

SUBCONTRACTOR AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into by and between the County of Cheshire located at 12 Court Street Keene, NH, 03431 (“County”), and **SUBCONTRACTOR**, (“Subcontractor”), located at **ADDRESS**, federal ID of **EIN**, and UEI# of **UEI**.

The source of funds for the Agreement is from New Hampshire Department of Natural and Cultural Resources (“Funder”). This is not an appropriation of County general funds.

1) Term

The period of performance for this Agreement is **October 1, 2025 to November 30, 2025**.

2) Communications/Key Personnel

Communications regarding the fiscal nature of this Agreement, including invoices, budget, and contractual terms shall be directed towards the individuals named below as fiscal contacts. Communications regarding the nature of the program or project, goals, objectives, and/or deliverables funded by this Agreement shall be directed towards the individuals named below as program/project contacts. Contacts listed below may be revised through notice by email. A formal amendment to this Agreement is not required to revise contacts.

County of Cheshire

Fiscal contact:

Jen Robinson, Grants Specialist
12 Court Street, Keene, NH 03431
603-355-3023
jenrobinson@co.cheshire.nh.us

Program/project contact:

Mike Kowalczyk, MRRTC Board Chair
66 Mt. Huggins Dr., Swanzey NH 03446
(603) 812-8461
Mkowalczyk1958@gmail.com

Subcontractor

Fiscal contact:

Primary Contact Name, Title
Address, City, State, Zip
Phone
Email

Program/project contact:

Primary Contact Name, Title
Address, City, State, Zip
Phone
Email

3) Statement of Work

Subcontractor shall rehab the Cheshire Rail Trail section that runs between the Troy/Marlborough town line and High Street, Troy (approximately 2.0 miles; from GPS 42.85222, -72.19434 to GPS 42.82561, -72.18427). Subcontractor shall clear the drainage ditches, make repairs as necessary to ensure all current culverts are functional, and apply hardpack material.

- **Drainage ditches** must be sufficiently deep (1'-2') so that natural organic material (e.g., leaves, sticks, etc.) do not prevent drainage for a minimum of 2 years. Excavated earth

material and organic debris shall be disposed of by casting into the wood-line in areas not subject to erosion back into excavated areas.

- **Culverts** should be cleared of any obstructions that prevent drainage. Obstructions may consist of accumulated silt, organic materials, and/or non-organic materials or items.
- **Hardpack material**
 - Shall meet the NHBOT's 304.7 specified material (see: *Appendix B: Surface Material Specification*);
 - Application must be trail width (average trail width 14');
 - Application depth minimum of 4";
 - Application depth must be sufficient to remediate washed out areas and level surface for the purposes of walking and biking;
 - Larger base aggregate may be used to re-establish a stable base with prior approval;
 - Final surface pack must be sufficiently firm enough to support a typical hybrid bike tire with no sinkage.
- **Tree Removal**
 - This project does NOT include the removal of trees or mowing as this work will be completed prior to contract commencement.

4) Deliverable Items

Subcontractor commits to work with the County of Cheshire's grants department and finance department to comply with their accounting principles, grants management policies and procedures, the Funder's grant agreement/contract guidelines, and the work plan of the grant that funds this Agreement. This will include, but not be limited to:

- A. ***Photographs of the project site before and after the work; and action photos of work being performed and/or milestone photos showing work in progress (requested and preferred, but not required for reimbursement).***
- B. Invoices that follow the format and requirements—including a summary of work performed—as described in the Financial Obligation and Payment section of this Agreement.
 1. ***Invoices shall clearly separate the reimbursable amount and the match/cost share amount*** and show the grand total of the two amounts, or the total project cost. Supporting documentation shall support the total amount, including match/cost share contributed.
- C. Accurate and complete timekeeping records, if applicable, and as described in the Financial Obligation and Payment section of this Agreement.
- D. Evidence of all laborers assigned to this work and that their hourly rates complied with Davis-Bacon Requirements.

5) Financial Obligation and Payment

The budget for this Agreement is fixed firm with limit and payment schedule as identified below. Subcontractor must submit an invoice to request payments. Final payment will be made upon completion and delivery of all deliverables.

