



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



December 7, 2015

DEC 15 '15 PM 12:05 04-9

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

REQUESTED ACTION

Authorize the Department of Environmental Services to amend a **SOLE SOURCE** agreement with Sawyer's Mill Associates, Inc., (PO #1035089) Dover, NH (VC #253406), for the removal of the Upper and Lower Sawyer's Mill Dams by increasing the agreement amount by \$565,000 from \$105,000 to \$670,000, extending the project end date to December 31, 2018 from December 15, 2016, and modifying the scope of work to include additional tasks; effective upon Governor and Council approval. The original agreement was approved by Governor & Council on January 29, 2014, Item #44, and Amendment #1 on February 11, 2015, Item #44. 100% Federal Funds.

Funding is available in the following accounts:

	<u>FY2016</u>
03-44-44-442010-3860-102-500731	\$550,000
Dept. Environmental Services, Dam Removal Projects Federal, Contracts for Program Services	
03-44-44-442010-3642-102-500731	\$ 15,000
Dept. Environmental Services, Coastal Zone Management, Contracts for Program Services	

EXPLANATION

DES is requesting approval of this **SOLE SOURCE** amendment in order to provide Sawyer's Mill Associates, Inc. additional funding and time to complete existing and supplemental project tasks. This amendment represents a greater than ten percent increase in the original grant award, and is categorized as a sole-source amendment. This agreement is sole source because Sawyer's Mill Associates, Inc. is the sole owner and operator of the Sawyer's Mill Dams; therefore, they are responsible for all decisions relative to the dams and are the only organization qualified to implement this agreement. Copies of the original agreement and Amendment 1 are included in Attachment B.

Dam safety regulations require that existing deficiencies identified with dams be rectified. The owners of the Sawyer's Mill Dams have chosen to pursue removal to meet dam safety requirements. Enhanced access to the Bellamy River from the ocean for anadromous fish makes the removal of these dams an attractive project for agencies that provide funding for river restoration. The federal funding

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council

Page 2 of 2

approved for this project can only be made available to the recipient as pass-through from a government agency. The DES Dam Bureau is the recipient of federal grant funds to be passed through in the form of assistance specifically for this project. These funds will be used to complete additional critical tasks to enable progress toward dam removal.

The original scope of work focused on preparation of a feasibility study with some design and permitting for removal of the Sawyer's Mills Dams. There are significant permitting and cultural resource review obligations on the part of the owner to gain approval to remove the dams. Supplemental project tasks to be accomplished with this amendment include necessary permitting associated with removal, completion of historical reviews, outreach to cultural resource stakeholders and other interested parties, development of final engineering plans and bid documents for removal, and construction to remove the dams and assure the structural integrity of the remaining structures. Additional time is needed to complete these tasks.

The revised total project costs are budgeted at \$670,000. The Sawyer's Mill Associates, Inc. will provide \$92,000 in matching funds through cash and in-kind services. A budget breakdown is provided in Attachment A. In the event that Federal Funds become no longer available, General Funds will not be requested to support this project. This amendment has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.


Thomas S. Burack
Commissioner

Agreement for Services with Sawyer's Mill Associates, Inc.
Amendment No. 2

This Agreement (hereinafter called "Amendment No. 2") is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and Sawyer's Mill Associates, Inc. (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to a Grant Agreement (hereinafter called the "Agreement") approved by the Governor and Council on January 29, 2014 (Item #44), the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement, and in consideration of payment by the State of certain sums as specified therein, effective January 29, 2014 through December 15, 2015, and;

WHEREAS, the Agreement was amended (hereinafter called the "Amendment No. 1") and approved by the Governor and Council on February 11, 2015 (Item #44) to extend the Completion Date from December 15, 2015 to December 15, 2016, increase the Grant Limitation from \$10,000 to \$105,000, revise the Scope of Work, Budget & Payment Method, and the Special Provisions, and;

WHEREAS, the Grantee and the State have agreed to amend the Agreement in certain respects;

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

- 1) Amendment and Modification of the Agreement: The Agreement is hereby amended as follows:
 - (A) The Completion Date as set forth in Item 1.6 of the Agreement shall be changed from December 15, 2016 to December 31, 2018.
 - (B) The Grant Limitation as set forth in Item 1.8 of the Agreement shall be changed to from \$105,000 to \$670,000.
 - (C) The Scope of Work as set forth in Exhibit A shall be replaced with the attached Amendment 2 – Exhibit A, Scope of Work.
 - (D) The Budget & Payment Method as set forth in Exhibit B shall be replaced with the attached Amendment 2 – Exhibit B, Budget & Payment Method.
 - (E) The Special Provisions as set forth in Exhibit C shall be replaced with the attached Amendment 2 – Exhibit C, Special Provisions.
- 2) Effective Date of Amendment: This amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
- 3) Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Contractor Initials RP
Date 11/24/15

AMENDMENT 2 - EXHIBIT A
SCOPE OF WORK

Sawyer's Mill Associates, Inc. will use the funds under this grant agreement to support the following work associated with the removal of the Upper and Lower Sawyer's Mill Dams on the Bellamy River in Dover: design, permitting, engineering, owner's representation and construction.

