

The State of New Hampshire

Department of Environmental Services

Robert R. Scott, Commissioner





December 7, 2023

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

REQUESTED ACTION

Authorize the Department of Environmental Services to award a grant to the Town of Hooksett (VC#177412-B002), in the amount not to exceed \$384,170 for water system capital improvements under the provisions of RSA 485:F, effective upon Governor & Council approval through December 31, 2024. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the following account:

FY 2024

03-44-44-444010-7428-073-500580

\$384,170

Dept. Environmental Services, Drinking Water and Groundwater Trust Fund, Grants Non-Federal

EXPLANATION

The Drinking Water and Ground Water Trust Fund (DWGTF) was created in 2016, using \$276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the DWGTF is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission (Advisory Commission) was established to administer and provide guidance to the State on the use of the DWGTF.

On August 15, 2023, the Advisory Commission voted to authorize \$384,170 as a Special Project Assistance grant to the Town of Hooksett to complete the Hooksett Route 3A Infrastructure Expansion Project. Due to rising construction costs, the original budget is no longer sufficient and an additional \$384,170 is required to complete the project. Remaining work includes additional alternatives to replace existing watermain on West Bank Road and Meadowcrest Road, and the completion of the water loop to increase resiliency and reliability. The project is currently under construction and is therefore time critical. This project will promote economic development by serving 12 properties within a Tax Increment Financing (TIF) district, 25 private residences, and a new 500,000 ft² commercial building.

Funding through the DWGTF is 100% grant funds. In the event that these funds become no longer available, General Funds will not be requested to support this project. This agreement has been approved by the Attorney General's Office as to form, substance, and execution. We respectfully request your approval of this item.

Robert R. Scott, Commissioner

Telephone: (603) 271-2513 • Fax: (603) 271-5171 • TDD Access: Relay NH 1-800-735-2964

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 Department of Environmental Services 1.3. Grantee Name Town of Hooksett, N ↑		1.2. State Agency Address 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095			
		1.4. Grantee Address 35 Main St, Hooksett, NH 03106			
1.5 Grantee Phone # 603-419-4003	1.6. Account Number	1.7. Completion Date 12/31/2024	1.8. Grant Limitation \$384,170		
1.9. Grant Officer for State Agency Cheryl Bondi, DWGTF Program Administrator		1.10. State Agency Telephone Number 603-271-8321			
	or village district: "By signing this		complied with any public		
1.11. Grantee Signature 1		1.12. Name & Title of Grantee Signor 1 Andre Garron, Town Administrator			
Grantee Signature 2		Name & Title of Grantee Signor 2			
Grantee Signature 3		Name & Title of Grantee Signor 3			
1.13. State Agency Sig	nature(s)	1.14. Name & Title of St Robert R. Scott, Commissio Department of Environmen	ner		
1.15. Approval by Atto	orney General (Form, Substa	ance and Execution) (if G & C	approval required)		
By:	Assistant A	Attorney General, On: /	7 1/3/2023		
1.16. Approval by Gov	ernor and Council (if appli	cable)			
By: On: / /			/ /		

2. <u>SCOPE OF WORK</u>: 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").

- 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.
- 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 9.3. signature by the State Agency as shown in block 1.14 ("the Effective Date").
- Except as otherwise specifically provided herein, the Project, including all reports 9.4. 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").
- GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
- The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.
- The manner of, and schedule of payment shall be as set forth in EXHIBIT C.
- In accordance with the provisions set forth in EXHIBIT C, and in consideration 10. 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.
- 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 11. the Grantee other than the Grant Amount.
- Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, 11.1.1 or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of 11.1.2 these general provisions.
- COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all 11.2. statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including 11.2.1 the acquisition of any and all necessary permits and RSA 31-95-b.
- 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 11.2.2 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.
- 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
 - The Grantee shall, at its own expense, provide all personnel necessary to perform 12.2. 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. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, 12.3. 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.
- 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 12.4.
- Officer, and his/her decision on any dispute, shall be final. DATA; RETENTION OF DATA; ACCESS.
 - As used in this Agreement, the word "data" shall mean all information and things 13. 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.
- 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.
- No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 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.
 - 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
- 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.
- EVENT OF DEFAULT: REMEDIES.

9.2.

9.5.

- 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"):
- Failure to perform the Project satisfactorily or on schedule; or
- Failure to submit any report required hereunder; or
- 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
- 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:
- 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
- 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
- Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
- 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.
- 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.
 - 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

Grantee Initials

Date

10/3 (2.3)

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.

approval of the undertaking or carrying out of such Project, shall participate in

ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or 19. 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 21. 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**

14.

15.

- 17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall 23. 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:
- Statutory workers' compensation and employees liability insurance for all 24. 17.1.1 employees engaged in the performance of the Project, and
- General liability insurance against all claims of bodily injuries, death or property 17.1.2 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

- 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.
- 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.

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.

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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. 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 intend of the parties hereto.

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.

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.

SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

Grantee Initials

Date

10/21/23

EXHIBIT A SPECIAL TERMS & CONDITIONS

- 1. Project-related changes to the Scope of Services outlined in Exhibit B require NHDES approval in advance and if applicable as determined by NHDES, may require approval by the Drinking Water and Groundwater Advisory Commission and a grant amendment subject to approval by the Governor and **Executive Council.**
- 2. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.7).

EXHIBIT B SCOPE OF SERVICES

Town of Hooksett

The Town of Hooksett (Grantee) will use \$384,170 in grant funding from the DWGTF Special Project Assistance Program for the completion of the Hooksett Route 3A Infrastructure Expansion Project. Due to extreme construction cost inflation, the budgets that the Town established two years ago are no longer sufficient to complete the existing scope of work. The last stage of the project, which includes a water loop to increase watermain resiliency and reliable service for the Town, has been estimated to cost \$384,170. With grant funding from the DWGTF, the Town will successfully complete their Route 3A Infrastructure Expansion Project.

