



Lori A. Weaver  
Interim 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

JAN 12 '23 PM 3:52 RCVD

ARC  
8A

January 13, 2023

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

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Office of the Commissioner, to enter into a **Sole Source** use of premises agreement with the City of Manchester (VC#177433), Manchester, NH, at no cost to the Department, to permit the City of Manchester to use the state-owned Tirrell House to provide housing to individuals experiencing homelessness, with the option to renew for up to two (2) additional years, effective upon Governor and Council approval through June 30, 2025.

**EXPLANATION**

This request is **Sole Source** because the Tirrell House is located in Manchester, and the City is therefore best positioned to be able to maintain and utilize the property to provide housing to individuals experiencing homelessness. The City plans to use the building to house up to 16 women.

The purpose of this request is to permit the City of Manchester to use the state-owned Tirrell House, located at 15 Brook Street in Manchester, at no cost for the purpose of providing housing to individuals experiencing homelessness. The City will be responsible for all property maintenance and repairs; housekeeping and routine household tasks; equipment repairs and replacement; and supplies and other resources needed in the provision of housing services. The City must comply with the provisions of all applicable federal, state and local laws, rules, regulations, and standards.

As referenced in Section 5, Term and Termination, in the attached agreement, the parties have the option to extend the agreement for up two (2) additional years, contingent upon agreement of the parties and Governor and Council approval.

Should the Governor and Council not authorize this request, the State will be limited in its ability to address the needs of individuals experiencing homelessness.

Area served: Manchester.

Respectfully submitted,

Lori A. Weaver  
Interim Commissioner

**USE OF PREMISES AGREEMENT  
BETWEEN  
THE NEW HAMPSHIRE DEPARTMENT OF HEALTH & HUMAN SERVICES  
AND  
CITY OF MANCHESTER**

1. **Introduction:** This Use of Premises Agreement (hereinafter referred to as "Agreement") is entered into by and between the State of New Hampshire, Department of Health and Human Services (hereinafter "State"), of 129 Pleasant Street, Concord, NH 03301 and the City of Manchester (hereinafter "City") of 1529 Elm Street, Manchester, NH 03101, to establish the terms and conditions under which the City may use certain premises owned by the State. The State and the City are mutually referred to as the parties.
2. **Authority:** Pursuant to RSA 126-A, the Commissioner of the New Hampshire Department of Health and Human Services has the responsibility for the administrative and executive direction of the Department and the properties and facilities under its jurisdiction.
3. **Definition of Premises:** The premises consists of the building identified by the State as Tirrell House (hereinafter the "premises" or "property"), which is located at 15 Brook Street in Manchester, New Hampshire, and includes an approximately 4,000 square foot three story building, an approximately 552 square foot outbuilding, four-vehicle parking space, and parcel of land that is further described in Exhibit A, the General Warranty Deed granted to the Department.
4. **Grant of Permission for Use of Premises and Terms of Use**
  - a. The State hereby gives permission, which is revocable and terminable as hereinafter provided, to the City to use the above-defined premises for the purpose of providing housing to individuals experiencing homelessness. Notwithstanding paragraph 10, the City shall be permitted to contract with third parties to manage such housing.
  - b. The City acknowledges that the State has title to the premises and shall not assail, resist or deny such title. The City also acknowledges that this Agreement constitutes a revocable license, that this Agreement does not create a lease nor any right to the possession of the property, and does not create any estate or interest in the property.
  - c. The City shall be subject to general supervision of the State and shall be subject to rules and regulations prescribed by the State of New Hampshire including, but not limited to, meeting the requirements of the State of New Hampshire Fire Marshall's Office regulations.
  - d. The City must comply with the provisions of all applicable federal, state and local laws, rules, regulations, and standards, and in particular those provisions concerning the protection and enhancement of environmental quality, pollution control and abatement, safe drinking water, life safety systems and solid and hazardous waste.
  - e. Should the City discover any violations to applicable federal, state and local laws, rules, regulations or standards, it shall report the violations immediately to the State and, at their own expense, be responsible for any costs incurred as a result of the violation of the aforementioned federal, state and local laws, rules, regulations or standards. The City agrees that any agency of the State of New Hampshire, its officers, agents, employees, and contractors may enter the premises, at all times (with reasonable notice) for any purpose, including inspection, and the City shall have no claim on account of such entries against the State of New Hampshire or any officer, agent, employee or contractor thereof.

