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STATE OF NEW HAMPSHIRE  
 DEPARTMENT of NATURAL and CULTURAL RESOURCES  
 DIVISION of PARKS and RECREATION  
**BUREAU of TRAILS**

172 Pembroke Road Concord, New Hampshire 03301  
 Phone: (603) 271-3254 Fax: (603) 271-3553 E-Mail: nhtrails@dnrcr.nh.gov  
 Web: www.nhtrails.org

April 16, 2020

The Honorable Mary Jane Wallner, Chairman  
 Fiscal Committee of the General Court  
*and*  
 His Excellency, Governor Christopher T. Sununu  
 and the Honorable Executive Council  
 State House  
 Concord, New Hampshire 03301

**REQUESTED ACTION**

Pursuant to RSA 14:30-a, VI, the Department of Natural and Cultural Resources, Division of Parks and Recreation, Bureau of Trails, requests authorization to accept and expend Federal Lands Access Program funds in the amount of \$102,800 from the Federal Highway Administration for the purpose of repairing roads and access routes within or to federal lands upon Fiscal Committee and Governor and Executive Council approval through June 30, 2021. 100% Federal Funds.

Funds are to be budgeted in Fiscal Years 2020 and 2021 in the following account:

<b>FLAP Jefferson</b>				
<b>03-035-035-351510-19070000</b>				
<b>FY 2020/21</b>				
<b>Class</b>	<b>Description</b>	<b>Account</b>	<b>FY 2020 Requested Budget</b>	<b>FY 2021 Requested Budget</b>
<b>Revenue</b>				
000	Federal Funds	404341	(10,000)	(92,800)
<b>Totals:</b>			<b>(10,000)</b>	<b>(92,800)</b>
<b>Expense</b>				
020	Current Expenses	500200	6,000	46,000
022	Rent-Leases Other Than State	500257	2,590	9,307
029	Intra-Agency Transfers	500290	1,400	37,400
041	Audit Fund Set Aside	500801	10	93
<b>Totals:</b>			<b>\$10,000</b>	<b>\$92,800</b>

**EXPLANATION**

The Federal Lands Access Program (FLAP) is a Federal Highway Administration program which is used for the repair of roads and access routes within or to Federal Lands. The Pondicherry Wildlife Refuge, located in Jefferson, is primarily accessed by way of the Presidential Recreational Rail Trail. The Rail Trail is owned by the State of New Hampshire and is a year-round multi-use recreational trail.

The intent of the FLAP grant is to improve the trail surface, to make it more accommodating to all levels of trail users, and to comply with accessibility guidelines for individuals with physical limitations. The grant is a cooperative project with the US Fish and Wildlife Service. They will be responsible for providing a 20% match for the grant. The funds will be used to improve the trail surface with an aggregate material, such as stone dust, and will also be used to improve drainage ditches and culverts along the trail. Work is to be accomplished through a combination of equipment rental contracts and Bureau of Trails' own forces support which will be funded by this grant.

**The following appropriation authorities are being requested:**

**Class 20 – Current Expenses – Appropriations will be used for the purchase of aggregate materials, culverts and other construction materials.**

**Class 22 – Rent – Leases other than State – Appropriation will be used for the renting of construction equipment**

**Class 29 – Intra Agency Transfers – Appropriation will be used for funding own force labor within the Trails Bureau**

**Class 41 – Audit Fund Set Aside – Additional appropriations needed to pay required audit fees**

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

Respectfully submitted,



Sarah L. Stewart  
Commissioner

# Grant and Cooperative Agreement

CHOOSE ONE:

- COOPERATIVE AGREEMENT  
 GRANT

CHOOSE ONE:  EDUCATION  FACILITIES  RESEARCH  SDCR  TRAINING

1. GRANT/COOPERATIVE AGREEMENT NUMBER: 693C732050002  
 2. SUPPLEMENT NUMBER: \_\_\_\_\_  
 3. EFFECTIVE DATE: \_\_\_\_\_  
 4. COMPLETION DATE: \_\_\_\_\_

5. ISSUED TO  
 NAME/ADDRESS OF RECIPIENT (No., Street, City/County, State, Zip)  
 NEW HAMPSHIRE STATE OF  
 ATTN CHRIS GAMACHE  
 NATURAL AND CULTURAL RESOURCES NEW  
 PARKS AND RECREATION DIVISION OF  
 172 PEMBROKE RD  
 CONCORD NH 03301-5791

6. ISSUED BY: Federal Highway Administration  
 Mailing Address: FHWA EASTERN FED LANDS DIVISION  
 21400 RIDGETOP CIRCLE  
 STERLING VA 20166-6511

7. TAXPAYER IDENTIFICATION NO. (TIN): \_\_\_\_\_

9. PRINCIPAL INVESTIGATOR/ORGANIZATION'S PROJECT OR PROGRAM MGR. (Name & Phone)  
 Chris Gamache  
 603-271-3254

8. COMMERCIAL & GOVERNMENT ENTITY (CAGE) NO.: \_\_\_\_\_

10. RESEARCH, PROJECT OR PROGRAM TITLE  
 NH FLAP STTB TRL(1) - Project Title: NH Department of Natural & Cultural Resources, Bureau of Trails.

