

LCBP SUBAWARD AGREEMENT

between

NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION

and

[SUBRECIPIENT NAME]

THIS AGREEMENT is made by the NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION (NEIWPCC), having its principal office at 650 Suffolk Street, No. 410, Lowell, Massachusetts 01854, and [SUBRECIPIENT NAME] (“Subrecipient”), having its principal office at [ADDRESS], [CITY], [STATE] [ZIP]; (Tel: [PHONE]; Email:[EMAIL]); Technical Contact: [CONTACT NAME].

This Agreement provides for NEIWPCC, as the recipient of U.S. Department of Interior (DOI) National Park Service (NPS) financial assistance, to make a subaward using federal funds to Subrecipient in compliance with 2 C.F.R. 200.332(a). This Agreement incorporates by reference the following documents:

- APPENDIX I – NEIWPCC Standard Clauses
- APPENDIX II – Insurance Specifications
- APPENDIX III – Scope of Work
- The Request for Proposals (RFP) and any clarifying responses by NEIWPCC; and
- The Subrecipient’s proposal and any clarifying responses by the Subrecipient.

All other prior agreements, representations, statements, negotiations, and undertakings are superseded.

Section I. Description

The NPS project title is “LCBP Champlain Valley National Heritage Partnership.” This Subaward is not for research and development.

Section II. Federal Requirements

A. Federal Award Identification.

1. Subrecipient’s Unique Entity Identifier in the federal System for Award Management (SAM) is **[UEI NUMBER]** .
2. The Federal Award Identification Number (FAIN) for this Subaward is **P25AC01705**.
3. The NPS Award Date is **8/26/25**.
4. The Subaward Period of Performance Start Date is the date of execution of this Agreement and the End Date is **[CONTRACT END DATE]**.

5. The amount of NPS Funds obligated to NEIWPCC under the award is **\$500,000**.
6. The total amount of NPS Funds obligated to the Subrecipient under this subaward is **[\$SUBAWARD AMOUNT]**.
7. The parties acknowledge NPS is the Federal awarding agency, and NEIWPCC is the pass-through entity, as defined in 2 CFR 200.1, for purposes of this Subaward. The contact information for NEIWPCC's awarding official for this Subaward is as follows:
- Susan J. Sullivan, Executive Director
New England Interstate Water Pollution Control Commission
650 Suffolk Street, Suite 410
Lowell, MA 01854
P: 978-323-7929
ssullivan@neiwpcc.org
8. The Assistance Program (CFDA) Number for this Subaward is **15.939**.
9. The Assistance Program Title for this Subaward is Heritage Program.
10. The Subrecipient's Indirect Cost Rate for the Federal award is the 15% de minimus rate unless, for each Fiscal Year, the Subrecipient negotiates a fixed carry-forward indirect cost rate with its cognizant agency. The Subrecipient must bill and report indirect costs based on the fixed carry-forward rate in the Negotiated Indirect Cost Rate Agreement in effect at the time of expense.

B. "Flow down" requirements.¹

1. The Subrecipient agrees to comply with all flow-down requirements imposed on NEIWPCC under the NPS award to ensure that the NPS award is used in accordance with all applicable Federal statutes, regulations, and the terms of the NPS award. These requirements include, among others:
- (a) The U.S. Department of Interior Standard Terms & Conditions (version 6), July 30, 2025, located at <https://www.doi.gov/grants/doi-standard-terms-and-conditions>.
 - (b) The Procurement Standards in 2 CFR Part 200, including the requirements of 2 CFR 200.92 - Subaward; 200.101 - Applicability; and 200.332 0 Requirements for pass-through entities.

¹ "Flow down" requirements include those statutory, regulatory, and Executive Order requirements that NEIWPCC, as a "pass-through entity" that makes subawards, is required to identify as potentially applying to subrecipients on NPS funded projects under 2 CFR 200.332(b)(2).

- (c) Pursuant to Executive Order 13798, entitled “Promoting Free Speech and Religious Liberty,” public recipients of federal funds are prohibited from conditioning subawards in a manner that would disadvantage applicants based on their religious character.

2. Other federal requirements that may apply to this subaward include the following:

(a) Build America, Buy America

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

The Subrecipient is hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit <https://www.doi.gov/grants/BuyAmerica>. Additional information can also be found at the White House Made in America Office website: www.whitehouse.gov/omb/management/madein-america/.

Waivers

When necessary, subrecipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;
2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or
3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at: <https://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers>.

If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the subrecipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a subrecipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing.

