

Town of Newport
New Hampshire

BUILDINGS ASSESSMENT

Request for Proposal (RFP)

Issued: August 17, 2016
Due: September 2, 2016

Town of Newport
15 Sunapee Street
Newport, New Hampshire 03773
(603) 863-1360

I. Introduction

The Town of Newport, New Hampshire (hereafter referred to as “Town”) seeks proposals from qualified architectural, engineering and/or building maintenance/inspection firms (hereafter referred to as “Vendors”) to provide a building condition assessment report (hereafter referred to “Assessment”) for Town buildings and as a second phase, to determine the functional adequacy of the primary facilities in the short and long term future.

The buildings vary in terms of age, design, construction methods, and materials. The purpose of the assessments is to assess the facilities based on the scope described below, provide collected data for input by the Town into the Capital Improvements Plan and provide narratives that summarize assessment observations and comments.

The assessment must provide a consistent and comprehensive survey of the facilities by a highly qualified firm that identifies the current status of the building and components, provides information on the lifecycle and useful remaining life of the buildings, building elements and systems, identifies and prioritizes major maintenance deficiencies, and provides cost estimates to repair or replace deficiencies.

The objectives of the assessment are to:

- A. Identify major defects or deficiencies in the buildings.
- B. Provide a basis for forecasting funding requirements for capital improvement facility planning for all locations over the next 10 years.
- C. Provide a baseline for setting priorities for the maintenance, repair, enhancement or replacement of facilities and their component systems.

II. Proposal Submission Requirements

Submit eight (8) printed copies to the Town of Newport, 15 Sunapee Street, Newport, NH 03773 and one (1) electronic copy of the complete proposal to Paul Brown, Finance Director at finance@newportnh.net with the subject *Buildings Assessment* by 5:00pm on September 2, 2016. We recommend using delivery receipts to ensure delivery.

All submitted proposals will be reviewed by the Town and a Vendor will be recommended to the Board of Selectmen to award the contract. Vendors shall provide company information and project experience and references. Proposals that do not include required information may be considered non-responsive and may be eliminated from consideration.

The Town is not under obligation to select the lowest bid. The Town reserves the right to accept or reject any proposal or part of any proposal for any reason, or no reason, without recourse by any bidder and to award a contract to any bidder on any basis which the Town, in its sole and absolute discretion, determines to be in the best interest of the Town. Bids will remain in effect for a minimum of 60 days.

A. Company Information

Provide general information including:

1. Name of company as registered with the NH Secretary of State or other state of incorporation.
2. Description of company.
3. Name(s) of company owner(s).
4. Number of years in business.

B. Project Experience and References

Provide a description of 3 completed projects or projects similar in scope. Include the following information:

1. Company and Owner information.
2. Company Contact information and title.
3. Original contract value.
4. Final contract value including change order amounts.
5. Time for completion (weeks).

III. Questions/Responses and Changes to RFQ

Interested vendors should submit an email to Paul Brown at finance@newportnh.net with the subject "Buildings Assessment Interested Vendor" which will put the sending email address onto the Prospective Vendors list. All questions from Vendors regarding this RFQ should be submitted by email to the same address. Comments will be documented and responded to by the Town via email to all Prospective Vendors. Please do not call the Town with questions.

IV. Process and Timeline

Date	Event
August 17, 2016	RFQ Released
September 2, 2016	Quote Submissions due by 5:00 p.m. EST
September, 2016 (Anticipated)	Evaluation & Clarification Period of Vendor Responses
September-October , 2016 (Anticipated)	Vendor Interviews
October, 2016 (Anticipated)	Recommendation to Board of Selectmen

V. Information

The following are the properties of the Town, including out-buildings, to be studied:

<u>Address</u>	<u>Prop ID</u>	<u>Building Use</u>
PRIMARY		
65 Belknap Avenue	110-028	Recreation Building
11 Sunapee Street	111-001	Fire Station

15 Sunapee Street	111-001	Town Office
59 Main Street	114-144	Police Station
15-17 Meadow Road	114-158	Ambulance Building
449 South Main Street	246-014	Public Works Garage

SECONDARY

428 Sunapee Street	102-005	Pine Grove Cemetery
476 Sunapee Street	103-012	Pump House
Sunapee Street	103-045	Pump House
20 Main Street	111-001	Town Hall/Opera House
30 Main Street	111-001	Historical Museum / Restaurant
1 North Main Street	111-044	Town Common/Info Booth/Gazebo
55 Main Street	114-147	District Court
429 Unity Road	120-037	PRV Building - Water Dept
8-14 Airport Road	218-006	Hangar, Office & House
500 Cheney Street	227-024	Wilmarth Park - Ski Jump
20 Putnam Road	227-008	Sewer Treatment Plant
2360 Summer Street	227-028	Water Tower
140 Pollards Mill	246-035	Water Department
Gilman Pond Rd –Unity	M8J8-734	Chlorination Building
Unity Springs Road-Unity	M13F3-457	Water Treatment Plant

ALTERNATE 1 PROPERTIES

The following School District properties may be added to the project. Bid for these properties will be broken out on the bidding sheet.

