



The State of New Hampshire
Department of Environmental Services



Clark B. Freise, Assistant Commissioner

May 9, 2017

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 award an Aquatic Resource Mitigation (ARM) Fund grant to the Upper Valley Land Trust, Inc. (hereinafter "UVLT"), Hanover, NH (Vendor Code #155927) in the amount of \$168,500.00 for the purpose of acquiring land owned by Audra D. Smith and Lois Hull, effective upon G&C approval through November 28, 2017. 100% Aquatic Resource Mitigation Funds.

Funding is available in the account as follows:

	<u>FY'17</u>
03-44-44-442010-38710000-073-500581	\$168,500

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, 2016. The UVLT application was received and on November 28, 2016, DES announced the decision to fund the UVLT project in the Lower Connecticut River watershed. The project proposed by the UVLT 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.

The UVLT will purchase 110 acres of forested property in Lebanon and place a permanent conservation easement on it. This project will protect 18.7 acres of wetlands, 1,300 linear feet of perennial stream, 855 feet of Mascoma River frontage, as well as an additional 2,400 linear feet of intermittent stream. The parcel lies north and adjacent to the 76+/- acre, permanently protected "Ticknor Woodland" property, owned by the City of Lebanon. The management plan for the property will incorporate relocating an existing trail and restoration activities to enhance a vernal pool on the property. 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.


Clark B. Freise, Assistant Commissioner

PROJECT AGREEMENT

Between the

STATE OF NEW HAMPSHIRE, **Department of Environmental Services**
and the

Upper Valley Land Trust, Inc.

1. This Project Agreement (hereinafter "Agreement") is entered into by the State of New Hampshire, Department of Environmental Services, (hereinafter "DES"), and the Upper Valley Land Trust, Inc. (hereinafter "UVLT"), for the purpose of undertaking a project of mutual interest.
2. DES agrees to grant the UVLT the amount of \$168,500 for the purpose of acquiring land owned by Audra D. Smith and Lois Hull, a 110+/- acre parcel of land located on Dulac Street and Slayton Hill Road in the City of Lebanon, County of Grafton, State of New Hampshire, identified on the Lebanon tax records as Map 120 Lot 3 (hereinafter: the "Property.") This agreement shall be performed in accordance with New Hampshire RSA 482-A; all applicable sections of the Administrative Rules, Env-Wt 100-800, and all other pertinent New Hampshire laws.
3. UVLT shall use their grant funding to acquire and place a "Conservation Easement" on the Property. UVLT shall also use a portion of their grant funding to engage in "Restoration Work" on the Property. The Restoration 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. As Grantee of the Conservation Easement on the Property, UVLT accepts the following conditions or restrictions:
 - a. To utilize the funds herein provided by the State of New Hampshire, acting through DES, for the acquisition of the Property and recordation of a Conservation Easement on the Property as soon as possible, time being of the essence. The project shall be completed within 12 months of notification of the award.
 - b. To utilize the funds herein provided by the State on New Hampshire, acting through DES, to defray in part the acquisition and associated transaction costs incurred in securing a Conservation Easement on the Property.
 - c. To limit the use of the Property as hereinafter defined to conservation purposes in perpetuity.
 - d. That the Property acquired through this project will be monitored on an annual basis in accordance with the *Standards and Practices* for stewardship of the Land Trust Alliance, to ensure that the terms of the Conservation Easement are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Property. The UVLT agrees to submit a copy of the annual monitoring report to DES to document the actions taken.
 - e. UVLT agrees to place a sign, subject to its acceptability, at a prominent location on or near the Property. The sign, as supplied by DES, shall contain as a minimum the DES logo and the following statement: "This property has been protected with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the UVLT agrees to notify DES and repair or replace it with a new sign provided by DES. The UVLT also agrees that where significant signage is placed at major access points, the ARM Fund program will be

Contractor Initials

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identified as a contributing partner to the acquisition of easement interests and the long-term protection of the Property;

f. To return to DES ARM Fund Program any funds if the UVLT fails to complete the Property acquisition.

g. That all public access provided for in the terms of the Conservation Easement will be in accordance with all federal and state policies of non-discrimination in public accommodation.