(b) Geospatial Data

Geospatial Data Act of 2018, Pub. L. 115-254, Subtitle F – Geospatial Data, §§ 751-759C, codified at 43 U.S.C. §§ 2801–2811 - Federal recipient collection of geospatial data through the use of the Department of the Interior financial assistance funds requires a due diligence search at the GeoPlatform.gov list of datasets to discover whether the needed geospatial-related data, products, or services already exist. If the required data set already exists, the Subrecipient must use it. If the required data is not already available, the Subrecipient must produce the proposed geospatial data, products, or services in

compliance with applicable proposed guidance and standards established by the Federal Geospatial Data Committee (FGDC) posted at www.fgdc.gov.

The Subrecipient must submit a digital copy of all GIS data produced or collected as part of the award funds to the bureau or office via email or data transfer. All GIS data files shall be in open format. All delineated GIS data (points, lines or polygons) should be established in compliance with the approved open data standards with complete feature level metadata.

(c) Program Income

If the Subrecipient earns program income, as defined in 2 CFR §200.80, during the period of performance of this agreement, to the extent available the Subrecipient must disburse funds available from program income, and interest earned on such funds, before requesting additional cash payments (2 CFR §200.305(5)). As allowed under 2 CFR §200.307, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must be used for the purposes, and under the conditions of, the Federal award. Disposition of program income remaining after the end of the period of performance shall be negotiated as part of the agreement closeout process.

(d) Rights in Data

The Subrecipient must grant the United States of America a royalty-free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this Agreement by the Subrecipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

Section III. AGREEMENT

1. Scope of Work. The Subrecipient agrees to conduct work on the project in accordance with the Scope of Work, reporting schedule, and budget attached hereto as APPENDIX III and incorporated herein by reference.

2. NEIWPCC Standard Clauses. The Subrecipient agrees to comply with the NEIWPCC Standard Clauses attached hereto as APPENDIX I and incorporated herein by reference.

3. NEIWPCC Project Contact(s). The following NEIWPCC staff will provide the Subrecipient technical and administrative oversight of the work performed under this Agreement. The Subrecipient agrees to submit all deliverables and invoices required by this Agreement to the following NEIWPCC Project Contact(s):

[PO NAME]
[COMPANY]

[PO NAME]
[COMPANY]

[ADDRESS]
[CITY], [STATE] [ZIP]
Tel: [PHONE]
Email: [EMAIL]

[ADDRESS]
[CITY], [STATE] [ZIP]
Tel: [PHONE]
Email: [EMAIL]

4. Insurance. Prior to the start of work, the Subrecipient agrees to procure, at its sole cost and expense, and always maintain in force during the term of this Agreement, policies of insurance as set forth in APPENDIX II hereto and incorporated herein by reference, written by companies authorized to issue insurance in the state where the work under this Agreement will be performed (Admitted Carriers). NEIWPCC, at its sole discretion, may accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed surplus lines affidavit; provided that nothing herein shall be construed to require NEIWPCC to accept insurance placed with a non-authorized carrier under any circumstances. Upon award, the Subrecipient agrees to deliver to NEIWPCC evidence of such policies (i.e., a Certificate or Certificates of Insurance). In the event there is a claim asserted that is covered by insurance and upon request of NEIWPCC, the Subrecipient agrees to make available for inspection to NEIWPCC, at NEIWPCC headquarters during reasonable business hours, any applicable policy required by this Agreement. Throughout the duration of this Agreement, the Subrecipient agrees to notify NEIWPCC of any material changes to the policy or any cancellations prior to the expiration date. The Subrecipient agrees that any failure to comply with the requirements herein is cause for cancellation or termination of this Agreement. NEIWPCC reserves the right to withhold payments due under this Agreement for any such noncompliance.

5. Matching Funds. The Subrecipient agrees to provide an anticipated amount of \$[MATCH AMOUNT] in non-federal matching funds or in-kind services and resources. The Subrecipient further agrees to meet the federal requirements for matching funds, including ensuring that non-federal funds are expended concurrently with the expenditure of the funds from the Federal award and within the approved project period. The Subrecipient agrees to document the use of the matching funds on a form provided by NEIWPCC and to submit the form to NEIWPCC for approval with the Final Invoice (i.e., the closing bill). The Subrecipient agrees to maintain records in accordance with applicable federal requirements, including documentation of how the value placed of any in-kind contributions was derived. The Subrecipient agrees to resolve all disputes with NPS regarding the qualification of any matching funds.

6. Duration of the Agreement. The Subrecipient agrees to not commence work prior to the date this Agreement is executed and to complete all work required by this Agreement by [CONTRACT END DATE].

