

**CITY OF SANFORD**  
**REQUEST FOR QUALIFICATIONS**  
**FOR**  
**MINERAL EXTRACTION INSPECTION SERVICES**

**I. INTRODUCTION**

The City of Sanford, Maine (hereinafter, the "City") is seeking sealed Qualification Statements to carry out inspections of mineral extraction operations for compliance with approved permits.

Proposers must submit four hard copies and one pdf of its Qualification Statement on a CD or thumb drive. The Qualification Statements and CD or thumb drive are to be submitted in a sealed envelope clearly marked on the outside "Mineral Extraction Inspection Services".

Completed Qualification Statements must be received at the Code Enforcement Department in the Sanford City Hall, at 919 Main Street, Sanford Maine 04073, by 3:00 pm, on Tuesday, October 27, 2020 and will be opened at that time. The Qualification Statement must be signed by the Proposer with its full name and address and included in the sealed envelope. Any Qualification Statement received after the deadline stated above shall not be considered.

Questions regarding this Request for Qualifications should be directed to Jamie Cole, Director of Code Enforcement, at the address above or by email at: [jamiicole@sanfordmaine.org](mailto:jamiicole@sanfordmaine.org). All questions regarding this Request for Qualifications must be received, in writing, by Jamie Cole at least five (5) days before the date set for the opening of the Qualification Statements. Any questions which, in the opinion of the Director of Code Enforcement request interpretation, will be addressed in the form of a numbered Addendum, which will be posted on the City's website ([www.sanfordmaine.org](http://www.sanfordmaine.org)) not later than three (3) days prior to the scheduled opening of the Qualifications Statements.

Proposers shall acknowledge receipt of all Addenda in the space provided in the Qualification Statement Form (Exhibit 2), whether the Addenda are in response to questions or otherwise issued by the City.

Each Proposer is required to state in the Qualifications Statement:

1. its name, principals, mailing address, and telephone number;
2. the name, telephone number, and email address for its Contact Person; and
3. a statement that no person acting for or employed by the City is directly or indirectly interested in the Qualification Statement or any agreement which may be entered into to which the Qualification Statement relates or in any portion of the profits herefrom.

The successful Proposer shall be required to sign an agreement substantially similar to the standard City Services Agreement, a copy of which is attached hereto as Exhibit 3.

Before commencing work under the City Services Agreement, the successful Proposer shall

produce evidence satisfactory to the City that it and its subcontractors, if any, have secured public liability, automobile, and workers' compensation coverage as set forth in Exhibit 3.

Completed Qualification Statement forms shall be used by the CITY in strict compliance with the requirements of this Request for Qualifications.

## **II. SCOPE OF SERVICES**

The Scope of Services hereunder is described in the Specifications attached hereto (hereinafter, the "Services") as Exhibit 1.

## **III. SCHEDULE**

All Qualification Statements shall conform with the schedule to complete inspections set forth by the Director of Code Enforcement. See Exhibit 1.

## **III. QUALIFICATION STATEMENT SUBMISSION REQUIREMENTS**

The Qualification Statement must include the following descriptions:

1. Qualification Statement Form (Exhibit 2).
2. Understanding of the Project.
3. Qualifications/technical capacity of the Proposer.
4. Three to five similar services completed by the contractor, including names, titles, phone numbers, and email addresses of references for the projects.
5. All materials, equipment, and labor necessary to perform the Services, including the name of the person(s) or entity (entities) owning the materials and equipment and/or providing the personnel that forms the basis for the Qualification Statement.
6. Qualification Statement for how to conduct the scope of work specified in Exhibit 1.
7. Identification of staff who will undertake the proposed work and qualification of that staff.
8. Hourly rate to undertake specified components of the proposed work, including time associated with travel and writing reports, and a clear description of all clarifications and exceptions.
9. Compliance with or proposed modification of specified schedule and conditions.
10. Assumptions and/or conditions associated with the Qualifications Statement.
11. At least three municipal references.

