



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

December 11, 2023

49

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 # 1085346) to the Merrimack County Conservation District (MCCD) (Vendor Code #157734-B001) by increasing the grant amount by \$97,000 to \$261,660 from \$164,660 for the purpose of replacing a culvert for stream restoration that is located in Loudon, NH, and extending the completion date to December 31, 2030 from December 31, 2027, effective upon G&C approval. The original agreement was approved by Governor and Council on April 20, 2022, item #86. 100% Federal Funds.

Funding is available in the following account:

03-44-44-440010-2476-072-500574

Dept. Environmental Services, ARPA DES Loans, Grants Federal

Activity Code: 00FRF602WB44010

FY 2024

\$97,000

EXPLANATION

NHDES is requesting approval of an amendment to the Aquatic Resource Mitigation (ARM) grant agreement to provide the MCCD additional funds through the American Rescue Plan Act (ARPA) to complete the agreed upon scope of services for the Harmony Lane Culvert Replacement Project in Loudon, NH. Upon receipt of the ARM grant in 2022, the MCCD initiated the design and permitting for the culvert project. The project has experienced unforeseen increased design and construction costs and gap funding is needed to ensure construction and project completion. The original project budget increased from \$326,400 to \$420,717 due to inflation of construction costs. The request for \$97,000 in ARPA funding will be applied to the increased construction and associated costs to complete the construction of an improved crossing that passes the 100-year storm event and allows aquatic organism passage and sediment transport. This is an allowable use of ARPA funds under Section 602 (c)(1)(D) to make necessary investments in water, sewer, or broadband infrastructure. Construction completion is anticipated by 2025. The extension to the completion date from December 31, 2027 to December 31, 2030 will accommodate the five (5) year post-construction monitoring period required to document success of the project and fully meet the ARM Fund program goals. To date, \$0 of the original \$164,660 grant has been spent.

New Hampshire RSA 482-A:3 and Federal law require 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 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. As sponsor of the New Hampshire In-Lieu Fee Program, 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. Supplemental funding to complete this compensatory mitigation project is necessary to successfully accomplish the project objectives and outcome.

The ARPA of 2021 is a \$1.9 trillion economic stimulus bill passed by the 117th United States Congress and signed into law by President Biden on March 11, 2021, to speed up the United States' recovery from the economic health

www.des.nh.gov

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

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

Page 2 of 2

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

In the event that 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 Merrimack County Conservation District
Amendment No. 1

This Agreement (hereinafter called the "Amendment") dated this 30 day of November 2023, 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 Merrimack County Conservation District, acting by and through the District Manager, Stacy L. Luke (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Executive Council on April 20, 2022, 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 1.6 of the Agreement shall be changed from December 31, 2027, to December 31, 2030.
 - (B) The Grant Limitation as set forth in Item 1.8 of the Agreement shall be changed from \$164,660 to \$261,660.
 - (C) Grant Officer for State Agency as set forth in Item 1.9 of the Agreement shall be changed from Lori Sommer to Emily Nichols.
 - (D) The grant period as set forth in sub-paragraph B of Exhibit B shall be changed from December 31, 2027, to December 31, 2030.
 - (E) The grant award as set forth in sub-paragraph C of Exhibit C shall be changed from 164,660 to \$261,660.
 - (F) Exhibit A shall be replaced with the attached Amendment 1-Exhibit A Special Provisions.
 - (G) The project scope and project monitoring as set forth in sub-paragraphs F and G in Exhibit B shall be replaced with the attached Amendment 1- Exhibit B, Scope of Services.
 - (H) The Budget Payment Method as set forth in Exhibit C shall be replaced with the attached Amendment 1-Exhibit C, Budget & Payment Method.
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.

AMENDMENT 1 - EXHIBIT A
SPECIAL PROVISIONS

I. NEW HAMPSHIRE STATE AND LOCAL FISCAL RECOVERY FUNDS FEDERAL REQUIREMENTS

This Agreement is funded under a grant to the State of New Hampshire (State) and subsequently through the Governor's Office for Emergency Relief and Recovery (GOFERR) and New Hampshire Department of Environmental Services (NHDES) as approved by the Governor and Executive Council from the federal government through the Department of Treasury (Treasury) through the American Rescue Plan Act of 2021 (ARPA), with the source of funds being the State and Local Fiscal Recovery Funds (SLFRF) identified under the Catalog of Federal Domestic Assistance (CFDA) number #21.027. The Federal Award Identification Number (FAIN) for this award is SLFRP0145. This grant award is a subaward of SLFRF funds and any and all compliance requirements, as updated by Treasury, for use of SLFRF funds are applicable to the Subrecipient, without further notice. Treasury requirements are published and updated at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

