



New Hampshire Liquor Commission

50 Storrs Street, P.O. Box 503
Concord, N.H. 03302-0503
(603) 230-7026

Joseph W. Mollica
Chairman

Michael R. Milligan
Commissioner

03A
JW

August 27, 2013

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

Sole Source

REQUESTED ACTION

Authorize the New Hampshire State Liquor Commission to enter into a sole source contract with Clear Channel Media + Entertainment New Hampshire (Vendor #174906) in the amount not to exceed \$5,400 for a sponsorship agreement effective from the date of Governor and Executive Council approval through January 31, 2014. 100% Agency Income.

#02-77-77-770512-1019 LIQUOR COMMISSION, ENFORCEMENT, NABCA:

| Class # | Class Description | FY 2014 |
|------------|-------------------|------------|
| 020-500244 | Promotional | \$5,400.00 |

EXPLANATION

The intent of this **sole source** agreement is to expand the reach of our public awareness programs and initiatives by participating as a sponsor of the NH High School Football Show for the 2014 season. Sponsorship will allow the Division to promote its public awareness campaign and other public service messages through the NH High School Football Show on Saturday Mornings 7am-9am, with Pete Tarrier and Dave Haley from NHSportsPage.com, On WQSO-FM 96.7 "The Wave" on the Seacoast & WGIR-AM610 in the southern NH area.

The program objectives will include increasing public awareness of laws prohibiting the selling, giving or providing of alcoholic beverages to minors by adults, parents and alcohol licensees. To promote the social and legal consequences of underage drinking and or driving in New Hampshire thru media coverage of the Division's participation in the NH High School Football show and draw attention to the public awareness campaign.

The Liquor Commission has contracts with the University of New Hampshire Wildcats, Fisher Cats, and the Manchester Monarchs to bring the Buyers Beware message to those who attend the sporting events where alcohol is sold.

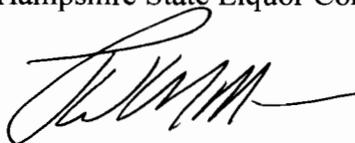
June 20, 2013

Page 2

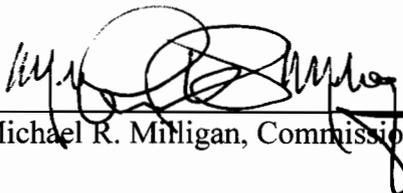
In the event that Federal Funds are no longer available, Liquor Funds will not be requested to support this program.

This agreement has been approved by the Attorney General's Office as to substance and form. Your favorable action on this request would be appreciated.

Respectfully Submitted
New Hampshire State Liquor Commission



Joseph W. Mollica, Chairman



Michael R. Milligan, Commissioner

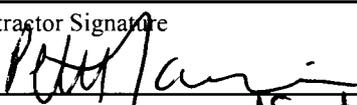
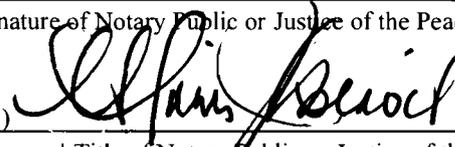
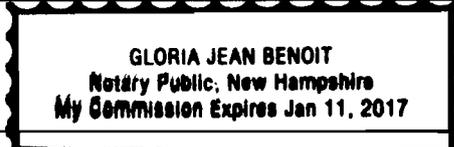
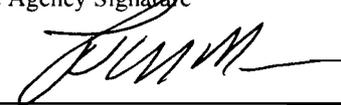
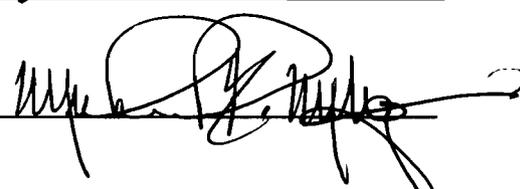
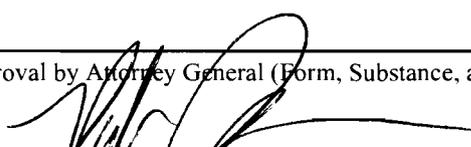
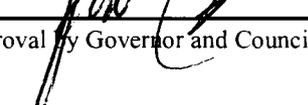
Subject: NH High School Football Show sponsorship on WQSO-FM & WGIR-AM

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATIONS.

| | | | |
|---|---|---|------------------------------------|
| 1.1 State Agency Name New Hampshire State Liquor Commission | | 1.2 State Agency Address P.O. Box 503, 50 Storrs St., Concord, NH 03302-0503 | |
| 1.3 Contractor Name Clear Channel Media + Entertainment New Hampshire | | 1.4 Contractor Address 195 McGregor Street, Suite 810, Manchester, NH 03102 | |
| 1.5 Contractor Phone Number (603)235-8460 | 1.6 Account Number 02-77-77-770512-1019-020-500247 | 1.7 Completion Date January 31, 2014 | 1.8 Price Limitation \$5,400.00 |
| 1.9 Contracting Officer for State Agency Scott Dunn, Deputy Chief | | 1.10 State Agency Telephone Number 603-271-8529 | |
| 1.11 Contractor Signature  | | 1.12 Name & Title of Contractor Signatory Peter Tarrier - Account Executive | |
| 1.13 Acknowledgment: State of <u>New Hampshire</u> County of <u>Hillsborough</u> On, <u>08/08/2013</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12. | | | |
| 1.13.1 Signature of Notary Public or Justice of the Peace  (Seal) | |  | |
| 1.13.2 Name and Title of Notary Public or Justice of the Peace | | | |
| 1.14 State Agency Signature   | | 1.15 Name/Title of State Agency Signatory Joseph W. Mollica, Chairman Michael R. Milligan, Commissioner | |
| 1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____ | | | |
| 1.17 Approval by Attorney General (Form, Substance, and Execution) By:  On: <u>8/20/13</u> | | | |
| 1.18 Approval by Governor and Council By:  On: _____ | | | |

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/ COMPLETION OF SERVICES.

