



# New Hampshire Fish and Game Department

**HEADQUARTERS:** 11 Hazen Drive, Concord, NH 03301-6500  
(603) 271-3421  
FAX (603) 271-1438

**www.WildNH.com**  
e-mail: info@wildlife.nh.gov  
TDD Access: Relay NH 1-800-735-2964

January 8, 2015

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

## REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department (NHFG) to enter into a Lease Agreement with the City of Dover (City), for the purpose of managing and maintaining the City owned public access site on Barbadoes Pond effective upon Governor and Council approval through December 31, 2019. No funding is involved.

## EXPLANATION

NHFG and the City have entered into a lease to renew an agreement to ensure public access to Barbadoes Pond as an important trout fishery in the southeastern part of the State. The site provides for parking, walk-in access to the pond and 250 feet of shoreline access.

This lease has been approved by the City of Dover, and the Office of the Attorney General has approved this lease agreement pursuant to RSA 212:7

Respectfully Submitted,

Glenn Normandeau  
Executive Director

Kathy Ann LaBonte  
Chief, Business Division

### REGION 1

629B Main Street  
Lancaster, NH 03584-3612  
(603) 788-3164  
FAX (603) 788-4823  
email: reg1@wildlife.nh.gov

### REGION 2

PO Box 417  
New Hampton, NH 03256  
(603) 744-5470  
FAX (603) 744-6302  
email: reg2@wildlife.nh.gov

### REGION 3

225 Main Street  
Durham, NH 03824-4732  
(603) 868-1095  
FAX (603) 868-3305  
email: reg3@wildlife.nh.gov

### REGION 4

15 Ash Brook Court  
Keene, NH 03431  
(603) 352-9669  
FAX (603) 352-8798  
email: reg4@wildlife.nh.gov

**STATE OF NEW HAMPSHIRE**  
Lease Agreement for Dover, N.H Public Access Facility  
2015 Renewal

**1. PARTIES TO THE LEASE**

The Lessor (hereinafter referred to as the "City") is:

**City of Dover** incorporated in the State of New Hampshire with a Business Address of 288 Central Avenue, Dover, NH, 03820 and a phone number of (603) 516-6000 having been granted authority to enter into this lease by the City of Dover City Council on December 10, 2014, as evidenced by the Resolution attached hereto as Appendix A,

The Lessee (hereinafter referred to as the "State") is:

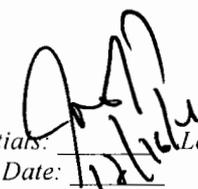
**The State of New Hampshire** acting by and through its Fish and Game Department, 11 Hazen Drive, Concord, NH 03301 with a phone number of 603-271-3511.

The indenture of this Lease Agreement for **Dover**, New Hampshire canoe/cartop and walk in public access facility at Barbadoes Pond (hereinafter the "Lease") shall be effective on the date of the Lease's approval by the New Hampshire Governor and Executive Council (the "Effective Date"). This Lease is to be recorded by the State in the **Strafford** County Registry of Deeds within thirty (30) days after approval of Governor and Executive Council.

**WITNESSETH THAT:**

**2. DEMISE OF PREMISES**

For and in consideration of the mutual covenants and agreements herein contained, the City hereby demises to the State and the State hereby leases from the City, the following Premises (hereinafter called the "Premises") for the Term (as defined herein) and upon the terms and conditions hereinafter set forth:

Lessor's initials:   
Date: 12/22/14 Lessee's initials: GPN  
Date: 12/22/14

**Parking Easement**

Beginning at a New Hampshire Fish and Game aluminum bound, said point being the most westerly corner of the within described parcel; thence, N 35°00'10" E a distance of 50.00 feet to a New Hampshire Fish and Game aluminum bound; thence, S 54°59'50" E a distance of 195.00 feet to a New Hampshire Fish and Game aluminum bound; thence, S 35°00'10" W a distance of 50.00 feet to a point; thence, N 54°59'50" W a distance of 195.00 feet to the point of beginning. Containing 9,750 square feet or 0.22 acres

**Access Easement**

Beginning at a point on the most northwesterly line of the previously described parcel at the approximate centerline of an existing 10 foot wide trail, more or less, said point being further described as being N 35°00'10" E a distance of 12 feet, more or less, from a New Hampshire Fish and Game aluminum bound; thence, following said trail centerline in a Northwesterly direction, Westerly direction and again in a Northwesterly direction for a total distance of 850 feet, more or less, to the edge of Barbadoes Pond.

**Shoreline Easement**

A 150 foot wide by approximately 245+/- feet along the shore of said Barbadoes Pond, said premises being over and upon a portion of land owned by the City identified as Tax Map F-1, Lot F-42, also known as the Hughes Well lot.

The demise of the Premises consists of an area of land described in a Plan entitled Easement Plat prepared for F.S.T. Inc. of Barbadoes Pond, Dover, New Hampshire dated October 10, 2008 and added to the Lease as Appendix B (hereinafter called the "Plan"). The State will be responsible for the costs of preparing the Plan. Said Plan may be amended by the State during project development and construction by mutual agreement of the State and the City.

**3. PURPOSE OF THE LEASE**

Pursuant to this Lease, the State intends to maintain, manage, operate, inspect, and enforce an access facility (hereinafter called the "Facility") on the banks of the **Barbadoes Pond** on land owned by the City of Dover for the benefit of the general public. The State shall record, after review and written approval by the City, a Notice of Completion including final design in the Strafford County Registry of Deeds (the "Registry"), which shall include the Effective Date and the Term of this Lease, as hereinafter defined, and shall incorporate the terms and conditions of this Lease by reference.

**4. TERM; DELAY IN OCCUPANCY; EXTENSION OF TERM**

A. Term: The State shall have and hold the Premises for five (5) years, commencing on the Effective Date (the "Term").

Lessor's initials:  Lessee's initials: GDN  
Date: 12/16/14 Date: 12/24/14

- B. **Delay in Occupancy:** If for any reason, the City fails to complete preparations of the Premises for occupancy by the State, or the City is unable to deliver possession of the Premises on the Effective Date of this Lease, all conditions and covenants of the State hereunder shall, at the State's option, be postponed until possession of the Premises is given, or until such reasonable time as the City shall complete all necessary preparations.
- C. **Extension of Term - General:** The State, subject to approval by the Governor and Executive Council, and the City, subject to approval by the City Council, may agree to extend the Term to a mutually agreeable additional term, upon the same terms and conditions as set forth herein. Either the City or the State must initiate discussions regarding extension at least one (1) year in advance of the termination of this Lease in order to allow all necessary approvals to be obtained before the Lease expires. In such event, the Lease shall be amended and a corrective notice shall be recorded at the Registry to memorialize the additional term.
- D. **Extension of the Term - Capital Improvements at Request of City:** If, at the request of the City, additional capital improvements are made to the site by the State during the Term of this Lease, this Lease shall be extended by the life of the additional improvements made, said additional life of improvements to be determined by the State with the assistance of the Federal Funding Agency at the time the improvements are planned. In such event, the Lease shall be amended and a corrective notice shall be recorded at the Registry to memorialize the extension of the Term. Notwithstanding the foregoing, and notwithstanding anything to the contrary in this Lease, if the condition of the Facility jeopardizes the health or safety of the public, the State may make all necessary repairs to the Facility including, but not limited to, in-kind replacement of capital improvements.
- E. **Conditions on the Extension of Term:** It is hereby understood and agreed by the parties that any extensions of this Lease are conditional upon mutual approval by the New Hampshire Governor and Executive Council and the City. If an extension request is denied by either party, this Lease shall terminate pursuant to the original Term as set forth above; unless the parties agree that the Lease should terminate sooner. In the event that the Term shall be amended, a corrective Notice shall be recorded at the Registry to memorialize the amended Term.

## 5. CONSIDERATION

There shall be no monies paid by the State to the City as rent. In lieu of rent, the State shall maintain, manage, operate, inspect and enforce a public access Facility, as depicted on the Plan, during the Term of the Lease for the benefit of City residents and the non-resident general public.

## 6. CONDITIONAL OBLIGATION OF THE STATE

Notwithstanding the provisions of Sections 4 and 5 or anything contained in this Lease to the contrary, it is hereby expressly understood and agreed by the Parties hereto that the existence

and continuance of this Lease and the obligations of the State hereunder, with the exception of actions required of the State to protect the public health and safety at the Premises which shall remain a State obligation so long as this Lease is in effect, are contingent upon the availability of State funds appropriated by the General Court of New Hampshire, and that the State shall not be responsible for carrying out the obligations under this Lease except to the extent such funds are available. In the event that any portions of such funds are not available, the State may, at its option, terminate the Lease by serving thirty (30) days written notice to the City of its intention to terminate the Lease. Termination shall occur subject to the requirements of Section 22. The City agrees to waive all claims for damages, injunctive relief, or other relief arising from the State's termination of this Lease pursuant to this Section 6.

## 7. USE OF FACILITY

The State shall use the Premises for the purpose of providing cartop/canoe and walk-in access to the **Barbadoes Pond**

## 8. PLANNED CAPITAL IMPROVEMENTS AND TITLE TO IMPROVEMENTS

The State shall provide, at its sole cost, the specific capital improvements to the Premises as set forth in Appendix C. All improvements constructed or installed by the State, including but not limited to structures, equipment, and machinery, shall be owned by the State so long as this Lease is in effect. See Section 22 regarding changes to title upon termination of the Lease.

A. **Subsequent Alterations or Additions:** The State may provide, at its sole cost, such other capital improvements, in addition to those set forth in Appendix C, as may be mutually agreed upon by the parties. Mutual agreement by the parties of any such alterations, additions, or improvements shall be evidenced in writing, signed by both the State and the City, kept on file with the State and the City. The State may conduct a "Public Open House" to collect public comment in the event of any such alterations or additions.

## 9. CONSTRUCTION OF THE PUBLIC ACCESS FACILITY

The State shall, at its own expense, make any alterations, additions, or improvements to the Premises in order to maintain and operate a Public Access Facility as shown on the Plan.

A. **Manner of Work:** All alterations, additions or improvements to the Premises shall be performed in a good workmanlike manner, and when completed shall be in compliance with all Federal and State statutes. Any permits required by law or rule shall be obtained by the State. All alterations, additions, or improvements shall be made in accordance with the Plan or shall be mutually agreeable between the State and the City under the procedure described above in Section 8.

B. **Subsequent Alterations:** Any alterations to the Facility after initial construction shall not weaken or impair the structure of the Facility, substantially lessen its value, or change the

purpose for which it is used. No alteration shall be undertaken which decreases or has the effect of decreasing the usefulness of the Premises for a Public Access Facility.

**10. MAINTENANCE, MANAGEMENT, OPERATION, INSPECTION AND ENFORCEMENT**

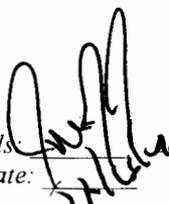
For the duration of the Term, the State shall be responsible for the maintenance, management, operation, inspection, and enforcement of the Facility, including but not limited to grounds maintenance and trash and litter removal. State laws and rules, such as those in effect at the Commencement of this Lease (see Appendix D attached hereto), will be enforced by the State. Such laws and rules may be amended from time to time, and laws and rules in effect during this Lease will be enforced. The City may, with approval of the State, post and enforce additional rules that will not interfere with the intent and operation of the Public Boat Access Facility. The State shall be responsible for policing and enforcing all State rules and regulations concerning the use of the Facility. The City shall be responsible for enforcing its rules and regulations.

**11. REPAIRS, REPLACEMENTS AND/OR RECONSTRUCTION OF CAPITAL IMPROVEMENTS**

- A. **Ordinary Repairs:** The State shall be responsible for and shall undertake any repairs, replacements, and/or reconstruction of any capital improvement to the Facility as may be made necessary by the effects of weather or normal usage and wear by the public. Necessity for such repairs shall be determined by the State. Such repairs, replacements, and/or reconstruction shall be dependent upon the appropriation of adequate funds by the New Hampshire Legislature, Federal Funding, and/or Governor and Council approval.
  
- B. **Extraordinary Repairs or Major Improvements:** If substantial repairs or construction of capital improvements, not including routine maintenance, are needed to protect public health and safety as determined by the State, and if such repairs or improvements would extend the life of the Facility beyond the term of the Lease, the State will consult with the City as to whether the Lease should be extended by the life of the anticipated new improvements or the Lease should terminate pursuant to the original Term. An extension of the Term of the Lease shall require City approval, as described above in Section 4(E). At the State's sole discretion, the State may permit the City to perform the necessary repairs or construction of capital improvements, to an equal or better standard than what would normally be provided by the State.

**12. USE AS A PUBLIC ACCESS SITE**

The City covenants and agrees that the public's use of the Boat Facility shall not be disturbed or interfered with by the City, or any person claiming by, through or under the City. The State agrees and covenants that in the event of an emergency requiring the City to gain immediate access to the Facility, access shall not be denied.

Lessor's initials:  Lessee's initials: GDN  
Date: 1/22/14 Date: 1/22/14

### 13. SIGNS

The State shall have the right to erect, and maintain a sign or signs on the Premises identifying the Facility, listing rules and regulations and posting educational materials that would be helpful to Facility users. All signs shall be removed by the State at the State's expense, at the end of the Term or any extension thereof. All damage due to such removal shall be repaired by the State as described in Section 22 herein.

### 14. PUBLIC ACCESS

The Facility shall be subject to 24-hour public use for the purpose of providing access to the Barbadoes Pond, and the use thereof for recreational purposes, it being expressly understood by the parties that use of the Facility may not be restricted exclusively to City of **Dover** residents.

### 15. CITY ROAD TO FACILITY

The City shall also grant to the State a right-of-way easement over and upon its existing driveway from Old Stage Road to the Premises. This term of this easement shall coincide with the term of this Lease.

The City shall maintain this driveway, leading from Old Stage Road to the Premises, in a condition suitable to handle public ingress and egress to the Facility.

Snow removal on the Premises will not be provided by the State.

### 16. TEMPORARY CLOSURE OF FACILITY

If conditions at the Facility pose a health or safety hazard, and when construction, maintenance, or enforcement activities require, the State may temporarily close the Facility or any portion of it to public use.

### 17. INSURANCE

Upon the Effective Date and throughout the Term of this Lease, and any extension thereof, the City shall at its sole cost and expense, maintain with respect to the Premises and the property of which the Premises are a part, comprehensive general liability insurance against all claims of bodily injury, death, or property damage occurring on (or claimed to have occurred on) in or about the Premises and caused by, or claimed to have been caused by, the City's negligent acts or omissions. All such insurance shall cover the City against liability and name the State as "additionally insured" within the policy for claims caused by the City's negligence in limits of not less than One million dollars (\$1,000,000.00) per occurrence and Two million dollars (\$2,000,000.00) aggregate.

The first certificate of such insurance is attached hereto as Appendix E and is incorporated herein by reference. The City will in subsequent years send the insurance certificate(s) to the Business Division of the Fish and Game Department upon request.

**18. OTHER CONSISTENT USES**

Nothing contained herein shall be deemed to limit the authority of the City to make use of the Premises and its surrounding area for other public or municipal purposes, provided that such other uses do not interfere with the public's use of the Facility for access to the Barbadoes Pond for recreational uses.

**19. ASSIGNMENT AND SUBLEASE**

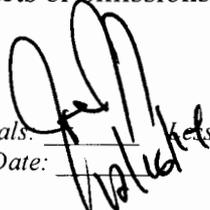
This Lease shall not be assigned by the City or State without the prior written consent of the other, nor shall the State sublet the Premises or any portion thereof without the City's written consent which consent shall not be unreasonably withheld, and provided, further, that any such resulting assignee or sublessee shall have given written certification to the City to accept and perform all of the terms, covenants and conditions of this Lease to be kept and performed by the State, and that the assignee or sublessee agrees to comply with and be bound by said terms, covenants and conditions. Consent by the City to any assignment or sublease shall not waive the necessity for consent to any subsequent assignment or sublet.

In the case of any assignment or sublease of this Lease, the same shall be evidenced in writing with a Notice of Lease that is duly recorded in the Registry. In the event of an assignment of this Lease or any interest therein to a private party, or a sublease of all or any part of the Premises of this Lease to a private party, or if there is a new tenant that is a private party for the balance of this Lease or any extension, the City shall have the right to negotiate a reasonable rent, to require the new tenant to maintain insurance policies to the City's satisfaction, to require payment of real property taxes if the new party is not eligible for a tax exemption, and to make such other changes reasonably related to a typical commercial lease that are being waived for the State.

Notwithstanding the foregoing, the State may sublet the Premises or any portion thereof to a government agency under the auspices of the State without the City's prior consent but will inform the City of its intentions at least 30 days prior to the sublease.

**20. INDEMNIFICATION**

Except as described in Sections A and B below, the City will to the full extent of the City's liability insurance coverage defend and indemnify the State from and against any and all losses suffered by the State, and from and against any and all claims, liabilities or penalties asserted by, or on behalf of, any person, firm, corporation or public authority on account of, or based upon, any injury to a person or loss or damage to property, sustained or occurring, or which is claimed to have been sustained or to have occurred, on or about the Premises, on account of, based upon, or resulting from the negligent acts or omissions, or other misconduct, of the City, its officials, and/or employees.

Lessor's initials: 

Date: 11/16/14

Lessee's initials: GDM

Date: 12/22/14

- A. **State's Acts or Omissions Excepted:** Notwithstanding the foregoing, nothing contained in this section shall be construed to require the City to indemnify the State for any loss or damage resulting from the acts, omissions, fault, negligence or misconduct of the State or its agents, servants, and employees.
- B. **Sovereign Immunity:** Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State and of the City as a subdivision of the State, which immunity is hereby reserved.

**21. FIRE, CASUALTY AND EMINENT DOMAIN**

Should a substantial portion of the Premises or of the property of which they are a part, be substantially damaged by fire or other causality, or be taken by eminent domain, the City or the State may elect to terminate this Lease, only if the State is not willing or able to replace the Facility as described in Section 11(B).

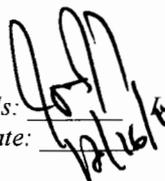
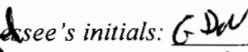
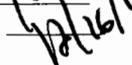
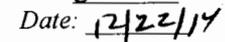
**22. TERMINATION OF LEASE AND TITLE TO ALTERATIONS, ADDITIONS OR IMPROVEMENTS**

Subject to the sub-paragraph immediately below, title to all improvements constructed or installed by the State, including but not limited to structures, equipment, and machinery, shall be in the State so long as this Lease is in effect.

- A. **Removal of State Property:** The State may, no later than 120 days after the termination or expiration of this Lease or any extension thereof, remove from the Premises any and all personal property installed by it, such as signs, materials and equipment, provided that doing so does not cause any substantial damage to the Premises. Any structures or other permanent improvements that were constructed by the State but are not in a safe condition for use by the public shall be removed without unnecessary damage to the land, unless the City agrees in writing to accept title to such improvements. All permanent improvements with useful life remaining, and all other property not so removed, shall become the property of the City at the end of the 120-day period after the termination or expiration of the Lease.
- B. **Condition of Premises at Termination:** The State shall leave the Premises in good order and condition, and shall repair any and all damage caused by removal of its property, ordinary wear and tear of the Premises excepted.

**23. BREACH BY CITY**

In the event that the City defaults in the observance of any of the City's covenants, agreements and obligations hereunder, and if such default materially impairs the habitability and use of the Premises by the State, which is not corrected within thirty (30) days of the date of the written notice by the State to the City specifying such default and requiring it to be remedied, then the State may serve a written five (5) day notice of cancellation of this Lease

Lessor's initials:  Lessee's initials:   
 Date:  Date: 

upon the City, and upon the expiration of such a five (5) day period, the Lease shall terminate.

If any such default of the City does not materially impair the habitability and use of the Premises by the State, the City shall cure such default within thirty (30) days of the date on the written notice or within such reasonable alternative amount of time agreed upon in writing by the State, failing which, the State may terminate this Lease upon ten (10) days written notice to City.

If the City believes that activities on the Premises constitute a threat to the public water supply the City may, at its option, terminate the Lease by serving thirty (30) days written notice to the State of its intention to terminate the Lease. Termination shall occur subject to the requirements of Section 22.

**Rights Hereunder:** The rights granted under this Section are in addition to, and not in substitution for, any rights or remedies granted herein to the parties, or any rights or remedies at law, or in equity.

#### 24. CONDITIONS PRECEDENT OF THE STATE

The State's obligations under this Lease, including its obligation to maintain the Facility, are subject to each of the following conditions, which run to the State's exclusive benefit:

- A. The State may perform, at its cost, any necessary activities to assure that the Premises meets the Department's programmatic objectives. These objectives include, but are not limited to the following:
- a. Acceptable level of hazardous waste that meet or exceed public safety and health standards;
  - b. Protection of federal and state endangered/threatened and rare plant & animals species and their critical habitats;
  - c. Protection of state historic/prehistoric resources;
  - d. Protection of essential fish habitats (EFH) for marine, estuarine and anadromous finfish, mollusks and crustaceans;
  - e. Floodplain, flood storage and wetland protection;
  - f. Shoreland protection of public waters consistent with the Shoreland Protection Act;
  - g. Protection of navigation in navigable waters;
  - h. Farmland protection policies; and
  - i. Coastal zone management policies.

If the Premises fail, in the State's sole discretion, to meet any of the above objectives, the State's obligations under this Lease shall be void.

- B. The State must obtain approval from the Governor and Executive Council to enter into the Lease and to make capital improvements on the Premises. The State shall provide notice to the City within 14 days of receipt of such approval.

In the event that the conditions precedent cannot be satisfied by the State, then this Lease shall terminate without recourse by or against either party.

## 25. SURRENDER OF THE PREMISES

In the event that the Lease, and any extension thereof, shall have expired or terminated, the State shall peacefully quit and surrender the Premises to the City, consistent with the terms in Section 22. The State's obligations to observe or perform the covenants contained herein shall survive the expiration or termination of this Lease.

## 26. NOTICE

Any notice sent by a party hereto to the other party shall be delivered by registered or certified mail, postage prepaid, in a United States Post Office, addressed to the parties at the addresses provided in Section 1 above.

## 27. MISCELLANEOUS

- A. **Extent of Instrument, Choice of Laws, Amendment, etc.:** This Lease, which may be executed in a number of counterparts, each of which shall have been deemed an original but which shall constitute one and the same instrument, is to be construed according to the laws of the State of New Hampshire. It is to take effect as a sealed instrument, is binding upon, inures to the benefit of, and shall be enforceable by, the parties. It can be amended only by a written instrument executed and approved by the City and the State.
- B. **No Waiver or Breach:** No assent by either party, whether express or implied, shall act as a waiver of a right of action for damages as a result of a breach of covenant, condition or obligation by the other party, nor shall it be construed as a waiver of any subsequent breach of the covenant, condition, or obligation.
- C. **Unenforceable Terms:** If any terms of this Lease, or any application thereof, shall be invalid or unenforceable, the remainder of this Lease and any application of such terms shall not be affected thereby.
- D. **Meaning of "City" and "State":** Where the context so allows, the meaning of the term "City" shall include the employees and officials of the City, and the term "State" shall include the agencies, departments, employees, agents, contractors, servants, and licensees of the State.
- E. **Headings:** The headings of this Lease are for purposes of reference only, and shall not limit or define the meaning hereof.

- G. **Entire Agreement:** This Lease embodies the entire agreement and understanding between the parties hereto, and supersedes all prior agreements and understandings relating to the subject matter hereof.
- H. **No Waiver of Sovereign Immunity:** No provision of this Lease is intended to be, nor shall it be, interpreted by either party to be a waiver of sovereign immunity.
- I. **Third Parties:** The parties hereto do not intend to benefit any specific third parties, and this agreement shall not be construed to confer any such benefit.
- J. **Incompatible Use:** The City will not rent, lease, or otherwise furnish or permit the use of the Premises, to any enterprise or activity whereby the efficient daily operation of the Facility would be adversely affected by the subsequent increase in traffic, parked vehicles, noise, odors, or any other objectionable condition or activity.

Lessor's initials:   
Date: 1/17/14

Lessee's initials: GDN  
Date: 1/22/14

IN WITNESS WHEREOF:

The parties hereto have set their hands on the following three signature pages:

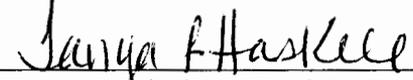
**STATE OF NEW HAMPSHIRE**

The State of New Hampshire, acting through its Fish and Game Department on this day 22 of Dec, 2014.

  
Glenn Normandeau, Executive Director

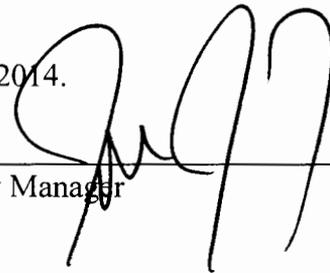
State of New Hampshire  
County of Merrimack

Personally appeared on this 22<sup>nd</sup> day of December, 2014, Glenn Normandeau, who acknowledges himself to be the Executive Director for the New Hampshire Fish and Game Department, and as such is duly authorized to executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of the State of New Hampshire.

  
Notary Public/Justice of the Peace [seal]  
My Commission Expires: \_\_\_\_\_  
**TANYA L. HASKELL, Notary Public**  
My Commission Expires October 6, 2015

**CITY OF DOVER**

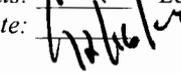
APPROVED: On this 16<sup>th</sup> day of December, 2014.

  
City Manager

State of New Hampshire  
County of Strafford

Personally appeared on this 16 day of December, 2014, the undersigned officer who acknowledged themselves to be the ~~Mayor~~ city manager of the City of Dover and that as such, he/~~she~~ are duly authorized to execute the foregoing instrument for the purposes therein contained, by signing their names on behalf of the City of Dover.

  
Notary Public/Justice of the Peace [seal]  
My Commission Expires: \_\_\_\_\_  
**COLLEEN E.A. BESSETTE, Notary Public**  
My Commission Expires September 18, 2018

Lessor's initials:  Lessee's initials: GDW  
Date:  Date: 12/22/14

**APPROVALS:**

Approved by the Department of Justice as to form, substance, and execution on this 30<sup>th</sup> day of December, 2014;

  
Assistant Attorney General

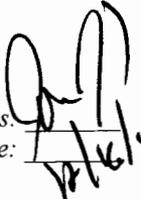
Approved by the Governor and Executive Council:

Approval Date: \_\_\_\_\_ Item #: \_\_\_\_\_

The date of approval by the Governor and Executive Council shall constitute the Effective Date of this Lease.

Lessor's initials:  Lessee's initials: G. Dal  
Date: 12/22/14 Date: 12/22/14

**APPENDIX A**  
**RESOLUTION OF CITY OF DOVER CITY COUNCIL**

Lessor's initials:  Lessee's initials: GDW  
Date: 12/16/14 Date: 12/22/14



**CITY OF DOVER**

# CITY OF DOVER - RESOLUTION

**Agenda Item#: 13.A.8.**

Resolution Number: **R – 2014.12.10 – 136**

Resolution Re: Authorization for the City Manager to Enter in a Lease Agreement with NH Fish and Game for Barbadoes Pond

WHEREAS: In the late 1990's, the Grandview Drive Subdivision was developed on property along the eastern shore of Barbadoes Pond and essentially eliminated public access to Barbadoes Pond; and

WHEREAS: The City of Dover owns a large parcel of land in Madbury which has frontage on Barbadoes Pond; and

WHEREAS: NH Fish and Game requested permission to establish a public access to the pond on the City's property; and

WHEREAS: For a number of years the City and State have been parties to a Lease Agreement whereby Fish & Game provides public access to Barbadoes Pond over City land. The current Lease expires in January 2015; and

WHEREAS: A continued agreement between the City and State regarding public access is a benefit to the residents of Dover and the State at large.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND DOVER CITY COUNCIL:

The City Manager is authorized to enter into a further Lease Agreement regarding public access to Barbadoes Pond with NH Fish and Game.

## AUTHORIZATION

Approved as to Funding: Daniel R. Lynch  
Finance Director

Sponsored by: Mayor Karen Weston  
By request

Approved as to Legal Form and Compliance: Anthony I. Blenkinsop  
City Attorney

Recorded by: Karen Lavertu  
City Clerk

*Handwritten signatures and dates:*  
Goulet  
12/22/14  
GDW



CITY OF DOVER

# CITY OF DOVER - RESOLUTION

Agenda Item#: 13.A.8.

Resolution Number: **R - 2014.12.10 - 136**  
Resolution Re: Authorization for the City Manager to Enter in a Lease Agreement with NH Fish and Game for Barbadoes Pond

### DOCUMENT HISTORY:

First Reading Date: 12/10/2014	Public Hearing Date: N/A
Approved Date: 12/10/2014	Effective Date: 12/10/2014

### DOCUMENT ACTIONS:

Deputy Mayor Carrier moved for its adoption; seconded by Councilor O'Connor.  
Vote: 8/0.

VOTING RECORD		
Date of Vote: 12/10/2014	YES	NO
Mayor Karen Weston	X	
Deputy Mayor Robert Carrier, At Large	X	
Councilor John O'Connor, Ward 1	X	
Councilor William Garrison III, Ward 2	X	
Councilor Deborah Thibodeaux, Ward 3	X	
Councilor Dorothea Hooper, Ward 4	Absent	
Councilor Catherine Cheney, Ward 5	X	
Councilor Jason Gagnon, Ward 6	X	
Councilor Anthony McManus, At Large	X	
Total Votes:	8	0
Resolution does pass.		

*Handwritten signatures and date:*  
Fred [unclear] G.D.W.  
12/22/14



**CITY OF DOVER**

## CITY OF DOVER - RESOLUTION

**Agenda Item#: 13.A.8.**

Resolution Number: **R – 2014.12.10 – 136**  
Resolution Re: Authorization for the City Manager to Enter in a Lease Agreement with NH Fish and Game for Barbadoes Pond

### RESOLUTION BACKGROUND MATERIAL:

Barbadoes Pond has provided area residents a place to canoe and fish for many years. NH Fish and Game stocks the pond annually to enhance the fishery. In the late 1990's, the Grandview Drive Subdivision was developed on property along the eastern shore of Barbadoes Pond and essentially eliminated public access to Barbadoes Pond. The City of Dover owns a large parcel of land in Madbury which has frontage on Barbadoes Pond. The property also has a public water supply well on it. NH Fish and Game approached the Community Services Department shortly after access to the pond was lost. They requested permission to establish a public access to the pond on the City's property. The City agreed to allow public access on a conditional basis. The City was concerned about potential vandalism which could compromise water system assets or water quality.

The practice of allowing public access at the Barbadoes property has been successful and without incident. NH Fish and Game has lived up to its obligations providing trash pick up, sanitary services and policing the access.

A five year Lease Agreement between the City and State expires in January 2015. NH Fish and Game and the City have negotiated another a five year lease for the Barbadoes Pond access.

Please see draft Lease Agreement attached.

*John H. Hildner*

*12/22/14  
GPH*

**APPENDIX B**  
STATEWIDE PUBLIC BOAT ACCESS PROGRAM  
BARBADOES POND, DOVER, NH SITE PLAN

RECORDED STRAFFORD COUNTY REGISTRY OF DEEDS

DATE: FEBRUARY 1, 2010

PLAN #: 98-75

Lessor's initials:                     

Date:                     

*[Handwritten signature]*

Lessee's initials:                     

Date:                     

GSW  
12/22/14



**APPENDIX C**

**LIST of ACCESS AREA IMPROVEMENTS to be made by NH FISH AND GAME**

The New Hampshire Fish and Game Department will:

- Continue placement and maintenance of portable toilets seasonally for the life of the lease.

Lessor's initials: AM Lessee's initials: GDW  
Date: 12/16/14 Date: 12/22/14

**APPENDIX D**  
**NH FISH AND GAME BOAT ACCESS AREA**  
**RULES and REGULATIONS**

CHAPTER Fis 1600 STATEWIDE PUBLIC ACCESS PROGRAM

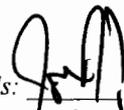
PART Fis 1601 CHAPTER DEFINITIONS - RESERVED

PART Fis 1602 DEPARTMENT CONTROLLED BOAT ACCESS FACILITIES

Fis 1602.01 Rules for Department Controlled Boat Access Facilities.

(a) Department controlled boat access facilities shall be subjected to the following:

- (1) There shall be no bathing, washing or swimming permitted;
- (2) No person shall remove, destroy, or damage any tree, shrub, vine or plant or any part thereof;
- (3) No person, except a law enforcement officer acting under proper authority, shall obstruct any other individual from launching a watercraft;
- (4) No person shall park any vehicle or moor a watercraft in such a manner as to obstruct any avenue of ingress or egress, except for the purpose of launching. After launching, vehicles shall be parked in designated parking spaces
- (5) There shall be no fires or burning materials on the ground unless they are in designated fireplaces that are provided;
- (6) There shall be no camping;
- (7) No person shall leave or store watercraft unless otherwise posted;
- (8) No person shall discharge human waste from recreational vehicles;
- (9) No person shall discharge a firearm, fireworks or other explosive devices;
- (10) No person shall consume alcoholic beverages or possess an open container of alcoholic beverage;
- (11) Commercial use of the facilities shall be prohibited;
- (12) No person shall dispose of any trash except where trash receptacles are provided;

  
17 July

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(13) No person shall attach, affix or mount any commercial or private advertisement to a department owned kiosk, building or to any other area of the public access facility;

(14) The access facilities shall be open to the public 24 hours a day except that between 10:00 pm and 5:00 am, the access sites shall be used solely for the purpose of launching and retrieval of watercraft and/or fishing from shore. No other use of the access sites shall be allowed;

(15) No person shall park any vehicle and/or trailer in an area which has been posted to prohibit parking;

(16) No person shall park any vehicle without an attached trailer, or trailer alone, in an area which has been designated for the parking of vehicles with attached trailers;

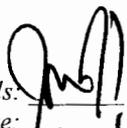
(17) No vehicle and/or trailer shall be left for a period of greater than 24 continuous hours;

(18) Vehicles and/or trailers parked contrary to this section may, at the discretion of a law enforcement officer acting under proper authority, be towed at the owners expense;

(19) If the access facility is filled to capacity, the facility shall be closed to entry by additional vehicles and trailers until such time as additional parking is available and the safety of all individuals can be ensured;

(20) The access facility shall be closed to all public use during periods of time for activities such as, but not limited to, repair and maintenance or an emergency when the safety of all users cannot be maintained.

Source, #6436, eff 1-22-97; ss by #6877, eff 10-31-98

Lessor's initials:  Lessee's initials: GJW  
Date: 12/16/14 Date: 12/22/14

**APPENDIX E**  
**CITY'S CERTIFICATE OF INSURANCE**

Lessor's initials:                      Lessee's initials: GDW  
Date: 12/22/14 Date: 12/22/14



## CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex<sup>3</sup>) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex<sup>3</sup> is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex<sup>3</sup> is entitled to the categories of coverage set forth below. In addition, Primex<sup>3</sup> may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex<sup>3</sup>, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex<sup>3</sup> Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex<sup>3</sup>. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

<b>Participating Member:</b> City of Dover 288 Central Avenue Dover, NH 03820		<b>Member Number:</b> 156	<b>Company Affording Coverage:</b> NH Public Risk Management Exchange - Primex <sup>3</sup> Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply	
<input checked="" type="checkbox"/> <b>General Liability (Occurrence Form)</b> <b>Professional Liability (describe)</b> <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2014	7/1/2015	Each Occurrence	\$ 1,000,000
			General Aggregate	\$ 2,000,000
			Fire Damage (Any one fire)	\$
			Med Exp (Any one person)	\$
<input type="checkbox"/> <b>Automobile Liability</b> Deductible    Comp and Coll: \$1,000  <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	\$
			Aggregate	\$
<input type="checkbox"/> <b>Workers' Compensation &amp; Employers' Liability</b>			Statutory	
			Each Accident	\$
			Disease – Each Employee	\$
			Disease – Policy Limit	\$
<input type="checkbox"/> <b>Property (Special Risk includes Fire and Theft)</b>			Blanket Limit, Replacement Cost (unless otherwise stated)	

**Description:** The certificate holder is named as Additional Covered Party, but only to the extent liability is based solely on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered.

<b>CERTIFICATE HOLDER:</b>	<input checked="" type="checkbox"/>	Additional Covered Party	Loss Payee	<b>Primex<sup>3</sup> – NH Public Risk Management Exchange</b>
The State of New Hampshire Department of Fish and Game 11 Hazen Drive Concord, NH 03301				<b>By:</b> <i>Tammy Denver</i>
				<b>Date:</b> 12/3/2014    tdenver@nhprimex.org Please direct inquiries to: <b>Primex<sup>3</sup> Claims/Coverage Services</b> 603-225-2841 phone 603-228-3833 fax

*John*  
*12/16/14*  
*6 DW*  
*12/22/14*