New Hampshire Fish and Game Department

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Scott R. Mason
Executive Director

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October 23, 2023

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

REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department (NHFGD) to enter into a **Sole Source** Memorandum of Agreement with the United States Fish and Wildlife Service (Vendor Code 175773) in the amount of $66,600.00 to provide partial funding to raise approximately 50,000 landlocked Atlantic salmon at Nashua National Fish Hatchery, effective upon Governor and Council approval through June 30, 2027. Funding is 100% Fish and Game Funds.

Funds are available in the following account for Fiscal Years 2024 and 2025, and anticipated to be available in Fiscal Year 2026 and Fiscal Year 2027, upon the continued appropriation of funds in the future operating budget with the authority to adjust encumbrances between fiscal years within the price limitation through the Budget Office, if needed and justified.

03 75 75 752020-21320000 Inland Fisheries Management – Hatcheries

		FY2024	FY2025	FY2026	FY2027
20-07500-21320000-020-500252	Current Expenses	$15,000.00	$15,000.00	$18,300.00	$18,300.00

EXPLANATION

Sole Source is requested as the United States Fish & Wildlife Service (USFWS) has the only local hatchery with the capacity to conduct this action and we have used them successfully for several years. The Powder Mill State Fish Hatchery in New Durham, NH is a contributing factor in the Merrymeeting River watershed water quality issue. This agreement enables the NHFGD to maintain a reduced amount of phosphorus discharged into the Merrymeeting River through fish waste by removing the landlocked Atlantic salmon from its hatchery target numbers. Raising 50,000 Landlocked Atlantic Salmon for our popular statewide salmon fishing program at Nashua National Fish Hatchery (NNFH) will help reduce the impacts of hatchery operations in the Merrymeeting River watershed and enable us to continue our program without interruption. They will charge NHFGD $1,250.00 per month for 2023 and 2024 and $1,525.00 for 2025 and 2026 to raise these salmon on our behalf. Funds will reimburse the USFWS general operating costs and staff expenses associated with fish production. This agreement will enable NHFGD to temporarily shift salmon production while it works toward a more permanent solution at our state hatcheries.

Respectfully submitted,

Scott R. Mason
Executive Director

Kathy Ann LaBonte
Chief, Business Division

MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES FISH AND WILDLIFE SERVICE
AND
THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to outline the responsibilities of the parties for raising landlocked Atlantic Salmon (LLS) to be stocked into waters of the State of New Hampshire.

II. PARTIES

The parties to this agreement are the United States Fish and Wildlife Service (hereinafter USFWS) Nashua National Fish Hatchery (hereinafter NNFH) and the New Hampshire Fish and Game Department (hereinafter NHFGD).

III. AUTHORITY

This agreement is being entered into under the Authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e; the Act of March 10, 1934; Ch. 55; 48 Stat. 401), as amended by the Act of June 24, 1936, Ch. 764, 49 Stat. 913; the Act of August 14, 1946, Ch. 965, 60 Stat. 1080; the Act of August 5, 1947, Ch. 489, 61 Stat. 770; the Act of May 19, 1948, Ch. 310, 62 Stat. 240; P.L. 325, October 6, 1949, 63 Stat. 708; P.L. 85-624, August 12, 1958, 72 Stat. 563; and P.L. 89-72, 79 Stat. 216, July 9, 1965.

IV. SCOPE OF WORK

The purpose of this project is to raise approximately 50,000 landlocked Atlantic salmon at Nashua National Fish Hatchery (NNFH) to be stocked into State of New Hampshire waters identified by NHFGD.

The NHFGD agrees to complete, under this MOA, the following:

1. Collect and fertilize approximately 100,000 feral LLS eggs to be delivered to NNFH.
2. Collect ovarian fluid samples and ship to USFWS Fish Health Diagnostic Laboratories in Lamar, PA for fish health diagnostics.
3. Purchase all fish food necessary to be delivered to NNFH.
4. Provide labor, as necessary, to assist with operation and propagation at the request of USFWS.
5. Provide transportation of LLS to stocking destination including assistance with capturing and loading.

The USFWS agrees to complete, under this MOA, the following:

1. Receive up to 100,000 or more landlocked Atlantic Salmon eggs annually from NHFG for incubation and subsequent grow out over the next year.
2. Provide staff members to oversee daily operations and propagation of up to 50,000 LLS to achieve a target size of 8-10 fish per pound. USFWS NNFH will culture a maximum of 50,000 fish lot from

egg stage until the fish are 15 fish/lb which is approximately December 1st annually. At this time the lot will be split to maintain proper density index and half the fish will be transferred back to NHFG to finish grow out and subsequent stocking at 8-10 fish/lb by mid-May of each year. USFWS will retain 25,000 fish for grow out until mid-May of each year, when stocking will take place.

V. FUNDING

The NHFGD will provide funding reimbursement for general operation to the USFWS in the total amount of $66,600. The sum will be disbursed in 4 (four) annual payments as follows: $15,000 in 2023; $15,000 in 2024; $18,300 in 2025; and $18,300 in 2026. USFWS will invoice NHFGD one time annually for the production year. Payment will be received from NHFGD within 30 days.

VI. TERMINATION

Either party may terminate this agreement upon providing written notice to the other thirty (30) days prior to termination. Notwithstanding any provision of this Agreement to be contrary, all obligations of the NHFGD hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the NHFGD 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 NHFGD shall have the right to withhold payments until such funds become available, if ever, and shall have the right to terminate this Agreement.

VII. METHOD FOR SETTLEMENT OF DISPUTES

We intend for nothing in this document to conflict with current Service or "other agency" directives. If the terms of this agreement are inconsistent with existing directives of either of the agencies entering into the agreement, then those portions of the agreement that are inconsistent must be renegotiated. We will complete a modification to the agreement to provide those corrections and directive compliance. All other terms and conditions not affected by the inconsistency must remain in full force and effect.

Should disagreement arise on the interpretation of the provisions of this agreement, or modifications or revisions to it, that cannot be resolved at the operating level, each party must state the area(s) of disagreement in writing and present the matter to the other party for consideration. If agreement on interpretation is not reached within 30 days, the agencies must send a written presentation describing the disagreement to respective higher officials for resolution.

The agencies under this agreement are also responsible for resolving any billing/payment disputes that may arise within 120 business days of the billing date. If the agencies cannot resolve the dispute within this period, the matter will be referred to the Department of the Interior's Office of Financial Management the following business day.

Nothing herein shall be deemed to constitute a waiver of the State's sovereign immunity, which is hereby reserved to the State.

VIII. INDIRECT COST RECOVERY RATES

The Service's indirect rates are reviewed biennially. Future changes may require a revision to the Agreement amount. The current indirect rate for government owned facilities is 22% and the indirect rate for pass through funds is 5%.

IX. DURATION

This agreement shall continue in effect for a period of four (four) years from October 1, 2023 through June 30, 2027 unless terminated earlier by either party, or extended in writing by subsequent agreement of the parties.

X. AGREEMENT

In WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve the agreement.

US Fish and Wildlife Service

RICHARD JACOBSON Digitally signed by RICHARD JACOBSON Date: 2023.10.17 09:52:45 -04'00'

Rick Jacobson
Assistant Regional Director Fish and Aquatic Conservation (FAC)

Date

NH Fish and Game Department

Scott R. Mason

Scott R. Mason
Executive Director

10/2/2023
Date

Approved by the Attorney General this 25th day of October, 2023, as to form, execution and substance.

OFFICE OF THE ATTORNEY GENERAL