



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

March 12, 2018

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 \$100,000 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, 2020. 100% Federal Funds.

Funding is available in the account as follows with the authority to adjust encumbrances in each of the state fiscal years, through the Budget Office if needed and justified.

	<u>FY 18</u>	<u>FY 19</u>
03-44-44-442010-1882-072-500576	\$50,000	\$50,000
Dept. Environmental Services, Wetland Improvement Grants, Grants - Federal		

EXPLANATION

DES was awarded a federal grant from the U.S. Environmental Protection Agency (EPA) for the implementation of a project entitled: "Enhancing Wetland Mapping and Assessment Tools for Wetlands Protection in New Hampshire." This agreement is sole source because the EPA-approved workplan directs \$100,000 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 finds, tracks, and facilitates the protection of New Hampshire's rare plants and exemplary natural communities (types of forests, wetlands, grasslands, etc.). Its mission, as mandated by the Native Plant Protection Act of 1987 (RSA 217-A), is to determine protective measures and requirements necessary for the survival of native plant species in the state, investigate the condition and degree of rarity of plant species, and distribute information regarding the condition and protection of these species and their habitats.

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

- Evaluate and document historical exemplary wetland systems so they can be reliably used for environmental reviews and conservation planning.

- Identify and report on thresholds for interpreting Floristic Quality Assessment (FQA) scores that are specific to New Hampshire wetland types.

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

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Jeffrey Rose, 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: Enhancing Wetland Mapping and Assessment Tools for Wetlands Protection in NH

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 26, 2017.

Federal Assistance ID No. CD-00A00262: *Enhancing Wetland Mapping and Assessment tool for Wetlands Protection in NH* (CFDA# 66.461)

DNCR-NHB agrees to conduct the following work. A description of each work component 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, 2018. Year 2 begins October 1, 2018 and ends September 30, 2019. Year 3 begins October 1, 2019 and ends September 30, 2020. Grant component numbers correspond to those in the EPA-approved grant application workplan.

Table 1. Grant component descriptions and timelines.

<i>Component and Grant-funded Amount</i>	<i>Description</i>	<i>Timeline/ Due Date</i>
Part of Components 3a and 3b	Before reviewing natural community records to identify those that need updates or collecting data during surveys for those natural community records with insufficient data or collecting relev� data for wetland systems lacking useable data, 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.	Provide input for draft QAPP and provide review of and comment on draft QAPP within 15 days of receipt.

Component and Grant-funded Amount	Description	Timeline/ Due Date
<p>Component 3a in Grant Workplan:</p> <p>Evaluate and document exemplary wetland systems so they can be reliably used for environmental reviews and conservation planning.</p> <p>Grant: \$50,000 Match: \$16,667</p>	<p>A. Customize NatureServe's EcoObs database for use in NH.</p> <p>B. Identify outdated natural community records in NHB database that do not meet current data quality standards.</p> <p>C. Evaluate wetlands with EIA, current land cover data, aerial imagery, current GIS data layers, conservation status rank, wetland system rank specifications, and improved vegetation classification.</p> <p>D. Update maps and ecological integrity ranks in NHB Database.</p> <p>Outputs/Products:</p> <ul style="list-style-type: none"> ▪ EcoObs database customized for NH and usable to wetland scientists. ▪ Digital mapped extent, consistent with recent aerial imagery. ▪ Quantitative ecological integrity rank for wetlands classified as one of 11 wetland systems. ▪ Briefly report on the updated wetland records (e.g. records reviewed, # of records updated, # of records with changed ranks). <p>Outcomes (Objectives):</p> <ul style="list-style-type: none"> ▪ Information to support the development of thresholds for interpreting FQA scores that are specific to NH wetland types. ▪ Identification of wetland complexes of high ecological value for land protection and environmental reviews. ▪ Improved understanding of restoration potential. ▪ Updated results about exemplary natural communities for existing NHB Data Check Tool required for permitting. 	<p>A. Start of grant -6/30/18;</p> <p>B & C. Start of grant -6/30/19;</p> <p>D. Start of grant - 6/30/19</p>

Component and Grant-funded Amount	Description	Timeline/ Due Date
<p>Component 3b in Grant Workplan:</p> <p>Develop thresholds for wetland systems of high ecological value using vegetation data.</p> <p>Grant: \$50,000 Match: \$16,667</p>	<p>A. Review existing vegetation plot data and enter relevant information into EcoObs database.</p> <p>B. Identify any wetland system types for which field surveys need to be conducted.</p> <p>C. If warranted/practical, conduct field surveys to collect vegetation plot data for wetland systems lacking useable data.</p> <p>D. Analyze data for FQA values.</p> <p>E. Identify thresholds for minimally/least impacted reference wetlands by type.</p> <p>F. Submit Final Report to DES</p> <p>Outputs/Products:</p> <ul style="list-style-type: none"> ▪ Report on FQA thresholds for 11 wetland system types. ▪ Thresholds for interpreting FQA scores that are specific to NH wetland types. <p>Outcomes (Objectives):</p> <ul style="list-style-type: none"> ▪ Improved ability to assess condition of all wetland types using FQA. ▪ Identification of priority sites for land protection. ▪ Tools that support: <ul style="list-style-type: none"> 1) permit decisions that protect wetlands of high ecological value and condition, and 2) development of performance standards and mitigation criteria. 	<p>A. 10/1/18 - 6/30/19;</p> <p>B & C. 10/1/18 - 12/31/19;</p> <p>D & E. 10/1/19 - 6/30/2020;</p> <p>F. By 6/30/2020</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 \$50,000 until notified by DES that second-year funds for DNCR-NHB have been received from EPA (by October 1, 2018).
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 Component 3a with first-year federal funding. Complete Component 3b when subsequent year funding is awarded to DES.
5. Provide \$33,334 of match for grant (\$16,667 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, 2018. 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;
 - Key personnel changes, 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;
 - Expenditures relative to budget; and
 - Anticipated Activities - A statement of activities anticipated during the subsequent reporting period;
 - Other Information—any pertinent information
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 (Component 3b.F in Table 1) 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 \$50,000 of second year EPA funding for DNCR-NHB.
6. Transfer funds not to exceed \$50,000 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 June 30, 2020 or as agreed by written extension and signed by the parties to this agreement.

Schedule of payment

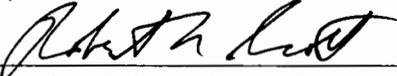
The State shall pay to DNCR-NHB the total reimbursable costs in accordance with the following requirements:

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 \$100,000. Match provided by DNCR shall total at least \$33,334 of non-federal cash and in-kind services.

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

Date 3-19-18


Robert R. Scott, Commissioner
Department of Environmental Services

Date 2/9/18


Jeffrey Rose, Commissioner
Department of Natural and Cultural Resources

Reviewed and approved as to form, substance and execution.

Date 3/20/18


Office of the Attorney General
Print Name Gordon Landrigan

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 _____