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STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
DIVISION of PARKS and RECREATION

172 Pembroke Road Concord, New Hampshire 03301  
Phone: (603) 271-3556 Fax: (603) 271-3553  
Web: www.nhstateparks.org

April 27, 2017

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

**REQUESTED ACTION**

1. Pursuant to RSA 227-H:9 and RSA 216-A:3, III, authorize the Department of Resources and Economic Development, Division of Parks and Recreation (Department) to enter into a Service Agreement (Agreement) with the Blue Ocean Society for Marine Conservation of Portsmouth, NH (BOS) to use space located within the North Pavilion at the Seashell Complex at Hampton Beach State Park for the purpose of providing education and interpretive services pertaining to marine life, local and maritime history, and the marine environment for a five (5) year period upon Governor and Executive Council approval through May 31, 2022.
2. Further authorize the Department to accept annual payments in the amount of \$2,000 for the use of the facility plus 15% commission of gross income from admission and private events collected by the BOS, all as provided for in the Agreement. The payments will be deposited into accounting unit #03-35-35-351510-37020000 "State Parks Fund."
3. Further authorize the Department to accept a **RETROACTIVE** payment from BOS in the amount of \$4,850.57 per Special Use Permit (SUP) granted for the 2016 operating season effective upon Governor and Executive Council approval. The payment will be deposited into accounting unit #03-35-35-351510-37020000 "State Parks Fund."

**EXPLANATION**

The BOS will use space in the North Pavilion at the Seashell Complex at Hampton Beach State Park for the purpose of providing education and interpretive services pertaining to marine life, local and maritime history, and the marine environment on a seasonal basis. The admission fees and all programs shall be approved by the Department as part of an Annual Operating Plan. The BOS has been providing this service on behalf of the Department since 2013, approved by the Governor and Executive Council on June 19, 2013, Item #152.

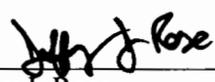
The Department permitted the BOS to continue its operations at Hampton Beach State Park while the parties negotiated a new agreement. A SUP for the 2016 operating season was entered into in order to memorialize the operational continuity of the parties in good faith until the Service Agreement was finalized. The Department is now seeking retroactive approval to accept the payment due in accordance with the terms of the SUP.

The Attorney General's office has reviewed and approved the Service Agreement as to form, substance, and execution.

Respectfully submitted,

Concurred,

  
Philip A. Bryce  
Director

  
Jeffrey J. Rose  
Commissioner

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT  
DIVISION OF PARKS AND RECREATION**

**SERVICE AGREEMENT**

In accordance with RSA 227-H:9 and RSA 216-A:3, III, this Service Agreement (“Agreement”) is entered into by and between the State of New Hampshire, Department of Resources and Economic Development, Division of Parks and Recreation (“State” or “Division”) and the Blue Ocean Society for Marine Conservation (“BOS”), 143 Pleasant Street, Portsmouth, NH 03801.

Whereas, Hampton Beach State Park (“Park”), located in the town of Hampton, New Hampshire, is owned by the State of New Hampshire and managed through the Division of Parks and Recreation, and

Whereas, the State seeks an innovative partnership with an entity that will support the State’s mission, enhance park revenue, and provide value-added products/services to state park visitors within certain space available at the Seashell Complex located at the Park; and

Whereas, the Blue Ocean Society for Marine Conservation is a 501(c)(3) non-profit organization registered (Regn. #14605) with the Attorney General’s Office, Charitable Trusts Unit; and is in “Good Standing” with the Secretary of State, Corporate Division (Bus. ID #398085); and

Whereas, BOS promotes conservation of the marine environment through public education, information resources and research; and seeks to provide a marine education center at the Park; and

Whereas, pursuant to RSA 216-A:1, the State seeks “to make its park areas and facilities accessible to the public for recreational, education, scientific, and other uses consistent with their protection and preservation;” and “to encourage and support tourism and related economic activity within the State;” and

Whereas, pursuant to its Ten-Year Strategic Development and Capital Improvement Plan, the State seeks to accomplish the following objectives:

- Enhance revenue potential of existing and possible new recreational opportunities
- Seek support from foundations, businesses, and other entities
- Maximize revenue where compatible with purpose and mission
- Experiment with non-traditional products and pricing
- Develop all facets of programming to enhance the experience
- Establish ways to offer interactive, accessible, and coordinated environmental education and outdoor recreation programs in state parks;

Now therefore, the Division and BOS agree to the following terms:

1. **PURPOSE.** This Agreement grants the BOS the use of certain facilities of the Park, as specifically identified herein, to be used as a marine education center operated by BOS staff, community volunteers, BOS interns and other related BOS staff, for the purpose of providing to park visitors educational and interpretive services pertaining to marine life, local and maritime history, and actions that can be taken to protect the marine environment.

2. TERM. The term of this Agreement shall be from date of Governor and Executive Council (G&C) approval through May 31, 2022, unless terminated earlier as provided herein. This Agreement shall not be extended nor is the State under obligation to renew. Any interest in continued operations by BOS shall be negotiated under a new agreement; however, the State, at its discretion, reserves its right to award any new agreement through competitive bid.
3. FEES. The following fees and payment conditions shall apply:
  - 3.1. *Facility use fee.* The BOS shall pay an annual facility use fee of \$2,000.00, payable to the "Treasurer, State of New Hampshire." The first payment shall accompany the signed Agreement. All subsequent payments shall be made on the anniversary date of Agreement execution, without demand. Late payments shall incur a \$100.00 late fee, assessed each month until paid.
  - 3.2. *Commission.* The BOS may charge reasonable admission fees to its marine education center and reasonable fees for private, scheduled events held at the Park. All fees shall be comparable to industry standards, subject to State approval. The BOS shall pay the State the below prescribed commission, which shall be paid to the State on or before each January 31, without demand. A copy of admission and booking records, and the financial report used to calculate the payment, shall be included with each payment. Late payments shall incur a \$100.00 late fee, assessed once each late payment occurrence.
    - 3.2.1. The BOS shall:
      - 3.2.1.1. Pay the State 15% of its gross income from all private, scheduled events held onsite at the Park.
      - 3.2.1.2. Pay the State 15% of its gross income from all admission fees collected.
      - 3.2.1.3. Retain all program fees and donations collected.
    - 3.2.2. Retail Sales. The BOS shall retain all of its gross income earned from all retail sales generated onsite at the Park. Retail sales shall include but not be limited to merchandise, food and drinks sold separately from private, scheduled event charges, and all other materials items sold onsite.
    - 3.2.3. Exempt from commission. The BOS shall retain all revenue from its onsite program fees, donations, membership fees, and "adopt-a-marine creature" sales; however, BOS shall report to the State all revenue exempt from commission but earned within and upon the Premises and Park.
    - 3.2.4. External sponsorships (where a company or organization provides financial support in exchange for recognition) to generate revenue to support BOS programs, events, improvements and installations, etc. shall be permitted under this Agreement provided that all such sponsorships are directly related to BOS activities occurring on the Premises and within the Park, including sponsorship by the Hampton Beach Village District and the Hampton Beach Area Commission for the cost of the facility use fees. The Division of Parks and Recreation shall also be included in such recognition.