Service Period	Invoice Due	Estimated Payment Date	Amount
At contract signing; 20% down payment.	September 24, 2025	October 3, 2025	\$16,000.00
Upon 80% completion, with project director inspection or photo submission; 60% contract amount payment.	October 31, 2025	November 7, 2025	\$48,000.00
Upon project completion and following trail inspection by the project director, 20% or final payment.	November 30, 2025	December 5, 2025	\$16,000.00
		Total	\$80,000.00

a. Invoice Format & Requirements

Subcontractor will submit invoices to the County's contractual/fiscal agent listed in Communications. Invoices shall contain the billing period and the agreed upon payment amount and a progress report as described below shall accompany the invoice.

b. Summary of Work Performed

Subcontractor invoices must include an attached thorough statement of progress made on project deliverables and a description of work performed during the billing period. Subcontractor may use their own format or the County will provide a progress report template upon request to use especially for this purpose.

c. Due Date

To ensure prompt payment, invoices are due by the tenth (10th) of each month for the prior month's expenses (for example, November expenses must be submitted by December 10th) or by the tenth (10th) of the month following the quarter-end for the previous quarter's expenses. Invoices submitted after the 10th of the month, but before the end of Agreement period, will experience a delay in payment. All invoices for services must be submitted within ten (10) calendar days of the end of the Agreement period or payment will not be made to the Subcontractor. Subcontractor may request an extension for the final invoice due date. Approval of an extension is based on the agreement/contract the County has with the Funder.

d. Payment of Invoices, Interest, and Late Fees

The County will issue payment to the Subcontractor within thirty (30) calendar days of receipt of an invoice. The County will do everything it can to efficiently process and pay invoices; however, it will not be liable for late payments and Subcontractor is not entitled to receive payment of interest and/or late fees.

e. Appropriation of Funds

This Agreement is entered into because of certain specific funds that have been awarded to the County. The continuation of this Agreement and payments hereunder shall be subject to the availability of funds to the County under the prime award. This is not an appropriation of County general funds. The County shall have no obligation to reimburse any party for expenses made outside the guidelines of the grant and/or not in accordance with the Funder's policies or grant terms. The County shall have no obligation to reimburse any party for expenses made not in accordance with this Agreement. In the event that the funding is withdrawn, suspended, or delayed by the Funder, the County represents only that it will advance reimbursement requests in good faith in accordance with the Funder's policy. The County shall have no obligation to make the Subcontractor whole should such reimbursement be denied. All obligations of the parties shall end upon the time noted in this Agreement or the date on which grant funds are exhausted or are no longer available.

6) Assignment and Subcontracting

The rights, obligations, and responsibilities established herein shall not be assigned, delegated, or transferred by the Subcontractor without the express written consent of the county fiscal contact. The Subcontractor shall obtain approval from the County fiscal contact prior to incurring any costs or executing any contract(s). The County fiscal contact shall review and approve any agreement(s) to employ subcontractor(s) for any work required under this Agreement. If subcontractors are approved, they must comply with all provisions of this Agreement; including invoices and backup documentation that meet the terms under the Financial Obligation and Payment section.

- a. The Subcontractor must check the Excluded Parties List System within the System for Award Management to ensure that individuals or entities they subcontract with are not prohibited from receiving federal funds.
- b. The Subcontractor must take all necessary affirmative steps to assure that minority businesses, veteran-owned, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps are outlined in 2 CFR §200.321 Contracting with small and minority businesses, veteran-owned, women's business enterprises, and labor surplus area firms.
- c. The Subcontractor must provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States as defined in 2 CFR §200.322 Domestic preferences for procurements.

7) Legal Compliance

By execution of this Agreement, the Subcontractor certifies that it is currently in compliance with all applicable federal, state, and/or local laws, statutes, regulations, rules, executive orders, and/or other legal instrument; as amended, revised, and/or updated; and that it will remain in compliance during the term of this Agreement. Subcontractor will disclose to the County any legal violations that occur during the term of this Agreement. This includes, but is not limited to: adherence to all nondiscrimination and civil rights laws; requirement to report potential fraud, waste, and abuse, and similar misconduct; and whistleblower protections, as well as the Federal Transit Administration (FTA). Further, it is the responsibility of the Subcontractor to know, understand, apply, and enforce any and all applicable statutes, laws, regulations, rules, executive

orders, and any other orders of federal, state, and/or local authorities that applies to the Subcontractor's organization, employees, customers/clients, and/or the services provided under this statement of work.

8) Certification Regarding Debarment, Suspension and Other Responsibility Matters

By execution of this Agreement, Subcontractor certifies to the best of its knowledge and belief, that at the time of execution of this Agreement, it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or a contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and
- Have not within a three-year period preceding the execution of this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

9) Anti-Lobbying

By execution of this Agreement, Subcontractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Subcontractor shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Agreements of \$100,000 or more require SF-LLL Disclosure of Lobbying Activities to be executed and made an attachment to this Agreement.