11. PURPOSE  
 For rehabilitation of Presidential Range Recreational Trail.

12. PERIOD OF PERFORMANCE (Approximately)  
 03/11/2020 through 06/30/2022

13A.	AWARD HISTORY	13B.	FUNDING HISTORY
PREVIOUS	\$0.00	PREVIOUS	\$0.00
THIS ACTION	\$102,800.00	THIS ACTION	\$102,800.00
CASH SHARE	\$0.00	TOTAL	\$102,800.00
NON-CASH SHARE	\$0.00		
RECIPIENT SHARE	\$0.00		
TOTAL	\$102,800.00		

14. ACCOUNTING AND APPROPRIATION DATA  
 See Schedule

PURCHASE REQUEST NO.	JOB ORDER NO.	AMOUNT	STATUS
HFELEPP190103PR			

15. POINTS OF CONTACT

NAME	MAIL STOP	TELEPHONE	E-MAIL ADDRESS
TECHNICAL OFFICER			
NEGOTIATOR			
ADMINISTRATOR			
PAYMENTS	WUBALEM LAKEW	571-434-1565	wubalem.lakew@dot.gov

16. THIS AWARD IS MADE UNDER THE AUTHORITY OF:  
 23 U.S.C. Section 204

17. APPLICABLE STATEMENT(S), IF CHECKED:  
 NO CHANGE IS MADE TO EXISTING PROVISIONS  
 FDP TERMS AND CONDITIONS AND THE AGENCY-SPECIFIC REQUIREMENTS APPLY TO THIS GRANT

18. APPLICABLE ENCLOSURE(S), IF CHECKED:  
 PROVISIONS  SPECIAL CONDITIONS  
 REQUIRED PUBLICATIONS AND REPORTS

UNITED STATES OF AMERICA

COOPERATIVE AGREEMENT RECIPIENT

CONTRACTING/GRANT OFFICER CHRISTOPHER SHAWN LONG <small>Digitally signed by CHRISTOPHER SHAWN LONG Date: 2020.04.08 11:27:41 -04'00'</small>	DATE 4/08/2020	AUTHORIZED REPRESENTATIVE <i>Sean Hermit</i>	DATE 4/30/2020
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## Grant and Cooperative Agreement

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT PRICE (E)	AMOUNT (F)
00001	<p>DUNS Number: 962583860</p> <p>NH FLAP STTB TRL(1) - Project Title: NH Department of Natural &amp; Cultural Resources, Bureau of Trails Cooperative Agreement for rehabilitation of Presidential Range Recreational Trail.</p> <p>Period of Performance: 03/11/2020 to 06/30/2022</p> <p>Cooperative Agreement between EFLHD and NH Department of Natural &amp; Cultural Resources, Bureau of Trails for construction for rehabilitation of Presidential Range Recreational Trail.</p> <p>Federal Share: 108900.00</p> <p style="text-align: center;">Project Data:</p> <p>151533FLAP008.531.CN.K200.33.1533000000.25215.07/24/2019</p> <p>Accounting Info:</p> <p>15X0G20050.0000.115K200531.1533000000.25215.61006600.0000000000.0000000000.0000000000.0000000000</p> <p>Funded: \$82,240.00</p> <p style="text-align: center;">Project Data:</p> <p>151533FLAP008.M31.CN.K710.33.1533000000.25215.07/24/2019</p> <p>Accounting Info:</p> <p>15X0K71050.0000.115K710531.1533000000.25215.61006600.0000000000.0000000000.0000000000.0000000000</p> <p>Funded: \$20,560.00</p> <p>The total amount of award: \$102,900.00. The obligation for this award is shown in box 13B.</p>				102,800.00

- 1. **Award No.**  
693C732050002
- 2. **Effective Date**  
See Block 17
- 3. **CDFA No.**  
20.224
- 4. **Awarded To**  
NH Department of Natural & Cultural Resources, Bureau of Trails  
172 Pembroke Road  
Concord, NH 03301
- 5. **Sponsoring Office**  
U.S. Department of Transportation  
Federal Highway Administration  
Eastern Federal Lands Highway Division

DUNS No.: 962583860

- 6. **Period of Performance**  
From Effective date to 6/30/2022
- 7. **Total Amount**  
Federal Share: \$108,800.00  
Recipient Share:  
Total Value \$108,800.00

- 8. **Type of Agreement**  
Cooperative Agreement
- 9. **Authority**  
23 U.S.C. Section 204

- 10. **Procurement Request No.**  
HFLEPP190103PR
- 11. **Funds Obligated**  
\$82,240.00 in FLAP  
\$20,560.00 in FLTP

- 12. **Submit Payment Requests To**  
See "Payment" clause in General Terms and Conditions
- 13. **Payment Office**

- 14. **Accounting and Appropriation Data**  
151533FLAP008 531.CN.K200.33 1533000000 25215 TAS 69-X-8083 for \$82,240.00  
151533FLAP008 M31.CN.K710.33 1533000000 25215 TAS 69-X-8083 for \$20,560.00

- 15. **Description of Project**  
NH FLAP STTB TRL(1)/ 151533FLAP008

- 16. **State of New Hampshire Trails Bureau (NHTB)**
- 17. **Federal Highway Administration**