3.1. Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement, ("Effective Date")

3.2. If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of 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 appropriated 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 Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1. The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3. The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H.

RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4. Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payment authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1. In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2. During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplement by the regulations of the United State Department of Labor (41 C.F.R. Part 60), and with any rules, regulation and guidelines as the State New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1. The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2. Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other persons, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3. The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials

Date

PM
8/8/13

8. EVENT OF DEFAULT/REMEDIES.

8.1. Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1. failure to perform the Services satisfactorily or on schedule;

8.1.2. failure to submit any report required hereunder; and/or

8.1.3. failure to perform any other covenant, term or condition of this Agreement.

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

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

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

8.2.3. set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Defaults; and/or.

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

9. DATA/ACCESS/CONFIDENTIALITY/PRESEVATION.

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

9.2. All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3. Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject

matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE.

In the performance of this Agreement the Contractor is in all respects and independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. 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 in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1. The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1. Comprehensive general liability insurance against all claims of bodily injury, death or property damage in amounts of not less than \$250,00 per claim and \$2,000,000 per occurrence: and

14.1.2. fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2. The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance and issued by insurers licensed in the State of New Hampshire.

Contractor Initials

Date

01
8/8/13

EXHIBIT A – PART ONE
REQUIREMENTS

1. SCOPE OF SERVICES:

The State of New Hampshire Liquor Commission (“NHLC”) proposes to enter into an agreement with The ~~New Hampshire Fisher Cats~~ (“Contractor”) for a sponsorship agreement to provide marketing and promotional ~~Clear Channel~~ *Clear Channel*

THIS CONTRACT CONSISTS OF FURNISHING ALL MATERIALS, EQUIPMENT, LABOR AND TRANSPORTATION NECESSARY TO PROVIDE THE SERVICES DESCRIBED HEREIN.

2. PROJECT DELIVERABLES:

The NHLC’s deliverables for the future engagements for Statewide Premium Sponsorship includes:

- 2x :30 second ads/show on WGIR-AM, WGIRAM.com, WQSO-FM & 967 TheWave.com. Total of 8 ads/week.
- Rotating 300x250 and 728x90 digital display ads on 967 Thewave.com and WGIRAM.com
- Name mentioned in 21 promotional announcements a week on 96.7 The Wave, 967 Thewave.com, WGIR AM 610, and WGIRAM.com directing listeners to tune into the show on Saturday mornings. Total of 84 promo mentions a week.
- Live sponsor mention and tagline for the “Friday Night Scoreboard”. Example...“The Friday Night Scoreboard” is brought to you by NH Liquor Enforcement and the Buyers Beware campaign, reminding all adults that it’s against the law to provide alcohol to minors”.

3. GENERAL SERVICES:

- 3.1. Caution to Contractors: The services called for by this solicitation are critical to the needs of the New Hampshire State Liquor Commission. All contractual requirements will be strictly enforced. The Contractor will be held fully responsible for proper performance of contract requirements. The Liquor Commission expects a high standard of professionalism in performance of this contract.
- 3.2. The Contractor shall bear all losses resulting to him or to the Owner on account of the amount or character of the work, or because of the nature of the area in or on which the work being done is different from what was estimated or expected, or account of the weather, elements or other causes.
- 3.3. The Contractor shall complete the entire work to the satisfaction of the NHLC and in accordance with the specifications herein mentioned, at the price herein agreed upon.
- 3.4. The Contractor or their work staff shall not represent themselves as employees or agents of the State.
- 3.5. The Contractor shall secure and pay for all permits, inspections and licenses necessary for the execution of his work.

EXHIBIT A – PART ONE
REQUIREMENTS

4. PROBLEM RESOLUTION:

- 4.1. The Contractor must have a single contact person, available during normal working hours, for the resolution of problems. The contact person must be someone with authority to get more difficult problems resolved.
- 4.2. The Liquor Commission designates the CFO, George Tsiopras, as Contract Administrator who will work with the Vendor to resolve problems that cannot be resolved by the end-users.
- 4.3. If at any time during this contract, there is a failure to perform service, deliver goods or perform any other term and condition of this agreement, the Contract Administrator will give written notice to the Vendor.

5. CONTRACT PERIOD & FUNDING

5.1. Contract Period:

The term of the contract shall be become effective upon Governor and Executive Council Approval through January 31, 2014.

In the event that grant funding becomes unavailable contract will become null and void.

EXHIBIT C
SPECIAL PROVISIONS

Section 14.1.1 is deleted and replaced with the following: “comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence general liability and \$5,000,000 per occurrence excess liability;”



Joseph Graham
Vice President/General Manager
Clear Channel Media + Entertainment
195 McGregor Street Suite 810
Manchester, NH 03102
(603)518-1969

To Whom it May Concern,

I am writing this Certificate of Vote stating that Peter Tarrier, account executive for WGIR AM/FM can legally bind Clear Channel Media + Entertainment NH into a contract with the NH State Liquor Commission-Division of Enforcement for the sponsorship of The NH High School Football Show on WGIR AM and WQSO0FM 96.7FM. Thank you!

Sincerely,

Joseph Graham

CLAIRE L. VAILLANCOURT
★ NOTARY PUBLIC - NEW HAMPSHIRE ★
My Commission Expires December 8, 2015

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 CLEAR CHANNEL BROADCASTING, INC. a(n) Nevada corporation, is authorized to transact business in New Hampshire and qualified on January 20, 2004. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 8th day of August, A.D. 2013

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner
Secretary of State