7. Compensation to the Subrecipient.

- (a) NEIWPCC's obligation under this Agreement is for a total amount not to exceed \$[SUBAWARD AMOUNT] for the duration of this Agreement (the "Contract Price"). NEIWPCC's payment is contingent upon NEIWPCC's receipt of funding under the Federal award.

- (b) NEIWPCC's payments for work performed under this Agreement will be based on NEIWPCC's approval of the Subrecipient's invoices, receipt of the Subrecipient's Form W-9, and receipt of a current insurance certificate as required by this Agreement. The Subrecipient agrees that the tasks will be completed before payment is sought, and that partial payment for individual tasks is not permissible under this Agreement.
- (c) For any supplies or professional services purchased in connection with the execution of relevant tasks outlined in the workplan, Subrecipient shall provide detailed receipts or proof of purchase for each transaction when submitting invoices for each completed task. All receipts must be submitted to NEIWPCC along with the invoice for the completed task.
- (d) The Subrecipient agrees to submit its invoices to the designated NEIWPCC Project Contact(s) for approval in accordance with the Payment Schedule. Invoiced expenditures must agree with the approved Task Budget. Invoices must include the following: (i) the Subrecipient's name and address; (ii) the invoice date; (iii) the Agreement Project Code number, if any; (iv) the time period for the work covered by the invoice; (v) a description of the work performed; (vi) the applicable shipping and payment terms; (vii) the address where payment is to be sent; (viii) the person to be notified if the invoice contains a defect; (ix) itemized documentation of the costs associated with the work performed; (x) except with respect to the Final Invoice, a brief written progress report; and (xi) any data or other documentation NEIWPCC reasonably requests.

To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, requests for payment under this Agreement must include a certification, signed by an official who is authorized to legally bind the Subrecipient, which reads as follows: "By signing this invoice, I certify to the best of my knowledge and belief that this invoice is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812)."

- (e) The parties agree to the following Payment Schedule:

[INSERT PAYMENT SCHEDULE]

\$(SUBAWARD AMOUNT) Total

The Subrecipient agrees to submit the Final Invoice by [FINAL INVOICE DATE] to NEIWPCC's Project Contact for review.

The Subrecipient agrees to submit all invoices in accordance with the Payment Schedule and consistent with the Task Budget following completion of the enumerated tasks in accordance with the description in the Scope of Work. The Subrecipient acknowledges that NEIWPCC has no obligation to process invoices requesting partial payment for any one or more of the enumerated tasks.

The Subrecipient agrees to invoice all completed tasks, if any, not yet billed, by September 30th of each year within the project period no later than October 31st of the same year.

- (f) The Subrecipient acknowledges that the Final Invoice must include all outstanding charges due for work on the project. NEIWPCC reserves the right to deny payment for any work on the project not captured by the approved Final Invoice.
- (g) The Subrecipient agrees that the Contract Price constitutes the total compensation payable by NEIWPCC to Subrecipient for the work required by this Agreement. The Subrecipient agrees to perform the work as set forth in the Scope of Work without any change in the Contract Price. The Subrecipient acknowledges that any charges incurred exceeding the Contract Price will not be subject to reimbursement under this Agreement.
- (h) The Subrecipient acknowledges that the Contract Price includes all applicable Federal, State, and local taxes, fees, and duties.
- (i) NEIWPCC agrees to pay all approved invoices within thirty (30) days of receipt, provided that the invoice is approved by the NEIWPCC Project Contact(s) and accompanied by the corresponding Quarterly Report or the approved Final Report, as applicable. NEIWPCC may refuse to approve any part of an invoice if:
 - i. the work performed is defective or otherwise fails to meet the requirements of this Agreement;
 - ii. the work performed is subject to any pending claim or the imminent filing of such a claim is reasonably certain; or
 - iii. the invoice is otherwise inconsistent with the terms and conditions of this Agreement.
- (j) Payment will be based on receipt of a proper invoice and satisfactory contract performance.

8. Quarterly and Final Reports. The Subrecipient agrees to prepare the following written or electronic reports for submittal to the NEIWPCC Project Contact(s):

- (a) The Subrecipient agrees to submit one- to two-page Quarterly Reports by the 10th day after the end of each calendar quarter (i.e., by April 10 for January-March, by July 10 for April-June, by October 10 for July-September, and by January 10 for October-

December). The Subrecipient agrees to describe in each Quarterly Report the progress of work through the quarter, the outputs completed, the problems encountered and anticipated, including the resolution of such problems identified, a summary of the activity planned during the next quarter, and a comparison of the percentage of the project completed with the project schedule. NEIWPCC's payment of the Subrecipient's invoices for work performed is contingent upon NEIWPCC's timely receipt and approval of Quarterly Reports.

