

**CONTRACT
(Using Federal Funds)**

With:

Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200A-N
Arlington, VA 22201
703-842-0740

FOR THE

Atlantic Coastal Fish Habitat Partnership, Southeast Aquatic Resources Partnership, and Eastern Brook Trout Joint Venture under a Multistate Conservation Grant to advance the objectives of the National Fish Habitat Action Plan through regional and collaborative science and priority setting During the Year 2019

In consideration of the mutual promises herein, the **National Fish Habitat Partnership** (“NFHP”) and The Atlantic State Fisheries Commission agree as follows. This agreement consists of the provisions set forth below, as well as Appendix A (Scope of Services), entitled, “Atlantic Coastal Fish Habitat Partnership, Southeast Aquatic Resources Partnership, and Eastern Brook Trout Joint Venture Under a Multistate Conservation Grant to Conserve Fish Habitat collaboratively in the U.S. through the National Fish Habitat Partnership for the Year 2019.”

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Section 1. Definitions.

In this agreement:

- A. "Appendix A" refers to the Scope of Services, entitled "Atlantic Coastal Fish Habitat Partnership, Southeast Aquatic Resources Partnership, and Eastern Brook Trout Joint Venture Under a Multistate Conservation Grant to Conserve Fish Habitat collaboratively in the U.S. through the National Fish Habitat Partnership for the Year 2019".
- B. "NFHP" means the National Fish Habitat Partnership
- C. "Contractor" means Atlantic States Marine Fisheries Commission.
- D. "Federal Awarding Agency" means U.S. Fish and Wildlife Service.

Project means the Multistate Conservation Grant Program project entitled, "Conserving Fish Habitat collaboratively in the U.S. through the National Fish Habitat Partnership."

Section 2. Purpose.

The Atlantic Coastal Fish Habitat Partnership, Eastern Brook Trout Joint Venture, and Southeast Aquatic Resources Partnership will continue their multi-year collaborative focus on whitewater to bluewater fish habitat connectivity needs spanning the geographic boundaries of the three Eastern Fish Habitat Partnerships (FHPs). The primary fish habitat conservation actions implemented under this current Project are to: 1) identify HUC12s within two previously identified focal HUC8s (Rivanna and Rapidan-Upper Rappahannock River) that have the highest priority need for addressing fish habitat fragmentation; 2) enable necessary road-stream crossing assessments (bridges and culverts) using a standardized protocol; and, 3) communicate the vital linkages between connectivity improvements and fish habitat rehabilitation to targeted audiences.

Section 3. Scope of Services.

- A. The Contractor shall perform services in accordance with the goals, objectives, and deliverables as set forth in the Scope of Services (Appendix A).
- B. NFHP shall not allow any claim for services other than those described in the attached Appendix A. However, the Contractor may provide, at its own expense, any other services that are consistent with this agreement and all laws and regulations governing this project.

Section 4. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of NFHP. The Contractor is not to be considered an agent or employee of NFHP for any purpose, and is not entitled to any of the benefits that NFHP provides for its employees. NFHP may administer the agreement and monitor the Contractor's compliance with its obligations hereunder. NFHP shall not supervise or direct the Contractor other than as provided in this section.

This contract is between the National Fish Habitat Partnership and the Contractor. The Association of Fish and Wildlife Agencies (AFWA) is not a party and solely acts as a pass-through for funds and serves as a point of contact for NFHP for notice purposes.

Section 5. Time for Performance.

- A. This agreement becomes effective when signed by both parties.
- B. The Contractor shall commence performance of the work described in Section 3 upon execution of the agreement by NFHP, and complete that performance on or before December 31, 2019 unless a grant extension is approved by the Federal Awarding Agency.
- C. This agreement may be extended upon approval of mutual consent of the parties, the Federal Awarding Agency, and continued project funding.

Section 6. Payment Terms.

