

**REQUEST FOR PROPOSALS
TOWN OF AMHERST, NEW YORK**

The Town of Amherst (Town) is requesting proposals (RFP) for a qualified broker to provide insurance services and to negotiate on behalf of the Town for municipal property and liability insurance. It is anticipated that the selected broker will commence the services described in this RFP on the date of award by the Town and will place all insurance coverage and renewals from that time forward. The broker will have a close working relationship with the Town Attorney's Office.

Copies of the complete Request For Proposals may be obtained from the Town's website at www.amherst.ny.us or by sending an e-mail request to townattorney@amherst.ny.us.

The deadline for delivery of responses to this request is 4:00 p.m. on May 31, 2018.

TOWN OF AMHERST, NEW YORK

Request for Proposal

INSURANCE BROKERAGE SERVICES

Date Issued: May 9, 2018

Submission Deadline: May 31, 2018

Town of Amherst Request for Proposal Insurance Brokerage Services

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1. Purpose

The Town of Amherst (hereinafter “Town”) maintains a comprehensive risk management program to protect, support and enhance the Town’s financial position. The Town is seeking proposals for a qualified broker to provide insurance services and to negotiate on behalf of the Town for municipal property and liability insurance.

This process is designed to provide for a fair and open method of awarding professional services based on qualifications in accordance with all applicable state, federal and local regulations and ordinances.

The Town wishes to establish a strategic partnership with a qualified broker who will assist the Town in the process of developing and administering a program that provides solutions to meet the following goals:

- Provide a comprehensive, state of the art, insurance program for the Town at the most reasonable costs, taking advantage of the most favorable given market conditions;
- Provide aggressive loss control services as well as administrative assistance, as requested, to the Town to ensure the Town is in the best financial position possible while protecting the employees and the public;

It is anticipated that the selected broker will commence the services described in this RFP on the date of award by the Town and will place all insurance coverage and renewals from that time forward.

Insurance programs are not to be marketed until this selection process is complete. Do not reserve insurers at this time. Failure to comply with this requirement may result in disqualification.

2. General Information

The Town is entirely self-insured for property, workers’ compensation and casualty. For a list of the types of coverage please see Appendix A: Policy Schedule.

3. Scope of Services

At a minimum, the selected broker/agent will be expected to provide the following services:

- Provide market access to key municipal carriers;
- Evaluate the Town’s current insurance program design. Identify and evaluate alternative approaches and recommend program improvements (structure, limits, scope of coverage, retention limits, risk management and control alternatives, risk financing alternatives, etc.) for the Town’s consideration and approval;
- Develop a competitive insurance program and implement the program upon award. Implementation of the program will include timely and accurate delivery of certificates, ID cards, binders, invoices and policies;

- Develop a service strategy to be followed by the carrier, the broker and the client for the policy period. Implementation this strategy and monitor it so that services are provided as agreed upon by all parties involved;
- Review policies and change endorsements for accuracy and resolve any discrepancies that may be identified between the proposed coverage and the produced policy;
- Provide coverage summaries, schedules and changes as necessary;
- Review billings, audits for accuracy and make certain all changes such as taxes, assessments, fees, etc. are identified as necessary;
- Provide the Town with information and forecasts of changes that may arise in the insurance marketplace;
- Coordinate the renewal process with the existing insurance carriers. Analyze the renewal proposal, negotiate terms and conditions and make recommendations.

4. Proposal Submission

One (1) original and four (4) copies with one (1) flash drive containing the proposal and other required documents must be submitted, sealed in an opaque envelope clearly marked with the name of the Proposal and the name and address of the Vendor. If the proposal is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face thereof. Vendors mailing proposal shall allow sufficient time for delivery. Proposals must be received no later than **4:00 PM on May 31, 2018** at the following address:

Stanley J. Sliwa, Esq., Town Attorney
Town of Amherst
5583 Main Street
Williamsville, New York 14221

The Proposals submitted by the individual Vendor(s) are the documents upon which the Town will make its initial judgment regarding the Vendor's qualifications, understanding of the Town's scope and objectives, methodology, and ability to complete services under the contract.

Those submitting Proposals do so entirely at their expense. There is no express or implied obligation by the Town to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the Town, or for participating in any selection interviews.