- (b) The Subrecipient agrees to submit to the NEIWPCC Project Contact(s) a draft Final Report that complies with the Scope of Work, and the terms and conditions of this Agreement, for approval no later than **[FINAL REPORT DATE]**. The Subrecipient agrees to complete all tasks described in the Scope of Work prior to submittal of the draft Final Report.
- (c) The Final Report should include an executive summary suitable for a broad audience, describing the project, its results, and its measurable impacts over the project period, including development of tools and resources, data collected and how to access it, and any communication materials developed for the project. The Final Report should document project activities over the entire project period and should include information summarized from Quarterly Reports.
- (d) NEIWPCC agrees to promptly notify the Subrecipient of any deficiencies identified on review of the draft Final Report and of any revisions necessary.
- (e) The Subrecipient agrees to submit the Final Report and the Final Invoice for payment upon the NEIWPCC Project Contact's or Contacts' approval of the Subrecipient's draft Final Report. The Final Invoice must include all non-federal match accounting and be clearly marked "Final." NEIWPCC's payment of the Subrecipient's Final Invoice for work performed is contingent upon NEIWPCC's timely receipt and approval of the Final Report. NEIWPCC reserves the right to deny payment of a late Final Invoice.

9. Notifications. Unless otherwise expressly provided in this Agreement, any notice from one party to the other required or permitted to be given hereunder shall be in writing when delivered to the address, by e-mail, or by certified mail, return receipt requested, to the following addresses:

If to the Subrecipient:

[SUBRECIPIENT CONTACT INFORMATION]

If to NEIWPCC:

NEIWPCC
650 Suffolk Street, Suite 410
Lowell, MA 01854
Attention: Susan Sullivan, Executive Director
E-mail Address: ssullivan@neiwpcc.org

At any time, either party may designate a new recipient or address for the receipt of notices by providing written notice of such new recipient or address to the other party as provided herein.

10. The parties agree the parties may electronically sign this Agreement, and such electronic signatures will not be denied legal effect or enforceability solely because it is in electronic form. An electronic signature can take the form of either (a) a scan of the party's handwritten signature; (b) an electronic signature made by means of a stylus, an electronic pen, a computer mouse, a touch screen, or other similar method; (c) an electronically inserted image intended to substitute for a signature; or (d) a "/s/ name of signatory" block.

IN WITNESS WHEREOF, the undersigned, having read this Agreement in its entirety, including all appendices hereto, if any, do hereby agree and certify as to having authorization to contract on behalf of the party represented.

**FOR NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL
COMMISSION**

Susan J. Sullivan,
Executive Director

Date:

FOR [SUBRECIPIENT]

[SIGNATORY NAME],
[TITLE]

Date:

APPENDIX I

NEIWPCC Standard Clauses

A. Work Outside the Scope of the Agreement. The Subrecipient agrees to not perform work outside the scope of the Agreement, unless such work is authorized by a properly executed, amendment to the Agreement. The Subrecipient acknowledges that NEIWPCC cannot authorize payment for work that is not authorized by this Agreement or any amendment thereto.

B. Notice of Circumstances Expected to Adversely Affect the Subrecipient's Performance. The Subrecipient agrees to immediately notify NEIWPCC upon learning of any circumstances that can reasonably be expected to adversely affect the Subrecipient's delivery of services under this Agreement. If such notification is provided verbally, the Subrecipient agrees to follow the initial verbal notice with a written notice to NEIWPCC within three business days, including a description of the circumstances and the actions the Subrecipient is taking to address the matter.

C. Warranties and guarantees.

- i. **Agreement Deliverables.** The Subrecipient warrants and represents that the work required by this Agreement will be performed in accordance with all terms and conditions contained in this Agreement.
- ii. **Compliance with Laws.** The Subrecipient warrants and represents that, throughout the term of the Agreement, in the performance of its obligations under the Agreement, it will: (i) comply with all applicable laws, ordinances, rules and regulations of any governmental entity; (ii) pay, at its sole expense, all applicable permits, licenses, tariffs, tolls, and fees; and (iii) give all notices required by any laws, ordinances, rules, and regulations of any governmental entity.
- iii. **Workmanship Warranty.** The Subrecipient warrants and represents that all services and deliverables will meet the completion criteria set forth in the Agreement and that services will be provided in a professional and workmanlike manner in accordance with the highest applicable industry standards.
- iv. **Personnel Eligible for Employment.** The Subrecipient warrants and represents that all personnel performing work under this Agreement are qualified to provide such services and eligible for employment in the United States. The Subrecipient agrees to provide such proof of compliance as is required by NEIWPCC.
- v. **Survival of Warranties.** All warranties contained in the Agreement will survive termination of the Agreement.