- f. The City shall not make any construction, alterations, additions or improvements to the premises without first obtaining the prior written approval of the State. The City shall ensure all work, repairs, renovations, or replacements approved by the State are guaranteed by the vendors completing the work, against defects resulting from the use of inferior materials, equipment or workmanship for one (1) year from the date of completion of the work.
  - g. The City shall ensure that if, within any guarantee period, repairs or changes are required in connection with guaranteed work, which in the opinion of the State is rendered necessary as a result of the use of materials, equipment or workmanship which are inferior, defective, the City shall promptly upon receipt of notice from the State, and at the City's own expense (1) place in satisfactory condition in every particular, all guaranteed work and correct all defects therein; (2) make good all damage to the building or site, or equipment or contents thereof, which in the opinion of the State, is the result of the use of materials, equipment or workmanship which are inferior or defective; and (3) make good any work or material, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.
  - h. The City is responsible for all repairs due to wear or negligence on the part of its employees, clients, guests or invitees.
  - i. The State shall not be responsible for damage to property or injuries to persons which may arise from or be attributed, or incident to the exercise of the privileges granted under this Agreement, including the condition or state of repair of the premises and its use and occupation by the City, or from damage to their property, or damage to the property, or injuries to the persons of the City or any officers, employees, servants, agents, contractors, or others who may be at the premises at their invitation or the invitation of any one of them arising from governmental activities at the premises. The City expressly waives all claims against the State for any loss, damage, personal injury or death caused by or occurring by reason of or incident to the use of the premises or as consequence of the conduct of activities or the performance of responsibilities under this Agreement.
  - j. The City agrees that on the date this Agreement terminates, it shall vacate the premises and shall remove all personal property and restore the premises to a condition satisfactory to the State, with damages beyond the control of the City and due to ordinary wear and tear excepted. If the City neglects to remove their personal property and to so restore the premises, then at the option of the State, such property shall either become property of the State without compensation therefore, or the State may cause property to be removed and the premises to be so restored at the expense of the City, and no claim for damage against the State or its officers, employees or agents shall be created by or made on account of such removal and restoration work.
  - k. Pursuant to RSA 4:40, upon completion of the required process for disposal of real estate and approval by the Governor and Council, should the State determine that the property is no longer needed by the State, the property shall first be offered to the City. If the City refuses the State's offer, the State may sell, convey, transfer, or lease the property.
5. Term and Termination: This Agreement is effective upon Governor and Council Approval through June 30, 2025. The parties may agree to extend the Term for up to an additional two (2) years. This Agreement may be terminated by either party for any reason upon sixty (60) days written notice, which notice shall be delivered by hand or by certified mail to the address listed in paragraph

- 1 above. Should the State transfer the property to the City pursuant to paragraph 4(k) above and RSA 4:40, this Agreement shall immediately terminate.
6. **Payment.** Unless otherwise specified herein, the parties shall be responsible for their respective costs.
7. **Responsibilities of the State:** The State shall:
- a. Give permission to the City to use the above-defined premises as described in Section 4 above.
8. **Responsibilities of the City of Manchester:** The City shall:
- a. Protect, repair and maintain the premises in good order and condition and shall exercise due diligence in protecting the premises against damage or destruction by fire, vandalism, theft or other causes;
  - b. Be responsible and pay all utilities (including natural gas, water/sewer, electric, and waste and recycling disposal). The City must establish accounts for all utilities in its name, with the State named as "second" on each utility account. Invoices for each utility shall be sent directly to and paid by the City;
  - c. Conduct scheduled preventative maintenance inspections and repairs for all equipment on the premises, including HVAC systems, drains, and backflow preventers;
  - d. Maintain, repair, and replace as needed building systems, including, as applicable, kitchen suppression systems, HVAC systems, sump pumps, plumbing fixtures, drains, and backflow preventers;
  - e. Maintain, repair, and replace all equipment and appliances as needed, including commercial kitchen equipment, kitchen appliances, dishwashers, washers and dryers, and stoves;
  - f. Be responsible for window air conditioners maintenance, repairs, and replacement;
  - g. Maintain all electrical wiring and related hard-wired lighting, receptacles and panel board fixtures;
  - h. Provide routine building maintenance, defined as normal wear and tear of the building structure, envelope, systems, hardware, and fixed assets, and does not include damage resulting in abuse or neglect by the City or its agents, consumers, and visitors;
  - i. Respond immediately to emergency maintenance requests that threaten the health and safety of consumers, staff, and property as needed, 24/7;
  - j. Be responsible for all keys, to include distribution, tracking, and lock repair or key replacement, and provide any replacement keys to the State upon request;
  - k. Be responsible for all housekeeping/sanitation and routine household tasks;
  - l. Be responsible for maintenance, repair, and replacement of landscaping features/decorations;
  - m. Conduct monthly fire extinguisher inspections and testing of egress lighting. Maintain and/or or replace the extinguishers annually as necessary in accordance with applicable rules and regulations including, but not limited to, meeting the requirements of the State of New Hampshire Fire Marshall's Office regulations;

