



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

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**Robert R. Scott, Commissioner** JUL 21 '21 AM 10:16 RCVD

July 19, 2021

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 award a grant to the Town of Londonderry, NH (VC# 177430-B002), Londonderry, NH in the amount of \$384,271 to purchase approximately 21.63 acres of land in the Town and place conservation deed restrictions on it to protect two drinking water supplies, effective upon Governor and Council approval through June 30, 2022. 100% Drinking Water/Groundwater Trust Fund.

Funding is available in the following account:

03-44-44-444010-7428-073-500580	<u>FY 2022</u>
Dept Environmental Services, DWGW Trust, Grants Non-Federal	\$384,271

**EXPLANATION**

The Drinking Water and Groundwater Trust Fund (DWGTF) was created in 2016, using \$276 million of MtBE trial judgment 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 (Advisory Commission) was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On November 9, 2020, the Advisory Commission voted to authorize grants for four drinking water source protection projects. Londonderry's request for \$384,271 was selected for grant funding from the DWGTF. Londonderry will use the grant funds to purchase and place conservation deed restrictions on approximately 21.63 acres of land, of which 87.1% (18.84 acres) is within the wellhead protection areas for two community water systems.

The total cost for Londonderry to acquire the land is \$1,112,368. The DWGTF will provide \$384,271, with \$728,097 in match provided by the Town of Londonderry. The grant award to purchase the land is based on a recent appraisal of fair market value.

Exhibit A describes the scope of the grant. Exhibit B provides the grant amount and payment terms and Exhibit C contains special provisions. Attachment A contains the deed with conservation restrictions. The Attorney General's office has approved the attached draft deed as to form and substance, and will approve the actual deed as to execution. Attachment B contains a map of the land, which shows the land's relationship to the water supply source being protected.

We respectfully request your approval.



Robert R. Scott  
Commissioner

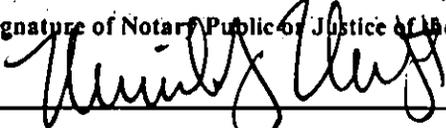
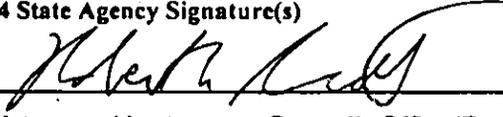
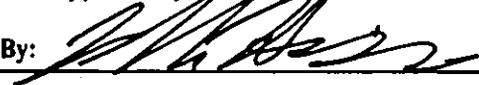
**Subject: Town of Londonderry – Moose Hill DWGTF project**

**GRANT AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATIONS**

<b>1.1 State Agency Name</b> NH Department of Environmental Services		<b>1.2 State Agency Address</b> 29 Hazen Drive, Concord, NH 03302-0095	
<b>1.3 Grantee Name:</b> Town of Londonderry		<b>1.4 Grantee Address</b> 268 B Mammoth Rd Londonderry, NH 03053	
<b>1.5 Effective Date</b> Upon G&C approval	<b>1.6 Completion Date</b> 06/30/2022	<b>1.7 Audit Date</b> N/A	<b>1.8 Grant Limitation</b> \$384,271.00
<b>1.9 Grant Officer for State Agency</b> Sandra Crystall		<b>1.10 State Agency Telephone Number</b> (603) 271- 2862	
<b>1.11 Grantee Signature</b> 		<b>1.12 Name &amp; Title of Grantee Signor</b> Kevin Smith, Town Manager	
<b>1.13 Acknowledgment:</b> State of <u>New Hampshire</u> , County of <u>Rockingham</u> On <u>05/03/2021</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
<b>1.13.1 Signature of Notary Public or Justice of the Peace</b> (Seal) 		<b>MICHAEL J. MALAGUTI</b> STATE OF NEW HAMPSHIRE - NOTARY PUBLIC MY COMMISSION EXPIRES: AUGUST 2, 2023	
<b>1.13.2 Name &amp; Title of Notary Public or Justice of the Peace</b> Michael J. Malaguti, Notary Public			
<b>1.14 State Agency Signature(s)</b> 		<b>1.15 Name/Title of State Agency Signor(s)</b> Robert R. Scott, Commissioner	
<b>1.16 Approval by Attorney General's Office (Form, Substance and Execution)</b> By:  Attorney, On: <u>7/20/2021</u>			
<b>1.17 Approval by the Governor and Council</b> 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 5.3 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 of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