1. Work Tasks

- A. Sawyer's Mill Associates, Inc. shall perform the tasks listed below and as described in greater detail in the "Proposal for Owner's Representative Services" submitted by TTG Environmental Consultants, LLC on January 23, 2015 and signed by Sawyer's Mill Associates, Inc. on January 28, 2015.

- Task 1. Project Consultant Selection
- Task 2: Limited Design Review
- Task 3. Design / Permitting Progress Meetings
- Task 4: Budget Oversight
- Task 5: Schedule Oversight
- Task 6: Project Status Reports
- Task 7: Change Order Evaluation

- B. Sawyer's Mill Associates, Inc. shall perform the tasks listed below and as described in greater detail in the "Agreement for Professional Services for Design, Engineering and Permitting for the Removal of the Upper and Lower Sawyer's Mill Dams Removal Project" between Sawyer's Mill Associates, Inc. and Gomez and Sullivan Engineers, DPC, dated May 15, 2015 and signed September 11, 2015, and amended on November 4, 2016.

- Task 10: Preparation of an Existing Conditions Plan
- Task 20: Analyze Hydrology and Hydraulics
- Task 30: Characterize Sediment in Impoundments
- Task 40: Environmental Work below Lower Dam Associated with the Natural Transport of Sediment
- Task 50: Historic and Archaeological Resource Consultation
- Task 60: Effect of Dam Removal on Infrastructure
- Task 70: Engineering Design Drawings
- Task 80: Technical Specifications
- Task 90: Probable Opinion of Construction Cost
- Task 100: Municipal, State and Federal Permits
- Task 110: Facilitate Bid Process
- Task 120: Coordination Meetings
- Task 130: Project Management

- C. Sawyer's Mill Associates, Inc. will remove or modify the Upper and Lower Sawyer's Mill Dams upon the completion of Engineering Design Drawings (Task 70), Technical Specifications (Task 80), and Permits (Task 100), as described in sub-paragraph B, above.

Contractor Initials TD
Date 11/24/15

2. Outreach Materials

Any and all press releases, publications, annual reports, signage, video credits, dedications, and other public communications regarding this Grant Agreement shall attribute funding credit with the following statement: "Partial funding for this project is supported by grants from the: National Fish and Wildlife Foundation, US Environmental Protection Agency- Clean Water Act Section 319, National Ocean and Atmospheric Administration's Office for Coastal Management, U.S. Department of the Interior, Fish and Wildlife Service, and the New Hampshire Department of Environmental Services."

Contractor Initials PJD
Date 11/21/15

AMENDMENT 2 - EXHIBIT B
BUDGET & PAYMENT METHOD

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of associated invoice. If invoice is less than initial estimate only the amount on the invoice will be paid. The total project cost for this agreement is \$670,000.

- \$25,000 of the funds under this grant agreement is allocated for retaining an Owner's Representative, in accordance with Amendment 2, Exhibit A, subparagraph 1A.
- \$195,000 of the funds under this grant agreement is allocated for the design, engineering and permitting phase of the project, in accordance with Amendment 2, Exhibit A, subparagraph 1B.
- \$450,000 of the funds under this grant agreement is allocated specifically for the physical removal or modification of the dams, in accordance with Amendment 2, Exhibit A, subparagraph 1C.

Matching funds provided by the grantee shall total \$92,000 of non-federal cash, of which \$27,000 will match the EPA 319 Grant and \$65,000 will match the National Fish and Wildlife Foundation Grant.

Contractor Initials CPD
Date 11/24/15

AMENDMENT 2 - EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services or reallocation of grant funds require DES approval in advance. Payments will be made based on submitted invoices.

Work must be completed by the completion date listed on the grant agreement (Section 1.6). Requests for payment along with required proof of work must be submitted no later than 90 days after the completion date or the grant will be closed out and funds will no longer be available.

If a deadline extension is requested the grantee must make that request for approval at least two months before the completion date. Failure to do so may result in lower rankings of future grant applications.

Subparagraph 1.7 of the General Provisions shall not apply to this Agreement.

Federal funds paid under this agreement are from grant agreements to the state from: US Fish and Wildlife Service- Partners for Wildlife (CFDA# 15.631), US Environmental Protection Agency- Clean Water Act Section 319 (CFDA# 66.460), National Oceanic and Atmospheric Administration- Coastal Zone Management (CFDA# 11.419), US Fish and Wildlife Service- Fish Passage Program ((CFDA# 15.608), National Fish and Wildlife Foundation- Hurricane Sandy Coastal Resiliency Grant (CFDA# 15.153). All applicable requirements, regulations, provisions, terms and conditions of the following Federal Grant Agreements are hereby adopted in full force and effect to the relationship between this Department and the grantee.

In addition to the General Provisions of Paragraph 1 through 23, the following provisions as required by federal regulations apply to this Agreement:

I) ***Nondiscrimination.*** The Grantee shall comply with 40 CFR part 7 which prohibits discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or gender, and 40 CFR part 12 which prohibits discrimination based on handicap.