D. Indemnification, Limitation on Liability.

- i. **Indemnification.** To the fullest extent permitted by law, the Subrecipient shall defend, indemnify, and hold harmless NEIWPCC, and its commissioners, agents, and employees (hereinafter referred to as “Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Subrecipient or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of the Subrecipient to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Subrecipient from and against all Claims. It is agreed that Subrecipient will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, the Subrecipient agrees to waive all rights of subrogation against NEIWPCC, and its commissioners, agents, and employees for losses arising from the work performed by the Subrecipient for NEIWPCC. This section is not subject to the limitation of liability provisions of the Agreement.
- ii. **Indemnification for Intellectual Property Infringement.** To the fullest extent permitted by law, the Subrecipient shall defend, indemnify, and hold harmless NEIWPCC, and its commissioners, agents, and employees (hereinafter referred to as “Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret, or other third-party proprietary right in relation to the services, products, documentation, or deliverables furnished or utilized by the Subrecipient under this Agreement. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Subrecipient from and against all Claims. It is agreed that Subrecipient will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, the Subrecipient agrees to waive all rights of subrogation against NEIWPCC, and its commissioners, agents, and employees for losses arising from the work performed by the Subrecipient for NEIWPCC. This section is not subject to the limitation of liability provisions of the Agreement.

E. Consent to Post. The Subrecipient consents to the posting of the Subrecipient's project reports and submittals on NEIWPCC's website and the funding source's website. Notwithstanding the foregoing, if the Subrecipient claims that any such documents contain confidential information or trade secrets that is protected from disclosure, then the Subrecipient may notify NEIWPCC and the project funding source of such claim at the time of submittal of such, and clearly mark each such document or the pertinent portion thereof as "**PROTECTED FROM DISCLOSURE,**" and include in its notice of claim the legal citation to the statutory and/or regulatory sources which provide the legal basis requiring NEIWPCC and the project funding source to provide such protection.

F. Suspension or Cancellation of Awards. With 30 days' notice, NEIWPCC may discontinue or suspend funding, rescind payments made or demand return of any unspent funds based on any of the following: (a) the written reports required herein are not submitted to NEIWPCC on a timely basis, (b) the reports do not comply with the terms of this Agreement or fail to contain adequate information to allow NEIWPCC to determine if the funds have been used for their intended purposes, (c) subaward funds have not been used for their intended purposes or have been used inconsistently with the terms of this Agreement, (d) NEIWPCC is not satisfied with the progress of the activities funded by this subaward, (e) the purposes for which the subaward was made cannot be accomplished, or (f) making any payment might, in the judgment of NEIWPCC, violate the terms of NEIWPCC's cooperative agreement with NPS, or expose NEIWPCC to liability. NEIWPCC will provide notice of any determinations made under this paragraph. In the event NEIWPCC takes action permitted by this paragraph solely based on (d) and (e), and Subrecipient provides documentation that it has incurred obligations consistent with the terms of the grant in good faith reliance on the Agreement and the approved budget, NEIWPCC will consider in good faith permitting subaward funds to be used to pay such obligations.

G. Termination.

- i. **For Convenience.** By written notice, this Agreement may be terminated, at any time, by NEIWPCC for convenience upon 30 days' written notice, without penalty or other early termination charges due. If the Agreement is terminated pursuant to this paragraph, NEIWPCC shall remain liable for all accrued but unpaid charges incurred through the date of the termination.
- ii. **For Cause** For a material breach that remains uncured, as solely determined by NEIWPCC, for more than 15 days from the date of written notice to the Subrecipient, the Agreement may be terminated by NEIWPCC, at the Subrecipient's expense, where the Subrecipient becomes unable or incapable of performing or meeting any requirements or qualifications set forth in the Agreement, or for non-performance, or upon a determination that the Subrecipient is non-responsible or for any of the other reasons stated in this paragraph. Such termination shall be upon written notice to the Subrecipient. In such event, NEIWPCC may complete the contractual requirements in

any manner it may deem advisable and pursue available legal or equitable remedies for breach.

