The State of New Hampshire
**Department of Environmental Services**

**Robert R. Scott, Commissioner**

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August 2, 2021

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

REQUESTED ACTION

Authorize the Department of Environmental Services (NHDES) to enter into a contract with The Nature Conservancy (Vendor Code #177785-B002), Concord, NH, in the amount of $49,400 to develop a restoration plan for the Philbrick Pond Salt Marsh, effective upon Governor and Council approval through December 31, 2022. 100% Federal Funds.

Funding is available in the account as follows.

| | FY 2022 |
|---|---|
| 03-44-44-442010-3642-102-500731 | $49,400 |

Dept. Environmental Services, Coastal Zone Management, Contracts For Program Services

EXPLANATION

The New Hampshire Coastal Program (NHCP) issued a Request for Proposals (RFP) on May 20, 2020 for projects that improve resilience to coastal hazards in New Hampshire communities. Projects eligible to receive funding from NHCP's competitive Coastal Resilience Grant funding opportunity included projects that build capacity with decisionmakers; assess vulnerability, risk, and/or resilience; engage in proactive planning; or accomplish project site selection and design. Ten eligible proposals were received and ranked according to selection criteria and selection committee discussion. Three proposals were selected to receive funding, including the proposal submitted by The Nature Conservancy (TNC) to increase the resilience of the Philbrick Pond Salt Marsh, located in North Hampton. A scoring matrix that includes a list of the staff who participated in proposal review, along with their titles and level of experience is provided in Attachment B.

This project will build community support and momentum toward a resilient Philbrick Pond salt marsh system by developing a comprehensive and ready to implement restoration plan that considers all aspects of ecosystem and community resilience. The restoration plan will model salt marsh restoration practices that will be transferable and scalable to other historically impacted or degraded salt marsh systems for broader coastal resilience in New Hampshire.

Total project costs are budgeted at $61,750. NHDES will provide $49,400 (80%) of the project costs through this federal grant. TNC will provide $12,350 in matching funds. In the event that federal funds

become no longer available, General funds will not be requested to support the project. A budget breakdown is provided in Attachment A.

The agreement has been approved as to form, substance, and execution by the Office of the Attorney General.

We respectfully request your approval.

Robert R. Scott, Commissioner

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

## AGREEMENT

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

## GENERAL PROVISIONS

**1. IDENTIFICATION.**

| | | | |
|---|---|---|---|
| 1.1 State Agency Name<br>New Hampshire Department of Environmental Services | | 1.2 State Agency Address<br>29 Hazen Drive, Concord, NH 03302-0095 | |
| 1.3 Contractor Name<br>The Nature Conservancy | | 1.4 Contractor Address<br>22 Bridge Street, 4th Floor<br>Concord, NH 03301 | |
| 1.5 Contractor Phone Number<br>603-224-5853 | 1.6 Account Number<br>03-44-44-442010-3642-102-500731 | 1.7 Completion Date<br>December 31, 2022 | 1.8 Price Limitation<br>$49,400 |
| 1.9 Contracting Officer for State Agency<br>Kevin Lucey, Coastal Program | | 1.10 State Agency Telephone Number<br>603-559-0026 | |
| 1.11 Contractor Signature<br>Date: 05-14-21 | | 1.12 Name and Title of Contractor Signatory<br>Mark Zankel, State Director | |
| 1.13 State Agency Signature<br>Date: 8/2/21 | | 1.14 Name and Title of State Agency Signatory<br>Robert R. Scott, Commissioner, NHDES | |
| 1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*<br>By: | | Director, On: | |
| 1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*<br>By: | | On: 8/3/2021 | |
| 1.17 Approval by the Governor and Executive Council *(if applicable)*<br>G&C Item number: | | G&C Meeting Date: | |



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**2. SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision 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 Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.



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**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor 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 cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor 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 contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. 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 of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default 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 Event of Default on the part of the Contractor.

**9. TERMINATION.**

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

**10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

10.1 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 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.

10.2 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.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

**13. INDEMNIFICATION.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against



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the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. 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 in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. 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 given in blocks 1.2 and 1.4, herein.

**17. 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 Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

**18. CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

**19. CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

**20. 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.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. 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 with respect to the subject matter hereof.



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**Exhibit A**
**Special Provisions**

Federal Funds paid under this agreement are from a Contract Agreement to the State from the US Department of Commerce (DOC), National Oceanic and Atmospheric Administration under CFDA # 11.419. All applicable requirements, regulations, provisions, terms and conditions of this Federal Contract Agreement are hereby adopted in full force and effect to the relationship between this Department and the Contractor.

