



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

**Robert R. Scott, Commissioner**

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September 10, 2025

Her Excellency, Governor Kelly A. Ayotte  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the New Hampshire Department of Environmental Services (NHDES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the City of Portsmouth, NH (VC#177463-B001) in the amount of \$419,306 for the purpose of improving a degraded tidal shoreline through wetland restoration, wetland creation, and upland enhancement on North Mill Pond in Portsmouth, NH effective upon Governor and Council approval through December 31, 2031. 100% ARM Funds.

Funding is available in the account as follows:

	<u>FY 26</u>
03-44-44-442010-38710000-073-500581	\$419,306
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 NHDES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current administrative 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. One mitigation option, commonly referred to as an *in-lieu fee program*, is ideal for projects that have difficulty in locating an appropriate mitigation site. The ARM Fund authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application.

NHDES issued the request for proposals for ARM Funds available in the Salmon Falls-Piscataqua River Service Area in February 2021. The NHDES received seven (7) full applications within the Salmon Falls-Piscataqua River Service Area and on October 21, 2021, NHDES announced the decision to fund the North Mill Pond Living Shoreline Project. The review of the award by the New Hampshire Wetlands Council and

U.S. Army Corps of Engineers resulted in full support of the recommendation. Attachment A lists the proposals received and ARM Fund Site Selection Committee members involved in the decision. Since the recommendation for award in 2021, the City of Portsmouth has been working with NHDES and project partners on the project design. The project area is severely degraded by urban development and historic industrial activities. ARM funds were contingent upon site characterization and soil contamination investigation to ensure the design optimized restoration potential and minimized risk to the public and natural resources to be restored. This required analysis resulted in a delayed project implementation timeline to incorporate the results of the characterization into project design.

The City of Portsmouth will restore a degraded tidal shoreline within North Mill Pond, Portsmouth, NH to improve water quality, wildlife habitat connectivity, and support marsh migration. The site has been significantly degraded by urban development and is currently an abandoned industrial area overgrown with invasive plants. The shoreline is eroding, resulting in impacts to water quality and habitat for fish and wildlife. The North Mill Pond Living Shoreline Project will restore +/-0.24 acres of salt marsh habitat and +/- 0.79 acres of upland enhancement including coastal bluff. The landward side of the intertidal shore will be infilled and planted with saltmarsh cordgrass to create a low salt marsh transitioning to high salt marsh. A second, higher shelf will be created using coir logs that will raise the elevation to allow the growth salt tolerant plants and shrubs to interface with upland areas. At the most landward level, coastal bluff vegetation will be planted to provide wildlife habitat. To address issues from the surrounding developed land, a series of stormwater treatment basins will be installed to capture runoff. Fencing will be installed around the boardwalk and viewing platforms with educational signs posted to prevent pedestrians and their pets from entering the restored areas. Lastly, to ensure sustainability of the restored living shoreline the City of Portsmouth will place legal protections on the land in the form of deed restrictions to prohibit future development. 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

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> City of Portsmouth		<b>1.4. Grantee Address</b> 1 Junkins Avenue, 3 <sup>rd</sup> Floor, Portsmouth, NH 03801	
<b>1.5 Grantee Phone #</b> 603-610-7215	<b>1.6. Account Number</b> 03-44-44-442010- 38710000-073	<b>1.7. Completion Date</b> 12/31/2031	<b>1.8. Grant Limitation</b> \$419,306
<b>1.9. Grant Officer for State Agency</b> Emily Nichols		<b>1.10. State Agency Telephone Number</b> (603) 271-4059	
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> Karen Conard, Portsmouth City Manager	
<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	
<b>1.15. Approval by Attorney General (Form, Substance and Execution) (if G &amp; C approval required)</b>			
By: 		Assistant Attorney General, On: 9 / 15 / 2025	
<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 B (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.

EFFECTIVE DATE: COMPLETION OF PROJECT.

4. 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").

4.1. 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").

4.2. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.

5. The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.

5.1. The manner of, and schedule of payment shall be as set forth in EXHIBIT C.

5.2. 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.

5.3. 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.

5.4. 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.

5.5. 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.

6. RECORDS and ACCOUNTS. 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. 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 PERSONNEL.

8. 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.

8.1. 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.

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

8.3. DATA; RETENTION OF DATA; ACCESS. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations,

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. 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 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

11.2.3 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

11.2.4 TERMINATION. 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.

11.2.5 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.

11.2.6 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. 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

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Grantee Initials KSC  
Date 8/19/25

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. 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.