H. Default.

- i. If either party breaches a material provision of this Agreement, which breach remains uncured for a period of 15 days after written notice thereof from the other party specifying the breach (or if such breach cannot be completely cured within the 15-day period, such longer period of time approved by the non-breaching party, provided that the breaching party proceeds with reasonable diligence to completely cure the breach), or if the Subrecipient shall cease conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or shall avail itself of or become subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, then and in any such event, the other party may, at its option, terminate this Agreement upon 10 days' written notice and exercise such other remedies as shall be available under this Agreement, at law and/or equity.
- ii. No delay or omission to exercise any right, power, or remedy accruing to either party upon breach or default by the other under this Agreement shall impair any such right, power, or remedy or shall be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.
- iii. If, due to default that remains uncured for the period provided herein, a third party shall commence to perform the Subrecipient's obligations under this Agreement, NEIWPCC shall thereafter be released from all obligations to the Subrecipient hereunder, including any obligation to make payment to the Subrecipient; provided, however, that NEIWPCC shall continue to be obliged to pay for any and all work provided prior to any such date, and if any lump-sum payment has been made, NEIWPCC shall be entitled to a pro-rata refund of such payment.

H. Nondisclosure. The Subrecipient is prohibited from releasing any project work products to the public, including draft and/or final Quarterly or Final Reports, data, maps, and charts, without NEIWPCC's prior written consent, except to the extent disclosure is required by federal or state law, regulation, or a court order.

I. Subcontracting. Neither the whole nor any part of this Agreement may be further subcontracted by Subrecipient without the prior written consent of NEIWPCC.

J. Independent Contractor Acknowledgement. The Subrecipient acknowledges and agrees that the Subrecipient is an independent contractor and is not an agent, servant, or employee of NEIWPCC. The Subrecipient declares that it is engaged as an independent business and has

complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities.

K. Indirect Cost Rates. For Subrecipients *with* a current Negotiated Indirect Cost Rate Agreement (NICRA) on file with a federal agency, budgets and amended budgets must maintain consistency with the NICRA and the requirements of the Request for Proposals (RFP). For Subrecipients *without* a current NICRA, budgets and amended budgets must maintain consistency with the requirements of the RFP and may not exceed 15% of Modified Total Direct Costs (MTDC). As provided in 2 CFR § 200.308, if there is a change in key personnel specified in the Scope of Work, or the Subrecipient's project director is absent for more than three months or reduces time devoted to the project by 25 percent or more, the Subrecipient must request prior written approval from NEIWPCC for those changes.

L. Entire Agreement. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof. With respect to the Parties, this Agreement supersedes all inconsistent prior agreements with respect to the subject matter hereof, whether written or oral.

M. Modification. This Agreement may not be modified or amended except by an instrument in writing signed by the Parties. This Agreement may not be modified or amended orally.

N. Counterparts Clause. This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

O. Assurances. By signing this Agreement, the Subrecipient certifies that:

- i. It is not delinquent on repayment of any Federal debt including direct and guaranteed loans and other debt as defined in OMB Circular A-129, "Managing Federal Credit Programs."
- ii. It is presently not debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from covered transactions by any Federal department or agency in accordance with Executive Order 12549 (34 CFR 85.510).
- iii. It has not, within three (3) years preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- iv. No personnel working on this project are presently indicted for, or otherwise criminally or civilly charged by a government entity.

- v. It is complying with the Drug-Free Workplace Act of 1988 (34 CFR Part 85, Subpart F).
- vi. It is in complying with Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.
- vii. It is in complying with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) regarding restrictions on lobbying.
- viii. Funds expended under this award will comply with the applicable Federal cost principles.
- ix. It does not have any known conflicts of interest pertaining to work on this project.

P. Choice of Law. The Agreement shall be governed by the laws of the Commonwealth of Massachusetts, except that any provision in this Agreement that refers to any federal law or agency rule or regulation shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies and quasi-judicial agencies of the federal government.

Q. NEIWPCC Covid-19 Policy. The Subrecipient agrees to comply with the following NEIWPCC Covid-19 Policy:

OFFICE VISITORS

NEIWPCC is committed to providing a working environment that keeps all staff and visitors as safe as possible and promotes the well-being of our community. NEIWPCC encourages attendees to take CDC recommendations and their individual circumstances into account when deciding about preventative actions. It is recommended that all individuals who enter NEIWPCC offices during business hours be fully vaccinated, however this is no longer a requirement. Visitors should NOT enter the NEIWPCC office if they display any symptoms of COVID-19. Anyone who has tested positive for COVID-19 within the last ten (10) days must test negative prior to visiting the office.

CONFERENCE, MEETING, AND TRAINING ATTENDEES

NEIWPCC is committed to providing an event environment that keeps all participants as safe as possible and promotes the well-being of our community. It is recommended that all individuals who participate at NEIWPCC events be fully vaccinated, however this is no longer a requirement to attend. NEIWPCC encourages attendees to take CDC recommendations and their individual circumstances into account when deciding about preventative actions. By voluntarily choosing to attend NEIWPCC events, participants assume all risks associated with exposure to COVID-19. Attendees should NOT participate at NEIWPCC events if they display any symptoms of COVID-19. Anyone who has tested positive for COVID-19 within ten (10) days of the event must test negative prior to attending.