In addition to the General Provisions of Paragraph 1 through 24, the following provisions as required by federal regulations apply to this Agreement:

I) ***Nondiscrimination.*** The Contractor shall comply with 15 CFR part 8 which prohibits discrimination under any program or activity receiving DOC assistance on the basis of race, color, national origin, gender or handicap, and 15 CFR part 20 which prohibits discrimination based on age.

II) ***Financial management.*** *The Contractor 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 Contractor shall conform to the same laws, regulations, and Contract conditions as the federal funds in the Agreement and referenced in *2 CFR part 200 Subpart E.*

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

VI) ***Debarrment and Suspension.*** The Contractor shall comply with 2 CFR Part 200 Subpart C. By signing and submitting the Agreement, the Contractor certifies that they have not been debarred or suspended by a government agency. The Contractor will not make any award or permit any award (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 contract or match funds, the Contractor shall comply with procurement regulations as detailed in 2 CFR Part 200 Subpart D which include procurement standards, competition, methods of procurement, contract cost and price, agency review, bonding requirements, and contract provisions.

**a.** Assignment of Subcontracts. The Contractor shall not assign, or otherwise transfer any interest in this contract without the prior written consent of the Contract Owner and the State.



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**b.** Subcontracts. The Contractor 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 any 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 Contractor shall comply with the terms of 2 CFR Part 200 Subpart D, 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 Contractor shall comply with the terms of 15 CFR part 28 and 2 CFR Part 200 Subpart E which prohibit the use of federal Contract funds to influence (or attempt to influence) a federal employee, and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if *non*federal funds have been used to influence (or attempt to influence) a federal employee.

X) ***Drug-Free Workplace.*** The Contractor shall comply with the terms of 2 CFR part 1329 which require that as a condition of the Agreement, certification that they maintain a drug-free workplace. By signing and submitting the Agreement, the Contractor e certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.

XI) ***Bonding requirements.*** The Contractor shall comply with 2 CFR Part 200 Subpart D 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) ***Federal Funding Accountability and Transparency Act (FFATA).*** The Contractor shall comply with the terms of the 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 DUNS number is 072656630.



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**Exhibit B**
**Scope of Services**

The Nature Conservancy (TNC) will perform the following tasks, as outlined in their Coastal Resilience Grant proposal, entitled "Salt Marsh Restoration, Planning, and Capacity Building: Developing a Model Restoration Plan at Philbrick Pond for Enhancing and Scaling Salt Marsh Resilience in New Hampshire," which is incorporated by reference:

**Task 1:** Project start-up and collaboration. Partner coordination, contracting with contractors, assemble baseline data, establish lines of communication, file sharing and project data management.

**Task 2:** Establish restoration objectives, develop draft restoration plan.

**Task 3:** Conduct initial stakeholder outreach and engagement meetings with landowners key to advancing the demonstration phase of salt marsh restoration. Present the draft restoration plan at a public meeting (Select Board or Conservation Commission) to share the restoration proposal and solicit public input.

**Task 4:** Finalize restoration plan, including phasing of implementation, incorporation of a detailed monitoring protocol to measure effectiveness toward restoration objectives, and adaptive management processes.

**Task 5:** Present the final restoration plan to the Town and the community at a public meeting, including proposed next steps toward implementation. As conditions permit, lead an in-person or virtual tour to further explain proposed restoration activities to stakeholders.

**Task 6:** Prepare draft wetlands permit application to the NHDES Wetlands Bureau, including pre-application coordination.

**Task 7:** Prepare semi-annual progress reports and final report.

a. The first progress report shall summarize project activities during the period from July 1, 2021 through December 31, 2021. Progress Report #1 is due January 17, 2022.

b. The second progress report shall summarize activities during the period from January 1, 2022 – June 30, 2022. Progress Report #2 is due July 16, 2022.

c. The final report shall summarize all of the work enabled by this agreement. The final progress report is due by December 31, 2022.



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**Funding credit and ADA Compliance:** All final work products and outreach materials shall include the NOAA, NHDES and NHCP logos and shall state that "This project was funded, in part, by NOAA's Office for Coastal Management under the Coastal Zone Management Act in conjunction with the New Hampshire Department of Environmental Services Coastal Program." All final work products must meet the applicable Americans with Disabilities Act (ADA) Title II Regulations to the extent practicable and shall be guided by best practices outlined in the Revised Section 508 Standards of the Rehabilitation Act and the Web Content Accessibility Guidelines (WCAG). At minimum, final work products shall include sans-serif fonts, underlined and descriptive text links, color best practices, captions for audio and video content, headers in tables, images with alt text, gender-neutral text, and consideration of the Plain Writing Act. Examples of final work products and outreach materials include, but are not limited to, project reports, press releases, newsletter articles, websites, videos and signage.



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**Exhibit C**
**Method of Payment and Contract Price**

The State shall pay to the Contractor the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made by the Contractor using a payment request form as supplied by the State, which shall be completed and signed by the Contractor. The payment request form shall be accompanied by proper supporting documentation in the amount of each requested disbursement and required matching funds. Documentation of reimbursable and matching costs may include invoices for supplies, equipment, services, contractual services, and a report of personnel, travel and indirect costs. For projects that demonstrate progress solely through the submission of interim progress reports, payments shall be made upon receipt, review and approval of the interim progress report and accompanying payment request form. Payments shall be made to the Contractor no more frequently than monthly.

The total reimbursement shall not exceed the grant award of $49,400. Matching funds provided by the Contractor shall total at least $12,350 of non-federal cash and in-kind services.



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## CERTIFICATE of AUTHORITY

I, Hans P, Birle, Assistant Secretary of The Nature Conservancy ("TNC"), do hereby certify that:

1. I am the duly elected Assistant Secretary of TNC;

2. I further certify that at a meeting held on June 24, 2016, TNC's Board of Directors voted to delegate to the President and CEO the authority to acquire and/or transfer any real estate in any transaction provided that the purchase price does not exceed twenty-five million dollars ($25,000,000) and to execute and deliver documents including, but not limited to, deeds, conservation easements, contracts, agreements, leases, licenses, assignments, options, mortgages, deeds of trust, notes, loan agreements, and affidavits and to enter into any non-real estate contract or other agreement or transactions provided that the contract does not exceed twenty-five million dollars ($25,000,000).

3. I further certify that the delegation also included the authority to delegate to any person the ministerial duties of implementing any action taken pursuant to this delegation, including the execution, delivery, or acceptance of legal documents.

4. I further certify that Terry Sullivan, Division Director, was delegated real estate and non-real estate authority and the authority to further delegate such authority.

5. I further certify that on May 18, 2018, Terry Sullivan delegated to Mark Zankel the authority to approve real estate and non-real estate contracts that do not exceed one million dollars ($1,000,000)

6. I further certify Mark Zankel has been appointed and now occupies the office of the New Hampshire State Director of The Nature Conservancy and that he is authorized to accept the New Hampshire Department of Environmental Services funds and to enter into a contract with the New Hampshire Department of Environmental Services;

7. I further certify that Mark Zankel, in his capacity as New Hampshire State Director of The Nature Conservancy, is authorized to execute any documents which may be necessary for this contract;

8. This authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and

IN WITNESS WHEREOF, I have hereunto set my hand as Assistant Secretary of The Nature Conservancy on the 25th day of May, 2021.

Name: Hans P, Birle
Title: Assistant Secretary

**STATE OF Rhode Island**
**COUNTY OF**

On this 25 day of May 2021, before me, the undersigned notary public, personally appeared Hans P Birle, Assistant Secretary of The Nature Conservancy (a corporation), to me personally known or otherwise proved to me through satisfactory evidence of identification to be the person whose name is signed on the preceding document, and acknowledged to me that he signed such document voluntarily for its stated purpose.

Notary Public
Signature:
Notary Public Print Name:

My Commission Expires:

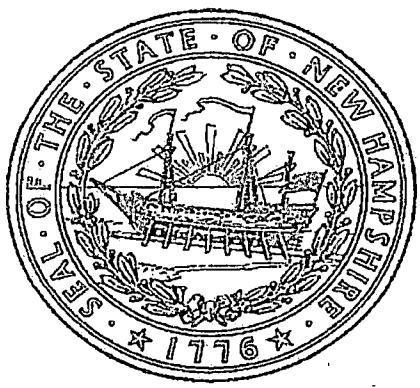
BRIANNA TRAVASSOS #764026
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES
04/18/2023

# State of New Hampshire
# Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that THE NATURE CONSERVANCY is a District Of Columbia Nonprofit Corporation registered to transact business in New Hampshire on January 09, 1984. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **75056**
Certificate Number : **0005366350**




IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this **12th** day of **May** A.D. **2021.**

William M. Gardner
Secretary of State

NATUCON-10 LVIDAL

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861
Chantilly-Alliant Ins Svc Inc.
4530 Walney Rd Ste 200
Chantilly, VA 20151-2285

CONTACT NAME: Kelly Mitchum
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS: KMitchum@alliant.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Great Northern Insurance Company | 20303 |
| INSURER B : Federal Insurance Company | 20281 |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
The Nature Conservancy
Attn: John Dwelley
4245 North Fairfax Dr - #100
Arlington, VA 22203-1606

