to the State of New Hampshire from US Environmental Protection Agency, under the Wetland Protection Plan CFDA# 66.461. All applicable requirements, regulations, provisions, terms and conditions of the Federal Grant Agreement are hereby adopted in full force and effect to the relationship between this department and the Grantee. Additionally, the Grantee shall comply with the terms of the Federal Funding Accountability and Transparency Act (FFATA) by providing NHDES with their Data Universal Numbering System (DUNS) number, and all applicable Executive Compensation Data information as required under FFATA. The Grantee's DUNS number is 73451838.

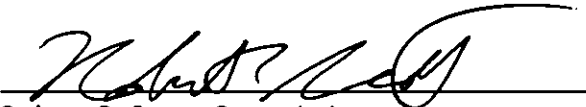
Schedule of payment

The State shall pay to DNCR-NHB the total reimbursable costs in accordance with the following requirements:

Reimbursement requests for program costs shall be invoiced by DNCR-NHB. Each invoice shall be accompanied by proper supporting documentation in the amount of each requested disbursement and required matching funds. Documentation of reimbursable and matching costs may include invoices for services, and a report of personnel, and indirect costs. When progress is demonstrated solely through the submission of interim progress reports, payments shall be made upon receipt, review and approval of the interim progress report and invoice. Payments shall be made to DNCR-NHB no more frequently than monthly.

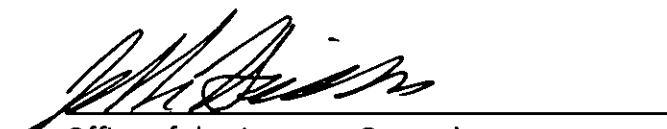
The total reimbursement shall not exceed the grant award of \$105,000. Match provided by DNCR shall total at least \$38,500 of non-federal cash and in-kind services.

IN WITNESS WHEREOF, the respective parties have hereunto set their hand on the dates indicated.

Date 12-11-19 
Robert R. Scott, Commissioner
Department of Environmental Services

Date 10/4/19 
Sarah L. Stewart, Commissioner
Department of Natural and Cultural Resources

Reviewed and approved as to form, substance and execution.

Date 12/16/2019 
Office of the Attorney General
Print Name Joshua Harrison

SECRETARY OF STATE

I hereby certify that the foregoing contract was approved by the Governor and Executive Council of the State of New Hampshire at their meeting on _____.

Signed _____