



Lori A. Shibinette
Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE COMMISSIONER

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June 23, 2020

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

INFORMATIONAL ITEM

Pursuant to RSA 4:45, RSA 21-P:43, and Section 4 of Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, and 2020-10, Governor Sununu has authorized the Department of Health and Human Services, Office of the Commissioner, to enter into a **Retroactive** Memorandum of Understanding with the New Hampshire State Liquor Commission, 5 Storrs Street, Concord, NH 03301 (Vendor #177913 B001), for the purpose of offering personal protection equipment (PPE) face masks to the public and businesses during the COVID-19 pandemic, with the option to renew for up to one (1) additional year, effective retroactive to May 12, 2020, through June 30, 2021.

EXPLANATION

This Memorandum of Understanding is **Retroactive** because the Department needed to quickly provide the New Hampshire State Liquor Commission with personal protective equipment (PPE) face masks to allow for the rapid distribution of PPE to the public and businesses as part of the State's strategic response to the COVID-19 pandemic. This agreement provides for a distribution agreement between the Department and the Liquor Commission to continue to ensure a supply of PPE face masks is available for sale to the public and businesses in the State of New Hampshire on both a retail level and bulk online purchases.

The Department previously purchased a quantity of PPE face masks and delivered them to the Liquor Commission's warehouse in May. The Department will continue to assist with the sourcing of PPE face masks for the Liquor Commission until a reliable supply chain is procured. The Liquor Commission will initially sell the masks at \$30.00 per box of fifty masks and will not offer discounts for bulk purchases. The pricing is subject to change based on the price the Department pays for the masks.

This Memorandum of Understanding provides for the option to extend the agreement for up one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and appropriate State approval.

Area served: Statewide

Respectfully submitted,


Lori A. Shibinette
Commissioner

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MEMORANDUM OF UNDERSTANDING BETWEEN
THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES



AND

THE NEW HAMPSHIRE LIQUOR COMMISSION

MOU-2020-OCOM-02-MASKS-01

1. GENERAL PROVISIONS

- 1.1. This Memorandum of Understanding (MOU) is between the New Hampshire Department of Health and Human Services (DHHS), 129 Pleasant Street, Concord, NH 03301 and the New Hampshire Liquor Commission (NHLC), 50 Storrs Street, Concord, New Hampshire 03301 (referred to as the "Parties").
- 1.2. During the COVID-19 pandemic, it is of the utmost importance that the public and businesses in the State of New Hampshire have access to personal protection equipment (PPE) face masks. This requires the development of a distribution system that may be rapidly set up, is sustainable, cost-effective, and provides easy access to citizens and businesses.
- 1.3. The purpose of this MOU is to set forth the roles and responsibilities of the DHHS and the NHLC regarding the sale in New Hampshire Liquor & Wine Outlet stores and/or through the NHLC's warehouses of PPE face masks initially purchased by the DHHS. The NHLC will subsequently pay for the masks through the purchase order and invoicing processes described below.
- 1.4. In connection with the performance of this MOU, the DHHS and the NHLC shall comply with all applicable laws and regulations.

2. TERM

- 2.1. Effective date: This MOU is retroactive to May 12, 2020, effective upon execution by all signatories, review by the Office of the Attorney General, and appropriate State of New Hampshire approval.
- 2.2. Duration: The duration of this MOU is from the Effective Date through June 30, 2021. The parties may extend this MOU for up to one (1) year at any time by mutual written agreement, subject to the continued availability of funds, satisfactory performance of responsibilities, and review by the Office of the Attorney General.
- 2.3. Modification: The parties may modify this MOU by mutual written agreement at any time, subject to the approval of the parties, review by the Office of the Attorney General, and appropriate State of New Hampshire approval.
- 2.4. Termination: Either party may unilaterally terminate this MOU upon written notice to the other party, in which case the termination shall be effective thirty (30) days after the date of that notice or at a later date specified in the notice.

3. RESPONSIBILITIES OF THE NEW HAMPSHIRE LIQUOR COMMISSION

- 3.1. The NHLC agrees to:
 - 3.1.1. Store the PPE face masks, initially purchased by the DHHS, in its warehouses until the NHLC generates purchase orders (PO) for the masks.
 - 3.1.2. Create POs for the PPE face masks and send the POs to the DHHS on a monthly, or, if necessary, a more frequent basis.

**Memorandum of Understanding Between DHHS and NHLC
MOU-2020-DHHS-OCOM-02-MASKS-01**



3.1.3. Mail, or email, POs to:

Cheryl Connor
Office of the Commissioner
129 Pleasant Street
Concord, NH 03301
(603) 271-9224
Cheryl.Connor@dhhs.nh.gov

3.1.4. Within thirty (30) days, pay any invoices sent by the DHHS to the NHLC for the cost of the masks to the vendor number specified on the invoice.

3.1.5. Handle all distribution required once the PPE face masks are delivered to the NHLC's warehouses and purchased from the DHHS.

3.1.6. Offer for sale, in its New Hampshire Liquor & Wine Outlet stores, to licensees and retail customers, or to licensees through the warehouse, the PPE face masks.

3.1.7. Make PPE face masks available for purchase in boxes of fifty (50).

3.1.7.1. The NHLC shall sell the PPE face masks at the price of \$30.00 per box of fifty (50) masks. There is no discount for bulk purchase.

3.1.7.2. The price that the NHLC charges for the masks is subject to change based upon the price that DHHS pays for the masks. In the event the price changes, the NHLC shall offer the masks for sale at the price that DHHS paid for the masks, plus a \$1.50 sub-pack charge, which offsets the NHLC's cost of storing and distributing the masks. The \$1.50 sub-pack charge shall not result in profit to the NHLC.

3.1.8. Create a Stock Keeping Unit (SKU) that allows for inventory and sales tracking.

4. RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

4.1. The DHHS agrees to:

4.1.1. Make available current stock of PPE face masks stored in NHLC warehouses and to assist with sourcing future PPE face masks until a reliable supply chain may be established.

4.1.2. Upon receipt of a PO from the NHLC, send an invoice specifying a vendor and PO number for payment.

4.1.3. Mail, or email, mask-purchase invoices to:

NHLC
Attr: Accounts Payable
P.O. Box 503
Concord, NH 03302-0503
Liqapdept@liquor.nh.gov

5. IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE PARTIES:

5.1. Notwithstanding any provision of this MOU to the contrary, all obligations of the DHHS hereunder are contingent upon the availability and continued availability of PPE face masks.



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- 5.2. To the extent the DHHS determines that PPE face masks, in the possession of the NHLC, are needed for distribution to health care providers, NHLC agrees to make PPE face masks, in its possession, immediately available to the DHHS in the quantities requested by the DHHS. In the event that the DHHS redirects masks from the NHLC to health care providers, the NHLC shall not generate a purchase order for, nor shall it pay the DHHS for the masks. In the event that the NHLC has already paid for masks redirected by the DHHS to health care providers, the DHHS shall reimburse the NHLC the amount paid by the NHLC for the masks.
 - 5.3. Disputes arising under this Memorandum of Understanding which cannot be resolved between the agencies shall be referred to the New Hampshire Department of Justice for review and resolution.
 - 5.4. This Agreement shall be construed in accordance with the laws of the State of New Hampshire.
 - 5.5. The parties hereto do not intend to benefit any third parties and this Memorandum of Understanding shall not be construed to confer any such benefit.
 - 5.6. In the event any of the provisions of this Memorandum of Understanding are held to be contrary to any state or federal law, the remaining provisions of this Memorandum of Understanding will remain in full force and effect.
 - 5.7. This Memorandum of Understanding, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Memorandum of Understanding and understandings between the parties, and supersedes all prior Memoranda of Understanding and understandings relating hereto.
 - 5.8. Nothing herein shall be construed as a waiver of sovereign immunity, such immunity being hereby specifically preserved.

