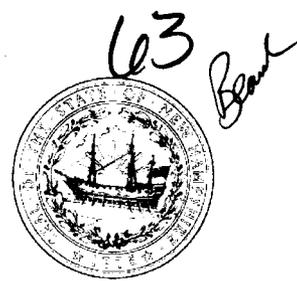




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



November 6, 2014

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

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a Memorandum of Agreement (MOA) with the New Hampshire Department of Transportation (DOT) (VC# 177927 B001) for the purpose of establishing a cost-allocation agreement between DES and DOT for the State's share of costs for stream gaging under the Cooperative Streamflow Gaging Program with the United States Geological Survey (USGS), effective for ten years following Governor and Council approval. 100% State Highway Funds.

EXPLANATION

The State of New Hampshire's participation in the United States Geological Survey (USGS) Cooperative Streamflow Gaging Program is authorized under RSA 482:85. DES and DOT seek to establish a cost-allocation agreement between DES and DOT for the State's share of costs for stream gaging.

For the past eighty-eight years, DES and its predecessor agencies have entered into annual Joint Funding Agreements with the USGS for operation and maintenance of a Cooperative Streamflow Gaging Program in New Hampshire. The USGS, which has traditionally funded approximately half of the costs of the program, operates and maintains gaging stations throughout New Hampshire. The USGS collects and publishes data on the flows in rivers and streams in the state. The data are used by DES to support emergency response, flood control and water management, water resource planning activities, permitting, dam emergency action planning and hydraulic structure design. The data are used by DOT to support their design of highway bridges and road culverts, for monitoring scour-susceptible bridges and the potential for road overtopping, and for directing emergency response efforts during floods events.

DOT recognizes their reliance on this important data and the need to maintain the program. DOT and DES have mutually agreed that, based on each agency's use of the data, DOT will pay one-third of the State's contribution to the Cooperative Streamflow Gaging Program with the USGS, and DES will pay two-thirds.

The state's share of the program over the last few years has been approximately \$185,000, however it varies some each year and thus the actual amount to be expended cannot be identified until the USGS provides its final costs to operate and maintain the gaging network for the coming year. This MOA would provide the basis for the computation of DOT's share in the cost-allocation.

As part of the agreement, DES will continue to maintain a Joint Funding Agreement with the USGS to help fund a Cooperative Streamflow Gaging Program in New Hampshire. DOT agrees to pay one-third of the state's annual contribution for the Cooperative Streamflow Gaging Program in New Hampshire via transfer of funds to DES.

At the time that DES and DOT are preparing their respective biennial budgets, DES will consult with USGS to determine the costs of the Cooperative Stream Gaging Program for the next fiscal year, and will provide that information to DOT so that DOT can include one-third of the costs in the DOT budget. DES will invoice DOT quarterly for DOT's share of the State's contribution to the Cooperative Streamflow Gaging Program, and DOT will provide payment to DES when invoiced.

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

We respectfully request your approval.


Thomas S. Burack, Commissioner

**MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE
NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AND THE
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

This Memorandum of Agreement (MOA) is entered into, by and between, the New Hampshire Department of Environmental Services, hereinafter referred to as DES, and the New Hampshire Department of Transportation, hereinafter referred to as DOT, for the purpose of establishing a cost-allocation agreement between DES and DOT for the State's share of costs for stream gaging under the Cooperative Streamflow Gaging Program with the United States Geological Survey (USGS).

WHEREAS, the State of New Hampshire's participation in the United States Geological Survey (USGS) Cooperative Streamflow Gaging Program is authorized under RSA 482:85; and

WHEREAS, for the past eighty-eight years, DES and its predecessor agencies have entered into annual Joint Funding Agreements with the USGS for operation and maintenance of a Cooperative Streamflow Gaging Program in New Hampshire; and

WHEREAS, the USGS funds approximately half of the costs of the Cooperative Streamflow Gaging Program, operates and maintains gaging stations throughout New Hampshire and collects and publishes data on the flows in rivers and streams in the state; and

WHEREAS, the data are used by DES to support emergency response, flood control and water management, water resource planning activities, permitting, dam emergency action planning and hydraulic structure design; and

WHEREAS, the data are used by DOT to support their design of highway bridges and road culverts, for monitoring scour-susceptible bridges and the potential for road overtopping, and for directing emergency response efforts during floods events; and

WHEREAS, DOT recognizes the need to maintain the program; and

WHEREAS, DOT and DES have mutually agreed that, based on each agency's use of the data, DOT will pay one-third of the State's contribution to the Cooperative Streamflow Gaging Program with the USGS, and DES will pay two-thirds.

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

1. DES will continue to maintain a Joint Funding Agreement with the USGS to help fund a Cooperative Streamflow Gaging Program in New Hampshire.
2. DOT agrees to pay one-third of the state's annual contribution for the Cooperative Streamflow Gaging Program in New Hampshire via transfer of funds to DES.

3. At the time that DES and DOT are preparing their respective biennial budgets, DES will consult with USGS to determine the costs of the Cooperative Stream Gaging Program for the next fiscal year, and will provide that information to DOT for DOT to include a third of the costs in the DOT budget.
4. DES will invoice DOT quarterly for DOT's share of the quarterly costs of the State's contribution to the Cooperative Streamflow Gaging Program, and DOT will provide payment to DES when invoiced.
5. The parties understand and agree that this MOA may be modified as necessary to ensure the successful operation and maintenance of the Cooperative Streamflow Gaging Program in New Hampshire.
6. This MOA shall take effect upon the date of approval by the Governor and Executive Council of the State of New Hampshire and be effective for ten (10) years from the date of approval. This MOA may be extended after ten (10) years if both parties are agreeable and the extension is approved by the Governor and Executive Council of the State of New Hampshire.
7. Except as specifically amended and modified by the terms and conditions of this MOA, the obligations of the parties under the previous MOA shall remain in full force and effect.
8. This agreement is subject to funding being appropriated through DOT and DES budgets by the NH legislature.
9. DOT reserves the right to discontinue participation in this agreement by providing notification to DES on or before December 31st of an even numbered year in advance of the state's new biennial budget.

IN WITNESS WHEREOF,

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By: Thomas S. Burack
Thomas S. Burack, Commissioner

Date: 11/6/2014

THE STATE OF NEW HAMPSHIRE
Department of Transportation

By: David J. Brillhart
David J. Brillhart, Assistant Commissioner

Date: 10/20/14

Approved by the ATTORNEY GENERAL as to form and content

By: *Lawrence*
Assistant Attorney General

Date: 11-17-2017

Approved by the GOVERNOR AND COUNCIL this ____ day of _____, _____