- A. The maximum amount available is \$30,000.00
- B. The funds shall be spent consistent with Attachment A and the federal regulations governing this agreement (see Section 9, "Comply with all Laws, Regulations, and Policies"). The Contractor is responsible for requesting approval from NFHP for deviations from the budget and proposal plans that require prior approval, pursuant to 2 CFR 200.308.
- C. The Contractor shall submit an invoice to NFHP, through AFWA, at the address in Section 24 below. NFHP shall reimburse the Contractor for work performed to NFHP's satisfaction upon receipt of an original invoice. Final invoices should be indicated as such and its payment by NFHP shall release further claims of the Contractor. All invoices should include itemized expenses for the period and itemized cumulative expenses.

- D. As a condition of payment, the Contractor shall submit reports specified in Section 8, "Reporting Requirements."
- E. As an additional condition of payment, the Contractor shall have paid all taxes due and owing by the Contractor.
- F. The Contractor is not entitled to any compensation or other benefits under this agreement, other than is expressly provided for in this section.

Section 7. Availability of Funds.

Payments under this agreement may require funds from granting cycles and are subject to future awards. If sufficient funds are not appropriated for payments required under this agreement, this agreement shall terminate without penalty to NFHP, and NFHP shall not be obligated to make payments under this agreement beyond those that have previously been appropriated.

Section 8. Reporting Requirements.

The Contractor shall prepare and file with NFHP a status report, which should coincide with the single invoice submission. Final Invoicing for this agreement must be completed and sent to the Association within 20 days of the agreement expiration date.

Section 9. Comply with all Laws, Regulations, and Policies.

The Contractor agrees to comply with all applicable laws, regulations, and policies. The Contractor shall provide NFHP with certification regarding debarment, suspension, ineligibility, and voluntary exclusion, as per 2 CFR 200, Appendix II (I).

The Contractor shall ensure that its transactions are allowable, reasonable, and allocable as specified in 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (formerly 2 CFR 215 and 2 CFR 230)

Section 10. Additional Requirements.

In the event that any funding source for this agreement should impose additional requirements upon NFHP for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from NFHP. Furthermore, if in conflict, the prime award (or that between NFHP, AFWA, and the Federal Awarding Agency) takes precedence over this contract.

Section 11. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as NFHP may deem necessary, make available to NFHP, for examination, all of its records with respect to all matters covered by this agreement for a period ending three years from the date NFHP submits the final expenditure or final quarterly or annual financial report to the Federal Awarding Agency (in accordance with 2 CFR 200.333). Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this agreement, to NFHP, in such form and at such times as NFHP may reasonably require. The Contractor shall permit NFHP to audit, examine, and make copies of such records; and to make audits of all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this agreement. NFHP may, at its option, permit the Contractor to submit its records to NFHP in lieu of the retention requirements of this section.

Section 12. Ownership and Use of Data, Material, and Equipment.

- A. Except as otherwise allowed by this agreement or by reference in the Scope of Services (Appendix A) and subject to rights of the federal awarding agency as per 2 CFR 200.315, all data, books, photographs, papers, records, and other similar materials (collectively the "Works") produced by the Contractor under this agreement shall be the property of NFHP, which shall retain the exclusive right to copyright, publish, disclose, distribute, and otherwise use, in whole or in part, any such Works. Exclusive rights shall not be attributed to portions of such Works presently in the public domain or which are not subject to copyright. Any determination of what is or is not in the public domain is at the discretion of NFHP.
- B. The Contractor warrants to NFHP that the Contractor shall not infringe the intellectual property rights of others in the performance of this Contract and agrees to indemnify NFHP and hold it harmless pursuant to Section 21 of this Contract.
- C. All equipment purchased with federal funds as a direct cost to this project is the property of NFHP. Equipment should be returned to NFHP within 90 days of the completion or termination of this contract, unless written approval to do otherwise has been granted by NFHP.
- D. Any oral or written presentations, reports, books, publications, or other products generated under this grant must acknowledge NFHP as well as the Sport Fish and Wildlife Restoration Programs of the USFWS, pursuant to the Stevens Amendment to P.L. 100-463. Please contact NFHP for the appropriate logos.

Section 13. Assignments.