R. NEIWPCC and LCBP Logos. All products and materials (including but not limited to agendas, press releases, web pages) associated with this project and/or developed under this Contract must include Lake Champlain Basin Program and NEIWPCC logos and contain the following statement: “This project has been funded wholly or in part by the United States National Park Service (NPS) under assistance agreement ([GRANT #]) to NEIWPCC in partnership with the Lake Champlain Basin Program.” All publications associated with this project and/or developed under this Agreement must include the Lake Champlain Basin Program and NEIWPCC logos and contain the following statement: “This project has been funded wholly or in part by the United States National Park Service (NPS) under assistance agreement ([GRANT#]) to NEIWPCC in partnership with the Lake Champlain Basin Program (LCBP). NEIWPCC manages LCBP’s personnel, contract, grant, and budget tasks and provides input on the program’s activities through a partnership with the LCBP. The contents of this document do not necessarily reflect the views and policies of NEIWPCC, the LCBP, or NPS, nor does NEIWPCC, the LCBP or NPS endorse trade names or recommend the use of commercial products mentioned in this document.” The provisions of this clause shall survive the expiration or earlier termination of this Agreement.

APPENDIX II

Insurance Specifications

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this Agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Subrecipient are specified below in Paragraph B – Specific Coverages and Limits.

2. Policy Forms. Policies must be written on an **occurrence** basis, except as may be otherwise specifically provided herein or agreed in writing by NEIWPCC. Under certain circumstances, NEIWPCC may elect to accept policies written on a claims-made basis, provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the Agreement. If the policy is cancelled or not renewed during that time, the Subrecipient must purchase, at its sole expense, Discovery Clause coverage sufficient to complete the 3-year period after completion of the Agreement. Written proof of this extended reporting period must be provided to NEIWPCC prior to the expiration or cancellation of the policy.

3. Certificates of Insurance/Notices. The Subrecipient shall provide a Certificate or Certificates of Insurance, in a form satisfactory to NEIWPCC before commencing any work under this Agreement. Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to NEIWPCC.

Certificates of Insurance shall:

- a. be in the form approved by NEIWPCC;
- b. disclose any deductible, self-insured retention, aggregate limit, or any exclusion to the policy that materially changes the coverage required by this Agreement;
- c. specify the Additional Insureds and Named Insureds as required herein; and
- d. when coverage is provided by a non-admitted carrier, be accompanied by a completed surplus lines affidavit, and signed by an authorized representative of the insurance carrier or producer.

4. Primary Coverage. All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to NEIWPCC for any claim arising from the Subrecipient's work under this Agreement or because of the Subrecipient's activities.

Any other insurance maintained by NEIWPCC shall be excess of and shall not contribute with the Subrecipient's insurance regardless of the other insurance clause contained in NEIWPCC's own policy of insurance.

5. Policy Renewal/Expiration. At least two (2) weeks prior to the expiration of any policy required by this Agreement, evidence of renewal or replacement policies of insurance with terms no less favorable to NEIWPCC than the expiring policies shall be delivered to NEIWPCC in the manner required for service of notice in this Agreement. If at any time during the term of this Agreement the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Agreement or proof thereof is not provided to NEIWPCC, the Subrecipient shall immediately cease work on the project. The Subrecipient shall not resume work on the project until authorized to do so by NEIWPCC. Any delay, time lost, or additional cost incurred because of the Subrecipient not having insurance required by this Agreement or not providing proof of same in a form acceptable to NEIWPCC shall not give rise to a delay claim or any other claim against NEIWPCC. Should the Subrecipient fail to provide or maintain any insurance required by this Agreement or proof thereof is not provided to NEIWPCC, NEIWPCC may withhold further contract payments, treat such failure as a breach or default of this Agreement, and/or, after providing written notice to the Subrecipient, require the surety, if any, to secure appropriate coverage and/or purchase insurance complying with this Agreement and charge back such purchase to the Subrecipient.

6. Self-Insured Retention/Deductibles. Additional surety/security may be required in certain circumstances. The Subrecipient shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention. The Subrecipient agrees to provide to NEIWPCC a letter on the Subrecipient's letterhead stating the Subrecipient is self-insured and containing language provided by NEIWPCC for such purposes.

7. Subcontractors. Should the Subrecipient engage a subcontractor, the Subrecipient shall endeavor to impose the insurance requirements of this document on the subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the subcontractor. Proof thereof shall be supplied to NEIWPCC.