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

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

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted

against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

## 17. INSURANCE AND BOND

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

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

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

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

18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. AMENDMENT. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

## 21. CONSTRUCTION OF AGREEMENT AND TERMS

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

22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

EXHIBIT A

SCOPE OF SERVICES

Town of Londonderry

The Town of Londonderry will use the grant to purchase a parcel and place conservation restrictions on it in a warranty deed for approximately 21.63 acres of land in Londonderry; Approx 18.84 acres (87.1%) are in the wellhead protection areas of two water supplies serving two residential communities. The parcel of land, part of the parcel designated on current tax map as Map 9 /Lot 49, will be protected in perpetuity, as specified in the warranty deed with conservation restrictions (see Attachment A).

EXHIBIT B

GRANT AMOUNT & PAYMENT SCHEDULE

Payment in the amount of \$384,271.00 shall be made to the Town of Londonderry upon receipt of the following:

1. Survey of the parcel of land.
2. A copy of the appraisal as specified in Env-Dw 1002.22.
3. Title examination as specified in Env-Dw 1002.23.
4. Acceptable stewardship plan for the property that ensures the permanent protection of the water supply.
5. Completed baseline documentation report, which indicates the current condition of the property.
6. Documentation to support the match of \$498,097 provided by the Town of Londonderry.
7. The finalized warranty deed with conservation restrictions.

Grantee Initials

Date

*[Handwritten initials]*

**MAY 03 2021**

EXHIBIT C

SPECIAL PROVISIONS

1. Subparagraph 1.7 of the General Provisions shall not apply to this Grant Agreement.
2. Section 17.1.2. is amended so that the required comprehensive general liability insurance per occurrence is \$1,000,000 for bodily injury or death in any one incident as no construction or other similar activities will be performed by the grantee. Any subcontractor will remain obligated to carry comprehensive general liability insurance in amounts not less than \$250,000 per claim and \$2,000,000 per occurrence.

Grantee Initials



Date MAY 03 2021

## CERTIFICATE OF VOTE

I, Sherry Farrell, do hereby certify that I am the Town Clerk of the Town of Londonderry, a municipality in the State of New Hampshire, County of Rockingham, in the United States of America.

I do further certify that the Londonderry Town Council voted to enter into a grant agreement with the NH Department of Environmental Services, and Kevin Smith is the Town Manager of the municipality and is duly authorized by the Town Council and laws of the State of New Hampshire to execute and deliver on behalf of the municipality any documents which may be necessary for this grant agreement with the State of New Hampshire for the purpose of purchasing and placing deed restrictions on the Moose Hill parcel to protect two drinking water sources for local residents.

This authority was given during an official meeting of the Londonderry Town Council on 5/3, 2021.

I further certify that such authority has not been repealed, rescinded, or amended.

In witness where, I have hereunto set my hand and attached the seal of the Town of Londonderry on this 3<sup>rd</sup> day of May, 2021.

Town Of Londonderry

By: Sherry Farrell  
Sherry Farrell, Town Clerk

State of New Hampshire  
County of Rockingham

Dated this 3<sup>rd</sup> day of May, 2021 personally appeared Sherry Farrell, Town Clerk who subscribed and sworn to the above statement.

Michael J. Malabuti

Name

~~Justice of the Peace~~ Notary Public

My Commission Expires \_\_\_\_\_



MICHAEL J. MALABUTI  
STATE OF NEW HAMPSHIRE - NOTARY PUBLIC  
MY COMMISSION EXPIRES: AUGUST 2, 2022



## CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex<sup>3</sup>) 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, Primex<sup>3</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>3</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>3</sup> 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 Primex<sup>3</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>3</sup> 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 Primex<sup>3</sup>. 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.

