



Lori A. Shibinette  
Commissioner

Lori A. Weaver  
Deputy Commissioner

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

129 PLEASANT STREET, CONCORD, NH 03301-3857  
603-271-9200 1-800-852-3345 Ext. 9200  
Fax: 603-271-4912 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

March 9, 2021

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, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021-02, and 2021-04, Governor Sununu has authorized the Department of Health and Human Services, Office of the Commissioner, to enter into a **Retroactive, Sole Source** License Agreement with The New Hampshire Motor Speedway (VC#TBD), Loudon, NH, in the amount of \$88,622.18, for the use of premises to allow the State to hold a mass three-day COVID-19 vaccination event, effective retroactive to March 5, 2021, through March 9, 2021. 100% Other Funds (FEMA Public Assistance).

Funds are available in the following account for State Fiscal Year 2021, with the authority to adjust budget line items within the price limitation through the Budget Office, if needed and justified.

**05-95-095-950010-1919 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SERVICES, HHS: OFFICE OF THE COMMISSIONER, COMMISSIONERS OFFICE, COVID19 FEMA DHHS**

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2021	103-502664	Contracts for Oper Svc	95010690	\$88,622.18
			<b>Total</b>	<b>\$88,622.18</b>

**EXPLANATION**

This item is **Retroactive** because insufficient time was available to finalize the agreement in advance of the start date due to the urgent need to establish the agreement quickly.

This item is **Sole Source** because the Licensor possesses extensive logistical experience in moving large numbers of vehicles and has a site available that is sufficiently large and uniquely equipped to hold a mass COVID-19 vaccination event.

The purpose of this item is to enter into a License Agreement with The New Hampshire Motor Speedway to use the Licensor's property to hold a large-scale three-day COVID-19 vaccination event between March 6, and March 8, 2021. The State plans to vaccinate approximately 12,000 individuals against COVID-19 during the event. The License Agreement allows the State to utilize the Licensor's site, other goods, and equipment. Further, it provides for

the storage and staging of supplies and materials necessary for the operation. Finally, it ensures access to restrooms for State employees, the National Guard, and other individuals performing vaccination services. The State will be responsible for the disposal of trash and cleaning any areas that may have been contaminated by the presence of individuals showing symptoms of COVID-19.

Source of Funds: CFDA # 97.036; FAIN #4516DRNH00000001

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

Respectfully submitted,



Lori A. Shibinette  
Commissioner

LA-2021-OCOM-02-SUPER-01

1. General Provisions. This License Agreement (“Agreement” or “License”) is made between **THE NEW HAMPSHIRE MOTOR SPEEDWAY**, located at **1122 Route 106, Loudon 03307**, (“Licensor”) and **THE STATE OF NEW HAMPSHIRE, DEPARTMENT OF HEALTH AND HUMAN SERVICES**, located at 129 Pleasant Street, Concord, NH 03301-3857 (“Licensee”).
  - 1.1. Licensee has requested that Licensor make certain premises available for Licensee's use as more particularly described below.
  - 1.2. Licensor and Licensee have agreed that Licensee may use certain designated premises for the use hereinafter described under a license for a certain period of time in accordance with the terms and conditions set forth herein.
2. Basic Data. The following sets forth basic data hereinafter referred to in this Agreement, and, where appropriate, constitute definitions of the terms hereinafter listed.
  - 2.1.1. Effective Date and Term: This Agreement is effective on 12:00 AM on March 5, 2021, through March 9, 2021 at 11:59 PM, subject to the Governor's approval pursuant to Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, and 2021-02, and any subsequent extensions.
  - 2.1.2. Modification: The parties may modify this Agreement by mutual written agreement at any time, subject to appropriate State approval.
  - 2.1.3. Termination: This Agreement shall terminate at 11:59 PM on March 9, 2021. The parties may mutually agree to terminate this agreement.
  - 2.1.4. Licensed Premises: Licensed Premises are located at **1122 Route 106, Loudon 03307** and comprised of the New Hampshire Motor Speedway facility and any adjacent area that is owned or occupied by the Licensor, including parking lots and privately owned access roads.
  - 2.1.5. Permitted Use: The Licensed Premises shall be used for the purpose of performing COVID-19 vaccinations, for the storage and staging of supplies and materials in connection with the foregoing, and to provide access to the restrooms located therein for use solely by Licensee's staff, including, but not limited to operations staff and the National Guard, performing the above-described vaccination services.
    - 2.1.5.1. The parties agree that Licensee may access the Licensed Premises during the Term of this agreement or as otherwise agreed upon in writing by the parties (which may be by email).
3. Charges. In exchange for the use of the Premises and other goods, property, and equipment provided by the Licensor during the Term, Licensee shall pay to Licensor a one-time lump sum

of \$88,622.18, as detailed in Exhibit B attached hereto. Except as otherwise expressly set forth herein or as otherwise provided in any subsequent amendment hereto, each party shall bear and be responsible solely for its own costs and expenses necessary to comply with this Agreement.