B. Specific Coverages and Limits. The types of insurance and minimum policy limits shall be as provided below.

1. General Liability. Commercial General Liability Insurance (CGL) covering the liability of the Subrecipient for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this Agreement. The limits under such policy shall not be less than the following:

- Each Occurrence limit: \$2,000,000
- General Aggregate: \$3,000,000
- Products/Completed Operations should equal the General Aggregate limit

- Personal Advertising Injury: \$1,000,000
- Damage to Rented Premises: \$50,000
- Medical Expense: \$5,000

Coverage shall include but not be limited to the following: premises liability; independent contractors; blanket contractual liability, including tort liability of another assumed in a contract; defense and/or indemnification obligations, including obligations assumed under this Agreement; cross liability for additional insureds; products/completed operations for a term of no less than three (3) years, commencing upon acceptance of the work, as required by this Agreement; explosion, collapse, and underground hazards; Contractor means and methods; and liability resulting from state labor laws.

The following ISO forms must be endorsed to the policy:

- CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- CG 20 10 11 85 or an equivalent – Additional Insured-Owner, Lessees or Contractors (Form B)

Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

Policies shall name NEIWPCC as Additional Insureds and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term.

The CGL policy and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such policy(ies) shall be primary to and non-contributing with any other insurance maintained by NEIWPCC. Any other insurance maintained by NEIWPCC shall be in excess of and shall not contribute with the Subrecipient’s or subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy of insurance.

2. Automobile. Comprehensive Business Automobile Liability Insurance covering liability arising out of any automobile used in connection with performance under this Agreement, including owned, leased, hired, and non-owned automobiles bearing, or under the circumstances under which they are being used, required by state Motor Vehicles Laws to bear license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least \$2,000,000.00 each accident. The limits may be provided through a combination of primary and umbrella liability policies.

3. Workers' Compensation. For work to be performed, the Subrecipient shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the state Workers' Compensation Law.

a. Evidence of Workers' Compensation and Employers Liability coverage must be provided to NEIWPCC.

All forms are valid for one (1) year from the date the form is signed/stamped or until policy expiration, whichever is earlier.

ACORD forms are **NOT** acceptable proof of Workers' Compensation coverage.

b. If the Subrecipient is legally exempt from obtaining Workers' Compensation insurance coverage, the Subrecipient must provide evidence, such as a Certificate of Attestation, that state Workers' Compensation and/or Disability Benefits Insurance Coverage is not required.

c. If the Subrecipient is self-insured, the Subrecipient must provide evidence, such as a Certificate of Workers' Compensation Self-Insurance, available from the state Workers' Compensation Board's Self-Insurance Office, or a Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator.

4. Disability Benefits (Applicable in New York, Rhode Island, and any other state requiring employers to provide short-term disability insurance to workers only).

The Subrecipient shall provide and maintain coverage during the life of this Agreement for the benefit of such employees, as required by the state Disability Benefits Law.

a. Evidence of Disability Benefits coverage must be provided, such as a Certificate of Insurance Coverage under the state Disability Benefits Law. The Subrecipient must request its business insurance carrier to send this form to NEIWPCC.

b. If the Subrecipient is legally exempt from obtaining Workers' Compensation Disability insurance, the Subrecipient must provide evidence, such as a Certificate of Attestation for State Entities with No Employees and Certain Out of State Entities that state Workers' Compensation and/or Disability Benefits Insurance Coverage is not required.

c. If the Subrecipient is self-insured, the Subrecipient must provide evidence, such as a Certificate of Disability Benefits Self-Insurance.

All forms are valid for one (1) year from the date the form is signed/stamped or until policy expiration, whichever is earlier.

All forms must name NEIWPCC as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

All required insurance must be written by company rating of “A-” or better rated by A.M. Best & Co., have a record of successful continuous operation, that is licensed, admitted (if coverage is provided by a non-admitted carrier, a surplus lines affidavit must accompany the certificate), and authorized to do business in the state where the work is performed, and is approved by NEIWPCC. Required coverage and limits must be put into effect as of the effective date of this Agreement and must remain in effect throughout the term of this Agreement, as determined by NEIWPCC. The Subrecipient must submit proof of required insurance coverage, and any renewals thereof, to NEIWPCC upon NEIWPCC’s request. The Subrecipient shall notify NEIWPCC of any material changes to the policy or any cancellations prior to the expiration date. The carrier shall also send notification of cancellation, termination, or failure to renew any policy in accordance with the policy provisions when practicable.

APPENDIX III

Scope of Work

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