JAN21 '21 PM 3:15 RCVD

Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, NH 03301
TEL. (603) 271-3495
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January 15, 2021

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

REQUESTED ACTION

Pursuant to a Memorandum of Agreement (MOA) with the Department of Environmental Services, approved at Governor & Council on January 23, 2019 (Item #76) and amended on June 5, 2019 (Item #5G) and most recently amended on November 18, 2020 (Item #5B), the Department of Education respectfully requests approval to authorize expenditures from the Drinking Water and Groundwater Trust Fund with the below list of public schools; effective upon Governor and Council approval. 100% Drinking Water Trust Fund.

Funds are available in account titled, Lead Removal Drinking Water Funds, as follows:

	FY 2021
06-56-56-563510-11810000-073-500583, Grants Non-Federal	$6,804.12

District Name	SAU	School Name	Project Description	Award
Salem	57	North Salem Elementary School, William T. Barron, Walter F. Haigh, Woodbury School, William E. Lancaster	Installation of low-lead faucets and associated plumbing	$6,804.12
			Total for this item:	$6,804.12

EXPLANATION

The Drinking Water and Groundwater Trust Fund was created in 2016, using $276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund. On August 30, 2018, the Advisory Commission voted to authorize the Department of Education's request for $1,600,000 of grant funding for NH's K-12 schools to remove lead found in their drinking water systems.

On January 23, 2019, the Governor and Executive Council authorized the approval of a grant agreement between the New Hampshire Department of Environmental Services (NHDES) and the New Hampshire Department of Education (NHDOE) in the total amount of $1,600,000 under the provisions of RSA 485:F for the NH's K-12 Schools Removal of Lead in Drinking Water project. This agreement was subsequently amended and approved on June 5, 2019 (Item #5G), by changing the eligibility date for reimbursement from February 8, 2018 to May 17, 2016 to allow schools that were proactive in their lead remediation efforts. Then on November 18, 2020, this agreement was amended and approved (item #5B) to extend the MOA through December 2022. The Districts will use the grant funds to support the lead remediation efforts in NH schools by reimbursing public, public-charter, and non-public schools, K-12, for 50% of the lead remediation costs, where needed and as shown through testing.

Respectfully submitted,

Frank Edelblut
Commissioner of Education

The State of New Hampshire

Department of Environmental Services

Robert R. Scott, Commissioner

October 23, 2020

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

APPROVED G & C
DATE 18 November 2020
ITEM # 5B

REQUESTED ACTION

Authorize the Department of Environmental Services (NHDES) to amend a Memorandum of Agreement (PO# 1065756) with the NH Department of Education (VC# 177900-B001) relative to the *Grants to New Hampshire Private and Public K-12 Schools to Reduce and Remove Lead in their Drinking Water* by extending the project period to December 31, 2022 from December 31, 2020, effective upon Governor and Council approval. No additional funding is involved in this request. The original grant was approved by Governor and Council on January 23, 2019, Item #76 and amended on June 5, 2019, Item #5G. 100% Drinking Water and Groundwater Trust Fund.

EXPLANATION

The current Memorandum of Agreement (MOA) and Amendment No. 1 with the Department of Education (DOE) has the project ending on December 31, 2020. NHDES was recently awarded $870,000 from a federal grant program, the Environmental Protection Agency's Water Infrastructure Improvements for the Nation (WIIN), to perform a second round of lead testing in drinking water in schools and licensed childcare facilities. This testing is mandated by NH RSA 485:17-a, the provisions of which became effective July 1, 2019. It is anticipated that through the new outreach and sampling efforts, more schools will be identified that require and request assistance to perform lead remediation. By extending this MOA through December 2022, DOE will be able to continue to provide funding assistance to schools as needed. To date, only $63,970.79 of the $1,600,000 in grant funds have been disbursed.

This amendment was approved by the Office of the Attorney General as to form, execution and content. We respectfully request your approval.