II) ***Financial management.*** The Grantee shall comply with 40 CFR 31.20 and the specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management outlined therein.

III) ***Allowable costs.*** All costs charged to this Agreement shall be eligible, necessary, and reasonable for performing the tasks outlined in the approved project scope of services. The costs, including match, shall be incurred during the period of performance of the project, and shall be allowable, meaning that the costs must conform to specific federal requirements detailed in 40 CFR part 31.22; and OMB Circular A-87.

IV) ***Matching funds.*** All matching funds contributed by the Grantee shall conform to the same laws, regulations, and grant conditions as the federal funds in the Agreement and referenced in 40 CFR 31.24 and OMB Circular A-87.

V) ***Property Management.*** The Grantee shall comply with the property management and procedures detailed in 40 CFR 31.32 and 40 CFR 31.33.

Contractor Initials PJD
Date 11/24/15

VI) **Debarment and Suspension.** The grantee shall comply with 40 CFR part 31.35. By signing and submitting the Agreement, the Grantee certifies that they have not been debarred or suspended by a government agency. The Grantee will not make any award or permit any award (subgrant or subcontract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

VII) **Procurement.** When purchasing goods or services with grant or match funds, the Grantee shall comply with procurement regulations as detailed in 40 CFR 31.36 which include procurement standards, competition, methods of procurement, contract cost and price, agency review, bonding requirements, and contract provisions.

- a. Assignment of Subcontracts. The Contractor shall not assign, or otherwise transfer any interest in this contract without the prior written consent of the Contract Owner and the State.
- b. Subcontracts. The Contractor shall:
 - i. Ensure that every subcontract includes provisions for compliance with Federal and State standards applicable to the contract;
 - ii. Ensure that every subcontract includes any clauses required by Federal statute and executive orders and their implementing regulations; and
 - iii. Ensure that subcontractors are aware of requirements imposed upon them by State and Federal statutes and regulations.
- c. Payment to consultants. Grant payments to individual consultants retained by the Contractor (excluding overhead) are limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18). Maximum daily rates may change annually or more often. As of January 1, 2010, the limit is approximately \$598 per day and \$74.75 per hour. This amount does not include transportation and subsistence costs, in accordance with normal travel reimbursement practices. The Contractor may pay consultants more than this amount, but the excess amount shall not be paid with federal grant funds. Contracts with firms for services which are awarded using the procurement requirements in 40 CFR 31.36 are not affected by this limitation.

VIII) **Participation by Disadvantaged Business Enterprises.** The Grantee shall comply with the terms of 40 CFR Part 33 Subpart C, which requires that organizations conduct a competitive procurement process making a good faith effort to utilize goods and services provided by disadvantaged businesses.

IX) **New Restrictions on Lobbying: Interim Final Rule.** The Grantee shall comply with the terms of 40 CFR part 34 and OMB Circular A-87 which prohibit the use of federal grant funds to influence (or attempt to influence) a federal employee, and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if *nonfederal* funds have been used to influence (or attempt to influence) a federal employee.

X) **Drug-Free Workplace.** The Grantee shall comply with the terms of 40 CFR Part 36 which require that as a condition of the Agreement, certification that they maintain a drug-free workplace. By signing and submitting the Agreement, the Grantee certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.

XI) **Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (currently \$100,000), the minimum requirements shall be as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument

Contractor Initials RJD
Date 11/24/05

accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

XII) **Additional contract provisions.** The Grantee shall comply with the following as applicable:

a. Comply with Executive Order 11246 of September 24, 1965, entitled “**Equal Employment Opportunity**,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their subcontractors)

b. Comply with the **Copeland “Anti-Kickback” Act** (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subcontracts for construction or repair)

c. Comply with Sections 103 and 107 of the **Contract Work Hours and Safety Standards Act** as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subcontractors in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.)

d. Comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Subcontracts in excess of \$100,000)

e. Comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

XIII) **Federal Funding Accountability and Transparency Act (FFATA).** The Grantee shall comply with the terms of the FFATA by providing DES with their Data Universal Numbering System (DUNS) number, and all applicable Executive Compensation Data information as required under the FFATA. The Grantee DUNS number is 956724061

Contractor Initials RPD
Date 11/24/15

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 SAWYER'S MILL ASSOCIATES, INC. a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on February 16, 1993. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 19th day of October, A.D. 2015

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Sawyer's Mill Associates, Inc.

By Paul D'Orazio
Paul D'Orazio, President

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

On this the 24 day of NOVEMBER, 2015, before the undersigned officer, personally appeared Paul D'Orazio who acknowledged himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Patricia A. Kennedy

My Commission Expires: PATRICIA A. KENNEDY, Notary Public
My Commission Expires January 14, 2020

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By Thomas S. Burack
Thomas S. Burack, Commissioner

Approved by Attorney General this 14th day of December, 2015

OFFICE OF ATTORNEY GENERAL

By Christopher A. ...

