



April 24, 2015

Ms. Patty Mota  
Purchasing Agent/Contract Administrator  
Town of New Fairfield/New Fairfield BOE  
3 Brush Hill Road  
New Fairfield, CT 06812

Re: Professional Services to Provide Design, Engineering and  
Specifications for the Reconstruction of the Existing Parking Lots at  
the New Fairfield High/Middle School and Consolidated School

300 Winding Brook Drive  
Glastonbury, CT 06033

Tel: 860-652-8227  
800-288-8123  
Fax: 860-652-8229

[www.bscgroup.com](http://www.bscgroup.com)

Dear Ms. Mota:

BSC Group-Connecticut, Inc. (BSC) is pleased to submit this revised proposal for design services associated with the reconstruction of the existing parking lots at the New Fairfield High/Middle School and Consolidated School (the "Sites"). This proposal presents our scope of services and associated fee for the surveying, design, permitting, and construction phase services in support of this work.

BSC has prepared this proposal based upon the following understanding of your needs and circumstances that have affected the scope of services:

1. The overall goal of the project is to reconstruct the lots to improve circulation, safety, bus maneuverability, separation of pick-up/drop-off areas, separation of bus traffic, increased traffic flow efficiency and increased parking.
2. The Board of Education has requested that an analysis be conducted to assess the feasibility of various drop-off/pickup scenarios at the High School/Middle School, including the potential to combine the high school and middle school drop-off/pickup student times.
3. Based on a March 11, 2015 discussion with the Zoning Enforcement Officer, local permitting will be required through the Town of New Fairfield's Inland Wetlands Commission and Planning and Zoning Commission.
4. Design and construction work for each Site will occur concurrently. There is an inherent economy of scale associated with parallel execution of the design and construction at each Site, and we have structured our scope and fee accordingly. We understand that design is scheduled for 2015 and that bidding/construction would be during the summer of 2016.
5. Because the disturbance at each Site will be less than five (5) acres and each Site will be reviewed through the Planning and Zoning Commission, a Connecticut Department of Energy & Environmental Protection (CT DEEP) General Stormwater Permit (General Permit) will not be required.



Engineers

Environmental  
Scientists

GIS Consultants

Landscape  
Architects

Planners

Surveyors



## **1.0 SCOPE OF SERVICES**

BSC's scope of services is generally comprised of six (6) phases summarized as follows:

Phase 1 - Feasibility Analysis  
Phase 2 - Schematic Design  
Phase 3 - Design Development  
Phase 4 - Contract Plans and Specifications  
Phase 5 - Bidding & Negotiations  
Phase 6 - Construction Phase Services

A discussion of our proposed Scope of Services under each of these Phases is presented below.

### **Phase 1 - Feasibility Analysis**

The Board of Education is contemplating combining the high school and middle school drop-off/pick-up scenarios. Currently the schools experience drop-off/pick-up at different time schedules. It is not known if there is available space in the existing parking lot required to accommodate a redesign capable of supporting combined scenarios. The purpose of the feasibility analysis will be to determine if there is available space. Our scope of services for this phase is as follows:

1. Kick-Off Meeting - BSC will attend a project kick-off meeting to coordinate with the Board of Education and the principal of the High School/Middle school. This meeting will generally include a review of specific project goals, a discussion of issues associated with the existing separated drop-off/pick-up scenarios and potential combined drop-off/pick-up scenarios, and a walk-over of the project area with staff.
2. Information Gathering - BSC will gather information necessary to begin our analysis of potential combined drop-off/pick-up times. The information will include, but not be limited to, total number, type and dimensions of busses, total number of students, anticipated number of parent drops, anticipated number of student drivers, allotted pick-up/drop-off times.
3. Site Visit and Observations - BSC will observe drop-off and/or pick-up events to better understand staff concerns, safety issues, and inefficiencies.
4. Concept Design – Based upon the goals and needs of the Board of Education, as well as information previously gathered we will prepare up to two (2) concepts depicting reconfiguration potential for a separated drop-off/pick-up scenario and a combined scenario.
5. Presentation - BSC will present the concepts at a meeting with the Board of Education.
6. Report - Based upon feedback received at the presentation, we will revise the concept(s) to produce final design concepts. The concepts will be part of a formal Feasibility Report, that will document existing conditions/issues and the pros and cons of potential reconfiguration for separate and combined drop-off/pick-up scenarios.