5. With respect to the Restoration Work, UVLT accepts and agrees to the following conditions:

a. That an amount of \$10,000 has been allocated from the above referenced \$168,500 for Restoration Work on the Property and is available for payment by the State of New Hampshire, acting through DES, for allowable Restoration Work costs incurred under this Agreement. DES will not reimburse UVLT for costs exceeding the amount specified in this paragraph.

b. That Restoration Work on the Property shall be initiated within the first year of the project, time being of the essence.

c. That UVLT shall monitor the Property on an annual basis for five (5) 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 UVLT agrees to submit a copy of the annual monitoring report to DES to document the property conditions and any remedial measures taken.

d. To return to DES ARM Fund Program restoration-related funds if the UVLT fails to complete the Restoration Work and meet monitoring performance standards.

EXHIBIT A
SCOPE OF SERVICES FOR RESTORATION WORK

A. **Project Title:** Ticknor Woodland Restoration Work

B. **Project Period:** From date of the Agreement to the sixth year anniversary of this Agreement [approximately June 2017 – June 2023]

C. **Objectives:** To complete a vernal pool enhancement and relocate a trail out of the vernal pool.

UVLT shall coordinate restoration activities and monitoring on the Property in accordance with an approved Stewardship Management Plan (“UVLT Stewardship Plan & Preliminary Management Plan”), including a locus map and plan view drawing to be provided to DES for prior review and approval by DES and the Corps of Engineers. .

D. **Scope of Work:**

1. **Wetland Permit:** obtain DES minimal impact permit and appropriate Corps of Engineers permit for site work.
2. **Mobilization:** - Transport equipment to site, set up silt fencing and sediment basins.
3. **Clearing and Grubbing:** Remove wood pallets and debris, dispose of in landfill; Clear vegetation in 0.5-acre area with excavator-mounted brush mower; Grub roots and topsoil

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- in new trail and depression area.
4. **Trail Relocation & Vernal Depression:** construct 250± linear feet of new trail, using on-site sandy material; build up trail 1 foot for low berm; construct water bar/stone ford at low point; excavate existing vernal depression, place silt layer; create swale to direct slope drainage coming from a ditch associated with an upslope woods road to the vernal depression; spread topsoil, seed and mulch all disturbed area.
 5. **Monitoring:** Monitor site for 5 years after construction and submit reports to DES by December 15 of each year; make minor repairs to restoration areas as directed by DES, if necessary.

E. Deliverable Schedule:

1. **Wetland Permit:** June-August 2017
2. **Mobilization:** Fall 2017
3. **Clearing and Grubbing:** Fall 2017
4. **Trail Relocation & Vernal Depression:** Fall 2017
5. **Monitoring:** June 2018 through June 2022.

EXHIBIT B
BUDGET & PAYMENT METHOD

Conservation Easement Component:

UVLT may submit requests for payment for Conservation Easement-related funds following the signing of the Agreement by Governor and Council. Upon receipt and approval by DES of the invoices, DES shall issue payment to UVLT in accordance with the following:

	Budget	Payment Method
• For Purchase of Property	\$ 125,000.00	* to be made available for closing <i>[with appraisal]</i>
• USPAP Appraisal	\$ 1,000.00	* pre-closing with invoice
• Property Survey	\$ 2,500.00	* pre-closing with invoice
• Title/Legal/Closing Fees	\$ 5,500.00	* post-closing with invoices
• Baseline Documentation, Environmental Assessment, & Stewardship Management Plan	\$ 7,500.00	* post-closing with invoice <i>[with copy of signed Baseline Documentation Report]</i>
• Easement Drafting, Negotiation, & Project Management	\$ 7,000.00	* post-closing with invoice <i>[with copy of recorded Conservation Easement]</i>
Stewardship Fund	\$ 10,000.00	* post-closing with invoice

Contractor Initials MDM
Date 05-23-17

Restoration Work Component:

- **Restoration Work** **\$ 10,000.00** * following a compliance inspection and verification of completion of tasks by DES

TOTAL DES ARM FUNDS **\$ 168,500.00**

Total amount to be authorized following approval by the Governor and Executive Council: **\$ 168,500.00**

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

EXHIBIT C
SPECIAL PROVISIONS

This section is intentionally left blank.

