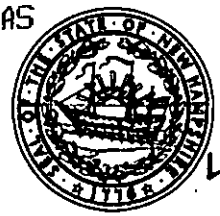




The State of New Hampshire
Department of Environmental Services

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Robert R. Scott, Commissioner

September 18, 2020

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

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (NHDES) to enter into an agreement with the Town of New Durham, NH, (VC #159914) in the amount of \$94,448 to complete the *Merrymeeting Watershed Management Plan Implementation Phase 1: Intersections of South Shore Road and Merrymeeting Road Best Management Practices*, effective upon Governor and Council approval through December 31, 2022. 100% Federal Funds.

Funding is available in the account as follows:

	<u>FY 2021</u>
03-44-44-442010-2035-072-500575	\$94,448
Dept. Environmental Services, NPS Restoration Program, Grants-Federal	

EXPLANATION

NHDES issued a Request for Proposals (RFP) for the 2020 Watershed Assistance Grants program. The five proposals received were ranked based on the criteria included in the RFP: water quality improvement or protection; cost/benefit ratio; local capacity to complete the project; relative value or significance of the water body; and general quality and thoroughness of the proposal. Based on the results of the selection process and available federal grant funding levels, the five implementation projects were selected to receive funding. Please see Attachment B for a list of project rankings and NHDES review team members.

Watershed Assistance Grants focus on the reduction of nonpoint source (NPS) pollution. NPS pollution occurs when rainfall, snowmelt, or irrigation waters travel through the ground or across land, transporting materials that are then introduced into groundwater or deposited into rivers, lakes, and coastal waters. Pollutants can include chemicals, sediments, nutrients, and toxins that often have harmful effects on drinking water supplies, recreation, fisheries, and wildlife. Land development or changes in land use can also cause NPS pollution by disrupting the natural hydrology of a water body, increasing impervious surfaces, and contributing to the loss of aquatic habitat. Watershed Assistance Grants address NPS pollution by promoting responsible land use practices on the watershed scale.

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The Merrymeeting River and Merrymeeting Lake Watershed includes 23,669 acres of land and water in the towns of New Durham and Alton, NH. The Merrymeeting River is the second largest (by volume) tributary entering Lake Winnepesaukee. This project represents the first phase of implementation of the Merrymeeting Watershed Management Plan (MMWMP). This project addresses severe roadside erosion extending from the New Durham Town Beach and Beach Parking Lot down a hill along South Shore Road approximately 150 feet to a catch basin on Merrymeeting Road. Currently this stormwater reaches an undersized culvert which frequently clogs, allowing water to overflow South Shore Road and discharge directly into the Merrymeeting River. This project will address pollution by installing one driveway culvert and replacing one cross-road culvert, developing four sediment forebays, installing a bio-retention facility which uses the existing catch basin as an overflow structure, and converting the east roadside ditch to a six-inch-deep grass channel on the west side. Once constructed, this remediation will reduce sediment from entering roadside ditches, slow stormwater flow and erosion of ditches, control the flow of water via properly sized culverts, and direct the final stormwater into a bio-retention facility. The overall goal is to reduce the sediment (1,262 lbs./y) and nutrients (phosphorus 3.02 lbs./y; nitrogen 1.76 lbs./y) from entering the headwaters of the Merrymeeting River.

The total project costs are budgeted at \$157,445. NHDES will provide \$94,448 (60%) of the project costs through a federal grant, and the Town of New Durham will provide the remaining costs through cash and in-kind services. A budget is provided in Attachment A.

In the event that federal funds become no longer available, general funds will not be requested to support this program. The agreement has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval of this item.