## **Phase 2 - Schematic Design**

1. Existing Conditions Surveys - Existing condition surveys will be necessary (limits defined in Attachment A) for design and reconfiguration of parking facilities. All survey work will be based on the North American Datum of 1983 (NAD 83) and the North American Vertical Datum of 1988 (NAVD 88). Within such limits we will obtain the following: a detailed topographic survey locating all surficial features; field locate visible evidence of utilities, supplemented with best available record evidence; obtain size, type and elevation of all drainage structures; boundary survey and determinations will be limited based on definitive physical and record evidence. In the event that boundary determinations cannot be made from the limit of surveys a change in scope may be required. The level of detail of the boundary portion of the surveys will be based upon requirements detailed in our discussion with the Zoning Enforcement Officer. The extent of our A-2 boundary survey will be limited to boundary portions of the sites adjacent proposed work and not the entirety of the parcels. Our survey will also include delineation of wetlands within the upland review area on both sites.
2. Kick-Off Meeting - The BSC team will attend a project kick-off meeting to coordinate with the Board of Education and the principals of both schools. This meeting will generally include a review of specific project goals, review of the Existing Conditions Plans, discussion of the design and permitting process, project schedule and a walk-over of the project area with staff.
3. Site Review - We will perform a comprehensive site review of both parking lots. As part of the comprehensive site review, we will perform the following:
  - View the morning drop-off or afternoon pick-up scenario for the Consolidated School.
  - Interview the principal of the Consolidated School to get a clear understanding of the drop-off/pick-up requirements and the shortcomings of the existing scenarios.
  - Interview the head of facilities for both schools to determine if there are any physical shortcomings (i.e. inadequate drainage, deteriorated existing pavement or curbing, inadequate site lines, etc.)
  - Meet with the Town Planner and Town Engineer to get a complete understanding of the permitting process, as well as any concerns and/or requirements the Town Engineer may have.
4. BSC will conduct additional site visits as required to observe existing conditions, verify design constraints, and gather general site layout data to support design efforts.
5. In order to determine the physical nature of the existing base material and its suitability for reuse, we will oversee the excavation of test pits at designated locations and have samples of the base material analyzed in a laboratory for grain size analysis. We assume the Town will provide a backhoe and operator for this operation.
6. Programming - BSC will work with the Board of Education to “program” each Site/project with respect to your goals, needs, and budget. During this programming process, we will identify, assess, and evaluate various alternatives based on need, cost, constructability, safety/security, expected maintenance, visual appeal, and overall life span. Examples of design elements that will be contemplated during the programming phase include:



- Can the existing parking surface be milled and re-paved, reclaimed in-place, or must it be removed and replaced, as stated above?
  - Can portions of the lot be repaired versus replaced to save money?
  - What is the optimum location and configuration of the bus/van drop-off/pick-up areas?
  - What is the optimum location and configuration of the parent drop-off/pick-up areas?
  - What is the minimum number of parking spaces required on a daily basis? What is the typical number of spaces required for events and are there opportunities for overflow parking?
  - Are there other alternatives to circulation and parking that will improve safety, function, and maintenance?
  - What is the optimum configuration of sidewalks and pedestrian movements around the school for safety, security, and full handicapped accessibility?
  - What is the best type of signage and traffic calming devices (e.g. speed bumps) for the facility?
  - Are improvements to the lighting system warranted for safety, maintenance, or aesthetic enhancements?
7. Schematic Design - Once the programming process is completed and reviewed with the Board of Education, BSC will prepare up to two (2) Schematic Design plans for each site to depict alternatives for the configuration of proposed improvements. These plans will depict entrance/exit locations, circulation, bus/van drop-off/pick-up areas, parent drop-off/pick up areas, parking area layout, stormwater management facilities, lighting, landscape enhancements, etc. We will analyze and potentially utilize existing concepts previously prepared by other consultants.
8. BSC will attend a meeting with the Board of Education to review and discuss the Schematic Design alternatives. This meeting will be a “working session” in which the BSC team will actively collaborate with Board of Education on refining the designs. As such, the BSC design team will be equipped to modify the Schematic Designs and graphically depict design ideas in real time. Following this meeting, BSC will prepare a final Schematic Design based on items discussed.
9. Cost Estimating - BSC will prepare an Opinion of Probable Construction Cost based on the Schematic Design. This estimate will be based on the material types and quantities included in the Schematic Design. The estimate will be broken down by applicable Construction Specifications Institute (CSI) numbered divisions.

