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STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553
Web: www.nhstateparks.org

December 20, 2023

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

REQUESTED ACTION

1. Authorize the Department of Natural and Cultural Resources (DNCR), Division of Parks and Recreation, Bureau of Community Recreation to **Retroactively** award a federal Land and Water Conservation Fund (LWCF) – State Assistance Program sub-grant to the City of Keene (VC#177417) in the amount of \$400,000 for the development of public outdoor recreation property, effective upon Governor and Council approval for the period of October 1, 2021 through September 30, 2024. 100% Federal Funds.

Funding is available in account, LW Conserve Fund Grants, as follows:

	<u>FY 2024</u>
03-035-035-351510-37170000-072-500574- Grants to Local Gov's - Federal	\$400,000

2. Contingent upon the approval of Requested Action #1, authorize the Department of Natural and Cultural Resources, Division of Parks, and Recreation Bureau of Community Recreation to amend the sub-grant to the City of Keene by increasing the grant limitation by \$500,000 from \$400,000 to \$900,000, with no change to completion date, for the development of public outdoor recreation property, effective upon Governor and Council approval through September 30, 2024. 100% Federal Funds.

Funding is available in account, LW Conserve Fund Grants, as follows:

	<u>FY 2024</u>
03-035-035-351510-37170000-072-500574- Grants to Local Gov's - Federal	\$500,000

EXPLANATION

Requested Action #1 is **retroactive** as prior to 2022 it was the understanding of the DNCR that the Commissioner, as the designated State Liaison Officer to the NPS for the LWCF-State Assistance Program, had the authority to award sub-grants to local units of government for the pass-through of these federal funds as described within the federal LWCF program manual. Clarification that LWCF sub-grants necessitate Governor and Council approval was established during the development and implementation of the State's standardized G-1 grant agreement form in 2022.

The LWCF-State Assistance Program is funded by the US Department of Interior, National Park Service (NPS) under the LWCF Act of 1965 (Public Law 88-578) codified as positive law at 54 U.S.C. § 200301 et seq. The program provides matching/reimbursement grants to States, and through States to local units of government as sub-recipients, for the acquisition, development and/or renovation of public outdoor recreation sites and facilities. Grants approved by the NPS are first received by the DNCR then passed through to the local government sub-recipients.

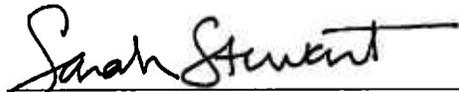
The initial federal award for this sub-grant, LWCF #33-00734, was approved by the NPS on September 14, 2021. Due to significant project cost overruns that resulted from adverse impacts to supplies and services by the COVID-19 pandemic, the NPS subsequently approved an amendment to increase the amount of the federal award, LWCF #33-00734.1, on September 25, 2023. The federal period of performance for the initial award and amendment is October 1, 2021 through September 30, 2024.

The City of Keene will use this sub-grant as amended towards the development of field space, playgrounds, pathways, parking, and restrooms at Patricia T. Russell Park located at 41 Carpenter Street.

The Attorney General's Office has reviewed and approved the attached grant agreement as to form, substance, and execution.

Respectfully submitted,

(LSM)

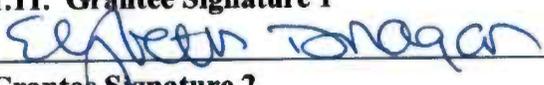
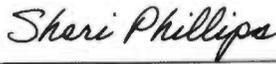


Sarah L. Stewart
Commissioner

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby
Mutually agree as follows:
GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name Department of Natural and Cultural Resources Division of Parks and Recreation		1.2. State Agency Address 172 Pembroke Rd, Concord, NH 03301	
1.3. Grantee Name City of Keene		1.4. Grantee Address 3 Washington Street, Keene, NH 03431	
1.5 Grantee Phone # (603) 357-9804	1.6. Account Number 37170000-072-500574	1.7. Completion Date September 30, 2024	1.8. Grant Limitation \$400,000.00
1.9. Grant Officer for State Agency Eric Feldbaum		1.10. State Agency Telephone Number (603) 271-3556	
If Grantee is a municipality or village district: "By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1 		1.12. Name & Title of Grantee Signor 1 City manager, Elizabeth Degan	
Grantee Signature 2		Name & Title of Grantee Signor 2	
Grantee Signature 3		Name & Title of Grantee Signor 3	
1.13. State Agency Signature(s)  12/01/2023		1.14. Name & Title of State Agency Signor(s) Sarah L. Stewart, Commissioner	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By:  Assistant Attorney General, On: 12/6/2023			
1.16. Approval by Governor and Council (if applicable)			
By: _____ On: / /			

2. **SCOPE OF WORK:** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").