10) Data and Information Sharing

The County will make available to Subcontractor any and all documents and information necessary to be reviewed by Subcontractor in order to deliver the services as applicable. The County will make available to Subcontractor any data or information necessary to the successful completion of the project, as mutually agreed upon by the County, Subcontractor and project partners. This provision shall survive the term of this Agreement.

11) Proprietary Information

For purposes of this Agreement the term "proprietary information" includes any information pertaining to client records, protected health information, client lists, the business methods, business policies, procedures, trade secrets, inventions, techniques or other knowledge or processes of, or developed by, Cheshire County or any of its partners related to this Agreement, and any other confidential information relating to the business operations or activities of

Cheshire County, whether created by the Subcontractor, made known to the Subcontractor, or learned or acquired by the Subcontractor in the course of performing this Agreement. The Subcontractor acknowledges that its engagement with Cheshire County involves the performance of services of a special or unique character and brings it in contact with proprietary information and that the relationships between Cheshire County and its employees, agents, and clients constitute a valuable asset of Cheshire County. The Subcontractor therefore agrees: (i) that all proprietary information is the exclusive property of Cheshire County (or its partners accordingly) and that the Subcontractor will keep secret all proprietary information and will not use proprietary information for its benefit or disclose proprietary information to, or use it for the benefit of, anyone outside of Cheshire County, either during or after its engagement by Cheshire County; and (ii) that the Subcontractor will deliver promptly to Cheshire County upon the termination or expiration of this Agreement, or at any time Cheshire County requests, all memoranda, notes, documentation, data, listings, records, reports and other tangible manifestations of the proprietary information (and all copies thereof) that the Subcontractor may then possess or have under its control.

Upon termination of this Agreement, Subcontractor shall transfer, assign and make available to the County, or its representatives, all property and materials in its possession or control belonging to the County and paid for by the County. In the event that the material, which is the subject of this Agreement, is copyrightable subject matter, Subcontractor and the County agree that for the purposes of this order the material shall be a work made for hire and the property of the County. In the event that the material which is the subject of this Agreement is not copyrightable subject matter, or for any reason is determined not to be a work made for hire, then in such event Subcontractor hereby assigns all right, title and interest to said material to the County for the fees specified herein. Any material(s) not selected by the County remain the intellectual property of the Subcontractor.

12) Insurance

During the term of this Agreement and any extension, the Subcontractor shall obtain and maintain in force at its sole expense, and shall require any subcontractor, subgrantee or assignee performing work under this Agreement to obtain and maintain in force, the following insurance. Subcontractor shall, upon execution of this Agreement and upon any renewal of any insurance coverage required by this Agreement, furnish certificates of insurance or other proof of insurance to the County for the following insurance.

- a) 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. Subrecipient's general liability policy must also contain contractual liability coverage applicable to the contractual indemnification obligation outlined in the Agreement;
- b) Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Agreement, meeting State of New Hampshire's required limits.

13) Independent Contractor

The relationship between the parties shall be that of independent contractors. No employees or staff of the Subcontractor shall be entitled to any benefits applicable to employees of County.

The County will not withhold any federal or state income or employment taxes and the Subcontractor must file any applicable tax returns and forms. Subcontractor income will be provided by the County as requested and as required by law. Neither party is authorized or empowered to act as an agent for the other for any purpose and shall not on behalf of the other, enter into any contract, warranty, or representation as to any matter. Neither party shall be bound by the acts or conduct of the other party. This provision shall survive the term of this Agreement.

14) Indemnification

The Subcontractor shall defend and indemnify Cheshire County and its officers, directors, employees, agents, and volunteers harmless from and against any and all losses, claims, damages, liabilities, obligations, penalties, judgments, awards, costs, expenses and disbursements, causes of action, and interest, including without limitation, the costs, expenses and disbursements as and when occurred, of investigating, preparing, or defending any action, suit or proceeding, but only to the extent caused by, related to, or based upon or arising out of Subcontractor's material breaches of their obligations under this Agreement, or their gross negligence or willful, wanton, and reckless conduct in performing their duties or responsibilities under this Agreement. In addition, and regardless of respective fault, the Subcontractor shall defend and indemnify Indemnified Parties for any cost, expenses or liabilities arising out of a claim, charge or determination that the Subcontractor's officers, employees, subcontractors, or agents are employees of the Indemnified Parties; including but not limited to claims or charges for benefits, wages, fees, penalties, withholding, damages or taxes brought in connection with laws governing worker's compensation, unemployment compensation, social security, Medicare, state or federal taxation, and/or any other similar obligation associated with an employment relationship. The Subcontractor's obligations to defend and indemnify the Indemnified Parties shall survive the term of this Agreement, Cheshire County shall not be required to defend or indemnify the Subcontractor.