Robert R. Scott, Commissioner

DES Website: www.des.nh.gov
P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-2513 • Fax: (603) 271-5171 • TDD Access: Relay NH 1-800-735-2964

AMENDMENT No. 2
MEMORANDUM OF AGREEMENT BETWEEN
N.H. DEPARTMENT OF ENVIRONMENTAL SERVICES AND
N.H. DEPARTMENT OF EDUCATION

AGREEMENT RELATIVE TO GRANTS TO NEW HAMPSHIRE PRIVATE AND PUBLIC K-12 SCHOOLS TO REDUCE AND REMOVE LEAD IN THEIR DRINKING WATER

This Agreement, hereinafter called the "Amendment," is by and between the Department of Education (NHDOE) and the Department of Environmental Services (NHDES).

WHEREAS, pursuant to a Memorandum of Agreement (MOA) approved by Governor and Council on January 23, 2019 and Amendment No. 1 approved by Governor and Council on June 5, 2019, NHDOE and NHDES agreed to perform certain services upon the terms and conditions specified in the MOA as specified therein; and

WHEREAS, the NHDOE and NHDES have agreed to amend the MOA in certain respects;

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

1. Change the project completion date described in the first paragraph from December 31, 2020 to December 31, 2022.

2. Change section 8. DURATION of the MOA to read:

   The project duration extends from the date of approval by Governor and Council through December 31, 2022 for program activities, invoicing and program year closeout, unless terminated by either party, or extended in writing by subsequent agreement of the parties and acceptance by Governor and Council.

Effective Date of Amendment: This Amendment shall take effect upon approval by the Governor and Executive Council of the State of New Hampshire.

Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Robert R. Scott, Commissioner NH Department of Environmental Services	10/23/20 Date	Frank Edelblut, Commissioner NH Department of Education	10-8-20 Date
Assistant Attorney General NH Department of Justice	10/27/2020 Date		

Johnna McKenna

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

May 9, 2019

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

APPROVED G & C
DATE 6/5/19
ITEM # 5G

REQUESTED ACTION

Authorize the Department of Environmental Services to amend a Memorandum of Agreement with the Department of Education relative to the *Grants to New Hampshire Private and Public K-12 Schools to Reduce and Remove Lead in their Drinking Water* by lengthening the period of cost recovery allowed. No additional funding is involved in this request. The original grant was approved by Governor and Council on January 23, 2019, Item #76. 100% Drinking Water and Groundwater Trust Fund.

EXPLANATION

We are requesting this amendment in order to allow the Department of Education (DOE) to award grants to schools that were proactive in their lead remediation efforts. The DOE is using the grant funds to support lead remediation efforts in New Hampshire's schools by reimbursing schools, K-12, for 50% of the lead remediation costs, where needed and as shown through testing.

The current Memorandum of Agreement (MOA) with DOE allows grants to cover work completed by schools after February 8, 2018 which is when NH adopted Senate Bill 247 Preventing Childhood Lead Poisoning from Paint and Water. The New Hampshire Department of Environmental Services (NHDES) issued a letter to schools on May 17, 2016 that encouraged schools to test water from regularly used taps for lead. Several schools were proactive and sampled for lead and completed remediation work in 2016 and 2017. This amendment will change the eligible date for reimbursement by the grant from February 8, 2018 to May 17, 2016. To date, none of the $1,600,000 grant funds have been spent, however, the program is starting to receive grant requests as more schools are completing their lead testing.

In the event that other funds become no longer available, General funds will not be requested to support this program. This amendment was approved by the Office of the Attorney General as to form, execution and content.

We respectfully request your approval,

Robert R. Scott
Commissioner

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AMENDMENT No. 1
MEMORANDUM OF AGREEMENT BETWEEN
N.H. DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
N.H. DEPARTMENT OF EDUCATION

AGREEMENT RELATIVE TO GRANTS TO NEW HAMPSHIRE PRIVATE AND PUBLIC K-12 SCHOOLS TO REDUCE AND REMOVE LEAD IN THEIR DRINKING WATER

This Agreement, hereinafter called the "Amendment," is by and between the Department of Education (NHDOE) and the Department of Environmental Services (NHDES).