Contractor Initials LSM
Date 05.28.17

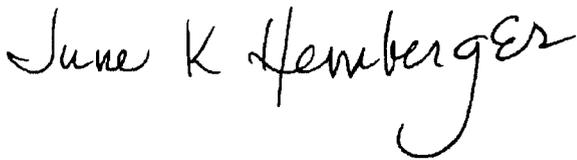
Resolution to Assign Signature Authority

RESOLVED, that the Upper Valley Land Trust, Inc. will accept and receive funds and enter into related contracts and legal agreements pursuant to the conservation of land parcels reviewed and approved by the Board of Trustees.

M. Jean McIntyre, President, shall be authorized to act on behalf of the Upper Valley Land Trust, Inc. to execute all necessary documents pertaining to receipt of said funds.

The undersigned hereby certifies that she is the duly elected and qualified Secretary and the custodian of the books and records and seal of Upper Valley Land Trust, Inc., a corporation duly formed pursuant to the laws of the state of New Hampshire, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Executive Committee of the Board of Trustees and that said meeting was held in accordance with state law and the Bylaws of the above-named Corporation on February 22, 2017 and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Secretary and have hereunto affixed the corporate seal of the above-named Corporation, February 23, 2017.



June Hemberger, Secretary



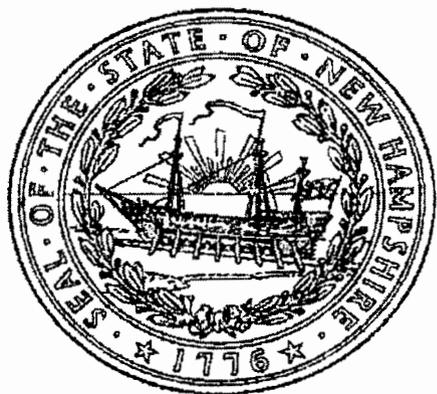
State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that UPPER VALLEY LAND TRUST, INC. is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on October 08, 1985. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 84939



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 3rd day of February A.D. 2017.

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

William M. Gardner
Secretary of State

Attachment A
2016 Aquatic Resource Mitigation Fund Grants

Applications and Funding Amounts

Grant Applicant	Location/Town	Requested Funding Amount	Score	Approved for Funding
Upper Valley Land Trust	Lebanon	\$168,500	53	Yes - \$168,500
Monadnock Conservancy	Fitzwilliam	\$105,000	50	Yes - \$105,000
Monadnock Conservancy	Jaffrey & Rindge	\$191,410	39	No

