

Request for Proposal

Project Name:

Fire Protection System Upgrades

Project Location:

Plaistow Public Library
85 Main Street
Plaistow, NH 03865

Prepared by:

JS Consulting Engineers
224 Main Street, Suite 2C
Salem, NH 03079

Date:

November 6, 2017

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1.0 Preface and Introduction:

Plaistow Public Library (herein referred to as "Library" or "Owner") is seeking qualified fire protection contractors (herein referred to as "the Contractor") to provide proposals for upgrading the Library's automatic dry pipe sprinkler system in accordance with all applicable codes and standards. The purpose of this project is to enhance life-safety conditions for the building's occupants while complying with the latest Fire Codes.

Qualified firms will have experience in the installation and maintenance of fire protection systems (FPS), project management, and construction coordination. If not available from their in-house staffing, the qualified contractor will have a network of highly qualified subcontractors who can be called upon to provide services as needed. Project management and coordination is critical to the success of this project. A detailed schedule will be required and will be approved by the Library before the start of the project.

The building will remain occupied for the duration of the project. Any possible disruptions to the Library's normal business operations will require advance notification. Access to the building will be Monday - Friday from 6 AM to 7:30 PM unless otherwise agreed to.

The Library will not pay or reimburse any costs incurred in the preparation, printing or presentation of proposals. This Request for Proposal does not create any contractual relationship between the Library and any party.

The RFP, including the Specifications, Drawings and Library requirements, may be obtained online at <http://www.plaistowlibrary.com/workwithus.asp>, or at the Plaistow Public Library, 85 Main St., Plaistow, NH 03865.

Mandatory Pre-Bid Meeting & Tour:	TBD
Submission Deadline:	Thursday, December 7 at 5 p.m.
Contact Person:	Cab Vinton, Library Director 85 Main St., Plaistow, NH 03865 Phone: 603-382-6011

2.0 Schedule of Events

The schedule for the Request for Proposal is as follows:

Request for Proposal Issued	November 6, 2017
Site & Scope Walk Through	TBD
Deadline for Submission of Questions	November 29, 2017 at 5 p.m.
Addenda Released to All Contractors	December 1, 2017
Proposal Submission Due	December 7, 2017 at 5 p.m.
Communication/ Clarification Period II, including oral presentations if deemed necessary	TBD
Award Notification Date	TBD
Start of Construction	TBD
Construction Complete	TBD

3.0 Facility Description

The Library is a two story, 14,000 sf building consisting of open library space, offices, conference rooms, and an employee break room. The drawings and notes accompanying this specification identify the area of this project and additional information that will facilitate the system installation.

4.0 Scope of Work

4.1 Requested services and alternates, including design criteria and applicable codes and standards, are provided herein and in the attached Project Engineer's documents (John Schoenrock, P.E., JS Consulting Engineers): Drawings and Technical Specifications.

4.2 Items to be addressed in the contractor's response:

1. A list of information and assistance needed from the Library;
2. Itemized project budget, including for Alternates; see Fee Structure, 8.0, and Appendix B;
3. Estimated timeline for work to be completed, including specific milestones;
4. Anticipated impacts of the project on the building's existing fire protection system.

4.3 Minimum Required Pre-Construction Services

1. Scope review
2. Review of existing conditions and of construction documents furnished by Library
3. Field verification and investigation to determine existing conditions
4. Proposed solution, including equipment submittals
5. Once the proposal is approved by Library a set of construction documents shall be submitted for review and permitting. No work shall start until permit is in hand

and posted, or notification that one is not needed by the appropriate municipal authorities

6. A proposed implementation schedule agreed upon by the contractor and Library

4.4 **Construction Services**

1. Administration of construction: Contractor shall assign a single Project Manager for the entire duration of the project.
2. Written weekly project progress reports reviewed during each weekly project meeting.
3. Demolition & clean-up
 - On a daily basis the work done should be only those areas scheduled so as not to interrupt occupants, leaving the space protected and safe each day.
 - Off-site disposal of all construction debris and obsoleted materials not wanted by Library. Hazardous wastes shall be disposed of in conformance with all State, Federal and municipal rules and regulations.
 - The contractor shall clean-up the site after each day of work, and shall maintain a clean, orderly site during working hours to minimize disruption to Library staff and users.
4. Support for functional performance testing, under the supervision of the Project Engineer and Town of Plaistow Fire Chief. The following shall be included as part of this support:
 - Field personnel with specific knowledge of upgraded FPS to allow testing of systems
 - Support of re-testing for previously failed tests until the systems are approved and accepted in accordance with applicable state codes and NFPA requirements
 - Timely correction of issues identified in the Engineer's commissioning issues log
5. Demonstration of fully functional FPS and owner training with respect to the operation and maintenance requirements of all equipment being installed.

