



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



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**Robert R. Scott, Commissioner**

January 10, 2024

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

**REQUESTED ACTION**

Authorize the Department of Environmental Services (NHDES) to award a **Sole Source** grant to Manchester Water Works, Manchester, NH (VC # 170435 B002) in the amount of \$36,000 to complete a project to protect public drinking water supplies, effective upon Governor and Council approval through January 31, 2025. 100% Federal Funds.

Funding is available in the following account:

	<u>FY2024</u>
03-44-44-441018-5564-072-500574	\$36,000
Dept. Environmental Services, DWSRF BIL Administration, Grants- Federal	

**EXPLANATION**

NHDES is requesting a **Sole Source** grant be awarded to Manchester Water Works to identify the various modifications to Massabesic Lake Dam that will be required to raise the lake level considering the existing attributes of the dam and investigate the anticipated impacts to lakefront properties and adjacent wetlands. NHDES requested that Manchester Water Works complete this study to establish an understanding of the construction improvements that are needed and associated costs to increase the water supply capacity of Manchester Water Works. Increased water supply capacity is needed to provide safe drinking water to other municipalities in southern New Hampshire where existing sources of drinking water from public water systems or private wells are contaminated with PFAS.

This agreement has been approved as to form, substance, and execution by the Office of the Attorney General. In the event federal funds are no longer available, general funds will not be requested to support this program.

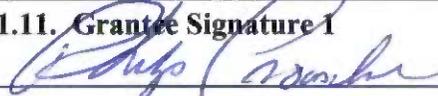
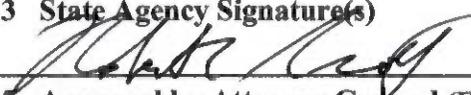
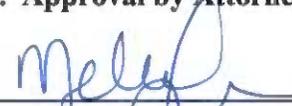
We respectfully request your approval of this item.

  
Robert R. Scott, Commissioner

GRANT AGREEMENT

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

1. Identification and Definitions.

<b>1.1. State Agency Name</b> NH Department of Environmental Services		<b>1.2. State Agency Address</b> 29 Hazen Drive, Concord, NH 03302-0095	
<b>1.3. Grantee Name</b> Manchester Water Works		<b>1.4. Grantee Address</b> 281 Lincoln Street, Manchester, NH 03103	
<b>1.5. Grantee Phone #</b> (603) 792-2800	<b>1.6. Account Number</b> 03-44-44-441018-5564-072	<b>1.7. Completion Date</b> January 31, 2025	<b>1.8. Grant Limitation</b> \$ 36,000
<b>1.9. Grant Officer for State Agency</b> Melissa Macheras, NHDES		<b>1.10. State Agency Telephone Number</b> (603) 271-2950	
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."			
<b>1.11. Grantee Signature 1</b> 		<b>1.12. Name &amp; Title of Grantee Signor 1</b> PHILIP W. GROSSCHICK, Director	
<b>Grantee Signature 2</b>		<b>Name &amp; Title of Grantee Signor 2</b>	
<b>Grantee Signature 3</b>		<b>Name &amp; Title of Grantee Signor 3</b>	
<b>1.13. State Agency Signature(s)</b> 		<b>1.14. Name &amp; Title of State Agency Signor(s)</b> Robert R. Scott, Commissioner, NHDES	
<b>1.15. Approval by Attorney General (Form, Substance and Execution) (if G &amp; C approval required)</b>			
By: 		Assistant Attorney General, On: 1/19/2024	
<b>1.16. Approval by Governor and Council (if applicable)</b>			
By:		On: / /	

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

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

4. EFFECTIVE DATE; COMPLETION OF PROJECT.

4.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date 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.

8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. DATA; RETENTION OF DATA; ACCESS.

9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed 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, 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

- 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.

**EXHIBIT A**  
**SPECIAL TERMS AND CONDITIONS**

**Manchester Water Works:**

Changes to the Scope of Work or reallocation of grant funds require the New Hampshire Department of Environmental Services (NHDES) approval in advance.

Work must be completed by the completion date listed on the grant agreement (section 1.7). Requests for payment along with required proof of work must be submitted no later than 90 days after the completion date or the grant will be closed out and funds will no longer be available.