*Sarah Stewart*  
 \_\_\_\_\_  
 Signature Date

Sarah L. Stewart  
 Commissioner - DNCR

CHRISTOPHER SHAWN LONG  
 Digitally signed by  
 CHRISTOPHER SHAWN LONG  
 Date: 2020.04.08 13:00:51  
 -04'00'

CHRISTOPHER SHAWN LONG  
 \_\_\_\_\_  
 Signature Date  
 Name: C. Shawn Long  
 Title: Contracting Officer/AO

4/08/2020

## TABLE OF CONTENTS

SECTION	TITLE	PAGE
1	PROGRAM DESCRIPTION	3
2	FEDERAL AWARD INFORMATION	8
3	FEDERAL AWARD ADMINISTRATION INFORMATION	9

### ATTACHMENT

Project MOA

## **1. PROGRAM DESCRIPTION**

### **1.1. STATEMENT OF PURPOSE**

1.1.1. See Section A of the attached Project MOA.

### **1.2. LEGISLATIVE AUTHORITY**

1.2.1. 23 U.S.C. Section 204.

### **1.3. PROJECT BACKGROUND AND SCOPE**

1.3.1. See Section E of the attached Project MOA.

### **1.4. STATEMENT OF WORK**

1.4.1. This agreement provides for funding of a progression of project activities. Initially design is eligible for reimbursement. Construction will not be eligible for reimbursement until an environmental decision document and the Final PS&E package are approved by Federal Highway Administration-Eastern Federal Lands Highway Division (FHWA).

1.4.2. FHWA and the NHTB (Recipient) may amend or terminate this agreement to adjust to project development, environmental, or construction needs.

### **1.5. PRELIMINARY DESIGN**

1.5.1. Design

1.5.1.a Perform a site survey as necessary to support the design and environmental compliance needs of the project.

1.5.1.b Prepare and submit a preliminary plan package to FHWA. The preliminary plan package shall reflect the work as described in Section E of the attached MOA. Any deviations from the described work must be approved in writing by FHWA. Include a preliminary cost estimate with the preliminary plan package.

**1.6. ENVIRONMENTAL COMPLIANCE** *Note: Federally funded projects must fully comply with all requirements of the National Environmental Policy Act (NEPA). An appropriate range of reasonable alternatives will be evaluated for this project based on its scope and extent. Amendments to the scope of this may be required upon completion of the environmental clearance document and decision.*

1.6.1. Note: Final design and construction reimbursement is contingent on the FHWA environmental decision. This environmental decision will determine whether the proposed project is advanced to the final design.

1.6.2. USFWS will coordinate environmental compliance efforts with FHWA environmental staff. See Sections G and H of the attached Project MOA. USFWS will prepare and submit a draft environmental document for FHWA signature utilizing samples and templates provided by FHWA. With the draft document supply a copy of the administrative record supporting the recommended action and if available provide a copy of any signed prior NEPA environmental decisions. Coordinate any changes associated with the prior NEPA environmental decision document with FHWA.

1.6.3. To support the preparation of the environmental document, the following environmental compliance tasks are anticipated to be needed and completed by the USFWS according to Sections G and H of the attached Project MOA.

1.6.3.a National Historic Preservation Act (NHPA)

1.6.3.a.1. The USFWS is to take the federal lead for Section 106 of the National Historic Preservation Act (NHPA) compliance including tribal consultation. Submit a letter to FHWA indicating that lead status.

1.6.3.a.2. USFWS will initiate SHPO and tribal consultation early by proposing a project area of potential effect (APE) and considering their comments.

1.6.3.a.3. A qualified archeologist shall perform background research and resource surveys of the area of potential effect (APE) for the project area in compliance with Department of Interior guidelines. If the APE includes land owned or controlled by the federal government, then obtain a permit from the federal land management agency to conduct resource surveys in accordance with the Archaeological Resources Protection Act.

1.6.3.a.4. USFWS will include a written report documenting Section 106 findings and recommendations as part of the administrative record.

1.6.3.a.5. USFWS will complete consultation with the SHPO, tribe(s), and public under Section 106 of the NHPA and submit documentation to FHWA showing it has been completed.

1.6.4. Wetlands

1.6.4.a A qualified biologist will identify the presence or absence of wetlands or other waters of the U.S. within the project area. Wetlands believed to be under the jurisdiction of the U.S. Army Corps of Engineers (USACE) should be identified. This may include but is not limited to referencing the National Wetland



Inventory or local wetland inventory, NRCS soil survey maps, and field observations.

1.6.4.a.1. If no potential wetlands are observed within the project area, these findings can be documented in a short report as part of the administrative record.

1.6.4.a.2. If potential wetlands exist in the project area, delineate and document wetlands in accordance with the USACE 1987 Wetland Delineation Manual as part of the administrative record.

1.6.5. Threatened & Endangered (T&E) Species and Essential Fish Habitat (EFH)

1.6.5.a A qualified biologist or botanist shall perform threatened and endangered species and essential fish habitat studies within the project area.

1.6.5.a.1. The biologist will obtain updated T&E species lists for the project area from the US Fish and Wildlife Service (USFWS) and, if appropriate, NOAA Fisheries Service.