FEDERAL FUNDING ACCOUNTABILITY and TRANSPARENCY ACT (FFATA). The Subrecipient shall comply with the terms of the FFATA by providing NHDES with their Unique Entity Identifier (Unique Entity ID), and all applicable Executive Compensation Data information as required under the FFATA. A Unique Entity ID may be obtained by visiting <https://www.sam.gov>.

SAM REGISTRATION: The Subrecipient must have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

GENERALLY ACCEPTED ACCOUNTING PROCEDURES: The Subrecipient, if a governmental entity, shall maintain project accounts in accordance with the Generally Accepted Accounting Principles (GAAP), including standards relating to the reporting of infrastructure assets as issued by the Governmental Accounting Standards Board (GASB). The full text of Governmental Accounting Reporting Standards is available through the GASB website at: <http://www.gasb.org>

RECORDKEEPING REQUIREMENTS: The Subrecipient must maintain records and financial documents for five years after all funds have been expended or returned to the State and/or Treasury. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Subrecipient must agree to provide or make available such records to the State and Treasury upon request, and to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and their authorized representative to conduct audits or other investigations.

SINGLE AUDIT REQUIREMENTS: Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

CIVIL RIGHTS COMPLIANCE: The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply, and shall include in every contract or agreement funded with these funds this same requirement to comply, with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal

DOMESTIC PREFERENCES FOR PROCUREMENTS (2 C.F.R. § 200.322) As appropriate and to the extent consistent with law, to the greatest extent practicable, there is a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, subrecipients, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, Subrecipients, and borrowers also may not use federal funds to purchase:

- a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- a. Obligating or expending funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or

U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed. All contracts and subcontracts for the construction of treatment works shall insert in full in any contract the standard Davis-Bacon contract clause as specified by 29 CFR §5.5(a).

III. OTHER SPECIAL PROVISIONS

- A. In addition to the above special provisions, the following provisions as required by federal regulations apply to this Agreement:
1. **Financial management.** The Contractor shall comply with 2 CFR part 200 Subpart D and the specific standards regarding financial reporting, accounting records, internal control, budget control, allowable cost, source documentation, and cash management outlined therein.
 2. **Allowable costs.** All costs charged to this Agreement shall be eligible, necessary, and reasonable for performing the tasks outlined in the approved project scope of services. The costs, including match, shall be incurred during the period of performance of the project, and shall be allowable, meaning that the costs must conform to specific federal requirements detailed in 2 CFR part 200 Subpart E.
 3. **Property Management.** The Contractor shall comply with the property management and procedures detailed in 2 CFR Part 200 Subpart D.
 4. **Restrictions on Lobbying.** The Contractor shall comply with the terms of 15 CFR part 28 and 2 CFR Part 200 Subpart E which prohibit the use of federal Contract funds to influence (or attempt to influence) a federal employee and requires the submission of Standard Form LLL ("Disclosure of Lobbying Activities") if nonfederal funds have been used to influence (or attempt to influence) a federal employee.
 5. **Drug-Free Workplace.** The Contractor shall comply with the terms of 2 CFR part 1329 which require that as a condition of the Agreement, certification that they maintain a drug-free workplace. By signing and submitting the Agreement, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity associated with the Agreement.
 6. **Protection for Whistleblowers.** The Contractor shall comply with the terms of 41 U.S.C. §471 regarding Whistleblower protections. As described in 41 USC §471 "an employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant."

AMENDMENT 1 - EXHIBIT B
SCOPE OF SERVICES

A. **Project Title:**
Harmony Lane Culvert Replacement at Rocky Pond

partners to review permit conditions and verify the construction timeline. During the pre-construction meeting the GRANTEE will designate a QUALIFIED PROFESSIONAL(S) (as defined in Env-Wt 802.06) with expertise in stream restoration to supervise and be on-site during construction to ensure that all work is constructed in accordance with the approved design plans.

