



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner

5I



October 11, 2024

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 Memorandum of Agreement (PO# 1085938) with the New Hampshire Fish and Game Department (NHFG) (VC# 311244-B001) by extending the Agreement end date to September 30, 2025, from December 31, 2024, effective upon Governor & Council approval. This is a no cost time extension only. The original agreement was approved by Governor and Council on June 16, 2021 (Item #101), 100% Federal Funds.

EXPLANATION

NHDES entered into a Memorandum of Agreement with the NHFG, in the amount of \$293,665, for timely performance of consultations for protected wildlife by NHFG for land resource management permits through December 31, 2024, which was approved by Governor and Council on June 16, 2021, as Item #101. The funding provided under this Agreement has allowed NHFG to hire additional staff and improved the timeliness of reviews. The reason for the extension is to continue funding the staff to support timely performance of consultations for water infrastructure projects. To date, \$155,370 of the original grant award of \$293,665 has been spent.

The American Rescue Plan Act (ARPA) of 2021 is a \$1.9 trillion economic stimulus bill passed by the 117th United States Congress and signed into law by President Biden on March 11, 2021, to speed up the United States' recovery from the economic health effects of the COVID-19 pandemic and the resultant recession. The Act defines eligible uses of the state and local funding, including responding to public health emergencies, responding to workers performing essential work during the COVID-19 emergency, providing revenue relief to states and making investments in water, sewer, and broadband infrastructure. In the event that federal funds become no longer available, General funds will not be requested to support this program.

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

We respectfully request your approval.


Robert R. Scott, Commissioner

**AMENDMENT #1
TO THE
MEMORANDUM OF AGREEMENT BETWEEN THE NEW HAMPSHIRE DEPARTMENT OF
ENVIRONMENTAL SERVICES AND THE NH FISH AND GAME DEPARTMENT
RELATIVE TO WATER INFRASTRUCTURE PROJECT SUPPORT**

WHEREAS the NH Department of Environmental Services (NHDES) has entered into a Memorandum of Agreement (MOA) with the NH Fish and Game Department (NHFG), in the amount of \$293,665, for timely performance of consultations for protected wildlife by NHFG for land resource management permits through December 31, 2024, which was approved by Governor and Council on June 16, 2021, as Item #101.

WHEREAS there is a continuing need for funding to support timely performance of consultations for water infrastructure projects;

NOW THEREFORE, amend the original MOA between NHDES and NHFG in the following manner:

1. Amend the end date of the MOA in Section II, Timeline of Agreement, from December 31, 2024 to September 30, 2025.
2. All other conditions outlined in the Agreement shall remain in effect.
3. This Amendment shall take effect upon the date of approval of the Governor and Executive Council of the State of New Hampshire.

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

By:

New Hampshire Department of Environmental Services


Robert R. Scott, Commissioner

10/11/24
Date

New Hampshire Fish and Game Department


Scott Mason, Executive Director

10/11/24
Date

NHDES/NHFG Memorandum of Agreement
Partnership to facilitate water utility infrastructure improvements
Amendment #1

Approved by the Office of Attorney General this ____ day of ____, 2024, as to form, substance and execution.

Assistant Attorney General

12/11/24

12/11/24

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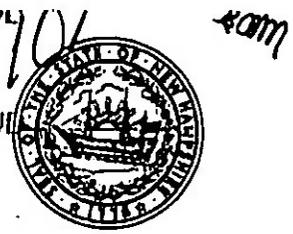
NHDES/NHFG Memorandum of Agreement
Partnership to facilitate water utility infrastructure improvements
Amendment #1

Approved by the Office of Attorney General this 15th day of October, 2024, as to form, substance and execution.


Assistant Attorney General



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 27, 2021

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court
State House
Concord, NH

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

REQUESTED ACTIONS

1. Pursuant to RSA 14:30-a, VI, authorize the Department of Environmental Services (NHDES) to accept and expend \$50,000,000 in federal funds from the American Rescue Plan Act of 2021 (ARPA) to fund investments in drinking water, and wastewater infrastructure, effective as of July 1, 2021 through June 30, 2023, upon Fiscal Committee and Governor & Council approval. Funding is 100% Federal Funds. The Budget Table is shown on page 2 of this request.
2. Pursuant to the provisions of RSA 124:15, I, authorize NHDES to establish seven full time temporary positions effective as of July 1, 2021 through June 30, 2023, upon Fiscal Committee and Governor & Council approval. The positions were approved by the Division of Personnel on April 29, 2021. A copy of the approval documentation is attached.

Classification Title	Position #.	Labor Grade	Salary Range
Business Administrator II	9T3089	24	\$48,769 - \$68,952
Accountant II	9T3091	18	\$38,200 - \$52,845
Civil Engineer III	9T3092	24	\$48,769 - \$68,952
Env Program Manager	9T3093	27	\$55,555 - \$79,170
Environmentalist III	9T3094	23	\$46,761 - \$65,949
Environmentalist III	9T3095	23	\$46,761 - \$65,949
Sanitary Engineer III	9T3097	31	\$65,949 - \$94,867

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ARPA Program
 03-44-44-440010-24xx¹
 Fiscal Years 2022-2023

Class	Budget Category	Current Budget	Requested Action	Revised Budget
Income				
000-40xxxx	Federal Funds	\$0	(\$50,000,000)	(\$50,000,000)
Expenditures				
18-500106	Overtime	0	40,000	40,000
20-500200	Current Expense	0	24,937	24,937
22-500255	Bldg Rent-Other than State	0	3,700	3,700
24-500225	Maint. Other than Bldg/Grnds	0	3,000	3,000
27-582703	Transfers to DOIT	0	88,740	88,740
28-582814	Transfers to General Services	0	63,396	63,396
30-500321	Equipment	0	28,171	28,171
37-500174	Technology-Hardware	0	19,380	19,380
38-500175	Technology Software	0	12,360	12,360
39-500188	Telecommunications	0	17,549	17,549
40-500800	Indirect Costs	0	149,349	149,349
41-500801	Audit Set-Aside	0	50,000	50,000
42-500620	Additional Fringe Benefits	0	75,555	75,555
46-500463	Consultants	0	300,000	300,000
50-500109	Temporary Personnel	0	591,004	591,004
59-500117	Full Time Temporary	0	814,694	814,694
60-500601	Benefits	0	776,426	776,426
66-500544	Employee Training	0	6,800	6,800
70-500705	In-State Travel	0	9,500	9,500
72-500574	Grants – Federal	0	36,260,000	36,260,000
80-500710	Out of-State Travel	0	3,500	3,500
85-588581	Interagency Grants	0	161,939	161,939
102-500731	Contracts - Program Services	0	500,000	500,000
301-5040xx	Loans	0	10,000,000	10,000,000
	Total	\$0	\$50,000,000	50,000,000

¹All direct program costs will be accounted for using activity 00FRF602WB4401A and all administrative and indirect costs will be accounted for using activity 00FRF602WB4401Z.

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3. Subject to approval of Item #1, authorize the Department of Environmental Services to enter into a Memorandum of Agreement with the NH Department Fish and Game (VC# 311244-B001) in an amount of not to exceed \$293,665 to provide funding for one position to assist with timely protected wildlife reviews related to NHDES infrastructure permits, effective as of July 1, 2021 through December 31, 2024, upon Governor & Council approval, predicated on the future extension of funding by the Fiscal Committee and Governor & Council beyond June 30, 2023. 100% Federal Funds.

Funding is available in the account as follows with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office, if needed and justified. Funding for FY22-25 is contingent upon continuing appropriation and availability of funds.

	<u>FY 22</u>	<u>FY23</u>	<u>FY24</u>	<u>FY25</u>
03-44-440010-24xx-085-588575	\$78,506	\$83,433	\$87,109	\$44,617
Dept of Environmental Services, ARPA Program, Interagency Federal Fund Grants				

EXPLANATION

The American Rescue Plan Act (ARPA) of 2021, is a \$1.9 trillion economic stimulus bill passed by the 117th United States Congress and signed into law by President Biden on March 11, 2021, to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession.

The Act defines eligible uses of the state and local funding, including responding to public health emergency, responding to workers performing essential work during the COVID -19 emergency, providing revenue relief to states and making investments in water, sewer and broadband infrastructure.

Based on planning between the Department, legislative leadership, and the Governor's Office, a portion of the ARPA funds have been initially allocated to NHDES to invest in the drinking water and wastewater infrastructure of New Hampshire. This initial appropriation will allow NHDES to stand up the program by having the necessary staff in place to manage the infrastructure program and begin to award grant funding to entities. NHDES is developing a detailed use plan for the ARPA funds based on interim guidance from the US Treasury Department.

Some of these funds will be allocated to the Fish & Game Department to enable these agencies to work collaboratively with NHDES to achieve the primary goal of facilitating necessary water and sewer infrastructure improvements by providing support to help ensure timely processing of statutorily required protected threatened and endangered species consultations for associated land resource management permits.

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Current staffing resources are not sufficient to deal with these new responsibilities given the magnitude of the funds being awarded for major drinking water and wastewater infrastructure projects, as grants, loans, and contracts and extensive financial and compliance monitoring being placed on NHDES to comply with federal transparency requirements.

NHDES is requesting to budget these funds as shown below:

- Class 018 To cover the cost for overtime for personnel.
- Class 020 To cover costs for public outreach, postage, office supplies, field supplies, and vehicle use.
- Class 022 To cover costs for rented office equipment.
- Class 024 To cover repairs of field equipment and other instrumentation.
- Class 027 To cover costs for Department of Information Technology services.
- Class 028 To cover costs for state office building rent and related services.
- Class 030 To cover costs for office and field equipment.
- Class 037 To cover the costs for computers for new staff.
- Class 038 To cover the costs for software for new staff.
- Class 039 To cover the costs of telecommunications.
- Class 040 To cover the program share of statewide indirect costs.
- Class 041 To cover the cost of Audit Set-Aside charges related to the federal program
- Class 042 To cover the program share of additional fringe benefit costs.
- Class 046 To cover the cost of outside engineering firms to assist with major projects
- Class 050 These funds are available in support of expanded or new program activities not previously budgeted. Employee support from existing NHDES programs will be used to conduct activities under this program. FAQ 48 from US Treasury states that payroll and benefits of employees managing new grant programs established with FRF is an allowable use, therefore, these funds will be used to supplant funding for the following positions, which are currently budgeted.

Position #	Title	Account 03-44-44-	Funding Mix	Amount
9T2909	Aministrator III	444010-7428	100% Other	\$ 31,346
9T2912	Env Technician III	444010-7428	100% Other	26,155
9T2913	Sanitary Engineer III	444010-7428	100% Other	42,570

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9T2983	Administrator III	444010-8873	100% Other	25,448
9T2985	Environmentalist IV	444010-8873	100% Other	65,016
40492	Hydrogeologist IV	444010-8893	100% Other	32,018
9T2655	Administrator IV	444010-8893	100% Other	35,588
9T2669	Civil Engineer VI	444010-8893	100% Other	34,174
41225	Administrator III	441018-4718	100% Federal	40,341
19124	Administrator IV	441018-4790	100% Other	43,108
19868	Env. Program Manager	441018-4790	100% Other	32,437
18324	Administrator III	441018-2002	100% Federal	50,954
12051	Civil Engineer VI	441018-4788	100% Other	34,180
12130	Sanitary Engineer III	441018-4788	100% Other	32,766
12114	Environmentalist IV	442010-7602	100% Federal	45,014
30001	Env Program Manager	442010-3642	100% Federal	19,889
			TOTAL	\$ 591,004

Funding in the amount of \$591,004 which is budgeted for the current positions, will either be lapsed or closed to control resulting in a net zero increase in budgeted funds.

- Class 059 To cover the costs for the seven full-time temporary positions for coordination and execution of NHDES's management of investments in drinking and clean water infrastructure projects.
- Class 060 To cover benefits for full-time and part-time personnel.
- Class 066 To cover costs for employee training.
- Class 070 To cover instate travel to project sites and outreach/public meetings.
- Class 072 To cover grants to entities for infrastructure projects.
- Class 080 To cover out-of-state technical training travel costs for staff.
- Class 085 To cover costs associated with F&G assistance being provided to the department with permitting of projects.
- Class 102 To cover costs for cybersecurity assessments and analysis.
- Class 301 To cover the cost of loans for drinking & clean water infrastructure projects.

The following is intended to address the seven questions required by the Fiscal Committee with respect to the acceptance of federal and other funds in which new positions are established or extended:

1. **List All Personnel by Classification, Labor Grade, and Salary:** Seven fulltime, temporary positions as listed below:
 - **Business Administrator II** (LG 24, \$48,769 - \$68,952) to oversee all accounting and reporting activities of the American Rescue Plan Act (ARPA) program. This position will also research and ensure

compliance with all federal ARPA requirements, set up budgets, complete cash flows, fiscal and/or G&C requests as well as oversee the staff processing and reviewing transactions. This position will also review amortization schedules and final loan/grant documents to ensure correctness.

- **Accountant II (LG 18, \$38,200 - \$52,845)** to process transactions related to the ARPA program and prepare supporting financial reports, calculate income drawdowns, and maintain detailed financial records for this program. This includes but is not limited to reconciliation of subsystems to NHFIRST, calculate and prepare draws for expenditure reimbursement; analyze, audit and ensure accurate grant records and proper authorizations; prepares, processes and maintains all contract payments, disbursement requests, deposits and transfers of expenditures as necessary.
- **Civil Engineer III (LG 24, \$48,769 - \$68,952)** to review wastewater infrastructure engineering plans and perform oversight of the permitting and construction of wastewater infrastructure. This position would also be responsible for ensuring wastewater infrastructure projects are designed and constructed in accordance with applicable state statutes and rules. This position will provide support to the senior staff in the Design Review and Construction Management sections of the Wastewater Engineering Bureau.
- **Environmental Program Manager (LG 27, \$55,555 - \$79,150)** to provide project management and administration of the funds provided to communities for the planning, design and construction of wastewater infrastructure projects, in conjunction with loans funded under the Clean Water State Revolving Fund (CWSRF) program. Responsibilities to include, but not limited to, soliciting and processing project applications, funding agreements, and disbursements. This position will work closely with CWSRF staff of the Wastewater Engineering Bureau.
- **Environmentalist III (LG 23, \$46,761 - \$65,949)** to provide reviews of grant and loan programs associated with ARPA to ensure compliance with state and federal laws, rules and policies, relative to stormwater and hazard resilience projects. Responsibilities include performing review of funding applications and analyzing their scope of work, budget and project content to determine completeness and eligibility, and recommending appropriate action. This position would also be responsible for providing technical assistance to federal and state agencies, funding recipients, municipalities, community groups and individuals.
- **Environmentalist III (LG 23, \$46,761 - \$65,949)** to provide reviews of grant and loan programs associated with ARPA to ensure compliance with state and federal laws, rules and policies. Responsibilities include performing review of funding applications and analyzing their scope of work, budget and project content to determine completeness and eligibility, and recommending appropriate action. This position would also be responsible for providing technical assistance to federal and state agencies, funding recipients, public water systems and municipal groups and individuals.

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- **Sanitary Engineer III (LG 31, \$63,999-\$88,101)** to review water supply infrastructure engineering plans and oversight of the permitting and construction of water supply infrastructure funded by ARPA. This position would also be responsible for reviewing applications for grants and loans and management of awarded grants and loans related to the work funded by ARPA.
2. ***Explain the Nature, Need, and Duration of the Program:*** The American Rescue Plan Act of 2021 is providing funds to states through the Coronavirus State Fiscal Recovery Fund to assist states with the economic impacts of the pandemic. To this end, this portion of those funds is earmarked for water and sewer infrastructure improvement investments. The program runs through December 31, 2024.
 3. ***What is the Relationship to Existing Programs?***
The ARPA funds will complement the existing Clean Water and Drinking Water State Revolving Fund programs as well as the Drinking Water/Ground Water Trust Fund in providing grants/loans for water and sewer infrastructure improvements.
 4. ***Has a Substantially Similar Program been Requested of the Legislature and Denied?*** No.
 5. ***Why was this Program and Its Funding Not Included in the Operating Budget?*** The federal grant funds were not available at the time the department created its FY22/23 Operating budget request. Management of the overall ARPA funds is being coordinated through GOEFFR.
 6. ***Can any Portion of the Funds Be Utilized if Either, None, or Only Part of the Positions are Authorized?*** No, the contracts, loans and grant portions of the requested funding could not be effectively awarded without approval of the positions. Current staff resources would preclude timely review and processing of work scope authorizations, reports, engineering plans and loan/grant applications. Current staffing is not sufficient to allow timely execution of the work required under the federal requirements.
 7. ***What is the Estimate of the Amount of Funding Required to Continue the Positions in Future Years?***
It is anticipated that the positions are likely to continue until the ARPA funding expires on December 31, 2024. The estimated cost of these positions in FY 24/25 is \$910,541.

We respectfully request your approval of these items.



Robert R. Scott, Commissioner
NH Department of Environmental Services

MEMORANDUM OF AGREEMENT
between the
NH DEPARTMENT OF ENVIRONMENTAL SERVICES
and the
NH FISH AND GAME DEPARTMENT

Title: Water Infrastructure Project Support

I. Purpose of Agreement:

This Memorandum of Agreement (MOA) describes the regulatory support activities associated with infrastructure projects that have been agreed to between the Department of Environmental Services (NHDES) and the Fish and Game Department (NHFG). This MOA will allow NHDES and NHFG to work collaboratively to achieve the primary goal of facilitating necessary water and sewer infrastructure improvements by providing support to help ensure timely performance of consultations for protected wildlife by NHFG for land resource management permits.

II. Timeline of Agreement:

This MOA duration extends from the date of approval by Governor and Executive Council of the State of New Hampshire (Effective Date) through December 31, 2024, unless terminated by either party, or extended in writing by subsequent agreement of the parties and acceptance by Governor and Council.

For the purposes of this MOA, NHDES and NHFG agree to cooperate as follows:

III. Department of Environmental Services

The Department of Environmental Services agrees to:

1. Provide NHFG with funding as described in the Funding, Costs and Payment section.
2. Maintain a prioritized list of land resource management permit applications that require wildlife consultations or other related reviews by NHFG.
3. Provide complete applications and other required pertinent information to NHFG to ensure that reviews and consultations by the NHFGD can be performed in an efficient manner.

IV. Fish and Game Department

The Fish and Game Department agrees to:

1. Recruit and retain an additional full-time Biologist I to facilitate timely processing and resolution of land resource management permits related to NHDES funded water and sewer infrastructure projects. NHFG agrees to implement the obligations set forth in Paragraphs IV.3-7 of this Section beginning on the start date of the retained Biologist I.

2. Assign responsible staff within the NHFG to serve as a liaison with NHDES for the purpose of carrying out this Agreement.
3. Perform protected wildlife consultations for land resource management permitting and other review functions based on priorities established in conjunction with NHDES. NHFG review priorities may be adjusted as necessary based on discussions with NHDES to accommodate needs such as emergency authorizations or requests for expedited reviews per Env-C 209.07.
4. For water and sewer infrastructure projects, within 30 calendar days of receiving a complete Alteration of Terrain permit application from NHDES and any additional information from the applicant as may be required under NHFG Rules (FIS 1000), provide recommendations for conservation measures, if any, or provide to the applicant and NHDES a list of any additional information needed from the applicant for NHFG to complete its review, and any initial recommendations for conservation measures, as necessary.
5. Within 14 calendar days of receiving all requested information from an applicant, provide NHDES with final recommendations for conservation measures.
6. NHFG shall make its best efforts, as available resources allow, to comply with the timeframes set forth in Paragraphs IV.4 and IV.5 for all other Alteration of Terrain permit applications.
7. Extract relevant information from wildlife assessment reports submitted with land resource management permit applications, if any, and provide this information to the NH Natural Heritage Bureau for inclusion in the confidential Natural Heritage Database.

V. Mutual Agreement of the Parties

It is further understood and agreed to between NHDES and NHFG that:

1. The parties will maintain communication via regular meetings between program staff to ensure collaboration on work that is being conducted.
2. This MOA may be modified in writing at any time by mutual consent of both parties and approval by the Governor and Council.
3. In the event that changes in either State or Federal laws or regulations occur which render the performance of portions of this MOA illegal, void, impractical or impossible, those responsibilities shall be removed from this MOA but such removal shall not affect the other provisions and obligations contained within the remainder of this MOA.
4. The parties will review this MOA at least once each year to determine whether the MOA should be revised, renewed, or terminated.
5. The parties will maintain a shared spreadsheet to track land resource management permit applications, and meet as needed to discuss the status of wildlife assessments and priorities.
6. The parties will participate in joint public hearings, when required, for permits or rulemaking related to land resource management.
7. The parties will resolve in a timely manner compliance issues, citizen concerns, and comments from other agencies pertaining to wildlife consultations.

VI. Funding, Costs and Payment:

NHDES shall pay NHFG for costs associated with a Biologist I, Labor Grade 21, on a quarterly basis. In the event that this MOA does not become effective, NHDES shall be under no obligation to pay for costs incurred or services performed. The total budget shall not exceed \$293,665 over the course of this MOA as shown in Attachment A. Any unused funds from one fiscal year may be carried over to future years within the MOA period.

The NHFG shall maintain supporting documentation for all costs incurred for a period of three years beyond the end of this MOA for federal reporting and auditing purposes. Supporting documentation includes but is not limited to detailed time sheets which identify hours worked on this project, vendor invoices, and other related supporting documents.

Federal funds paid under this MOA are from the American Rescue Plan Act of 2021 passed through the Secretary of the Treasury to the State of New Hampshire. All applicable requirements, regulations, provisions, terms and conditions of this federal grant, including but not limited to, the Department of Treasury Interim Final Rules under 31 CFR Part 35, are hereby adopted in full force and effect between NHDES and NHF&G.

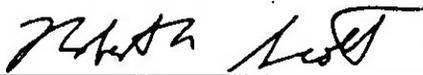
VII. AMENDMENTS

This agreement may only be amended by mutual, written agreement of both NHDES and NHFG.

VIII. TERMINATION

This agreement may only be terminated by either NHFG or NHDES upon providing written notice to the other at least sixty (60) days prior to termination.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.



Robert R. Scott
Commissioner
NH Department of Environmental Services

5/27/21

Date

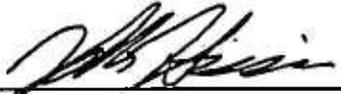


Scott Mason
Executive Director
NH Fish and Game Department

5-25-21

Date

Reviewed and approved as to form, substance, and execution:



Assistant Attorney General

5/27/2021
Date

ATTACHMENT A

Estimated Budget for the NHDES to support a position in the NHFG for State Fiscal Years 2022-2025.
The Budget includes funding for salaries, benefits, equipment, and related operating costs

<i>Estimated Budget By Fiscal Year</i>	
FY 2022	\$ 78,506
FY 2023	83,433
FY 2024	87,109
FY 2025*	44,617
TOTAL:	\$ 293,665
* Grant Ends on 12/31/24 which is half of one state fiscal year	