Any assignment by the Contractor of its interest in any part of this agreement or any delegation of duties under this agreement shall be void unless agreed to in writing by NFHP. Any attempt by the Contractor to assign any part of its interest or delegate duties under this agreement without prior written approval by NFHP shall give NFHP the right immediately to terminate this agreement without any liability for work performed.

Section 14. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this agreement, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore. If subawarding or contracting is not described in the Scope of Services (Appendix A) then prior approval is required from NFHP (see Section 6).
- B. Procurement of subcontractors shall be in accordance with 2 CFR 200.326, and with the Contractor's own procurement policies and procedures.
- C. The Contractor is responsible for managing and monitoring each project, program, subaward, function, or activity supported by this agreement. The Contractor agrees to ensure any contracts with subcontractors contain the applicable procurement policies set out in 2 CFR Part 200, Appendix II "Contract Provisions for Non-Federal Entity Contracts under Federal Award

Section 15. Permits, Laws, and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this agreement. All actions taken by the Contractor under this agreement shall comply with all applicable statutes, ordinances, rules, and regulations. The Contractor shall pay all taxes pertaining to its performance under this agreement.

Section 16. Insurance.

The Contractor shall maintain insurance, in good standing, that is appropriate for local, state, or federal employees; equipment provided with federal funds; and risk management.

Section 17. Jurisdiction; Choice of Law.

This Agreement shall be governed and construed in accordance with the District of Columbia laws.

Section 18. Complete Agreement.

This instrument and all appendices and amendments hereto embody the complete agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto.

Section 19. Nonwaiver.

The failure of either party at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this agreement or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 20. Severability.

Any provision of this agreement decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the agreement.

Section 21. Liability.

The Contractor shall indemnify, defend, save, and hold NFHP harmless from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of loss, damage, or injury to persons or property; or from any wrongful or negligent act, error, or omission of Contractor, Contractor's agents, employees, subcontractors, or invitees, occurring during the course of, or as a result of the Contractor's, Contractor's agents, employees, contractors, subcontractors, or invitees performance pursuant to this agreement.

Section 22. Amendment.

- A. This agreement shall only be amended, modified, or changed by writing, executed by authorized representatives of the parties, with the same formality as this agreement was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this agreement, the only authorized representatives of the parties are:

Contractor: [Atlantic States Marine Fisheries Commission]

National Fish Habitat Board: Chair

- C. Any attempt to amend, modify, or change this agreement by either an unauthorized representative or unauthorized means shall be void.

Section 23. Suspension or Termination of the Contractor's Services.

- A. This Contract may be suspended or terminated:
1. If the Contractor materially fails to comply with any term or condition of the award, in accordance with 2 CFR 200.339,
 2. By NFHP or the Contractor for cause, in accordance with 2 CFR 200.339,
 3. By NFHP with the Contractor's consent; or by NFHP's or Contractor's written notification to the other party setting forth the reasons for such termination, in accordance with 2 CFR 200.339, or
 4. Due to force majeure, which shall be considered an act or event of substantial magnitude beyond the control of the Contractor, This includes acts of God, or acts of a public enemy; order of court, administrative agencies, or governmental officers outside NFHP; or any interruption, suspension, or interference resulting solely from the act of NFHP or neglect of NFHP not otherwise governed by the terms of this agreement.
- B. If NFHP terminates the Contractor's services for convenience, in accordance with 2 C.F.R. 200, Appendix II and F.A.R. 2.101, NFHP shall pay the Contractor for its actual costs reasonably incurred in performing before termination, in accordance with 2 C.F.R. Part 200.342. Payment under this subsection shall never exceed the compensation allowable under Section 6. All finished and unfinished documents and materials prepared by the Contractor shall become the property of NFHP.
- C. If the Contractor's services are suspended or terminated for cause, all costs of Contractor resulting from obligations incurred by the Contractor during a suspension or after termination of an award are not allowable unless NFHP expressly authorizes them in the notice of suspension or termination or subsequently. Other Contractor costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
1. The costs result from obligations which were properly incurred by the Contractor before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are non-cancelable, and,

2. The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

2 C.F.R. 200.342.

Any finished or unfinished documents or materials prepared by the Contractor under this agreement shall become the property of NFHP.

- D. If the Contractor receives payments exceeding the amount to which it is entitled under subsections B or C of this section, they shall remit the excess to NFHP within thirty (30) days of receiving notice to do so.
- E. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to NFHP all documents, records, work product, materials, and equipment owned by NFHP and requested by NFHP. The Contractor's status/performance reports shall also be current.
- F. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this agreement, other than that allowed under this section.
- G. Where a final audit has not been performed before the Contractor's services are terminated, NFHP may recover any payments for costs disallowed as a result of the final audit.
- H. Except as provided in this section, termination of the Contractor's services under this section does not affect any other right or obligation of a party under this agreement.

Section 24. Notices.

Any notice required pertaining to the subject matter of this agreement shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

NFHP: c/o Association of Fish and Wildlife Agencies
1100 First St NE Ste 825
Washington, DC 20002
FAX: (202) 350-9869
PHONE: (202) 838-3466


Contractor:
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200A-N,
Arlington, VA 22201
703-842-0740

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

IN WITNESS WHEREOF, the parties have executed this agreement on the date and at the place shown below.

Laura C. Leach
Director of Finance & Administration
Atlantic States Marine Fisheries Commission

Date



Ed Schriever
Chair, National Fish Habitat Board

3/25/2019

Date



Ron Regan
Executive Director
AFWA

2/10/2019

Date

Check List for Contractors

- Signed contract
- Completed and signed IRS W-9 form
- Signed certification regarding debarment, suspension, ineligibility, and voluntary exclusion
- Obtained or know how to obtain referenced federal regulations

Please fully complete the required forms and return to:

NFHP, c/o AFWA
1100 First St NE Ste 825
Washington, DC 20002

Appendix A

Scope of Work for Atlantic Coastal Fish Habitat Partnership, Southeast Aquatic Resources Partnership, and Eastern Brook Trout Joint Venture Under a Multistate Conservation Grant to conserve fish habitat collaboratively in the U.S. through the National Fish Habitat Partnership for the year 2019.

Introduction

This statement of work details how the Fish Habitat Partnerships (FHPs) named above will implement specific activities in collaboration with the National Fish Habitat Board.

The Atlantic Coastal Fish Habitat Partnership, Eastern Brook Trout Joint Venture, and Southeast Aquatic Resources Partnership will continue their multi-year collaborative focus on whitewater to bluewater fish habitat connectivity needs spanning the geographic boundaries of the three Eastern FHPs.

Objective: To collaboratively identify subwatersheds (HUC12) with the highest priority need for addressing fish habitat fragmentation; enable necessary road-stream crossing assessment; and, communicate the vital linkages between connectivity improvements and fish habitat rehabilitation.

Action: Determine locations with the highest priority need for enhancing or restoring fish habitat connectivity.

Milestones:

- Documentation of significant fish passage barriers using previously developed decision support tools and protocols.
- Application of road-stream crossing assessment results.
- Communication of the importance of fish habitat connectivity to targeted audiences.

Budget:

	ACFHP	SARP	EBTJV
Personnel	\$7,333		
Fringe Benefits	\$2,190		
Contractual		\$9,524	\$9,524
Other			
Total Direct Charges	\$9,523		
Indirect Charges	\$1,429		
TOTALS	\$10,952	\$9,524	\$9,524

Coordination with the National Fish Habitat Board Overall MSCG Project

Through regional collaboration, Fish Habitat Partnerships (FHP) will compile biological and watershed process-level information on fish habitats to meet FHP needs and supplement the National Fish Habitat Assessment; establish new or improved strategic goals, objectives, and priorities for conserving fish species and habitats; expand the scope of partners complementary projects; and develop best management practices for implementing fish habitat conservation actions across the U.S. Building capacity is critical to the success and sustainability of Fish Habitat Partnerships and expanding opportunities for collaboration is an essential element to continue meeting the remaining goals and objectives set forth in the National Fish Habitat Action Plan (2nd Edition).

Reporting requirements

1. A final Performance Report summarizing all project accomplishments under this award shall be submitted no later than 45 days after completion of the project.