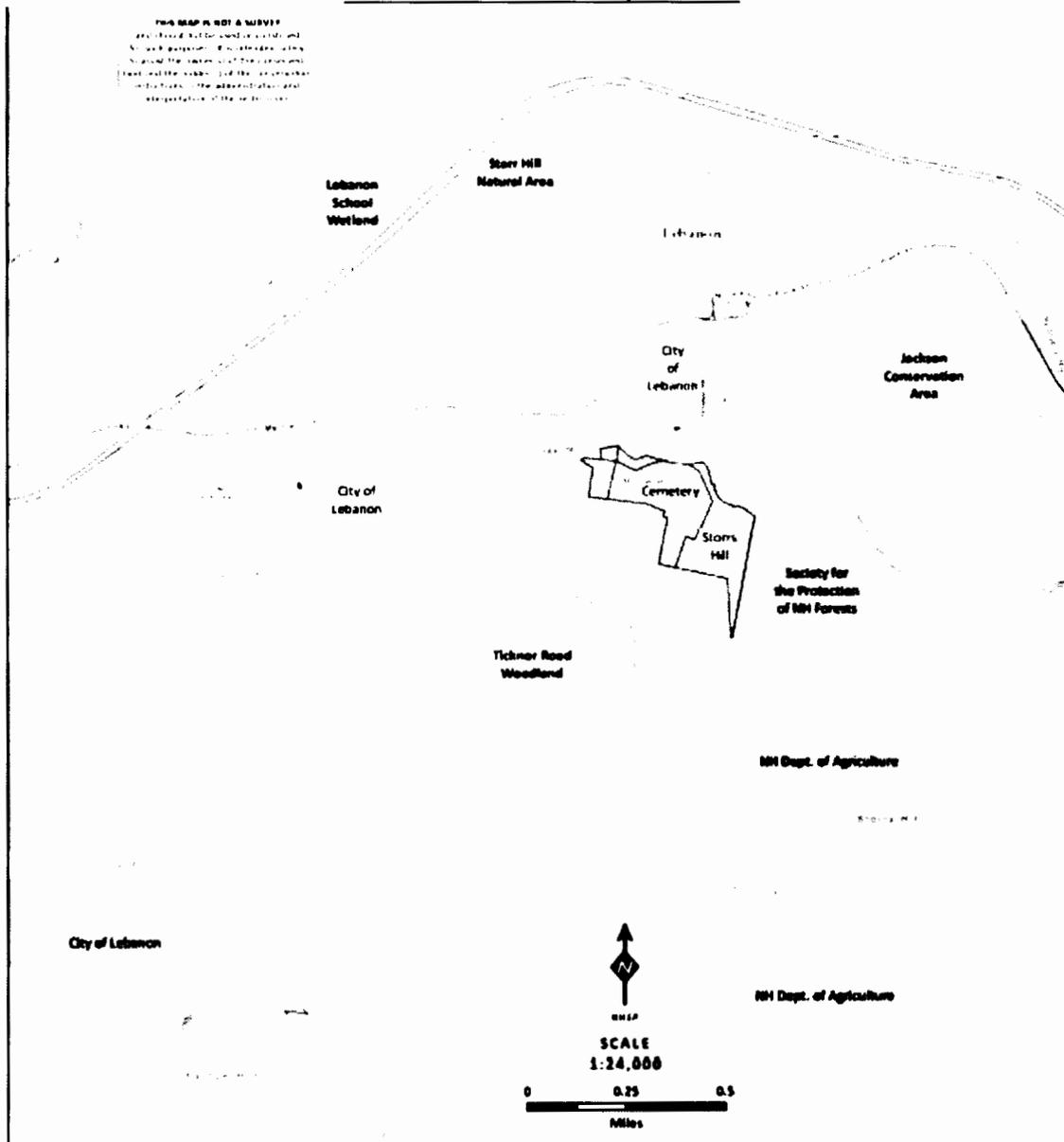
(Note: Each Committee member scores the projects and their scores are combined to create the total score.)

Site Selection Committee List

Name	Agency/Organization	Title	Years of Experience
Craig Rennie	NHDES, Land Resource Management Program	Land Resource Specialist	21
Amy Lamb	NH Dept. of Resources & Economic Development	Ecological Information Specialist	2
Nancy Rendall	NH Association of Natural Resource Scientists	Charter Member	31
Michael Marchand	NH Fish and Game Department	Senior Biologist	15
Tracey Boisvert	Office of Energy and Planning	CLSP Director	25
Peter Steckler	The Nature Conservancy	Director Freshwater Science & Conservation	15
Rick Vande Poll	New Hampshire Association of Conservation Commissions	Town of Sandwich	34
Brian Hotz	Society for the Protection of NH Forests	Vice President for Land Conservation	23

Attachment B Ticknor Woods Addition, Lebanon

THIS MAP IS NOT A SURVEY
and should not be used as evidence
of title boundaries. This information
is provided for informational purposes
only. The user assumes all responsibility
for the accuracy of the information
and the administration and
interpretation of these boundaries.



Ticknor Woodlands Addition Property

UVLT Conservation Easement

Other Conserved / Public Lands *

() Other Public Lands (City of Lebanon)

* Identified by Primary Protecting Agency/Organization

Data Sources: The Subject Property configuration is based on a subdivision plan by Holden Engineering & Surveying, Inc. from November 2011. Public and Conserved lands obtained from NH GRANIT and UVLT. Topographic map background from National Geographic Society, ArcGIS map service (2013). Map Coordinate System: NH SPCS, NAD 83, ft; ArcMap File: TicknorWoodsAddition_Topoloc_Aug2016.mxd. Map date: August 2016.