Task 2: New culvert installation, construction oversight, site stabilization, and as-built survey and report

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 GRANTEE will remove the existing pipe culverts and replace with a +/-17-foot-wide bridge. Work under this task includes: site preparation and mobilization, dewatering, removal of the old pipe culverts, excavating the site, installation of footers, abutments, in-stream structures, and the new crossing structure. Following construction completion, the GRANTEE will remove temporary staging areas, complete final grading. Restoration of areas where temporary impacts occur will be addressed per the NHDES permit conditions and the site will be stabilized with seed and hay, and riparian plantings.

The designated QUALIFIED PROFESSIONAL(S) will supervise the construction and submit 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) questions or concerns. Following construction, the GRANTEE will conduct one As-Built survey of the site to establish baseline conditions and will include: site topography, crossing elevations, stream channel geometry, and plantings. The As-Built survey will include photos of the stream channel and banks, the new crossing, plantings, and areas where temporary impacts were restored. One As-Built report will be submitted to the NHDES Wetlands Bureau Mitigation staff within 60 days of construction completion.

Task 3: Post-construction site monitoring

The GRANTEE will report annually to NHDES Wetlands Bureau staff any flooding issues at the PROJECT site that may occur between summer 2024 and December 31, 2030 with photo documentation and narratives provided by the town or local landowners. The NHDES Wetlands Bureau staff will survey the new stream crossing annually from 2024-2030 to evaluate aquatic organism passage, stream conditions, and bank stability. The NHDES Wetlands Bureau staff will provide monitoring reports to the GRANTEE and project partners to review. The GRANTEE, NHDES Wetlands Bureau staff, and project partners will collaboratively review the monitoring results on an annual basis during project meetings and site walks, to evaluate whether the site is meeting the expected performance standards. The GRANTEE will be responsible for organizing monitoring review meetings and providing feedback on project performance.

Task 4: Long-term maintenance and adaptive management

Based upon review of the monitoring results, the GRANTEE will develop a plan and implement remedial actions if necessary for the site to maintain aquatic organism passage and accommodate streamflow and sediment transport. If adaptive management is needed the plan would be prepared by the GRANTEE and reviewed and approved by the NHDES Wetlands staff. The GRANTEE would be responsible to implement the work outlined in the adaptive management plan. Work under this task may include engineer consultation and design plans to address any corrective measures, materials, construction work, plantings, and bank stabilization. The GRANTEE will submit photos and a summary of the adaptive management activities done via email to NHDES within 60 days of any work performed.

Task 5: Project Monumentation

The GRANTEE will install a sign on or near the PROJECT location to acknowledge the NHDES support for

SO

11-20-23

EXHIBIT C
METHOD OF PAYMENT

The GRANTEE shall submit requests for payment after completing each task and submitting evidence of the associated deliverable. 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 \$261,660.

The ARPA grant is in concert with \$164,660 in ARM Fund grant. Each disbursement request will be paid 100% of eligible expenses as ARPA grant funds not to exceed \$97,000. **To the greatest extent possible, ARPA grant funds shall be fully disbursed prior to other funding sources. All ARPA funds must be spent by September 1, 2026.**

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

Task 1: Design, permitting, and technical assistance	\$25,000
Task 2: Site mobilization, dewatering, remove pipe culverts, Installation of new structure, construction oversight, site stabilization, and as-built survey and report	\$220,160
Task 3: Annual performance monitoring review and meetings	\$5,000
Task 4: Long-term maintenance and adaptive management	\$11,000
Task 5: Project Monumentation	\$500
TOTAL NHDES ARM FUNDS	\$164,660
TOTAL ARPA FUNDS	\$97,000
<u>Total amount to be authorized following approval by the Governor and Executive Council:</u>	<u>\$261,660</u>

Payments shall be made by NHDES to the GRANTEE upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. Invoices shall be approved by the Contract Officer before payment is processed. 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, Wetlands Bureau, ARM Fund Program
Emily.P.Nichols@des.nh.gov

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

CERTIFICATE of AUTHORITY

I, Robert Larocque, Treasurer of the Merrimack County Conservation District do hereby certify that:

- 1. I am the duly elected Treasurer;
- 2. At the meeting held on this date November 16, 2023 the Merrimack County Conservation District voted to accept NHDES funds and to enter into a contract with the Department of Environmental Services;
- 3. The Merrimack County Conservation District further authorized the District Manager to execute any documents which may be necessary for this contract;
- 4. 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
- 5. The following person has been appointed to and now occupies the office indicated in (3) above:

Stacy L. Luke

Print (Officer Name)