### **Phase 3 – Design Development**

Based upon the final Schematic Design, BSC will prepare a Design Development package for the project. A summary of BSC’s services during the Design Development phase is as follows:

1. BSC will prepare Design Development Drawings which consider topography, utility requirements, vehicular needs, and the locations of other site improvements based on the Schematic Design. We will prepare Design Development Drawings which generally include the following:
  - Site Demolition Plan - Demolition/removal of existing site improvements to support new construction.



- Layout and Materials Plan - Limits new of pavement, curb lines, walkways/sidewalks, dumpster facilities, etc.
  - Pavement Marking and Signage Plan - Pavement markings for circulation, drop-off/pick-up, parking, proposed signage, etc.
  - Grading and Drainage Plan - Proposed grading and site stormwater management facilities/features (including new catch basins and facilities to remain).
  - Erosion and Sedimentation Control Plan.
  - Details (curbing, pavement sections, sign mounting, drainage elements, etc.).
2. We will interface and collaborate with the Board of Education throughout the Design Development process.
  3. BSC will submit the Design Development Drawings to the Board of Education for review and discussion. It is assumed that feedback from this review will be incorporated into the subsequent design phase (Construction Documents).
  4. BSC will attend one meeting with the Board of Education to review and discuss the Design Development Drawings. We have assumed all other interactions related to the Design Development can be conducted by telephone and e-mail.
  5. The final Design Development drawings will be used for local permitting. Based upon our discussions with the Zoning Enforcement Officer on March 11, 2015, an Inland Wetlands Permit and a Site Plan Approval permit will be required for both sites. We will prepare permit documents (plans, application, stormwater reports, etc.) as required for submission to the Inland Wetlands Commission and the Planning & Zoning Commission. As required by the local inland wetlands regulations, our soil scientist will prepare a soils report for any wetlands within the upland review area. We will attend night meetings as required to present the project and we will respond to comments, as necessary, to incorporate commission comments and requirements. Based on a March 12, 2015 discussion with the Town Wetlands Officer, we are not including an environmental report or anticipating our soil scientist will be required to attend Inland Wetlands Commission hearings. If either of these services are required, we will provide them as an additional service.
  6. BSC will prepare a submittal for an Administrative Decision to the Office of the State Traffic Authority (OSTA), since both projects are near, or on, a State Route. We have assumed that permitting through OSTA, including plans and applications, is not required. We will also coordinate with The Connecticut Department of Transportation (ConnDOT) District 4, since work associated with the Consolidated School is within the State right-of-way.
  7. BSC will update the Opinion of Probable Construction Cost developed during the Schematic Design to match the Design Development.

#### **Phase 4 – Construction Documents**

Using the Design Development Drawings, and incorporating comments received from the Board of Education., BSC will prepare final construction drawings and technical specifications (Construction Documents) for inclusion in the overall Bid Package assembled



by the Board of Education. BSC's scope of services for Construction Documents will consist of the following:

