

33 mac

New Hampshire  
Department of Agriculture,  
Markets & Food

Lorraine S. Merrill, Commissioner

January 11, 2016

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

Dear Governor Hassan and Honorable Council:

REQUESTED ACTION

Authorize the New Hampshire Department of Agriculture, Markets and Food, Division of Agricultural Development (DAMF) to enter into a grant with Small and Beginning Farmers of New Hampshire (vendor code #155470), 206 Currier Road, Hill, NH 03243 in the amount of \$25,700 for the *Specialty Crop Safety: From Field to Market*, effective upon Governor and Council approval through December 30, 2016.  
100% Federal Funds – Specialty Crop Block Grant.

Funding is available in account, SCBG 0033, as follows with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

Funds are available as follows: 02-18-18-185010-70380000 Specialty Crop Block Grant, #14-SCBGP-NH-0033

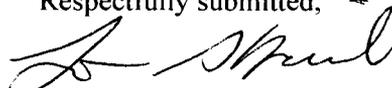
<u>ACCOUNT</u>	<u>FY 2016</u>	<u>FY2017</u>	<u>TOTAL</u>
072-500575 Grants to non-profits – Federal	\$25,200	\$500	\$25,700

EXPLANATION

The New Hampshire Department of Agriculture, Markets & Food (DAMF) received Specialty Crop Block Grant (SCBG) money from the United States Department of Agriculture to fund nine specific projects. The projects were solicited through the RFP process and submitted for review by USDA, Agricultural Marketing Service as part of our state application. The proposal submitted by the Small and Beginning Farmers of New Hampshire was one of the projects accepted by USDA for funding. As enumerated in the Grant Agreement for the purposes of preparing specialty crop growers to meet anticipated changes in food safety regulations and to increase access of member growers to otherwise unattainable specialty vegetable washers.

In the event that these Federal funds become no longer available, General Funds will not be requested to support this program.

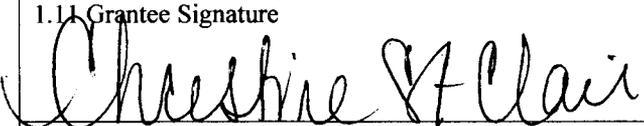
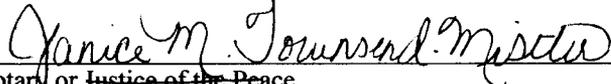
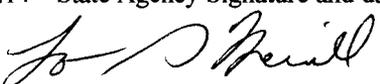
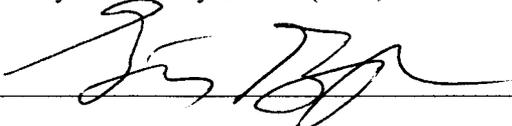
Respectfully submitted,

  
Lorraine S. Merrill  
Commissioner

Subject: Specialty Crop Safety: From Field to Market

GRANT AGREEMENT  
GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Agriculture, Markets and Food		1.2 State Agency Address PO Box 2042 Concord, NH 03302	
1.3 Grantee Name Small and Beginning Farmers of New Hampshire VC 155470		1.4 Grantee Address 206 Currier Road Hill, NH 03243	
1.5 Grantee Phone Number 603-325-5677	1.6 Account Number 70380000 - 500575	1.7 Completion Date December 30, 2016	1.8 Grant Limitation \$25,700.00
1.9 Grant Officer for State Agency Gail McWilliams Jellie Director, Division of Agricultural Development		1.10 State Agency Telephone Number 603-271-3788	
1.11 Grantee Signature 		1.12 Name and Title of Grantee Signatory Christine St. Clair State Leader	
By executing this Agreement, Grantee certifies that all applicable public notice, meeting and other requirements for acceptance of this grant, including, but not limited to, the requirements under N.H. RSA 31:95, if applicable, have been fully satisfied.			
1.13 Acknowledgement: State of <del>New Hampshire</del> , County of <del>Belknap</del> On <u>Nov. 17, 2015</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 <del>Justice of the Peace</del>			
[Seal] 			
1.13.2 Name and Title of Notary or <del>Justice of the Peace</del> Janice M. Townsend-Mistler			
1.14 State Agency Signature and date  On: <u>1/17/2016</u>		1.15 Name and Title of State Agency Signatory Lorraine S. Merrill, Commissioner	
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) By:  On: <u>1/22/16</u>			

