



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7281

Planning Department
(603) 610-7216

PROFESSIONAL SERVICES AGREEMENT CITY OF PORTSMOUTH, NEW HAMPSHIRE

THIS AGREEMENT MADE THIS ____ day of January, 2018 by and between the **CITY OF PORTSMOUTH**, a body politic and corporate located in the County of Rockingham, State of New Hampshire (hereinafter referred to as "City"), and

WESTON & SAMPSON ENGINEERS, INC.
(hereinafter referred to as "Weston & Sampson")

THE PARTIES. The parties to this agreement are the City of Portsmouth, 1 Junkins Avenue, Portsmouth, NH 03801 and **Weston & Sampson, Inc.**, of 100 International Drive, Suite 152 Portsmouth, NH 03801 ("Weston & Sampson").

PURPOSE. The purpose of this agreement is to secure professional services in support of the City's McIntyre Public Input process.

WITNESSETH

WHEREAS, the City desires to engage **Weston & Sampson** to render certain services;

NOW, THEREFORE, the City and **Weston & Sampson** do mutually agree as follows:

A. DESCRIPTION OF SERVICES

This Agreement establishes the scope of services, schedule of work and fees for professional services to complete the McIntyre Public Input process. The project scope will include, at a minimum the work outlined in **Exhibit A, Project Work Plan** submitted by **Weston & Sampson**.

City of Portsmouth Responsibilities:

Nancy Colbert Puff, Deputy City Manager - or other designee of the City Manager - will be responsible for administering the project and overseeing the consultant's work on this project. City staff will provide the consultant with available municipal reports and other information.

B. PROJECT SCHEDULE. **Weston & Sampson's** performance of this Agreement shall commence immediately following the signing of this Agreement. **Weston & Sampson** shall complete all work in its entirety by April 16, 2018.

C. PROJECT TEAM. The project team shall consist of Eugene Bolinger RLA, Vice President and Principal-in-Charge as Project Manager as well as Cheri Ruane RLA, Vice President and Cassie Bethoney RLA. The Project Manager, and additional team members as needed, will attend meetings with City staff and facilitate all public meetings identified in **Exhibit A, Project Work Plan**. Substitution of project personnel shall only

1 Junkins Avenue
Portsmouth, New Hampshire 03801
Fax (603) 427-1593

be permitted through express written permission from the City. **Weston & Sampson** shall be responsible for all payments to any subcontractor and shall certify at the end of the project that all payments due to any subcontractor or supplier as a consequence of this Agreement, have been made in full before final payment is released by the City.

- D. PROJECT BUDGET.** It is expressly understood and agreed that in no event will the total amount to be paid by the City to **Weston & Sampson** under this Agreement exceed **\$42,000**. **Weston & Sampson** shall, in accordance with applicable standards of care, complete all tasks set forth in **Exhibit A, Project Work Plan**. Mileage, presentation graphics, and other direct expenses such as copying, printing travel materials, faxes, phone calls, meals, transportation and the like are included in the lump sum fee.

The City of Portsmouth is responsible for posting all public meeting advertisements and is responsible for all publication and mailing costs.

- E. PAYMENT PLAN.** **Weston & Sampson** shall submit monthly invoices detailing work performed and estimated percentage of task completion for City approval. Such invoices shall be payable net 30 days from time of approval.
- F. OPERATING PROCEDURES.** **Weston & Sampson** agrees to comply in all respects with all of the duties, responsibilities and requirements imposed by this Agreement, and by the City. This shall include adherence to a communications plan for the project
- G. CONFLICT OF INTEREST.** No officer, employee or agent of the City, or any other person who exercises any functions or responsibilities in connection with the City, shall have any personal or financial interest, direct or indirect, in this Agreement; and **Weston & Sampson** shall take appropriate steps to assure compliance.
- H. GOVERNING LAW.** The terms of this Agreement shall be governed by the laws of the State of New Hampshire. Jurisdiction and venue shall lie in Rockingham County Superior Court.
- I. INDEMNIFICATION.** **Weston & Sampson** agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City of Portsmouth against damages, liabilities and costs arising from the negligent acts of **Weston & Sampson** in the performance of professional services under this Agreement, to the extent that **Weston & Sampson** is responsible for such damages, liabilities and costs on a comparative basis of fault between **Weston & Sampson** and the City of Portsmouth. **Weston & Sampson** shall not be obligated to indemnify City of Portsmouth for the City's negligence or for the negligence of others.