Robert R. Scott, Commissioner

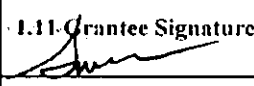
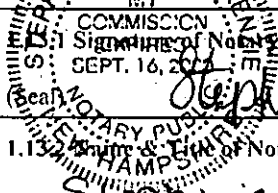
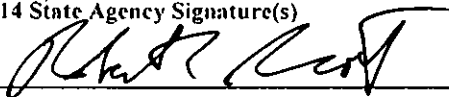

GRANT AGREEMENT

**Subject: Merrymeeting Watershed Management Plan Implementation Phase 1:
Intersections of South Shore Road and Merrymeeting Road Best Management Practices.**

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

GENERAL PROVISIONS

I. IDENTIFICATIONS AND DEFINITIONS

1.1 State Agency Name Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive Concord, NH 03301	
1.3 Grantee Name Town of New Durham <i>Vender Code: 159914</i>		1.4 Grantee Address 56 Tash Road New Durham, NH 03855	
1.5 Effective Date Upon G&C approval	1.6 Completion Date December 31, 2022	1.7 Audit Date N/A	1.8 Grant Limitation \$94,448
1.9 Grant Officer for State Agency: Stephen C. Landry, Watershed Assistance Section Supervisor		1.10 State Agency Telephone Number 603-271-2969	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor <i>David W. Swenson Chair, New Durham Select Board</i>	
1.13 Acknowledgment: State of New Hampshire, County of <u>Stafford</u> On <u>October 15, 2020</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or said person's duly authorized agent, 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.			
Notary Public or Justice of the Peace  <i>Stephanie Lisle MacKenzie</i>			
1.13 Signature of Notary Public or Justice of the Peace <i>Stephanie Lisle MacKenzie Notary Public</i>			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Robert R. Scott, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By:  Attorney, On: <u>10/5/2020</u>			
1.17 Approval by the Governor and Council By: _____ On: / /			

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 or 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 Services

The Town of New Durham (Town) shall perform the following tasks as described in the detailed proposal titled, *Merrymeeting Watershed Management Plan Implementation Phase 1: Intersections of South Shore Road and Merrymeeting Road Best Management Practices (BMPs)* submitted by the town December 5, 2019:

Objective 1: Develop and submit a Site Specific Project Plan (SSPP) to calculate load reductions achieved through the practices completed in this project under the NHDES S319 Grant Project Management Quality Assurance Project Plan.

Measures of Success: Approval of the SSPP by the NHDES.

Deliverable 1: Provide NHDES with a copy of the approved SSPP.

Task 1: Work with the selected project contractors or other project partners to develop a SSPP for the pollutant load modeling to be completed in this project.

Task 2: Submit the draft SSPP and respond to comments as necessary to obtain NHDES approval of the SSPP.

Objective 2: Creation of engineering drawings and documents suitable for bidding and construction.

Measures of Success: Engineering documents which fully elucidate the work to be performed.

Deliverable 2: Provide draft and final engineering documents to NHDES.

Task 3: Work with the Town's selected (through competitive qualifications selection process) engineer to create engineering and design plans, in coordination with NHDOT, NH Dept. of Fish and Game, NHDES, and other project partners to arrive at final approved designs and all required permissions and permits.

Task 4: Prepare bid request documents following the Town's normal procedure and process to select the low-bid qualified contractor to construct the practices as designed/permited.

Task 5: Provide the request for bids package to NHDES for review and comment prior to publication; publish the request for bids, receive and process bid submittal packages.

Task 6: Execute the contract portion of the low-bid documents to enter into a contract with the selected engineer.

Objective 3: Secure Permits for work on phase 1 BMP in New Durham.

Measures of Success: Approval of Permits by NHDES.

Deliverable 3: Approved Permits necessary for construction.

Task 7: Contact NHDES Land Resources Management Section to schedule a pre-permitting meeting to discuss the project. Prepare applications for all necessary State permits.

Task 8: Submit the permit applications, respond to comments, and revise designs as necessary to obtain the required permits. Receive final permits from NHDES.

Objective 4: Construct the BMP to remediate stormwater issues at the phase 1, South Shore Road, site in New Durham, NH.

Measures of Success: Completed BMP on South Shore Road.

Deliverable 4: Photographic documentation of completed BMP.

Task 9: Work with selected contractors and establish the work staging area as per the approved plans.

Task 10: Complete site construction of the Phase 1 project site as per the approved plan.

Task 11: Complete Phase 1 site plantings as per the approved plan.

Task 12: Complete decommission work to restore the staging area as per the project plans.

