



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

Robert R. Scott, Commissioner

June 8, 2023

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

**REQUESTED ACTION**

Authorize the Department of Environmental Services (NHDES) to amend a **Sole Source** contract (PO#1090200) with the Loon Preservation Committee (LPC), Moultonborough, NH (VC#157114-B001) by extending the end date to December 31, 2023 from June 30, 2023 to allow additional time for the completion of loon egg laboratory analysis work tasks. The original agreement was approved by Governor & Council on December 21, 2022, Item #96. This is a no cost time extension. 100% Emerging Contaminants Funds.

**EXPLANATION**

This time extension is needed as the project has taken longer than anticipated due to a delay with the analysis of a subset of non-viable loon eggs harvested from failed nests throughout the state. The analytical laboratory that LPC utilizes for the analysis of this media is in high demand which has created a backlog. The purpose of this contract is to conduct a study to assess the impact of per- and polyfluoroalkyl substances (PFAS) on loons in NH which involves analyzing tissue from 145 non-viable loon eggs representing 82 loon territories on 64 lakes for a suite of PFAS compounds with the objective of understanding where significant bioaccumulation of PFAS is occurring in fish and other aquatic organisms. This award is **Sole Source** because LPC is uniquely qualified to conduct this study due to their extensive experience researching the NH loon population and already having an archive of non-viable loon eggs harvested from failed nests throughout the state. In addition, a preliminary study by LPC of a smaller subset of eggs found elevated PFAS concentrations that require this follow-up investigation to verify the initial results and include additional data on other regions of the state. To date, none of the \$106,746.00 budget has been spent.

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

We respectfully request your approval.

  
\_\_\_\_\_  
Robert R. Scott  
Commissioner

**AMENDMENT #1  
TO  
GRANT AGREEMENT  
BETWEEN  
STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
AND  
LOON PRESERVATION COMMITTEE**

**Testing Common Loon Eggs from New Hampshire for Per- and Polyfluoroalkyl Substances**

WHEREAS the Department of Environmental Services (DES) has entered into an agreement with Loon Preservation Committee (LPC) in the amount of \$106,746 for sample selection, shipping, and laboratory analysis of loon eggs, effective December 21, 2022 through June 30, 2023.

WHEREAS DES wishes to extend the agreement completion date from June 30, 2023 to December 31, 2023.

NOW THEREFORE, amend the original agreement between DES and LPC as approved by Governor and Council on December 21, 2022, as Item #96 in the following manner:

1. The completion date set forth in Exhibit B, Section B of the Agreement shall be changed from June 30, 2023 to December 31, 2023.
2. The deliverables schedule in Exhibit B, Section E of the Agreement shall be updated with the new timeline indicated below.

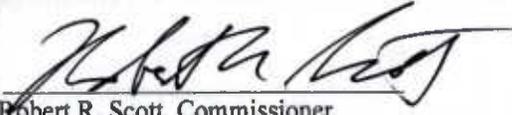
<b>Deliverables</b>	<b>Timeline</b>
Preparation of eggs for shipping	December 2022
PFAS laboratory analysis along with QA/QC review	December 2022 – August 2023
Report preparation and draft submission to NHDES	August 2023 - November 2023
Review and preparation of final report	November 2023 - December 2023

3. This Amendment shall take effect upon the date of Governor and Council approval.
4. All other conditions outlined in the agreement shall remain in effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year written below.

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES

LOON PRESERVATION COMMITTEE

By:   
Robert R. Scott, Commissioner  
Department of Environmental Services

By:   
Harry Vogel, Senior Biologist  
Loon Preservation Committee

Approval by OFFICE OF THE ATTORNEY GENERAL:  
As to form, substance and execution

Date: 6/9/23 By:  (K. Allen Brooks)

Approval by Governor and executive council:

Date: \_\_\_\_\_ By: \_\_\_\_\_



# Loon Preservation Committee

P.O. Box 604, Lee's Mills Road, Moultonborough, NH 03254  
603-476-LOON (5666) Fax 603-476-5497 www.loon.org

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I, **Robert Rotberg**, hereby certify that I am duly elected Chair of the Board of Trustees of the Loon Preservation Committee. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Trustees, duly called and held on October 21<sup>st</sup>, 2022, at which a quorum of the Trustees were present and voting.