4. No Partnership. It is understood and agreed that Licensor shall in no event be construed or held to be a partner or associate of Licensee in the conduct of Licensee's business, nor shall Licensor be liable for any debts incurred by Licensee in the conduct of Licensee's business; but it is understood and agreed that the relationship is and at all times shall remain that of Licensor and Licensee.

5. Use.

5.1. The Licensed Premises shall be used by Licensee (and only by Licensee) for the purposes set forth in the part of Section 1 and Section 2.1.5 entitled "Permitted Use" and for no other purpose or purposes.

5.2. Licensor shall have no responsibility or liability in connection with the Licensed Premises, or for any damage, vandalism, theft, or the like with respect thereof. Licensee's operations shall, as much as practicable, abide by any and all reasonable rules promulgated by Licensor with respect to Licensee's operations in and about the Licensed Premises, including, without limitation, any such rules and regulations concerning hours of operation, occupancy, and/or traffic levels and travel lanes, etc.

5.3. In connection with the Permitted Use, Licensee agrees to comply with the following:

5.3.1. Licensee, at Licensee's expense, shall be solely responsible for the disposal of trash from, and the cleaning, disinfection and remediation of, all areas within the Licensed Premises and the surrounding common areas that may have been contaminated by the presence of patients or employees showing symptoms of COVID-19, including without limitation, all areas wherein blood, medical waste, viral or infectious agents and/or biohazard materials are tested for, handled, generated and/or stored. In no event shall Licensor be obligated to handle or remove any trash containing or suspected of containing blood, medical waste, viral or infectious agents and/or biohazard materials, or otherwise be obligated to clean, disinfect or remediate any area in connection with the Permitted Use. All trash, refuse, and the like, shall be kept in covered trash receptacles, which trash receptacles shall be kept within the Licensed Premises at all times, and in no event stored outside of the same.

5.3.2. As used herein, the term "hazardous materials" shall mean and include, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq. (33 U.S.C. § 1321) or listed in Section 307 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), (iv) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. (42 U.S.C.

§ 6903), (v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et seq. (42 U.S.C. § 9601), as amended and regulations promulgated thereunder, or (vi) defined as "oil" or a "hazardous waste", a "hazardous substance", a "hazardous material" or a "toxic material" under any other law, rule or regulation applicable to the Licensed Premises, as amended and the regulations promulgated thereunder. As used herein, the term "Environmental Laws" shall mean, without limitation, each and every law, rule, order, statute or regulation described above in this Section, together with (i) any amendments thereto, or regulations promulgated thereunder and (ii) any other laws pertaining to the protection of the environment or governing the use, release, storage, handling, generation or disposal of Hazardous Materials or medical waste, whether now existing or hereafter enacted or promulgated. In addition, for all purposes under this Agreement, "hazardous materials" shall specifically include without limitation viruses and so-called "biohazard" materials and any material that is or may be contaminated with any of the foregoing.

5.3.3. At the end of the Term, Licensee shall peaceably quit and surrender to Licensor the Licensed Premises in good order, repair and condition and with all personal property removed therefrom, including any tent or other temporary structure installed thereon by the Licensee as permitted hereunder.

6. Condition of Licensed Premises; Alterations. Licensee accepts the Licensed Premises in its As Is condition without any obligation on Licensor's part to perform any work with respect thereto. Licensee is permitted to place temporary signs, signals, or markings without prior consent of the Licensor. Licensee shall not make any other permanent alterations, improvements, changes, modifications or installations on or about the Licensed Premises without the prior written consent of Licensor. In the event Licensee desires to make any permanent improvements, alterations or modifications in, on or about the Licensed Premises, Licensee shall first submit plans and specifications to Licensor for approval and all alterations or modifications shall be in strict accordance with the plans and specifications approved by Licensor and in conformance with all governmental requirements. Licensee shall remove its signage, if any, upon termination of this License and repair any damage associated therewith.
7. Insurance. It is understood that the Licensee is self-insured and will provide coverage pursuant to the letter, attached hereto, entitled The State of New Hampshire's Self-Insurance Program and Automobile Liability Insurance Coverage (see Exhibit A).
8. Civil Liability. It is understood that under State law, specifically RSA 21-P:42, entities that grant a license or privilege or otherwise permit the designation or use of the whole or any part or parts of such real estate or premises or private property for the purpose of compliance or attempting to comply with any law, rule, regulation, or order pertaining to emergency management during an actual or impending emergency or practice exercise, together with his or her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or private property or loss of, or damage to, the property of such person.