1. BSC will work in concert with the Board of Education to prepare a Construction Documents deliverable that will be a refinement of the Design Development. Construction Documents will generally consist of the following:
  - Site Demolition Plan - Demolition/removal of existing site improvements to support new construction.
  - Layout and Materials Plan - Limits new of pavement, curb lines, walkways/sidewalks, dumpster facilities, etc.
  - Pavement Marking and Signage Plan - Pavement markings for circulation, drop-off/pick-up, parking, proposed signage, etc.
  - Grading and Drainage Plan - Proposed grading and site stormwater management facilities/features (including new catch basins and facilities to remain).
  - Erosion and Sedimentation Control Plan.
  - Details (curbing, pavement sections, sign mounting, drainage elements, etc.).
2. Final technical specifications will be prepared in CSI 2004 format to dovetail with the construction requirements shown on the Construction Documents drawings. BSC will also prepare Division 1 (General Requirements) specifications for the project, and work closely with you to refine the Town's standard bidding and contracting materials as part of the specifications (Division 0) to develop a Project Manual for bidding.
3. Final Construction Documents Deliverable - BSC will submit a final set of plans and specifications (final Construction Documents) to the Board of Education for your use in soliciting bids for the project. We will submit two (2) sets of paper prints and two (2) data disks with the plans and specifications in Portable Document Format (.pdf).
4. BSC will update the Opinion of Probable Construction Cost based on the final Construction Documents.

#### **Phase 5 - Bidding**

BSC will provide assistance to the Board of Education during the bidding, negotiation and award process for the project as follows:

- Participation in a pre-bid site visit.
- Preparation of Addenda as may be required during bidding or negotiation, including supplementary drawings and specifications.
- Responses to questions from Bidders for purposes of clarification or interpretations of the Bidding Documents.
- Participation in a scope review meeting with the contractor.

#### **Phase 6 - Construction Phase Services**

BSC will perform construction phase services to support the Board of Education that will generally include the following:

- Review of submittals required by BSC-prepared specifications.





- Periodic Site visits during construction to observe work designed by BSC to confirm that construction is proceeding in general conformance with the Contract Documents.
- BSC will provide a field report for field inspection for all Site visits.
- Response to Requests for Information (RFIs) or similar construction-phase inquiries submitted by the contactor.
- One (1) substantial completion Site visit for observation of completed work at the project's conclusion.
- Preparation of a punch list to identify final items to be completed by the contractor to satisfy the contract.
- One (1) final close-out Site visit to the project for final observation of punch list work.

We assume that both projects will be awarded to a single contractor and have priced our construction phase services as such.

## **2.0 ADDITIONAL SERVICES**

The following services are not included as a part of this Agreement. These services may become necessary based upon the conclusions derived from the performance of the proposed scope above. If required, these services will be performed for an additional fee.

1. Utility testing or capacity analysis.
2. Traffic studies, layouts, or submissions/applications to the Office of the State Traffic Authority (OSTA). We have assumed only coordination with OSTA will be required for the Administrative Decision and not full permitting.
3. Floodplain calculations/investigations.
4. Environmental reports, which the Inland Wetlands Commission.
5. Commission meetings or public hearings associated with wetlands. Based on a discussion with the Town Wetlands Officer, we do not anticipate this will be necessary.
6. Resident engineer or full-time construction administration during construction.
7. Construction testing/materials testing.
8. Services associated with the Connecticut Department of Energy & Environmental Protection General Permit for the Discharge of Stormwater Associated with Construction and Dewatering Wastewaters.

## **3.0 FEES FOR SERVICES**

BSC will perform the Scope of Services presented herein for a lump sum fee of \$90,500. This fee is inclusive of all labor and reimbursable expenses. The proposed fee is generally segregated as follows:

<b>Phase</b>	<b>Fee</b>
Phase 1 - Feasibility Analysis	\$15,000
Phase 2 - Schematic Design	\$25,000
Phase 3 - Design Development	\$25,000
Phase 4 - Contract Plans & Specifications	\$10,000
Phase 5 - Bidding	\$2,500
Phase 6 - Construction Phase Services	\$13,000
<b>Total Lump Sum Fee</b>	<b>\$90,500</b>



#### **4.0 SCHEDULE FOR SERVICES**

BSC is prepared to begin work on the project immediately upon your written authorization to proceed. We understand that it is your goal to have design complete in 2015 and construction complete by the beginning of the school year in September 2016.