All Services to be furnished to the City shall be performed with equipment, methods, and use of personnel in accordance with pertinent professional standards and with the Occupational and Safety and Health Act requirements of the State of Maine and the United States.

## **IV. SELECTION CRITERIA**

Qualification Statements will be evaluated based on the following criteria:

1. Understanding of and familiarity with mineral extraction operations (20%)

2. Prior experience with similar projects (20%)
3. Qualifications and experience of assigned staff (25%)
4. Cost (25%)
5. References (10%)

**V. ACCEPTANCE/REJECTION**

The City reserves the right to waive any informalities in Qualification Statements, to accept any Qualification Statement, and to reject any or all Qualification Statements, should it be deemed in the best interest of the City to do so.

Qualification Statements may be held by the City for a period not to exceed thirty (30) days from the date of the opening for the purpose of reviewing Qualification Statements and investigating the qualifications of the Proposers prior to the award of a contract.

Date: October 1, 2020

  
By: Steven R. Buck, City Manager

**EXHIBIT 1**  
**SPECIFICATIONS FOR**  
**MINERAL EXTRACTION INSPECTION SERVICES**

**Overview:** To provide mineral extraction inspection services for the City on a contractual professional services basis. All Proposers will be required to demonstrate expertise in projects of this type.

- Carry out inspections according to the City of Sanford Zoning Ordinance and Planning Board approval of mineral extraction permits and at the direction of the Director of Code Enforcement.
- Travel to mineral extraction sites and inspect work to ensure compliance with approved permits.
- Complete and submit inspection reports to the Director of Code Enforcement, using the form described below, on the schedule established by the Director of Code Enforcement. Currently, it is anticipated that there will a minimum of one inspection per year for each mineral extraction operations (at this point, there are five). More inspections may be required for one or more operations depending on requirements of Planning Board approval. The Director may direct you to pay particular attention to areas identified in complaints received by the Office.
- Confer with Director Code Enforcement on noncompliance cases and prepare detailed reports to assist him on matters of enforcement or litigation, if needed.

**Project Cost:** All Proposers shall provide an hourly rate which will be used to reimburse the Proposer for inspections assigned by the Director of Code Enforcement, including travel time and time associated with writing reports.

All clarifications and exceptions shall be clearly described in the Qualification Statement.

The Proposer will provide expected lead time after the Director of Code Enforcement's request for an inspection, not to exceed two weeks.

**Qualifications:** The Proposer shall provide a description of its familiarity with relevant Maine statutes and regulations and with similar work undertaken in Maine.

**CITY of SANFORD, MAINE**  
**Mineral Extraction Inspection Report**

**Inspection Date:** \_\_\_\_\_ **Pit Name:** \_\_\_\_\_

City of Sanford staff conducted an inspection of this mineral extraction operation. For purposes of compliance with the City’s Zoning Ordinance and Major Site Plan approval for this operation, the City finds that:

- \_\_\_\_\_ the operation is in substantial compliance
- \_\_\_\_\_ there are issues that must be addressed to bring your operation into substantial compliance
- \_\_\_\_\_ the operation is not in substantial compliance.

**Please, carefully review this report, which fully outlines the details of the site inspection. If you have any questions regarding the contents of this report, please, contact Jamie Cole, Director of Code Enforcement at 324-9145.**

**Erosion and Sedimentation Control** (Items to Inspect: silt fence/hay bale barriers, diversion ditches, stone check dams, channel/ditch stabilization, culvert aprons and plunge pools, level spreaders/ditch turn-outs, topsoil storage/stabilization, mud runoff area, natural internal drainage, access road and ditches)

__ Satisfactory	__ Minor Problems	__ Major Problems	__ Not Applicable
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**Notes:** (i.e., site exhibits natural internal drainage, no off site impacts observed, need to maintain erosion controls, erosion on access road, approved to drain externally, regrade slopes to achieve internal drainage, erosion into protected natural resource, erosion onto abutting property)