Initials: 
Date: 11-21-23

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.
4. EFFECTIVE DATE: COMPLETION OF PROJECT.
 - 4.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.16), or upon signature by the State Agency as shown in block 1.14 ("the Effective Date").
 - 4.2. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").
5. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
 - 5.1. The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.
 - 5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT C.
 - 5.3. In accordance with the provisions set forth in EXHIBIT C, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
 - 5.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.
 - 5.5. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.
6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits and RSA 31-95-b.
7. RECORDS and ACCOUNTS.
 - 7.1. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency, the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
 - 7.2. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency pursuant to subparagraph 7.1, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these provisions
8. PERSONNEL.
 - 8.1. The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
 - 8.2. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
 - 8.3. DATA: RETENTION OF DATA: ACCESS. 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,
- 9.2. computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.
- 9.2. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.3. No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.4. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.
- 9.5. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
10. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.
11. EVENT OF DEFAULT: REMEDIES.
 - 11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
 - 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
 - 11.1.2 Failure to submit any report required hereunder; or
 - 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
 - 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.
 - 11.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
 - 11.2.1 Give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and
 - 11.2.2 Give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and
 - 11.2.3 Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
 - 11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. TERMINATION.
 - 12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.
 - 12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.
 - 12.3. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.
 - 12.4. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or
- 13.

Initials: EAD

Date: 11-21-03

- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.
16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
17. INSURANCE.
- 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
- 17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and
- 17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
- 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Grantee shall furnish to the State, certificates 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.
18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.
19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
20. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.
21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.
22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.
24. SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

Initials: EAD
Date: 11-21-23

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
LAND AND WATER CONSERVATION FUND STATE ASSISTANCE PROGRAM**

**EXHIBIT A
Special Provisions**

Subject: 33-00734/P21AP12099, Patricia T Russell Park, City of Keene

The following special provisions modify, delete, or add to the General Provisions of the Grant Agreement. Where any part of the General Provisions is modified or voided by these Special Provisions, the unaltered provisions for that part shall remain in effect.

1. Definitions

- a. The terms "State" and/or "Recipient" used herein refers to the State of New Hampshire, Department of Natural and Cultural Resources ("DNCR").
- b. The terms "State Liaison Officer" ("SLO") and "Alternate State Liaison Officer" ("ASLO") used herein refers to the State official(s) designated by the Governor of the State, and duly authorized under Chapter 1.A.3 of the LWCF Federal Financial Assistance Manual (Vol. 71, 03/11/2021), to accept and administer funds for the purpose of the LWCF Program.
- c. The term "Subrecipient" used herein refers to the unit of local government, identified in section 1.3 of the State of New Hampshire GRANT AGREEMENT (Form Number G-1, version 11/2021) – GENERAL PROVISIONS, further identified as the City of Keene.
- d. The term "Land and Water Conservation Fund" ("LWCF") means the Financial Assistance to States section of the LWCF Act (Public Law 88-578, 78 Stat 897, codified at 54 U.S.C. §2003), which is administered by the United States Department of the Interior, National Park Service ("NPS").
- e. The term "Federal Grant Agreement" refers to the federal Notice of Award, 33-00734/P21AP12099, which is authorized by the LWCF State Assistance Program and is between the State of New Hampshire, Department of Natural and Cultural Resources ("DNCR" of "Recipient") identified in Paragraph 1.1 of the General Provisions and the United States Department of Interior, National Park Service ("NPS").
- f. The term "Subaward Agreement" refers to this grant agreement, which is a sub-award between the DNCR or Recipient and the Subrecipient identified in Paragraph 1.3 of the General Provisions State of New Hampshire GRANT AGREEMENT (Form Number G-1, version 11/2021).

2. Conditions for Pass-through Grant Assistance

- a. This Subaward Agreement between the Recipient and the Subrecipient is a sub-award grant that allows the Recipient to provide pass-through financial assistance to the Subrecipient under the

LWCF State Assistance Program. The Recipient has submitted, through its process of selection, the federal application for this project on behalf of the Subrecipient. The NPS has approved and awarded this grant, number 33-00734/P21AP12099 pursuant to the Notice of Award and all attachments [A through G] thereto issued on 9/14/2021 and incorporated here by reference.