#### **5.0 GENERAL CONSIDERATIONS**

1. BSC will perform all services in a timely manner, but it is agreed between the parties that BSC cannot be responsible for delays occasioned by factors or parties beyond its control, nor by factors which could not reasonably have been foreseen at the time this Agreement was prepared and executed. Delays of this nature shall extend the completion date.
2. During the performance of the services described within this Agreement, the Scope of Services, and compensation therefore, may be adjusted by mutually agreed upon Amendments to this Agreement.
3. The attached "Statement of Terms and Conditions" is made a part of this Agreement.
4. This proposal is valid for a period of thirty (30) days.
5. Client understands that BSC's services are labor intensive. BSC typically bills clients monthly. Unless otherwise agreed in writing, payment of each BSC invoice is due on receipt and interest will accrue after 30 days. Client understands that BSC's services may be put on hold or terminated if invoices are not paid per this Agreement. It is the Client's responsibility to review invoices upon receipt. If there are any items which the Client wishes to discuss with BSC, it is the Client's responsibility to contact BSC to request any needed clarification. In the absence of any such request from the Client within 30 days from the date when rendered, it is agreed that the amount invoiced is correct and shall be paid in full to BSC.

If the scope and fee presented herein are acceptable, please sign in the space provided below, return one copy to the undersigned, and maintain one copy for your records. This proposal, along with the Terms and Conditions in Attachment 1 will constitute the "Agreement" for the Scope of Services defined herein.

We appreciate the opportunity to be considered for these services. Please contact me directly at 860-652-8227 (Extension 4558) or [wwalter@bscgroup.com](mailto:wwalter@bscgroup.com) if you have any questions or comments.

Sincerely,  
**BSC GROUP - Connecticut, Inc.**

Will Walter, PE, LEED AP  
Manager of Civil Engineering





Attachments: 1) Limits of Survey  
2) Terms and Conditions

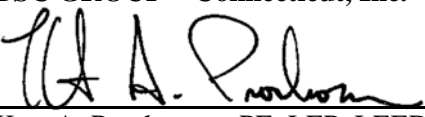
AGREED AND ACCEPTED BY:  
**The Town of New Fairfield**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