Task 13: Complete other work as necessary to successfully complete construction of the approved plan design including but not limited to construction supervision and oversight, and photographic documentation of the construction process and results.

Objective 5: Complete load reduction modeling and Pollutants Controlled Report (PCR).

Measures of Success: Acceptance of the Report by NHDES.

Deliverable 5: Provide NHDES with draft and final Pollutants Controlled Reports.

Task 14: Perform modeling to estimate the pollutant load reduction attributable to all of the practices installed in this project according to the methods specified in the approval SSPP for BMP Phase 1, New Durham.

Task 15: Complete a PCR based on the pollutant load reduction calculated.

Task 16: Submit draft to NHDES for review, respond to any comments and then provide a final PCR.

Objective 6: The Town prepares semi-annual reports, pollutants controlled reports for each BMP installed, and a final report for NHDES. The Town will conduct project management and other project activities including volunteer monitoring and outreach.

Measures of Success: Timely semi-annual status reports, pollutants controlled reports, and final report submitted to NHDES.

Deliverable 6: Semi-annual reports, pollutants controlled reports, monitoring reports, outreach products and final report to NHDES.

Task 17: Submit electronic semi-annual reports documenting all work performed during the project periods as follows:

- Work completed April 1 – September 30, report is due by October 31
- Work completed October 1 – March 31, report is due by April 30

A Pollutants Controlled Report must be completed and received by NHDES within one month following BMP implementation. In the event that the grantee has not completed a timely submittal of the progress reports, all further payments will be suspended until the overdue reports are submitted, and approved by NHDES.

Task 18: Submit a comprehensive final report to NHDES on or before the project completion date. The final report shall include load reduction estimates, photo-documentation of installed system components when applicable, and comply with the NHDES and U.S. Environmental Protection Agency (USEPA) requirements, including ADA compliance, found in the final report guidance document on the NHDES Watershed Assistance Section webpage.

Additional Requirements of the Agreement

Quality Assurance

All project activities which are to be guided by a quality assurance (QA) document such as a Quality Assurance Project Plan (QAPP) or Site Specific Project Plan (SSPP) must not begin prior to NHDES/USEPA approval of that QA document. In the event that sampling, modeling, or other such activities precede QA document approval, the data will not be considered valid, and the grantee will forfeit the ability to receive payment for those activities.

Outreach Materials

All materials produced for public distribution shall be reviewed and approved by NHDES prior to distribution and shall include the NHDES logo and the following citation: "Funding for this project was provided in part by a Watershed Assistance Grant from the NH Department of Environmental Services with Clean Water Act Section 319 funds from the U.S. Environmental Protection Agency". Outreach materials should be made ADA compliant.

Operations and Maintenance

Management practices implemented as agreed upon in the scope of services of this grant agreement and with grant funds or matching funds under a Section 319 Watershed Grant, shall be properly operated and maintained for the intended purposes during the life span of the project. The life span of a project shall be determined by the Grantee, tailored to the types of practices expected to be funded in this project, and agreed upon by NHDES. The Grantee shall provide NHDES with an engineering estimate of the design life of the best management practice(s) (BMPs), or in the case of small-scale BMPs which do not have a design life estimation completed by an engineer, the design life of that practice shall be estimated to be ten years.

Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. The Grantee shall assure that any sub-award of Section 319 funds similarly include the same condition in the sub-award. Additionally, both USEPA and NHDES reserve the right to periodically inspect a practice during the life span of the project to ensure that operation and maintenance are occurring. If it is determined that the participants are not operating and maintaining these practices in an appropriate manner, NHDES may request a refund for that practice supported by the grant.