1.6.5.a.2. If there are no T&E species or EFH within the project area or the proposed project would have no effect to any T&E species or no adverse effect on EFH within the project area, the biologists/botanist shall include a finding in the administrative record documenting their finding and the basis for their conclusion.

1.6.5.a.3. If there are T&E species within the project area and the project may affect these species, include a written Biological Assessment (BA) following USFWS guidelines in the administrative record.

1.6.5.a.4. If the project may affect threatened or endangered species, perform Section 7 consultation as appropriate with USFWS and NOAA Fisheries Service. If appropriate, include consultation for EFH.

1.6.5.a.5. Following consultation, submit to FHWA a copy of Section 7 concurrence letter or Biological Opinion from the USFWS and/or NOAA Fisheries Service.

**1.6.6. Other Environmental Issues**

1.6.6.a USFWS will identify other environmental issues such as consistency with the Coastal Zone Management Act, floodplains, and hazardous materials.

1.6.6.b Submit other environmental surveys, studies, and assessments as needed to support environmental compliance to FHWA

**1.7. FINAL DESIGN**

**1.7.1. Design**

1.7.1.a Do not initiate final design activities until FHWA has issued an independent environmental decision document(s).

1.7.1.b If the NEPA decision is to construct a project, prepare and submit final plans, specifications, and construction estimate package. The final design package shall reflect the work as described in the environmental decision document. Any deviations from the described work must be approved in writing by FHWA.

**1.8. ROW ACQUISITION**

1.8.1. Rights-of-way and/or easements acquisitions are not anticipated for this project. Include in the administrative record, a certification that all work will occur within the existing right-of-way.

**1.9. UTILITY RELOCATION**

1.9.1. Utility relocation is not anticipated for this project.

**1.10. PERMITS**

1.10.1. The agency overseeing the construction will identify all permits necessary for construction and submit a list of permits to FHWA.

1.10.2. Submit copies of all completed applications for necessary permits to FHWA.

1.10.3. Obtain permits necessary for construction. Submit copies of approved permits with the final design plans, specifications, and estimate package.

**1.11. ADVERTISEMENT**

1.11.1. Do not initiate construction advertisement activities until FHWA has written an independent environmental decision document.

1.11.2. Provide notification to FHWA once the contract has been awarded.

**1.12 CONSTRUCTION**

- 1.12.1 Do not initiate construction activities until FHWA has written an independent environmental decision document.
- 1.12.2 Construct and administer the project in conformance with the FHWA environmental decision document.
- 1.12.3 Submit post construction photographs to FHWA to document project progress.
- 1.12.4 Submit a copy of the final construction acceptance letter.

**1.13 DELIVERABLES**

- 1.13.1 See Section P of the attached Project MOA.

**1.14 KEY OFFICIALS**

- 1.14.1 Government – FHWA/Federal Lands Highway Division

**Agreement Officer's Representative (AOR):**

Name: Jacinda Russell

Voice: 571-434-1543

Fax: 571-434-1599

Email: [Jacinda.Russell@dot.gov](mailto:Jacinda.Russell@dot.gov)

**Financial Contact:**

Wubalem Lakew

Voice: 571-434-1565

Fax: 703-948-3571

Email: [Wubalem.Lakew@dot.gov](mailto:Wubalem.Lakew@dot.gov)

**Program Contact:**

Charlie Costello

Voice: 571-434-1558

Fax: 571-434-1599

Email: [Charlie.Costello@dot.gov](mailto:Charlie.Costello@dot.gov)

Recipient- NHTB

**Program Contact**

Name: Chris Gamache

Address: 172 Pembroke Road

City, State, Zip: Concord, NH 03301

Telephone: 603-271-3254

Email: [chris.gamache@dncr.nh.gov](mailto:chris.gamache@dncr.nh.gov)

Fax: 603-271-3553

**Finance Contact**

Name: Carolinda Andersen  
Address: 172 Pembroke Road  
City, State, Zip: Concord, NH 03301  
Telephone: 603-271-3727  
Email: [Carolinda.andersen@dncr.nh.gov](mailto:Carolinda.andersen@dncr.nh.gov)  
Fax: 603-271-2629

**Cooperative Agreement Contact**

Name: Chris Gamache  
Address: 172 Pembroke Road  
City, State, Zip: Concord, NH 03301  
Telephone: 603-271-3254  
Email: [chris.gamache@dncr.nh.gov](mailto:chris.gamache@dncr.nh.gov)  
Fax: 603-271-3553

**USFWS Contacts**

**Refuge Manager**

Name: Steve Agius  
Telephone: 802-962-5240 Ext 112  
Email: [steve\\_agius@fws.gov](mailto:steve_agius@fws.gov)

**Regional Transportation Coordinator**

Name: Carl Melberg  
Telephone: 413-253-8586  
Email: [carl\\_melberg@fws.gov](mailto:carl_melberg@fws.gov)

**2. FEDERAL AWARD INFORMATION**

**2.1. TYPE OF AWARD**

2.1.1. The planned award type is a Cooperative Agreement.

**2.2. COST SHARING OR MATCHING**

2.2.1. See Section K of the attached Project MOA.

**2.3. PERIOD OF PERFORMANCE**

2.3.1. The period of performance for this Agreement is in accordance with Block 6 on page one of the Agreement.

**2.4. DEGREE OF FEDERAL INVOLVEMENT**

2.4.1. The FHWA anticipates substantial Federal involvement between it and the Recipient during the course of this project. The anticipated Federal involvement is included in Section G, H

and P of the attached Project MOA.