- b. Within ARTICLE VII of the federal/state agreement mentioned above, the Subrecipient is noted as a responsible party thereto.
- c. The Subrecipient agrees to use the funds to complete the scope of work as described in Exhibit B of this Subaward Agreement. Furthermore, the Subrecipient agrees to adhere to all Federal, State, and local laws, rules, regulations, and codes which are now, or in the future may become, applicable to the project in its entirety in any way.
- d. The Subrecipient agrees to comply with the requirements of 2 CFR § 200.92 Subaward; 200.101 Applicability; and 200.332 Requirements for pass-through entities as stated in the Federal Grant Agreement.
- e. The Subrecipient agrees to comply with all state requirements for competitive selection or justification for sole source procurement and in accordance with 2 CFR 200.318-200.327.
- f. The Subrecipient shall not amend, revise, or change the Approved Application or the Scope of Work as described in Exhibit B without the prior written consent of the Recipient, and approval from the NPS as required.
- g. The Subrecipient agrees to submit receipts and invoices pertaining to actual project expenses to the Recipient as well as the required non-Federal cost share as detailed in Exhibit C of this agreement. Subrecipient agrees to submit all supporting documentation and information that may be requested by the Recipient to verify the actual costs and non-Federal cost share incurred by the Subrecipient.
- h. The Subrecipient agrees to submit to all requested inspections and audits by State officials which relate to the services and payments under this Subaward Agreement. Periodic inspections of the project work site or financial records related to the project may be conducted by officials or designees of the Recipient.
- i. The Subrecipient agrees to submit all documentation requested by the Recipient including all information necessary for Recipient to meet the reporting requirements contained within the Notice of Award pertaining to 33-00734/P21AP12099. Subrecipient's failure to supply the requested documentation may result in the withholding of reimbursement by the Recipient and may be grounds for termination.
- j. The Subrecipient agrees to submit quarterly performance and financial reporting through the AmpliFund platform or other form determined by the Recipient.

3. **Penalties**

Failure by the Subrecipient to comply with any of the rules governing reimbursement of funds may result in the non-reimbursement of funds providing corrections are not made within the Project Period.

4. **Ongoing Requirements of Receiving Federal LWCF Assistance Funds**

The Subrecipient agrees that the property described in the Approved Application and this Subaward Agreement is being acquired and/or developed with LWCF assistance and therefore, without the approval of the Secretary of the United States Department of the Interior, it shall not be converted to other than public outdoor recreation use but shall be maintained in public outdoor recreation in perpetuity or for the term of the lease in the case of property leased from a federal agency. The Secretary shall approve such a conversion only if it is found to be in accord with the then existing statewide comprehensive outdoor recreation plan and only upon such conditions deemed necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location (54 U.S.C. 200305(f)(3)). The LWCF post completion compliance regulations at 36 C.F.R. Part 59 provide further requirements. The replacement land then becomes subject to LWCF protection.

5. **Non-Discrimination**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284). In accordance with the above laws and regulations issued pursuant thereto, the Subrecipient agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Subrecipient receives Federal assistance.

6. **Drug-Free Workplace**

The Subrecipient covenants and agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

7. **Lobbying**

The Subrecipient agrees to comply with the provisions of Section 319 of Public Law 101-121, Government-wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352.

8. **Debarment and Suspension**

The Subrecipient agrees to comply with the provisions of Executive Office of the President, Executive Orders 12549 and 12698, 2 CFR part 180, and 45 CFR Part 76 regarding Debarment,

Suspension, and Other Responsibility matters. These regulations restrict awards, sub awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded for or ineligible for participation in Federal assistance programs or activities.

9. **Universal Accessibility**

The Subrecipient shall comply with all applicable provisions of the Architectural Barriers Act of 1968 (Public Law 90-480); Section 504 of the Rehabilitation Act of 1973, as amended; and the Americans with Disabilities Act.

10. **Build America, Buy America**

The Subrecipient agrees to comply with The Infrastructure Investment and Jobs Act ("IIJA") Pub. L. 117-158, which includes the Build America, Buy America Act ("the Act"). Pub. L. 117-58, §§70901-52. The Act strengthens Made in America Laws and will bolster America's industrial base, protect national security, and support high-paying jobs. The Act requires that the head of each Federal agency shall ensure that "none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Use of iron, steel, manufactured products, and construction materials used under the terms of this Grant Agreement must be produced in the United States.