245 North Main Street	109-119	Vocational Tech Center
86 North Main Street	111-033	Former Elementary School
21 School Street	111-102	Elementary School
245 North Main Street	227-017	Middle and High School

Information about each property can be found in the Town's assessing system, which can be accessed at <http://www.newportnh.net/index.php?nav=144>.

There will be no walk through of the buildings prior to contract award. Public spaces of the buildings are accessible during working hours.

PHASE 1

A. Scope of Work

Phase I will include both primary and secondary buildings, including out-buildings. The Vendor will complete field data collection and condition assessment meant to capture information of all

major building systems to the individual component level, including all components considered capital repair items (as opposed to maintenance level items). This includes site paving, HVAC, roofing, electrical, plumbing, vertical transportation systems, building envelope and structural systems.

At the start of each building or facility assessment, Vendor will interview identified staff to understand what improvements have been made in the last three years, what improvements are planned in the next three years and known problems.

Vendor will collect, document, and analyze the facilities assessment data to achieve the following:

- Inventory all major building equipment including quantity, manufacturer, model and serial number.
- Identify deficient conditions in terms of deferred maintenance and building condition.
- Provide a reasonable cost analysis for the above-mentioned efforts.
- Data will be collected from the buildings and reports will be prepared as follows:
 1. A separate report section will be prepared for each building.
 2. Provide individual cost tables and digital photographs to document the deficient conditions at each building.

Vendor will conduct onsite inspections of the occupied buildings to provide interior and exterior assessment of conditions. This must be done using a standardized, documentable inspection process that provides accurate, consistent and repeatable results. Inspections shall be conducted using applicable codes and accepted industry standards. It is the Town's desire to have this information presented in both a written and an electronic format.

Each building report section will include an estimated cost for each system or component repair or replacement anticipated during the evaluation term. The capital needs analysis will be submitted as an Excel-based cost table that includes a summary of the description of each component, the age and estimated remaining useful life, the anticipated year of repair or replacement, quantity, unit cost and total cost for the repair of each line item.

In addition to the detailed description of the deficiencies, Vendor to provide cost estimates for the deficiencies noted. The cost estimate for capital deficiencies will be based on the estimate for maintenance and repair.

Review existing records, site plans, permits, drawings, etc. Copies will be provided to the successful Vendor by the Town upon contract execution.

Vendor will visually inspect facilities and properties. Specifically, the assessment will focus on the following components:

- 1) **Heating System**; identify boilers, furnaces, and major labeled equipment.
- 2) **Ventilation System**; identify the ventilation systems and assess overall condition.

- 3) **Roofing System**; identify the material roof systems, including roof type, reported age, slope, drainage, or any unusual roofing conditions. Observe for evidence of material repairs, significant ponding, or evidence of material roof leaks.
- 4) **Electrical System**; identify the electrical service provided and distribution system at the subject property. Observation and evaluation will include switchgear, transformers, emergency generators and main distribution panels. Excluded are step down transformers.
- 5) **Plumbing**; identify the material plumbing systems at the subject property, including domestic water supply, domestic hot water production over 80 gallons, sanitary sewer, primary backflow preventer or any special or unusual plumbing systems (such as fuel systems, gas systems).
- 6) **Vertical Transportation**; identify the existing vertical transportation equipment and provide an overall assessment. Detail deficiencies for each elevator and provide an analysis of the remaining useful life, along with budgets for any expected expenditures up to and including modernization or replacement.
- 7) **Building Envelope**; identify the material elements of the building exterior, to include walls, doors, windows, and fire escapes. This will also include the façade, curtain-wall systems, glazing, exterior sealant, exterior balconies, and stairways.
- 8) **Structural Components**; evaluate the footings, foundations, slabs, columns, floor framing system, and roof framing system as part of the structural inspection for soundness. Observations will be subject to grade and visibility of components. This is to be a visual inspection only and no structural testing of components or materials will be undertaken.
- 9) **Site Paving**; observe and evaluate the site paving components including paving, curbs, drains and sidewalks.