**VOTED:** That Harry Vogel, Senior Biologist/Executive Director is duly authorized to enter into contracts or agreements on behalf of the Loon Preservation Committee with the State of New Hampshire and any of its agencies or departments and further is authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: May 30, 2023

ATTEST: Robert J. Rotberg, Chair,

LPC

(Name & Title)

# State of New Hampshire

## Department of State

### CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that LOON PRESERVATION COMMITTEE is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on November 14, 2006. 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: 567478

Certificate Number: 0006238585



IN TESTIMONY WHEREOF,  
I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 30th day of May A.D. 2023,

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan  
Secretary of State



LOONPRE-02

CDINATALE

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/30/2023

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).

<b>PRODUCER</b> Meredith Insurance Agency PO Box 683 2 Lake Street Meredith, NH 03253	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): (603) 707-4322		<b>FAX (A/C, No):</b>
	<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE:</b>			<b>NAIC #</b>
<b>INSURED</b>  Loon Preservation Committee PO Box 604 Moultonborough, NH 03254	<b>INSURER A:</b> The Hanover Insurance Companies		22292
	<b>INSURER B:</b> Philadelphia Insurance Company		23850
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		

**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 SUBR INSP WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		ZBV9199211	4/1/2023	4/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		AWVD342916	4/1/2023	4/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$: 0		UHV9210566	4/1/2023	4/1/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 2,000,000 Prod Comp Op \$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WHV9198730	4/1/2023	4/1/2024	PER STATUTE   OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Professional Liabil		PHSD1777848	4/1/2023	4/1/2024	Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101; Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  NH Department of Environmental Services 222 International Drive, #175 Portsmouth, NH 03801	<b>CANCELLATION</b>  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 <i>Carrie A. Dinatale</i>



The State of New Hampshire  
Department of Environmental Services



Robert R. Scott, Commissioner

November 14, 2022

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

APPROVED G & C

DATE 21 December 2022

ITEM # 96

REQUESTED ACTION

Authorize the Department of Environmental Services (NHDES) to enter into a Sole Source contract with the Loon Preservation Committee (LPC), Moultonborough, NH (VC#157114 - B001) in the amount not to exceed \$106,746 for the sample selection, shipping, and laboratory analysis of loon eggs to assess the effect of per- and polyfluoroalkyl substances (PFAS), effective upon Governor & Council approval through June 30, 2023. 100% Emerging Contaminants Funds.

Funding is available in the following account:

03-44-44-444010-8873-102-500731

Dept. Environmental Services, Emerging Contaminants, Contracts for Program Services

FY 2023  
\$106,746.00

EXPLANATION

NHDES is requesting a Sole Source contract with LPC because they are uniquely qualified to conduct this study due to their extensive experience researching the NH loon population and already having an archive of non-viable loon eggs harvested from failed nests throughout the state. In addition, a preliminary study by LPC of a smaller subset of eggs found elevated PFAS concentrations that require this follow-up investigation to verify the initial results and include additional data on other regions of the state.

NHDES, in collaboration with LPC, is planning to conduct a study to assess the impact of per- and polyfluoroalkyl substances (PFAS) on loons in NH. The study will involve sampling tissue from 145 non-viable loon eggs representing 82 loon territories on 64 lakes for laboratory analysis of a suite of PFAS compounds with the objective of understanding where significant bioaccumulation of PFAS is occurring in fish and other aquatic organisms. This study is consistent with HB4 (Chapter 346:304, L'20) which tasked NHDES with studying, investigating, and testing for contamination caused by perfluorinated chemicals.

If Emerging Contaminant Funds become no longer available, General Funds will not be requested to support this program. This contract has been approved by the Attorney General's Office as to form, substance, and execution.

We respectfully request your approval.

Robert R. Scott  
Commissioner

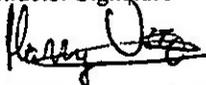
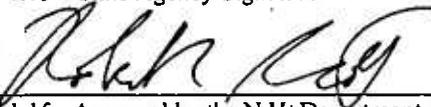
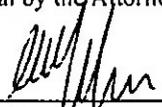
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name APPROVED G & C Department of Environmental Services		1.2 State Agency Address PO Box 95 29 Hazen Drive Concord, NH 03302-0095	
1.3 Contractor Name Loon Preservation Committee		1.4 Contractor Address PO Box 604 183 Lee Mill Rd Moultonborough, NH 03254	
1.5 Contractor Phone Number 603-476-5666	1.6 Account Number 03-44-44-444010-8873-102-500731	1.7 Completion Date June 30, 2023	1.8 Price Limitation \$106,746.00
1.9 Contracting Officer for State Agency Amy Rousseau		1.10 State Agency Telephone Number 603-271-8801	
1.11 Contractor Signature  Date: 10/31/22		1.12 Name and Title of Contractor Signatory Harry Vogel, Senior Biologist	
1.13 State Agency Signature  Date: 11/15/22		1.14 Name and Title of State Agency Signatory Robert R. Scott, Commissioner, NHDES	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)  By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable)  By:  On: 11/30/22			
1.17 Approval by the Governor and Executive Council (if applicable)  G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials HV  
 Date 10/31/22

**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.

## 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 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.

**EXHIBIT A**  
**SPECIAL PROVISIONS**

A. There are no special provisions for this Agreement.

Contractor Initials: HV  
Date: 10/31/22

**EXHIBIT B**  
**SCOPE OF SERVICES**

- A. **Project Title:** Testing Common Loon Eggs from New Hampshire for Per- and Polyfluoroalkyl Substances
- B. **Project Period:** This Agreement shall become effective on the date of approval by the Governor and Executive Council of the State of New Hampshire and shall continue until June 30, 2023, unless extended in accordance with the terms of the Agreement.
- C. **Objectives:** The objective of this research is to evaluate the concentrations of certain per- and polyfluoroalkyl substances (PFAS) in loon eggs to understand where significant bioaccumulation of PFAS is occurring in fish and other aquatic organisms.
- D. **Scope of Work:** The Loon Preservation Committee (LPC) identified 145 eggs representing 64 lakes and covering 82 loon territories in New Hampshire for which LPC has one or more archived, non-viable loon eggs that have not been tested within the last 6 years. The most recent egg collected from a given lake will be selected for this study. Each egg will be examined to confirm the suitability of the egg for testing (i.e., no significant cracks or leakage of egg content). If an egg is determined to be unsuitable for testing, or is otherwise unavailable, the next most recent egg from that lake, if available, will be tested.

Eggs will be packaged by LPC and sent to SGS AXYS Analytical Services, Ltd. (SGS AXYS) in Sidney, British Columbia, where the eggs will be homogenized and tested for PFAS congeners using Draft EPA Method 1633. LPC staff will analyze the results of the testing and prepare a report for the State detailing PFAS concentrations of each egg for each congener, summarizing the range of PFAS concentrations found in the samples, and identifying locations at which PFAS concentrations exceed those known to affect the health, breeding success, or survival of other bird species.

This Agreement consists of the following documents: Exhibits A, B, and C, which are all incorporated herein by reference as if fully set forth herein.

E. **Deliverables Schedule:**

Deliverables	Timeline
Preparation of egg samples for shipping	December 2022
PFAS laboratory analysis along with QA/QC review	December 2022-January 2023
Report preparation (collaboration of NHDES & LPC)	February 2023-March 2023
Review and preparation of final report	March 2023-June 2023

Contractor Initials: HU  
Date: 10/31/22

F. Budget: \$106,746.00

Item	Cost	Details
Veterinary health certificate fee	\$62.22	
Fedex mailing: veterinary health certificate	\$70.37	
US FWS shipment inspection	\$113.46	
Coolers	\$195.20	Estimate need of 8 coolers. LPC will supply 4 and purchase others.
Boxes/packaging	\$30.50	
Dry ice	\$165.92	Dry ice cost of \$17 for 10 lbs. Each cooler of the 8 coolers gets 10 lbs. of dry ice.
Mileage between Boston/LPC	\$184.53	242 miles at 62.5 cents/mile
Fedex shipment to SGS AXYS	\$7,329.28	International priority shipment of 8 coolers: \$916.16*8
Fedex shipment from SGS AXYS to LPC	\$7,329.28	International priority shipment of 8 coolers: \$916.16*8
LPC staff time	\$7,012.00	Includes sample selection, inspection, cataloging, labeling, and packaging; completion of permit and shipment forms (including itemization of each egg and associated egg data on multiple forms); shipment preparation; travel to Boston; collation and analysis of results; and report preparation.
Laboratory Analytical Costs	\$84,253.13	160 samples (145 eggs and 15 duplicates) analyzed for PFAS by Draft EPA Method 1633 at \$430.00 per sample, egg homogenization at \$55.00 per egg, and an Electronic Data Deliverable at \$10.00 per sample.
<b>Total Project Cost**</b>	<b>\$106,746.00</b>	

\*Costs include 22% overhead with the exception of laboratory analytical costs where a 7.5% subcontractor markup is applied.