CORPORATE RESOLUTION

I, Patricia A. Kennedy, hereby certify that I am duly elected Office Manager of Sawyer's Mill Associates, Inc. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors/Shareholders, duly called and held on November 4, 2015 at which a quorum of the Directors/Shareholders were present and voting.

VOTED: That Paul D'Orazio is duly authorized to enter a grant agreement (for assistance with dam removals) on behalf of Sawyer's Mill Associates, Inc., with the Department of Environmental Services, State of New Hampshire and further is authorized to execute any documents, which may in his 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 November 24, 2015. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation to the specific grant agreement indicated.

DATED: 11/24/2015

ATTEST: Patricia A. Kennedy
(TITLE) OFFICE MANAGER

Linda L. Muise
LINDA L. MUISE, Justice of the Peace
My Commission Expires September 3, 2019



CERTIFICATE OF LIABILITY INSURANCE

SAWYE-2 OP ID: PW

DATE (MM/DD/YYYY)
11/25/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown (Dover) P.O. Box 878 Dover, NH 03820 Jeff Francoeur	Phone: 603-742-1452 Fax: 866-848-2230												
CONTACT NAME: _____ PHONE (A/C, No., Ext): _____ FAX (A/C, No.): _____ EMAIL ADDRESS: _____													
INSURER(S) AFFORDING COVERAGE													
INSURED Sawyer's Mill Associates Inc. 1 Mill Street Dover, NH 03820	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURER A: New Hampshire Employers Ins Co</td> <td style="width: 20%;">NAIC # 13083</td> </tr> <tr> <td>INSURER B: Allmerica Financial Benefit</td> <td>41840</td> </tr> <tr> <td>INSURER C: Associated Industries Ins Co</td> <td>23140</td> </tr> <tr> <td>INSURER D: Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER E: Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER A: New Hampshire Employers Ins Co	NAIC # 13083	INSURER B: Allmerica Financial Benefit	41840	INSURER C: Associated Industries Ins Co	23140	INSURER D: Federal Insurance Company	20281	INSURER E: Federal Insurance Company	20281	INSURER F:	
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INSURER B: Allmerica Financial Benefit	41840												
INSURER C: Associated Industries Ins Co	23140												
INSURER D: Federal Insurance Company	20281												
INSURER E: Federal Insurance Company	20281												
INSURER F:													

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL. SUBR. INSR. WORD	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY		AES1036608	08/16/2015	08/16/2016	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (Per occurrence) \$ 100,000
E	<input checked="" type="checkbox"/> EPLI GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC		82267353C	08/16/2015	08/16/2016	MED EXP (Any one person) \$ 5,000
						PERSONAL & ADV INJURY \$ 1,000,000
B	AUTOMOBILE LIABILITY		AWV3827367	08/16/2015	08/16/2016	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					BODILY INJURY (Per person) \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> RETENTION \$ 10,000		AAREO-13040	08/16/2015	08/16/2016	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	ECC-600-4000402-2016A	07/01/2015	07/01/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
		N/A				E.L. EACH ACCIDENT \$ 100,000
						E.L. DISEASE - EA EMPLOYEE \$ 100,000
						E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER New Hampshire Department of Environmental Services Kent Finemore 29 Hazen Drive Concord, NH 03302	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Paula Wedge</i>
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Received Time: Dec. 7. 2015 10:06AM No. 1101 id logo are registered marks of ACORD

Attachment A:

Sawyer's Mill Associates Grant Agreement - Amendment 2 Revised Budget Estimate

<i>Budget Item</i>	Grant Funding	Additional Requested	Match	Additional Match	Total
<i>Salaries & Wages</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Indirect Costs</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Supplies & Services</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Equipment</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Contractual</i>	\$105,000.00	\$565,000.00	\$27,000	\$65,000.00	\$762,000.00
<i>Construction</i>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<i>Subtotals</i>	\$105,000.00	\$565,000.00	\$27,000.00	\$65,000.00	\$762,000.00

Attachment B:

Sawyer's Mill Grant Agreement as approved by
The Governor and Council on January 29, 2014, Item # 44

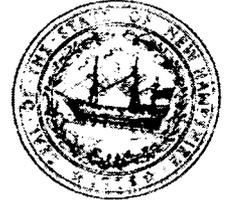
Sawyer's Mill Grant Agreement Amendment 1 as approved by
The Governor and Council on February 11, 2015, Item # 44



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

Next memo



January 15, 2015

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

APPROVED G & C

DATE 2/11/15
ITEM # 44

REQUESTED ACTION

Authorize the Department of Environmental Services to amend a **SOLE SOURCE** agreement with Sawyer Mill Associates, Inc., (PO #1035089) Dover, NH (VC #253406), for feasibility and cultural resource studies, engineering, and permitting associated with the removal of the Sawyer Mills Upper and Lower Dams by increasing the agreement amount by \$95,000 from \$10,000 to \$105,000 and extending the project end date to December 15, 2016 from December 15, 2015; effective upon G&C approval. The original agreement was approved by the Governor and Council on January 29, 2014, G&C Item # 44. 100% Federal Funds.