15) Modification

Any modification to change the terms or conditions of this Agreement shall be valid only if the change is made in writing and signed by mutual agreement of authorized representatives of the parties hereto. The Subcontractor assumes complete individual liability for any deviation from the statement of work or any activity in which it is involved in any respect, which has not been previously approved or subsequently modified in writing by both parties, whether physical, psychological or emotional, to any participant of Cheshire County, and indemnifies and holds all of those aforementioned entities and individuals harmless against liability arising from the same.

16) Event of Default or Breach & Remedies

Any one or more of the following acts or omissions of the Subcontractor shall constitute an Event of Default/Breach of Contract: failure to perform the services satisfactorily or on schedule; failure to submit any report required; and/or failure to perform any other covenant, term, or condition of this Agreement. Upon the occurrence of any Event of Default, the County may take any one, or more, or all, of the following actions: give the Subcontractor 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) calendar days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement. The portion of the Agreement

price, which would otherwise accrue to the Subcontractor during the period from the date of such notice until such time as the County determines that the Subcontractor has cured the Event of Default shall not be paid to the Subcontractor; set off against any other obligations the County may owe to the Subcontractor for any damages the County suffers by reason of any Event of Default; and/or treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

17) Termination

The County and/or Subcontractor may terminate this Agreement with or without cause by giving thirty (30) calendar days written notice to the other party. Cheshire County may terminate this Agreement immediately and without prior notice in the event of, (i) a material breach of this Agreement, (ii) willful or gross neglect or misconduct (including without limitation the commission of any dishonest or fraudulent act) by the Subcontractor in the course of carrying out its duties under this Agreement, (iii) the occurrence of any event that, in the sole opinion of Cheshire County jeopardizes the health, safety, or welfare of any person, (iv) the suspension, revocation or impairment of any license or certification of the Subcontractor as necessary to perform this Agreement, or (v) non-compliance of the Subcontractor with the requirements of liability insurance provisions as set forth in this Agreement.

Subcontractor shall be entitled to reimbursement for all allowable costs incurred to the date of termination after evaluation of work completed to such date, and deliverables provided in accordance with the Deliverable Items. Subcontractor shall, upon receipt of notice to terminate or upon their determination to terminate, immediately cease incurring costs under this Agreement, and take action to cancel all outstanding obligations that can be reasonably cancelled. Subcontractor shall, within thirty (30) calendar days of the effective date of the termination, submit a termination claim to the County.

If the County terminates the Agreement, Subcontractor shall be entitled to reimbursement for all non-cancellable obligations up to, but not to exceed, the lesser of either the estimated cost of this Agreement, or the amount of grant funds available.

Cheshire County shall be entitled to continue to bill and collect, on behalf of and in the name of the Subcontractor, all accounts receivables derived from services provided by the Subcontractor prior to termination or expiration of this Agreement.

This provision shall survive the term of this Agreement.

18) Injunctive Relief

The Subcontractor acknowledges and agrees that Cheshire County may suffer irreparable damages if the Subcontractor breaches this Agreement and that such damages may be difficult to quantify. The Subcontractor further agrees that Cheshire County may file an action for injunctive relief to enforce the terms of this Agreement against the Subcontractor, in addition to any other remedy Cheshire County may have.

19) Severability

If any clause, sentence, provision or other portion of this Agreement is or becomes illegal, null, void, or unenforceable for any reason, or is held by any court of competent jurisdiction to be so, the remaining portions of this Agreement shall continue to be valid and enforceable as to the parties hereto, unless the parties agree that such a clause, sentence, provision, or other portion of this Agreement is of sufficient materiality to require amendment or termination of this Agreement.

20) Entire Agreement of the Parties

This Agreement, including all attachments and amendments relating to said Agreement, represents the complete understanding of the parties, with regard to the subject matter and shall supersede any other agreements or understandings between the parties, whether oral or written, relating to the subject matter of this Agreement. Further, all promises, representations, understandings, arrangements, and prior agreements are merged herein.

21) Governing Law and Language

The Agreement shall be governed, construed, and enforced for all purposes in accordance with the laws of the State of New Hampshire and United States federal law, without regard to such laws governing choice of law.

22) Execution

IN WITNESS WHEREOF, the parties have caused this Agreement signed by their respective representatives to be executed as of the day and year signed below. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which shall constitute the same instrument.

County of Cheshire

By: _____
Christopher C. Coates Date
County Administrator
603-355-3031
ccoates@co.cheshire.nh.us

Subcontractor

By: _____
NAME
TITLE
PHONE
EMAIL Date