

TOWN OF NORTHFIELD
CONTRACT FOR SERVICES

This Contract is made and entered into this ____ day of _____, 201__ by and between the TOWN OF NORTHFIELD, NEW HAMPSHIRE, a municipal corporation, acting by and through its BOARD OF SELECTMEN (the “Board”) and such authorized agent(s) and employees as the Board shall designate to act on its behalf (all collectively known as the “Town”) and _____ (the “Contractor”).

WHEREAS the Town desires to continue to engage the services of the Contractor to perform the services set forth herein; and

WHEREAS the Contractor is willing to undertake and perform the services prescribed herein.

NOW THEREFORE, in consideration of the mutual covenants as to services to be performed by, and responsibilities incumbent upon, the Contractor and remuneration to be provided by the Town to the Contractor, the parties hereby agree as follows:

1.) Term

The services provided herein by the Contractor shall commence on _____, 201__ and conclude on _____, 20__.

2.) Scope of Work & Compensation

The Contractor shall perform the services contained in Attachment A attached hereto, be compensated at the prices set forth in the fee proposal attached hereto as Attachment B and conform to any additional General Conditions in Attachment C.

Payments will be made within 30 days of the submission of a bill showing conformance with all work requirements. As applicable, any progress payments made on each item will have a 15% retainage withheld until all work is completed and fully certified by the permitting authorities and end user. The Contractor may substitute a 100% performance bond covering all labor and materials for the 15% retainage if they desire in which instance the retainage shall be reduced to 5%.

3.) Hours of Work

Unless otherwise specified, the Contractor may perform their work tasks at times of their choosing provided that it is recognized by the Contractor that (a) meetings with the Town shall be at mutually convenient times and (b) construction inspection and meetings with Contractors shall be dictated by the schedule of the work and (c) the Contractor shall not attempt to perform either its duties at times, or in a manner, which imposes an unreasonable and undue burden upon the Town for maintaining its ongoing operations.

4.) Insurance

The Contractor agrees that it will carry any and all insurance which will protect it, the Town 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, 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 operations, activities or work required by or related to the Contract. The Contractor further agrees that the Town and its officials, agents, volunteers and employees shall be named as an additional insured in any and all such liability insurance policies required by the Town.

Prior to commencing work, the Contractor shall demonstrate that it carries a general liability policy with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, as well as completed operations coverage, applicable to the work performed under this Contract 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.

The Contractor shall provide proof of automobile insurance coverage in an amount deemed satisfactory to the Town.

The Contractor will furnish to the Town a Certificate of Insurance and an endorsement prior to executing the Contract or commencing work demonstrating that the Town and its officials, agents, volunteers and employees are named as an additional insured on the general liability automobile liability insurance coverage.

The Contractor shall provide proof of workers compensation insurance meeting State of New Hampshire required limits. The Contractor's worker's compensation coverage must waive subrogation against the Town and its officials, agents, volunteers and employees.

To the extent Contractor constructs, repairs, builds, maintains or rebuilds any town facility or asset, Contractor shall carry and provide proof of builder's risk insurance covering the project at its full value, and shall name the Town as loss payee.

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 Town and its officials, agents, volunteers and employees as an additional insured on the general and automobile liability coverages by certificate and amendatory endorsement.

The Town shall not be required to insure the Contractor, any subcontractor or any professional service provider.

5.) Indemnification & Litigation

To the fullest extent permitted by law, Contractor shall protect, indemnify, save, defend and hold harmless the Town, including its officials, agents, volunteers and employees (“Indemnified Parties”), from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs, interest and expenses, including but not limited to reasonable attorney and paralegal fees, which Indemnified Parties may become obligated or suffer by reason of any accident, bodily injury, personal injury, death of person, or loss of or damage to property, arising indirectly or directly under, out of, in connection with, or as a result of this Contract or the activities of Contractor or its agents, employees, contractors or subcontractors, and even if caused in whole or in part by any negligent or intentional act or omission of Indemnified Parties.

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.

The Contractor’s obligations to defend, indemnify and hold harmless the Indemnified Parties hereunder shall survive the term of this Contract.

The Town shall not be required to defend or indemnify the Contractor, any subcontractor or any professional service provider.

6.) Termination or Extension of the Contract or Work Hereunder

This Contract may be terminated by either party for a material breach of the Contract by the other. The party seeking to terminate the Contract must provide a ten (10) calendar day notice to the other party of their intent to terminate and must allow an additional ten (10) calendar day period to cure the breach. In the event that a party breaches and cures the Contract on three occasions, to the continuing detriment of the other, the party in breach may be given a final thirty (30) day notice of intent to terminate and then terminate the Contract without recourse by the other.

In the event of any such termination, the Contractor shall submit a final bill to reflect the services it provided up to the date it received the notification of termination and the Town shall pay the Contractor in accordance with the terms of this Contract.

7.) Notices

All notices required or permitted under this Contract shall be in writing and considered properly served if they are delivered by hand or certified mail with return receipt requested to the Contractor or to the last known residence of the Contractor or to the Board of Selectmen’s office

in the case of the Town or such other address as shall from time to time be established in writing by one party to the other as its new address.

If to the Town:

Town Administrator
21 Summer Street
Northfield, NH 03276

If to the Contractor:

Notices shall be considered received upon the day of hand delivery or, in the instance of mail delivery, upon three business days having expired after the date of mailing.

8.) Parties Bound

This Contract shall be binding upon the successors, heirs and assigns of the parties hereto. The Contractor shall neither assign all or any of this Contract to another party, including the use of sub-Contractors, without the express written permission of the Town, which is not to be unreasonably withheld.

9.) Amendments

This Contract may be modified at any time in writing by the mutual consent of the parties executed in the same manner as this original Contract.

10.) Entire Agreement

The text herein contains the entire agreement of the parties. No prior understanding, oral interpretation, direction or change, unless executed in writing, shall be valid. If any provision, or portion thereof, of this Contract is held invalid or unenforceable that Contract provision shall be deemed severable and the remainder of the Contract shall not be affected and shall remain in full force and effect.

11.) New Hampshire Law

This Contract is entered into under laws of the state of New Hampshire and shall be construed and interpreted in accordance with the laws of said state.

IN WITNESS WHEREOF the Town of Northfield has caused this Contract to be executed in its corporate name and its Board of Selectmen, duly authorized and Contractor have set their hand and seal, as of the day and year first written above.

CONTRACTOR

Date: _____

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NORTHFIELD BOARD OF SELECTMEN

Wayne Crowley, Chair

Date: _____

Robert Southworth

Date: _____

Dennis Allen

Date: _____

SAMPLE

Attachment B - Total Price & Elements Thereof

1.) Total Contract Value

The total contract value, subject to additions or deletions thereto by change order, is _____ dollars and no cents.

2.) Base and Accepted Alternates (if applicable)

3. Breakdown of Lump Sum

The total contract value is broken down by element as shown on the bid form attached hereto.

4.) Bid Form Attached

The original bid form of _____, 201____ is attached hereto and incorporated herein as if set forth and at length.

SAMPLE

Attachment C - General Conditions

1.) Statutory Provisions

The parties will be bound by all applicable statutory provisions of the law of the Federal Government, the State of New Hampshire and the Town of Northfield. Certificates of all required insurances, including Worker's Compensation, will be required to remain current and on file with the Town throughout the term of the contract.

The Contractor will not be permitted to either assign or underlet the Contract or assign either legally or equitably, any monies hereunder, or its claim thereto, without the previous written consent of the Town.

2.) Items Included

The Contractor is responsible for supplying all labor and materials necessary to satisfy the requirements of this Contract. The Contractor is required to obtain any and all permits and inspections for the electrical and related work. No fee shall be charged by the Town for such permits and inspections.

3.) Appropriation Required

The terms of this Contract and any purchase order issued under this Contract are contingent upon sufficient appropriations being made by Northfield Town meeting, the state legislature, federal government or other appropriate government entity. Notwithstanding any language to the contrary in this Contract, or any other Contract Document, the Town may terminate its obligations under this Contract if sufficient appropriations are not made. The decision as to whether sufficient appropriations are available shall be accepted by, and be final and binding on, the Vendor.

4.) Suspension of Services

The Contractor may suspend services during any period of breach by the Town and shall have no liability whatsoever to the Town for any costs or damages as a result of such suspension. Upon curing of the breach by the Town, the Contractor shall resume services under this Contract, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any reasonable time lost and expense incurred by the Contractor.

5.) Invoicing

The Contractor may submit invoices on a monthly basis for all work performed on a time and materials as established the subject work. If any amount shall be in dispute the Town shall pay the undisputed amount and notify the Contractor of the reasons it disputes the amount it does providing the Contractor an opportunity to respond and/or cure the default in order to qualify for payment thereof. Payment to Contractor for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Contract by

either party. Interest may be charged at a rate of 1% per month on any balance that remains unpaid 30 days after the date of the invoice. Interest shall not be applied to disputed amounts during the period they are being resolved between the parties.

6.) Cleanliness & Hazardous Materials

The Contractor shall remove all debris on a daily basis and maintain a clean and safe working environment and a safe building environment.

The Contractor shall promptly notify the Town of the presence, discharge, release, or escape of contaminants and for the proper handling and disposal of hazardous or toxic materials found on site and agrees to indemnify, hold harmless and defend the Town its officers, employees and assigns from and against any and all claims, suits, demands, losses, damages, liabilities, and costs, including reasonable attorneys' fees and defense costs, arising from the release of hazardous or toxic materials resulting from its operations. Such defense places upon the Contractor, who is trained in such matters, an affirmative responsibility to report to the Town, within a reasonable period of time as is appropriate to the circumstances, any instances in which they have witnessed or have a reasonable suspicion such a discharge, release, or escape of contaminants or improper handling and disposal of hazardous or toxic materials is about to occur or has occurred.

7.) Construction Phase Services

The Town has retained _____ to review submittals and perform inspections. The Contractor shall provide product information submittals as required for their review.

8.) Changed Conditions

If, during the term of this Contract, circumstances or conditions that were not originally contemplated by or known to Contractor are revealed, to the extent that they materially affect the scope of services, compensation, schedule, allocation of risks or other terms of this Contract, the Contractor shall promptly notify the Town of the changed conditions and the Contractor and Town shall promptly and in good faith enter into renegotiation of this Contract to address the changed conditions.

9.) Force Majeure

The time for performance shall be extended when the delay is due to an extraordinary event or circumstance beyond the control of the Contractor, such as a ceasing of production by a manufacturer, stoppage of multiple modes of transportation, a catastrophic destruction of portion of the site upon which the improvements are being installed, war, strike, riot, crime, or an "act of God" (such as windstorm or earthquake). However, *force majeure* is not intended to excuse negligence or other malfeasance of the Contractor nor excuse a prior lack of timely performance and may only be invoked when the Contractor has so notified the Town of the event causing the delay and is diligently taking all reasonable actions to cope with events causing the delay.