Funding is available in the accounts as follows with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified. Funding for FY2016 is contingent upon continuing appropriation and availability of funds:

	<u>FY2015</u>	<u>FY2016</u>	<u>Total</u>
03-44-44-442010-2035-072-500572 Dept. Environmental Services, NPS Restoration Program, Grants-Federal	\$70,000	- 0 -	\$70,000
03-44-44-442010-3642-072-500572 Dept. Environmental Services, Coastal Zone Management, Grants Federal	\$8,500	\$16,500	\$25,000

EXPLANATION

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Dam safety regulations require that existing deficiencies identified with these dams be rectified. The owners of the Sawyer Mills Dams have chosen to pursue removal to meet dam safety requirements. Enhanced access to the Bellamy River from the ocean for anadromous fish makes the removal of these dams an attractive project for agencies that provide funding for river restoration. The federal funding approved for this project can only be made available to the recipient as pass-through from a government agency. The DES Dam Bureau is



Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council

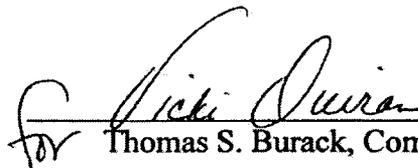
Page 2 of 2

the recipient of federal grant funds to be passed through in the form of assistance specifically for this project. These funds will be used to complete additional critical tasks to enable progress toward dam removal.

The original scope of work focused on preparation of a feasibility study with some design and permitting for removal of the Sawyer Mills Dams. There are significant permitting and cultural resource review and permitting obligations on the part of the owner to gain approval to remove the dams. Supplemental project tasks with this amendment include development of final engineering plans and bid documents for removal, necessary permitting associated with removal, completion of historical reviews, and outreach to inform cultural resource stakeholders and other interested parties of project progress. Additional time is needed to complete these tasks.

The revised total project costs are budgeted at \$132,000. The Sawyer Mill Associates, Inc. will provide \$27,000 in matching funds through cash and in-kind services. A budget breakdown is provided in Attachment A. In the event that Federal Funds become no longer available, General Funds will not be requested to support this project. This amendment has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.


for Thomas S. Burack, Commissioner

Agreement for Services with Sawyer Mill Associates, Inc.
Amendment No. 1

This Agreement (hereinafter called "Amendment No. 1") is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and Sawyer Mill Associates, Inc. (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to a Grant Agreement (hereinafter called the "Agreement") approved by the Governor and Council on January 29, 2014 (Item #44), the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement, and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, the Grantee and the State have agreed to amend the Agreement in certain respects;

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

- 1) Amendment and Modification of the Agreement: The Agreement is hereby amended as follows:
 - (A) The Completion Date as set forth in Item 1.6 of the Agreement shall be changed from December 15, 2015 to December 15, 2016.
 - (B) The Grant Limitation as set forth in Item 1.8 of the Agreement shall be changed to from \$10,000 to \$105,000.
 - (C) The Scope of Work as set forth in Exhibit A shall be replaced with the attached Amendment 1 – Exhibit A, Scope of Work.
 - (D) The Budget & Payment Method as set forth in Exhibit B shall be replaced with the attached Amendment 1 – Exhibit B, Budget & Payment Method.
 - (E) The Special Provisions as set forth in Exhibit C shall be amended with the attached Amendment 1 – Exhibit C, Special Provisions.
- 2) Effective Date of Amendment: This amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
- 3) Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Contractor Initials

Date 12/19/14

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Sawyer Mill Associates, Inc.

By Paul D'Orazio
Paul D'Orazio, President

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

On this the 19 day of December, 2014, before the undersigned officer, personally appeared Paul D'Orazio who acknowledged himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Linda L. Muise
Linda L. Muise, Justice of the Peace

My Commission Expires: September 3, 2019

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By Thomas S. Burack
Thomas S. Burack, Commissioner

Approved by Attorney General this 5th day of January, 2015

OFFICE OF ATTORNEY GENERAL

By [Signature]

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AMENDMENT 1 - EXHIBIT A
SCOPE OF WORK

Sawyer Mill Associates, Inc. will use the funds under the requested Amendment 1 to hire consultants/contractors to provide Owner's Representative services, engineering services, historical resources review, and permitting activities associated with the removal of the Upper and Lower Sawyer Mill Dams on the Bellamy River in Dover.

1. Work Tasks

Sawyer Mill Associates shall perform the tasks listed below and as described in greater detail in the 2014 Watershed Assistance Grants full proposal "Upper and Lower Sawyer Mill Dams Removal Project" dated December 3, 2013.