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | 35353977 | 7/1/2021 | 7/1/2022 | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ Included |
| | OTHER: | | | | | | | $ |
| B | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | X ANY AUTO | | | 73246135 | 7/1/2021 | 7/1/2022 | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| A | X UMBRELLA LIAB / X OCCUR | | | 79729278 | 7/1/2021 | 7/1/2022 | EACH OCCURRENCE | $ 5,000,000 |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ 5,000,000 |
| | DED / RETENTION $ | | | | | | | $ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N | N / A | | | | | E.L. EACH ACCIDENT | $ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
NHDES Coastal Program Coastal Resilience Grant Through 12/31/2022
Issued 05/07/2021

CERTIFICATE HOLDER

New Hampshire Department of Environmental Services
PO Box 95
Concord, NH 03302-0095

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/2/2021

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IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh & McLennan Agency LLC
5500 Cherokee Avenue, Suite 300
Alexandria VA 22312

CONTACT NAME:
PHONE (A/C, No, Ext): 800-274-0268 FAX (A/C, No):
E-MAIL ADDRESS: certificates@MarshMMA.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : AIU Insurance Company | 19399 |
| INSURER B : | |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED NATURCONSE1
The Nature Conservancy
4245 Fairfax Drive
Suite 100
Arlington VA 22203

**COVERAGES** **CERTIFICATE NUMBER:** 437949399 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE / OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY / PRO-JECT / LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER: | | | | | | | $ |
| | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | Y | WC13759680 | 7/1/2021 | 7/1/2022 | X PER STATUTE / OTH-ER | |
| | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N | N/A | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
A waiver of subrogation applies when required by a written contract with the Named Insured.
Re: NHDES Coastal Program Coastal Resilience Grant through 12/31/2022

**CERTIFICATE HOLDER**

NH Department of Environmental Services
PO Box 95
Concord NH 03302-0095

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Attachment A**
**Budget Estimate**

| Item | Federal (Coastal Program) | Match | Total |
|---|---|---|---|
| | | | |
| Personnel | $9,231 | $0 | $9,231 |
| Fringe | $3,969 | $0 | $3,969 |
| Equipment | $0 | $0 | $0 |
| Travel | $200 | $ | $200 |
| Supplies | $100 | $0 | $100 |
| Sub-Contractual | $26,000 | $10,000 | $36,000 |
| Construction | $0.00 | $0.00 | $0 |
| Other | $500 | $0 | $500 |
| Indirect | $9,400 | $2,350 | $11,750 |
| | | | |
| **Totals** | **$49,400** | **$12,350** | **$61,750** |

## Attachment B

## Grant Scoring Matrix

| | Town of Durham | UNH GRANIT | Town of Seabrook | The Nature Conservancy | Rockingham Planning Commission | City of Dover | UNH Sea Grant | Strafford RPC | Hampton Beach Area Commission | City of Portsmouth |
|---|---|---|---|---|---|---|---|---|---|---|
| Reviewer "A" | 78 | 74 | 76 | 99 | 91 | 84 | 79 | 95 | 43 | 79 |
| Reviewer "B" | 61 | 67 | 61 | 85 | 79 | 70 | 66 | 87 | 41 | 64 |
| Reviewer "C" | 75 | 58 | 69 | 82 | 87 | 78 | 67 | 80 | 49 | 70 |
| Reviewer "D" | 84 | 74 | 63 | 95 | 97 | 84 | 81 | 92 | 79 | 77 |
| Reviewer "E" | 79 | 86 | 83 | 97 | 86 | 70 | 86 | 89 | 45 | 80 |
| Reviewer "F" | 71 | 70 | 66 | 89 | 74 | 73 | 79 | 82 | 48 | 55 |
| **AVERAGE** | 75 | 72 | 70 | 91 | 86 | 77 | 76 | 88 | 51 | 71 |
| **RANK** | **6** | **7** | **9** | **1** | **3** | **4** | **5** | **2** | **10** | **8** |

**Review Team Members:**

- Steve Couture, Coastal Program Administrator, 21 years of experience in environmental planning and grants management
- Chris Williams, Federal Consistency Coordinator, 21 years of regulatory and coastal management experience
- Kevin Lucey, Habitat Coordinator, 18 years experience with environmental assessment, project management, and watershed restoration
- Kirsten Howard, Coastal Resilience Coordinator, 11 years coastal policy and resilient project management experience
- Nathalie Morison, Coastal Resilience Specialist, 10 years coastal policy and management and resiliency experience
- Ben Sweeney, NOAA Coastal Management Fellow, 4 years coastal resilience research and project management experience