11. **Copeland "Anti-Kickback" Act**

The Subrecipient covenants and agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this Grant Agreement, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
LAND AND WATER CONSERVATION FUND STATE ASSISTANCE PROGRAM**

**EXHIBIT B
Scope of Work**

Subject: 33-00734/P21AP12099, Patricia T Russell Park, City of Keene

The City of Keene ("Subrecipient") shall complete the scope of work in accordance with the Notice of Award and Federal Grant Agreement 33-00734/P21AP12099 between the United States National Park Service and the State of New Hampshire Department of Natural and Cultural Resources, and in particular Article III-Performance Goals and Project Objectives, Article IV - Public Purpose, Article VI - Statement of Work, and Attachment F - Project Application and Attachments.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
LAND AND WATER CONSERVATION FUND STATE ASSISTANCE PROGRAM

EXHIBIT C
Payment Terms

Subject: 33-00734/P21AP12099, Patricia T Russell Park, City of Keene

1. Grant Amount

The State (also "DNCR" or "Recipient") shall provide funding to the Subrecipient in an amount not to exceed \$400,000.00 in accordance with the National Park Service (NPS) approved Notice of Award. Line items identified in the Budget Detail as "Indirect Costs" and/or "Audit Fund Set Aside" are retained by the DNCR and do not apply to this Subaward Agreement. Although payments to the Subrecipient are made by the State, they are effectively Federal pass-through funds.

2. Cost-Share

- a. Pursuant to Article VIII of the Federal Grant Agreement, at least 50% non-Federal cost-share is required from the Subrecipient for total project costs incurred under this agreement. The Subrecipient shall contribute an amount equal to or greater than the amount reimbursed by the State.
- b. The Subrecipient shall submit all cost share obligations to the State for approval. Only approved and allowable costs or valuations shall be applied to the Subrecipient's cost-share obligations.
- c. The State shall identify the appropriate rates for Subrecipient cost-share obligations based on the following:
 - (1) For unskilled or non-professional volunteer labor, the published annual valuation rate from the Independent Sector for the State of New Hampshire at the time of actual work performed shall apply.
 - (2) For donated or in-kind equipment, the published Federal Emergency Management Agency's Schedule of Equipment Rates at the time of actual work performed shall apply.
- d. The Subrecipient may submit towards its cost-share any pre-award costs, or costs incurred prior to the grant start date, as specified under ARTICLE IX – PRE-AWARD INCURRENCE OF COSTS of the Federal Grant Agreement.

3. Payment

- a. Payment shall be made through reimbursement to the Subrecipient.

- b. The Subrecipient shall pay 100% of the cost of an item before submitting a request for reimbursement of eligible costs. An individual request for reimbursement may not be submitted to the State for less than 25% of the total grant amount.
- c. The Subrecipient must receive notice of pre-approval from the State to submit a reimbursement request. For the Subrecipient to receive pre-approval, and prior to a request for reimbursement, all of the following conditions must be fulfilled:
 - (1) The Subrecipient shall submit an adequate draft of the LWCF Area Map, as described in the LWCF Federal Financial Assistance Manual (v. 71, 3/11/2021) Chapter 6.B.4.
 - (2) The Subrecipient shall submit an adequate draft of the Notice of Grant Requirements, as described in the federal grant agreement (ARTICLE VII.A.4).
 - (3) The Subrecipient shall submit and/or be current with progress performance reporting via the AmpliFund Platform or other form as required by the State.
 - (4) The State shall conduct an onsite progress inspection, accompanied by the duly authorized representative of with the Subrecipient, to confirm work reported is completed relative to the pending reimbursement request. The State may delay the inspection if adverse conditions to an effective inspection exist, including but not limited to excessive snow cover, until acceptable conditions are available.
- d. Eligible costs must be incurred by the Subrecipient within the period of performance, and any pre-award costs specified in ARTICLE IX, as indicated in the Notice of Award and Federal Grant Agreement. Requests for reimbursement shall be submitted via the AmpliFund platform or other form as required by the State. Adequate supporting documentation must be submitted with each reimbursement request, including but not limited to:
 - (1) Proof of payment such as paid-in-full receipts, cancelled checks (front and back), records of electronic transfers, real estate closing documents, etc. Invoices or project records shall indicate dates of purchase or service delivery.
 - (2) Record of the Subrecipient's cost-share requirement for an amount/value equal to or greater than the request for reimbursement.
- e. The State shall review and approve eligible costs submitted for reimbursement by the Subrecipient.
- f. The State shall not provide reimbursement for a percentage of the grant amount which exceeds the percentage of the completed scope of work detailed in Exhibit B.
- g. Payment shall be made to Subrecipient via check or ACH transfer, according to the Subrecipient's State vendor registration.
- h. The final 25% of the total grant amount shall be withheld until the project is verified to be complete by the State. The State shall not provide the final payment until Closeout of the Federal Grant Agreement is complete.