District Manager

Print (Officer Title)

6. I have hereunto set my hand as the

Robert Larocque

Sign (Certifying Officer Name)

11-20-23

Date Signed: Print

Robert Larocque

Print (Certifying Officer Name)

Treasurer

(Certifying Officer Title)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Michael N Bertolone Farm Family Casualty Insurance Company 1 Fisher Ave Boscawen, NH 03303	CONTACT NAME: Madison Keaton	
	PHONE (A/C, No, Ext): 603.223.6686	FAX (A/C, No):
	E-MAIL ADDRESS: madison.keaton@american-national.com	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Farm Family Casualty Insurance Co		13803
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR Commerical General Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		2807L0231	12/08/23	12/08/24	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
<input checked="" type="checkbox"/>	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		2807E1144	12/08/23	12/08/24	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N/A	2807W0187	12/08/23	12/08/24	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER **CANCELLATION**

Emily Nichols Aquatic Resource Mitigation Program Wetlands Bureau, Land Resources Management Water Division, NH Department of Environmental Services P.O. Box 95 Concord, NH 03302-0095 Email: Emily.P.Nichols@des.nh.gov Phone: (603) 271-4059	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

March 7, 2022

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

APPROVED G & C

DATE 26 April 2022
ITEM # 86

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (NHDES) to award an Aquatic Resource Mitigation (ARM) Fund grant to the Merrimack County Conservation District (MCCD), Concord, NH (Vendor Code #157734-B001) in the amount of \$164,660 to replace a deficient culvert for stream restoration, effective upon Governor and Council approval through December 31, 2027. 100% ARM Funds.

Funding is available in the account as follows:

03-44-44-442010-38710000-073-500581 FY'22
\$164,660
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.

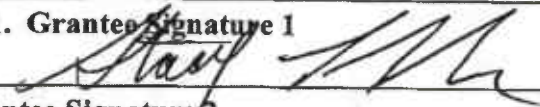


The DES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current department rules spell out ratios for wetland compensation that include creating a new wetland, restoring a former wetland site, or protecting 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 ARM Fund 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 Merrimack River watershed in February 2020. The MCCD application was received and recommended for funding by the ARM Fund Site Selection Committee. Review by the Army Corps of Engineers and the New Hampshire Wetland Council resulted in full support of the funding recommendations and on November 12, 2020,

GRANT AGREEMENT

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

1. Identification and Definitions.

1.1. State Agency Name New Hampshire Department of Environmental Services		1.2. State Agency Address 29 Hazen Drive, Concord, NH 03302-0095	
1.3. Grantee Name Merrimack County Conservation District		1.4. Grantee Address 10 Ferry Street, Suite 211, Concord, NH 03301	
1.5 Grantee Phone # (603) 223-6020	1.6. Account Number 03-44-44-442010- 38710000-073-500581	1.7. Completion Date 12/31/2027	1.8. Grant Limitation \$164,660
1.9. Grant Officer for State Agency Cheryl Bondi, NHDES Wetlands Bureau		1.10. State Agency Telephone Number (603) 271-0727	
If Grantee is a municipality or village district: "By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1 		1.12. Name & Title of Grantee Signor 1 Stacy L. Luke, District Manager	
Grantee Signature 2		Name & Title of Grantee Signor 2	
Grantee Signature 3		Name & Title of Grantee Signor 3	
1.13 State Agency Signature(s) 		1.14. Name & Title of State Agency Signor(s) Robert R. Saath, Commissioner, NHDES	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By: 		Assistant Attorney General, On: 4/11/2022	
1.16. Approval by Governor and Council (if applicable)			
By:		On: / /	

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

- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.
14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.
16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
17. INSURANCE.
- 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
- 17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and
- 17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
- 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Grantee shall furnish to the State, certificates of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy.
18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.
19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
20. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.
21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.
22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.
24. SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

Grantee Initials SB
 Date 2/24/2022

F. Scope of Work:

The GRANTEE agrees to complete the following under this grant agreement with the New Hampshire Department of Environmental Services (NHDES):