Exhibit B

Method of Payment and Contract Price

Procurements of goods or services made with grant funds, or those credited as match, shall comply with the terms of this agreement, and must be reported to NHDES. Documentation of match credit shall be provided with each payment request. The cumulative match value for the project shall meet or exceed the amount of grant funds received multiplied by 0.667 (e.g. \$94,448 grant X 0.667 = \$62,997 minimum match required). The grantee shall submit payment requests, procurement reports, and match documentation on the forms provided by NHDES. Payment shall be made in accordance with the following schedule based upon satisfactory completion of specific tasks, and receipt of deliverables as described in Exhibit A:

Upon completion and NHDES approval of Task 1	\$743
Upon completion and NHDES approval of Task 2	\$743
Upon completion and NHDES approval of Task 3	\$20,170
Upon completion and NHDES approval of Task 4	\$1,512
Upon completion and NHDES approval of Task 5	\$1,512
Upon completion and NHDES approval of Task 6	\$200
Upon completion and NHDES approval of Task 7	\$2,183
Upon completion and NHDES approval of Task 8	\$2,183
Upon completion and NHDES approval of Task 9	\$8,288
Upon completion and NHDES approval of Task 10	\$43,908
Upon completion and NHDES approval of Task 11	\$500
Upon completion and NHDES approval of Task 12	\$500
Upon completion and NHDES approval of Task 13	\$9,981
Upon completion and NHDES approval of Task 14	\$600
Upon completion and NHDES approval of Task 15	\$600
Upon completion and NHDES approval of Task 16	\$600
Upon completion and NHDES approval of Task 17	\$125
Upon completion and NHDES approval of Task 18	\$100
Total	\$94,448

Funding is provided through a Watershed Assistance Grant from the NH Department of Environmental Services with Clean Water Act Section 319 funds from the U.S. Environmental Protection Agency.

Exhibit C

Special Provisions

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

Subparagraph 17.1.2 of the General Provisions shall be changed to read: "comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate; and"

Federal Funds paid under this agreement are from a Grant Agreement to the State from the US Environmental Protection Agency, NPS Implementation Grant under 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. Additionally, the Grantee shall comply with the terms of the Federal Funding Accountability and Transparency Act (FFATA) by providing NHDES 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 039347179.

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 Federal 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 2 CFR Part 200 Subpart D 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 2 CFR Part 200 Subpart E.

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 2 CFR Part 200 Subpart E.

V) ***Property Management***. The Grantee shall comply with the property management and procedures detailed in 2 CFR Part 200 Subpart D.

VI) ***Debarment and Suspension***. The Grantee shall comply with 2 CFR Part 200 Subpart C. By signing and submitting the Agreement, the Grantee certifies that it has not been debarred or suspended by a government agency. Additionally, the Grantee certifies that it will not make 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 2 CFR Part 200 Subpart D which includes procurement standards, competition, methods of procurement, contract cost and price, agency review, bonding requirements, and contract provisions.

a. **Assignment of Subcontracts.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State Agency.

b. **Consultant Fee Cap.** The Grantee will limit grant-funded payment to subcontractors under the circumstances detailed in 2 CFR Part 1500.9

c. **Subcontracts.** The Grantee 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 all 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.

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 2 CFR Part 200 Subpart E 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 2 CFR Part 1536 which require as a condition of the Agreement, certification that the Grantee maintains a drug-free workplace. By signing and submitting this Agreement, the Grantee certifies that they will observe the required practices for maintaining a drug-free workplace.

XI) **Bonding requirements.** For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (currently \$150,000), 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 "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) **Limitation on Administrative Costs.** In accordance with §319(h)(12) of the Clean Water Act, administrative costs in the form of salaries, overhead, or indirect costs shall not exceed in any fiscal year 10 percent of the amount of the grant except that costs of implementing enforcement and regulatory activities,

education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

XIII) **Management fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this Agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

CERTIFICATE OF AUTHORITY

I, Stephanie Mackenzie, Town Clerk of New Durham, New Hampshire do hereby certify that:

- (1) at the Town Meeting held 8th, March, 1994 the Town voted to authorize the Town to apply for, accept and expend money from state, federal, or other governmental unit or a private source which becomes available during the year in accordance with the procedures set forth in New Hampshire law;
- (2) at the regular meeting on 23rd, July, 2020 the Board of Selectmen voted to accept federal Clean Water Act funds and enter into a contract with the New Hampshire Department of Environmental Services. The Board of Selectmen further authorized the Select Board Chairman to execute any documents, which may be necessary to effectuate this contract;
- (3) The Town of New Durham warrants that this authorization has not been revoked, annulled, or amended in any manner whatsoever, and remain in full force and effect as of the date hereof; and
- (4) the following person has been appointed to and now occupies the office indicated under item (2) above:

David W. Swenson, Chairman

IN WITNESS WHEREOF, I have hereunto set my hand as the Town Clerk of New Durham, New Hampshire this 27 day of July, 2020.