- n. Maintain and inspect all fire protection related equipment in accordance with applicable local, state, and federal regulations, and provide the written documentation of the test and results with the State's Director of Facilities;
  - o. Conduct sprinkler inspections in accordance with applicable local, state, and federal regulations, and provide the written documentation of the test and results to the State's Director of Facilities;
  - p. Conduct fire drills in accordance with applicable compliance regulations;
  - q. Provide police protection/coverage and pay for the personal alarm ("Life Alert") system;
  - r. Provide all ground maintenance as needed, including, but not limited to, as applicable, any lawn mowing, trimming of trees, bushes and shrubs; and complete snow removal and de-icing of steps and walkways adjacent to the building;
  - s. Purchase, supply, launder, and manage all linens, including sheets, pillowcases, bath towels, and face cloths;
  - t. Purchase and supply hygiene kits and other supplies to individuals as needed;
  - u. Ensure all buildings are free of pests and pay for pest extermination services if needed;
  - v. Be responsible for any damage due to occupancy, or leasehold improvements, including interior painting and floor covering repair or replacement.
9. **Relationship to the State:** In the performance of this Agreement, the City is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the City nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.
10. **Non-Assignment:** The City shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the State.
11. **Indemnification:** Unless otherwise exempted by law, the City shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers and employees, which arise out of (or which may be claimed to arise out of) the acts or omissions of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct.
- The City shall indemnify, save, hold harmless and defend the State, its officers, employees and agents from and against all suits, claims, or actions of any sort resulting from, related to or arising out of any activities conducted under this Use of Premises Agreement and any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage, disposal or any other action by the City giving rise to liability to the State, civil or criminal, or responsibility under federal, state or local environmental laws.
- The State shall not be liable for any costs incurred by the City arising under this paragraph 11. 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 paragraph 11 shall survive the expiration or termination of this Agreement and is not intended to waive the State's sovereign immunity, which is hereby reserved by the State.
12. **Insurance:** The City shall, at its sole expense, obtain, and continuously maintain in force, the insurance specified in the attached Certificate of Coverage.

13. **Workers' Compensation:** By signing this Agreement, the City agrees, certifies and warrants that it is in compliance with or exempt from, the requirements of N.H. RSA 281-A (Workers' Compensation).
- a. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for the City or any subcontractor or employee of the City, which might arise under applicable State of NH Workers' Compensation laws in connection with the performance of this Agreement.
14. **Notice:** The parties agree that any notice, order, direction, determination, requirement, consent, or approval under this Agreement shall not be effective unless it is in writing. All notices to be given pursuant to this Agreement shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in paragraph 1 above.
15. **Amendments:** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.
16. **Choice of Law and Forum:** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.
17. **Third Parties:** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
18. **Headings:** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
19. **Severability:** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.
20. **Entire Agreement:** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

State of New Hampshire  
Department of Health and Human Services

DocuSigned by:  
Lori A. Weaver  
Name: Lori A. weaver  
Title: Interim Commissioner

1/12/2023  
Date

City of Manchester

Jane Cray  
Name:  
Title: Mayor

1/11/23  
Date

JC  
1/11/23

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

OFFICE OF THE ATTORNEY GENERAL

1/12/2023  
\_\_\_\_\_

Date

DocuSigned by:  
*Takhmina Rakhmatova*  
\_\_\_\_\_  
FDF521C825C34AC  
Name: Takhmina Rakhmatova  
Title: Attorney

I hereby certify that the preceding Use of Premises Agreement was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: \_\_\_\_\_ (date of meeting).

OFFICE OF THE SECRETARY OF STATE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:  
Title:

9C  
1/11/23

**EXHIBIT A - GENERAL WARRANTY DEED  
UPA-2023-OCOM-01-TIRRE-01**

Initials gc  
Date 4/11/23

**BK-2662 PGE-460**  
**GENERAL WARRANTY DEED**

THIS DEED, made this 21st day of December, 1978, by and between JOSEPH J. BAGOIAN (hereinafter referred to as "the SELLER"), and THE STATE OF NEW HAMPSHIRE, acting through its Program on Alcoholism and Drug Abuse of the Division of Public Health Services of the Department of Health and Welfare, 61 South Spring Street, Concord, New Hampshire (hereinafter referred to as "the BUYER").