### **3. FEDERAL AWARD ADMINISTRATION INFORMATION**

#### **3.1. FEDERAL AWARD NOTICES**

3.1.1. Only the AO can commit the FHWA. The award document, signed by the AO, is the authorizing document. Only the AO can bind the Federal Government to the expenditure of funds.

#### **3.2. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS**

General terms, conditions, and governing regulations that apply to this agreement are available online at: [https://www.fhwa.dot.gov/cfo/contractor\\_recip/gtandc\\_generaltermsconditions.cfm](https://www.fhwa.dot.gov/cfo/contractor_recip/gtandc_generaltermsconditions.cfm)

The online list dated March 6, 2015 of "GENERAL TERMS AND CONDITIONS FOR ASSISTANCE AWARDS" shall apply to the resulting award.

##### **3.2.1. DATA RIGHTS**

3.2.1.a The Recipient must make available to the FHWA copies of all work developed in performance with this Agreement, including but not limited to software and data. Data rights under this agreement shall be in accordance with 2 CFR 200.315, Intangible property.

##### **3.2.2. PERSONALLY IDENTIFIABLE INFORMATION (PII)**

3.2.2.a Personally Identifiable Information (PII) as defined at CFR Part 200.79 and 2 CFR 200.82 at will not be requested unless necessary and only with prior written approval of the AO with concurrence from the AOR.

##### **3.2.3. AVAILABLE FUNDING**

3.2.3.a The cost of the work to be reimbursed by FHWA is Not to Exceed the amount in block 11 of the cover page, unless an amendment to the Agreement is made in writing and agreed to by both parties.

##### **3.2.4. KEY PERSONNEL**

3.2.4.a Pursuant to 2 CFR 200.308(c)(2), the Recipient must request prior written approval from the AO for any change in Key Personnel specified in the award. See Section L of Executed MOA.

**3.2.5. ORDER OF PRECEDENCE**

- 3.2.5.a The Project MOA is accepted, approved, and incorporated herein as Attachment 1. In the event of any conflict between this agreement document and the Project MOA, this Agreement document shall prevail.

**3.2.6. DESIGNATION AS RESEARCH OR NON-RESEARCH AGREEMENT**

- 3.2.6.a This agreement is designated as: NON-RESEARCH

**3.2.7. DISPUTES**

- 3.2.7.a The parties to this Agreement will communicate with one another in good faith and in a timely and cooperative manner when raising issues under this provision. Any dispute, which for the purposes of this provision includes any disagreement or claim, between the FHWA and the Recipient concerning questions of fact or law arising from or in connection with this Agreement and whether or not involving alleged breach of this Agreement, may be raised only under this Disputes provision.

- 3.2.7.b Whenever a dispute arises, the parties will attempt to resolve the issues involved by discussion and mutual agreement as soon as practical. In no event will a dispute which arose more than three months prior to the notification made under the following paragraph of this provision constitute the basis for relief under this article unless FHWA waives this requirement.

- 3.2.7.c Failing resolution by mutual agreement, the aggrieved party will document the dispute by notifying the other party in writing of the relevant facts, identify unresolved issues and specify the clarification or remedy sought. Within five working days after providing written notice to the other party, the aggrieved party may, in writing, request a decision from the AO. The AO will conduct a review of the matters in dispute and render a decision in writing within thirty calendar days of receipt of such written request. Any decision of the AO is final and binding unless a party will, within thirty calendar days, request further review as provided below.

- 3.2.7.d Upon written request to one level above the AO or designee, made within thirty calendar days after the AO's written decision or upon unavailability of a decision within the stated time frame under the preceding paragraph, the dispute will be further reviewed. This review will be conducted by one level above the AO. Following the review, all parties will be notified in writing. Such resolution is not subject to further administrative review and to the extent permitted by law, will be final and binding. Nothing in this Agreement is intended to prevent the parties from pursuing disputes in a United States Federal Court of competent jurisdiction.

**FEDERAL LANDS ACCESS PROGRAM**  
**PROJECT MEMORANDUM OF AGREEMENT**

**Project / Facility Name:** NH FLAP STTB TRL(1)

**Project Route:** Presidential Range Recreational Trail

**State:** New Hampshire

**County:** Coos County

**Owner of Federal Lands to which the Project Provides Access:** US Fish and Wildlife Service (USFWS), Silvio O. Conte National Fish and Wildlife Refuge

**Entity with Title or Maintenance Responsibility for Facility:** State of NH (Trails Bureau)

**Type of Work:**


- **Construction:** Rehabilitate the Presidential Range Recreational Trail with a new surface and improve drainage.

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this Agreement sets forth the respective responsibilities as the project proceeds through the project development process.


**Parties to this Agreement:** FHWA-Eastern Federal Lands Highway Division (EFLHD), U.S. Fish and Wildlife Service (USFWS), and State of New Hampshire Trails Bureau

The Program Decision Committee approved this project on 6/15/2017.

**AGREED:**

  
\_\_\_\_\_  
Chief Supervisor, New Hampshire Bureau of Trails 7/11/19  
Date

  
\_\_\_\_\_  
Regional Transportation Program Manager, USFWS 10/4/2019  
Date

  
\_\_\_\_\_  
Chief of Business Operations, EFLHD 10/7/19  
Date

#### **A. PURPOSE OF THIS AGREEMENT**

This Agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the subject project. The purpose of the Agreement is to identify and assign responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition, operation, and construction as appropriate for this programmed project, and to ensure maintenance of the facility for public use if improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental analysis required under the National Environmental Policy Act (NEPA) is completed (this does not prevent the parties from assigning proposed design criteria to be studied in the NEPA process.) Any decision to proceed with the design, operations, or construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues raised during the NEPA process, a natural disaster that changes the need for the project, a change in Congressional direction, or other relevant factors.

If Federal Lands Access Program (FLAP) funds are used for the development or construction of this project, the USFWS and State of New Hampshire Trails Bureau (NHTB) agrees to provide a matching share equal to 17.55% of the total cost of the project, as detailed more fully in Section J below. FLAP project funds are not to exceed the approved amount of \$88,240.00. Before the expenditure of any funds for which reimbursement will be sought from FHWA, the parties agree to execute a separate obligating document. No reimbursement will be made for expenditures made prior to having an obligating document in place.

#### **B. AUTHORITY**

This Agreement is entered into between the signatory parties pursuant to the provisions of 23 U.S.C. 204, and Sections 235:4, 215-C:2 and 216-F of the Revised Statutes Annotated of the State of New Hampshire.

#### **C. JURISDICTION AND MAINTENANCE COMMITMENT**

The New Hampshire Bureau of Trails (NHTB) has jurisdictional authority to operate and maintain the existing facility and will operate and maintain the completed project at its expense.

#### **D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION**

The New Hampshire Bureau of Trails has coordinated project development with the Silvio O. Conte National Fish and Wildlife Refuge. The Silvio O. Conte National Fish and Wildlife Refuge support of the project is documented per the signed support letter dated 10/12/2016. Each party to this agreement who has a primary role in NEPA, design, or construction shall coordinate their activities with the Silvio O. Conte National Fish and Wildlife Refuge.



**E. PROJECT BACKGROUND/SCOPE**

This project will rehabilitate the Presidential Range Recreational Trail with a new surface and improve drainage issues. The Presidential Range Recreational trail is a 20-mile-long trail through the Presidential Range of New Hampshire's White Mountains. This project is focused on a 4-mile area of the trail through the Pondicherry Division of the Silvio O. Conte National Fish and Wildlife Refuge. The improvements will include:

- Trail grading and preparation.
- Restore side drainage ditches along four miles of trail.
- Replace 6 damaged steel culverts with 6 new 30' long 18" diameter culverts.
- Install 4" ledge pack aggregate surface 8 feet wide on 4 miles of rail grade.
- Grading and compacting of new trail surface.
- Purchase and installation of 4 Beaver water-flow leveling devices.
- Improvement of trailhead parking facility along Airport Road (expansion, new signage and additional gravel).

**F. PROJECT BUDGET**

<b>Item</b>	<b>Estimate (\$)</b>	<b>Comments</b>
EFLHD PROJECT MANAGEMENT	\$6,000.00	
CONSTRUCTION	\$102,800.00	
<b>TOTAL</b>	<b>\$108,800.00</b>	

The EFLHD project management funds (estimated at \$6,000.00) will require a tapered match using Federal Lands Transportation Program (FLTP) funds subject to appropriations and fiscal limitations. The matching ratio is 17.55%. Project budget is based on the current estimate therefore the total programmed FLAP funds may not be sufficient to award the project as defined in the application. Any funding shortfall will be evaluated and addressed by the NH Bureau of Trails as necessary and will be communicated with EFLHD. Any revisions to scope or project termini would require approve by the NH FLAP PDC.

**G. ROLES AND RESPONSIBILITIES**

<b>Responsible Party</b>	<b>Product/Service/Role</b>	<b>Comments</b>
EFLHD	<ul style="list-style-type: none"> <li>• Review documentation showing the project is on an approved program of projects and a TIP or STIP</li> <li>• Approve identified design standards/geometrics and the project scope, schedule, and budget</li> <li>• If applicable, review and/or concur with identified lead federal agency and draft environmental documents</li> <li>• Review and adopt NEPA document</li> <li>• Review/approve design exceptions, ROW certifications, utility agreements and, where applicable, railroad agreements</li> <li>• Review and approve 95% PS&amp;E package</li> <li>• Review and/or approve contract package, award package, and all contract modifications</li> <li>• Attend final project inspection. Can be done electronically with photos</li> <li>• Provide assistance in contract disputes and claims if requested by the partner</li> </ul>	
USFWS	<ul style="list-style-type: none"> <li>• Provide Federal Lands Transportation Program Matching funds as available and authorized</li> <li>• Designate a Project point of contact for all communication regarding the design and construction of this project</li> <li>• Participate in plan reviews, design and construction reviews including pre-construction and progress meetings, and other Project development activities and milestones as applicable</li> <li>• Provide the following:               <ul style="list-style-type: none"> <li>○ Anticipated NEPA action</li> <li>○ Copy of draft NEPA documents</li> <li>○ Copy of final NEPA action</li> </ul> </li> </ul>	