4.5 **Project Closeout**

1. As-Built Drawings
 - Provide complete as-built drawings.
 - All editable electronic drawings (Microsoft Word, Excel, Visio, and AutoCAD) associated with the project shall be transmitted to the Library as an electronic archive of the project.
2. Punch Lists/Retro-Commissioning Issues Log: Contractor shall create, monitor, and complete all punch list items for review and approval by Library before final payment.
3. Permits: Reconcile and close all required permits.
4. O&M Manuals
 - Provide (2) hard copies and (1) electronic copy of all O&M manuals, literature, and documents for all products installed.
 - Provide documents describing recommended preventative maintenance methods, procedures and schedules.

- Provide all Guarantee & Warrantee information.
5. Final Clean-Up
- Restore all work areas to their original or better conditions.
 - Replace or repair to Library's satisfaction any building components, infrastructure and/or systems damaged during the work.

4.6 Scope Changes

- 4.6.1 **Elimination / Reduction of Scope:** Library reserves the right to remove from the project scope any portion or portions of this project at will. The Contractor shall respond with fair and reasonable project cost reductions.
- 4.6.2 **Additional Services / Increase of Scope:** In the event that additional services are required, the contractor shall prepare a written estimate based on knowledge of the specific request at hand. The Contractor shall also provide a "not to exceed" amount. Contractor shall not commence work for any additional services, where compensation is required, prior to receipt of the Library's written approval of Contractor's written estimate for additional services. Library shall not be responsible for fees or invoices accrued on un-approved additional services.

4.7 Scheduling/Coordination

- 4.7.1 Plans for noisy work or work which will otherwise disrupt normal Library operations shall be reviewed at weekly project meetings and approved by Library before such work is begun. Work the Library deems to be excessively disruptive shall occur outside normal Library hours.
- 4.7.2 Contractor shall coordinate with and gain prior approval from the Library's designated representative for utility, safety and equipment shutdowns.
- 4.7.3 Any work scheduled for off-hours is to be scheduled minimum (7) days in advance with Library approval.

5.0 Qualifications & References

- 5.1 **References:** Contractor shall submit references, list of clients and list of similar projects completed within the past four years, along with contact names, addresses, and telephone numbers that may be pertinent for each listing. Use Appendix A for this purpose.
- 5.2 **Company Profile:** Contractor shall provide a list of key personnel and persons who will implement the key services identified in this RFP. Use Appendix A for this purpose.
- 5.3 **Financial Qualifications:** Financial statements are not expected as part of contractors' proposal packages. However, prior to selection, the Library may require credit reports and/or letters from bank and suppliers. Any financial statements delivered are considered confidential by the Library and will be destroyed when they are no longer needed.

7.0 Subcontracting

- 7.1 **References:** Subcontractors to the Contractor for this project shall be identified at the time of the original proposal (see Appendix A). Library may request references and/or qualifications for certain subcontractors and reserves the right to reject any subcontractor.

8.0 Tour of Project

- 8.1 **Mandatory Site Visit:** Contractor is required to visit and view the building and existing conditions at the specified time and date listed here. A representative from Library is required and will act as a guide. No site visits are allowed without prior notification. **The site walk-through will be held for all contractors at a date to be determined.** Attendance at the conference will be evidenced by the representative's signature on the attendance roster. Contractors may schedule additional site visits at their discretion.
- 8.2 **Oral Representations:** The Library will make a written note of all inquiries and points of contention raised by the prospective contractors. Clarification may be provided so long as the scope of services requested is not materially altered. All material clarifications or change of any provision or specification of the RFP shall be made only in writing as an Addendum, provided in accordance with the terms of Section 10.0 below. No other oral representation made during the tour shall be binding on the Library.

9.0 Fee Structure

- 9.1 **Disclosure of Unit Prices:** Please provide a structured chart illustrating the key rates of your unit prices (see Appendix C).
- 9.2 **Fee Structure**
- 9.2.1 **Contract Sum:** The Contract Sum for these Construction Services shall be based on a **lump sum**. Respondents will assume responsibility for all costs not stated in their proposals.
- 9.2.2 **Additional Services / Scope Changes;** In the event that Additional Services are required, the contractor should set forth the manner and rates upon which such Additional Services would be billed. Refer to Section 8.1, Disclosure of Unit Prices.
- 9.2.3 **Reimbursables;** Expenses incurred by the contractor in conjunction with this project should be included as part of the general conditions and be part of the lump sum contract.
- 9.3 **Proposal Breakdown:** Plaistow Public Library requires that the lump sum services be separated in your response by section. Please indicate how much of your total lump sum bid is related to each section of this project, as follows (Appendix B):
- FPS upgrades, including materials, labor and owner training
 - Pricing for alternates

11.0 Owner-Supplied Information:

- 11.1 **Original Mechanical Design Drawings:** Library will make available to the Contractor, upon request, original design drawings and other available information relative to the existing site for the purpose of integration and coordination. All documents will be provided "For Information Use Only". Library has not determined the accuracy or completeness of such information, and all such information is made available without any representation or warranty whatsoever as to its accuracy, completeness or relevancy. Any and all such information shall be field verified by the Contractor.