WHEREAS, pursuant to a Memorandum of Agreement (MOA) approved by Governor and Council on January 23, 2019, NHDOE and NHDES agreed to perform certain services upon the terms and conditions specified in the MOA as specified therein; and

WHEREAS, the NHDOE and NHDES have agreed to amend the MOA in certain respects;

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

1. Change section 4 a. CRITERIA FOR USE OF FUNDS of the MOA to read:

   a. Schools shall be eligible for funding for lead remediation projects approved by NHDES since May 17, 2016, which is when NHDES issued a letter requesting schools to sample.

Effective Date of Amendment: This Amendment shall take effect upon approval by the Governor and Executive Council of the State of New Hampshire.

Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Robert R. Scott, Commissioner
NH Department of Environmental Services

5-15-19
Date

Frank Edelblut, Commissioner
NH Department of Education

4-26-19
Date

Assistant Attorney General
NH Department of Justice

5/17/19
Date

The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

January 3, 2019

APPROVED G & C
DATE 1/23/19
ITEM 76

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

REQUESTED ACTION

Authorize the Department of Environmental Services to enter into a Memorandum of Agreement (MOA) with the Department of Education (VC# 177900 B001), Concord, NH in the amount of $1,600,000 for lead removal in drinking water at NH's schools, effective upon Governor & Council approval, through December 31, 2020. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the account as follows:

	FY 2019
03-44-44-442010-3904-073-500580 Dept Environmental Services, Drinking Water and Groundwater Trust, Grants Non-Federal	$1,600,000

EXPLANATION

The Drinking Water and Ground Water Trust Fund was created in 2016, using $276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On August 30, 2018, the Advisory Commission voted to authorize grants and loans for nineteen drinking water improvement projects. The Department of Education's NH's K-12 Schools - Removal of Lead in Drinking Water project request for $1,600,000 was selected for grant funding from the Drinking Water and Groundwater Trust Fund. The District will use the grant funds to support the lead remediation efforts in NH schools by reimbursing public, public-charter, and non-public schools, K-12, for 50% of the lead remediation costs, where needed and as shown through testing.

This agreement has been approved by the Attorney General's Office as to form, substance and execution.

We respectfully request your approval.

Robert R. Scott
Commissioner

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MEMORANDUM OF AGREEMENT
BETWEEN
DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
DEPARTMENT OF EDUCATION

This Memorandum of Agreement (MOA) describes activities that have been agreed to between the New Hampshire Department of Environmental Services (NHDES) and the Department of Education (NHDOE) to utilize funding provided through the Drinking Water and Groundwater Trust Fund (DWGTF) funds received from NHDES for the purpose of providing grants to New Hampshire private and public K-12 schools to reduce and remove lead in their drinking water. This MOA will become effective upon approval by Governor and Executive Council. The project completion date is December 31, 2020.

NHDES issued recommendations for voluntary testing of lead in drinking water at all schools and daycares in Spring 2016, following increased awareness of lead toxicity to children from the water crisis in Flint, Michigan. On February 8, 2018, NH adopted Senate Bill 247 Preventing Childhood Lead Poisoning from Paint and Water. This law requires, among other actions, that all K-12 schools and licensed childcare facilities test lead in drinking water at all locations where water is available for consumption by children. The first round of testing is required to be completed by July 1, 2019, and every 5 years thereafter, until at least 3 consecutive rounds are below the standard.

Any locations showing 15 ppb (0.015 mg/L) or higher must be remediated. Remediation plans must be submitted and approved by NHDES and implemented within 30 days of the notification of test results to parents / guardians or as approved by the state. To support the lead remediation efforts in NH schools, a grant program totaling one million six hundred thousand dollars ($1,600,000) was applied for and awarded from the DWGTF to reimburse public, public-charter, and non-public schools, K-12, for 50% of the lead remediation costs, where needed and as shown through testing.

For the purposes of this MOA, NHDES and NHDOE agree as follows:

1. NHDES and NHDOE shall assign appropriate staff to oversee the implementation of this MOA.
2. NHDES and NHDOE shall individually and collaboratively seek and utilize opportunities to disseminate information about availability of funding under the grant program.
3. NHDES will transfer to NHDOE the total of $1,600,000 (the funds) to be administered by the DOE School Safety & Facility Management Bureau (SSFMB).