**2. PROJECT.** In exchange for grant funds provided by the State of New Hampshire, acting through the agency identified in block 1.1 ("State"), the State engages the grantee identified in block 1.3 ("Grantee") to perform, and the Grantee shall perform, the work identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Project"). Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

**3. EFFECTIVE DATE/COMPLETION OF PROJECT.**

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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").  
3.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed prior to the date 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 Grantee 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. GRANTAMOUNT/LIMITATION ON AMOUNT / PAYMENT.**

5.1 The grant amount, 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 grant amount shall be the only and the complete payment 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 liability to the Grantee other than the grant amount.  
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 herein, the State shall pay the Grantee the grant amount.  
5.4 The State reserves the right to offset from any amounts otherwise payable to the Grantee under this Agreement those sums required or permitted by N.H. RSA 80:7 through RSA 80:7-c and any other provision of law.

5.5 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 Grant Limitation set forth in block 1.8.

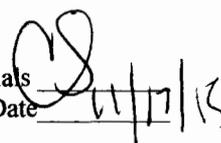
**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Grantee, including, but not limited to, civil rights and equal opportunity laws. In addition, the Grantee shall comply with all applicable copyright and other intellectual property laws that impose any obligation or duty upon the Grantee.  
6.2 During the term of this Agreement, the Grantee 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 Grantee shall comply with all federal laws and regulations to the extent they apply to the subject matter of this Agreement and are required by the amount of federal funds involved in this Agreement, which include, but are not limited to: 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; Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d et seq.), which prohibits discrimination on the basis of race, color, and national origin; Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination against qualified individuals with disabilities; and the Age Discrimination Act of 1975 (42 U.S.C. 6010-6107), as amended, which prohibits discrimination the basis of age. The Grantee shall maintain all records necessary to enable the State or the United States to account for all payments made to Grantee for costs permitted under this Agreement for a minimum period of seven (7) years from the final completion of this Agreement, or until all audits initiated under this Agreement have been completed, whichever is later ("Audit Review Period"). Grantee further agrees to permit the State or United States access to any of the Grantee's books, records and accounts during the Audit Review period 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 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

Grantee Initials  
Date

 OS  
Date 11/17/15

qualified to perform the Project, 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 Grantee 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 Project 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 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 herein, the State shall pay the Grantee the Grant amount. The Grant 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 Grant 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 Grantee shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Project 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 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;

8.2.2 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;

8.2.3 set off against any other obligations the State may owe to the Grantee 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 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 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. No data shall be subject to copyright in the United States or any other country by anyone other than the State. 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.

9.4 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. RECORDS AND ACCOUNTS.**

10.1 Between the Effective Date and 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.

10.2 Between the Effective Date and 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 of 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.

**11. 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 interest 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.

## 12. TERMINATION.

12.1 In the event of an 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 ("Termination Report") describing in detail all Project work performed, and the grant amount 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.

12.2 In the event of Termination under paragraphs 4 or 12.4, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the grant amount earned to an including the date of termination.

12.3 In the event of Termination under paragraphs 4 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 of default has been given to the Grantee hereunder, the Grantee may terminate this Agreement without cause upon thirty (30) days prior written notice.

**13. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Grantee is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Grantee 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.

**14. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Project work shall be subcontracted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

**15. 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 or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions 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 in paragraph 15 shall survive the termination of this Agreement.