For purposes of this Agreement, any officers, employees, agents, applicants or beneficiaries of **Weston & Sampson** act in an independent capacity and are not officers or employees or agents of the City.

- J. TERMINATION OF AGREEMENT**

1. Termination of Agreement for Cause. If through any cause, **Weston & Sampson** shall fail to fulfill in a timely and proper manner its obligations under this Agreement; or, if **Weston & Sampson** shall violate any of the covenants, agreements or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to **Weston & Sampson** of such termination and specify the effective date of such termination. **Weston & Sampson** shall be entitled to receive just and equitable compensation for any work satisfactorily completed prior to the date of termination. Notwithstanding the above, **Weston & Sampson** shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by **Weston & Sampson**, and the City may withhold any payments to until such time as the exact amount of damages to the City from **Weston & Sampson** is determined.

2. Termination for the Convenience of the City. The City may terminate this Agreement at any time for any reason by giving at least thirty (30) days notice in writing to **Weston & Sampson**. If the Agreement is terminated by the City for its convenience, the City shall pay **Weston & Sampson** for all work satisfactorily completed up to the date of termination.

- K. AMENDMENTS.** This Agreement may be amended only by written agreement executed by both parties.
- L. SEVERABILITY.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in force.
- M. OWNERSHIP OF INFORMATION.** All information, data, documents, photos, computer records, and other materials of any kind acquired or developed by **Weston & Sampson** pursuant to this Agreement shall be the property of the City.

The City acknowledges that such documents are not intended or represented to be suitable for reuse by the City or others on extensions of this project or on any other project. Any reuse without written verification or adaptation by the Contractor for the specific purpose intended shall be at the City's sole risk.

- N. INSURANCE REQUIREMENTS.** Contractor shall maintain insurance in the amounts as set forth in the **Exhibit B, Insurance Requirements**. The City shall be an additional insured for general and automobile liability coverage.
- O. LIMITATION OF CONSEQUENTIAL DAMAGES.** The parties liabilities to each other with respect to any claims arising out of this Contract, shall be limited to direct damages arising out of the services, there being no liability for any consequential loss, injury or damage incurred, including but not limited to, claims for loss of use, loss of profits and loss of markets.
- P. PROJECT COMMUNICATIONS.** All contact with the press, the public, and other third parties shall be coordinated with the City of Portsmouth. Press inquiries should be

directed to the Deputy City Manager unless direction is given otherwise.
Communications to the public shall be reviewed and approved by the City of Portsmouth.

Marketing and promotional materials developed by Weston & Sampson and any sub-consultants related to this project and products delivered under this contract shall be developed with the City of Portsmouth and express permission granted for reuse of images, plans, and other specific work products resulting from this project. This obligation shall survive the termination and or completion of this agreement.

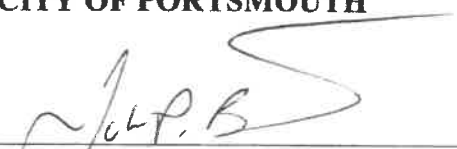
IN WITNESS WHEREOF, the City and **Weston & Sampson** have executed this Agreement as of the date first above written.

ATTEST:

CITY OF PORTSMOUTH

DATE 2-1-18

BY:



John P. Bohenko
City Manager, City of Portsmouth

WESTON & SAMPSON ENGINEERS, INC.

DATE 2/12/18

BY:



Eugene R. Bolinger, RLA
Vice President and Principal-in-Charge



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7281

EXHIBIT A PROJECT WORK PLAN

Planning Department
(603) 610-7216

Weston (&) Sampson

25 Devonshire Street, 3rd Floor, Boston, MA 02109
Tel: 617.412.4482

January 25, 2018

David Moore
Assistant City Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: McIntyre Building Project
Subject: Public Engagement Services Letter Proposal

Dear Mr. Moore:

We are pleased to submit this proposal to provide consulting services to the City of Portsmouth in relation to the advancement of the McIntyre Building Project.

Project Background

The Thomas J. McIntyre Federal Building is located on Daniel Street in downtown Portsmouth. The building has supported offices of the Internal Revenue Service, the Social Security Administration, the Federal Bureau of Investigation, and the U.S. Postal Service. In fall of 2016, the GSA officially began a disposal process, declaring the building to be surplus to its needs. In 2017, the City of Portsmouth issued a RFP for redevelopment of the property and recently selected a development partner.