9. Rules and Regulations. To the extent reasonably practicable, Licensee agrees to abide by all of the following rules and regulations:
- 9.1. Licensee shall keep and maintain the Licensed Premises and the surrounding areas, including any equipment installed therein or thereabout, neat, clean, free of debris and trash and in good order and repair and in an attractive and clean condition in accordance with the general character of the Licensed Premises, provided that Licensee shall not be responsible for damage caused by any visitor to the Licensed Premises.
  - 9.2. Licensee shall not perform any act or carry on any practice which may injure the Licensed Premises, or cause any offensive odor, vibration, or loud noise, (including, but without limitation, the use of loudspeakers), or constitute a nuisance or menace to any other occupant or other persons in the Licensed Premises.
  - 9.3. Licensee shall use the Licensed Premises only for the Permitted Use. Licensee shall conduct its business at all times in a dignified manner and not in a reckless or wanton manner.
  - 9.4. Licensee shall at all times maintain temperature settings to fully and adequately heat and/or air-condition (as the circumstances require) the Licensed Premises.
  - 9.5. Licensor shall not be liable in any way to Licensee for any interruption, failure or defect in the supply or character of the utilities furnished to the Licensed Premises by Licensor by reason of any requirement, act or omission of the utility company serving the Licensed Premises with such utilities or for any other reason not attributable to Licensor's negligence.
  - 9.6. Licensee covenants and agrees that at all times its use of any utility service (whether or not furnished by Licensor) shall not exceed the capacity of the mains, feeders, ducts and conduits bringing the same to the Licensed Premises or of the outlets, risers, wiring, piping, duct work or other means of distribution of such service to or within the Licensed Premises.
10. Assignment. Licensee shall not directly or indirectly assign, mortgage, encumber or pledge its interest in this Agreement or its rights with respect thereto, or enter into any sublicense or concession in or on the Licensed Premises, under any circumstances.
11. Surrender; Holdover. At the expiration or termination of this Agreement, Licensee shall quit and surrender the Licensed Premises in clean, broom-swept condition and otherwise in the same condition as the date hereof, reasonable use and wear excepted and, provided Licensee is not then in default of this Agreement, Licensee shall remove its temporary or movable fixtures and equipment and any other movable property. In no event shall Licensee be entitled to remove any electrical (including light fixtures and bulbs), plumbing, heating, ventilating or air-conditioning systems, equipment or components, if applicable. In the event Licensee fails to quit and surrender as required herein, Licensor shall have all remedies available at law or in equity for Licensee's failure so to do.

12. Immunity. Notwithstanding any provision in this Agreement, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the Licensee, which immunity is hereby reserved to the Licensee.
13. Use of Licensed Premises. Licensee shall keep the Licensed Premises fully staffed during any time Licensee is open and operating in the Licensed Premises.
14. No Mechanic's Lien. Licensee shall be prohibited from encumbering the Licensed Premises in any manner. In the event that any mechanic's or similar lien, judgment, or encumbrance is filed affecting the Licensed Premises, then Licensee shall forthwith cause the same to be discharged of record by bonding, payment or otherwise.
15. License Termination; Fire or Other Casualty.
  - 15.1. The parties may mutually agree to terminate this agreement.
  - 15.2. Notwithstanding anything contained herein to the contrary, Licensor shall have the right to terminate this Agreement upon the occurrence of a fire or other casualty or other event of force majeure affecting the Licensed Premises.
16. Notices. Whenever, by terms of this Agreement, notice shall or may be given (a) to Licensor, such notice shall be in writing and shall be sent by reputable overnight courier service (with signature of recipient requested) or by registered or certified mail, postage prepaid, return receipt requested, addressed to Licensor at the address of Licensor set forth herein (or to such other address or addresses as may from time to time hereafter be designated by Licensor by like notice) or (b) to Licensee, such notice shall be in writing and shall be either hand delivered to Licensee or sent by reputable overnight courier services (with signature of recipient required) or by registered or certified mail, postage prepaid, return receipt requested to Licensee at the mailing address shown as Licensee's mailing address on the first page of this Agreement (or to such other address or addresses as may from time to time hereinafter be designated by Licensee by like notice).
17. Licensee Representation. Licensee represents and warrants that it has the power and authority to execute and deliver this License and perform its obligations hereunder.
18. Licensor Consent. The consent or approval of Licensor to or of any action by Licensee requiring Licensor's consent or approval shall not be deemed to waive or render unnecessary Licensor's consent or approval to or of any subsequent similar act by Licensee. Any consent required of Licensor in any provision of this Agreement shall be in writing and may be withheld by Licensor in its sole discretion unless the provision requiring such consent specifically states that Licensor shall not withhold such consent unreasonably.
19. Miscellaneous; Governing Law. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law. Licensee agrees that this Agreement shall be deemed a