- Task 1: Hire Owner's Representative and conduct Request for Qualifications (RFQ) for the contracting of a consultant for design, engineering, and permitting
- Task 2: Conduct historical and archeological resource review and consultation
- Task 3: Develop final designs and technical specifications
- Task 4: Develop and submit permit application
- Task 5: Conduct bid process for construction services
- Task 6: Hold stakeholder meetings to communicate project progress
- Task 7: Develop Quality Assurance documents

2. Work Products

1. Technical Submittals

- Task 1: Request for Qualifications
- Task 2: Documentation of historical resource review
- Task 3: Construction Plans (100% complete) and Technical Specifications (Final)
- Task 4: Permits (DES Wetlands Permit)
- Task 5: Bid Documents
- Task 6: Meeting Minutes
- Task 7: Quality Assurance documents

2. Outreach Materials: The following funding credit statement shall appear on all outreach products associated with work funded by this grant award: "The project was funded in part by NOAA's Office for Coastal Management under the Coastal Zone Management Act in conjunction with the NH DES Coastal Program with additional funding provided by a Watershed Assistance Grant from the NH Department of Environmental Services with Clean Water Act Section 319 Funds from the US Environmental Protection Agency."

Contractor Initials PTD
Date 12/19/14

AMENDMENT 1 - EXHIBIT B
BUDGET & PAYMENT METHOD

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of associated invoice. If invoice is less than initial estimate only the amount on the invoice will be paid. The total project cost for this agreement is \$105,000. Matching funds shall be provided by the Grantee shall total at least \$27,000 of non-federal cash and in-kind services.

Contractor Initials

RD

Date

12/19/14

AMENDMENT 1 - EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services or reallocation of grant funds require DES approval in advance. Payments will be made based on submitted invoices.

Work must be completed by the completion date listed on the grant agreement (Section 1.6). Requests for payment along with required proof of work must be submitted no later than 90 days after the completion date or the grant will be closed out and funds will no longer be available.

If a deadline extension is requested the grantee must make that request for approval at least two months before the completion date. Failure to do so may result in lower rankings of future grant applications.

Subparagraph 1.7 of the General Provisions shall not apply to this Agreement.

Subparagraph 17 of the General Provisions shall not apply to the Grantee as it will present an undue financial burden. The Grantee will require that all contractors performing project work will maintain insurance that meets the requirements of Subparagraph 17.

Federal Funds paid under this agreement are from a Grant Agreement to the State from the US Environmental Protection Agency, Impaired Waters Restoration Grant under CFDA # CFDA # 66-460. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant Agreement are hereby adopted in full force and effect to the relationship between this Department and the grantee.

In addition to the General Provisions of Paragraph 1 through 23, the following provisions as required by federal regulations apply to this Agreement:

I) ***Nondiscrimination.*** The Grantee shall comply with 40 CFR part 7 which prohibits discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or gender, and 40 CFR part 12 which prohibits discrimination based on handicap.

II) ***Financial management.*** The Grantee shall comply with 40 CFR 31.20 and the specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management outlined therein.

III) ***Allowable costs.*** All costs charged to this Agreement shall be eligible, necessary, and reasonable for performing the tasks outlined in the approved project scope of services. The costs, including match, shall be incurred during the period of performance of the project, and shall be allowable, meaning that the costs must conform to specific federal requirements detailed in 40 CFR part 31.22; and OMB Circular A-87.

IV) ***Matching funds.*** All matching funds contributed by the Grantee shall conform to the same laws, regulations, and grant conditions as the federal funds in the Agreement and referenced in 40 CFR 31.24 and OMB Circular A-87.

V) ***Property Management.*** The Grantee shall comply with the property management and procedures detailed in 40 CFR 31.32 and 40 CFR 31.33.

Contractor Initials TRD
Date 2/14/14

VI) **Debarment and Suspension.** The grantee shall comply with 40 CFR part 31.35. By signing and submitting the Agreement, the Grantee certifies that they have not been debarred or suspended by a government agency. The Grantee will not make any award or permit any award (subgrant or subcontract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

VII) **Procurement.** When purchasing goods or services with grant or match funds, the Grantee shall comply with procurement regulations as detailed in 40 CFR 31.36 which include procurement standards, competition, methods of procurement, contract cost and price, agency review, bonding requirements, and contract provisions.

a. **Assignment of Subcontracts.** The Contractor shall not assign, or otherwise transfer any interest in this contract without the prior written consent of the Contract Owner and the State.

b. **Subcontracts.** The Contractor shall:

i. Ensure that every subcontract includes provisions for compliance with Federal and State standards applicable to the contract;

ii. Ensure that every subcontract includes any clauses required by Federal statute and executive orders and their implementing regulations; and

iii. Ensure that subcontractors are aware of requirements imposed upon them by State and Federal statutes and regulations.

c. **Payment to consultants.** Grant payments to individual consultants retained by the Contractor (excluding overhead) are limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18). Maximum daily rates may change annually or more often. As of January 1, 2010, the limit is approximately \$598 per day and \$74.75 per hour. This amount does not include transportation and subsistence costs, in accordance with normal travel reimbursement practices. The Contractor may pay consultants more than this amount, but the excess amount shall not be paid with federal grant funds. Contracts with firms for services which are awarded using the procurement requirements in 40 CFR 31.36 are not affected by this limitation.

VIII) **Participation by Disadvantaged Business Enterprises.** The Grantee shall comply with the terms of 40 CFR Part 33 Subpart C, which requires that organizations conduct a competitive procurement process making a good faith effort to utilize goods and services provided by disadvantaged businesses.