4. PREMISES. The BOS shall be granted exclusive use of space available for occupancy located within the North Pavilion at the Seashell Complex at the Park, formerly the State Park Store, in the manner and conditions as stated herein. The space is a net square footage of 430sf, which includes a 48sf bathroom, a 4sf storage closet, and 24 lineal feet of frontage on the east side of Ocean Boulevard (“Premises”), see Attachment A: Floor Plan.

The BOS shall be granted use of two parking spaces, designated by the State, at South Beach from 8 a.m. to 8 p.m. All other BOS employees, volunteers, subcontractors, guests, and visitors may use the State’s general parking area with payment of the State’s customary parking fees and fines.

All facilities, structures, and areas granted for use and operation by the BOS is in “as is” condition, and the State shall not be required or compelled to improve, repair, rehabilitate, or maintain such facilities, structures, and areas prior to or during the BOS’s occupation of same. See Section entitled “Improvements and Installations” below, for allowable improvements to the Premises.

For purposes of this Agreement, “exclusive use” shall mean that the State shall not expressly permit or grant use of the facilities and areas exclusive to the BOS to any other party during the term of this Agreement. “Exclusive use” granted herein is a privilege to use said facilities and areas; and does not represent a real property interest in the land or facilities for which the State shall reserve all rights and privileges.

The BOS acknowledges that it is the general policy of the State that State Park lands are open to the public unless posted as closed or restricted by the State.

5. TAXES. The BOS shall be responsible for, and pay for, any taxes and other assessment(s) applicable to the Premises. Specifically, the BOS agrees to hold the State harmless with respect to and agrees to pay in addition to other payments provided herein, the full amount of taxes levied against the Premises subject to this Agreement as a consequence of the application of RSA 72:23.1, which provides for taxation of certain State properties used or occupied by persons or entities other than the State. In the event the BOS shares a larger parcel of land with other lessees or other concessionaires, it shall be obligated to pay only its’ pro rata share of any such taxes. Failure of the BOS to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said Agreement by the State. Should the BOS claim that its real estate and personal property are exempt from taxation by reason of the provision of RSA 72:23, V, the provisions of this section shall not be construed to waive any such claim.

6. UTILITIES. The State shall provide electricity, water (excluding water for the “touch tank” and other such exhibits), radiant floor heat, air conditioning, and sewage service.

The BOS shall arrange and pay for its communications, internet, and electronic data services directly, and shall be responsible for the removal and disposal of its trash and recyclables.

Onsite storage of fuels by the BOS shall be prohibited. Any and all other utility, building services and comfort system needs that may arise shall be addressed with the State.

7. CONDITIONS FOR USE OF PREMISES. BOS’s activities at the Park and on the Premises shall be conducted in a prudent, good and safe manner, pursuant to its Annual Operating Plan

approved by the State, outlined below. Use of the Premises shall be kept in good condition at the expense of the BOS, including but not limited to matters of environmental and hazardous materials compliance, and housekeeping and sanitation, allowing for normal wear and tear as determined by the State. The BOS shall promptly report any and all damage to the Premises occasioned by storm, accident, or other such events within 24 hours.

BOS shall, at its sole expense, maintain the Premises as is necessary for its operational and programmatic needs. The State shall maintain the grounds of the Park. The State shall not be required or compelled to maintain grounds and areas for the benefit or convenience of the BOS.

BOS shall not alter, modify, nor make any improvements, whether temporary, cosmetic, or permanent, to the Premises without prior written approval from the State. See Section entitled "Improvements and Installations" below, for allowable improvements to the Premises.

The State shall not be responsible for BOS's property stored, placed or left on the Premises or the Park at any time.

With prior notification, the State may inspect the Premises to ensure that the Premises are in good working order and acceptable condition, normal wear and tear excepted. BOS shall, at its sole expense, fulfill all reasonable requests of the State to address any deficiencies found.

In the event of an emergency, the State reserves the right to close or divert patrons away from the facility when such action, in the view of the designated representatives of the State, is in the best interest of the health and safety of State Park patrons, and BOS agrees that it shall have no claim against the State. BOS shall not be relieved of its obligation to pay facility use fees or commission, nor be reimbursed by the State for lost income or revenue in the event of such a closure or diversion.

8. OPERATIONS AND PROGRAMS. The BOS shall submit for State approval within 30 days after the execution of the Agreement, and by April 1<sup>st</sup> of each following year, an Annual Operating Plan ("AOP"). Generally, the AOP shall outline the services, programs, and activities proposed for the upcoming year, including but not limited to:

8.1. Layout for use of the Premises and any revisions to the layout.

8.2. Daily hours of operation, including:

8.2.1. The marine education center shall operate a minimum of 42 hours per week during the high season of early June through the second week of September.

8.2.2. The marine education center shall be operated as needed and by appointment during the "off season" months of late September through May.

8.3. Fees to be charged, including but not limited to admission, events and functions, special programs and activities. Discounts and complimentary offerings, and donation requests.

8.4. Programs, activities and events, business activities, services, and function space use planned.

8.4.1. Any other details pertinent to the use of the Premises and Park prior to each BOS operating year, including but not limited to dates, hours, number of participants, and type of programs, events, and activities so as to coordinate with the State's operations at the Park and to manage use of the Park and its resources.

8.5. Retail and other items to be sold onsite.

8.6. Proposed signage.

8.7. Advertising, marketing and promotional plans and programs.

The State shall review the AOP and shall, within 30 days, either approve the AOP or request revision and resubmission of the AOP for the purpose of allowing the BOS to address specific comments or objections made by the State, to the satisfaction of the State. The revised AOP shall be due to the State within 30 days following the State's request for revision. The State reserves the right to reject any part of a proposed AOP, but shall provide the basis of its decision in writing.

A State-approved AOP shall be a condition of the BOS operations and use within the Premises and upon the Park for the subject year. The BOS may operate under a previously State-approved AOP, during which an updated AOP is being revised and resubmitted by the BOS, and reviewed and approved by the State.