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.

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.

INSURANCE.

17.1.1 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:

17.1.2 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and 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.

Grantee Initials KSC  
Date 8/14/25

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

Aquatic Resource Mitigation (ARM) funds are contingent upon the recordation of a conservation interest instrument (e.g., conservation easement or declaration of covenants and conservation restrictions) approved in advance by the department to protect in perpetuity the restored resource areas on the parcel of land owned by the City of Portsmouth located on City of Portsmouth, Count of Rockingham, State of New Hampshire, identified on the tax records as Map 123 Lot 15 (PROPERTY).

**EXHIBIT B**  
**SCOPE OF SERVICES**

**A. Project Title:**

North Mill Pond Greenway Living Shoreline Project

**B. Project Period:**

Upon Governor & Council Approval through December 31, 2031

**C. Grant Amount:**

Total funds available for payment of allowable costs incurred under this Grant Agreement shall not exceed \$419,306. The New Hampshire Department of Environmental Services (NHDES) will not reimburse the City of Portsmouth (the "GRANTEE") for costs exceeding the amount specified in this paragraph.

**D. Effective Date and Commencement of Work:**

This Grant 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, 2031. Any work performed by the GRANTEE prior to the Effective Date shall be at the **sole risk** of the GRANTEE. In the event this Grant Agreement does not become effective, NHDES shall be under no obligation to pay the GRANTEE for any costs incurred or work performed; however, if this Agreement becomes effective, costs incurred prior to the Effective Date that would otherwise be allowable are eligible for payment under the terms of this Agreement.

**E. Objectives:**

The City of Portsmouth will restore a degraded tidal shoreline within North Mill Pond, Portsmouth, NH to improve water quality, wildlife habitat connectivity, and support marsh migration. The site has been significantly degraded by urban development and is currently an abandoned industrial area overgrown with invasive plants. The shoreline is eroding, resulting in impacts to water quality and habitat for fish and wildlife. The North Mill Pond Living Shoreline Project (PROJECT) will restore +/- 0.24 acres of salt marsh habitat and +/- 0.79 acres of upland enhancement including coastal bluff. The landward side of the intertidal shore will be infilled and planted with saltmarsh cordgrass to create a low salt marsh transitioning to high salt marsh. A second, higher shelf will be created using coir logs that will raise the elevation to allow the growth salt tolerant plants and shrubs to interface with upland areas. At the most landward level, coastal bluff vegetation will be planted to provide wildlife habitat. To address issues from the surrounding developed land, a series of stormwater treatment basins will be installed to capture runoff. Fencing will be installed around the boardwalk and viewing platforms with educational signs posted to prevent pedestrians and their pets from entering the

Grantee Initials KSC  
Date 8/14/25

restored areas. Lastly, to ensure sustainability of the restored living shoreline the GRANTEE will place legal protections on the land parcel in the form of deed restrictions to prohibit future development.

**F. Scope of Work:**

The GRANTEE agrees to complete the following tasks under this grant agreement with the New Hampshire Department of Environmental Services (NHDES) Aquatic Resource Mitigation (ARM) Fund Program.

**Task I: Design & Permitting**

The GRANTEE is responsible for obtaining all required federal, state, and local permits and approvals prior to any restoration work. The GRANTEE will obtain approval from the NHDES Wetland Bureau Permitting Section, in consultation with the ARM Fund Program, for the final design and construction timeline. The GRANTEE will work with the ARM Fund Program to develop a Federal Mitigation Plan for approval by the United States Army Corps of Engineers (USACOE). The Federal Mitigation Plan shall meet the criteria outlined in 33 CFR 332.4(c) and establish the mitigation work plan, performance standards, monitoring requirements, long-term management plan, adaptive management plan, and financial assurance measures.

**Task II: Construction Phase Engineering Services**

The GRANTEE and selected contractor(s) will participate in a pre-construction meeting before any site work begins that will include the ARM Fund Program, NHDES Coastal Program and project partners to review permit conditions and verify the construction timeline protocols such as lines of communication, work hours, and schedule. Representatives from NHDES will be invited to the pre-construction meeting and invited to provide input related to any grant-related requirements. During the pre-construction meeting the GRANTEE will designate a QUALIFIED PROFESSIONAL(S) (as defined in Env-Wt 802.06) with expertise living shoreline and salt marsh restoration to supervise and be on-site during construction to ensure conformance with the final design plans and specifications, as well as monitor the project site until it is stabilized. The designated QUALIFIED PROFESSIONAL(S) will supervise the construction to ensure that the living shoreline is constructed per the approved design plans in the NHDES Wetlands permit. The QUALIFIED PROFESSIONAL(S) will submit brief reports to the NHDES Wetlands Bureau staff via email every 2-3 days during active construction and will include 1) activities completed, 2) photos of the work site, and 3) any concerns or site constraints encountered during construction.