4. Closeout

- a. The Subrecipient shall notify the State that it is ready to initiate the process for closeout of the Subaward Agreement upon having completed the scope of work, or upon the expiration date of the Subaward Agreement, whichever comes first.
- b. Within the first 30 calendar days of the notice above or grant expiration, whichever comes first, the following procedures apply.
 - (1) The State shall coordinate and conduct a final onsite inspection, accompanied by the duly authorized representative of the Subrecipient, to confirm completion of the Scope of Work.
 - i Prior to, or during, the final onsite inspection, the State shall provide the Subrecipient with one or more LWCF acknowledgement signs to be posted by the Subrecipient at a permanent and publicly conspicuous location within the subject area. The sign(s) shall be accordingly posted prior to, or during, the final inspection.
 - ii Any deficiencies discovered during the inspection shall be referred to the Subrecipient for corrective action.
 - iii After a satisfactory final onsite inspection, the State shall produce a formal report thereof.
 - (2) The Subrecipient shall submit all final expense records as described in Section 3. Payment, above. The State shall review these records for completeness and eligibility. Any deficiencies discovered will be referred to the Subrecipient for corrective action.
 - (3) Following the successful completion of the items above, the State shall notify the Subrecipient to formally submit its request for closeout.
 - (4) The Subrecipient shall submit the formal request for closeout via the AmpliFund platform, or other form required by the State, no later than 60 calendar days from its initial request to initiate the process for closeout in Section 4.a above. This request shall include the following.
 - i A signed letter from the duly authorized representative of the Subrecipient certifying that the project has been completed as described in Exhibit B and in accordance with all applicable Federal, State and Local laws.
 - ii A copy of the Notice of Grant Requirements, as described in the federal grant agreement (Article VII.A.4), as recorded with the respective county registry of deeds. The Notice of Grant Requirement shall be reviewed and approved by the State prior to recording by the Subrecipient.
 - iii A mutually agreed-to LWCF Area Map, as described in the LWCF Federal Financial Assistance Manual (v. 71, 3/11/2021) Chapter 6.B.4., signed by the duly authorized representative of the Subrecipient. The map shall be reviewed and approved by the

State prior to signature and submission. In addition to the requirements described within the LWCF Federal Financial Assistance Manual, the map shall include:

- All final as-built facilities and features including but not limited to those funded by the grant.
- A clear and unique boundary line encompassing the subject viable public outdoor recreation area, including property acquired and/or developed as a viable recreation area as funded by the grant.
- The format and content of the box inserted into, or label affixed to, the LWCF Area Map for signatures by the State and Subrecipient must be provided by or pre-approved by the State.

c. Upon determination of an adequate closeout submission by the Subrecipient, the State shall:

- (1) Sign the LWCF Area Map.
- (2) Submit a request to the NPS to close-out the Federal Grant Agreement.
- (3) Perform the final drawdown of the associated federal account funds from the Automated Standard Application for Payment (ASAP) system.
- (4) Submit to the NPS any required final financial reports.

These actions by the State shall be completed no later than 120 calendar days from the expiration date of the Federal Notice of Award/Grant Agreement.

d. Following the submission by the State to the NPS for closeout of the Federal Grant Agreement, and final drawdown from the ASAP system, and confirmation by the NPS, the State shall:

- (1) Issue a grant closeout acknowledgement letter to the Subrecipient including:
 - The mutually signed and agreed-to LWCF Area Map.
 - The final onsite inspection report.
 - Notice of subsequent stewardship and compliance responsibilities, and record retention requirements.
- (2) Issue the final grant payment/reimbursement.
- (3) The Subrecipient shall provide further information and/or submit to audits as required by the State or NPS.

Amendment of G-1 Grant Agreement

The Department of Natural and Cultural Resources, Division of Parks & Recreation Bureau of Community Recreation, and the City of Keene (VC#177417), hereby mutually agree to amend the federal Land and Water Conservation Fund (LWCF) grant, contingent upon approval of the original \$400,000 award by the Governor and Executive Council on December 20, 2023.