As a requirement of this grant funding, the Town of Hooksett is required to develop and adhere to an asset maintenance and renewal plan for the funded improvements and provide documentation supporting compliance with this requirement.

This agreement consists of the following documents: Exhibits A, B, C, and attachments, which are all incorporated herein by reference as if fully set forth herein.

EXHIBIT C METHOD OF PAYMENT

The NHDES shall pay to the Grantee the total reimbursable project costs up to \$384,170 for eligible drinking water improvement costs in accordance with the following requirements:

Reimbursement requests for project costs shall be made no more than once per calendar month by the Grantee using the Drinking Water and Groundwater Trust Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain

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Drinking Water and Groundwater Trust Fund – Grant
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adequate documentation to substantiate all project related costs. All work shall be performed to the satisfaction of the NHDES before payment is made.

The total reimbursement shall not exceed the grant award of \$384,170. Each disbursement request will be paid 100% grant funds up to \$384,170.

Grantee Initials _

Date



DRINKING WATER INFRASTRUCTURE PROJECT CERTIFICATE OF VOTE – GRANTS ONLY



Drinking Water and Groundwater Bureau Grants,
Drinking Water and Groundwater Trust Fund (DWGTF),
PFAS Remediation Loan Fund (PFAS-RLF) and American Recovery Plan Act (ARPA)

Env-Dw 1300; Env-Dw 1400

A Certificate of Vote of Authorization (COV) is a certificate that states that a grantee is willing to enter into a grant agreement with the State of New Hampshire Department of Environmental Services (NHDES) and that whoever signs the Grant Agreement (provided under separate cover) has the authority to do so. **Do not complete this form until you have received a Grant Agreement from NHDES. Follow the steps below**:

- 1. Following a funding offer from NHDES, obtain the authority to accept grant funds and assign an Authorized Representative (AR) from the grantees governing body. This will likely require a vote at a meeting of the governing body. A vote may take place any time prior to execution of the Grant Agreement.
- 2. Once the Grant Agreement has been received from NHDES, someone other than the AR (who can certify actions taken at the referenced meeting) completes and signs the COV. The AR cannot sign the COV. The COV must be signed and notarized on the same date as, or within 30 days of, when the AR signs the Grant Agreement. The 30-day window applies to either side of the execution date.
- 3. The AR signs the Grant Agreement and initials and dates the bottom of each page including the Exhibits.
- 4. Mail original COV and Grant Agreement documents to program contact at NHDES.

Certificate of Vote of Authorization TOWN OF HOOKSETT 35 Main St. Hooksett, NH 03106

33	
1, Bruce Thomas, Figureer, of the Town of Hook 9/13/23, the Town Council voted to enter into	ksett, do hereby certify that at a meeting held on a Drinking Water and Groundwater Trust Fund
(DWGTF) grant agreement with the New Hampshire Department Enviro	nmental Services to fund a Drinking Water
improvement project.	
The Town of Hooksett further authorized the <u>André</u> <u>Garron</u> , which may be necessary to effectuate this grant agreement.	Town Admin Trappe to execute any documents
IN WITNESS WHEREOF, I have hereunto set my hand as English of October, 2023 Printed Name: Bruce Thomas Signature/T	itle: Imm / Town Engineer
On this	J. Fitzpanick before me (Notary Public), the who acknowledged themselves to be the Town Engineering instrument for the purpose therein contained. DONNA J. FITZPATRICK NOTARY PUBLIC State of New Hampshire

Drinking Water State Revolving Fund
Drinking Water & Ground Water Trust Fund
PFAS- Remediation Loan Fund

My Commission Expires
May 3, 2028



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) 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, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ 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 Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ 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 Primex³. 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.

		3	73.00				
Participati	ing Member:	Men	nber Number:		Comp	pany Affording Coverage:	
35 Mair	f Hooksett n Street tt, NH 03106		204		Bow 46 D	Public Risk Management Ex Brook Place Jonovan Street cord, NH 03301-2624	cchange - Primex ³
	Type of Cov	erage	Effective Date (mm/dd/yyyy)	Expiration (mm/dd/y)		Limits - NH Statutory Limits	May Apply, If Not:
X G	eneral Liability (Occurr	ence Form)	7/1/2023	7/1/202	24	Each Occurrence	\$ 2,000,000
	rofessional Liability (d		17112020	1717202		General Aggregate	\$ 10,000,000
	Claims Made	Occurrence				Fire Damage (Any one fire)	
						Med Exp (Any one person)	
	utomobile Liability eductible Comp and Any auto	Coll:	7/1/2023	7/1/202	24	Combined Single Limit (Each Accident) Aggregate	\$2,000,000 \$10,000,000
X W	orkers' Compensation	& Employers' Liability	7/1/2023	7/1/202	24	X Statutory	
			974755			Each Accident	\$2,000,000
						Disease — Each Employee	\$2,000,000
						Disease — Policy Limit	
X Pi	roperty (Special Risk ind	ludes Fire and Theft)	7/1/2023	7/1/202	24	Blanket Limit, Replacement Cost (unless otherwise stated)	Deductible: \$1,000
	otion: Proof of Primex Notion the of		lution and hazai	dous waste	e relate	ed liabilities, expenses and	claims are
		1	1				
CERTIFI	CATE HOLDER:	Additional Covered Party	Loss P	ayee	Prim	ex³ – NH Public Risk Manage	ment Exchange

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee Primex	Primex" - NH Public Risk Management Exchange	
		Ву:	Mary Beth Purcell	
New Hampshire Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095		Date:	10/31/2023 mpurcell@nhprimex.org	
			Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax	