

JACKSON LANDING AGREEMENT

Between

TOWN OF DURHAM

And

UNIVERSITY SYSTEM OF NEW HAMPSHIRE

This agreement is entered into this 2ND day of MAY, 2017, by and between the **Town of Durham** ("Town"), a New Hampshire municipal corporation, and the **University System of New Hampshire** ("USNH"), a state supported university system establish by the State of New Hampshire operating through its component institution, the **University of New Hampshire** ("UNH").

WHEREAS, The Town and UNH (the Parties) have agreed to work cooperatively for their collective well-being and future; and,

WHEREAS, The Town recognizes that UNH is part of the University System of New Hampshire (USNH), a tax exempt entity under the laws of the State of New Hampshire, and further is aware of the USNH Board of Trustee (BOT) policy governing payments for municipal services; and,

WHEREAS, UNH acknowledges that Durham provides it with certain municipal services funded by property taxes for which the Town and its taxpayers should be fairly compensated; and,

WHEREAS, the Town acknowledges certain economic, educational, recreational, and cultural benefits of having the University as part of the Community; and,

WHEREAS, UNH acknowledges the importance of contributing to and sustaining an attractive and economically viable community; and,

WHEREAS, since the mid-1970's, UNH has owned a boat house located on Town land at Jackson Landing, a portion of which is allocated to the Town for public use; and,

WHEREAS, the Town has agreed to permit UNH to build and maintain a boat house on Town property at no charge; and,

WHEREAS, the parties recognize the mutual benefits of a boat house and launching facility and wish to continue to have a UNH boat house at Jackson Landing,

NOW THEREFORE IN CONSIDERATION of the foregoing preamble and mutual covenants herein contained, the parties hereto agree as follows:

1. DEFINITIONS

- A Town Permanent Pier and Dock Facility: The Town-owned wood pier, wood/aluminum float and concrete log boat ramp.
- B University Dock Facility: The portable, temporary plastic sectional dock customarily attached to the Town Dock Facility.

- C UNH Boat House: A 51 foot by 70-foot building for storage of crew equipment and boats.
- D Town Space: The southern 10 foot by 70-foot portion of the UNH Boat House which is allocated for public use. This area is separated from the UNH portion of the Boat House by a wire mesh partition.
- E University Crew The men's and women's crew teams recognized by UNH.
- F Site: Jackson Landing Boat Launch and surrounding area, including the access road, which is owned by the Town.

2. INSURANCE

- A The Town Permanent Pier and Dock Facility and all the land (the Site) covered by this Agreement are the property of the Town and shall be insured by the Town's liability insurance policy. The Town shall provide evidence of such insurance in writing by sending to UNH on an annual basis a certificate of insurance evidencing such coverage. However, should the Town incur special assignment costs as a result of the use of its docking and landing area by UNH, UNH shall reimburse the Town for those additional costs unless, after being given prior written notification of the additional costs, UNH gives the Town immediate notification that it will terminate this Agreement in lieu of paying those costs. Termination shall occur ninety (90) days after delivery of said written notice to the Town.
- B The UNH Boat House, the UNH Dock Facility and other applicable appurtenances and activities associated with University Crew in its use of the Site shall be insured by UNH. UNH shall provide public liability, fire and casualty insurance. UNH shall provide evidence in writing of such insurance by sending to the Town, on an annual basis, a certificate of insurance evidencing such coverage.
- C The Town agrees to have a written agreement with any organization other than the Town using the Town section of the UNH boat house or storing privately-owned watercraft or other personal property in the building. Such agreements shall make such organization the third party solely responsible for its own property, waive any claims against UNH, commit to indemnify and hold harmless UNH against any claims that arise out of the third party's use of the facility, and commit the third party to having liability insurance and naming UNH as an additional insured party

3. MAINTENANCE

- A UNH shall maintain the UNH Boat House, including the Town Space, and the University Dock Facility. Any other facility which may be added by UNH in the future will also be maintained by UNH. UNH agrees to maintain these facilities in a manner consistent with other campus recreational facilities and will consider any input or comments from the Town regarding maintenance needs.
- B Maintenance of the Permanent Pier and Dock Facility shall be the responsibility of the Town.
- C The Town will approve all exterior lighting for the Site.
- D All work performed on the UNH Boat House will be under the ultimate supervision of UNH.
- E Installation and removal of the University Dock Facility and any portable ramps associated with it shall be the responsibility of UNH.

- F UNH will continue to pay all electric service, propane supply and water service charges for the boat house. UNH will also continue to provide a portable toilet at a mutually agreed location.
- G Reasonable maintenance costs to the area around the UNH Boat House and the Permanent Pier and Dock Facility shall be shared equally by the Town and UNH provided, however, that prior to commencing any such maintenance the Town will consult with UNH regarding the planned work and the anticipated costs
- H The Town shall continue to provide and maintain trash receptacles throughout the Site and provide general site lighting, snow removal and grounds care.

4. IMPROVEMENTS

- A Should either party wish to improve any of its existing facilities or add a new facility at the Site, each party shall notify the other in writing describing the proposed improvements. UNH may not begin work on any proposed improvement or new facility until it has received written approval from the Town. The Town is under no obligation to obtain UNH's approval on any of its proposed changes and/or additions but will give any comments provided by UNH careful consideration.
- B Each party shall be responsible for its own expenses when improvements are made to any existing facility or a new facility is added to the Site. However, either party may, at its discretion, assist the other by providing funding or in-kind contributions (e.g. labor). Any such cost-sharing arrangement shall be agreed to in writing before any work commences.
- C All improvements made on the Site are for the use of the Town and University Crew.

5. USES OF THE SITE

- A The Town retains its full and unrestricted use of the Site without interruption except for that area upon which the UNH Boat House is presently located.
- B The Town retains the exclusive authority to establish and enforce parking regulations at the Site. The Town reserves the Right to issue overnight parking permits to residents and/or UNH, and to allow special events at the site on occasion.
- C UNH has the right to access and use the University Dock Facility and the UNH Boat House for crew and rowing uses. It shall not use the Site for any other purposes unless it receives written permission for the Town in advance.
- D UNH shall keep the area around the UNH Boat House and the UNH Dock Facility in a neat and orderly condition.
- E University crew trailers may be neatly stored during the daytime and overnight (when permitted) at the Site in locations designated by the Town during the active crew season.

6. REMOVAL OF IMPROVEMENTS

In the event that crew activities cease within the term on this Agreement or in the event that a renewal term is not agreed upon, the Town retains the right to purchase the UNH Boat House for one dollar (\$1.00). Should the Town elect not to exercise this option, UNH shall remove the UNH Boat House within eighteen (18) months after receiving a written directive from the Town to do so.

7. NON-UNIVERSITY USE OF UNH BOAT HOUSE AND TOWN PERMENENT PIER AND DOCKING FACILITY

- A It is understood and agreed by both parties that the Town has full use of the Town Permanent Pier and Dock Facility. The Town may use the University Dock Facility as long as such use does not interfere with the use of said facility by the University Crew Programs.
- B The Town Space will be administered by the Town and allocated for storage of equipment related to crew, rowing, kayaking, paddle boarding or similar purposes only.
- C If the Town Space is not utilized or allocated by the Town, the space may be used by UNH after discussions with the Town until the Town may have a use of the Public Crew Space.
- D The Town will reimburse UNH for damages and/or repairs to the Town Space caused by individuals and/or crew organizations using said space except that no such reimbursement will be required for normal wear and tear.
- E In the event a fee schedule for use of the Town Space is established, the Town and UNH shall split the proceeds evenly. The Town shall receive and distribute any rents. It is agreed by both parties that the Town shall set the rate(s).

8. ORDINANCES & STATUTES

The Town is advised and aware that UNH, as an institution of higher education, is obligated under the Jeanne Clery Disclosure of Campus Security Police and Campus Crimes Act to report all crimes occurring on property owned or leased by the university. The Town will cooperate with the UNH Police Department in providing data on any and all crimes that may occur at the Site whether directly involving the UNH faculty staff or student or not. However, this does not affect law enforcement jurisdiction and the Town retains all policing responsibility for the Site.

9. INDEMNIFICATION

- A UNH shall defend, indemnify and hold the Town harmless at all times during the term of this agreement and for any subsequent renewal term for all claims for injury and damage to person and property, both real and personal, caused by the installation, operation or maintenance of any structure, equipment, or facility installed, operated and/or maintained by UNH.
- B The Town shall defend, indemnify and hold UNH harmless at all times during the term of this agreement and for any subsequent renewal term for all claims for injury and damage to person and property, both real and personal, caused by the installation, operation or maintenance of any structure, equipment, or facility installed, operated and/or maintained by the Town.

10. This Agreement shall be construed under and in accordance with the laws of the State of New Hampshire.

11. This Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives and successors.

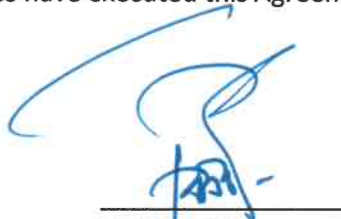
12. The above action by UNH is predicated on continuation of its current tax and regulatory status, and UNH reserves the right to cease operations as defined above if any change to that status occurs in the next Legislative session or in any subsequent session.

13. This agreement shall commence on or about July 1, 2017, and expire on December 31, 2025 for an effective period of eight years and six months. The Town and University enter into this agreement understanding that changes may occur over the life of the agreement. To the extent possible, the terms and conditions anticipate reasonably the foreseeable growth and development. However, in the event that either the University or Town experience changes that materially affect the overall equity of fairness of this agreement, or if new information becomes available, the affected party may initiate, and the other party agrees to participate in, discussion of amended terms and conditions to this agreement so as to preserve equity and fairness in the allocation of cost and responsibility. Any modification or amendment shall be made by written mutual agreement and shall become effective only when signed by both parties. Either party may terminate this agreement by giving written notice to the other party one year in advance of when the termination is to take effect.

IN WITNESS THEREOF, the parties have executed this Agreement as of the day and year indicated.


TOWN OF DURHAM


Witness

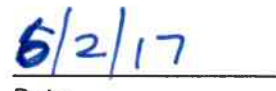

Todd I. Selig
Town Administrator


Date

UNIVERSITY OF NEW HAMPSHIRE


Witness


Christopher Clement
Vice President for Finance &
Administration


Date

UNIVERSITY SYSTEM OF NEW HAMPSHIRE


Witness


Catherine Provencher
Vice Chancellor and Treasurer


Date