Submission of any Proposal indicates acceptance of the conditions contained in this RFP, unless clearly and specifically noted otherwise in the Proposal. The Town reserves the right to reject any and all Proposals, in whole or in part, submitted in response to this RFP.

The Town reserves the right to waive any and all informalities and to disregard all non-conforming, non-responsive or conditional Proposals.

The Town may, at any time by written notification to all Vendors, change any portion of the RFP described and detailed herein.

Proposals will be examined and evaluated by the Town Attorney and his designees. Recommendations shall be made to the Town Board who has final authority to award the business.

During the evaluation of Proposals, the Town may require clarification of information or may invite Vendors to an oral presentation to clarify and or validate Proposal contents.

All questions concerning this RFP shall be submitted via email, no later than 1:00 PM on May 17, 2018 (email: ssliwa@amherst.ny.us). Replies will be issued by Addenda and posted on the Town's website (www.amherst.ny.us). Questions received less than four (4) days prior to the date of submission of proposals will not be answered. Vendors should only rely on answers and other information given by formal written Addenda.

From the date of distribution of the RFP through the date of authorization to enter into an Agreement with a Broker/Agent by the Town, Vendors may not initiate or continue any verbal or written communications regarding this RFP with any Town officer, elected official, employee or other Town representative. Such communications are expressly forbidden except with the written foreknowledge to and permission of the Town Attorney. Violations will be reviewed by the Town Attorney. If determined that such communication has compromised the competitive process or is otherwise deemed to be disruptive, inappropriate or unacceptable conduct, the RFP submitted by that Vendor may be disqualified for further consideration.

All material submitted in response to this RFP shall become the property of the Town.

5. Qualification of Vendor

Provide a statement of Vendor qualifications including:

Name and title of person(s) authorized to bind the Vendor, together with main office address, and telephone number (including area code). Vendor shall meet the following minimum qualifications to be considered:

- Assigned personnel must be appropriately licensed to perform brokerage services in the State of New York;
- Responding firms must have a minimum of five (5) years of experience writing business for and servicing at least one New York State municipality; and
- Responding firms shall have experience in placing an insurance program with a minimum of total insured values (TIVs) in excess of \$75,000,000 in New York State at any time within the past five (5) years.

Provide at least three (3) references for which brokerage services of the requested type are currently provided including the name, addresses and telephone numbers.

Provide any additional information that would distinguish your firm in its potential service to the Town.

In addition, the Town may make such investigations it deems necessary to determine the ability of the Vendor to perform the work. The Vendor shall furnish to the Town, within five (5) days of a request, all such information and data for this purpose as may be requested.

The Town reserves the right to reject any Proposal if the information submitted by, or investigation of, such Vendor fails to satisfy the Town that such Vendor is properly qualified to carry out the obligations of this proposal and to complete the work contemplated herein. Conditional Proposals will not be accepted.

6. Broker Response Format

In order for the Town to conduct a uniform review process of all proposals, proposals must be submitted in the format set forth below. Failure to follow this format may be cause for rejection of a proposal because adherence to this format is critical for the Town's evaluation process:

SECTION I:

Title Page: The title page should reflect the Request for Proposals subject, name of the vendor, address, telephone number and contact person.

SECTION II:

A. Respondent's Contact Information

1. Firm/agency name;
2. Address of main office and local office;
3. Name and title of person whom the Town should contact regarding the proposal;
4. Telephone number(s), fax number and email address for such person; and
5. Tax Identification Number.

B. Background Information

1. Provide a brief description and history of the agency/firm (national, regional or local; size and ownership structure; corporate philosophies).
2. Please describe your agency's format quality systems.
3. Please describe your agency's approach to Risk Management.

C. Respondent's Experience

Provide a statement detailing the experience of your firm. Please include:

1. Respondent's experience performing insurance placements and obtaining cost-effective coverage for municipalities or governmental entities;
2. Programs and actions taken to ensure adequate continuing professional education of staff and commitment to professional standards;
3. The results of recent external quality control reviews, if any; and
4. Any additional information that may distinguish your agency from other agencies responding to this RFP.

D. Assigned Personnel

1. Identify all staff members of your firm who will be active in the transition, placement and servicing of the insurance program.
 - a. Provide background and experience of broker/account executive and other support personnel, including professional qualifications, academic designation, licenses maintained and length of time working with the agency, and length of time working in insurance or risk management services or in any other field that would provide added benefit to this account.
 - b. Describe experience performing insurance placements and obtaining cost-effective coverage for municipalities or governmental entities.
2. Provide a narrative or organizational chart that describes the organization of the assigned personnel by illustrating the roles of each staff member and the lines of authority, designating the individual(s) responsible and accountable for the completion of the services requested in this RFP. If other than the local office, indicate where the work will be performed.
3. If the broker/account executive assigned is someone other than the person whose name and contract information are provided earlier in the proposal, please provide the broker/account executive's telephone number and direct email address.
4. The proposal must disclose any instances in which your agency or assigned personnel may have a conflict of interest with the performance of services required in this RFP, and, if any such conflict may exist, the nature of such conflict.

E. Account Administration

1. Describe, in detail, the brokerage services that would be provided to the Town, taking into account the requested services. Please also address the following:
 - a. Do you provide claims administration services? If so, how will you keep the Town informed in the claims settlement process?
 - b. How often will you review claims and reserves?
 - c. Describe how the Town may request a certificate of insurance with an additional insurance, and how much time will be required for the request to be fulfilled.

- d. Describe your safety and loss prevention/risk control services.
 - e. Describe how you would stay informed about the Town's loss exposures.
 - f. Describe how you would assist in identifying potential exposures to accidental loss.
2. Describe any additional Risk Management Services your agency/firm can provide.
 3. Describe brokerage services that are not included in the package of services described in the response, or that are not provided by Broker, particularly if such services are requested by the Town or are only available upon additional compensation.

F. Insurance Carriers

List the five (5) direct insurance carriers with which your firm has done the greatest volume of business within the last three (3) years, arranged in order of greatest to least volume of business (number 1 being the greatest). Provide the insurance carrier's parent company in parenthesis following the carrier name. Indicate whether you hold a contract with the carrier or if you access the carrier through a wholesaler or another broker.

Also, list the five (5) insurance carriers with which your firm has done the greatest volume of municipal business within the last three years, arranged in order of greatest to least volume of business (numbered 1-5, as above). Provide the insurance carrier's parent company in parentheses following the carrier's name. Indicate whether you hold a contract with the carrier or if you access the carrier through a wholesaler or another broker.

G. References

Provide at least three (3) references for clients (numbered 1-3), one of which is a New York municipality, to which the respondent is currently providing, or which the respondent is currently providing, or recently provided, insurance brokerage services similar to the services requested in this RFP.

- a. Name and address of account;
- b. Principal contact and title;
- c. Telephone number and email address;
- d. Amount of time that respondent performed services for account, including approximate date of retention and date services last performed for account (please indicate whether account is current);
- e. Description of insurance programs;
- f. Lines of insurance placed;
- g. Property insurance total insurable value (TIV);
- h. Estimated premium; and
- i. Any additional comments.

H. Broker Compensation

While the Town understands that agencies that provide quality brokerage service are entitled to fair compensation, the Town requires complete transparency in compensation for services rendered.

1. Summarize respondent's average commission earned as a percentage of premium paid for providing similar services over the two years preceding the date of this RFP.
2. Describe how the Broker will provide information about its compensation to the Town.

I. Interview Confirmation

Confirm that respondent is willing to participate in interviews or presentations and to provide additional information or data as required by the Town within five (5) days of the Town's request. The date of the interview or presentation, if any, will be determined after the Town's review of the proposals submitted.

J. Broker's License

Provide a copy of your New York State Broker's License.

7. Proposal Evaluation, Review and Selection Process

Proposals and all materials submitted with the proposal will become the property of the Town of Amherst and will be subject to the New York State Freedom of Information Law (FOIL). If any proprietary information is submitted with the proposal it must be clearly identified and a request to keep such information confidential must be submitted along with the proposal.

The Town Attorney and his designee will evaluate the proposal to determine whether the requirements of this RFP are met and to make a recommendation to the Town Board for authorization of the agreement.

The evaluation process is designated to award the proposal to the Respondent that provides the best overall value to the Town of Amherst.

Proposals shall be examined and evaluated based on the following criteria.

- Respondent's qualifications, including staff assigned to the Town;
- Knowledge of municipal government and insurance services;
- Access to markets in the insurance industry;
- Demonstrated ability and experience in leveraging competition to obtain the best and most cost-effective insurance program for the Town;

- Preference will be given to certified Minority and Women’s Business Enterprises (MWBE) and respondents located within the Town through an additional weighting of 10%, respectively.