Within 60 days of Substantial Completion, to ensure the implementation of the design has occurred in accordance with permits and Contract Documents, a site walk will be conducted in which the ARM Fund Program will be invited. A punch list will be developed of items to be completed or corrected. Upon completion of all construction activities, a final walk through with the Project Team will be convened by the Project Engineer. The GRANTEE will provide NHDES with one P.E.-stamped as-built survey of the site to establish baseline conditions of the site topography, rock sill, low and high marsh, and buffer elevations, and density and species diversity of plantings. The as-built survey will include photos of the living shoreline and the rock sill.

**Task III: Construction**

The GRANTEE will contact the NHDES Wetlands Bureau Mitigation staff at least 5 state business days prior to starting any work under this task to notify of the date on which work under this agreement is expected to start. The construction contractor(s) hired by GRANTEE will mobilize the site for construction and conduct the living shoreline installation, including site excavation, living rock sill

Grantee Initials KSC  
Date 8/14/25

installation, salt marsh creation and buffer enhancement, invasive removal and native plantings, and site stabilization in accordance with the final design plans and permit conditions.

The GRANTEE agrees to work cooperatively with NHDES on the living shoreline installation and marsh creation/restoration and adjacent buffer areas, including, during the initial construction phase, adaptively managing marsh conditions. The construction plans, specifications, and bid items will anticipate adaptive management interventions that may be necessary to optimize restoration potential. During the initial construction phase, the QUALIFIED PROFESSIONAL shall convene field meetings as necessary between the Contractor, GRANTEE, ARM Fund Program, and other natural resource agency representatives with expertise in living shoreline installation and salt marsh restoration to adaptively manage the site within the terms of the existing construction plans, approvals, and agreements.

#### **Task IV. Long-Term Monitoring and Adaptive Management**

The GRANTEE will be monitoring the restoration project in accordance with the approved monitoring plan and prepare summary reports for five years post-construction to determine whether the performance standards included in the Federal Mitigation Plan approved by USACOE have been successfully achieved. The GRANTEE, ARM Fund Program, and project partners will collaboratively review the monitoring results on an annual basis to evaluate whether the site is maintaining target aquatic resource functions and meeting the performance standards. The GRANTEE will be responsible for the long-term maintenance of the restoration areas and development and implementation of adaptive management actions at the site if needed. Adaptive management and remedial actions shall only be enacted and in coordination with agreed upon methodology by USACOE and the ARM Fund Program.

The GRANTEE shall allow NHDES unrestricted access to the restoration project areas for five consecutive years following construction completion. NHDES will assist with the monitoring efforts, if necessary, 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 project. NHDES will refer any deficiencies observed to the GRANTEE to address.

#### **Task V. Land Protection**

The GRANTEE shall execute and record a conservation interest instrument (e.g. conservation easement or declaration of covenants and conservation restrictions) to protect the property in perpetuity before December 31, 2027. The conservation interest instrument shall include, at a minimum, the following conditions or restrictions:

- a. The use of the Property as hereinafter defined, shall be limited to open space conservation in perpetuity. No residential, commercial, or industrial uses shall be permitted.
- b. Public access on the Property shall be limited to the boardwalk and viewing platform. All other restored areas on the Property will be designated to serve as a living shoreline, salt marsh and coastal bluff habitat areas and there shall be designated as a no disturbance zone, except that invasive species management activities may be permitted with prior written approval from NHDES.
- c. The conservation interest instrument shall grant to the State of New Hampshire, acting through the NHDES, a right of enforcement in the conservation restrictions

Grantee Initials KSC  
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The GRANTEE shall monitor the Property on an annual basis in accordance with the *Standards and Practices* for stewardship of the Land Trust Alliance, to ensure that the terms of the declaration of covenants and conservation restrictions are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Restoration Area. The GRANTEE agrees to submit a copy of the annual monitoring report to NHDES on December 31 of each year to document the actions taken.

The GRANTEE shall return to NHDES ARM Fund Program \$419,306 if the GRANTEE fails to execute and record the conservation interest instrument and protect the Property in perpetuity.

**Task VI. Signage**

The GRANTEE will install a sign on or near the PROJECT location to acknowledge the NHDES support for the PROJECT, other funding partners and the PROJECT goals. The sign will contain the NHDES logo and a statement that the PROJECT has been completed with assistance from the New Hampshire Department of Environmental Services Aquatic Resource Mitigation Fund. Should the NHDES sign be damaged or destroyed, the GRANTEE agrees to work with NHDES to repair or replace it to the extent practicable.

**G. Deliverable Schedule:**

Task	Deliverable	Due Date
I. Design & Permitting	Submit and obtain all required state, federal and local permit applications.	December 31, 2025
II. Construction Phase Engineering	Pre-construction meeting minutes, construction status meeting notes, construction reports summarizing completed activities and correspondence, field observation reports, adaptive management strategies, photos, PE-stamped as-built report, survey and construction drawings, etc.	March 1, 2027
III. Construction	Successful completion of living shoreline installation, salt marsh and buffer plantings, site stabilization; and adaptive management strategy approval(s) and implementation (as-needed)	December 31, 2026
IV. Long Term Monitoring	Annual monitoring reports, including summary of maintenance and adaptive management activities.	December 2027-December 1, 2031
V. Land Protection	Perpetual Land Protection mechanism (e.g., Conservation Easement or Declaration of Covenants and Conservation Restrictions) recorded in the Registry of Deeds	December 31, 2027
VI. Signage	Public Notices, Draft and Final Sign Design, Installed Sign	December 31, 2027

Grantee Initials KSC  
Date 8/14/25

**EXHIBIT C**  
**ARM BUDGET & PAYMENT METHOD**

The GRANTEE shall submit requests for payment after completing each task and submitting evidence of the associated deliverable. Upon receipt and approval by NHDES of the invoices, NHDES shall issue payment to the GRANTEE in accordance with the following:

Budgeted amounts by Task are estimated. The GRANTEE is authorized to move funds between Tasks based on actual expenses incurred by Task with an award amount not to exceed \$419,306.

Upon receipt and approval by NHDES of the invoices, NHDES shall issue payment to the GRANTEE in accordance with the following:

Task		ARM Budget	Payment Method
I	Design & Permitting	\$0	Recipient Contribution
II	Construction Phase Engineering	\$52,000	Upon Completion
III	Construction	\$307,215	Upon Completion
IV	Long Term Monitoring & Contingency Costs	\$60,091	Upon Completion
V	Land Protection	\$0	Recipient Contribution
VI	Signage	\$0	Recipient Contribution
TOTAL		\$419,306	

**Total amount to be authorized following approval by the Governor and Executive Council:** **\$419,306**

Payments shall be made by NHDES to the GRANTEE upon approval of stated deliverables and verification of the value of completed work through submittal of invoices for services rendered. NHDES will pay the GRANTEE 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: Emily Nichols, ARM Fund Program

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

Grantee Initials KLSC  
Date 8/14/25

## CERTIFICATION OF VOTE OF AUTHORIZATION

I, Peter Britz, do hereby certify that at a meeting held on August 4, 2025, the Portsmouth City Council voted to enter into an Aquatic Resource Mitigation (ARM) Fund grant agreement with the New Hampshire Department of Environmental Services for North Mill Pond Living Shoreline Project in Portsmouth, NH.

The Portsmouth City Council further authorized Karen Conard, Portsmouth City Manager, 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 Peter Britz , on this day the, 8-14-2025.

  
signature

8-14-2025  
date

On this date, 8-14-2025, Peter Britz, Director of Planning and Sustainability personally appeared before me, the undersigned notary public officer, who acknowledged Karen Conard to be the Portsmouth City Manager 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