Task 1: Design, permitting, and technical assistance

The GRANTEE, with partners, will expand the current design plans for the Harmony Lane crossing and develop final Professional Engineer stamped designs for permitting, GRANTEE bidding, and construction. The GRANTEE and project partners will participate in a NHDES Wetlands Bureau pre-application meeting to ensure the design is in full compliance with NH Stream Crossing Guidelines to include stream simulation for fish and wildlife passage, accommodate natural sediment and water transport processes, and meet hydraulic capacity requirements for the site. The GRANTEE will work with the NHDES Wetlands Bureau permitting staff to finalize the design, construction timeline, permit and grant conditions, and submit and obtain an approved Wetlands Permit in 2022. The GRANTEE will complete bid administration and construction contracting. The GRANTEE will participate in a pre-construction meeting before any site work begins, that will include NHDES Wetlands Bureau staff and project partners to review permit conditions and verify the construction timeline. During the pre-construction meeting the GRANTEE will designate a QUALIFIED PROFESSIONAL(S) (as defined in Env-Wt 802.06) with expertise in stream restoration to supervise and be on-site during construction to ensure that all work is constructed in accordance with the approved design plans.

Task 2: New culvert installation, construction oversight, site stabilization, and as-built survey and report

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 GRANTEE will remove the existing pipe culverts and replace with a +/-17-foot-wide bridge. Work under this task includes: site preparation and mobilization, dewatering, removal of the old pipe culverts, excavating the site, installation of footers, abutments, in-stream structures, and the new crossing structure. Following construction completion, the GRANTEE will remove temporary staging areas, complete final grading. Restoration of areas where temporary impacts occur will be addressed per the NHDES permit conditions and the site will be stabilized with seed and hay, and riparian plantings.

The designated QUALIFIED PROFESSIONAL(S) will supervise the construction and submit 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) questions or concerns. Following construction, the GRANTEE will conduct one As-Built survey of the site to establish baseline conditions and will include: site topography, crossing elevations, stream channel geometry, and plantings. The As-Built survey will include photos of the stream channel and banks, the new crossing, plantings, and areas where temporary impacts were restored. One As-Built report will be submitted to the NHDES Wetlands Bureau Mitigation staff within 60 days of construction completion.

Task 3: Post-construction site monitoring

The GRANTEE will report annually to NHDES Wetlands Bureau staff any flooding issues at the PROJECT site that may occur between summer 2022 and December 31, 2027 with photo documentation and narratives provided by the town or local landowners. The NHDES Wetlands Bureau staff will survey the new stream crossing annually from 2022-2027 to evaluate aquatic organism passage, stream conditions, and bank stability. The NHDES Wetlands Bureau staff will provide monitoring reports to the GRANTEE and project partners to review. The GRANTEE, NHDES Wetlands Bureau staff, and project partners will

EXHIBIT C
METHOD OF PAYMENT

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:

Task 1: Design, permitting, and technical assistance	\$10,000
Task 2: Site mobilization, dewatering, remove pipe culverts, installation of new structure, construction oversight, site stabilization, and as-built survey and report	\$141,000
Task 3: Annual performance monitoring review and meetings	\$5,000
Task 4: Long-term maintenance and adaptive management	\$8,000
Task 5: Community outreach and education	\$600
TOTAL NHDES ARM FUNDS	\$164,660
<u>Total amount to be authorized following approval by the Governor and Executive Council:</u>	<u>\$164,660</u>

Payments shall be made by NHDES to the GRANTEE upon approval of stated outputs and verification of the value of completed work through submittal of invoices for services rendered. Invoices shall be approved by the Contract Officer before payment is processed. 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: Cheryl Bondi, Wetlands Bureau
Cheryl.bondi@des.nh.gov



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/11/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Michael N Bertolone Farm Family Casualty Insurance Company 1 Fisher Ave Boscawen, NH 03303	CONTACT NAME: Tanya Decato	
	PHONE (A/C, No., Ext): 603.223.6686 FAX (A/C, No.): E-MAIL ADDRESS: tanya.decato@american-national.com	
INSURED Merrimack County Conservation District 10 Ferry Street, Ste 211 Concord NH 03301-5081	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Farm Family Casualty Insurance Co	13803
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			2807L0231	12/08/21	12/08/22	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			2807E1144	12/08/21	12/08/22	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A	2807W0187	12/08/21	12/08/22	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTH-ER E L EACH ACCIDENT \$ 500,000 E L DISEASE - EA EMPLOYEE \$ 500,000 E L DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER NH Department of Environmental Services PO Box 95 Concord, NH 03302-0095	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Michael N Bertolone</i>
---	--

ATTACHMENT B

HARMONY LANE/ROCKY POND OUTLET CULVERT REPLACEMENT PROJECT