12.0 Communication / Clarifications

- 12.1 **Communication:** After receipt of all proposals and prior to selection, the Library may initiate discussions with one or more contractors should clarification be necessary or to ensure that proposals are fully compliant with the requirements of the RFP. Contractors may submit cost modifications based on any ensuing adjustments to their proposal.
- 12.2 **Meaning of RFP:** Any Contractor in doubt as to the true meaning of any part of the RFP, or finding any discrepancies or omissions, shall request interpretation or corrections from the Library on or before November 29, 2017 at 5:00 p.m.
- 12.3 **Form of Questions:** All questions concerning this RFP, including the appendices attached, should be emailed to Cab Vinton at director@plaistowlibrary.com. In order to maintain consistency of information and response, no other person will receive or respond to questions. Each request must provide clear reference to the section, item and page(s) in question.
- 12.4 **Library Response:** The Library will provide an official written answer to all questions received by November 29, 2017 at 5 p.m. Answers will be posted as RFP Addenda to the Library's website, [http://www.plaistowlibrary.com/workwithus.asp/](http://www.plaistowlibrary.com/workwithus.asp) and copied to the email address of record (Appendix A) for each Contractor, no later than December 1, 2017 at 5:00 p.m. Any other form of interpretation, correction, or change to this RFP will not be binding.
- 12.5 **Addenda Incorporation:** All such Addenda are incorporated by reference in this RFP, and Contractors are responsible for being familiar with their contents in drafting a response to this RFP.
- 12.6 **Time Extension:** The Library may at its sole discretion extend the deadline for Proposal submission following the release of an Addendum.
- 12.7 **Understanding of Specifications and Requirements:** By submitting a response to this RFP, Contractor agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

13.0 Proposal Submission

- 13.1 **Submission:** Please provide **two (2)** printed copies of proposal for review by Library, and **one (1)** electronic copy via email, signed and dated by a duly authorized officer of the company.
- 13.2 **Date of Submission:** Proposals are due at Library Director's Office **no later than December 7, 2017 at 5 p.m.** Consideration of late proposals will be at Library's discretion.

- 13.3 **Owner's Contact Information:** Completed duplicate RFP proposals shall be delivered to the attention of:

Plaistow Public Library
Attn: Mr. Cab Vinton, Director
85 Main Street
Plaistow, NH 03865
Email: director@plaistowlibrary.com
Phone: (603) 382-6011

14.0 Selection Process

- 14.1 **Selection Criteria:** The project award shall be based upon the Library's review of the responses to this Request for Proposal on the basis of the following:
- Alignment of proposal with RFP requirements and objectives
 - Compatibility of proposed technology with library's existing infrastructure
 - Initial cost
 - Long-term viability and cost-effectiveness of proposed technology
 - Ability to complete proposed work quickly and safely to a high standard
 - References/ experience in design and construction of similar projects
 - Professional expertise including accreditation, licensing, membership in appropriate professional associations, or other qualifications and experience
 - Business relationship with manufacturer
 - Post-construction service and technical support capabilities
 - Financial stability and strength of the submitting firm
 - Insurance provided
- 14.2 **Right of Refusal:** Library reserves the right to reject any and all proposals, including the lowest price proposal, if that is deemed to be in the Library's best interests.

15.0 Contracts

- 15.1 **Contract(s):** Upon award, it is expected that the winning contractor will execute a written agreement for the services to be provided utilizing a standard type industry form of agreement. The contract shall be based on the services described in this RFP and referencing the winning contractor's response to this RFP. All work shall be performed pursuant to the terms and conditions of the contract.
- 15.2 **Negotiation of Contract:** Library reserves the right to negotiate with one or more Contractors for a contract upon terms deemed most advantageous to the Library.
- 15.3 **Standard Terms and Conditions:** Appendix D contains provisions typically included in the Library's construction agreements. The signed agreement must include these provisions, or their substantial equivalents. Language may be altered by mutual agreement and subject to the approval of the Town's general counsel.

APPENDIX A

QUALIFICATIONS & REFERENCES

Qualification: Contractor must have the capability and capacity in all respects to satisfy fully all of the Project requirements.

1. Business Name:

CEO/ Owner:

Address:

Telephone Number:

2. Project Manager:

Email Address:

Telephone:

Cell Number:

3. Number of Full-Time Employees:

4. Year Organized:

Length of time CEO/ Owner has been in business providing this type of service:

5. Firm History: If formerly in business under another name, supply details.

6. Firm Expertise: List the categories of work your firm performs with its own forces:

7. Key Personnel: Attach a list of key personnel involved with this project, including applicable licenses.

8. Subcontractors: Attach a list of subcontractors for this project, including firm name, town, contact person, and type of work to be performed.

9. Similar Work: Attach a list of projects most similar to this one completed within the past four (4) years, including for each the firm name, contact person, phone number, project description, completion date, and contract amount.

10. Legal History: Has this firm ever defaulted on a contract or been debarred by any public agency (municipal, county, state or federal)?

11. Client Relations: Identify any pending or completed litigation, arbitration or mediation with any client within the past five (5) years.

List any project(s) under contract this firm has failed to complete within the past five (5) years, with a description of the circumstances.

Authorized signature: _____

Title: _____

Printed Name: _____

Date: _____

APPENDIX B - COST PROPOSAL

Lump Sum Pricing for Installation of FPS Project & Alternates, as applicable

NITROGEN GENERATOR ~ VIKING OR OTHER (ALT. #2)	ITEM	AMOUNT
	Parts/ Materials	
	Labor/ Installation	
	Other (attach description)	
	Total – FPS Upgrade	

ALT. PROPOSAL #1 ~ SCHEDULE 10/ PITCH CORRECTION	ITEM	AMOUNT
	Parts/ Materials	
	Labor/ Installation	
	Other (attach description)	
	Total – Alt. Pricing #1	

ALT. PROPOSAL #3 ~ SYSTEM RISER PIPING	ITEM	AMOUNT
	Parts/ Materials	
	Labor/ Installation	
	Other (attach description)	
	Total – Alt. Pricing #3	

ALT. PROPOSAL #4 ~ INSTALL EXTERIOR ELECTRIC BELL	ITEM	AMOUNT
	Parts/ Materials	
	Labor/ Installation	
	Other (attach description)	
	Total – Alt. Pricing #4	

FPS UPGRADE (TOTAL)	ITEM	AMOUNT
	Parts/ Materials	
	Labor/ Installation	
	Other	
	CONTRACT LUMP SUM AMOUNT	

Authorized signature: _____

Title: _____

Printed Name: _____

Date: _____

APPENDIX C

Unit Prices/ Standard Rate Sheet for Additional Services

Position Title (Firm)	Rate
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

Authorized signature: _____

Title: _____

Printed Name: _____

Date: _____

APPENDIX D

Town of Plaistow Standard Terms & Conditions

The following Terms and Conditions are typical of those found in construction contracts signed by the Town of Plaistow and its agencies. The signed agreement between the Library and the Contractor must include these provisions, or their substantial equivalents. Any specific provision or language may be altered by mutual agreement and subject to the approval of the Town's general counsel.

PROJECT AGREEMENT TERMS AND CONDITIONS

The following terms and conditions are incorporated into and a part of the agreement between the Contractor and the Customer (the "Agreement") and shall become a binding and enforceable agreement against both parties hereto.

TABLE OF ARTICLES

- | | |
|---|-------------------------------------|
| I. General Provisions | VI. Workmanship/ Correction of Work |
| II. Performance & Work Changes | VII. Legal Compliance & Safety |
| III. Working Conditions | VIII. Insurance |
| IV. Substantial Completion/ System Acceptance | IX. Indemnification |
| V. Payment | X. Dispute Resolution/ Termination |

I. GENERAL PROVISIONS

1. These terms and conditions, together with the attached documents, constitutes the entire Agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. It sets forth the terms for the provision of any products or services the Contractor shall provide the Customer, unless and until a written instrument is signed by authorized representatives of the Contractor and Customer agreeing to different terms.
2. The Contractor and Customer, by execution of this Agreement, acknowledge that they have reviewed and understand the Agreement.
3. Each of the parties hereto is an independent the Contractor and neither party is, nor shall be considered to be, an agent, distributor or representative of the other. Neither party shall act or present itself, directly or indirectly, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.
4. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.

5. The Contractor shall not assign this Agreement or payments due under the Agreement, nor further subcontract portions of this Agreement, without the express prior written consent of the Customer.
6. The term "Work" means the construction and services required under this Agreement, and includes all labor, materials, equipment and services provided by the Contractor or his agents to fulfill the Contractor's obligations.
7. Execution of the Agreement by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and reported to the Customer any errors, inconsistencies or omissions in the Agreement documents discovered as a result of the Contractor's field observations.
8. The section headings in this Agreement are inserted for convenience only and shall not be construed to limit or modify the scope of any provision of this Agreement.
9. The parties shall provide to one another their current physical address, mailing address, telephone number, fax number, and other methods of contact. Any written notice by either party to the Agreement shall be sufficiently given if sent by registered mail to the last known business address of the party or its duly authorized representative. The last known business address shall be that location which is last provided in writing.
10. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by these Terms and Conditions and other contract documents insofar as applicable to the work of Subcontractors.
11. 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.

II. PERFORMANCE & WORK CHANGES

1. Work under this Agreement shall commence no later than _____, and shall be completed within one hundred and twenty (120) consecutive calendar days from the date Work begins.
2. All times stated in this Agreement are of the essence to the Agreement. The times stated in this Agreement may be extended by a Change Order for such reasonable time as the Customer may determine.
3. The Contractor shall begin no work until submittals on all equipment and software to be furnished or installed have been approved for conformity with design intent. The Customer shall approve or decline submittals within five (5) business days of receipt.
4. The Contractor shall furnish progress reports on the Work at least weekly, including information on the status of scheduled labor and equipment which may be in the course of delivery or manufacture.

5. Neither the Contractor nor the Customer shall be liable for any delay, loss, damage or detention caused by acts or circumstances beyond its control including, without limitation, unavailability of machinery, equipment or materials, delay of carriers, strikes, including those by the Contractor's employees, lockouts, civil or military authority, priority regulations, insurrection or riot, war, acts of terrorism, action of the elements, forces of nature, or by any cause beyond its control. In the event that either party ceases to perform its obligations under this Agreement due to such an occurrence, the party shall: (a) as soon as practicable notify the other party in writing of the event and its expected duration; (b) take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible. If any such event delays a party's performance for more than thirty (30) calendar days following notice by the delaying party pursuant to this Agreement, the other party may terminate this Agreement immediately upon written notice, in which event the Customer shall pay the Contractor for all portions of the Work satisfactorily performed to the date of termination.
6. In the performance of the Work, if the Contractor encounters concealed or unknown physical conditions at the site that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, the Contractor shall notify the Customer promptly of such conditions prior to significantly disturbing same and the contract sum and time shall be subject to equitable adjustment following written authorization by the Customer to the changes.
7. The Agreement shall specifically exclude repair or replacement of pre-existing parts or equipment outside of the scope found to be defective during the Work.
8. Submittals shall consist of product literature and shop drawings, indicating quantities and specific manufacturer, model, and technical data. Approval of a Submittal by the Customer does not in any way change requirements under the Agreement unless specifically authorized through a subsequent Change Order. No substitutions shall be made in materials specified in an approved Submittal unless approved in a subsequent Change Order.
9. A change in scope of Work shall be accompanied by a corresponding adjustment in completion time and contract cost. Such adjustments shall be as may be mutually agreed upon by the parties. All Work changes shall be authorized by a written Change Order signed by both the Contractor and the Customer before the start of Work. Such Change Orders shall become part of this Agreement.
10. The Work shall at all times be subject to the inspection of the Customer or Customer's Representative. In the event that at any time the latter notifies the Contractor that a portion of the work has been reasonably determined to be improper, defective, or of substandard quality, Contractor shall immediately proceed to remove, dispose of and correct the work solely at Contractor's own cost and expense.

III. WORKING CONDITIONS

1. The Customer shall not give instructions or orders directly to employees or workmen of the Contractor except to persons designated as authorized representatives of the Contractor. All

communications to the Customer, including Change Orders and progress reports, shall be through the Library Director.

2. The Customer shall permit the Contractor free and timely access to areas and equipment, and allow the Contractor to start and stop the equipment as necessary to perform required services. All planned Work under this Agreement will be performed during the Contractor's normal working hours.
3. The Contractor shall cooperate with the Customer in scheduling and performing his Work to avoid conflict or interference with normal business operations or the work of others.
4. Without regard to any other section of the Agreement, the Contractor shall be responsible for the costs to return to "as was" condition from any damage caused to the building, grounds, or other equipment and furnishings caused in whole or part by the Contractor or his agents while performing activities arising under this Agreement. Supplier shall immediately report in writing the occurrence of any damage to the Library Director.
5. The Contractor shall at all times and at no cost to the Customer keep the premises and surrounding area free from accumulation of debris and trash related to the Work.

IV. SUBSTANTIAL COMPLETION / SYSTEM ACCEPTANCE

1. Substantial Completion is the stage when the Work is sufficiently complete in accordance with the Agreement so the Customer can utilize the Work for its intended use without unscheduled disruption. In particular, all units, controls and sensors will have been installed and successfully tested to ensure they function correctly, while other Work under the Agreement still remains to be completed. Upon provision of a Certificate of Substantial Completion, the Customer shall establish responsibilities for System Acceptance and shall fix the time within which the Contractor shall finish all items on the punch list.
2. System Acceptance follows Substantial Completion and shall mean that each of the following has been achieved in accordance with prudent industry practices and other requirements of the Agreement: (a) All ancillary work to finish clean-up of the site and repair any damage caused by installation is complete; (b) All items on the Punch List have been approved by the Customer; and (c) All applicable manuals, warranties, and required documents have been delivered; and (d) The installation is capable of operating safely in accordance with design specifications, prudent industry practices and all applicable laws.
3. A written list of uncompleted Work (the Punch List) shall be established and agreed to by the Contractor and Customer. The Punch List may be amended from time to time, upon written agreement of the parties, prior to System Acceptance. The Punch List shall include all deliverables through System Acceptance in accordance with the Agreement documents.
4. Upon provision of a Certificate of System Acceptance and receipt of a final invoice, the Customer shall promptly issue final payment.

