



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

**Robert R. Scott, Commissioner**

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November 21, 2024

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

**REQUESTED ACTION**

Authorize the New Hampshire Department of Environmental Services (NHDES) to amend an Aquatic Resource Mitigation (ARM) Fund grant (PO# 1066621) to The Town of Winchester (hereinafter "the Town"), Winchester, NH (VC#159981-B001) by extending the completion date to December 31, 2025, from December 31, 2024, upon Governor and Council approval. This is a no cost time extension. The original agreement was approved by Governor and Council on March 27, 2019, item #41. 100% Aquatic Resource Mitigation funds.

**EXPLANATION**

The Aquatic Resource Mitigation (ARM) Fund Program requests an **amendment** to the Aquatic Resource Mitigation (ARM) grant agreement to address restoration deficiencies and implement adaptive management measures at the Cranberry Bog Culvert Replacement and Stream Restoration Site, in Winchester, NH. Unforeseen circumstances require an additional time to implement adaptive management to achieve the desired restoration project objectives, including aquatic organism passage. The ARM Fund is responsible for ensuring the successful completion of compensatory mitigation projects to meet the State's obligations to the U.S. Army Corps of Engineers. Extension of this grant agreement will allow for the Town to develop and implement adaptive management to successfully accomplish the project objectives and outcome. To date, \$208,287.36 of the \$215,488.00 grant has been spent.

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable. The ARM Fund authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application and then issues the funds to wetland restoration and preservation projects across the nine watershed areas.

The Department issued the request for proposals for ARM funds available in the Lower Connecticut River watershed in April 2018. The project proposed by the Town was recommended for funding by the ARM Fund Site Selection Committee. The project involves replacement of a perched culvert on Back Ashuelot Road to improve aquatic organism passage and increase flood resiliency in Winchester, NH.

In the event that other funds no longer become available, general funds will not be requested to support this program. This amendment has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.

Robert R. Scott, Commissioner

**Agreement for Services with The Town of Winchester  
Amendment No. 1**

This Agreement (hereinafter called the "Amendment") dated this 25 day of November, 2024, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and The Town of Winchester, acting by and through its Town Administrator, Karey Miner (hereinafter referred to as the "Contractor").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Executive Council on March 27, 2019, agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement, and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:
  - (A) The Completion Date as set forth in Item 1.7 of the Agreement shall be changed from December 31, 2024, to December 31, 2025.
  - (B) Grant Officer for State Agency as set forth in Item 1.9 of the Agreement shall be changed from Lori Sommer to Emily Nichols.
  - (C) Contractor Signatory for Town of Winchester as set forth in Item 1.12 shall be changed from Margaret Sharra to Karey Miner.
  - (D) The grant period as set forth in sub-paragraph 2 of the Project Agreement shall be changed from December 31, 2024, to December 31, 2025.
  - (E) The grant period as set forth in sub-paragraph B of Exhibit A shall be changed from December 31, 2024, to December 31, 2025.
2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

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

The Town of Winchester

By Karey Miner  
Karey Miner, Town Administrator

11-6-24  
Date

THE STATE OF NEW HAMPSHIRE  
Department of Environmental Services

By Robert R. Scott  
Robert R. Scott, Commissioner

11/25/24  
Date

Approved by Attorney General this 27 day of November, 2024

OFFICE OF ATTORNEY GENERAL

By Keely Lovato Keely Lovato

**CERTIFICATION OF VOTE OF AUTHORIZATION**

I, Ben Kilanski, Board of Selectmen Chair, do hereby certify that at a meeting held on November 6, 2024, the Winchester Select Board voted to enter into an Aquatic Resource Mitigation (ARM) Fund grant agreement with the New Hampshire Department of Environmental Services for Cranberry Bog Culvert & Stream Restoration in Winchester, NH.

The Winchester Select Board further authorized Karey Miner, Town administrator, to execute any documents which may be necessary for this contract.

This authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof.