Stephanie Lile MacKenzie
Stephanie Mackenzie, Town Clerk

State of New Hampshire
County of Strafford

On this the 27th day of July, 2020, before me Amy R. Smith, the undersigned officer, personally appeared Stephanie MacKenzie who acknowledged herself/himself to be the Town Clerk of News Durham, New Hampshire, and that she/he as such Town Clerk, being authorized to do so, executed the foregoing instrument for the purpose therein contained.

In witness whereof I hereunto set my hand and official seal.

Amy R. Smith
Justice of the Peace/Notary Public
Commission Expiration Date: 05-15-2024

(Seal)





CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: Town of New Durham 4 Main Street PO Box 207 New Durham, NH 03855	Member Number: 249	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
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Type of Coverage	Effective Date - (mm/dd/yyyy)	Expiration Date - (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not:	
<input checked="" type="checkbox"/> General Liability (Occurrence Form) <input type="checkbox"/> Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2020	7/1/2021	Each Occurrence	\$ 5,000,000
			General Aggregate	\$ 5,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2020	7/1/2021	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease - Each Employee	\$2,000,000
			Disease - Policy Limit	
<input type="checkbox"/> Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000

Description: Proof of Primex Member coverage only.

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex ³ - NH Public Risk Management Exchange
			By: <i>Mary Beth Purcell</i>
State of NH Department of Environmental Services 29 Hazen Dr. PO Box 95 Concord, NH 03302			Date: 7/28/2020 mpurcell@nhprimex.org
			Please direct inquires to: Primex ³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

**Attachment A
Budget Estimate**

Budget Item	s319 Grant Funding	Non-Federal Matching Funds	Totals
Salaries & Wages	\$0	\$20,856	\$20,856
Travel and Training	\$0	\$0	\$0
Contractual	\$41,050	\$4,119	\$45,169
Equipment and Supplies	\$0	\$13,577	\$13,577
Construction	\$53,398	\$24,503	\$77,901
Total Project Cost	\$94,448	\$63,055	\$157,503

Attachment B: 2020 Watershed Assistance and Restoration Grant Ranking

Organization	Project Name	A	B	C	D	E	AVG	RANK by avg
Lake Sunapee Protective Association	Lake Sunapee Watershed Plan Implementation Phase 2: Davis Hill Road, Garnet Hill Road, and Mt. Sunapee Resort BMPs	97	100	97	100	95	97.8	1
Nippo Lake Association	Nippo Lake Association Watershed Management Plan: Implementation of Road, Residential and In-lake BMPs	95	92	93	94	86	92.0	2
Town of New Durham	Merrymeeting Watershed Management Plan Implementation Phase 1: Intersections of South Shore Road and Merrymeeting Road BMPs	93	88	87	99	88	91.0	3
Messer Pond Protective Association	Messer Pond Watershed Plan – Phase 2 – Forest Acres Road, Browns Brook, Fieldstone Lane and County Road	84	86	84.5	85	88	85.5	4
Southwest Region Planning Commission	Lake Warren Watershed Management Plan Implementation: Stormwater BMPs	82	75	83	87	82	81.8	5

Review Team Members

Name	Qualifications
Steve Landry	22 years experience, Watershed Assistance Section Supervisor, project management, Merrimack watershed and fluvial geomorphology expertise
Jeff Marcoux	16 years experience, Watershed Coordinator, project management, grant and contract expertise
Sally Soule	22 years experience, Coastal Watershed Coordinator, project management, Coastal watershed expertise
Wendy Waskin	15+ years experience, Grants Specialist, budgeting, planning, project assistance expertise
Katie Zink	9 years experience, Watershed Assistance Specialist, surface and drinking water sampling, microbial expertise