V. PAYMENT

1. The Contractor may invoice the Customer on a monthly basis, such invoices to be supported by an itemized statement of work and materials furnished to date. The Customer will promptly pay invoices within twenty (20) calendar days of receipt, unless the Customer determines that invoiced Work is defective and has not been remedied.
2. Final payment shall not become due until the Contractor shall deliver a complete release of all claims arising under this Contract, including claims for all subcontractors and suppliers of either materials or labor, including a statement that all subcontractors and suppliers have been paid.
3. The acceptance of the final payment by the Contractor shall operate as a release to the Contractor of all claims and of all liability to the Customer for all things done or furnished in connection with this Work. No payment, however, final or otherwise, shall operate to release the Contractor and its Sureties from any obligations under this Agreement. Acceptance of final payment shall not impact any warranties provided by the Contractor with respect to this project.
4. The Contractor warrants that title to all Work covered by an invoice will pass to the Customer no later than the time of payment. The Contractor further warrants that upon submittal of an invoice, all Work for which payments have been received from the Customer shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Customer's interests.
5. The Contractor shall promptly pay each subcontractor, upon receipt of payment from the Customer, the amount to which such subcontractor is entitled on account of said subcontractor's Work. The Customer shall have no obligation to pay or to see to the payment of any moneys to any subcontractor except as may otherwise be required by law.
6. Should a payment become thirty (30) calendar days or more delinquent, the Contractor may stop all Work under this Agreement without notice and/or cancel this Agreement, and recover from the Customer payment for Work completed.

VI. WORKMANSHIP / CORRECTION OF WORK

1. The Contractor warrants that all Work, including Work performed by its subcontractors, shall conform with this Agreement and that all labor and materials furnished shall comply with all applicable codes, specifications, local and state ordinances, and industry standards.
2. The Contractor warrants that all workmanship shall be of the highest quality found in the building industry. All items of Work shall be performed by tradesmen skilled in the particular task or activity to which they are assigned.
3. The Contractor warrants that all labor and materials provided under this Agreement shall be free from defects arising from normal usage prior to Substantial Completion and for a period of twelve (12) months from the date of Substantial Completion. The warranty provided in this paragraph shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Agreement documents.

4. Upon discovery of Work during the warranty period which is defective or otherwise fails to conform to the requirements of the Agreement, the Customer shall promptly notify the Contractor in writing. The Contractor shall promptly at its own cost and time:
 - a. Correct all nonconforming Work for which it is responsible, including the cost of diagnostic service calls and adjusting, correcting, or replacing such guaranteed work.
 - b. Make good all damage to the building or site, or equipment or contents thereof, which is the result of the use of nonconforming materials, equipment or workmanship.
5. The warranty period for corrective work shall be extended by the period of time between Substantial Completion and the actual performance of the later work.
6. If the Contractor does not elect to correct nonconforming Work within a reasonable time, the Customer may have the Work corrected by itself or others and the Contractor and its Surety shall be liable to the Customer for the cost of the correction.
7. The Contractor warrants that all materials and equipment furnished shall be new and in first-class condition, currently under manufacture, and installed and tested per manufacturers' written recommendations and requirements. The Contractor shall notify the Customer when they intend to deviate from the foregoing requirements. The Customer shall advise the Contractor in writing prior to installation if the deviation is acceptable. The Contractor shall bear the cost of correcting any deviations not properly approved and authorized.
8. If any equipment furnished by the Contractor proves defective, the Contractor shall extend to the Customer the benefits of any warranty the Contractor has received from the manufacturer. Manufacturer warranties shall commence on the date of Substantial Completion. Removal and reinstallation of any equipment or materials repaired or replaced under a manufacturer's warranty within 12 (12) months of Substantial Completion will be at the expense of the Contractor, who shall provide reasonable assistance to the Customer in enforcing the obligations of subcontractors or material suppliers. After that period the Contractor shall assign to the Customer all manufacturers' warranties and repairs shall be at the Customer's expense.
9. During the warranty period the Contractor shall provide at no charge to the Customer any software and firmware updates to Contractor-furnished equipment that resolve manufacturer-identified deficiencies or faulty operations.
10. The Contractor shall visit the Customer's facility following a warranty service request within forty-eight (48) hours during normal business hours. In case of an emergency, where delay would result in significant damage to the facility, the Contractor's response time shall be twenty-four (24) hours, including after normal business hours, holidays, and weekends.
11. The Contractor shall not be required to warrant reused devices or other Customer-supplied materials or equipment.
12. None of the following actions by the Customer shall constitute acceptance of any Work that is defective or otherwise not in accordance with the requirements of this Agreement: payment of any progress or final invoice; issuance of a Certificate of Substantial Completion or System

Acceptance; beneficial use of the Work or any part thereof; review and approval of a submittal or shop drawing; observations by the Customer or the Customer's representative.