<b>Participating Member:</b> Town of Londonderry 268B Mammoth Road Londonderry, NH 03053	<b>Member Number:</b> 224	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> 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	
<input checked="" type="checkbox"/> <b>General Liability (Occurrence Form)</b> <input type="checkbox"/> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2021	7/1/2022	Each Occurrence	\$ 1,000,000
			General Aggregate	\$ 2,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> <b>Automobile Liability</b> Deductible    Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
<input type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>			Statutory	
			Each Accident	
			Disease - Each Employee	
			Disease - Policy Limit	
<input type="checkbox"/> <b>Property (Special Risk includes Fire and Theft)</b>			Blanket Limit, Replacement Cost (unless otherwise stated)	

**Description:** Grant. The certificate holder is named as Additional Covered Party, but only to the extent liability is based solely on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. Pollution and hazardous waste related liabilities, expenses and claims are excluded from coverage in the coverage document.

<b>CERTIFICATE HOLDER:</b>	<input checked="" type="checkbox"/>	Additional Covered Party		Loss Payee	Primex <sup>3</sup> - NH Public Risk Management Exchange
State of NH Department of Environmental Services PO Box 95 29 Hazen Dr Concord, NH 03302 -0095					<b>By:</b> <i>Mary Beth Purcell</i>
					<b>Date:</b> 6/28/2021    mpurcell@nhprimex.org
					Please direct Inquires to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3833 fax



## CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex<sup>3</sup>) 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, Primex<sup>3</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>3</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>3</sup> 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 Primex<sup>3</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>3</sup> 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 Primex<sup>3</sup>. 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.

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<b>Participating Member:</b> Town of Londonderry 268B Mammoth Road Londonderry, NH 03053	<b>Member Number:</b> 224	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> 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 type="checkbox"/> <b>General Liability (Occurrence Form)</b> <input type="checkbox"/> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence	
			General Aggregate	
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> <b>Automobile Liability</b> Deductible    Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>	7/1/2021	7/1/2022	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease - Each Employee	\$2,000,000
			Disease - Policy Limit	
<input type="checkbox"/> <b>Property (Special Risk Includes Fire and Theft)</b>			Blanket Limit, Replacement Cost (unless otherwise stated)	

**Description:** Proof of Primex Member coverage only.

<b>CERTIFICATE HOLDER:</b>	<b>Additional Covered Party</b>	<b>Loss Payee</b>	<b>Primex<sup>3</sup> - NH Public Risk Management Exchange</b>
Department of Environmental Services PO Box 95 29 Hazen Dr Concord, NH 03302-0095			<b>By:</b> <i>Mary Beth Purcell</i>  <b>Date:</b> 6/28/2021 mpurcell@nhprimex.org  Please direct inquires to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3833 fax

**Attachment A – Deed with Conservation Restrictions**

Grantor: Moose Hill Orchards, Inc.  
230 Mammoth Road, Londonderry, NH 03053

Grantee: Town of Londonderry  
268B Mammoth Road, Londonderry, NH 03053

3<sup>rd</sup> Party Enforcement Right: State of New Hampshire  
29 Hazen Drive, Concord, NH 03302

**WARRANTY DEED  
AND GRANT OF THIRD-PARTY ENFORCEMENT RIGHT**

Moose Hill Orchards, Inc. ("Grantor"), a New Hampshire corporation having a mailing address of 230 Mammoth Road, Londonderry, New Hampshire 03053, grants to the Town of Londonderry ("Grantee"), a New Hampshire municipal corporation, having a mailing address of 268B Mammoth Road, Londonderry, New Hampshire 03053, with WARRANTY COVENANTS, the following described realty:

**Property Location: 114 Pillsbury Road, Londonderry, New Hampshire**

A certain parcel of land shown as "Remainder Lot Tax Map 9 Lot 49" on a Subdivision Plan of Land entitled "Mammoth & Pillsbury Roads, Londonderry, NH" prepared by Eric C. Mitchell & Assoc. Inc., dated March 5, 2021, approved by the Londonderry, NH Planning Board on \_\_\_\_\_, and recorded as Plan No. \_\_\_\_\_ on \_\_\_\_\_ in the Rockingham County Registry of Deeds, said land being bounded and described as follows:

Beginning at an iron rod set at land to be conveyed to the Town of Londonderry at the northwest corner of the parcel conveyed herein at other land of the Town of Londonderry;

Thence North 36° 20' 28" East a distance of 68.96 feet to a drill hole found;

Thence North 31° 01' 11" East a distance of 115.80 feet along said stone wall to a drill hole found;

Thence North 33° 32' 47" East a distance of 91.84 feet to an iron rod found;

Thence North 33° 36' 43" East a distance of 187.43 feet to a drill hole set;

Thence North 33° 00' 17" East a distance of 42.97 feet to a drill hole set;

Thence North 34° 19' 49" East a distance of 32 feet to an iron rod set at land now or formerly of the USA Federal Aviation Administration;

Thence turning and running South 52° 30' 52" East a distance of 164.80 feet to a drill hole set;

Thence South 51° 33' 54" East a distance of 165.57 feet to a drill hole set;

Thence South 51° 50' 16" East a distance of 180.07 feet to a drill hole set;

Thence South 53° 32' 27" East a distance of 257.48 feet to an iron rod found;

Thence South 56° 32' 07" East a distance of 525.48 feet to a concrete bound found at land now or formerly of Terri G. Duffy;

Thence turning and running South 35° 02' 23" West a distance of 70.93 feet to an iron rod found at land now or formerly of the Gerniglia Family Revocable Trust;

Thence South 34° 04' 12" West a distance of 180.77 feet to a drill hole set;

Thence South 40° 50' 00" West a distance of 43.53 feet to a drill hole set;

Thence South 36° 22' 49" West a distance of 167.86 feet to an iron rod found on the northerly side of Pillsbury Road;

Thence turning and running South 81° 20' 50" West a distance of 200.75 feet to a granite bound set;

Thence South 78° 53' 16" West a distance of 220.74 feet to a granite bound set;

Thence South 83° 05' 29" West a distance of 350.69 feet to a granite bound set at land to be conveyed to the Town of Londonderry;

Thence turning and running North 06° 54' 31" West a distance of 100.00 feet to an iron rod set;

Thence North 23° 08' 42" West a distance of 760.09 feet to the point of beginning.

Containing 21.63 acres, more or less.

MEANING AND INTENDING to describe and convey a portion of the premises conveyed to the Grantor by warranty deed of Wallace P. Mack, dated December 17, 1962 and recorded at Book 1658, Page 030 in the Rockingham County Registry of Deeds (the "Property").

SUBJECT TO the management and control of the Londonderry Conservation Commission under RSA 36-A:4, I. Without limitation to other restrictions it may impose, and without limitation to the specific deed restrictions set forth below, the Grantee shall manage and control the Property for conservation, recreational, forestry, and/or agricultural purposes, as it from time to time determines to be appropriate, consistent with the terms of this Warranty Deed, and to: (1) uphold the conservation purposes of RSA 485-F in perpetuity; (2) protect the quality and sustainable yield of ground and surface water resources associated with the Property; and (3) safeguard the environmental values of the Property that are dependent on water quality and quantity (collectively the "Specified Purposes").

SUBJECT TO, AND WITH THE BENEFIT OF, as the case may be, all easements, restrictions, encumbrances, and other matters of record insofar as the same are applicable to the Property conveyed herein.

ALSO CONVEYING AND GRANTING a Third Party Right of Enforcement to enforce certain conditions and restrictions (collectively the "Deed Restrictions") to the STATE OF NEW HAMPSHIRE acting through its DEPARTMENT OF ENVIRONMENTAL SERVICES, an administrative agency duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 29 Hazen Drive, City of Concord, County of Merrimack, State of New Hampshire, 03302, (sometimes referred to as "NHDES" or the "Third Party Holder," which, unless the context clearly indicates otherwise, includes its successors and assigns), which Deed Restrictions are more particularly described below. Upon failure to enforce the conditions and restrictions of this Warranty Deed, the State of New Hampshire shall have the right to enforce the same, and to recover the costs of such enforcement from the Grantee.