Initials: _____ Date 12-16-19
Initials: _____ Date 1/8/19

4. CRITERIA FOR USE OF FUNDS: The following process and criteria will be used by NHDOE to select projects to receive DWGTF lead remediation grant funding:

   a. Schools shall be eligible for funding for lead remediation projects approved by NHDES since February 8, 2018, which is when the law was signed.

   b. Eligible projects include permanent lead removal solutions including, but not limited to, the removal/replacement of faucets, fixtures, fountains, solder, piping, and plumbing components as long as there is justification that what is being replaced is contributing to the lead levels.

   c. Administrative costs shall be absorbed by NHDOE and shall not be charged against any of the transferred funds.

   d. The school shall submit a remediation plan for any drinking water locations showing the presence of lead for NHDES approval. Any locations with levels of 15 ppb or higher are required to be addressed, but funding assistance will be eligible for remediation of levels of 5 ppb and higher. The remediation plan must include a budget and a request for grant funds.

   e. Minimum grant amount that can be applied for is $250 (total remediation cost $500).

   f. NHDES will approve the remediation plan and grant amount. NHDES will notify the school and NHDOE of approval. NHDOE will seek approval from Governor and Council for a list of grant projects approved by NHDES. The list will include the SAU number, school name, amount of grant, and a short description of the project.

   g. After the work is completed the school will submit a signed request for reimbursement to NHDES along with all invoices, an acceptable post-remediation water sample, and an affidavit signed by all school board members attesting that the project is complete and the amount spent was in accordance with the approved remediation plan. If the request is complete NHDES will notify NHDOE to process payment.

   h. NHDOE will reimburse the school up to 50% of the total eligible costs approved by DES, but not to exceed 50% of the estimated costs identified in the NHDES approved remediation plan.

5. GRANT ROUNDS: NHDOE and NHDES will partner to solicit grant applications in order to expend the funds, and will continue to do so until the funds are expended or the expiration of this agreement. Grant applications can be submitted year round and funds will be awarded on a first come first served basis.

6. FUND TRANSFERS: Upon execution of this MOA, NHDES will make the funds designated for this program available to NHDOE as a reimbursement.
   a. NHDOE will seek Governor and Council approval to expend the funds for each grant award.
   b. NHDES will approve payment of the grant amount to the grantee after the remediation work has been completed and the post-sample result is satisfactory. Payment request must include a signed request for payment from authorizing agent, an affidavit signed by all school board members attesting that the project is complete and the amount spent was in accordance with the approved remediation plan. NHDOE will pay the amount approved by NHDES.
   c. NHDOE will submit invoices on a monthly basis to NHDES. This shall include:
      i. A cover letter requesting the payment of the funds with a current total being requested.
      ii. An invoice consisting of a balance sheet with a line item for each award and payment processed.
   d. NHDES will pay the NHDOE invoice from the obligated DWGTF funds.

7. AMENDMENT OR TERMINATION: This agreement may be amended by mutual consent of the Commissioners of NHDES and NHDOE, in writing, at any time. Either party may terminate this MOA upon providing written notice to the other, thirty (30) days prior to termination. Upon termination, NHDOE will be paid for any grants issued prior to termination.

8. DURATION: The project duration extends from the date of approval by Governor and Council through December 31, 2020 for program activities, invoicing and program year closeout, unless terminated by either party, or extended in writing by subsequent agreement of the parties and acceptance by Governor and Council.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.

12/6/18

Frank Edelblut, Commissioner
NH Department of Education

Date

1/9/19

Robert R. Scott, Commissioner
NH Department of Environmental Services

Date

OFFICE OF THE ATTORNEY GENERAL

By: _____
Assistant Attorney General

Date: January 9, 2019

I hereby certify that the foregoing agreement was approved by the Governor and Council of the State of New Hampshire at their meeting on _____, _____.

OFFICE OF THE SECRETARY OF STATE

By: _____

Title: _____