13. Systems, equipment or software shall not be warranted for damages and/ or failures caused by lack of training, unauthorized use, normal wear and tear during normal usage, or negligence of parties other than the Contractor or its agents.
14. THE CONTRACTOR MAKES NO OTHER WARRANTIES, EXCEPT AS DESCRIBED HEREIN.

VII. LEGAL COMPLIANCE & SAFETY

1. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire.
2. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, building codes, and other lawful orders of any public authority bearing on the performance of the Work, specifically including but not limited to Occupational Safety and Health Administration (OSHA). The Contractor shall be liable for any and all expenses incurred, if any, which may result from its omission to follow or its intentional violation of any law, ordinance, rule, regulation, or other lawful order. The Contractor shall report to the Customer within three (3) calendar days any injury to any of the Contractor's employees or subcontractors at the site.
3. The Contractor shall obtain and pay for all necessary permits, and pay all government taxes, fees and other costs in connection with their Work.
4. The Contractor shall coordinate all necessary inspections by pertinent state and local inspectors and other applicable officials.
5. The Contractor acknowledges that it is acting on behalf of a public agency and that this Agreement is subject to the provisions of the public records laws of the State of New Hampshire (R.S.A 91-A). The Contractor shall keep accurate and reasonable records related to its performance and obligations under this Agreement. In particular, records will be kept documenting any price, cost or budget computations required under the Agreement, including accurate certified payroll records. The Contractor agrees that the Customer or its duly authorized representative has the right to audit any directly pertinent books, documents, papers and records related to transactions and/or performance of the terms and conditions of the Agreement. The right to audit shall include periodic examinations of records throughout the term of the Agreement and for a period of three (3) years after its termination, provided that the Customer provides reasonable prior notice. The right to audit shall also apply to subcontractors hired by the Contractor for the purpose of fulfilling the Agreement.
6. The Customer shall make available to the Contractor's personnel all pertinent Material Safety Data Sheets (MSDS) pursuant to OSHA'S Hazard Communication Standard Regulations.
7. The Contractor's obligation under this proposal and any subsequent Agreement does not include the identification, abatement or removal of asbestos, mold or any other toxic or hazardous substances, hazardous wastes or hazardous materials. In the event such substances, wastes and

materials are encountered, the Contractor's shall have the right thereafter to suspend its Work until such substances, wastes or materials and the resultant hazards are removed. The time for completion of the Work shall be extended to the extent caused by the suspension and the Agreement price equitably adjusted. The Contractor shall be held harmless and shall not be liable for any claims, liabilities, damages, losses and expenses related to such substances, wastes and materials, including the failure to identify or notify the Customer of such substances, wastes and materials.

VIII. INSURANCE

1. The Contractor agrees that it will carry any and all insurance which will protect it, the Customer and their officials, agents, volunteers and employees from any and all claims and demands, costs, damages, 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 Contractor whether such operations be performed by the Contractor itself or anyone directly or indirectly employed or retained by it in any way to carry on all or any portion of the work required by or related to the Contract.
2. The Contractor shall furnish to the Customer Certificates of Insurance and endorsements prior to executing the Agreement or commencing work demonstrating that the Customer and its officials, agents, volunteers and employees are named as an additional insured on the General Liability and Automobile Liability insurance coverages. The certificates of insurance shall include the project name and a description of the project.
3. All of the insurance policies required by this Agreement shall be written by a company licensed to do business in the State of New Hampshire at the time the policy is issued, amended or renewed, and shall require the insurer to provide the Customer with thirty (30) days' prior written notice before an insurance policy is cancelled or modified, or ten (10) days' prior written notice in the event of non-payment of premium. The Contractor shall have a continuing duty to keep the insurance coverages required under this Agreement in effect through the period of the Agreement, which includes any applicable warranty period, and to provide the Customer with new certificates of insurance containing the project number and description as policies are amended or renewed.
4. The Contractor shall require each subcontractor employed on the project to maintain the coverages listed below unless the Contractor's insurance covers activities of the subcontractor on the project.
5. Prior to commencing work, the Contractor shall demonstrate that it carries a Commercial General Liability policy with limits of \$1,000,000 per occurrence (bodily injury and property damage), \$2,000,000 aggregate, and \$2,000,000 completed operations coverage, applicable to the Work performed under this Agreement and all liabilities as set forth above. The General Liability policy must also contain contractual liability coverage applicable to the contractual indemnification obligation set forth below.
6. The Contractor shall carry and provide proof of Commercial Automobile Liability covering all motor

vehicles including owned, hired, borrowed, and non-owned vehicles, with a \$1,000,000 combined single limit for bodily injury and property damage.