1. Amend Exhibit C, Terms of Payment, by increasing the contract total by \$500,000 from \$400,000 to \$900,000.
2. All other terms and conditions of the original grant agreement shall remain the same in full force and effect as originally set forth; and
3. This amendment is subject to approval by the Governor and Executive Council.

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

City of Keene


Elizabeth A. Dragon, City Manager

11-21-23
Date

Department of Natural and Cultural Resources


Sarah L. Stewart, Commissioner

12/01/2023
Date

Approved as to form, substance, and execution:


Attorney General

12/6/2023
Date

Approved by the Governor and Council this _____ day of _____, 20_____.

By: _____

Municipality Certification of Authority

I, Patricia A. Little (Name), hereby certify/attest that I am duly elected Clerk/Secretary of City of Keene (Name of Municipality), New Hampshire. I hereby certify the following is a true copy of the resolution adopted during a meeting of the Municipality Officers, duly called and held on November 2, 2023, at which a quorum of the Municipality Officers were present and voting.

RESOLVED: That Elizabeth Dragon, City Manager (Name and Title of Official Signing the Agreement) is duly authorized to enter into contracts or agreements on behalf of City of Keene (Name of Municipality) with the State of New Hampshire, acting by and through the Department of Natural and Cultural Resources, and is further authorized to execute any documents on behalf of this Municipality which may be in his/her judgement desirable or necessary to effect the purpose of this resolution.

I hereby certify that the foregoing resolution has not been amended or repealed and remains in full force and effect as of November 14, 2023. 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 Municipality. This authority remains valid for thirty (30) days from the date of this certificate.

DATED: Nov. 14, 2023

ATTEST: 
(Secretary/Clerk Signature Completing this Certificate)



CITY OF KEENE NEW HAMPSHIRE

ITEM #D.9.

Meeting Date: November 2, 2023
To: Mayor and Keene City Council
From: Finance, Organization and Personnel Committee, Standing Committee
Through:
Subject: LWCF Grant Round 33 Acceptance - Russell Park

Council Action:

In City Council November 2, 2023.

Voted unanimously to carry out the intent of the report.

Recommendation:

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept, execute, and expend a Land and Water Conservation Fund Grant Round 33 award for \$500,000.00 for the Russell Park Renovation Project.

Attachments:

None

Background:

Mr. Bohannon indicated this is for the \$500,000 the City applied for Russell Park. In total, the park received \$900,000 in LWCF funds. The \$500,000 would go towards the Boci Court which was cut out of the original project which the neighborhood wanted, the rest would be utilized to reimburse debt used from various sources to make this project happen.

Councilor Madison made the following motion, which was seconded by Councilor Lake.

On a 4-0 vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept, execute, and expend a Land and Water Conservation Fund Grant Round 33 award for \$500,000.00 for the Russell Park Renovation Project.

CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City of Keene 3 Washington Street Keene, NH 03431-3191		Member Number: 210	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ PO Box 23 Hooksett, NH 03106-9716		
Type of Coverage		Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not:	
<input checked="" type="checkbox"/>	General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2023	7/1/2024	Each Occurrence	\$ 2,000,000
				General Aggregate	\$ 10,000,000
				Fire Damage (Any one fire)	
				Med Exp (Any one person)	
<input checked="" type="checkbox"/>	Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto	7/1/2023	7/1/2024	Combined Single Limit (Each Accident)	\$ 2,000,000
				Aggregate	\$ 10,000,000
<input checked="" type="checkbox"/>	Workers' Compensation & Employers' Liability	1/1/2023 1/1/2024	1/1/2024 1/1/2025	<input checked="" type="checkbox"/> Statutory	
				Each Accident	\$ 2,000,000
				Disease – Each Employee	\$ 2,000,000
				Disease – Policy Limit	
<input checked="" type="checkbox"/>	Property (Special Risk includes Fire and Theft)	7/1/2023	7/1/2024	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$ 1,000
Description: Proof of Primex Member coverage only.					

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex³ – NH Public Risk Management Exchange
			By: <i>Mary Beth Purcell</i>
			Date: 11/27/2023 mpurcell@nhprimex.org
State of New Hampshire Department of Natural & Cultural Resources 172 Pembroke Rd Concord, NH 03301			Please direct inquiries to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax