

CITY COUNCIL MEETING

AGENDA ITEM III



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting March 3, 2014

From: Brian J. Sullivan, Municipal Services Director

Subject: City Council to consider approval of Resolution #08-14 increasing Water Department Revenues and Expenditures in the amount of \$15,000 for a 2014 Asset Management Planning Grant from the State of New Hampshire, Department of Environmental Services (NHDES)

Recommended motion:

1. Councilor moves:

“I move that the Franklin City Council approves Resolution #08-14 by a roll call vote.”

2. Mayor calls for a second and the vote.

Discussion:

The reason for this resolution is to increase Water Department Revenues and Expenditures for accepting a NHDES 2014 Asset Management Planning Grant. This grant provides for a \$15,000 match to City Water Department funding to be used towards the development of it's Capital Efficiency Plan (CEP).

The CEP will create an updated water system inventory and fixed asset condition assessment. It will also develop recommendations and associated project costs estimates. This information will then be the basis for a revised Franklin Water Department, Capital Improvements Plan (CIP).

Concurrences:

As part of the Fiscal Year 2014 Water Department Budget, \$50,000 has already been appropriated and the development of various components of the CEP are

underway. Discussion relative to the concept and benefits of the CEP were part of the budget process.

Fiscal Impact:

Total CEP project costs are \$75,000. Of this total, \$10,000 was expended in the FY 13 budget. A balance of \$65,000 will be expended in our FY14 budget utilizing the current \$50,000 appropriation and the additional \$15,000 in grant funding.

Alternatives:

The City Council can decide not to schedule a public hearing resulting in forfeiture of the \$15,000 grant.

Attachments/Exhibits:

- Resolution #08-14
- Public Hearing Notice



CITY OF FRANKLIN, NEW HAMPSHIRE

"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax (603) 934-7413
cityhall@franklinnh.org

CITY OF FRANKLIN NOTICE OF PUBLIC HEARING & MEETING

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold a Public Hearing on Monday, March 3, 2014 at 6:05 p.m. in the Council Chambers, Franklin City Hall concerning Resolution #08-14 concerning a supplemental appropriation in the amount of \$15,000 representing the acceptance of a New Hampshire Department of Environmental Services Grant



CITY OF FRANKLIN, NEW HAMPSHIRE

"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax (603) 934-7413
cityhall@franklinnh.org

RESOLUTION #08-14

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2014.

In the year of our Lord, Two Thousand Fourteen,

WHEREAS, the City Council of the City of Franklin has adopted a budget for Fiscal Year 2014 which began July 1, 2013, and;

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes the Municipal Services department has been awarded a 50% matching grant in the amount of \$15,000 through the Department of Environmental Services 2014 Asset Management Planning Grant Program, and;

WHEREAS, the City Council of the City of Franklin, New Hampshire has already appropriated in the Fiscal Year 2014 water budget \$50,000 toward the completion of a capital efficiency plan thus satisfying the matching requirement of the grant, and;

WHEREAS, the City Council of the City of Franklin wishes to accept and appropriate the aforementioned 2014 Asset Management Planning Grant Program grant, Now

THEREFORE BE IT RESOLVED that at the scheduled meeting of the City Council on Monday, March 3, 2014 the City Council of the City of Franklin, New Hampshire does hereby accept the 2014 Asset Management Planning Grant Program grant through the State of New Hampshire Department of Environmental Services, authorizes the City Manager to execute all grant documents and approve resolution 08-14 authorizing an increase in FY14 revenues:

Federal Grants – Water Fund Acct No. 21-0-331-33110-000 – Fifteen Thousand Dollars (\$15,000),

And an increase in expenditure account,

Engineering Acct. No. 21-0-331-40335-000 – Fifteen Thousand Dollars (\$15,000),

By a roll call vote.

**Resolution #08-14
Page 2 of 2**

Councilor Clarenbach	_____	Councilor Dzujna	_____
Councilor Giunta	_____	Councilor Cournoyer	_____
Councilor Boyd	_____	Councilor Feener	_____
Councilor Desrochers	_____	Councilor Barton	_____
Councilor Starkweather	_____		

Approved: _____
Mayor

Passed: _____

I, Holly Burbank, City Clerk for the City of Franklin, New Hampshire do hereby certify that:

- 1. The City Council voted to accept funds and enter into a grant agreement with the NH Department of Environmental Services on March 3, 2014;**
- 2. The City Council further authorized the City Manager to execute any documents which may be necessary for this grant agreement;**
- 3. This authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and**
- 4. The following person has been appointed to and now occupies the office indicated in 2. above:**

Elizabeth Dragon, City Manager

IN WITNESS WHEREOF, I have hereunto set my hand as the City Clerk of Franklin, New Hampshire this _____ day of March 2014.

City Clerk

SEAL



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 24, 2014

Brian Sullivan
City of Franklin
43 West Bow Street
Franklin, NH 03235

Subject: 2014 Asset Management Planning Grant: AM-17

Dear Brian,

Congratulations on your successful application to the 2014 Asset Management Planning Grant Program. The Department of Environmental Services intends to award a 50% grant up to **\$15,000** to the City of Franklin Water Department for this important project.

To award the grant funds we must enter into a grant agreement, approved by the Governor and Council. Enclosed is the grant agreement paperwork. **Please review these documents carefully.** If everything is satisfactory please submit the following:

1. **Original signed and notarized grant agreement** (attached). Initial and date page 2 & 3.
2. **Original signed and notarized Certificate of Authority** (example attached).
3. **Certificate of insurance**
4. **Match commitment letter** (the grant requires documentation of the 50% match prior to Governor and Council approval).
5. **Schedule of work**

Once the required paperwork is returned the process will begin for Governor and Council approval. **Please note that any work funded by the grant cannot be completed until after Governor & Council approval.**

We look forward to working with you on your asset management project. Please feel free to contact me at 271-7017 or johnna.mckenna@des.nh.gov if you have any questions.

Sincerely,

Johnna McKenna
Drinking Water and Groundwater Bureau

Enclosures: Grant Agreement
Exhibits
Checklist & Example Certificate

Subject: City of Franklin

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. Identification.

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03301	
1.3 Grantee Name City of Franklin		1.4 Grantee Address 43 West Bow Street, Franklin, NH 03235	
1.5 Effective Date Upon G&C Approval	1.6 Completion Date May 31, 2015	1.7 Audit Date N/A	1.8 Grant Limitation \$15,000
1.9 Grant Officer for State Agency Johnna McKenna, Drinking Water & Groundwater Bureau, NH Department of Environmental Services		1.10 State Agency. Telephone Number 603-271-7017	
1.11 Grantee Signature		1.12 Name & Title of Grantee Signor	
1.13 Acknowledgment: State of _____, County of _____ On _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [SEAL]			
1.13.2 Name & Title of Notary Public or Justice of the Peace			
1.14 State Agency Signature(s)		1.15 Name/Title of State Agency Signor(s) Thomas S. Burack, Commissioner NH Department of Environmental Services	
1.16 Approval by Attorney General (Form, Substance and Execution) By: _____ On: _____			
1.17 Approval by the Governor and Executive Council By: _____ On: _____			

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

4. **EFFECTIVE DATE: COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as the "Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as the "Completion Date").

5. **GRANT AMOUNT: LIMITATION ON AMOUNT: PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.**

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities, which shall impose any obligations, or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grantee officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grantee Officer, and his/her decision on any dispute, shall be final.

9. **DATA: RETENTION OF DATA: ACCESS.**

9.1 As used in this Agreement, the word data shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OR AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT: REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the grant amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

12. **TERMINATION.**

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no

Grantee Initials _____

Date _____

event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. **CONFLICT OF INTEREST.** No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. **GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workers' compensation or emoluments provided by the State to its employees.

15. **ASSIGNMENT AND SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

17. **INSURANCE AND BOND.**

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 18.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation of modification of the policy earlier than ten (10) days after written notice the of has been received by the State.

18. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. **NOTICE.** Any notice by a party hereto the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. **CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the law of the State of New

Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Grantee Initials _____
Date _____

EXHIBIT A
SCOPE OF SERVICES

City of Franklin

The City of Franklin Water Department will use these funds for asset management and financial planning initiatives for the water system. Specifically, the following task(s), as described in the application submitted to DES, will be accomplished including invitation for DES participation in meetings and workshops.

1. Develop inventory of water assets. Conduct condition analysis of all water assets. Develop Capital Efficiency Plan to include prioritized water system improvements and estimated costs.

Deliverable: Submit sample of inventory and condition analysis results to DES. Submit Capital Efficiency Plan to DES.

2. Conduct rate analysis. Develop funding strategy based on estimated project costs.
3. Present asset management plan to customers and City Council.

EXHIBIT B
BUDGET & PAYMENT METHOD

All services shall be performed to the satisfaction of the Department of Environmental Services before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of associated invoices. **Grant award is a 50% grant up to \$15,000. If invoice is less than initial estimate only the amount on the invoice will be paid.**

Task Number/Description	Asset Management Grant
Task 1: Asset Inventory, Condition Assessment and Capital Efficiency Plan	\$15,000
Task 2: Rate Analysis & Funding Strategy	-
Task 3: Employee and Governing Body Workshop and Communication to Public	-
TOTAL	\$15,000

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services or reallocation of grant funds require DES approval in advance. Payments will be made based on submitted invoices. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.6).

Federal Funds paid under this agreement are from a Grant to the State from the U.S. Environmental Protection Agency, Drinking Water State Revolving Fund Set-Asides under CFDA #66.468. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant are hereby adopted in full force and effect to the relationship between this Department and the grantee.

**Asset Management Planning Grants:
Checklist of Items Required for G&C Processing**



(Refer to your letter for a list of checklist items that are required for your grant)

	Item	Action/Description
<input type="checkbox"/>	Grant Agreement	We will provide the final version of this document to you via e-mail. Print out single-sided on plain white paper. In addition to the signature and notarization on the first page, please note that each page must be dated and initialed by the signor.
<input type="checkbox"/>	Certificate of Authority	This certificate provides proof that the person signing the grant agreement has the authority to do so. The certificate must be signed and notarized on the same date or later date than the Grant Agreement. The Grant Agreement and the Certificate of Authority must not be signed by the same person. Please see the example Certificate provided.
<input type="checkbox"/>	Insurance Certificate of Coverage	Obtain from your insurance carrier. You must provide this insurance document to indicate that you have coverage meeting the requirements of Paragraph 17 of the Grant Agreement. Note that this is a form that your insurance carrier will provide specifically for this project and must list the Department of Environmental Services as an additional insured in the certificate holder box.
<input type="checkbox"/>	Certificate of Existence or Good Standing*	Obtain from the NH Secretary of State office. Provide DES with an original with gold seal. To order visit http://www.sos.nh.gov/corporate/PDF/gscert.pdf . Your organization must be registered to do business in NH, and in good standing with the SOS office to obtain this Certificate. *Note that municipalities and government subdivisions are exempt from this requirement.
<input type="checkbox"/>	Match Commitment Letter	The grant program is a 50% grant up to \$15,000 and requires a 50% match. Match letter must be provided before we can obtain Governor and Council approval. If the final cost of the project is less than originally estimated we can pay up to 50% of the final costs.
<input type="checkbox"/>	Vendor Code	Grantees must have a Vendor Code. If you have received payments from DES in the past, you should already have a Vendor Code. If not, you will need to register for your Vendor Code online at: https://admin.state.nh.us/purchasing/vendorregistration/

Please send documents to:

Johnna McKenna
Drinking Water and Groundwater Bureau
NH Department of Environmental Services
29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

Contact:

johnna.mckenna@des.nh.gov
Phone (603) 271-7017
Fax (603) 271-5171