**Site Reclamation** (Items to Inspect: final slopes/land grading, topsoil spreading mix, percent vegetative cover, mulch/mulch anchoring, tree/shrub plantings)

__ Satisfactory	__ Minor Problems	__ Major Problems	__ Not Applicable
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**Notes:** (i.e., no active reclamation activities, areas exhibit natural regrowth, less than 90% vegetative cover, 90% or more vegetative cover, less than 75% survival rate, adequate survival rate, adequate slopes, slopes too steep)

**Detention and Sedimentation Basins** (Items to Inspect: embankment/dike condition, principal outlet/riser structure, emergency spillway, impoundment size, sediment removal and maintenance)

__ Satisfactory	__ Minor Problems	__ Major Problems	__ Not Applicable
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**Notes:** (i.e., adequate sizing, need to remove sediment)

**Ground Water Protection** (Items to Include: monitoring well locations, monitoring well conditions, wellhead condition/protection, water withdrawal/dewatering, excavation below groundwater, depth to seasonal high water table, distance to drinking water supplies)

__ Satisfactory	__ Minor Problems	__ Major Problems	__ Not Applicable
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<b>Notes:</b> (i.e., no excavation occurring within 5' of water table, no excavation below required buffer above water table, no excavation occurring into or below the water table, test pits dug, monitoring well(s) damaged, monitoring well missing, monitoring well(s) observed)				
<b>Spill Prevention and Control:</b> (Items to Inspect: refueling pad, fuel storage/secondary containment, containment structure integrity, spill control kit/kit storage, copy of SPCC Plan available, visible signs of fuel spills/odors, equipment maintenance facility)				
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Minor Problems	<input type="checkbox"/> Major Problems	<input type="checkbox"/> Not Applicable	
<b>Notes:</b> (i.e., no onsite fuel storage, mobile fuel storage, secondary containment structure, concrete refueling pad, no evidence of fuel stained areas, no refueling pad, spill kit onsite, minor spills, major spills, need to replace/fix containment structure, need spill kit on site, SPCC Plan on file)				
<b>Buffers:</b> (Items to Inspect: stream/lake/wetland buffers, significant wildlife habitat, property line buffers, public road buffers, establishment of wooded buffers, adjacent borrow pit buffers, buffer reduction agreements)				
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Minor Problems	<input type="checkbox"/> Major Problems	<input type="checkbox"/> Not Applicable	
<b>Notes:</b> (i.e., all buffers appear adequate, written agreement with abutter secured, excavation within 75' of wetland, excavation within 75' of river or stream, excavation within 100' of public road, excavation within a significant wildlife habitat, natural buffer strip has been cut, excavation within 50' of private road, excavation within 50' of property line, excavation within 50' of a ROW)				
<b>Mining Operations:</b> (Items to Inspect: dust control, crushing/screening/asphalt plant processing ponds, noise levels, stockpile area/size, secured access, no overexcavation of slopes, rebuilding of previously overexcavated slopes with comparable onsite material, other conditions of Planning Board approval, Operations Manual available onsite)				
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Minor Problems	<input type="checkbox"/> Major Problems	<input type="checkbox"/> Not Applicable	
<b>Notes:</b> (i.e., pit inactive at time of inspection, dust suppression, spray bars on crusher, paved access, dust from truck traffic, need to sweep road adjacent to access, controlled access to site, screening on site, crushing on site, asphalt plant on site concrete plant on site, noise levels exceed standards, need to use water of CaCl for dust suppression, no overexcavatio of slopes, overexcavated slopes, rebuilding of previously overexcavated slopes with comparable onsite material, rebuilding of overexcavated slopes with noncomparable or offsite materials, Operations Manual available onsite, Operations Manual not available onsite)				
<b>Solid Waste:</b> (Items to Inspect: stump storage/disposal, stump grinding/recycling, demolition debris, recycled asphalt product)				
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Minor Problems	<input type="checkbox"/> Major Problems	<input type="checkbox"/> Not Applicable	
<b>Notes:</b> (i.e., stump disposal on site, hauling stumps into pit, disposing of demolition debris on site, stump grinding, RAP stockpile, RAP stockpile greater than ½ acre, burning demolition debris and/or household trash, disposal of household trash onsite)				
<b>Blasting:</b> (Items to Inspect: seismograph monitoring, scaled distance, distance to closest buildings, proper warning signals, weather and wind conditions)				
<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Minor Problems	<input type="checkbox"/> Major Problems	<input type="checkbox"/> Not Applicable	

**Notes:** (i.e., not blasting at time of inspection, send copies of blast reports to the Department, exceeds allowable peak particle velocity, exceeds allowable air blast)

**Offsite Impacts:** Have deficiencies (if any) resulted in offsite impacts to a protect natural resource?  
\_\_ Yes \_\_ No

If yes, please, explain.

**Working Pit Size**

Size of the working area: \_\_\_\_\_ acres      Size of entire pit (working and reclaimed): \_\_\_\_\_ acres

**Has the owner or operator expanded the pit beyond the area permitted?**

\_\_ Yes \_\_ No

If yes, please, explain.

**Corrective Actions (if applicable)**

What is needed to bring the site into compliance?

**Completion date:**

**Operator's Response (if applicable)**

**Did inspector tell the owner or operator what actions are needed to bring the operation into compliance? If yes, what action has the owner or operator agreed to undertake?**

\_\_ Yes \_\_ no

If yes, describe:

**Additional Comments About the Site Inspection:**

**Inspector's Name:**

**Inspector's Signature:**

**Date:**

**Attach Photographs**

DRAFT

**EXHIBIT 2**

**QUALIFICATION STATEMENT FORM  
FOR  
MINERAL EXTRACTION INSPECTION SERVICES**

TO: Steven R. Buck, City Manager  
City of Sanford  
919 Main Street  
Sanford, ME 04073

Dear Sir:

The undersigned hereby declares that it has carefully reviewed local regulations and the Inspection Form attached to Exhibit, dated Tuesday, October 1, 2020, and the proposed Services Agreement in Exhibit 3, and that it proposes and agrees, if this Statement of Qualifications is accepted, in whole or in part, by the City of Sanford (hereinafter the "City") to perform the Services, as defined in the proposed Services Agreement, and that it will accept as payment for these Services the following hourly rate as the "Contract Price": \_\_\_\_\_ Dollars (insert dollar amount in words) (\$\_\_\_\_\_ (insert dollar amount in numbers)).

The undersigned acknowledges the receipt of Addenda numbered \_\_\_\_\_ (insert number or numbers of any Addenda posted on the City's website ([www.sanfordmaine.org](http://www.sanfordmaine.org)) not later than three (3) days prior to the scheduled opening of the Qualification Statements).

If the City accepts the Qualification Statement, the undersigned further agrees that it will execute the Services Agreement within seven (7) days from the date of opening of the Qualification Statements.

The undersigned hereby further declares that the only persons or parties interested in this Qualification Statement as principals are named below and that no person acting for or employed by the City is directly or indirectly interested in this Qualification Statement or in any Agreement which may be awarded under it or in profits expected to arise therefrom, except as provided by the City Charter. The full names and addresses of all persons and parties interested in this Qualification Statement, as principals, are as follows: (provide first and last names in full; and in the case of a Corporation, the names and addresses of the President, Treasurer and Manager; and in the case of a Partnership, the names and addresses of members):

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Date: \_\_\_\_\_ (insert month) \_\_ (insert date), \_\_\_\_\_ (insert year)

\_\_\_\_\_ (insert signature)

\_\_\_\_\_ (insert title)

\_\_\_\_\_ (insert name of entity)

\_\_\_\_\_ (insert legal address)

\_\_\_\_\_ (insert name of principal place of business)

\_\_\_\_\_ (insert firm's IRS Identification Number)