8/14/2025  
date

My Commission Expires

**Synthia M. Ravell**  
**NOTARY PUBLIC**  
**State of New Hampshire**  
**My Commission Expires 2/26/2030**



## 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.

<i>Participating Member:</i> City of Portsmouth One Junkins Avenue Portsmouth, NH 03801		<i>Member Number:</i> 275	<i>Company Affording Coverage:</i> NH Public Risk Management Exchange - Primex <sup>3</sup> PO Box 23 Hooksett, NH 03106-9716		
Type of Coverage		Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply	
<input checked="" type="checkbox"/>	<b>General Liability (Occurrence Form)</b>	7/1/2025	7/1/2026	Each Occurrence	\$ 1,000,000
<input type="checkbox"/>	<b>Professional Liability (describe)</b>			General Aggregate	\$ 2,000,000
<input type="checkbox"/>	Claims Made			Fire Damage (Any one fire)	
<input type="checkbox"/>	Occurrence			Med Exp (Any one person)	
<input type="checkbox"/>	<b>Automobile Liability</b> Deductible    Comp and Coll:  <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)  Aggregate	
<input type="checkbox"/>	<b>Workers' Compensation &amp; Employers' Liability</b>			<input type="checkbox"/> Statutory	
				Each Accident	
				Disease – Each Employee	
				Disease – Policy Limit	
<input type="checkbox"/>	<b>Property (Special Risk includes Fire and Theft)</b>			Blanket Limit, Replacement Cost (unless otherwise stated)	
<b>Description:</b> With regards to grant, the certificate holder is named as Additional Covered Party, but only to the extent liability is based solely on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. Pollution and hazardous waste related liabilities, expenses and claims are excluded from coverage in the coverage document.					

<b>CERTIFICATE HOLDER:</b>	<input checked="" type="checkbox"/>	<b>Additional Covered Party</b>	<input type="checkbox"/>	<b>Loss Payee</b>	<b>Primex<sup>3</sup> – NH Public Risk Management Exchange</b>
					<b>By:</b> <i>Mary Beth Purcell</i>
State of New Hampshire Department of Environmental Services 29 Hazen Drive Concord, NH 03302					<b>Date:</b> 8/26/2025    mpurcell@nhprimex.org
					Please direct inquires to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> <b>603-225-2841 phone</b> <b>603-228-3833 fax</b>



## CERTIFICATE OF COVERAGE

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<b>Participating Member:</b> City of Portsmouth One Junkins Avenue Portsmouth, NH 03801	<b>Member Number:</b> 275	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> PO Box 23 Hooksett, NH 03106-9716		
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not	
<b>General Liability (Occurrence Form)</b> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence	
			General Aggregate	
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<b>Automobile Liability</b> Deductible    Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>	7/1/2025	7/1/2026	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease – Each Employee	\$2,000,000
			Disease – Policy Limit	
<input type="checkbox"/> <b>Property (Special Risk includes Fire and Theft)</b>			Blanket Limit, Replacement Cost (unless otherwise stated)	
<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>3</sup> – NH Public Risk Management Exchange</b>
State of New Hampshire Department of Environmental Services 29 Hazen Drive Concord, NH 03302			<b>By:</b> <i>Mary Beth Purcell</i>
			<b>Date:</b> 8/26/2025    mpurcell@nhprimex.org  Please direct inquires to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3833 fax

**ATTACHMENT A  
2021 Aquatic Resource Mitigation Fund Grants**

**Applications and Funding Amounts**

<b>Grant Applicant</b>	<b>Town</b>	<b>Requested Funding Amount</b>	<b>Approved for Funding</b>
The Society for the Protection of New Hampshire Forests	Rochester	\$110,000	Yes – full funding
Town of Lee	Lee	\$245,000	Yes – full funding
Southeast Land Trust of New Hampshire	Milton	\$475,000	Yes – full funding
City of Portsmouth	Portsmouth	\$419,306	Yes – full funding
The Nature Conservancy	Barrington	\$300,000	Yes – full funding
Southeast Land Trust of New Hampshire	Durham	\$220,000	Yes – full funding
Strafford County Conservation District	Milton	\$97,000	Yes – full funding