IX) **New Restrictions on Lobbying: Interim Final Rule.** The Grantee shall comply with the terms of 40 CFR part 34 and OMB Circular A-87 which prohibit the use of federal grant funds to influence (or attempt to influence) a federal employee, and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if nonfederal funds have been used to influence (or attempt to influence) a federal employee.

X) **Drug-Free Workplace.** The Grantee shall comply with the terms of 40 CFR Part 36 which require that as a condition of the Agreement, certification that they maintain a drug-free workplace. By signing and submitting the Agreement, the Grantee certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.

XI) **Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (currently \$100,000), the minimum requirements shall be as follows:

a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. A performance bond on the part of the contractor for 100 percent of the contract price. A

Contractor Initials POD
Date 5/11/14

“performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

XII) *Additional contract provisions.* The Grantee shall comply with the following as applicable:

- a. Comply with Executive Order 11246 of September 24, 1965, entitled “**Equal Employment Opportunity**,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their subcontractors)
- b. Comply with the **Copeland “Anti-Kickback” Act** (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subcontracts for construction or repair)
- c. Comply with Sections 103 and 107 of the **Contract Work Hours and Safety Standards Act** as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subcontractors in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.)
- d. Comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Subcontracts in excess of \$100,000)
- e. Comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

XIII) *Federal Funding Accountability and Transparency Act (FFATA).* The Grantee shall comply with the terms of the FFATA by providing DES with their Data Universal Numbering System (DUNS) number, and all applicable Executive Compensation Data information as required under the FFATA. The Grantee’s DUNS number is 956724061.

Contractor Initials RJD
Date 12/19/14

CORPORATE RESOLUTION

I, Patricia A. Kennedy, hereby certify that I am duly elected Office Manager of Sawyer Mill Associates, Inc. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors/Shareholders, duly called and held on November 21, 2014 at which a quorum of the Directors/Shareholders were present and voting.

VOTED: That Paul D'Orazio is duly authorized to enter a grant agreement (for assistance with dam removals) on behalf of Sawyer Mill Associates, Inc., with the Department of Environmental Services, State of New Hampshire and further is authorized to execute any documents, which may in his 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 December 19, 2014. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation to the specific grant agreement indicated.

DATED: 12/19/2014

ATTEST: Patricia A. Kennedy
OFFICE MANAGER

Dec. 19, 2014

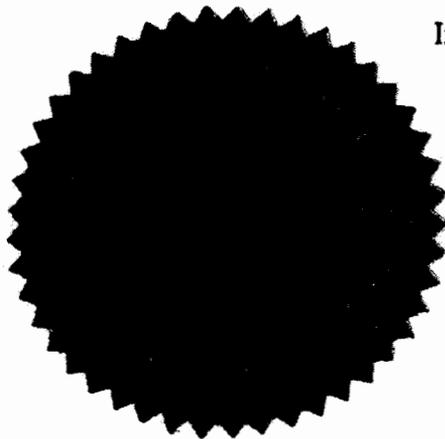
Linda L. Muse

LINDA L. MUSE, Justice of the Peace
My Commission Expires September 8, 2019

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 SAWYER'S MILL ASSOCIATES, INC. a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on February 16, 1993. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



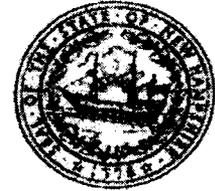
In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 10th day of December, A.D. 2014

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

William M. Gardner
Secretary of State



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Kent Firemore

December 26, 2013

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

APPROVED G & C
DATE 1/29/2014
ITEM # 44

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a SOLE SOURCE Agreement with Sawyer Mill Associates, Inc., Dover, NH (VC # 253406) in the amount of \$10,000.00 for feasibility studies, design, and permitting associated with the removal of the Sawyer Mills Upper and Lower Dams, effective upon approval from Governor & Council through December 15, 2015. Funding is 100% Federal Funds.

Funds are available in the account as follows:

03-44-44-442010-3860-102-500731
Dept. of Environmental Services, Dam Removal Projects Federal, Contracts for Program Services
FY 2014
\$10,000.00

EXPLANATION

Funding for this Agreement is from a Cooperative Agreement between DES and the U.S. Fish and Wildlife Service (USFWS), entered into under the authority of the Fish and Wildlife Act of 1956 and the Partners for Fish and Wildlife Program Act of 2006. The voluntary removal of certain unwanted dams can be desirable projects for support from the USFWS, including the removal of dams on rivers that have unimpeded access to the ocean. Under this request, DES proposes to use funding received from a Cooperative Agreement with the USFWS to partially fund certain feasibility studies, design, and permitting activities associated with the removal of the Sawyer Mills Upper and Lower Dams on the Bellamy River in Dover.

Only certain State, Tribal, and Local Government agencies are eligible for funds from this USFWS grant program, and these funds are passed through in the form of assistance for approved projects. DES entered into a Cooperative Agreement with the USFWS to provide assistance to the dam owner for costs associated with removal of the Sawyer Mills Upper and Lower Dams. This agreement is sole source because DES is only making this funding available to Sawyer Mill Associates, Inc., owner of the Sawyer Mills Upper and Lower Dams, as the most effective way to use the funds for the intended purpose.