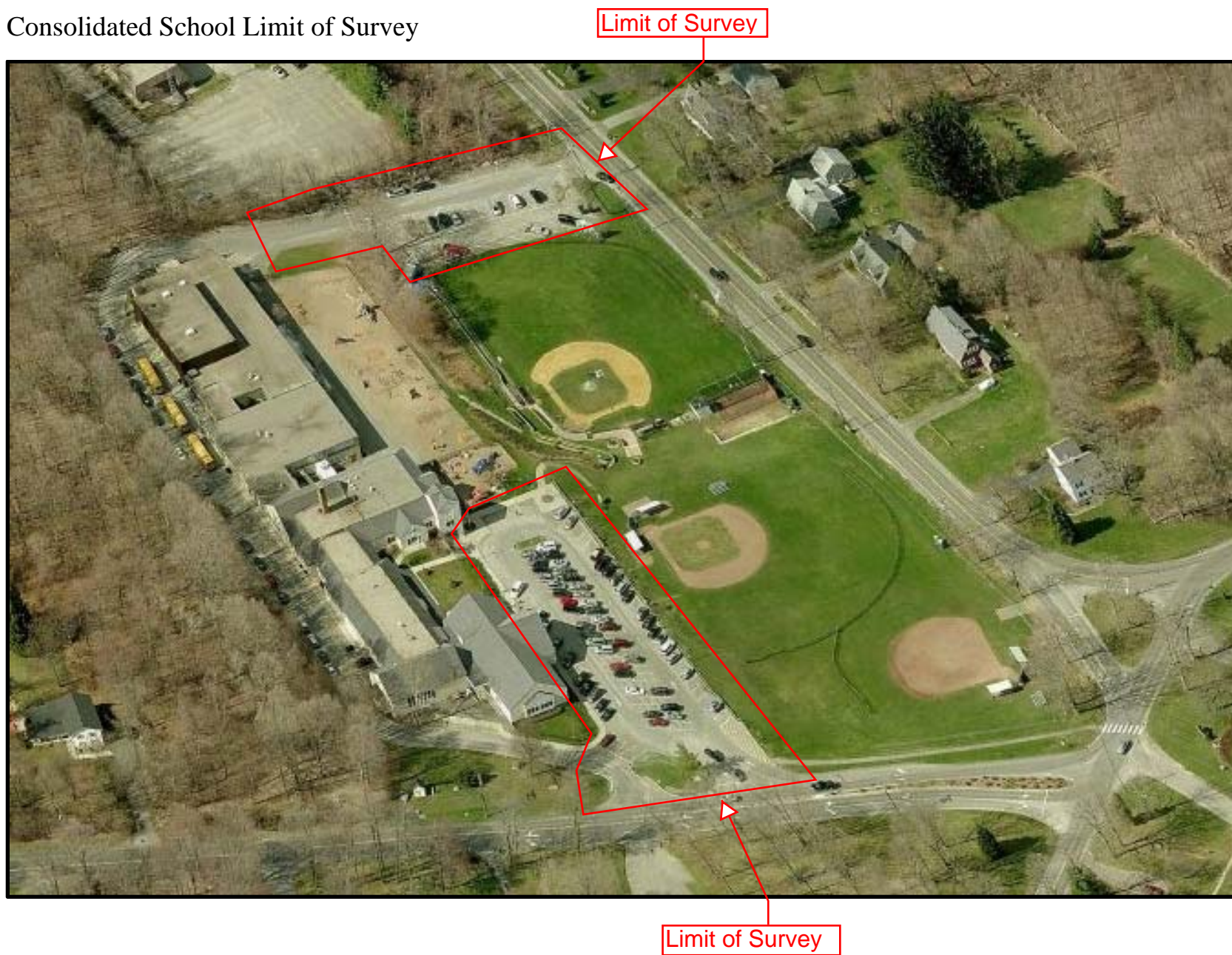
APPROVED BY:  
**BSC GROUP – Connecticut, Inc.**

  
\_\_\_\_\_  
Kurt A. Prochorena, PE, LEP, LEED AP  
Principal

\_\_\_\_\_  
April 24, 2015  
Date

ATTACHMENT 1  
LIMIT OF SURVEY

# Consolidated School Limit of Survey





## High School/Middle School Limit of Survey



Limit of Survey

## ATTACHMENT 2 TERMS AND CONDITIONS

## STATEMENT OF TERMS AND CONDITIONS

The terms and conditions set forth herein are incorporated, by reference, in the Proposal for Services, dated April 24, 2015, directed to Town of New Fairfield ("Client"). This Proposal contains clauses that limit Company's liability to Client and require Client to indemnify Company for some claims and damages. The Proposal should be reviewed carefully, and Client may choose to consult with an attorney. BSC Group, Inc., ("Company") and Client agree as follows:

### Section 1. Services

Company shall provide Client with the "Services" set forth in the Proposal for Services ("Proposal") with respect to the property identified in the Proposal (the "Site"), under the terms and conditions set forth herein. Company's Services will be performed on behalf of and solely for the exclusive use of Client for the purposes set forth in the Proposal and for no other purpose. Client acknowledges that Company's Services require decisions which are based upon judgmental considerations stemming from limited data and time and budgetary constraints imposed by Client rather than upon scientific certainties. Client, in accepting Company's Proposal, acknowledges the inherent risks to Client and its property associated with the work described in the Proposal and with underground work in general. Company shall perform Services in accordance with generally accepted practices of like professionals undertaking similar services on behalf of any project or on behalf of similar projects in the same region.

**Limitation of Services.** Client agrees that such Services shall be rendered without any other warranty, express or implied, and, subject to all other limitations herein contained. Company shall be responsible only for such injury, loss or damage to the extent caused by the negligent acts, errors, omissions or willful misconduct of Company, its employees, or those for whom it is legally responsible.

- a) **Confidentiality of Services Rendered.** Company will not disclose information regarding the Proposal, Company's Services or its Report, except 1) to Client, or 2) parties designated by Client. Information which is in the public domain or which is provided to the Company by third parties is excepted from the foregoing undertaking.