“license” and that upon termination of this Agreement, or after the end of the Term, Licensor may remove Licensee from the Licensed Premises without need for resort to any judicial process. This Agreement contains the entire agreement between the parties and all prior understandings and agreements between the parties are merged into this Agreement. This Agreement may be changed or modified only by a writing executed by the party against whom enforcement thereof is sought. This Agreement shall be governed by the laws of the state of New Hampshire.

20. Electronic Signature. The parties acknowledge and agree that they intend to conduct this transaction by electronic means and that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, “electronic signature” shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.



**APPROVALS:**

State of New Hampshire  
Department of Health and Human Services

3-5-21  
Date

[Signature]  
Name:  
Title: Deputy Commissioner

**THE NEW HAMPSHIRE MOTOR  
SPEEDWAY**

3-5-21  
Date

[Signature]  
Name: Matthew K. Goslant  
Title: Vice President of Operations

The preceding License Agreement, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

3/5/21  
Date

[Signature]  
Name:  
Title:

I hereby certify that the foregoing Amendment was approved by the Governor approval issued under the Executive Order 2020-04 as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, and 2021-02, and any subsequent extensions.

EXHIBIT A  
INSURANCE LETTER



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
RISK MANAGEMENT UNIT  
25 Capitol Street - Room 412  
Concord, New Hampshire 03301

Charles M. Arlinghaus  
Commissioner  
(603) 271-3201

Joyce Pitman  
Director  
(603) 271-3180

February 24, 2020

RE: The State of New Hampshire's Self-Insurance Program and Automobile Liability Insurance Coverage

To Whom It May Concern:

The purpose of this letter is to describe the State of New Hampshire's self-insurance program and fleet liability insurance coverage. This letter may be presented to individuals requesting information about the State's general liability self-insurance program, workers' compensation self-insurance program, or automobile liability insurance coverage.

#### **General Liability Self-Insurance Program**

The State of New Hampshire (State) does not maintain liability insurance coverage for the general operations of its agencies. Instead, the State has elected to self-insure for general liability exposures. Any liability or costs incurred by the State arising from loss or damage to a third-party would be handled as a general obligation of the State. Per RSA 541-B:14, I, all claims arising out of any single incident against any agency for damages in tort actions is limited to an award not to exceed \$475,000 per claimant and \$3,750,000 per any single incident.

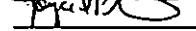
#### **Automobile Liability Insurance Coverage**

The State maintains automobile liability coverage through Chubb Insurance. The policy provides liability limits for bodily injury coverage of \$250,000 per person/\$500,000 per accident and property damage coverage of \$100,000 per accident.

#### **Workers' Compensation Self-Insurance Program**

All State employees are covered under the State's self-funded workers' compensation program. The State's third party administrator for workers' compensation claims is Cross Insurance TPA, Inc., with contract effective dates of July 1, 2015 through July 1, 2022.

Please do not hesitate to contact the Division of Risk and Benefits at (603) 271-3180 if you have any questions concerning this letter.

By:   
Name: Joyce Pitman  
Title: Director of Risk & Benefits

TDD ACCESS: RELAY NH 1-800-735-2964

Insurance Summary Schedule

**EXHIBIT B**

**Table of Charges**

EXHIBIT B

Portolets	\$	10,080.00
ADA Portolets	\$	1,950.00
Hand Sinks	\$	1,059.95
Hand Sanitizer Stands	\$	1,680.00
ALS Ambulance	\$	9,801.00
Message Boards	\$	2,276.00
Light Towers	\$	2,529.60
Cable Ramps	\$	727.00
Wrecker		
Scoreboard Rental		
Tents		
1- 40'x80'	\$	4,218.00
2 - 40'x160'	\$	12,228.00
2 - 10'x10'	\$	852.00
Lights	\$	4,680.00
Tent Weights	\$	4,536.00
Tent Sides	\$	104.40
Golf carts	\$	1,050.00
Labor	\$	3,360.00
Wrecker Service	\$	2,448.00
Signage	\$	3,254.40
Lunches	\$	19,387.83
IT Support	\$	2,400.00
<b>Total</b>	<b>\$</b>	<b>88,622.18</b>