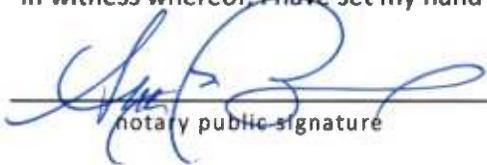
In witness whereof, I have hereunto set my hand as Ben Kilanski, Board of Selectmen Chair, on this day the, November 6, 2024.

  
signature

11/6/2024  
date

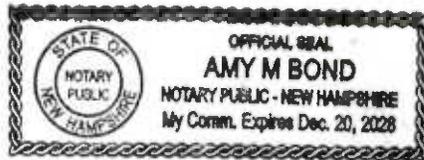
On this date, November 6, 2024, Ben Kilanski, Board of Selectmen Chair personally appeared before me, the undersigned notary public officer, who acknowledged Karey Miner to be the Town administrator being authorized to do so, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal

  
notary public signature

11/6/2024  
date

My Commission Expires





## CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex<sup>3</sup>) 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, Primex<sup>3</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>3</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>3</sup> 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 Primex<sup>3</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>3</sup> 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 Primex<sup>3</sup>. 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.

<b>Participating Member:</b> Town of Winchester 1 Richmond Street Winchester, NH 03470	<b>Member Number:</b> 328	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> PO Box 23 Hooksett, NH 03106-9716
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	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"/>	<b>General Liability (Occurrence Form)</b>	7/1/2024	7/1/2025	Each Occurrence	\$ 2,000,000
<input type="checkbox"/>	<b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			General Aggregate	\$ 10,000,000
				Fire Damage (Any one fire)	
				Med Exp (Any one person)	
<input checked="" type="checkbox"/>	<b>Automobile Liability</b> Deductible    Comp and Coll: \$1,000  <input type="checkbox"/> Any auto	7/1/2024	7/1/2025	Combined Single Limit (Each Accident)	\$2,000,000
				Aggregate	\$10,000,000
<input checked="" type="checkbox"/>	<b>Workers' Compensation &amp; Employers' Liability</b>	7/1/2024	7/1/2025	<input checked="" type="checkbox"/> Statutory	
				Each Accident	\$2,000,000
				Disease - Each Employee	\$2,000,000
				Disease - Policy Limit	
<input checked="" type="checkbox"/>	<b>Property (Special Risk Includes Fire and Theft)</b>	7/1/2024	7/1/2025	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000

**Description:** Proof of Primex Member coverage only. Pollution and hazardous waste related liabilities, expenses and claims are excluded from coverage in the coverage document.

<b>CERTIFICATE HOLDER:</b>	<b>Additional Covered Party</b>	<b>Loss Payee</b>	Primex <sup>3</sup> - NH Public Risk Management Exchange
			By: <i>Mary Beth Purcell</i>
			Date: 11/6/2024    mpurcell@nhprimex.org
State of NH, Department of Environmental Services 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095			Please direct inquires to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3833 fax



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



Robert R. Scott, Commissioner

March 1, 2019

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

APPROVED G & C  
 DATE 3/27/19  
 ITEM # 41

**REQUESTED ACTION**

Authorize the New Hampshire Department of Environmental Services (DES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the Town of Winchester (hereinafter "Town"), Winchester, NH (Vendor Code #159981-B001) in the amount of \$215,488 for the purpose of replacing a perched culvert on Back Ashuelot Road to improve aquatic organism passage and increase flood resiliency in Winchester, effective upon Governor and Council approval through December 31, 2024. 100% ARM Funds.

Funding is available in the account as follows:

03-44-44-442010-38710000-073-500581 FY'19  
\$215,488

Dept. Environmental Services, In-Lieu Wetland Mitigation, Grants – Non - Federal

**EXPLANATION**

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable.

The DES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current department rules spell out ratios for wetland compensation that include creating a new wetland, restoring a former wetland site, or protecting a high-quality aquatic resource by preserving adjacent upland habitat. The newest improvement, begun in 2006, to the mitigation options is commonly referred to as an *in-lieu fee program*. This mitigation option is ideal for projects that have difficulty in locating an appropriate mitigation site. The Aquatic Resource Mitigation Fund (ARM) authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application.