## 16. INSURANCE.

16.1 The Grantee 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:

16.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

16.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

16.2 The policies described in subparagraph 16.1 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.

16.3 The Grantee shall furnish to the Grant Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Grantee shall also furnish to the Grant 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 fifteen (15) 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 endeavor to provide the Grant Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

## 17. WORKERS' COMPENSATION.

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

17.2 To the extent the Grantee is subject to the requirements of N.H. RSA chapter 281-A, Grantee 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. Grantee shall furnish the Grant Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation and any applicable renewal(s) thereof in the manner described in N.H. RSA chapter 281-A 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 Grantee, or any subcontractor or employee of Grantee, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Project under this Agreement.

**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 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 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 given in blocks 1.2 and 1.4, herein.

**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 Executive Council of the State of New Hampshire.

**21. 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.

**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. 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.

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

**25. 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.

**26. 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**

The Grantee shall utilize the awarded Specialty Crop Block Grant (SCBG) 2014 funds to complete the *Specialty Crop Safety: From Field to Market* project. All project work shall be managed by the Grantee who shall be responsible for all project development and oversight, per the terms of the grant application approved by the US Department of Agriculture. Project tasks include:

Task 1: Conduct three workshops focused on food safety issues of greens and root vegetables from field through preparation for market; and develop three newsletter articles highlighting food safety in harvest and preparation of these crops.

Task 2: Conduct demonstration of proper use of bubble and barrel washers to growers; sale of subsidized bubble washers to 15 growers; and placement of three barrel washers into the SBFNH equipment pool.

Task 3: Upon completion of the project, the Grantee shall submit a written report of the project outcomes per federal reporting guidelines for the SCBG program. Guidelines will be provided to the Grantee.

**Exhibit B  
Contract Price and Method of Payment**

The grant amount shall not exceed \$25,700.00. The Grantee shall be paid as follows within 30 days of submission of an invoice and approval of completed work by the Division of Agricultural Development:

\$18,000.00 in February, 2016 for Task 1

\$7,200.00 in March, 2016 for Task 2

\$500.00 in December, 2016 for Task 3

**Exhibit C  
Special Provisions**

If the date for commencement for Exhibit A precedes the Effective Date all services performed by the Grantee between the commencement date and the Effective Date shall be performed at the sole risk of the Grantee and in the event that this Agreement does not become effective, the State shall be under no obligation to pay the Grantee for any costs incurred or services performed.

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 Small and Beginner Farmers of New Hampshire is a New Hampshire nonprofit corporation formed April 8, 2004. 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 27<sup>th</sup> day of May A.D. 2014

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

William M. Gardner  
Secretary of State

Certificate of Authority

I, Doreen Gitschier Treasurer of the Small + Beginner Farmers of NH  
(name of certifying officer) (title) (organization/business)

do hereby certify that the following is a true copy of a vote taken at a meeting of the board of directors/shareholders, duly called and held on January 13<sup>th</sup> 2015 at which a quorum of the directors/shareholders were present and voting.  
(date of meeting)

It was voted that:

Christine StClair is duly authorized to enter a contract on behalf of  
(name of person being certified)

Small + Beginner Farmers of NH with the State of New Hampshire, Department  
(name of organization/business)

of Agriculture, Markets & Food and further, is authorized to execute any documents which may, in his/her judgment, be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date hereof;

IN WITNESS WHEREOF, I have hereunto set my hand as the Treasurer of the  
(title)  
Small + Beginner Farmers of NH this 17<sup>th</sup> day of November, 2015.  
(organization/business)

Doreen Gitschier  
(signature of certifying officer)

Printed Name: Doreen Gitschier  
(Print name of certifying officer)

State of New Hampshire  
County of BellKnap

On this 17<sup>th</sup> day of Nov, 2015, before me Janice Townsend-Mistler the undersigned officer, personally appeared Doreen Gitschier who acknowledged him/herself to be the Treasurer of the Small + Beginner Farmers of N.H. being authorized so to do, executed the forgoing instrument for the purpose therein contained.

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

Janice M. Townsend-Mistler  
Justice of the Peace/Notary Public

(Seal)

Commission Expiration Date: JANICE TOWNSEND-MISTLER  
Notary Public - New Hampshire  
My Commission Expires December 8, 2015