8. Anticipated Time Line

- May 9, 2018 Distribute RFP to prospective Vendors;
- May 17, 2018 Deadline to submit questions in writing;
- May 31, 2018 Deadline for RFP responses to be received by Town Attorney’s Office by 4:00 P.M.;
- June 22, 2018 Transmittal to Town Board for authorization;
- July 9, 2018 Decision by the Town Board and awarding of business

Time line is subject to change at the sole discretion of the Town of Amherst. No individual extensions will be granted.

9. Insurance and Security Requirements

The successful Respondent will be required to enter into a Professional Services Agreement with the Town of Amherst (See Appendix B: Sample Professional Services Agreement). All insurances and security requirements will be detailed in the Professional Services Agreement. Please note the successful Respondent is required to maintain errors & omissions coverage with a \$5,000,000 limit.

10. Notice to Proposers

TOWN OF AMHERST
REQUEST FOR PROPOSALS

TAKE NOTICE that sealed Proposals for Insurance Broker services for the Town of Amherst shall be received at the Town of Amherst no later than 4:00 P.M. local time on May 31, 2018.

Copies of the RFP specifications are available through the following office:

Stanley J. Sliwa, Esq., Town Attorney
Town of Amherst
5583 Main Street
Williamsville, New York 14221

DATED: _____, 2018

Appendix B: Professional Service Agreement Sample

**AGREEMENT FOR
PROFESSIONAL SERVICES**

THIS AGREEMENT, is made of this ____ day of _____, 2018, by and between the Town of Amherst, a municipal corporation having its principal office located at 5583 Main Street, Williamsville New York 14221, hereinafter referred to as the "Town" and _____ with offices located at _____ hereinafter referred to as the "Consultant."

WITNESSETH:

WHEREAS, the Town desires to secure the professional services of a Consultant to provide _____, hereinafter referred to as "the Project," and

WHEREAS, the Consultant has the necessary equipment, personnel and expertise to perform the Project.

NOW THEREFORE, in consideration of the terms and conditions contained herein, the parties do covenant and agree as follows:

SECTION 1. DESCRIPTION OF CONSULTANT'S SERVICES

A. The Consultant shall, upon the commencement date specified in Section 2 hereof, perform in a professional and workmanlike manner to the reasonable satisfaction of the Town, the following services:

B. Except as otherwise specified in this Agreement, all equipment, materials and supplies required to carry out the provisions of this Agreement and to perform the services described above shall be furnished by the Consultant and shall be fit for their purpose to the reasonable satisfaction of the Town.

C. The Town shall (if applicable, describe any Town responsibilities)

SECTION 2. TERM

The services required of the Consultant pursuant to this Agreement shall commence on and shall terminate on _____.

SECTION 3. FEE

A. The Town agrees to pay and the Consultant agrees to accept as full payment for the work and services performed pursuant to this Agreement, the following payable in the following manner:

1. (Describe method of payment as being either a lump sum payment or a phased payment, e.g., monthly, quarterly, upon completion of tasks, etc.)

B. The total fee payable by the Town pursuant to this Agreement, including all costs and disbursements whatsoever shall not exceed the sum of _____ Dollars (\$_____).

SECTION 4. AUTHORIZED AGENT FOR THE TOWN AND THE CONSULTANT

A. The Town hereby designates:

B. The Consultant hereby designates:

or their authorized representatives, as Authorized Agents of the Town and of the Consultant for receipt of all notices, demands and other communications pursuant to this Agreement. The parties reserve the right to designate other or additional agents upon written notice to the other party. In no event shall the Town's Authorized Agent be authorized to amend or extend this Agreement or to accept service for the commencement of any legal actions or proceedings related to the Agreement.

SECTION 5. TERMINATION FOR DEFAULT

The performance of work under this Agreement may be terminated by the Town in accordance with this clause in whole, or in part, whenever the Consultant shall default in the performance of this Agreement in accordance with its terms. Upon termination, the Town may take over the work to be performed and complete the same by contract or otherwise. In the Town's discretion and the Consultant shall be liable to the Town for any excess cost occasioned thereby. The total fee payable to the Consultant under this Agreement upon such termination shall be such proportionate part of the total fee as the value of the work satisfactorily completed and delivered to the Town bears to the value of the work contemplated by this Agreement.