B. Evaluation and Reporting

Vendor will provide eight (8) copies of the written reports, with one (1) electronic copy, at the conclusion of the assessment as described above that include:

- A general description of each property and improvements and comment generally on observed conditions.
- Comments for components that are exhibiting deferred maintenance issues and provide estimates for “immediate” and “capital repair” costs based on observed conditions, available maintenance history and industry-standard useful life estimates. If applicable, this analysis will include the review of any available documents pertaining to capital improvements completed within the last three years, or currently under contract.
- A schedule for recommended replacement or repairs (schedule of priorities).

- Address critical repairs separately from repairs anticipated over the term of the analysis.
- A ten-year capital plan (Evaluation Term) with an Executive Summary with graphic presentation of results to provide a quick, “user-friendly” summary of the property’s observed condition and estimated costs assigned by category.

The vendor will report any immediate life and/or property safety issues to the Town upon discovery separately from the overall building report.

C. Scope Components

The Property Condition Assessments (PCA) for each property shall include, at a minimum, data collection and reporting in the following areas:

- Site structure – Provide a description of the building structure such as materials used in construction including the foundation, floors, walls, windows, and roof, etc.
- General building systems – Provide a description of building systems noting any visible deficiencies.
- Mechanical/electrical systems/HVAC - Provide detailed records of the electrical service going into the building (i.e. overhead or underground). This should also include total amperage and other notable features. The type of wiring, location of primary transformer and type of generator (if any) should also be included. The HVAC system should be described and include data on the equipment’s specific location, age and life expectancy, and condition. It should be noted if the system is adequate for heating/cooling air distribution. The assessment must include information regarding ventilation.
- Plumbing - Assessment should detail the condition, and note any deficiencies in the plumbing systems for the building.
- Lifecycle - Provide lifecycle data on components listed above including stage in life, estimated life remaining, and cost to repair or replace at conclusion of life.
- Americans with Disabilities (ADA) – Review building for compliance with the most recent ADA standards noting only areas of obvious non-compliance. If areas of obvious non-compliance are noted, include costs to create compliance. The intent is not to conduct a comprehensive ADA assessment at this time.

In the specific areas noted above, provide the following:

- Cost estimates– Employ a standardized, nationally recognized, cost estimating system to determine repair and replacement costs for all noted deficiencies. This data shall be presented in a user-friendly reporting format that prioritize current and anticipated maintenance and repair requirements to maximize the utilization of resources and return on investment and minimizes the cost of irreversible loss of service life and total cost. Costs must be broken out by deferred asset maintenance cost by asset component or

system, calculate a facility condition index by system, and have the ability to separate rehabilitation and improvement costs from deficiency costs. Costs shall be inclusive of contractor overhead/burden.

D. Summary

This assessment must identify deficiencies in order to take timely, cost-effective corrective actions. This assessment must provide a comprehensive evaluation on the buildings, so it can be used to make informed facility management decisions.

PHASE II

A. Scope of Work

Phase II will include only primary buildings. The Vendor will complete field data collection and assessment meant to capture information of the functionality of the buildings, with the following outline as a minimum scope:

1. Conduct an organizational meeting with the Town.
2. Develop and Implement Data Collection Plan.
3. Meet with Departmental representatives to determine and catalogue existing services, personnel and equipment of the Departments.
4. Determine programmatic space needs for each department to provide the intended services for the foreseeable future.
5. Examine the facilities in which these departments are presently housed to determine adequacy to provide intended services. Highlight existing deficiencies at each facility, such as structural and utility condition, health/environmental concerns, available interior space, parking sufficiency, locational appropriateness.
6. Examine whether each of the existing facilities can reasonably be altered to accommodate existing and future needs.
7. Examine whether alternative locations or configurations for each of these municipal functions would allow for better provision of service to the community. This task should include service area analysis and examination of the potential for combined service facilities.
8. Provide an estimate/range of total project cost for each alternative scenario examined, to include hard and soft costs, financing, site preparation, demolition, etc.
9. Recommend the best course of action for the Town to pursue for each municipal Department.

10. Based on input from the Town, provide additional examination, recommendations and detail work on site development alternatives.

B. Evaluation and Reporting

Vendor will prepare eight (8) copies of the written report, with one (1) complete electronic copy, at the conclusion of the assessment as described above that include:

1. A general description of each property and improvements and comment generally on the observed functionality.
2. A schedule for recommended upgrades, additions, and/or replacements.
3. A ten-year capital plan (Evaluation Term) with an Executive Summary with graphic presentation of results to provide a quick, “user-friendly” summary of the property’s observed functionality now and moving forward.

C. Summary

This assessment must provide a comprehensive evaluation on the buildings functionality, so it can be used to make informed facility management decisions.