\*\*Total project cost is rounded to the nearest dollar.

Contractor Initials: HU  
 Date: 10/31/22

**EXHIBIT C**  
**PAYMENT SCHEDULE**

- A. The state shall pay the contractor an amount not to exceed \$106,746.00 Price limitation for the services provided by the contractor pursuant to Exhibit B - Scope of Services.
- B. This contract is funded from state accounting unit 8873 Emerging Contaminants as appropriated to NHDES in House Bill 4 (Chapter 346:304, L'20), and as extended, for the purpose of studying, investigating, and testing for contamination caused by PFAS.
- C. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize current and/or future funding.
- D. Payment for said services shall be paid monthly as follows:
1. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this agreement and shall be in accordance with the approved items.
  2. The contractor will submit an invoice in a form satisfactory to the State by the twentieth working day of each month which identifies and requests reimbursement for authorized expenses incurred in the prior month. The invoice will include detail about hours worked, equipment used, and supplies purchased. The invoice must be completed, signed and returned in order to initiate payment.
  3. The State shall make payment to the contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available. The contractor will keep detailed records of their activities related to NHDES funded programs and services.
  4. The final invoice shall be due to the State no later than forty-five (45) days following the project end date of 6/30/2023. Requests submitted after this date may be denied.
  5. All obligations of NHDES and the State of New Hampshire are contingent upon availability and continued appropriation of funds for the services.
  6. In lieu of hard copies, all invoices may be signed using an electronic signature and emailed to Joshua Whipple at:  
[Joshua.C.Whipple@des.nh.gov](mailto:Joshua.C.Whipple@des.nh.gov).

Contractor Initials: HU  
Date: 10/31/22



# Loon Preservation Committee

P.O. Box 604, Lee's Mills Road, Moultonborough, NH 03254  
603-476-LOON (5666) Fax 603-476-5497 www.loon.org

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I, **Robert Rotberg**, hereby certify that I am duly elected Chair of the Board of Trustees of the Loon Preservation Committee. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Trustees, duly called and held on October 21<sup>st</sup>, 2022, at which a quorum of the Trustees were present and voting.

**VOTED:** That Harry Vogel, Senior Biologist/Executive Director is duly authorized to enter into contracts or agreements on behalf of the Loon Preservation Committee with the State of New Hampshire and any of its agencies or departments and further is authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: 10/21/22

ATTEST: Robert Rotberg, Chair  
(Name & Title)

**State of New Hampshire**  
**Department of State**

**CERTIFICATE**

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that LOON PRESERVATION COMMITTEE is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on November 14, 2006. 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: 567478

Certificate Number : 0005871588



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 15th day of September A.D. 2022.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/16/2022

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).

<b>PRODUCER</b> Meredith Insurance Agency PO Box 683 2 Lake Street Meredith, NH 03253	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): (603) 707-4322	<b>FAX (A/C, No):</b>	
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b>  Loon Preservation Committue PO Box 604 Moultonborough, NH 03254	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A: The Hanover Insurance Companies</b>		22292
	<b>INSURER B: Philadelphia Insurance Company</b>		23850
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		

**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	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			ZBV9199211	4/1/2022	4/1/2023	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			AWVD342916	4/1/2022	4/1/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
							Hired & NonOwned	\$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			UHV9210566	4/1/2022	4/1/2023	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$
							Prod Comp Op	\$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WHV9198730	4/1/2022	4/1/2023	PER STATUTE	OTH-ER
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
A	Equipment Floater			IHV9232501	4/1/2022	4/1/2023		
B	Professional Liabli			PHSD1693692	4/1/2022	4/1/2023	Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Hired auto physical damage deductibles \$100 for comprehensive and collision.

<b>CERTIFICATE HOLDER</b>  Department of Environmental Services PO Box 95 29 Hazen Drive Concord, NH 03302	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b> <i>Carrie A. DiNatale</i>