SECTION 6. INDEMNIFICATION

To the fullest extent permitted by law, the Consultant hereby agrees to defend, indemnify and save harmless the Town of Amherst against any and all liability, loss, damage, suit, charge, attorney's fees and expenses of whatever kind or nature which the Town may directly or indirectly incur, or be required to pay by reason or in consequence of the intentionally wrongful or negligent act or omission of the Consultant, its agents, employees or contracts. If a claim or action is made or brought against the Town and for which the Consultant may be responsible hereunder in whole or in part, then the Consultant shall be notified and shall handle or participate in the handling of the defense of such matter.

SECTION 7. INSURANCE

A. Workers' Compensation and Disability Benefits Insurance

This agreement shall be void and of no effect unless the Consultant shall secure compensation for the benefit of and keep insured during the lift of this Agreement, any and all employees as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York or the state of the Consultant's residence, whichever may apply. The Consultant shall provide proof to the Town, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage have been secured. In the alternative, Consultant shall provide proof of self-insurance or shall establish that Workers' Compensation and/or Disability Benefits coverage is not required by submitted the current and required New York State Workers' Compensation Board's form.

B. General Liability Insurance (if applicable- Services that pose risk of personal injury or property damage)

The Consultant shall obtain at its own expense general liability insurance for protection against claims of personal injury, including death, or damage to property, arising out of the Project. The amount of said insurance coverage shall in the amount Two Million Dollars if said insurance is a "Defense within Limits" policy under which all claim expenses are included within both the applicable limit of liability and self-insured retention. Otherwise, the insurance coverage shall be in the amount of One Million Dollars. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York. Said insurance shall also name the Town of Amherst as an insured and copies of the policy endorsements reflecting the same shall be provided. The Consultant shall provide the Town with a certificate of insurance from an authorized representative of the financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the Consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the Town with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

SECTION 8. EQUAL OPPORTUNITY

A. General Policy

The Town of Amherst reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the Town to follow a policy of Equal Opportunity, in accordance with the requirements set forth herein. The Town further does not discriminate on the basis of disability, in admission or access to, or treatment or employment in its programs and activities. The Town is including these policy statements in all bid documents, contracts, and leases. Contractors, lessors, vendors

and supplier shall comply with all State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the Town's request.

B. Definitions

GOOD FAITH EFFORT – shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.

MINORITY GROUP PERSONS – shall mean a person of Black, Hispanic, Asian, Pacific Islander, American Indian, or Alaskan Native ethnic or racial origin and identity.

C. Compliance

The Consultant shall comply with all of the following provisions of this Equal Opportunity Requirement:

1. The Consultant agrees that he will not discriminate against any employee for employment because of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or marital status in the performance of services or programs pursuant to this Agreement, or in employment for the performance of such services or programs, against any person who is qualified and available to perform the work in which the employment relates. The Consultant agrees to make a good faith effort to employ minority group persons and females and that in hiring employees and treating employees performing work under this Agreement or any subcontract hereunder, the Consultant, and its subcontractors, if any, shall not by reason of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability or marital status discriminate against any person who is qualified and available to perform the work to which the employment relates. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that applicants are hired and that employees are treated during their employment, without regard to their of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability or marital status. Such actions shall include, but not be limited to the following: employment, upgrading, demotions or transfers, recruitment and recruitment advertising, layoffs, terminations, rates of pay and other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post notices in conspicuous places available to employees and applicants for employment, and to include language in all solicitations or advertisements for employment placed by or on behalf of the Consultant, reflecting this nondiscrimination policy.

2. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, color, national origin, sex, sexual orientation, gender identity or expression, disability, or marital status by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Opportunity Laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be

terminated in whole or part without any penalty or damages to the Town on account of such cancellation or termination, and the Consultant shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the Town of Amherst demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.

3. The Consultant shall cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

SECTION 9. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Town hereby gives public notice that it is the Town's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, gender, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Town receives federal financial assistance. Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with the Town. Any such complaint shall be in writing and filed with the Town Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from the Town at no cost to the complainant, or on the Town's website at www.amherst.ny.us, or by calling (716)631-7030.