The Department issued the request for proposals for ARM Funds available in the Lower Connecticut River watershed in April, 2018. The Town application was received and on November 28, 2018, DES announced the decision to fund the Town project in the Lower Connecticut River watershed. The project proposed by the Town was recommended for funding by the ARM Fund Site Selection Committee. Attachment A lists the proposals received and Committee members involved in the decision. The review of the awards by the Army Corps of Engineers and the New Hampshire Wetland Council resulted in full support of the recommendations.

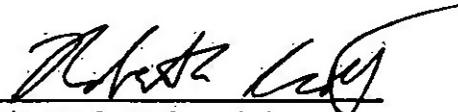
His Excellency, Governor Christopher T. Sununu  
and the Honorable Council

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The Town will use the ARM Funds to remove a perched, degraded-metal pipe and upgrade the structure to a 12-foot span box culvert with stream simulation which will restore aquatic connectivity between Cranberry Bog and the Ashuelot River. The project will improve hydraulic capacity and flood resiliency to accommodate a 100-year storm event in contrast to the current flood hazard issues when the culvert overtops during a 10-year storm. Attachment B includes a map of the project location.

In the event that other funds no longer become available, general funds will not be requested to support this program. This agreement has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.

  
Robert R. Scott, Commissioner

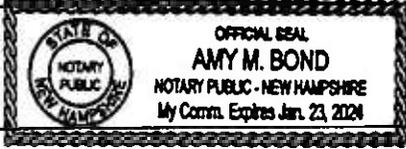
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095	
1.3 Contractor Name Town of Winchester		1.4 Contractor Address 1 Richmond Rd, Winchester, NH 03470	
1.5 Contractor Phone Number 603-239-4951	1.6 Account Number 03-44-44-442010-38710000-073-500581	1.7 Completion Date December 31, 2024	1.8 Price Limitation \$215,488
1.9 Contracting Officer for State Agency Lori L. Sommer, DES Wetlands Bureau		1.10 State Agency Telephone Number 603-271-4059	
1.11 Contractor Signature <i>Margaret A. Sharra</i>		1.12 Name and Title of Contractor Signatory Margaret A. Sharra Land Use Administrator, Town of Winchester	
1.13 Acknowledgement: State of <i>New Hampshire</i> County of <i>Cheshire</i> On <i>February 25, 2019</i> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] <i>Amy M. Bond</i>			
1.13.2 Name and Title of Notary or Justice of the Peace <i>Amy M. Bond</i>			
1.14 State Agency Signature <i>Robert R. Scott</i> Date: <i>3-6-19</i>		1.15 Name and Title of State Agency Signatory Robert R. Scott, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>[Signature]</i> On: <i>3/11/19</i>			
1.18 Approval by the Governor and Executive Council (if applicable) By: <i>[Signature]</i> On: _____			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

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Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

#### 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

#### 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. **INDEMNIFICATION.** The Contractor 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 or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. 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 of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Contractor Initials WS  
Date 2/25/19

**PROJECT AGREEMENT**

Between the  
STATE OF NEW HAMPSHIRE, Department of Environmental Services  
and the  
Town of Winchester

1. This Project Agreement (hereinafter "Agreement") is entered into by the State of New Hampshire, Department of Environmental Services, (hereinafter "DES"), and the Town of Winchester (hereinafter "Town"), for the purpose of undertaking a project of mutual interest.
2. This Agreement and all obligations of the parties hereunder shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve this Agreement ("Effective date") and shall end on December 31, 2024. If the provision of services by the Town precedes the Effective date, all services performed by the Town shall be performed at the sole risk of the Town and in the event this Agreement does not become effective, DES shall be under no obligation to pay the Town for costs incurred or services performed; however, if this Agreement becomes effective, all costs incurred prior to the Effective date that would otherwise be allowable shall be paid under the terms of this Agreement.
3. The work to be performed under the terms of this Agreement is described in the proposal identified below and attached to this document as Exhibit A, the content of which is incorporated herein as part of this Agreement.
4. That the Property involved in the project will be monitored on an annual basis for five years post-construction to ensure the success of the activities taken and to ensure that no actions are occurring which could be detrimental to the attributes of the Property. The Town agrees to submit a copy of the monitoring report(s) to DES to document the property conditions and any remedial measures taken.
5. Total funds in the amount of \$215,488.00 have been allocated and are available for payment of allowable costs incurred under this Agreement. DES will not reimburse the Town for costs exceeding the amount specified in this paragraph.
6. The Town agrees to place a sign, subject to its acceptability to the DES, at a prominent location on or near the Property. The sign should contain as a minimum the DES logo and the following statement: "This project has been completed with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the Town agrees to work with the Department to repair or replace it with identical signage and to share any costs associated with that repair or replacement to the extent reasonably practicable.