The total project cost for this Agreement is \$10,000.00. In the event that Federal Funds are no longer available, General Funds will not be requested to support this project.

This Agreement has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.

for Thomas S. Burack
Thomas S. Burack
Commissioner

Subject: Assistance For Removal of the Upper and Lower Sawyer's Mill Dams, Dover, NH

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATIONS

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Grantee Name: Sawyer Mill Associates, Inc.		1.4 Grantee Address One Mill Street, Dover, NH 03820	
1.5 Effective Date Upon G&C approval	1.6 Completion Date December 31, 2015	1.7 Audit Date N/A	1.8 Grant Limitation \$10,000.00
1.9 Grant Officer for State Agency Deborah Loiselle		1.10 State Agency Telephone Number (603) 271-8870	
1.11 Grantee Signature <i>Paul D'Orazio</i>		1.12 Name & Title of Grantee Signor Paul D'Orazio, President	
1.13 Acknowledgment: State of <u>NEW HAMPSHIRE</u> , County of <u>STRAFFORD</u> On <u>11/13/2013</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 Justice-of-the-Peace (Seal) <i>Patricia A. Kennedy</i>			
1.13.2 Name & Title of Notary Public or Justice-of-the-Peace <i>PATRICIA A. KENNEDY, NOTARY PUBLIC</i>		PATRICIA A. KENNEDY, Notary Public My Commission Expires February 9, 2015	
1.14 State Agency Signature(s) <i>Thomas S. Burack</i>		1.15 Name/Title of State Agency Signor(s) Thomas S. Burack, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By: <i>[Signature]</i> Attorney, On: <u>12/30/2013</u>			
1.17 Approval by the Governor and Council By: _____ On: <u> / /</u>			

Contractor Initials *PD*
Date 11/13

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

5. **GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

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 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation 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 liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything 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 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.** 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 shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date 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.

7.2 Between the Effective Date and the date 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 or 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.

8. **PERSONNEL.**

8.1 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 qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. **DATA; RETENTION OF DATA; ACCESS.**

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 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 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date 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, whichever shall first occur.

9.5 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.

10. **CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those 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.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 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; and

11.2.2 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; and

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1 In the event of any 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 (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 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 default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. 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 interests 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.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. 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 on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent 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 shall survive the termination of this agreement.

17. INSURANCE AND BOND.

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice has been received by the State.

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, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver 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 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 first above given.

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 Council of the State of New Hampshire.

21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

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. 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 WORK

Sawyer Mill Associates will use the funds under the requested grant agreement to hire consultants/contractors for feasibility studies, design, and permitting activities associated with the removal of the Sawyer Mills Upper and Lower Dams on the Bellamy River in Dover.

EXHIBIT B
BUDGET & PAYMENT METHOD

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of associated invoice. If invoice is less than initial estimate only the amount on the invoice will be paid. The total project cost for this agreement is \$10,000.

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services or reallocation of grant funds require DES approval in advance. Payments will be made based on submitted invoices.

Work must be completed by the completion date listed on the grant agreement (Section 1.6). Requests for payment along with required proof of work must be submitted no later than 90 days after the completion date or the grant will be closed out and funds will no longer be available.

If a deadline extension is requested the grantee must make that request for approval at least two months before the completion date. Failure to do so may result in lower rankings of future grant applications.

CORPORATE RESOLUTION

I, Karla Baxter, hereby certify that I am duly elected Property Manager of Sawyer Mill Associates, Inc. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors/Shareholders, duly called and held on August 26, 2013 at which a quorum of the Directors/Shareholders were present and voting.

VOTED: That Paul D'Orazio is duly authorized to enter a grant agreement (for assistance with dam removals) on behalf of Sawyer Mill Associates, Inc., with the Department of Environmental Services, State of New Hampshire and further is authorized to execute any documents, which may in his 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 November 27, 2013. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation to the specific grant agreement indicated.

DATED:

11/27/13

ATTEST:

Karla Baxter

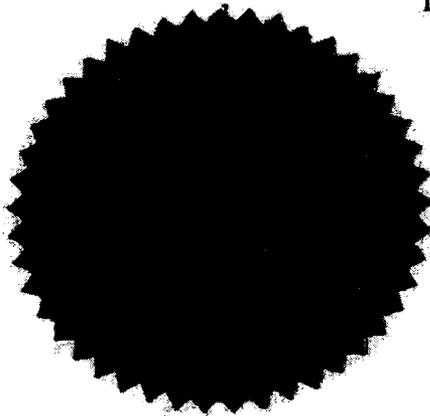
Karla Baxter
Property Manager

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 SAWYER'S MILL ASSOCIATES, INC. a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on February 16, 1993. I further certify that all fees and annual reports required by the Secretary of State's office have been received.

In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 4th day of November, A.D. 2013



William M. Gardner

William M. Gardner
Secretary of State