7. The Contractor shall carry and provide proof of Workers' Compensation insurance meeting State of New Hampshire required limits and providing employer's liability coverage.
8. The Contractor shall carry and provide proof of Builder's Risk insurance covering the project at its full value, as modified, and shall name the Customer as loss payee. Coverage shall include materials located at the Contractor's premises, on site, in transit, and at any temporary site. The policy by its own terms or by endorsement shall specifically permit partial or beneficiary occupancy prior to completion or acceptance of the entire work.
9. To the extent Contractor utilizes the services of an architect, engineer, surveyor or any other industry professional, all such professionals, in addition to the general and automobile liability coverages described above, shall carry professional liability insurance with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. Such professionals shall name the Customer and its officials, agents, volunteers and employees as an additional insured on the general and automobile liability coverages by certificate and amendatory endorsement.
10. The Customer shall not be required to insure the Contractor, any subcontractor or any professional service provider.

IX. INDEMNIFICATION

1. The Contractor releases the Customer from, agrees that the Customer shall not be liable for and indemnifies the Customer against, all liabilities, claims, costs and expenses, including out-of-pocket and incidental expenses and legal fees, imposed upon, incurred or asserted against the Customer arising, directly or indirectly in whole or in part, out of the negligence or willful act or omission of the Contractor, its agents, Subcontractors, or anyone who is directly employed in connection with (i) this Agreement or (ii) the project, including the construction of the project and the maintenance, repair and replacement of any improvements which the Contractor is required to undertake pursuant to this Agreement or any permit or approval, provided that, such release or indemnification shall not apply to any actions or claims brought as a result of any material breach of this Agreement, willful misconduct or fraudulent action of the Customer. This covenant shall survive the termination of the Agreement.
2. In case any claim or demand is at any time made, or action or proceeding is brought, against or otherwise involving the Customer in respect of which indemnity may be sought hereunder, the person seeking indemnity promptly shall give notice of that action or proceeding to the Contractor, and the Contractor upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding.
3. In addition, and regardless of respective fault, Contractor shall defend, indemnify and hold harmless the Indemnified Parties for any costs, expenses and liabilities arising out of a claim, charge or determination that Contractor's officers, employees, contractors, subcontractors or agents are employees of the Indemnified Parties, including but not limited to claims or charges for benefits, wages, fees, penalties, withholdings, damages or taxes brought in connection with laws

governing workers compensation, unemployment compensation, Social Security, Medicare, state or federal taxation, and/or any other similar obligation associated with an employment relationship.

4. The Contractor's obligations to defend, indemnify and hold harmless the Indemnified Parties hereunder shall survive the term of this Contract.
5. The Customer shall not be required to defend or indemnify the Contractor, any subcontractor or any professional service provider.

X. DISPUTE RESOLUTION / TERMINATION

1. The Contractor and the Customer will attempt to settle any claim or controversy arising from this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation.
2. Either party may immediately terminate this Agreement if the other party commits a material breach and fails to cure such breach within seven (7) calendar days after having received written notice of such breach.
3. Upon termination of this Agreement, the Customer shall pay the Contractor for all Work furnished to date and ownership of such Work shall be retained by the Customer.
4. The Customer shall give notice in writing to the Contractor if in its determination the Contractor is in default for:
 - a. Failing to begin work under this Agreement within the time identified in Provision II(1) above, or
 - b. Unreasonably discontinuing work under this Agreement, or
 - c. Becoming the subject of any proceeding relating to bankruptcy, insolvency, liquidation, or the protection of rights of creditors.
5. If, upon receipt of Notification of Default, the Contractor does not proceed in accordance with said Notification, the Customer has the right to terminate this Agreement. Upon which, the Customer shall have full power and authority, without violating the Agreement, to assume the prosecution of the work for the completion of said Agreement.
6. If any party to this Agreement brings a cause of action against the other party arising from or relating to this Agreement, the prevailing party in such proceeding shall be entitled to recover reasonable attorneys' fees and court costs.
7. This Agreement is between the Contractor and the Customer alone, and neither intends that there be any third party beneficiaries to this Agreement. Without limiting the generality of the foregoing, by entering into this Agreement and providing services on the Customer's behalf, the Contractor is not assuming any duty or obligation to any of the Customer's employees, vendors, clients, subcontractors, agents, shareholders, partners or members.