WITNESSETH, that, for consideration paid, the SELLER, with General Warranty of Title, grants unto the BUYER:

All that certain parcel of land, together with all improvements thereon, situate in Manchester, Hillsborough County, New Hampshire, described as follows -

Beginning at a stone bound at the intersection of the southerly line of Brook Street and the westerly line of Temple Court, formerly Albert Street; thence southerly by the westerly line of Temple Court 96.66 feet; thence westerly parallel with the southerly line of Brook Street 50.25 feet; thence northerly by land now or formerly of Charlotte M. Merchant 96.66 feet to a drill hole at the southerly line of Brook Street; thence easterly by the southerly line of Brook Street 50 feet to the point of beginning.

Said premises are known as parts of lots numbered 7 and 8, as shown on a plan of land of Herman F. Straw.

Being the same premises conveyed to Joseph J. Bagoian by Helen M. Chandler by deed recorded in the Hillsborough County Registry of Deeds, Book 2567, Page 622, on October 24, 1977.

The SELLER covenants that he is lawfully seized in fee simple of the granted premises; that he has the right to convey the granted premises to the BUYER; that he has done no act to encumber the premises; that the BUYER shall have quiet possession of the premises, free from all encumbrances; that the SELLER will execute such further assurances of the premises as may be requisite; and that he, his heirs, executors, and administrators will warrant and defend the premises to the BUYER and its heirs, successors, and assigns.

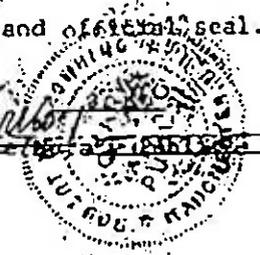
WITNESS the following signature:

*Joseph J. Bagoian*  
WITNESS *Joseph J. Bagoian*  
JOSEPH J. BAGOIAN

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

On this 21<sup>st</sup> day of December, 1978, before me, ROBERT W. BRAWNING, the undersigned officer, personally appeared Joseph J. Bagoian, known to me (~~as satisfactorily proven~~) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

*Robert W. Brawning*  
Justice of the Peace  


Dec 21 11:06 Am '78  
DEC 21 11 05 AM '78

HILLSBOROUGH COUNTY  
REGISTRY OF DEEDS

MB3

**CERTIFICATE OF COVERAGE**  
State of New Hampshire  
Department of Health and Human Services  
129 Pleasant Street  
Concord, N.H. 03101

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 within the financial limits of RSA 507-B as follows:

	Limits of Liability (in thousands 000)	
GENERAL LIABILITY	Bodily Injury and Property Damage	
	Each Person	325
	Each Occurrence	1000
AUTOMOBILE LIABILITY	Bodily Injury and Property Damage	
	Each Person	325
	Each Occurrence	1000
WORKER'S COMPENSATION	Statutory Limits	

The City of Manchester, New Hampshire maintains a Self-Insured, Self-Funded Program and retains outside claim service administration. All coverages are continuous until otherwise notified. Effective on the date Certificate issued and expiring upon completion of contract. Notwithstanding any requirements, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded by the limits described herein is subject to all the terms, exclusions and conditions of RSA 507-B.

**DESCRIPTION OF OPERATIONS/LOCATION/CONTRACT PERIOD**

For the Tirrell House located at 15 Brook Street in Manchester, New Hampshire.

Issued the  
11<sup>th</sup> day of January, 2023

  
\_\_\_\_\_  
Risk Manager

gc  
1/11/23

*Matthew Normand  
City Clerk*



*JoAnn Ferruolo  
Assistant City Clerk*

*Lisa McCarthy  
Assistant City Clerk*

**CITY OF MANCHESTER**  
*Office of the City Clerk*

**Certificate of Authority**

I, Lisa McCarthy, the Assistant City Clerk of the City of Manchester, NH do hereby certify that Joyce Craig, Mayor of the City of Manchester, NH was authorized by the Board of Mayor and Aldermen on January 11, 2023, to enter into the said contract with the State and to execute any and all documents, agreements and other instruments; and any amendments, revisions, or modifications thereto, as she may deem necessary, desirable, or appropriate.

I hereby certify that this authority has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment/agreement to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the municipality. To the extent that there are any limits on the authority of any listed individual to bind the municipality in contracts or other agreements with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: 1/11/23

Lisa McCarthy

Signature of Municipality Clerk/Municipality Official

Name: Lisa McCarthy

Title: Assistant City Clerk