### Section 2. Billing and Payment

- a) Client will pay Company for Services performed in accordance with the rates and charges set forth in the Proposal. Invoices for Company's Services will be submitted on a periodic basis, or upon completion of Services, as Company shall elect. All invoices will be due and payable on receipt. Invoice balances remaining unpaid for thirty (30) days after invoice date will bear interest from invoice date at 1.5 percent per month or at the maximum lawful interest rate, if such lawful rate is less than 1.5 percent per month. If Client fails to pay any invoice in full within thirty (30) days after invoice date, Company may, at any time and without waiving any other rights or claims against Client and without thereby incurring any liability to Client, elect to terminate performance of Services upon ten (10) days prior written notice by Company to Client. Notwithstanding any termination of Services by Company for non-payment of invoices, or for reasons set forth in Section 9, Client shall pay Company in full for all Services rendered by Company to the date of termination of Services plus all interest, termination costs and expenses incurred by Company and related to such termination. Client shall be liable to reimburse Company for all costs and expenses of collection, including reasonable attorneys' fees. Company's non-exercise of any rights or remedies, whether specified herein or otherwise provided by law, shall not be deemed a waiver of any such rights or remedies, nor preclude Company from the exercise under this instrument, or at law.
- b) If the above described Services are discontinued for any reason other than those described in 2(a), all Services performed to date shall be compensated at the rates set forth in the Fee Schedule of the Proposal for Services.

### Section 3. Insurance

Company represents that its staff is protected by Worker's Compensation insurance within statutory limits and that company has coverage under Public Liability and Property Damage insurance policies. Certificates for any such policies shall be provided to Client upon written request. In no event shall Company be liable or responsible for any loss, damage, or liability, including but not limited to fire and explosion beyond the amounts, limits, or conditions of such insurance. In addition, Company shall in no event be liable or responsible for any such loss, damage or liability excluded from coverage of insurance.

### Section 4. Right of Entry

Client hereby grants to Company or represents and warrants (if the Site is not owned by Client) that permission has been duly granted for a Right of Entry from time to time, by Company, its agents, staff, consultants, and contractors or subcontractors, upon the Site for purpose of performing and with the right to perform all acts, studies, and research, including without limitation the making of test boring and other soil compilings, pursuant to the Scope of Services. Should Client not own the Site, Client warrants and represents by acceptance of the Proposal that it has authority and permission of Site Owner and any site occupant to grant Company this right of entry. Company may require evidence of such authority in a form reasonably satisfactory to Company.

### Section 5. Subsurface Explorations

- a) **Normal Disturbance** – Client acknowledges that the use of exploration equipment may affect, alter or damage the terrain, vegetation and buildings, structures, improvements and equipment at, in or upon the Site. Client accepts the fact that this is inherent to Company's work and will not hold Company liable or responsible for any such reasonable effect, alteration, or damage, and will defend the Company and indemnify it against damage claimed by any party on account thereof. The costs of restoration of the Site because of any such damage has not been calculated nor included in Company's fees.
- b) **Subterranean Structures** – Company will exercise a reasonable degree of care in seeking to locate subterranean structures in the vicinity of proposed subsurface explorations at the Site. Company will contact public utilities and review plans, if any, provided by public utilities and public agencies and plans and information about the Site provided by Client. So long as Company observes such standard of care, Company will not be responsible for any damage, injury or interference with any subterranean structure, pipe, tank, telephone cables etc. or any other element or condition if not called to Company's attention prior to commencement of work or which is not shown, or accurately located, on any plans furnished to Company by Client or by any other party, public or private.

### Section 6. Samples

Company will dispose of all soil, rock, water and other samples thirty (30) days after submission of Company's initial report. Client may request, in writing, that any such samples be retained beyond such date, and in such case Company will ship such samples to the location designated by Client, at Client's expense. Company may upon written request arrange for storage of samples at one of Company's offices, at mutually agreed storage charges. Company will not give Client prior notice of intention to dispose of samples.