There are many opportunities to be considered in relation to the redevelopment of the McIntyre Building and the city has announced plans to undertake a comprehensive public engagement process to give all citizens a voice in identifying successful build-out scenarios for this property. Weston & Sampson will partner with the City of Portsmouth to design the public engagement process and serve as the lead facilitator throughout the process.

Services to be Provided

Weston & Sampson will provide the following services in relation to McIntyre Building public outreach and engagement process:

- 1. Designing the Program-** using the basic three stage approach (Foundational Informational, Focus on Preferred Site Options and Guiding Principles and Priorities Consensus) that has been established by the city, we will work with the designated city project team to further develop and refine the information content to be presented and discussed at each public engagement session. Weston & Sampson will take the lead in the development of the actual presentations, in PowerPoint formats typically, and we will also take the lead in developing graphic imagery to support all efforts. Work will include the establishment of Meeting Agendas and meeting format approaches that create comfortable, convenient venues and appropriate avenues for fostering public interaction and that maximize the extent of public input. All deliverables will be prepared in DRAFT formats for review by city staff and then finalized as agreed upon.
- 2. Public Engagement Process Meetings-** Weston & Sampson will attend and fully participate in Blue Ribbon Committee Meetings and attend and facilitate at each formal public engagement session. The initial schedule calls for the following meetings to be convened:
 - Blue Ribbon Committee Meetings: 3-4
 - Stage 1 Public Engagement Sessions: 2
 - Stage 2 Public Engagement Sessions: 3
 - Stage 3 Public Engagement Sessions: 2

westonandsampson.com
Offices in MA, CT, NH, VT, NY, NJ, PA, DC & FL

1 Junkins Avenue
Portsmouth, New Hampshire 03801
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For each session, our staff will record input and prepare written meetings summaries in a draft format for review by city staff and then in a final form to be posted promptly onto the project website.

Throughout the process, our staff will also be available for in-person and via telephone working sessions with city staff to advance all aspects of the public engagement process effort.

- 3. **Project Web Page Management:** Weston & Sampson staff, in collaboration with city staff, will assist in the design, management and organization of information to be placed on the McIntyre Project Web Site. The intent is to maintain a clear, easy to navigate, well-organized, continually current/updated, and attractive platform for the hosting of information and for the receipt of citizen input.

Compensation

The not-to-exceed cost to provide services for the McIntyre Building Project public outreach initiative shall be \$42,000. Work shall be invoiced monthly based as incurred. As previously designated, Gene Boinger, Cheri Ruane and Cassie Bethoney will be our primary project participants although other staff will be called upon from time to time to support their work.

Schedule

It is generally understood that our services shall be provided from January 2018 through April 2018.

We greatly appreciate the opportunity to work with you and other city representatives on this important project initiative. Please contact our office with any questions pertaining to this proposal.

Sincerely,

WESTON & SAMPSON



Eugene R. Boinger, RIA
Vice President

EXHIBIT B

INSURANCE COVERAGE REQUIREMENTS

1. Consultant shall carry Comprehensive General Liability Insurance with combined single limits not less than \$2,000,000 per occurrence for Bodily Injury and Property Damage and \$2,000,000 for general aggregate.
2. Consultant shall carry Automobile Liability Insurance, including owned and hired motor vehicles, on an occurrence form with a combined single limit of not less than \$2,000,000 for Bodily Injury and Property Damage.

The City of Portsmouth shall be named as an additional insured on these liability policies.

Coverage amounts can be met through umbrella/excess policies with the form satisfactory to the City of Portsmouth.

3. Consultant shall carry Professional Liability Insurance in an amount of not less than \$2,000,000 in the aggregate, covering acts, errors, or omissions related to the Scope of Professional Services to be rendered under this Contract.
4. Consultant shall carry Worker's Compensation Insurance for all persons employed under this contract in accordance with the statutory requirements.

Applicable to all insurances requirements:

The City of Portsmouth shall be identified as a certificate holder on all policies as follows:
City of Portsmouth, Attn: Legal Department, 1 Junkins Avenue, Portsmouth, NH 03801.

Consultant shall provide proof of insurance coverage satisfactory to the City of Portsmouth.

Coverages shall remain in effect for a period consistent with the Statues of Limitations under the Law of New Hampshire.