SECTION 10. FREEDOM OF INFORMATION LAW

Disclosures required by New York's Freedom of Information Law ("FOIL") shall not be considered a breach of any confidentiality provisions in this Agreement. Should Consultant provide the Town with any records it deems confidential and exempt from FOIL, Consultant shall clearly mark such portions of those records as confidential and exempt from FOIL disclosure. Upon any request for disclosure of information as marked, the Town will inform Consultant of the request and give Consultant ten (10) business days to submit a written statement of necessity for exempting the records from disclosure pursuant to New York Public Officers Law 89(5). As required by the Public Officers Law, the Town will issue a determination as to disclosure within seven (7) business days. If the Town determines that the records shall be disclosed, Consultant may appeal the Town's determination within seven (7) business days. Thereafter, the Town shall respond to Consultant's appeal within ten (10) business days. If the Town issues an adverse determination, Consultant may appeal the decision within fifteen (15) days of service by commencing an Article Seventy-Eight (78) proceeding under New York's Civil Practice Law and Rules.

SECTION 11. COMPLIANCE WITH ALL LAWS

The Consultant agrees that during the performance of the work required pursuant to this Agreement, the Consultant, and all employees working under the Consultant's direction shall strictly comply with all local, state, or federal laws, ordinances, rules or regulations controlling or limiting in any way the performance of the work required by this Agreement. Furthermore, each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to be inserted herein. If, through mistake or otherwise, any such provision is not inserted, or is not properly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

SECTION 12. AUDIT

The Consultant agrees that the Town shall, until the expiration of three (3) years after final payment, have access to and the right to examine, at no cost to the Town, any directly pertinent books, documents, papers and records of the Consultant and of any of the subcontractors engaged in the performance of and involving transactions related to this Agreement or any subcontractors.

SECTION 13. PROHIBITION AGAINST ASSIGNMENT

The Consultant is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement or any of its contents, or of any right, title or interest therein, or of the power to execute this Agreement, to any other person or corporation with the previous written consent of the Town.

SECTION 14. OBLIGATIONS LIMITED TO FUNDS AVAILABLE

The parties specifically agree that the Consultant's duty to perform work under this Agreement and the Town's obligation to pay for that work, including any out-of-pocket and subcontracting expenses of the Consultant, shall be limited to the amount of money actually appropriated by the Town and encumbered (i.e., certified as being available) for this Project by the Town Attorney. This provision shall limit the parties' obligation to perform even though this Agreement may provide for the payment of a fee greater than the appropriated and encumbered amount.

SECTION 15. EXTENT OF AGREEMENT

This Agreement constitutes the entire and integrated Agreement between and among the parties hereto and supersedes any and all prior negotiations, agreements and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by the party's Authorized Agent.

SECTION 16. STATUS AS INDEPENDENT CONTRACTOR

The Consultant, as an independent contractor, covenants and agrees to conduct the work under this Agreement consistent with such status. The Consultant shall neither pretend nor claim to be an officer or employee of the Town by reason thereof, nor make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

SECTION 17. LAW

This Agreement shall be governed by and under the laws of the State of New York. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Erie, New York.

SECTION 18. NO-WAIVER

In the event that the terms and conditions of this Agreement are not strictly enforced by the Town, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the Town from enforcing each and every term of this Agreement thereafter.

SECTION 19. SEVERABILITY

If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the laws of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first written above.

Town of Amherst

Consultant

By: _____

By: _____

Brian J. Kulpa, Supervisor

Name: _____

Date: _____

Tax ID No.: _____

Date: _____

Appendix "A" : Schedule of Policies

Town of Amherst Insurance Policies

<u>Coverage</u>	<u>Carrier</u>	<u>Term</u>	<u>Limits</u>
Excess Workers' Compensation	N.Y. Marine	11/1/2018 to 11/1/2019	\$500,000 SIR other than Police/Fire \$200,000 Police/Fire Limit Part A : Statutory Limit Part B: \$2,000,000
Property (Town Owned)	Lexington Ins. Co.	8/22/2017 to 8/22/2018	\$100,000 Deductable \$371,154,179 Estimated Value
Crime	Travelers	8/22/2017 to 8/22/2018	\$5,000 Deductable \$500,000 SLP
Excess Liability "A"	Argonaut	1/18/2018 to 1/18/2019	\$10,000,000 after \$2,000,000 paid
Excess Liability "B"	Starstone	1/18/2018 to 1/18/2019	\$10,000,000 after \$2,000,000 paid