Please, provide address to which all correspondence and notifications to Proposer are to be sent:

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Please, provide Proposer's Telephone Number: \_(\_\_\_\_)\_\_\_\_\_

**MINERAL EXTRACTION INSPECTION  
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ (insert date, spelled out) day of \_\_\_\_\_ (insert month), \_\_\_\_ (insert year) by and between the City of Sanford, a municipal corporation existing under the laws of the State of Maine and located in the County of York, State of Maine (hereinafter "CITY") and \_\_\_\_\_ (insert name of successful bidder) of \_\_\_\_\_ (insert CITY of primary location of successful bidder), \_\_\_\_\_ (insert state of primary location of successful bidder) (hereinafter "CONTRACTOR"),

**WITNESSETH:**

In consideration of the mutual covenants and conditions contained herein, the CITY and the CONTRACTOR agree as follows:

**I. SCOPE OF SERVICES**

The CONTRACTOR shall furnish all of the services, materials and perform all of the work as described in the Request for Qualification Statements and Specifications entitled: Request for Qualifications for Mineral Extraction Inspection Services issued under date of October 1, 2020 by Steven R. Buck, City Manager and shall do so in accordance with the Contractor's Qualification Statement dated \_\_\_\_\_ (insert month) \_\_ (insert date), \_\_\_\_ (insert year), which Request for Qualification Statements, Specifications and Qualification Statements is attached hereto and made a part hereof (hereinafter, collectively referred to as the "Services"), and the CONTRACTOR covenants that it shall do everything required by this Agreement, the conditions of the Agreement (together with the General, Supplementary and other Conditions, if any), the Request for Qualification Statements, the Specifications, the Drawings and the Qualification Statement in return for payment as provided herein.

A. The CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all analyses, reports, and other Services furnished by the CONTRACTOR under this Agreement. The CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in his analysis, reports, and other Services. Deficiencies are defined as willful or negligent acts that distort or falsify the state of the art of the products and Services developed and provided hereunder, or willful or negligent nonassignment of personnel or assignment of unqualified personnel to perform the duties hereunder.

B. Approval by the CITY of analyses, reports, and other services furnished hereunder shall not in any way relieve the CONTRACTOR of responsibility for the technical adequacy of the work. Neither the CITY's review, approval, or acceptance of, nor payment for, any of the Services shall be construed to operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement, and the CONTRACTOR shall remain liable in accordance with applicable law for all damages to the CITY caused by the

CONTRACTOR's willfully negligent performance of any of the Services furnished under this Agreement.

## II. CONTRACTOR OBLIGATIONS

The CONTRACTOR warrants:

A. That it will furnish all vehicles, materials, personnel, tools, and equipment, except as otherwise specified herein, and do everything necessary and proper to satisfactorily perform the Services required by this Agreement.

B. That it is financially solvent, is experienced in and competent to perform the Services, and is able to furnish the vehicles, materials, personnel, tools, and equipment to satisfactorily perform the Services required by this Agreement.

C. That it is familiar with all federal, State, and local statutes, laws, rules, regulations, ordinances, and orders which may in any way affect the Services.

D. That it has carefully examined the Request for Qualification Statements, the Specifications, and this Agreement and has conducted its own investigation of the nature and location of the Services, the character of equipment and personnel needed to perform the Services, and all conditions which may in any way affect the performance of the Services.

## III. CITY OBLIGATION

The CITY warrants:

A. That the Director of Code Enforcement, Jamie Cole, shall be the project manager and point of contact for the CONTRACTOR under this Agreement. The Director of Code Enforcement shall administer and interpret this Agreement, receive and authorize payment for services, and resolve questions with respect to scope and performance of Services under this Agreement.

B. That it will make available appropriate personnel and representatives of the CITY to answer specific questions and provide general consultation throughout the performance of Services. The personnel and representatives shall work diligently to develop their responses and recommendations in a timely manner.