VI. Work Requirements

A. Work Schedule

All work shall be completed during normal working hours (Monday to Friday, 7 am to 5 pm depending on building) unless approved otherwise by the Town. The Selected Vendor shall request approval from the Town to work outside of the prescribed work hours (including weekends and holidays) at least 24-hours in advance. To the extent practical, the selected Vendor shall schedule work such that it least interferes with the building operations and occupants.

B. Worker Conduct

The following criteria must be adhered to by the Vendor:

1. Drug-free workplace; no alcohol or controlled substances are permitted on the grounds (unless the user provides proof of physician prescription)
2. No Tobacco use including chew, snuff and any smoking product anywhere on school grounds
3. American Disabilities Act (ADA) compliance
4. Hazardous waste management compliance
5. Trash disposal to be in proper recycling bins or waste receptacles
6. No Firearms on premises
7. No cursing or use of foul language
8. No harassment of any kind toward staff or visitors

C. Care of Work Site

Selected Vendor shall take care to prevent damage to the existing building systems, equipment, and finishes. Any damage to such shall be repaired by the Selected Vendor to the approval of the Town's Agent. Work site shall be kept clean and free of all debris, waste materials and trash. Tools, equipment, and materials shall be kept clear of all points of egress and access (doors, windows, sidewalks, driveways). Materials shall only be stored in locations approved by the Town. All driveways used for emergency vehicle access shall be kept clear of vehicles and equipment.

VII. Invoicing & Payments Terms

Town will remit payment to the Selected Vendor on the following schedule:

- One third (1/3) of the contract price at time of contract execution
- One third (1/3) of the contract price at time of delivery of draft report
- One third (1/3) of the contract price at time of Town acceptance of final report

VIII. Insurance Requirements and Bond

- A. Selected Vendor is required to provide proof of adequate property and liability insurance as well as workers compensation insurance for employees per the following Indemnity Provisions:

The Selected Vendor agrees that it will carry any and all insurance which will protect it, the Town and their agents and employees from any and all claims and demands, costs, loss of service or consortium, expenses, compensation and attorneys' fees including but not limited to any and all claims for personal injury and/or death, workers' compensation injuries, and property damages which may, in any way, arise from or out of the operations of the Selected Vendor pursuant to the terms of the Contract whether such operations be performed by the Selected Vendor itself, anyone directly or indirectly employed by it or any other persons or company retained in any way to carry on all or portion of the operation necessary to abide by the terms of the Contract. The Selected Vendor further agrees that the Town and its agents and employees shall be named as an additional insured in any and all such insurance policies required by virtue of this Bid.

- B. The Selected Vendor will carry a minimum of one million dollars (\$1,000,000) liability insurance coverage. The Selected Vendor will furnish to the Town a Certificate of Insurance prior to executing a formal Agreement. The Town and its agents and employees shall be named as an additional insured on the liability insurance coverage.
- C. The Selected Vendor further agrees to the fullest extent permitted by law, that they shall indemnify and hold harmless the Town and its agents, servants and employees from and against all claims, damages, losses, demands, actions and causes of action, costs, loss of service or consortium, expenses and compensation, including but not limited to attorneys' fees, on account of or in any way growing out of or resulting from the performance of the work or the operations of the Selected Vendor or its agents, servants and employees pursuant to the terms of this contract regardless of whether or not the damage or harm complained of is caused in whole or in part by the negligence of a party to be indemnified hereunder. This obligation should not be

construed to negate, abridge or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist to any party or person described in the paragraph. The indemnification obligation of the Selected Vendor under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Selected Vendor under Workers' Compensation Acts, disability acts or other employee benefit acts.

- D. The Selected Vendor shall furnish a performance bond and a labor and materials payment bond for 100% of the contract amount through a surety licensed to do business in the state of New Hampshire reasonably acceptable to the Owner. The Town reserves the right to waive this requirement.

IX. Response Requirements

To be considered, a completed proposal, both printed and electronic copies, must be submitted on time, and must respond to each of the following items listed in this section. The proposal shall be limited to 25 pages (excluding covers and blank dividers and appendices) and a text font of 10-point or 12-point. Proposals should be succinct and well-organized. Maps, resumes, and professional references accompanying proposals as attached appendices will not be counted as part of the maximum 25-page limit.

At minimum, the proposal shall have the following sections and information:

- A. Cover Letter: Provide a statement of ability to complete the project given current workload, cite any conflicts of interest, and a 60-day guarantee on proposal terms.
- B. Consultant Qualifications: Provide an overview of qualifications for the consultant team including but not limited to type of firm and relevant project experience.
- C. Project Team: Provide a list of key individuals and staff assigned to this project describing their role and brief description of relevant experience. Include an organizational chart illustrating key personnel, their project assignments and management flow.
- D. Approach: Describe how the consultant team will complete the scope of work including a detailed schedule. The visioning process must include interaction with Town staff. Those submitting proposals are encouraged to suggest revisions to the Scope of Work of this RFQ if it is felt the final project could be improved. All suggested changes should be supported with a brief written explanation.
- E. Cost Proposal: Provide a not-to-exceed cost proposal for all work described under the Scope of Work broken down by project component and in both primary and secondary locations. This should include a detailed breakdown of consultant hours per task, hourly rates for all team members (including clerical), budget allocations for each firm, and direct expenses. Consultants are encouraged to submit suggestions for cost savings and other ways of promoting cost-efficiency and to highlight any tradeoffs inherent in the suggested alternatives. Pricing should

include a breakdown for primary and secondary buildings listed in this document. Proposers should retain a detailed breakdown, by building, of all costs included in the grand total proposed.

- F. Appendices (not part of 25-page limit): Resumes of key consultant staff members and firm references from at least three similar projects including community visioning and/or comprehensive master planning. The reference list should include the name, address, telephone number, title of project, and description of the work performed.
- G. Proposal Form completed which is included at the end of this document.

Completed proposals should be addressed to the Town of Newport, 15 Sunapee Street, Newport, NH 03773 and one (1) electronic copy of the complete proposal to Paul Brown, Finance Director at finance@newportnh.net with the subject Buildings Assessment by 5:00pm on September 2, 2016. Late submittals will not be accepted. Proposals shall be considered confidential until after an award of this project and after such time, they will be considered public information.

The Town reserves the right to request additional information following a review of the initial submission. The Town may retain other consultants to assist in the review of any aspects of the proposals.

X. Evaluation and Award

Following receipt and review of proposals by the Town, selected firm(s) may be invited to an on-site interview to make presentations of the proposed solutions. Those directly responsible for the implementation of this project must attend. The decision to interview respondents will be at the sole discretion of Town staff based on the evaluation of each proposal. In order to be considered, a proposal shall comply with the requirements set for in this RFQ document.

The following minimum criteria will be used to evaluate proposals received:

- A. Vendor knowledge, expertise and experience in the planning, project management and execution of the services required.
- B. Capability of proposed plan to meet Town requirements.
- C. Completeness and quality of proposal.
- D. Quality of references received.
- E. Cost of services to be provided.

The Town may conduct interviews of some, all, or none of the firms submitting proposals. The Town reserves the right to waive technical irregularities in submissions or to reject any or all proposals if to do so is in the best interest of the Town. The Town may also choose to award all or any combination of project components if it's in the best interest of the Town to do so.

A recommendation of a Vendor will be made to the Board of Selectmen of the Town, which has the final authority with respect to the acceptance or rejection of the recommendation.

The successful Vendor will be required to execute a professional services agreement with the Town, a draft copy of which is attached hereto.

XI. Other Requirements

The successful proposer shall be required to attend various meetings with Town staff to include:

- A. Initial meeting(s) with facilities staff at project commencement.
- B. Meeting(s) with staff to present draft and final Building Assessment.
- C. Presentation(s) of the final Report to Newport Board of Selectmen.

ALTERNATE 1 –

- A. Initial meeting(s) with facilities staff at project commencement.
- B. Meeting(s) with staff to present draft and final Building Assessment.
- C. Presentation(s) of the final Report to Newport School Board.

TOWN OF NEWPORT
BUILDINGS ASSESSMENT PROJECT
PROPOSAL SUBMISSION FORM

The following should be printed on Vendor Letterhead and signed by the appropriate Vendor representative.

The undersigned, as a lawfully authorized agent for the below named Vendor, has carefully examined the Proposal Form of this RFP with the General Provisions, Specifications and other Documents and binds himself/herself and his/her company on award to them to furnish and deliver in accordance with the Town of Newport RFP Documents said service agreement(s).

The undersigned, an authorized agent of his/her company, hereby certifies:

- () familiarization with all terms, conditions, and specifications herein;
- () vendor is qualified to perform work and services as included;
- () That the pricing contained in this submittal is valid for 60 days.

PHASE I

Estimated availability to commence project:

Estimated time to provide Draft Report:

Estimated time to complete entire project:

Buildings Condition Assessment Cost:

Buildings Condition Assessment - **Alternate 1** Cost:

PHASE II

Estimated availability to commence project:

Estimated time to provide Draft Report:

Estimated time to complete entire project:

Buildings Functionality Assessment Cost:
(done in conjunction with Phase I)

Buildings Functionality Assessment Cost:
(done separately from Phase I)

Exceptions and / or clarifications:

Person signing proposal must be a person in your company authorized to sign a contract with the Town.

Respectfully submitted _____
Please print Vendor Name Date

Print Representative's name and title Signature

Street Telephone and Fax Number

State and Zip Code E-Mail Address

PROFESSIONAL SERVICES AGREEMENT

AGREEMENT made this _____ day of _____, 20____ by and between the Town of Newport (hereinafter called the “Town”) and [name of consultant], whose mailing address is [address] (hereinafter called “Consultant”).

The Town and Consultant, in consideration of the mutual undertakings hereinafter set forth, agree as follows:

1. The Project:

The Town requires the services of a professional [field] firm for the purpose of [the goal of the project] (hereinafter called “Project”). Consultant shall, for the agreed amount of fees, furnish all services and materials required to perform the tasks described in the Scope of Services (hereinafter “Work”), and shall complete said Project to the satisfaction of the Town, according to the terms of this Agreement.

2. Agreement Documents (“Agreement”):

This Agreement shall consist of the following documents:

- A. This Professional Services Agreement (“PSA”);
- B. The Request for Proposal(s) issued by the Town;
- C. Consultant’s Proposal and Scope of Services that contain a specific description of the Project, how the Project will be completed, identification of personnel furnishing the services, a schedule for completion of the Project and a fee schedule;
- D. One or more certificates of insurance as required herein; and
- E. The Notice of Award.

In the event of a conflict between other documents in the Agreement and this PSA, this PSA will control. However, in the event there is a conflict between other documents that are part of the Agreement (excluding this PSA), the Town reserves the right to clarify any contractual issue in writing with the concurrence of Consultant, and such written clarification shall govern that contractual issue in case of conflict.

3. Time for Performance:

Consultant shall commence the Work after this PSA is signed, after producing Certificates of Insurance to the Town as required below, and after written authorization from the Town to proceed. Consultant shall complete the Work in compliance with this Agreement and as described in the Scope of Services. Consultant shall not be responsible for failure to perform or delays in the performance of services which arise out of causes beyond the control and/or without the fault or negligence of Consultant.

4. Insurance:

Consultant shall, at its sole expense, obtain and maintain the following types of insurance,

with an insurance company licensed to do business in the State of New Hampshire with a financial rating of A- or better in “Best’s Insurance Guide”, and for the following minimum amounts:

Limits

- | | |
|-------------------------------------|---|
| A. Workers’ Compensation | Per New Hampshire Statute |
| B. Employer’s Liability Insurance | \$1,000,000 |
| C. Comprehensive General Liability* | \$1,000,000 per occurrence/
\$2,000,000 in the aggregate |

Comprehensive General Liability Insurance shall include coverage for all claims of personal injury, bodily injury, sickness, disease, or death (including coverage for acts of Consultant’s officials and employees), and broad form property damage (including loss of use resulting therefrom) and for completed operations.

- | | |
|--|---|
| D. Comprehensive Automobile Liability* | |
| Bodily Injury | \$1,000,000 per occurrence/ |
| Property Damage | \$2,000,000 in the aggregate |
| E. *Comprehensive Liability | \$5,000,000 in the aggregate |
| Umbrella Coverage | |
| F. Professional Liability | \$5,000,000 per occurrence/
\$5,000,000 in the aggregate |

Prior to the start of Work, Consultant shall provide Certificates of Insurance to the Town showing policy coverage of all of the above types of insurance with the coverage and limits as indicated above and, thereafter, on an annual basis for the duration of this Agreement and also at the termination of the Agreement, as evidence that policies providing the required coverage, conditions and limits are in full force and effect for the required period of time. Such Certificates shall identify this Agreement and contain provisions that coverage will not be cancelled or materially altered until at least thirty (30) days prior written notice has been given to the Town.

With respect to Professional Liability insurance listed above, Consultant shall ensure continuous coverage for no less than three (3) years subsequent to the date final payment is received from the Town after completion of the Agreement or its earlier termination under Sections 9 or 10; however, in the event the Project involves any improvements to real property, Consultant shall instead ensure continuous coverage for no less than eight (8) years after the Project has reached substantial completion as determined by when the Project may be utilized by the Town for the purposes intended, including completion of all phases of the Project. If Consultant should cease to carry Professional Liability insurance required above for any reason, it shall obtain “tail” or extended coverage at the same limits for a period of time not less than stated in the preceding sentence.

The Town, to include its officers, agents and employees, shall be named as an additional insured on all insurance required under this Agreement except for Professional Liability and Workers’

Compensation.

In the event Consultant retains any subconsultant or other personnel to perform the services required herein or to carry out any activities under or incident to work on any phase of this Project, Consultant agrees to obtain from said subconsultant or other personnel certificates of insurance demonstrating that said subconsultant or other personnel has all of the above coverage, or Consultant agrees to include said subconsultant or other personnel within Consultant's coverage for the duration of the Project.

5. Modifications/Entire Agreement: Changes to the Scope of Services requiring a change to the fees, schedule or total amount due under Section 6 below will, upon mutual agreement, be executed by a Change Order. Minor clarifications to the Scope of Services that do not involve changes in fees, changes to this PSA, extensions of time or changes to the goals or objectives of this Agreement may be made by written notice of the change by either the Town or Consultant, effective upon signed acceptance of the other party.

Oral agreements or conversations with Town officials, employees or agents, either before or after execution of this Agreement, shall not affect or modify any of the terms or obligations contained in this Agreement. All modifications to this Agreement, amendments or addenda hereto, must be in writing and signed by authorized representatives of the parties.

6. Payment: The Town shall pay Consultant a total of \$_____ as provided in Consultant's Proposal or as negotiated and agreed herein. All invoices shall include a description or narrative outline of the Work performed to date and the amount of time spent on the Work performed with reference to the Scope of Services and the agreed-upon schedule.

The invoices are due in duplicate and payments will be made, if the Town is satisfied with the Work performed, within 30 days of receipt of the invoice. Invoices are to be based on the actual dollar value of the services completed.

Consultant shall clearly indicate on its final payment request under the Agreement that the invoice is "FINAL". All "FINAL" invoices shall pay any retainage withheld under the Agreement. However, in no event shall the total of all payments authorized, or actually made hereunder, exceed the above contract price, unless a modification has been made to the Scope of Services whereby the parties agree to a higher fee. Consultant agrees that acceptance of the final payment shall be in full and final settlement of all claims for payment arising against the Town under this Agreement and shall release the Town from any and all further claims for payment, whether known or unknown, for and on account of this Agreement, including payment for all Work performed, and labor and materials furnished in connection with the same. In the event of termination of this Agreement before satisfactory completion of the Project, Consultant shall submit its "FINAL" invoice no later than 45 days following termination of the Agreement.

Consultant acknowledges that the Town is a municipal corporation subject to the laws of the State of New Hampshire, and further acknowledges and agrees that the Agreement, and the appropriation of funds to pay for it, is subject to the approval of the Town's annual budget by the Newport Town Meeting.

7. Standard of Care: The standard of care applicable to Consultant's services will be the

degree of skill and diligence normally employed by professionals in [Consultant's field] or consultants performing the same or similar services. Consultant will re-perform any services not meeting this standard without additional compensation.

8. Ownership of Documents: Upon full payment therefor, all data, including research and information gathered, project analyses, data and materials, as well as reports, plans, drawings and specifications prepared or furnished by Consultant for the Project under this Agreement, together with all materials and data furnished to Consultant by the Town under the provisions of the Agreement, shall be the property of the Town. The Town shall not be limited in any way in its use thereof at any time. If Consultant shall desire later to use any of the data prepared by Consultant in connection with this Project, Consultant shall first obtain the written approval of the Town. Consultant does not warrant or represent that any such plans or specifications are suitable for use on any project other than this Project, and any such reuse without such specific written authorization by Consultant will be at the sole risk of the Town, and the Town shall indemnify and hold harmless Consultant from all claims, losses and expenses arising out of any unauthorized re-use of said plans and specifications.

Authorized representatives of the Town may, at any reasonable time, review and inspect the services being performed under this Agreement and any addenda or amendments hereto. Consultant shall correct, at its sole expense, any errors and/or omissions in the final version of the Work.

9. Termination by Default: In the event Consultant shall fail to perform as required under this Agreement, the Town shall give notice to Consultant in writing describing the default, the action to cure the default and the time within which the default is to be cured. If Consultant does not cure the default within the time prescribed by the Town, the Town shall have the right to terminate this Agreement by giving written notice to Consultant of the termination and specifying the effective date. In the event of the termination, all finished or unfinished documents, data, programs and reports prepared by Consultant shall be produced to the Town, as set forth in Section 8 above. If the Agreement is terminated by the Town, Consultant will be paid an amount which bears the same ratio to the total compensation specified in the Agreement as the satisfactory services rendered to the date of termination bear to the total services required by the Agreement, less payments previously made by the Town.

10. Termination for Convenience: Either party may terminate the Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents and materials as described in Section 8 above shall be produced to the Town. If the agreement is terminated as provided herein, Consultant will be paid an amount which bears the same ratio to the total compensation specified in the contract as the services rendered to the date of termination bear to the total services required by the contract, less payments previously made by the Town.

11. Compliance with Applicable Law/Controlling Law: Consultant agrees to comply with all applicable federal, state and local laws, rules and regulations in connection with the performance of Consultant's obligations under this Agreement. This Agreement shall be governed by, and construed under, the laws of the State of New Hampshire.

12. Indemnification: Consultant shall fully indemnify, defend (with counsel acceptable

to the Town), hold harmless and reimburse (collectively “indemnify” and “indemnification”) the Town and its employees, officers, representatives and agents (collectively “Indemnified Party”) from and against any and all claims, demands, actions, suits, damages, losses (including without limitation, loss of use), settlements, judgments, liabilities, obligations, penalties or fines, defenses, proceedings, cost disbursements or expenses of any kind or nature whatsoever, including without limitation, reasonable attorneys’ and experts’ fees, investigative and discovery costs and court costs at all levels, which may at any time be imposed upon, incurred by, asserted against, or awarded against the Town, arising out of or resulting from a) any negligent acts or omissions of Consultant related to its performance under this Agreement or b) any breach or default by Consultant related to its performance under this Agreement. Without limiting the foregoing, any and all claims relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright (or application for any thereof), or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnification hereunder. In the event Consultant is requested but refuses to honor the indemnification obligations hereunder, Consultant shall, in addition to all other obligations, pay to the Town the cost of bringing any action at law or in equity, including but not limited to reasonable attorneys’ fees, to enforce this indemnity, but only to the extent that it is expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution, that Consultant was responsible for honoring the indemnification obligation. This obligation to indemnify as provided herein shall survive the termination or expiration of this Agreement, and said obligation of indemnification shall not be limited or diminished by the presence or absence of insurance required hereunder, or otherwise. Notwithstanding the foregoing, nothing herein shall be deemed to constitute a waiver of any immunities of the Town, which immunities are hereby reserved to the Town.

13. Dispute Resolution: Any controversy arising out of or relating to this Agreement or the breach hereof shall be resolved in the following manner:

First, the parties will attempt to resolve such disputes through direct negotiations between appropriate representatives of each party. Second, if such negotiations are not fully successful, the parties will attempt to resolve any remaining dispute by formal non-binding mediation conducted in accordance with rules and procedures to be agreed upon by the mediator and parties. Third, if any controversy arising out of or relating to this Agreement remains unresolved after the above steps, it may be resolved by arbitration or by a judicial process at the Sullivan County Superior Court. If the parties choose arbitration by mutual agreement, they shall define and agree on the scope of the disputed issue in writing and then select an arbitrator. In the event the parties are unable to agree on the issue and scope of dispute prior to submission to arbitration, the dispute will be resolved in court.

If there is agreement to proceed with arbitration, the arbitrator shall adopt appropriate arbitration rules similar to the American Arbitration Association or any other arbitration procedure. The place of arbitration shall be in Newport, New Hampshire. The parties shall provide copies of all relevant documents as part of the filing and be entitled to additional reasonable discovery. The arbitration hearing shall be held within thirty (30) days after the notice of arbitration is delivered by one party to the other party, unless otherwise agreed. In the event the parties are unable to agree on an arbitrator, application for appointment of an arbitrator can be made to the Sullivan County Superior Court under RSA Chapter 542. The arbitrator shall have the power to interpret any provision of the Agreement contained herein but not the power to amend, reform or revise the Agreement. Any errors

of law in any award of an arbitrator shall be reviewable in an appeal to the Sullivan County Superior Court as if brought there in the first instance, in addition to those issues reviewable under RSA Chapter 542.

14. Notices: Any and all notices, demands, or communications required to be given hereunder shall be in writing and sent by first class mail, or hand-delivered, with an additional copy by fax or e-mail as follows:

A. If to the Town, addressed to:

Town Manager Town of Newport 15 Sunapee Street Newport, NH 03773 603-863-1877 (Phone) 603-863-8008 (Fax)	[Department Manager] [Department] [Street Address] Newport, NH 03773 603-448- (Phone) 603-448- (Fax)
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B. If intended for Consultant, addressed to:

15. Authorization: Both parties hereto represent that they have authority to enter into this Agreement and that the individuals executing this Agreement are authorized to execute it and bind their respective parties.

DATED this _____ day of _____, 20_____.

TOWN OF NEWPORT

By: _____
Shane O'Keefe, Town Manager

[CONSULTANT]

By: _____

Title: _____