The Deed Restrictions granted to NHDES herein with respect to the Property consist of the right to enforce the following use limitations:

- (1) No industrial or commercial activities or improvements shall occur on the Property except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities allowed by this instrument;
- (2) No land surface alterations shall occur on the Property, such as filling, excavation, mining, and dredging, except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that are allowed by the instrument, and only to the extent that they do not degrade or threaten to degrade the quality and sustainable yield of ground and surface water resources associated with the Property;
- (3) No wastes generated off the Property shall be disposed of, stored, or discharged on the Property;

(4) No substances that would be hazardous waste if discarded or abandoned shall be disposed of on the Property, and no such substances shall be stored or applied on the Property except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that are allowed by the instrument, and provided that the storage and use do not threaten water supply protection and are specifically allowed by the instrument, subject to such conditions as are specified in the instrument;

(5) No motorized vehicles shall be allowed for recreational purposes, provided that snowmobiles as defined in RSA 215-A:1, XIII may be allowed if they are operated:

- a. Only on snow and ice outside the sanitary protective area of public water supply well(s);
- b. More than 250 feet from a surface water body being used as a public water supply;
- c. More than 100 feet from tributaries contributing to such water bodies; except when crossing such tributaries;
- d. Only on designated snowmobile trails depicted on a plan approved by the department in accordance with N.H. Admin. R. Env-Dw 1002.25; and
- e. The use of such vehicles is not otherwise prohibited on the Property by the Grantee or by other law.

(6) No acts or uses shall occur on the Property that would:

- a. Degrade the water quality such that the standards set for public drinking water by NHDES would be threatened;
- b. Cause an unsustainable quantity of water to be withdrawn; or
- c. Harm state or federally recognized rare, threatened or endangered species; and

As used in this Warranty Deed, "allowed by this instrument" means: (1) the use or activity is not detrimental to the Specified Purposes; (2) is not prohibited by state or federal law, or town restriction or ordinance; and (3) is determined to be appropriate by the Londonderry Conservation Commission in the exercise of its authority and responsibility under RSA 36-A:4, I.

The burden of the Deed Restrictions conveyed herein shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity.

A Stewardship Plan (the "Plan") complying with N.H. Admin. R. Env-Dw 1002.24 shall be prepared by the Grantee, which may be amended from time to time, and which shall be provided to NHDES at its request. Allowable activities shall be conducted in accordance with: (1) the terms and conditions of this Warranty Deed; (2) best management practices; and (3) the Plan.

This is not homestead property. Exempt from transfer tax under RSA 78-B:2, I. Exempt from LCHIP surcharge under RSA 478:17-g, II(a).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

[signatures follow]

**MOOSE HILL ORCHARDS, INC.**

\_\_\_\_\_  
By Andrew C. Mack  
Its duly authorized \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me personally appeared Andrew C. Mack, \_\_\_\_\_ of Moose Hill Orchards, Inc., duly authorized, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

\_\_\_\_\_  
Notarial official  
My commission expires: \_\_\_\_\_

**ACCEPTED THIRD PARTY ENFORCEMENT RIGHT:  
STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES:**

\_\_\_\_\_  
\_\_\_\_\_, Commissioner  
New Hampshire Department of Environmental Services

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me personally appeared \_\_\_\_\_, the Commissioner of the New Hampshire Department of Environmental Services, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his free act and deed for the purposes therein contained.

\_\_\_\_\_  
Notarial official  
My commission expires: \_\_\_\_\_

**Attachment B - Map**

# Moose Hill - Londonderry WHPAs

-  Proposed Area
-  Conservation Lands
-  Wellhead Protection Areas
-  Hydrologic Areas of Concern
-  Public Water Supply Wells
-  Hydrography
-  Town Boundaries
-  Roads

Total Acres = 21.63.  
Eligible Acres = 18.84

The coverages presented are under constant revision as new sites or facilities are added. They may not contain all of the potential or existing sites or facilities. NHDES is not responsible for the use or interpretation of this information. Not intended for legal purposes.

5/11/21

0 415 830 1,660 Feet