## IV. COMPLETION OF SERVICES/COMPLETION DATE

The Services to be performed under this Agreement shall be commenced by \_\_\_\_\_ (insert month) \_\_ (insert date), \_\_\_\_ (insert year) and be ongoing until such time as either the CONTRACTOR or the CITY terminate services under either Section II or IX of this AGREEMENT, respectively.

## V. CONTRACT PRICE

The CITY shall pay the CONTRACTOR for the performance of Services under this Agreement based on the hourly rate of \_\_\_\_\_ dollars (**insert dollar amount in words**) (\$\_\_\_\_\_) (**insert dollar amount in numbers**).

#### VI. PROGRESS PAYMENTS

The CONTRACTOR shall submit for the CITY'S approval, monthly invoices for the Services performed hereunder in the previous month. The CITY shall review invoices submitted by the CONTRACTOR and shall pay invoices within fourteen (14) days of authorization for payment once work has been reviewed and found acceptable by the CITY.

#### VII. WORK OUTSIDE OF THE SCOPE OF SERVICES

If the CITY requests the CONTRACTOR to perform work outside of the Scope of Services during the term of the Agreement, the CITY shall compensate the CONTRACTOR on an hourly fee based on Section V.

#### VIII. GUARANTEE

The CONTRACTOR represents that in the performance of its obligations hereunder, it will perform in accordance with applicable standards of conduct for professionals in the field. Where a professional's engineering and/or land surveyor's stamp or seal is required in the conduct of such Services, the documents shall be stamped by the relevant professional registered in the State of Maine.

#### IX. CITY'S RIGHT TO TERMINATE CONTRACT

Without prejudice to any other right or remedy, the CITY may terminate this Agreement for cause by providing the CONTRACTOR and its surety with seven (7) days' written notice of termination. For purposes of this Agreement, cause includes, but is not limited to: the adjudication of the CONTRACTOR as a bankrupt; the making of a general assignment by the CONTRACTOR for the benefit of its creditors; the appointment of a receiver because of the CONTRACTOR's insolvency; the CONTRACTOR's persistent or repeated refusal or failure, except for cases in which extension of time is provided, to supply enough properly-skilled workers or proper materials to perform the Services; the CONTRACTOR's persistent disregard of federal, state or local statutes, laws, codes, rules, regulations, orders or ordinances; and the CONTRACTOR's substantial violation of any provisions of this Agreement. In the event of a termination for cause, the CITY may finish the Services by whatever method it may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment for any additional Inspections.

Further, the CITY may terminate this Agreement for convenience upon thirty (30) days' written notice to the CONTRACTOR, in which case, the CITY shall pay the CONTRACTOR for all Services satisfactorily performed and materials purchased up to the date of receipt of such notice by the CONTRACTOR. In the event that the CITY terminates this Agreement for cause and it subsequently is determined that cause did not exist, such termination shall be deemed to be for

convenience.

## X. INSURANCE

Except as otherwise provided by this Agreement, the CONTRACTOR and its subcontractors and consultants shall obtain and maintain, throughout the term of this Agreement and for a period of at least two years following the completion of Services under this Agreement, at no expense to the CITY, the following insurance coverages:

A. **Public Liability Insurance** in the amount of not less than four-hundred-thousand dollars (\$400,000) or such other amount as is established by the Maine Tort Claims Act (14 M.R.S.A. §8101 et seq. ) as amended from time to time, combined single limit, to protect the CONTRACTOR, any subcontractor performing Services under this Agreement, and the CITY from claims and damages that may arise from operations under this Agreement, whether such operations be by CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by them.

B. **Automobile Liability Insurance** in the amount of not less than four-hundred-thousand Dollars (\$400,000) or such other amount as is established by the Maine Tort Claims Act (14 M.R.S.A. §8101 et seq.) as amended from time to time, combined single limit, to protect the CONTRACTOR, any subcontractor performing work covered by this Agreement, and the CITY from claims and damages that may arise from operations under this Agreement, whether such operations be by CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by them.

C. **Workers' Compensation Insurance** in amounts required by Maine law and **Employer's Liability Insurance**, as necessary, as required by Maine law. In case any class of employees engaged in hazardous work under this Agreement is not protected under the Workers' Compensation Act, the CONTRACTOR shall, at its own expense, provide for the protection of its employees not otherwise protected. (NOTE: Small contractors may not be eligible for Workers' Compensation.) If the CONTRACTOR does not provide proof of Workers' Compensation Insurance then the contractor must provide a Predetermination of Independent Contractor Status. **Employer's Liability Insurance** with a limit of not less than \$1,000,000 per occurrence. CONTRACTOR waives all rights against the CITY, including any right of or for subrogation, for damages to the extent covered by the employer liability policy require by this Section.

D. **Professional Liability Insurance** in the amount of four-hundred-thousand Dollars (\$400,000) for these Services to protect the CONTRACTOR, any subcontractor performing Services under this Agreement, and the CITY from claims and damages that may arise from the errors, omissions or negligence of the CONTRACTOR or its subcontractors, if any, in the performance of Services under this Agreement.

The provisions of this Article shall not be construed as providing a shorter limitation for claims against design professionals than that established by 14 M.R.S.A. §752-A as it may be amended from time to time.

E. All such insurance policies shall name the CITY and its officers, agents and employees as additional insured, except that for purposes of workers' compensation insurance, the CONTRACTOR and its subcontractors instead may provide a written waiver of subrogation rights against the CITY. The CONTRACTOR, prior to commencement of Services under this Agreement, and any of its subcontractors, prior to commencement of Services under any subcontract, shall deliver to the CITY certificates satisfactory to the CITY evidencing such insurance coverages, which certificates shall state that the CONTRACTOR and its subcontractors must provide written notice to the CITY at least thirty (30) days prior to cancellation, non-renewal, material modification or expiration of any policies, evidenced by return receipt of United States Certified Mail. Replacement certificates shall be delivered to the CITY prior to the effective date of cancellation, termination, material modification, or expiration of any such insurance policy. The CONTRACTOR shall not commence Services under this Agreement until it has obtained all insurance coverages required under this subparagraph and such insurance policies have been approved by the CITY, nor shall the CONTRACTOR allow any of its subcontractors to commence Services on any subcontract until all such insurance policies have been obtained by the subcontractor and approved by the CITY. All such insurance policies shall have a retroactive date which is the earlier of the date of this Agreement between the parties or the CONTRACTOR's Commencement of Services hereunder. **Nothing herein shall, nor is intended to, waive any defense, immunity, or limitation of liability which may be available to the CITY or its respective officers, agents, and employees, under the Maine Tort Claims Act or any other privileges, and/or immunities provided by law.**

#### XI. INDEMNIFICATION

The CITY and the CONTRACTOR agree to defend, indemnify, and hold each other harmless, including each of their respective officers, agents, and employees, against any and all liabilities, causes of action, judgments, claims, or demands, including attorney's fees and costs, for personal injury (including death) or property damage arising out of or caused by the performance of Services under this Agreement by the CITY, the CONTRACTOR, its subcontractors, agents, or employees; provided however, this indemnification shall not extend to liability, causes of action, judgments, claims or demands, including reasonable attorney's fees and costs resulting from the negligence or willful misconduct of the indemnified party.

#### XII. ASSIGNMENT

Neither party to the Agreement shall assign this Agreement or sublet it as a whole without the written consent of the other, nor shall the CONTRACTOR assign any prior moneys due or to become due to it hereunder, without the previous written consent of the CITY.

#### XIII. SUBCONTRACTS

The CONTRACTOR shall not sublet any part of this Agreement without the prior written permission of the CITY. The CONTRACTOR agrees that it is fully responsible to the CITY for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

XIV. FINAL PAYMENT

Final payment, constituting the entire unpaid balance for services rendered, shall be paid by the CITY to the CONTRACTOR when the Services have been completed, the Contract fully performed, and, if applicable, a final Certificate for Payment has been issued by the CITY.