Responsible Party	Product/Service/Role	Comments
New Hampshire Bureau of Trails	<ul style="list-style-type: none"> <li>• Responsible for construction letting, bid review, contract award, and project delivery following standard federal-aid procedures as outlined in 23 CFR</li> <li>• Provide construction administration including stewardship and oversight for federal funded projects</li> <li>• Submit quarterly reimbursement requests for EFLHD for expenses incurred to maintain financial activity.</li> <li>• Provide quarterly progress and financial reports</li> <li>• Track, monitor, and approve the accounting of New Hampshire Bureau of Trails engineering services, labor, and equipment rendered</li> <li>• Schedule and invite EFLHD and appropriate parties to public meetings</li> <li>• Schedule and hold pre-construction meetings and construction inspections</li> <li>• Notify EFLHD of any contract disputes or claims</li> <li>• Final acceptance of project and project closeout</li> <li>• Assume responsibility of the NPDES permit after project completion</li> <li>• Provide long term maintenance and operation of the facility</li> <li>• Provide the following documents and information: <ul style="list-style-type: none"> <li>○ Evidence that project is on an approved program of projects and a TIP or STIP</li> <li>○ Design Standards/Geometrics to be used</li> <li>○ Identified design exception approval agency</li> <li>○ Identified lead federal agency</li> <li>○ Evidence of permits</li> <li>○ Review of Public Notices</li> <li>○ 95% and Final PS&amp;E packages</li> <li>○ Design exceptions</li> <li>○ ROW certifications</li> <li>○ Utility/Railroad Agreements</li> <li>○ Approval of proprietary products</li> <li>○ Contract award documents for review/concurrence</li> <li>○ Copy of award package</li> <li>○ Proposed contract modifications for concurrence</li> <li>○ Documentation of project close-out</li> <li>○ Copy of As-builts</li> <li>○ Copy of final voucher</li> </ul> </li> </ul>	

## **H. ROLES AND RESPONSIBILITIES – SCHEDULE**

<b>Responsible Lead</b>	<b>Product/Service/Role</b>	<b>Schedule Start-Finish</b>
USFWS	NEPA Document	Nov 2018 – Jan 2019
NHTB	Final Design	July 2019 – Sept 2019
NHTB	Construction Engineering	Sept 2019 – June 2020
NHTB	Construction	Sept 2019 – June 2020
NHTB	Contract Closeout	June 2020 – Dec 2021

## **I. PROPOSED DESIGN STANDARDS**

Final design standards will be determined through the NEPA process.

<b>Criteria</b>		<b>Comments</b>
Standard	AASHTO Guidelines for bike/ped facilities	
Functional Classification	Trail	
Surface Type	Gravel, Stone	
Design Volume	60,000 annually	

## **J. FUNDING**

<b>Fund Source</b>	<b>Amount</b>	<b>Comments</b>
Federal Lands Access Program Funding	\$88,240.00	
Federal Lands Transportation Program	\$20,560.00	
<b>TOTAL</b>	<b>\$108,800.00</b>	

The funding will be documented with a cooperative agreement between EFLHD and NHTB following the execution of the Project MOA and upon the submittal of required Stewardship and Oversight documents.

## **K. MATCHING SHARE REQUIREMENTS**

Matching or cost sharing requirements may be satisfied following the obligation of funds to the project by: FLTP funds retained by FHWA, allowable costs incurred by the State or local government, cash donations, the fair and reasonable value of third party in-kind contributions (but only to the extent that the value of the costs would be allowable if paid for by the party responsible for meeting the matching share), including materials or services; however no costs or value of third party contributions may count towards satisfying the matching share requirements under this agreement if they have or will be counted towards meeting the matching share requirements under another federal award.

Costs and third party contributions counting toward satisfying a cost sharing or matching requirement must be verifiable from the records of the party responsible for

meeting the matching requirements. The records must demonstrate how the value of third party in kind contributions was derived. Voluntary services sought to be applied to the matching share will be supported by the same methods that the party to this agreement uses to support allocability of personnel costs. Any donated services provided by a third party will be valued at rates consistent with those ordinarily paid by employers for similar work in the same labor market. Supplies furnished will be valued at their market value at the time of donation. Donated equipment or space will be valued at fair rental rate of the equipment or space. All records associated with valuations or costs under section K shall be accessible and be maintained for three years following project close-out.

**L. PROJECT TEAM MEMBERS - POINTS OF CONTACT**

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party's role and responsibility for this agreement.