9. ANNUAL REPORT. An annual report shall be submitted each year, including a full financial report showing the sources of income and revenue, the number of programs, number of participants and number of visitors. The report shall include, but is not limited to:

9.1. Actual hours of operation;

9.2. Actual rate and fee schedules, including complimentary and discounted tallies, and donations received;

9.3. Attendance and visitor records categorized by service, program or event;

9.4. Actual income and expenses of operations, and a balance sheet;

9.5. Actual marketing, advertising, and promotional activities;

9.6. Collaborative activities with sponsors, partners, and other parties;

9.7. Emergency, accident or incident reports; and

9.8. Any notable achievements or the recognition of individuals or sponsors.

The BOS shall abide by the conditions of all applicable State laws and regulations, which are incorporated herein by this reference, regarding retention and access requirements relating to all records relating to the Agreement.

The BOS shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all revenue and income

associated with the Agreement. The BOS shall retain all such records for three (3) years after the end of the final year of the Agreement.

10. MEETINGS. The parties shall meet at least once annually before the start of the BOS's summer season, to discuss mutual operational and programmatic issues. Subsequent meetings shall be held when deemed necessary by the State or the BOS at a place and time to be mutually agreed upon for the purpose of discussing operational issues, official requests to the State, and other pertinent business which may arise.
11. STAFF, VOLUNTEERS, AND SUPERVISION OF MINORS AND GUESTS. BOS shall ensure that its staff and volunteers are properly trained, certified and licensed, as is required for its operation and programs; and shall comply with all requirements and best practices for the proper supervision and safety of minors and its guests. **BOS shall be solely responsible and liable for its staff, volunteers, subcontractors, operations, programs, and all other associated activities conducted on the Premises and within the Park.**
12. SIGNS, PROMOTIONS, AND ADVERTISING. All signs, promotions and advertising matters shall be in good taste and acceptable to the State, whose decision will in all cases be final. All advertising shall acknowledge the "State of New Hampshire, NH Division of Parks and Recreation" as a supporter of the BOS. The State reserves the right to prohibit any such materials or promotions, including but not limited to sidewalk and frontage signage so as to ensure safe flow of pedestrian traffic and the visual aesthetics of the Park.
13. INTERESTS, RIGHTS, AND OBLIGATIONS RESERVED. This Agreement shall not transfer to the BOS any claim, interest or right held by the State, and the BOS shall in no way nor at any time interfere, prevent, or obstruct any activity, operation, management, or use of land or rights held by State.  
  
**The BOS shall have no authority to bind, obligate, or restrict the State in any way or at any time for any reason, including but not limited to any and all obligations, conditions, restrictions, regulation, or stipulations of any grant funding, donations, subcontracts, agreements or permits obtained or executed by or that may arise out of the BOS in its performance of the activities granted herein. Third party grants, donations or other contributions or material support shall not constitute a claim or interest within the Premises.**
14. SUPPORT FOR STATE ACTIONS. The BOS hereby acknowledges that the Park is managed by the State for a broad range of public purposes and the BOS hereby agrees to support the State's management of the Park in good faith and also agrees that the rights and privileges granted herein shall not be used as a basis to oppose the State's sovereign privileges, management and corresponding actions taken by the State in the interests of the Park and the state park system.
15. EXPRESSION OF VIEWS. The State recognizes that the BOS has the right to express its views and opinions, and that such views and opinions may not necessarily be the views and opinions of the State. Therefore, the State requests as a courtesy that the BOS assert that the views and opinions of the BOS are those of the BOS, and not those of the State.

16. PROHIBITED ACTIVITIES. No other commercial activities or operations shall occur upon the Premises or at the Park, except as is specifically granted to the BOS herein or by separate Special Use Permit from the State.
17. SPECIAL USE PERMITS. Special Use Permits are required to grant the BOS permission to hold special events at or reserve additional facilities or areas of the Park not specifically granted to the BOS herein, or by a State-approved AOP. The BOS shall apply for a Special Use Permit from the State's Events and Facilities Manager in accordance with the applicable administrative rules and park permitting policies, and all customary permitting and associated fees shall apply.
18. IMPROVEMENTS AND INSTALLATIONS. The BOS may, with the expressed written permission of the State, undertake temporary improvements or installations within the Premises that shall have no adverse or permanent impact to the Premises or original structure.

**Permanent and structural improvements shall be prohibited, except that the BOS shall have the permission to install, in consultation with the State, one ground fault outlet to service the touch tank, at its sole expense including any required permits and the hire of a licensed electrician.**

- 18.1. *Schematic drawings and plans.* The BOS shall provide the State with schematic drawings and plans for any proposed temporary improvements and installations within the Premises. The State shall review such drawings and plan, and may request alterations to proposed improvements and installations so as to protect the State's real property interests.
- 18.2. *Cost of projects.* The BOS shall bear the cost of all such improvements and installations using its own equipment, tools, and materials, or subcontracting such work; and shall ensure that such work is done in a good and workmanlike manner and in compliance with all applicable laws, regulations, and building codes.
- 18.3. *Sections 6(F) and 106 Regulatory Reviews.* The State agrees to facilitate the necessary review process under Section 6(f) of the Land and Water Conservation Fund program and Section 106 of the National Historic Preservation Act, if applicable. BOS agrees to hire and finance an archeologist, biologist, and any other consultant, if required for compliance with Sections 6(f) and 106. BOS agrees that no work will begin until all applicable regulatory approvals have been obtained by the State.
- 18.4. *Title to Improvements and Installations.* Any and all improvements and installations fixed within or upon the Premises by the BOS shall remain the property of the BOS for the duration of this Agreement. Any and all improvements and installations fixed within or upon the Premises by the BOS shall vest, free and clear and without cost, to the State upon termination of this Agreement, unless the State, at its sole discretion, requires such improvements and/or installations be removed by the BOS. Should the State require such improvements and/or installations to be removed by the BOS, the BOS shall, at its expense, remove such improvements and installations within 30 days of the request or as arranged by mutual agreement, and shall restore the Premises to its original condition prior to the execution of this Agreement, reasonable wear and tear

excepted. The decision of the DRED Commissioner relative to whether an improvement or installation built or installed by the BOS is deemed fixed or permanent or temporary shall be final and conclusive to this matter.

19. RISK OF LOSS, DAMAGE, OR DESTRUCTION. All property of every kind within the Premises and the Park shall be at the sole risk of the BOS and the State shall not be liable to the BOS or any other person for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to said property, including, but not limited to, any loss of income for any function, program or contract that may not take place for whatever reason due to an emergency or unforeseeable situation, or due to interruptions or loss of utilities.
- 19.1. The BOS shall, within 24-hours, report to the State through its field contact listed below or to the State onsite supervisor if the field contact is not readily available; and restore or repair any and all damages or shall reimburse the State for any and all restoration and repair of State-owned real and personal property that is performed by the State, resulting from the BOS's use, or its subcontractors or any and all affiliates, of such property.
- 19.2. In the event that the facilities, or any part thereof during said term, be destroyed or damaged by fire, flood, storm, war, or other casualty so that the same shall be thereby rendered unfit for the purposes of the BOS, the BOS may terminate this Agreement at its option. In any event, the State shall not be obligated to rebuild or replace any facility, wholly or substantially destroyed by fire, flood, storm, war or other casualty. The State shall not be liable to the BOS for any loss, damage, or inconvenience occasioned by any cause whatsoever to the BOS's property, revenues, operations, activities or programs.
20. COMPLIANCE WITH LAWS AND REGULATIONS. The BOS shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the BOS, including but not limited to RSA 674:54, II governmental land uses. The BOS shall also comply with the policies and regulations of the Department of Resources and Economic Development, and all reasonable requests of the Division Director and his/her agents. The BOS shall procure at its expense all necessary licenses and permits required in connection with the operations described herein.
21. CONDITIONAL OBLIGATION OF THE STATE: 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 and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available 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 BOS notice of such termination. The State shall not be required to transfer funds from any other account to the account identified for this Agreement in the event funds in that account are reduced or unavailable.

## 22. INDEMNIFICATION AND SOVEREIGN IMMUNITY.

- 22.1. To the full extent permitted by law, the BOS agrees to hold harmless and indemnify the State, its officers, employees and agents against any and all loss, damage, liability, expense, suits, demands and claims, including, but not limited to, cases of injury to third parties or their property, resulting from and arising out of:
- 22.1.1. Any improper act, improper failure to act, or negligence of the BOS, its servants, agents or invitees occurring on the Premises or the Park in conjunction with the BOS's activities under this Agreement;
  - 22.1.2. Anything owned or controlled by the BOS, its servants, agents, or invitees and used on the Premises or the Park in connection with the BOS's activities under this Agreement; or
  - 22.1.3. Any nuisance made by the BOS, its servants, agents, or invitees on the Premises or the Park in connection with the BOS's activities under this Agreement.
- 22.2. 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.

## 23. INSURANCE.

- 23.1. *General Liability Insurance.* It is agreed that during the term of this Agreement, the BOS at its sole cost and expense and for mutual benefit of BOS and the State shall carry and maintain comprehensive general liability insurance in the aggregate amount of Two Million Dollars (\$2,000,000) for injuries to persons and damage to property. The BOS shall provide the State with a certificate of insurance naming the NH Department of Resources and Economic Development as an "Additional Insured" at time of signing this Agreement.
- 23.2. *Workers Compensation Insurance.* To the extent the BOS is subject to the requirements of NH RSA chapter 281-A, BOS shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. BOS shall furnish the State proof of Workers' Compensation in the manner described in NH RSA chapter 281-A, and any applicable renewal(s) thereof. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for the BOS, or any subcontractor or employee of the BOS, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the BOS under this Agreement.
- 23.3. *Standard Form.* All insurance shall be in 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. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State. Each policy shall also extend to the State of New Hampshire as additionally insured. The BOS shall deposit with the State certificates

of such insurance. Failure to comply may cause a delay in opening for business on schedule and shall be considered a material breach of this Agreement.

24. SUBLETTING AND ASSIGNMENT. The BOS shall not assign this Agreement or sublet the Premises, in whole or in part.
25. RELATION TO THE STATE. It is the intent of the parties hereto that the BOS shall be legally considered as an independent contractor and that neither the BOS nor its employees shall, under any circumstances, be considered servants or agents of the State of New Hampshire, and that neither the State nor the BOS shall at any time be legally responsible for any acts of omissions on the part of the other, its servants, or invitees resulting in either personal or property damage to any individual, firm or corporation.
26. FINAL AUTHORITY. The BOS shall comply with all reasonable requests made by the State. The decision of the DRED Commissioner relative to the proper performance of the conditions of this Agreement shall be final and conclusive as to each matter not covered in the Agreement and questions that may arise in connection with the privileges granted, and also as to each matter which is not clearly covered herein.
27. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any event of default on the part of the BOS shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of default 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 BOS.
28. EVENT OF DEFAULT/REMEDIES.
  - 28.1. Any one or more of the following acts or omissions of the BOS shall constitute an event of default hereunder ("Event of Default"):
    - 28.1.1. failure to perform the services satisfactorily or on schedule;
    - 28.1.2. failure to submit any report required hereunder; and/or
    - 28.1.3. failure to perform any other covenant, term or condition of this Agreement.
  - 28.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
    - 28.2.1. Give the BOS 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 thirty (30) days after giving the BOS notice of termination;
    - 28.2.2. Set off against any other obligations the State may owe to the BOS any damages the State suffers by reason of any Event of Default; and/or
    - 28.2.3. Treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

29. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and the Agreement shall not be construed to confer any such benefit.
30. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of the Agreement.
31. **VENUE AND JURISDICTION.** Any action on the Agreement may only be brought in the State of New Hampshire in accordance with the dispute resolution procedures of the Agreement set forth herein.
32. **CHOICE OF LAW.** This Agreement is to be construed according to the Laws of the State of New Hampshire.
33. **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. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provision hereof.
- This Agreement represents the full agreement of the parties with respect to the use of the facilities and supersedes the Proposal submitted by the BOS and any representations that may be implied in accepting that proposal and selecting BOS as the successful occupant.
34. **AMENDMENT.** This Agreement may be amended, but shall not be extended, only by an instrument in writing signed by both parties hereto.
35. **TERMINATION.**
- 35.1. This Agreement shall be subject to cancellation by the BOS, regardless of grounds therefore, by giving the State sixty (60) days written notice of cancellation. The State shall provide BOS written receipt of BOS's decision to terminate the Agreement. The BOS shall surrender the Premises, as stipulated below.
- 35.2. This Agreement shall be subject to cancellation by the State, in the event of the failure of the BOS to perform, keep and observe any of the conditions of the Agreement and the failure of the BOS to correct the default or breach within a time specified by the Department Commissioner, by giving the BOS thirty (30) days written notice of cancellation.
36. **SURRENDER OF THE PREMISES.** In the event that the Term shall have expired or terminated, the BOS shall peacefully quit and deliver up the Premises to the State in as good order and condition, reasonable wear, tear, and obsolescence and unavoidable casualties excepted, as it was in at the beginning of the term of this Agreement, and shall surrender all improvements, alterations, or additions made by the BOS which cannot be removed without causing damage to the Premises. The BOS shall remove all of its improvements and installations that can be removed without causing damage to the Premises, and all of its personal property, surrendering the Premises to the State in broom clean condition. The surrender of the Premises shall occur no later than the date of expiration or termination of the Agreement, unless by some other date agreed to in writing by the parties.

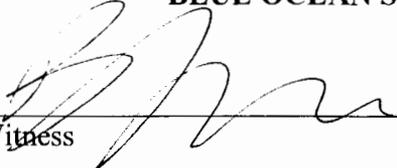
37. FIELD CONTACTS. In matters pertaining to field operations, the following persons shall represent their respective agencies:

STATE OF NH, DIV PARKS & REC  
Brian Wilson, Region Supervisor  
P: 603-227-8715  
E: [brian.wilson@dred.nh.gov](mailto:brian.wilson@dred.nh.gov)

Blue Ocean Society for Marine Conserv.  
Jennifer L. Kennedy, Exec. Director  
P: 603-431-0260  
E: [jen@blueoceansociety.org](mailto:jen@blueoceansociety.org)

IN WITNESS WHEREOF, the parties hereto have set their hands the date herein named.

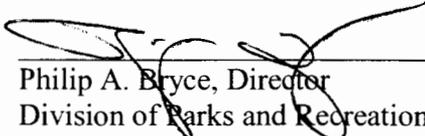
**BLUE OCEAN SOCIETY FOR MARINE CONSERVATION**

  
\_\_\_\_\_  
Witness Date 4.26.17

  
\_\_\_\_\_  
Jennifer L. Kennedy, Executive Director Date 4/26/17  
Duly Authorized

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT**

*Concur:*

  
\_\_\_\_\_  
Philip A. Bryce, Director Date 4/26/17  
Division of Parks and Recreation

  
\_\_\_\_\_  
Jeffrey J. Rose, Commissioner Date 4/28/17  
Dept. Resources and Economic Develop.

Approved as to form and substance,

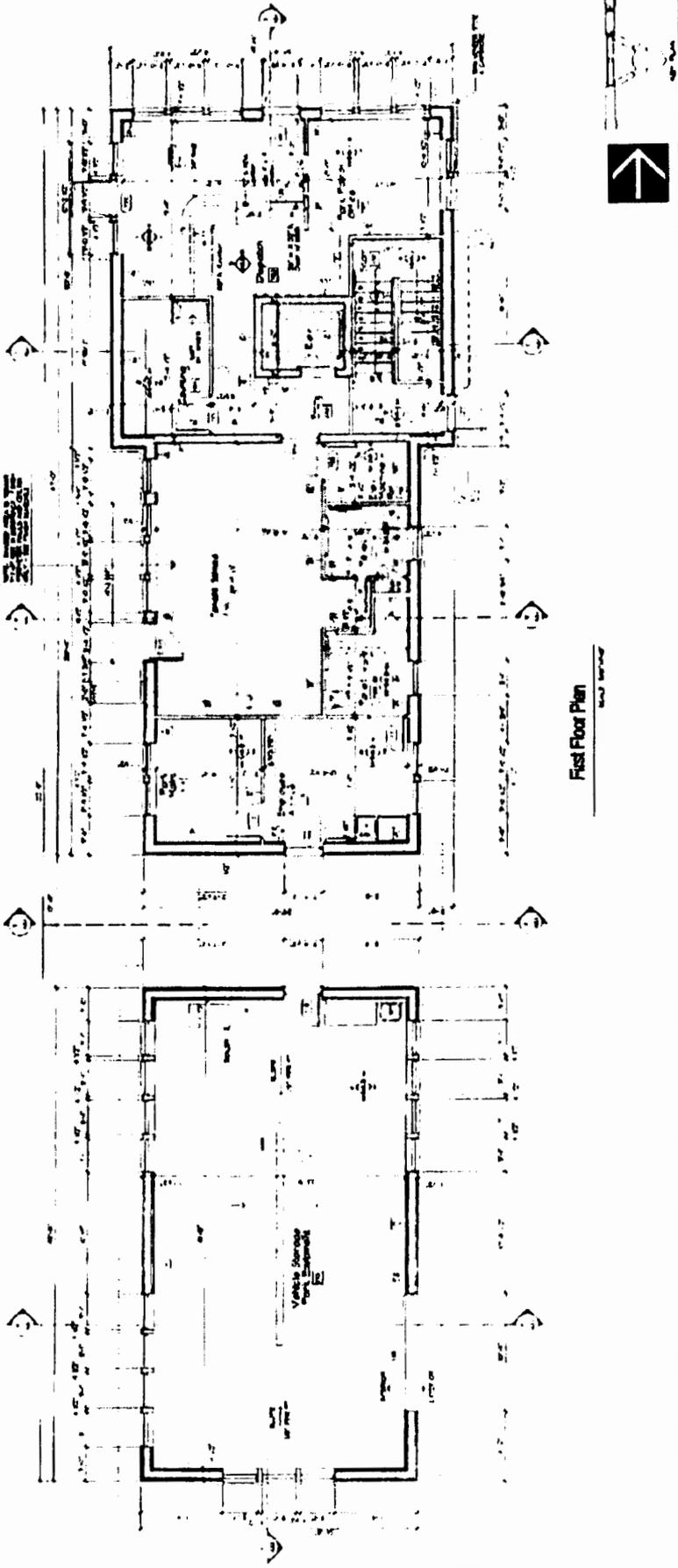
  
\_\_\_\_\_  
Attorney General's Office Date 5/2/17  
NH Department of Justice

Governor and Executive Council Approval: Date \_\_\_\_\_ Item # \_\_\_\_\_

PAB/BW/ttl.042117

BLUE OCEAN SOCIETY  
ATTACHMENT A, FLOOR PLAN

OCEAN BOULEVARD (ROUTE 1A)



First Floor Plan

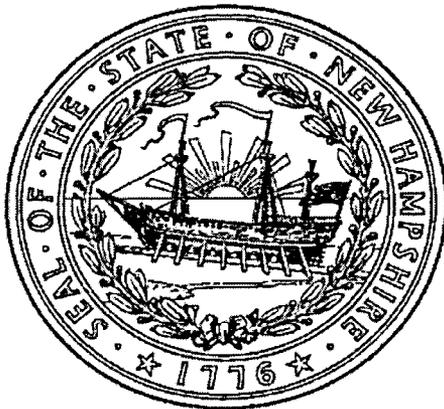
# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BLUE OCEAN SOCIETY FOR MARINE CONSERVATION, INC. is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on February 06, 2002. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 398085



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 5th day of December A.D. 2016.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

# Business Information

## Business Details

Business Name: BLUE OCEAN SOCIETY FOR MARINE CONSERVATION, INC.

Business ID: 398085

Business Type: Domestic Nonprofit Corporation

Business Status: Good Standing

Business Creation Date: 02/06/2002

Name in State of Incorporation: Not Available

Date of Formation in Jurisdiction: 02/06/2002

Principal Office Address: 143 Pleasant Street, Portsmouth, NH, 03801, USA

Mailing Address: Attn: Jennifer Kennedy 143 Pleasant Street, Portsmouth, NH, 03801, USA

Citizenship / State of Incorporation: Domestic/New Hampshire

Last Nonprofit Report Year: 2015

Next Report Year: 2020

Duration: Perpetual

Business Email: jen@blueoceansociety.org

Phone #: NONE

Notification Email: NONE

Fiscal Year End Date: NONE

## Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	OTHER / PROMOTE CONSERVATION OF THE MARINE ENVIRONMENT THRU PUBLIC ED,INFO RESOURCES,&RESEARCH,	



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/2/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>E &amp; S Insurance Services LLC</b> 21 Meadowbrook Lane P O Box 7425 Gilford NH 03247-7425	<b>CONTACT NAME:</b> Fairley Kenneally <b>PHONE (A/C, No, Ext):</b> (603) 293-2791 <b>FAX (A/C, No):</b> (603) 293-7188 <b>E-MAIL ADDRESS:</b> fairley@esinsurance.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> <b>INSURER A:</b> Hartford Casualty Insurance Co <b>29424</b> <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

**COVERAGES**      **CERTIFICATE NUMBER: 2017**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	04SBAPQ3455	5/6/2017	5/6/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
The State of New Hampshire, Department of Resources and Economic Development, Division of Parks & Recreation is listed as an additional insured

<b>CERTIFICATE HOLDER</b>  State of New Hampshire, Department of Res Economic Development, Division of Parks & 172 Pembroke Road Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b>  F Kenneally/FAIRLE <i>Fairley Kenneally</i>

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NH Department of Resources and Economic Development  
**Division of Parks and Recreation**  
 172 Pembroke Road  
 Concord, NH 03301 Phone: 603/271-3556 Fax: 603/271-3553



**Special Use Permit Package**

Date Submitted: 06/22/2016 Group: Blue Ocean Society (BOS) Contact: Jennifer L. Kennedy, Exec. Dir.  
 Mailing Address: 143 Pleasant St. City: Portsmouth St: NH Zip: 03801  
 Daytime Phone: 603-431-0260 Email: jen@blueoceansociety.org Name/Type of Event: Marine Education & Interpretation Services  
 Park: Hampton Beach State Park Facility or Area to Reserve: Seashell Complex, North Pavilion  
 Date(s) of Event (inc. set-up/clean-up): 2016 Season, see Ops Plan Hours of Event: See Annual Ops Plan  
 Number of participants and attendees/spectators expected:  
 Participants: Varies Attendees: \_\_\_\_\_ Spectators: \_\_\_\_\_ Volunteers/Staff: varies

**Description of Event:**

- BOS is granted use of certain space (see Atch. A) for the purpose of providing educational and interpretive services pertaining to marine life, local and maritime history, and actions that can be taken to protect the marine environment.
- BOS shall pay for its communications, internet, and electronic data services.
- Onsite storage of fuels is prohibited.
- All other policies and specific requirements of this Permit are incorporated herein and shall apply.

**Description of Permit Fees and Reporting Requirements:**

**Fees:** See fees and payment details and conditions, Attachment B.

- 1) Administrative Fee: \$100.00
  - 2) Facility Fee: \$2,000
  - 3) Commission: 15% of gross income from private, scheduled events held onsite and 15% of gross income from admission fees collected. BOS shall retain all program fees, donations, and retail sales generated onsite.
- The State reserves the right to adjust the fees for future permits based upon the current standard fee structure.*

**Reporting:**

- a) BOS shall submit for State approval an Annual Operating Plan that outlines the services, programs, and activities, see Annual Operating Plan, Attachment B.
- b) BOS shall submit to the State an Annual Report of its activities at the end of the season, see Annual Report, Attachment B.

**Insurance:**

BOS shall obtain general liability insurance as required on pg. 2, Item #6. BOS shall also obtain Workers Compensation Insurance for itself, its employees, volunteers and subcontractors.

Approved by Supv/Mgr: B. Wilson Date: 4-27-17 Total Fees: \_\_\_\_\_

**Section to be completed by Concord HQ**

Date Received: 6/22/16 Permit #: \_\_\_\_\_

Insurance Requirements Attached   
 Permit guidelines signed

Administrative fee paid  \$100.00  
 Late/expedite fee paid  \$100.00

Other Fees: \$2,000 plus commission Other fees paid  Date Due: \_\_\_\_\_

Other required permits \_\_\_\_\_

Bureau recommendation Approved  Denied   
 Forests & Lands Reviewed  Denied  Comments: \_\_\_\_\_  
 Comments: \_\_\_\_\_

Date: \_\_\_\_\_

Gail A. Wolek, Deputy Dir.: [Signature]

Under authority granted in NH RSA 227-H:9, the Department of Resources and Economic Development, Division of Parks and Recreation grants a special use permit ("the Permit") for use of the park, purpose and specific conditions as indicated above.

[Signature]  
 Philip A. Bryce, Director, NH Division of Parks and Recreation

4/27/17  
 Date

[Signature] 4/26/17  
 Initials/Date



**BLUE OCEAN SOCIETY 2016 SEASON  
HAMPTON BEACH STATE PARK, SEASHELL NORTH PAVILION  
SPECIAL USE PERMIT SPECIFIC REQUIREMENTS**

**Permittee: Blue Ocean Society (the "Permittee")**

**Description of event:** BOS is granted use of certain space for the purpose of providing educational and interpretive services pertaining to marine life, local and maritime history, and actions that can be taken to protect the marine environment.

A. Permittee shall have exclusive use of the following Department of Resources and Economic Development (the "State" or "DRED") facilities, a net square footage of 430 sf. including 48 sf. storage closet and 24 lineal ft. of frontage on the east side of Ocean Blvd., located at Hampton Beach State Park, Seashell Complex, North Pavilion, see Attachment A, Floor Plan and Attachment B, Premises (the "Premises").

• **Hampton Beach State Park**

Field Contact: Brian Wilson, Seacoast Region Supervisor, (603) 227-8715, brian.wilson@dred.nh.gov

- B. Permittee shall abide by the provisions outlined in Attachment B pertaining to fees and commission paid to the State, utilities, an Annual Operating Plan, and Annual Report, and training and supervision of its staff and volunteers.
- C. DRED reserves the right to suspend or cancel the event or change the event route should the need to ensure public safety or protect natural resources or property arise, such as but not limited to major weather events or major accidents, or trails conditions.
- D. The Permittee and all persons using the Premises with the consent of the Permittee shall comply with all laws and regulations of the State of New Hampshire governing state forests and state parks.
- E. The Permittee agrees that no trees or shrubs shall be cut, damaged or used by the Permittee except as may be provided herein.
- F. The Permittee shall not use the premises for any other commercial purposes; nor sublet or permit its use by any other person or persons, except as may be permitted herein.
- G. The Permittee agrees that the Director, Division of Parks and Recreation, or any duly authorized agent, at any time may examine and inspect any and all property located and situated on and in these Premises.
- H. This Permit is not transferable and the Director, Division of Parks and Recreation, may revoke this Permit at any time for any reasonable cause.
- I. The Division reserves the right to remain in contact with the Permittee if complaints are received regarding the Permittee's use of the Premises or park. Further, the Division reserves the right to impose further conditions as needed.
- J. The Division can never guarantee that the site will, at all times, have the capacity to serve the Event or that the conditions of weather will be appropriate for the Event. This is a risk that the Permittee alone must bear in that process.
- K. All precautions shall be taken to ensure that there will be no conflict with recreational users in the area, except as permitted herein.
- L. The Permittee shall recognize the Department of Resources and Economic Development, Division of Parks and Recreation as the host site for the Event on all publications, promotional materials, and website.

The Permittee, including its staff, volunteers, partners, and subcontractors, agree to abide by the Policy and specific requirements in addition to the standard DRED policies regarding use of the Premises.

**Please review, sign TWO copies and return with all required documents to:**

NH Division of Parks and Recreation  
Attn: SUP Office  
172 Pembroke Road  
Concord, NH 03301

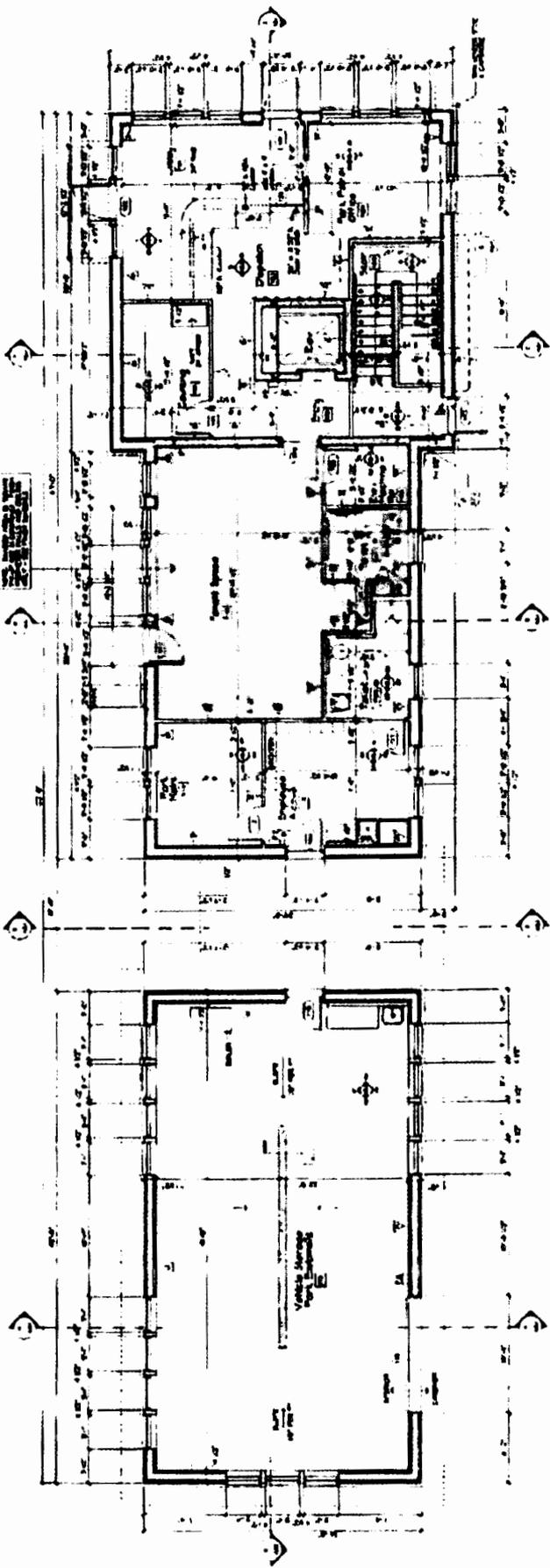
  
\_\_\_\_\_  
Permittee, duly authorized

4/26/17  
\_\_\_\_\_  
Date

Jennifer Kennedy  
\_\_\_\_\_  
Printed Name

BLUE OCEAN SOCIETY  
ATTACHMENT A, FLOOR PLAN

OCEAN BOULEVARD (ROUTE 1A)



First Floor Plan  
Scale: 1/8" = 1'-0"



**SPECIAL USE PERMIT: BLUE OCEAN SOCIETY 2016 Season**  
**ATTACHMENT B: Specific Requirements of Permit**

B-1. PREMISES. The Blue Ocean Society (“BOS”) shall be granted exclusive use of space available for occupancy located within the North Pavilion at the Seashell Complex at the Park, formerly the State Park Store, in the manner and conditions as stated herein. The space is a net square footage of 430sf, which includes a 48sf bathroom, a 4sf storage closet, and 24 lineal feet of frontage on the east side of Ocean Boulevard (“Premises”), see Attachment A: Floor Plan.

The BOS shall be granted use of two parking spaces, designated by the State, at South Beach from 8 a.m. to 8 p.m. All other BOS employees, volunteers, subcontractors, guests, and visitors may use the State’s general parking area with payment of the State’s customary parking fees and fines.

All facilities, structures, and areas granted for use and operation by the BOS is in “as is” condition, and the State shall not be required or compelled to improve, repair, rehabilitate, or maintain such facilities, structures, and areas prior to or during the BOS’s occupation of same.

For purposes of this Permit, “exclusive use” shall mean that the State shall not expressly permit or grant use of the facilities and areas exclusive to the BOS to any other party during the term of this Permit. “Exclusive use” granted herein is a privilege to use said facilities and areas; and does not represent a real property interest in the land or facilities for which the State shall reserve all rights and privileges.

The BOS acknowledges that it is the general policy of the State that State Park lands are open to the public unless posted as closed or restricted by the State.

B-2. FEES. The following fees and payment conditions shall apply:

2.1. *Facility use fee.* The BOS shall pay an annual facility use fee of \$2,000.00, payable to the “Treasurer, State of New Hampshire.”

2.2. *Commission.* The BOS may charge reasonable admission fees to its marine education center and reasonable fees for private, scheduled events held at the Park. All fees shall be comparable to industry standards, subject to State approval. The BOS shall pay the State the below prescribed commission, which shall be paid to the State on or before June 30, 2017. A copy of admission and booking records, and the financial report used to calculate the payment, shall be included with each payment. Late payments shall incur a \$100.00 late fee.

2.2.1. The BOS shall:

2.2.1.1. Pay the State 15% of its gross income from all private, scheduled events held onsite at the Park.

2.2.1.2. Pay the State 15% of its gross income from all admission fees collected.

2.2.1.3. Retain all program fees and donations collected.

2.2.2. Retail Sales. The BOS shall retain all of its gross income earned from all retail sales generated onsite at the Park. Retail sales shall include but not be limited to merchandise, food and drinks sold separately from private, scheduled event charges, and all other materials items sold onsite.

Julie 4/22/17  
Initials/Date

2.2.3. Exempt from commission. The BOS shall retain all revenue from its onsite program fees, donations, membership fees, and “adopt-a-marine creature” sales; however, BOS shall report to the State all revenue exempt from commission but earned within and upon the Premises and Park.

2.2.4. External sponsorships (where a company or organization provides financial support in exchange for recognition) to generate revenue to support BOS programs, events, improvements and installations, etc. shall be permitted under this Permit provided that all such sponsorships are directly related to BOS activities occurring on the Premises and within the Park, including sponsorship by the Hampton Beach Village District and the Hampton Beach Area Commission for the cost of the facility use fees. The Division of Parks and Recreation shall also be included in such recognition.

B-3. UTILITIES. The State shall provide electricity, water (excluding water for the “touch tank” and other such exhibits), radiant floor heat, air conditioning, and sewage service.

The BOS shall arrange and pay for its communications, internet, and electronic data services directly, and shall be responsible for the removal and disposal of its trash and recyclables.

Onsite storage of fuels by the BOS shall be prohibited. Any and all other utility, building services and comfort system needs that may arise shall be addressed with the State.

B-4. OPERATIONS AND PROGRAMS. The BOS shall submit for State approval an Annual Operating Plan (“AOP”). Generally, the AOP shall outline the services, programs, and activities proposed for the upcoming year, including but not limited to:

4.1. Layout for use of the Premises and any revisions to the layout.

4.2. Daily hours of operation, including:

4.2.1. The marine education center shall operate a minimum of 42 hours per week during the high season of early June through the second week of September.

4.2.2. The marine education center shall be operated as needed and by appointment during the “off season” months of late September through May.

4.3. Fees to be charged, including but not limited to admission, events and functions, special programs and activities. Discounts and complimentary offerings, and donation requests.

4.4. Programs, activities and events, business activities, services, and function space use planned.

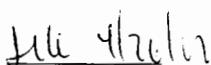
4.4.1. Any other details pertinent to the use of the Premises and Park prior to each BOS operating year, including but not limited to dates, hours, number of participants, and type of programs, events, and activities so as to coordinate with the State’s operations at the Park and to manage use of the Park and its resources.

4.5. Retail and other items to be sold onsite.

4.6. Proposed signage.

4.7. Advertising, marketing and promotional plans and programs.

The State shall review the AOP and shall, within 30 days, either approve the AOP or request revision and resubmission of the AOP for the purpose of allowing the BOS to address specific comments or

  
Initials/Date

objections made by the State, to the satisfaction of the State. The revised AOP shall be due to the State within 30 days following the State's request for revision. The State reserves the right to reject any part of a proposed AOP, but shall provide the basis of its decision in writing.

A State-approved AOP shall be a condition of the BOS operations and use within the Premises and upon the Park for the subject year. The BOS may operate under a previously State-approved AOP, during which an updated AOP is being revised and resubmitted by the BOS, and reviewed and approved by the State.

B-5. ANNUAL REPORT. An annual report shall be submitted at the end of the season, including a full financial report showing the sources of income and revenue, the number of programs, number of participants and number of visitors. The report shall include, but is not limited to:

5.1. Actual hours of operation;

5.2. Actual rate and fee schedules, including complimentary and discounted tallies, and donations received;

5.3. Attendance and visitor records categorized by service, program or event;

5.4. Actual income and expenses of operations, and a balance sheet;

5.5. Actual marketing, advertising, and promotional activities;

5.6. Collaborative activities with sponsors, partners, and other parties;

5.7. Emergency, accident or incident reports; and

5.8. Any notable achievements or the recognition of individuals or sponsors.

The BOS shall abide by the conditions of all applicable State laws and regulations, which are incorporated herein by this reference, regarding retention and access requirements relating to all records relating to the Permit.

The BOS shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all revenue and income associated with the Permit. The BOS shall retain all such records for three (3) years after the end of the final year of the Permit.

B-6. STAFF, VOLUNTEERS, AND SUPERVISION OF MINORS AND GUESTS. BOS shall ensure that its staff and volunteers are properly trained, certified and licensed, as is required for its operation and programs; and shall comply with all requirements and best practices for the proper supervision and safety of minors and its guests. **BOS shall be solely responsible and liable for its staff, volunteers, subcontractors, operations, programs, and all other associated activities conducted on the Premises and within the Park.**

JUC | 4/26/17  
Initials/Date



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/2/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> E & S Insurance Services LLC 21 Meadowbrook Lane P O Box 7425 Gilford NH 03247-7425	<b>CONTACT NAME:</b> Fairley Kenneally <b>PHONE (A/C, No, Ext):</b> (603) 293-2791 <b>E-MAIL ADDRESS:</b> fairley@esinsurance.com <b>FAX (A/C, No):</b> (603) 293-7188													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Hartford Casualty Insurance Co</td> <td>29424</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Hartford Casualty Insurance Co	29424	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:
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INSURER B:														
INSURER C:														
INSURER D:														
INSURER E:														
INSURER F:														
<b>INSURED</b> Blue Ocean Society for Marine 143 Pleasant St. Portsmouth NH 03801														

<b>COVERAGES</b>	<b>CERTIFICATE NUMBER:</b> 2017	<b>REVISION NUMBER:</b>
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSP WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	04SBAPQ3455	5/6/2017	5/6/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTIONS \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
The State of New Hampshire, Department of Resources and Economic Development, Division of Parks & Recreation is listed as an additional insured

<b>CERTIFICATE HOLDER</b>  State of New Hampshire, Department of Res Economic Development, Division of Parks & 172 Pembroke Road Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE F Kenneally/FAIRLE <i>Fairley Kenneally</i>
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