

JUL 16 10 11 AM 1:22 DAS 35 JOR

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@dred.nh.gov  
Web: www.nhtrails.org

July 2, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation, Bureau of Trails to enter into a **RETROACTIVE** emergency Grant-In-Aid Trail Maintenance Agreement with the Mount Moosilauke ATV Club, as shown in the attached agreement, in the total amount of \$26,000.00, effective upon Governor & Council approval, for the period of June 1, 2018, through May 31, 2019. 100% Transfer from Fish & Game.

Funding is as follows:

	<u>FY 2019</u>
03-35-35-351510-34860000	
Grant-In-Aid - Wheeled	\$26,000.00
075-500590 Grants Subsidies and Relief	

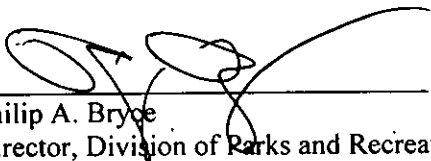
**EXPLANATION**

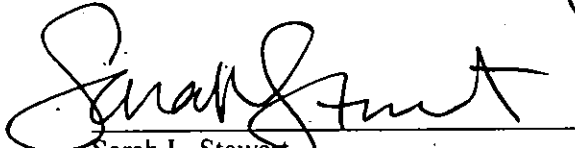
The agreement is retroactive as it was necessary for the Bureau to advise the club to start repairs while we were gathering damage information for Homeland Security and Emergency Management (HSEM) and compiling this request.

The Department's authority to enter into Grant-In-Aid agreements with non-profit OHRV clubs is outlined in RSA 215-C:39, VII (b). This grant agreement is to aid the club with emergency repairs to their OHRV trail system that was damaged in the October 29, 2017.

During this storm, New Hampshire's trail system was significantly impacted by flooding and winds that caused many trail washouts and damage to bridges. The club is not financially able to cover the costs, and without repairs New Hampshire's trail system will be unsafe for the thousands of riders that are expected to utilize it this summer. The Bureau is working with Emergency Management to seek reimbursement of these costs from FEMA.

Respectfully submitted,

  
Philip A. Bryce  
Director, Division of Parks and Recreation

Concurred,  
  
Sarah L. Stewart  
Commissioner, Department of Natural  
and Cultural Resources

**State of New Hampshire  
Department of Natural and Cultural Resources  
Division of Parks and Recreation  
Bureau of Trails**

**EMERGENCY GRANT-IN-AID AGREEMENT**

This Agreement is made this 5 day of JULY, 2018, between the STATE OF NEW HAMPSHIRE, acting by and through the Commissioner of the Department of Natural and Cultural Resources; Division of Parks and Recreation; Bureau of Trails, hereinafter referred to as the "State", and the Mount Moosilauke ATV Club, a non-profit incorporated off highway recreational vehicle club (OHRV), hereinafter referred to as the "Club", with a principal place of business in Warren, NH.

WHEREAS, the Club desires to construct/maintain a public OHRV trail system in accordance with grant number EGN 2018/2019-01, and;

WHEREAS, by Laws of New Hampshire, RSA 215-A, the Legislature has authorized funds to the Bureau of Trails for Grant-In-Aid to organized OHRV Clubs;

NOW, THEREFORE, IT IS AGREED between the parties hereto:

1. The State agrees to reimburse the Club in accordance with RES 8408, subject to the following terms and conditions; however, should off highway vehicle revenues fall short of the estimated amounts, grant awards shall be reduced by the amount of the revenue shortfall. If GIA revenues are insufficient to fund Projects, the Bureau shall have the ability to offer partial funding to a club and the club may determine if they wish to accept the lower grant award.
2. The Club agrees to construct and undertake the approved Project, and agrees to comply with all Federal, State, and local laws, rules, and regulations, which are now, or in the future may become, applicable to the Project.
3. This Agreement and the obligations of the parties hereunder, shall become effective upon Governor & Council approval and shall run through May 31, 2019.
4. The maximum amount of funds available to the Club pursuant to this Agreement shall be \$26,000.00. It is further understood and agreed that the Club shall only be reimbursed on the basis of actual costs incurred, and that the State's determinations of eligible and approved costs shall be final in all cases. The club shall submit invoices for actual costs incurred in construction or maintenance of the approved trail.
  - a. **FIRST PAYMENT**; upon receipt of an invoice thirty (30) days after commencement of the Project or purchase, the State agrees to pay the Club percentages as applicable, deemed eligible and approved.
  - b. **SUBSEQUENT PAYMENTS**; each successive thirty (30) days after the first payment, the Club shall submit invoices evidencing acceptable costs. If the costs are deemed eligible and approved, the State agrees to pay the club. Said payments shall continue to be made until authorized reimbursements for the total costs of said Project have been made, on the condition that invoices are submitted within the Agreement period.

