

ATTACHMENT 4: INSURANCE REQUIREMENTS

Instructions to Contractors, Vendors, & Service Providers:

Prior to commencing any work, all Contractors, vendors and service providers shall procure and maintain, at their own cost and expense for the duration of their contract with the Town, appropriate insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services. Any insurance proceeds available to Town in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to Town.

Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to the required general liability policy, shall be delivered to Town at or prior to the execution of the contract. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, Town has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under the contract and to pay the premium. Any premium so paid by Town shall be charged to and promptly paid by the Contractor, vendor or service provider or deducted from sums due the Contractor, vendor or service provider, at Town's option.

The types of insurance required and the coverage amounts are specified below:

A. Minimum Scope of Insurance Required

1. General Liability Insurance is required whenever the Town is at risk of third-party claims, which may arise out of work or presence of a Contractor, vendor and service provider on Town premises. At a minimum this policy shall:
 - be written on a per occurrence basis; and
 - include products and completed operations liability, independent Contractors liability, broad form contractual liability, and cross liability protection.
2. Automobile Liability Insurance is required only when vehicles are used by a Contractor, vendor or service provider in their scope of work or when they are driven off-road on Town property. Compliance with New Hampshire law requiring auto liability insurance is mandatory and cannot be waived. At a minimum this policy shall:
 - be written on a per occurrence basis;
 - include coverage for Bodily Injury and Property Damage, Owned, Non-owned and Hired Vehicles; and
 - include coverage for owned, non-owned, leased and hired vehicles.
3. Workers' Compensation and Employer's Liability Insurances is required for any Contractor, vendor or service provider that has any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement form available from the Town's Risk Manager. At a minimum, this policy shall:
 - provide statutory requirements of the State of New Hampshire; and
 - include \$2,000,000 Employer's Liability.

- 4. Errors and Omissions (if applicable) coverage is required for licensed or other professional Contractors doing design, architectural, engineering or other services that warrant such insurance. At a minimum this policy shall:
 - cover liability for malpractice or errors and omissions made in the course of rendering professional services.
 - be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under the contract. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of the contract.

B. Minimum Limits of Insurance Coverage Required

Under \$25,000	Limits TBD by Risk Manager
Over \$25,000 to \$5,000,000	\$1 Million per Occurrence/\$2 Million Aggregate
Over \$5 Million	Limits TBD by Risk Manager

Umbrella excess liability may be used to reach the limits required by the specific contract.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such, coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Each such policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to Town for injury to employees of Contractor, vendor or service provider, subconsultants, subcontractors or others involved in the work. The scope of coverage provided is subject to approval of Town following receipt of proof of insurance as required herein.

Additional insurance requirements may be imposed by the Town for services or products that have a higher risk. Refer to the Town’s Risk Manager for information of the insurance requirements for the following types of services or products:

1. Construction contracts which are awarded or administered through Town departments other than the Public Works Department;
2. Medical, excavation, drilling, trenching or shoring services, or services involving explosives or pyrotechnics;
3. Environmental consulting, engineering or related services or operations;
4. Custom manufactured products;
5. Products or services involving firearms, tobacco, alcohol, or controlled substances; and
6. Any unusual or high-risk activities, operations or products.

C. General Standards for Insurance Policies:

All insurance policies shall meet the following general standards:

1. Insurance carrier is to be placed with duly licensed or approved non-admitted insurers in the State of New Hampshire.
2. Insurers must have a Best's rating of A-, Class VII or higher (this rating includes those insurers with a minimum policyholder's surplus of \$50 to \$100 million). Exceptions to the Best's rating may be considered when an insurance carrier meets all other standards and can satisfy surplus amounts equivalent to a B+, Class VII rating.
3. Certificate must include evidence of the amount of any deductible or self-insured retention under the policy.

D. Verification of Insurance Coverage:

All individuals, Contractors, agencies, and organizations conducting business for the Town shall provide proof of insurance by submitting one of the following: (1) an acceptable Certificate of Liability Insurance Coverage with an approved Additional Insured Endorsement (see attached) with the following endorsements stated on the certificate:

1. "The Town of Milford, its elected and appointed officers, officials, employees and agents are named as an additional insureds" ("as it relates to a specific contract" or "for any and all work performed with the Town " may be included in this statement).
2. "This insurance is primary and non-contributory over any insurance or self-insurance the Town may have" ("as it relates to a specific contract" or "for any and all work performed with the Town " may be included in this statement). See Example A below.

As an alternative to the non-contributory endorsement, the Town will accept a waiver of subrogation endorsement on the General Liability policy. At a minimum, this endorsement shall include the following language:

"This insurance company agrees to waive all rights of subrogation against the Town of Milford, its elected and appointed officers, officials and employees for losses paid under the terms of this policy which arise from the work performed by the named insured for the Town . "

3. "The insurance afforded by this policy shall not be cancelled except after thirty days prior written notice by certified mail return receipt requested has been given to the Town . " Language such as, "endeavor to" mail and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representative" is not acceptable and must be crossed out. See Example B below.

The Workers' Compensation and Employers' Liability policies shall contain waiver of subrogation clause in favor of Town , its elected and appointed officers, officials, employees, agents and volunteers. See Example C below.

In addition to the endorsements listed above, the Town of Milford shall be named the certificate holder on the policy.

All certificates and endorsements are to be received and approved by the Town before work commences. All certificates of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Failure to obtain the required documents prior to the commencement of work shall not waive the Contractor's obligation to provide them.

E. Acceptable Alternatives to Insurance Industry Certificates of Insurance:

Town will accept the following:

- A copy of the full insurance policy which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the Town .
- Binders and Cover Notes are also acceptable as interim evidence for up to 90 days from date of Approval.

F. Endorsement Language for Insurance Certificates

Example A: THE INSURANCE SHALL BE PRIMARY WITH RESPECT TO THE INSURED SHOWN IN THE SCHEDULE ABOVE, OR IF EXCESS, SHALL STAND IN AN UNBROKEN CHAIN OF COVERAGE EXCESS OF THE NAMED INSURED'S SCHEDULED UNDERLYING PRIMARY COVERAGE. IN EITHER EVENT, ANY OTHER INSURANCE MAINTAINED BY THE INSURED SCHEDULED ABOVE SHALL BE IN EXCESS OF THIS INSURANCE AND SHALL NOT BE CALLED UPON TO CONTRIBUTE WITH IT.

Example B: SHOULD ANY OF THE ABOVE-REFERENCED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS* WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

*The broker/agent can include a qualifier stating "10 days' notice for nonpayment of premium."

Example C: IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY WITH RESPECT TO THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED

G. Waiver or Modification of the Insurance Requirements.

Any waiver or modification of the insurance requirements can only be made by the Town's Risk Manager or designee at Town's discretion. If you do not believe that the insurance requirements apply to you (e.g., you do not have employees and therefore are not subject to the State's workers' compensation insurance requirements; you do not drive an automobile in connection with the services you provide to the Town ; professional liability or errors and omissions liability insurance is not available for the type of services you are performing, etc.), please submit a written request for waiver or modification of the insurance requirements and the reasons underlying your request to the Risk Manager. All requests for a waiver or modification will be reviewed and a final determination rendered by the Risk Manager.