XV. OWNERSHIP OF DOCUMENTS

All drawings, notes, documents, plans, and specifications, or other material to be developed under this Agreement shall become the property of the CITY and be promptly delivered to the CITY upon the completion of Services under this Agreement or sooner upon the CITY’s request or the termination of this Agreement. The CONTRACTOR shall be responsible for the protection and/or replacement of any work or materials in its possession, including work or materials provided to the CONTRACTOR by the CITY. The CITY agrees that it will not use the construction plans and specifications developed under this Agreement for any project other than the project specified herein without the written consent of the CONTRACTOR, which consent shall not be unreasonably withheld.

XVI. FORCE MAJEURE

Provided such party gives written notice to the other of such event, a party shall not be liable for its failure to perform its respective obligations under this Agreement, if prevented from so doing by any cause beyond the reasonable control of such party such as, but not limited to, strikes, lockouts, or failure of supply or inability by the exercise of reasonable diligence, to obtain supplies, parts, or employees necessary to perform such obligations, or because of war or other emergency. The time within which such obligations shall be performed shall be extended for a period of time equivalent to the delay from such cause.

XVII. NON-WAIVER

Except as expressly provided in this Agreement, the failure or waiver, or successive failures or waivers on the part of either party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either party hereto, its successors or permitted assigns, to enforce the same in the event of any subsequent breach thereof.

XVIII. NOTICES

Notices hereunder shall be deemed sufficient if sent by U.S. Certified mail as follows:

TO CITY:                    Jamie Cole,  
   Director of Code Enforcement  
   City of Sanford  
   919 Main Street  
   Sanford, ME 03909

TO CONTRACTOR: \_\_\_\_\_ (insert name of contact for CONTRACTOR),

\_\_\_\_\_ (insert title of contact for CONTRACTOR)  
\_\_\_\_\_ (insert name of CONTRACTOR)  
\_\_\_\_\_ (insert street address of CONTRACTOR)  
\_\_\_\_\_ (insert municipality of primary location),  
\_\_\_\_\_ (insert state of primary location) \_\_\_\_\_ (insert zip code)

XIX. REMEDIES

Except as otherwise agreed by the parties in writing, all disputes, claims, counterclaims, and other matters in question between the CITY and the CONTRACTOR arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction. This Agreement is made and shall be construed under the laws of the State of Maine. Except as otherwise expressly agreed by the parties in writing, exclusive venue for any such civil action shall be in Maine.

XX. COMPLIANCE WITH APPLICABLE LAWS

The CONTRACTOR agrees that it and its subcontractors, if any, shall comply with all applicable federal, State, and local statutes, laws, rules, regulations, codes, ordinances, orders, and resolutions in the performance of Services under this agreement.

XXI. RELEASE OF INFORMATION

During the performance of the Services, any material, prepared or assembled by the CONTRACTOR under this Agreement shall not be made available to any individual or organization by the CONTRACTOR other than as called for herein without prior written authorization from the CITY.

XXII. EXTENT OF AGREEMENT

This Agreement (and the proposal attached hereto and hereby incorporated into this Agreement) represent(s) the entire and integrated Agreement between the CITY and CONTRACTOR and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CITY and CONTRACTOR.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Witness:

\_\_\_\_\_

Witness

\_\_\_\_\_

CITY

By:

\_\_\_\_\_  
City Manager

\_\_\_\_\_ (DATE)

CONTRACTOR

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_ (DATE)

**Attachment 1**

**REQUEST FOR QUALIFICATION STATEMENTS FOR**

\_\_\_\_\_ (insert project name)

(attach original Request for Qualification Statements)

**Exhibit 1**

\_\_\_\_\_ (insert project name)

**Scope of Services**

(attach original requested Specifications)

**Attachment 2**  
**Services**

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(insert project name)  
(attach CONTRACTOR'S successful QUALIFICATION STATEMENT)