- c. **NOTWITHSTANDING** anything to the contrary contained herein, it is understood and agreed that all payments of all sums by the State hereunder are contingent upon availability and continued appropriation of State funds, and, if for any reason whatsoever, such funds shall be terminated or reduced or otherwise become unavailable, the State may terminate this Agreement in whole or part immediately.
5. Any grant funds allotted, but not applied for by the Club by the termination date of this Agreement, shall lapse and be returned to the Grant-In-Aid Program. Any remaining balances upon Project completion shall not be used for any other purpose unless prior written permission has been received and approved by the Bureau.
6. The Club shall not amend, revise, or change the Approved Application or Work Plan without the prior written consent of the Bureau.
7. The following events shall result in the termination of this Agreement at the election of the State:
  - a. In the event that the owner(s) of the land on which the trail system is developed withdraw permission for the use of said land while the Club's Project grant is in effect, this Agreement will be void and no further payments will be made hereunder by the State, unless the State determines that an alternative route is available to keep the trail network intact and utilize awarded Project funds.
  - b. Failure by the Club to comply with any of the rules governing the reimbursement of funds shall result in the non-reimbursement of any funds owed and shall cause future Grant-In-Aid requests to be denied, providing corrections are not made within 15 working days of notification of any failure of rules compliance.
8. The Club covenants to indemnify and hold harmless the State from and against any and all losses suffered by the State, and any and all claims, liabilities or penalties asserted against the State, by or on behalf of any person on account of, based in, resulting from, arising out of (or which may be claimed to have arisen out of), the acts or omissions of the Club.

**NOTWITHSTANDING THE FOREGOING**, nothing herein contained shall be deemed to constitute a waiver of the Sovereign Immunity of the State. This covenant shall survive the termination of the Agreement.

9. The Club agrees to submit to all requested inspections and audits by State officials which relate to the services and payments under this Agreement. Periodic inspections of trail construction and trail signing may be made by Bureau officials or designees at any time.
10. This Agreement may be modified, waived, or discharged only by an instrument signed by the parties hereto.
11. It is understood and agreed by the parties hereto that in the performance of the Agreement and the services hereunder, the Club and its servants and employees are in all respects independent contractors and shall neither be determined to be employed nor agents of the State, nor be entitled to any benefits, worker's compensation or emoluments provided by the State to its employees.

**OFF HIGHWAY RECREATIONAL VEHICLE CLUB INFORMATION**

Organization Name: Mount Moosilauke ATV Club Vendor Code: 164319»

Appropriation Code: 010-035-3486-075-0590 Construction \$26,000.00

**Total Grant Value \$26,000.00**

TRAIL ADMINISTRATOR: THOMAS K BABBIT  
(Print Name)  
  
(Signature)

STATE OF NEW HAMPSHIRE, County of Grafton

On this the 8<sup>th</sup> day of July, 2018, before me appeared, THOMAS K BABBIT known to me, or satisfactorily proven to be, the same person subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

Justice of the Peace/Notary Public

My commission expires \_\_\_\_\_ seal

**PATRICIA M. WILSON**  
 Notary Public - New Hampshire  
 My Commission Expires September 27, 2022

**STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

Chief, Bureau of Trails

Margaret Morrison 7/6/18  
 Witness/Date

Approved as to form, substance and execution:

Attorney General

Agreement expiration date: May 31, 2019

Approved by Governor and Council  
 at the \_\_\_\_\_ meeting  
 Item # \_\_\_\_\_