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

**Site Selection Committee List**

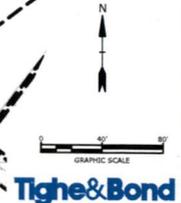
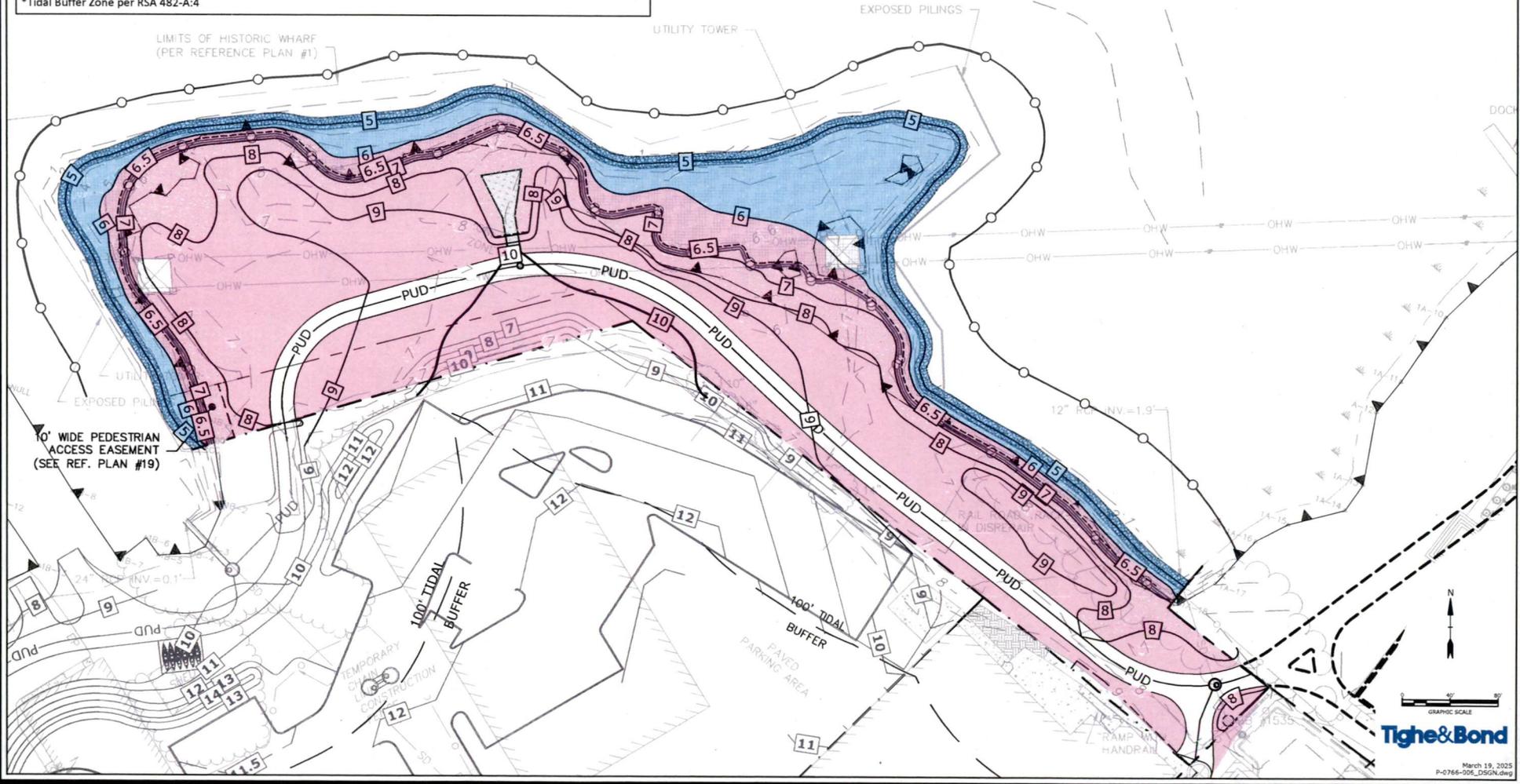
<b>Name</b>	<b>Agency/Organization</b>	<b>Title</b>	<b>Years of Experience</b>
Peter Bowman	NH Dept. of Resources & Economic Development	Ecological Information Specialist	23
Michael Marchand	NH Fish and Game Department	Nongame and Endangered Species Coordinator	19
Michael Burke	NH Rivers Council/ American Rivers	Water Resources Engineer	17
Tracy Tarr	NH Association of Natural Scientists	Wetland Scientist	21
Jennifer Gilbert	Office of Strategic Initiatives	State Floodplain Manager	24
Bill Thomas	NH Department of Environmental Services Dam Bureau	River Restoration Coordinator	22

# NORTH MILL POND GREENWAY PORTSMOUTH, NEW HAMPSHIRE

## WETLAND RESTORATION EXHIBIT

Project Buffer Impact and Marsh Restoration Comparison			
Wetland and Buffer Setback Area	Proposed Impacts	Proposed Impacts	Proposed Restoration
	Temporary	Permanent	
Jurisdictional Wetland	17,920 SF	0 SF	10,514 SF
0 - 100 FT*	27,279 SF	5,702 SF	34,599 SF
<b>Sub Totals</b>	<b>45,199 SF</b>	<b>5,702 SF</b>	<b>45,113 SF</b>
<b>Totals</b>	<b>50,901 SF</b>		<b>45,113 SF</b>

\*Tidal Buffer Zone per RSA 482-A:4



**Tighe & Bond**

March 19, 2025  
P-0766-005\_DSGN.dwg