<b>Name</b>	<b>Title</b>	<b>Agency</b>	<b>Element</b>	<b>Phone &amp; Email</b>
Jacinda Russell	EFLHD Access Program Manager	EFLHD	Project Management	571-434-1543 <a href="mailto:Jacinda.Russell@dot.gov">Jacinda.Russell@dot.gov</a>
Charlie Costello	Program Planning Specialist	EFLHD	Coordination	571-434-1595 <a href="mailto:Charlie.Costello@dot.gov">Charlie.Costello@dot.gov</a>
Chris Gamache	Chief Supervisor	NH Bureau of Trails	Coordination	603-271-3254 <a href="mailto:Christopher.gamache@dncr.nh.gov">Christopher.gamache@dncr.nh.gov</a>
Clinton Savage	District 1 Supervisor	NH Bureau of Trails	Coordination	603-788-3155 <a href="mailto:Clinton.Savage@dncr.nh.gov">Clinton.Savage@dncr.nh.gov</a>
Jeremy Goetz	Refuge Forester	USFWS	Project Management	802-962-5240 ext 114 <a href="mailto:Jeremy.Goetz@fws.gov">Jeremy.Goetz@fws.gov</a>
Steve Agius	Silvio O. Conte NFWR Wildlife Refuge Manager	USFWS	Coordination	802-962-5240 ext 112 <a href="mailto:steve_agius@fws.gov">steve_agius@fws.gov</a>
Carl Melberg	Regional Transportation Coordinator	USFWS	Coordination	413-253-8586 <a href="mailto:carl_melberg@fws.gov">carl_melberg@fws.gov</a>

### **M. CHANGES/AMENDMENTS/ADDENDUMS**

The agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the parties.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; changes that alter the level of effort or responsibilities of a party. The parties commit to consider suggested changes in good faith. Failure to reach agreement on changes may be cause for termination of this agreement.

A change in the composition of the project team members does not require the agreement to be amended.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notification to their management in order to avoid project delivery delays.

### **N. ISSUE RESOLUTION PROCEDURES MATRIX**

Issues should be resolved at the lowest level possible. The issue should be clearly defined in writing and understood by all parties. Escalating to the next level can be requested by any party. When an issue is resolved, the decision will be communicated to all levels below.

<b>EHWA</b>	<b>USFWS</b>	<b>NH Bureau of Trails</b>	<b>Time</b>
Project Manager (Jacinda Russell)	Refuge Forester (Jeremy Goetz)	District I Supervisor (Clinton Savage)	5 Working Days
Planning and Programs Manager	Refuge Manager (Steve Agius)	District I Supervisor (Clinton Savage)	5 Working Days
Chief of Business Operations	Regional Transportation Coordinator (Carl Melberg)	Chief Supervisor (Chris Gamache)	5 Working Days
Division Director	Refuge Supervisor (Graham Taylor)	Chief Supervisor (Chris Gamache)	5 Working Days

### **O. TERMINATION**

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal Access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.

**P. STEWARDHIP & OVERSIGHT ACTIVITIES**

Based upon the risk assessment, complexity of the undertaking, and capabilities and past performance of the delivery partner, the EFLHD had determined this project to be low risk. The table below identifies necessary Stewardship and Oversight Activities. If items are not delivered timely or in such poor condition that it brings into question the ability to deliver, the issue will be elevated to all participants to the agreement using the issue resolution procedures matrix identified above.

Phase or Activity	Partner Role	EFLHD Role	Comments
<b>Planning &amp; Programming</b>			
Evidence that project is on an approved program of projects	Provide	Review	For funds disbursed by a division, they may know this already
Evidence of being on a TIP or STIP	Provide	Review	
Project agreement with scope, schedule, & budget	Provide	Approve	EFLHD would be a signatory. Would be involved in the drafting to define what S&O deliverables it will receive
<b>Environment</b>			
Lead Federal agency identified	Provide	concur	FHWA must be a co- lead agency on an EIS
Copy of/review of Draft documents	Provide	Review, concur	EFLHD should review to insure they can be adopted by EFLHD
Copy of NEPA action	Provide	File copy	(CE, EA, or EIS)
Evidence of permits	Provide	File copy	
Sign off on FHWA NEPA document	Provide	Adopt or develop parallel Document	EFLHD approval needed
<b>Design</b>			
Review 95% PS&E	Provide	Review/ Approve	Are required contract provisions included – Common Rule or Fed-Aid?
Review design exceptions	Provide	Review/ Approve	If the partner is a State DOT, they would follow their process
Review ROW certifications	Provide	Review/ Approve	If ROW is acquired, it must follow Uniform Federal Relocation Act
Utility/Railroad Agreements	Provide	Review/ Approve	EFLHD needs certification

Phase or Activity	Partner Role	EFLHD Role	Comments
<b>Acquisitions</b>			
Review contract package for required clauses (Civil Rights, Davis-Bacon, Buy America/American, etc.)	Provide	Review/Approve	Would not need to do this if the partner is another federal agency or State DOT following Fed Aid procedures.
Concur in award of contract	Provide	Review/Concur	Generally would only get involved if additional funds required
Receive copy of award package	Provide	File copy	EFLHD should have a copy of the package in its files in case inquiries are received
Review or approve contract modifications	Provide	Review, concur Depends upon nature of CM	Need to assure non-eligible work is not being paid for with program funds
<b>Construction</b>			
Final Project Inspections	Schedule	Attend	FLH should attend the final project inspection for projects above \$500,000.00 in FLAP funds regardless of risk level or elevated risk projects. Final project inspection could be done electronically with photos.
Copy of As-builts	Provide	File copy	
Copy of final voucher	Provide	File copy	
Contract Dispute (Claim)	Notify	Provide assistance if requested	Need to be aware if additional funds are needed