If a deadline extension is requested, the grantee must make that request for approval at least two months before the completion date. Failure to do so may result in lower rankings of future grant applications.

Federal Funds paid under this agreement are from a Grant to the State from the U.S. Environmental Protection Agency, Drinking Water State Revolving Fund Set-Asides under CFDA #66.468. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant are hereby adopted in full force and effect to the relationship between this Department and the grantee.

Grantee Initials RMG  
Date 12/22/23

**EXHIBIT B**  
**SCOPE OF WORK**

Manchester Water Works will use New Hampshire Department of Environmental Services (NHDES) grant funds to identify the various modifications to Massabesic Lake Dam that will be required to raise the lake level considering the existing attributes of the dam and investigate the anticipated impacts to lakefront properties and adjacent wetlands. Additionally, the necessary regulatory permits required by NHDES and the US Army Corps of Engineers will be investigated and identified along with the requisite studies/designs required by these permits. A design and construction cost estimate will be prepared along with estimates for preparation of the various permits.

Specifically, the following tasks as described in the application will be accomplished, and deliverables submitted for NHDES review:

**Task 1. Existing Massabesic Lake Dam**

Task 1.1: Dam, Spillway, and Dike Modifications – Using the 2022 record “As-Built” drawings, estimate the additional embankment fill that will be required to raise the dam and canal dike embankments. A qualitative discussion of existing dam conditions and successful performance of the dam during past storm events will be required in lieu of a seepage and stability analysis.

Task 1.2: Hydrologic and Hydraulic Analyses – Revise the existing hydrologic and hydraulic (H&H) analysis for Massabesic Lake Dam to the 1,000-year storm event per amendments to Env-Wr 100-600 (Dam Rules and Regulations).

Task 1.3: Summary of Findings, Conclusions, and Recommendations – A summary of the Task 1 findings, conclusions, and recommendations will be prepared that will include the following: impacted shoreline areas and hydraulic structures, hydrologic and hydraulic (H&H) analysis results, conceptual plan of modification, cost estimate.

**Deliverable:** Summary report including the items listed in Task 1.3

**Task 2: Identification of Permit Requirements**

Contact the various regulatory agencies that would exercise regulatory control over the proposed project to obtain an understanding of the various permit and approvals processes and requirements in order to develop a detailed scope of work and cost estimate.

Task 2.1: NHDES Dam Bureau – Discuss the project in detail with Dam Bureau personnel to develop a comprehensive list of permit application requirements necessary to provide a cost estimate for the permitting process.

Grantee Initials

Date

*AWC*  
*11/28/23*

Task 2.2: NHDES Wetlands Bureau – Discuss the project with the Wetlands Bureau to determine which documentation and consultations with other agencies will be needed to obtain a permit.

Task 2.3: NDES Water Quality Protection Act – Determine which documents are required to obtain a Shoreland Permit from NHDES for the construction, excavation, and filling activities that will occur within 250 feet of a protected waterbody defined within RSA 483-B.

Task 2.4: Wildlife Assessment – Review NH Fish and Game Wildlife Action Plan (WAP) and all materials relative to any threatened, endangered, or species of special concerns that may be within the project area or may be susceptible to water inundation.

Task 2.5: Permit Coordination – Hold coordination meetings and phone calls with project team and regulatory agencies to determine the various project-specific permit requirements. These state and federal agencies include, but may not be limited to, US Army Corps of Engineers, National Oceanic and Atmospheric Administration, US Fish and Wildlife Service, US Environmental Protection Agency, NHDES Dam Bureau, NHDES Wetlands Bureau, NH Fish and Game, NHDES Drinking Water and Groundwater Bureau, and possibly others.

**Deliverables:** Provide a cost estimate for performing the required studies and developing the necessary documentation and preparing the overall permit submittals.

### Task 3: Feasibility Study Report

Upon completion of above-referenced tasks, prepare a feasibility study report that presents a summary of findings, conclusions, recommendations, and cost estimates. The report will include the following major components:

- Conceptual plan of modifications to the dam for raising the impoundment by 1-foot
- H&H analysis results
- Design and construction cost estimates
- Cost estimates for performing updated breach analyses, and preparing updated inundation mapping and corresponding Emergency Action Plan (EAP)
- Identification and discussion of the various permit requirements
- Cost estimates for preparing the required permits

**Deliverables:** Feasibility study report that includes the components listed in Task 3

Quarterly progress report forms must be completed by grant recipients or their subcontractor and submitted to NHDES every three months, beginning with the first full three (3) month quarter after grant approval from Governor & Council.

Grantee Initials SWC  
Date 12/21/23

**EXHIBIT C**  
**METHOD OF PAYMENT**

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of the associated invoice. **If the invoice is less than the initial estimate, only the amount on the invoice will be paid.** Partial tasks may be invoiced at least quarterly, with support of progress report forms. Payments shall be made in accordance with the following schedule:

<b>Task Number/Description</b>	<b>Grant Award</b>
Task 1: Existing Massabesic Lake Dam	\$18,000
Task 2: Identification of Permit Requirements	\$8,000
Task 3: Feasibility Study Report	\$10,000
<b>TOTAL</b>	<b>\$36,000</b>

Grantee Initials *RWC*

Date *12/21/20*

**CERTIFICATE/VOTE OF AUTHORITY**

I, Harold Sullivan, President of the Manchester Board of Water Commissioners do hereby certify that on December 21, 2023 the Board of Water Commissioners, city of Manchester, NH authorized the Manchester Water Works to enter into a grant agreement with the State of New Hampshire Department of Environmental Services pertaining to the Lake Massabesic Feasibility Study.

The Board of Water Commissioners further authorizes the Manchester Water Works Director, Mr. Philip W. Croasdale, to execute the grant on the Commissions' behalf and any documents which may be necessary for this grant.

HR Sullivan 12/21/23

Mr. Harold Sullivan, President, Board of Water Commissioners

On this the 21st day of December, 2023, personally appeared the above named Harold Sullivan, President of the Manchester Board of Water Commissioners, and known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he has executed the same for the purposes therein contained.

In witness thereof, I have set my hand and official seal.

Sarah Lescault

Notary Public

SEAL

Sarah Lescault  
Notary Public, State of New Hampshire  
My Commission Expires February 19, 2025



Kevin J. O'Neil  
Risk Manager



**CITY OF MANCHESTER**  
*Office of Risk Management*

**CERTIFICATE OF COVERAGE**

NHDES  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

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 within the financial limits of RSA 507-B as follows:

Limits of Liability (in thousands 000)

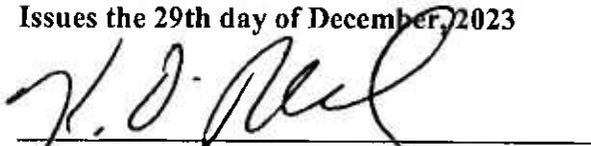
GENERAL LIABILITY	Bodily Injury and Property Damage	
	Each Person	325
	Each Occurrence	1000
	Aggregate	2000
AUTOMOBILE LIABILITY	Bodily Injury and Property Damage	
	Each Person	325
	Each Occurrence	1000
	Aggregate	2000
WORKER'S COMPENSATION	Statutory Limits	

The City of Manchester, New Hampshire maintains a Self-Insured, Self-Funded Program and retains outside claim service administration. All coverages are continuous until otherwise notified. Effective on the date Certificate issued and expiring upon completion of contract. Notwithstanding any requirements, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded by the limits described herein is subject to all the terms, exclusions and conditions of RSA 507-B.

**DESCRIPTION OF OPERATIONS/LOCATION/CONTRACT PERIOD**

Re: For the Grant issued to the Manchester Water Works from January 1, 2024 through January 31, 2025

Issues the 29th day of December, 2023

  
\_\_\_\_\_  
Risk Manager

One City Hall Plaza • Manchester, New Hampshire 03101 • (603) 624-6503 • FAX: (603) 624-6528

TTY: 1-800-735-2964

E-Mail: [konell@manchesternh.gov](mailto:konell@manchesternh.gov) • Website: [www.manchesternh.gov](http://www.manchesternh.gov)