**EXHIBIT A**

**SCOPE OF SERVICES**

- A. Project Title: Cranberry Bog Culvert Replacement and Stream Restoration
- B. Project Period: May 1, 2019 through December 31, 2024
- C. Objectives: The objectives of this project are to replace the failing and perched culvert on Back Ashuelot Road with a 12-foot span box culvert with stream simulation to restore aquatic connectivity, provide bank stabilization, and improve hydraulic capacity at the stream crossing. The new box culvert will retain natural sediment throughout the bottom and adequate water level to

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allow for full aquatic organism passage from the Ashuelot River to the upstream area. The project will improve hydraulic capacity and flood resiliency to accommodate a 100-year storm event, in contrast to the current metal-pipe culvert that overtops during a 10-year storm. Lastly, water quality of Snow Brook will be improved through installation of stormwater treatment and erosion controls near the roadway, and restoration of 770 ft<sup>2</sup> of floodplain bench downstream of the culvert.

- D. Scope of Work: Snow Brook currently passes through a 48" x 60' long corroded metal pipe that is undersized and blocked with sediment and debris. This project will remove the existing failing culvert, replace and lower the existing water line under the new stream crossing, and construct a new concrete culvert. A 5x12x60' concrete culvert will be installed that is designed to pass a 100-year storm event, increase flood resiliency, and reduce future maintenance at the site. The new culvert will be installed at a 2% slope with the inlet held at the current elevation, to maintain water level of the upstream pond. A series of concrete sills will be installed along the interior bottom of the culvert and surrounded by stone to simulate natural stream condition in the culvert for aquatic organism passage. The downstream channel will be regraded and widened and will be lined with the same round stone used to backfill the box culvert to create a series of two stone weirs with scour pools, to create a backwatered condition at the outlet, and facilitate fish upstream migration. A new channel slope of 3.7% over 40 feet will be created to reduce the outlet perch. Stormwater treatment and erosion control structures will be installed in the adjacent roadway around the culvert to capture road runoff and reduce sediment inputs into the Ashuelot River. Post-construction the riparian buffers will be restored stabilizing a total of 160 ft<sup>2</sup> of upstream and 610 ft<sup>2</sup> downstream by installing coir fabric, New England wetland seed mix, and replanting native shrubs. Proposed work includes, but is not limited to: road closure of Back Ashuelot Road and traffic management plan, installation of erosion control measures, block off and divert water flow of Snow Brook, removal of existing metal culvert and headwalls, replacement and lowering of the 8" water main pipe, installation of the new concrete box culvert and headwalls, reconstruction of a natural stream channel through the culvert, regrading and distribution of sediment to reconstruct and widen the downstream channel, installation of two stone weirs downstream of the outlet, reconstruction of Back Ashuelot Road in the vicinity of the culvert, stabilization and replanting the floodplain bench and disturbed areas, removal of temporary erosion control measures, and 5-years of post-construction monitoring (see the monitoring plan for details).

E. Monitoring and Performance Standards:

The project shall be monitored for a minimum of five years. Monitoring will be conducted during a moderate and low flow (late summer) period each year for the first, third and fifth years, and following a ≥50-year storm event— if one occurs within the 5-year time frame. A pre-construction survey will be done to document baseline conditions at the site. The project shall be monitored for a minimum of five years. The first year of monitoring will start once the site has been through a full growing period after completion of construction and planting in summer 2019, so monitoring will start in September 2020. Reports shall be submitted to NHDES, by December 15. The mitigation will not be considered fulfilled until performance standards have been met and this is confirmed by NHDES after consultation with USACE.

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The restoration goals and performance standards for the project are:

Restoration Goal	Performance Standard
Flood Hazard Mitigation	Document replacement of the 48' pipe with a 5x12' box culvert with photos. Document overtopping flood occurrences.
Culvert Adequately Passes Streamflows and Sediment	Document slope of 2% with as-built drawings, substrate data, and photos. Document sediment buildup, stream scour, and erosion is <b>NOT</b> occurring with sediment and cross-section data, and photos.
Stormwater Treatment and Road Runoff Control	Document proper installation of filter strips and BMP erosion controls <u>with as-built drawings, visual assessment, and photos.</u>
Reduce Outlet Drop for Full Aquatic Organism Passage	Document that outlet height has decreased to 1.5' and outlet drop to water surface has been reduced for AOP.  Cross sections, photos, and substrate data to show installation of downstream grade control and step pools.  Document that sediment and water continues through the culvert with as-built drawings and photos of sills.

- F. Deliverable Schedule: Construction is anticipated to start in the summer of 2019 and the project will be complete within six weeks. Construction oversight will be conducted by SVE Associates. Post-construction monitoring will begin in September 2020 and conducted for 5 years per the monitoring plan.

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**EXHIBIT B**  
**BUDGET & PAYMENT METHOD**

The Town shall submit requests for payment after completing each task. Upon receipt and approval by DES of the invoices, DES shall issue payment to the Town of Winchester in accordance with the following:

	Budget	Payment Method
Site mobilization, signage, erosion controls, water main replacement and testing	\$30,000	
Site Construction: culvert installation inclusive of stone headwalls and stream simulation. Outlet channel improvements inclusive of stone weirs and landscaping	\$140,000	
Restoration of surfaces and demobilization	\$25,488	
Engineering services	\$12,800	
Project Monitoring		
Monitoring in years 2020, 2022, and 2024	\$7,200	
<b>TOTAL DES ARM FUNDS</b>	<b>\$215,488</b>	
<b><u>Total amount to be authorized following approval by the Governor and Executive Council:</u></b>	<b><u>\$215,488.</u></b>	

Payments shall be made by DES to the Town upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. DES will pay the Town within 30 days of receiving the invoice.

The payments listed above are inclusive of project labor and expenses. Invoices shall be formatted to note completion of services.

The billing address shall be as follows:

NH Department of Environmental Services  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
ATTN: Lori Sommer, Wetlands Bureau

Invoices shall be approved by the Contract Officer before payment is processed.

**EXHIBIT C**  
**SPECIAL PROVISIONS**

This section is intentionally left blank.

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# TOWN OF WINCHESTER

INCORPORATED JULY 2<sup>ND</sup> 1753



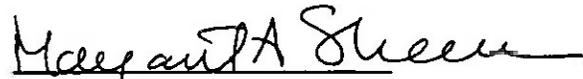
1 Richmond Road • Winchester, New Hampshire 03470  
Voice: (603) 239-4951 • Fax: (603) 239-4710 • TDD Access: Relay NH 1-800-735-2964  
selectmen@winchester.nh.gov • www.winchester-nh.gov

2-13-19

Re: NHDES Aquatic Mitigation Fund (ARM) Grant

I, Margaret Sharra, Land Use Administrator, do hereby certify that:

1. The Winchester Board of Selectmen has authorized Margaret Sharra, Land Use Administrator to enter into an agreement with the New Hampshire Department of Environmental Services to execute any documents which may be necessary to effectuate this agreement;
2. This authorization has not been revoked, annulled or amended in any manner whatsoever and remains in full force and effect as of the date hereof; and

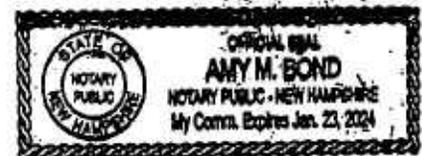
  
Margaret Sharra

State of New Hampshire  
County of Cheshire

On this 25 of February 2019, before me, Amy Bond, the undersigned officer personally appeared Margaret Sharra, who acknowledged herself as Land Use Administrator for the Town of Winchester and that she, as such being authorized to do, executed the forgoing instrument for the purpose therein contained.

In witness whereof I hereunto set my hand and official seal.

  
Notary Public





## CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex<sup>2</sup>) 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, Primex<sup>2</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>2</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>2</sup> 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 Primex<sup>2</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>2</sup> 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 Primex<sup>2</sup>. 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:

<b>Participating Member:</b> Town of Winchester 1 Richmond Street Winchester, NH 03470		<b>Member Number:</b> 328	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>2</sup> Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date (month/day/yyyy)	Expiration Date (month/day/yyyy)	Limits - NH Statutory Limits	May Apply If Not
<input checked="" type="checkbox"/> <b>General Liability (Occurrence Form)</b> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2018	7/1/2019	Each Occurrence	\$ 5,000,000
			General Aggregate	\$ 5,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input checked="" type="checkbox"/> <b>Automobile Liability</b> Deductible    Comp and Coll: \$1,000 <input type="checkbox"/> Any auto	7/1/2018	7/1/2019	Combined Single Limit (Each Accident)	\$5,000,000
			Aggregate	\$5,000,000
<input checked="" type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>	7/1/2018	7/1/2019	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease - Each Employee	\$2,000,000
			Disease - Policy Limit	
<input checked="" type="checkbox"/> <b>Property (Special Risk Includes Fire and Theft)</b>	7/1/2018	7/1/2019	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000
<b>Description:</b> Proof of Primex Member coverage only.				

<b>CERTIFICATE HOLDER:</b>	<b>Additional Covered Party</b>	<b>Loss Payee</b>	<b>Primex<sup>2</sup> - NH Public Risk Management Exchange</b>  By: <u>Tanya Downer</u>  Date: 2/13/2019    tdenver@nhprimex.org Please direct inquiries to: <b>Primex<sup>2</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3633 fax
NH Department of Environmental Services Wetlands Bureau 29 Hazen Drive Concord, NH 03302			

**Attachment A  
2018 Aquatic Resource Mitigation Fund Grants**

**Applications and Funding Amounts**

<b>Grant Applicant</b>	<b>Location/Town</b>	<b>Requested Funding Amount</b>	<b>Score</b>	<b>Approved for Funding</b>
New Hampshire Fish & Game Department	Croydon, Grantham and Newport	\$475,000	57	Yes – full funding
Upper Valley Land Trust	Hanover	\$299,644.75	51	Yes – full funding
Harris Center for Conservation Education	Stoddard	\$200,000	46	Yes – full funding
Town of Winchester	Winchester	\$215,488	45	Yes – full funding
Monadnock Conservancy	Jaffrey and Rindge	\$142,000	40	Yes – full funding
Cheshire County Conservation District	Surry	\$74,195	33	Yes – full funding
NH Department of Transportation	Fitzwilliam	\$250,000	31	No
Town of Winchester	Winchester	\$263,270	38	No

(Note: Each Committee member scores the projects and their scores are combined to create the total score.)

**Site Selection Committee List**

<b>Name</b>	<b>Agency/Organization</b>	<b>Title</b>	<b>Years of Experience</b>
Craig Rennie	NHDES, Land Resource Management Program	Land Resource Specialist	22
Pete Bowman	NH Dept. of Resources & Economic Development	Ecological Information Specialist	20
Michael Marchand	NH Fish and Game Department	Nongame and Endangered Species Coordinator	16
Stephen Walker	Office of Strategic Initiatives	CLSP Director	25
Nancy Rendall	NH Association of Natural Scientists	Wetland Scientist	36
Rick Van de Poll	NH Association of Conservation Commissions	Town of Sandwich	40
Brian Hotz	Society for the Protection of NH Forests	Vice President for Land Conservation	23

**ATTACHMENT B**

**Cranberry Bog Culvert Replacement and Stream Restoration/Winchester**