## **Section 7. Construction Observation Services; Duties**

- a) Construction Site Safety – Company, by entering into this Contract with Client does not undertake any liability or responsibility for the development, supervision, or enforcement of any job or site safety requirements; nor for any failure of any contractor, subcontractor, or other third person or entity, present on the Site to comply with the Occupational Safety and Health Act of 1970 (Federal OSHA), or with any regulations or standards promulgated thereunder, or with any state, county, or municipal law, regulations, or ordinance of similar import or intent.
- b) Company will not be responsible for any contractor's or subcontractor's compliance with the provisions of any contract nor for the observation or supervision of any contractor's or subcontractor's use of personnel, machinery, equipment, safety precautions or procedures.

## **Section 8. Documents**

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents, data or information prepared by Company as instruments of Services, shall remain the sole property of Company. All reports and other work preparation by Company for Client shall be utilized solely for the intended purposes and Site described in the Proposal. Company will retain all pertinent documents for a period of three (3) years following the submission of Company's final report to Client. Such documents will be available to Client upon request at Company's office during office hours on reasonable notice, and copies will be furnished by Company to Client for the total cost of reproduction of the same.

## **Section 9. Unforeseen and Unanticipated Occurrences**

If during performance of Services, any unforeseen conditions or occurrences are encountered which, in the judgment of Company, significantly affect or may affect the Services or the recommended scope of Services, Company will promptly notify Client thereof. Subsequent to that notification Client and Company agree to pursue one of the following options:

- a) The original scope of Services may be modified to the mutual satisfaction of the parties, and the estimate of charges, including budget estimates and fees, revised to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein;
- b) Company shall have the right to suspend its work immediately and terminate the work described in the Proposal, effective on the date specified by Company in writing. Client shall remain liable for and shall pay all fees and charges incurred under the provisions of the Proposal through the date of termination, notwithstanding Client and Company not having reached a new, mutually satisfactory, revision of their agreement.

## **Section 10. Public Responsibility**

Client acknowledges that the Client or the Site owner as the case may be, is now and shall remain in control of the Site for all purposes at all times. Company does not undertake to report to any Federal, State, county or local public agencies having jurisdiction over the subject matter any conditions existing at the Site from time to time which may present a potential danger to public health, safety or the environment. Client, by acceptance of the Proposal, agrees that Client will timely notify each appropriate Federal, state, county and local public agency, as required by law, of the existence of any condition at the Site, which may present a potential danger to public health, safety or the environment.

## **Section 11. Hazardous Materials**

Client agrees that Company has neither created nor contributed to the creation of any hazardous materials, pollutants, asbestos, or other potentially dangerous substance that is now or may be in the future discovered or introduced at the Site. Company hereby states, and Client acknowledges by acceptance of the Proposal, that Company may not have any professional liability or other coverage insuring Company for acts, errors and omissions, and Company may be unable to obtain such insurance at reasonable cost, for claims arising out of the performance of Services, including but not limited to, investigation, assessment or evaluation of hazardous materials or pollutants or the detection, abatement, removal or replacement or products, materials, or processes containing asbestos.

## **Section 12. Limitation of Professional Liability**

- a) **Company Obligation for Successful Claim.** In recognition of the risks, rewards and benefits of the subject project available to the Client and the risks and total fee of the Company, the Company and the Client have agreed that the Company's total liability to the Client for any and all injuries, claims, losses, expenses or claims expenses, including claims by Client against Company for indemnification and/or contribution due to third party claims against Client, arising out of this agreement from any cause or causes shall not exceed the aggregate sum of \$50,000 or Company's aggregate fee for Services rendered on the subject project, whichever is lesser. Such causes include but are not limited to Company's alleged breach of contract, breach of warranty, strict liability, or negligent acts, errors or omissions.
- b) **Consequential Damages.** Under no circumstances shall Company be liable to Client for any consequential damages, including but not limited to loss of use or rental, loss of profit or cost of any financing however caused including Company's fault or negligence.
- c) **Client Obligation for Unsuccessful Claim.** In the event that Client makes a claim against Company, at law or otherwise for any alleged error, omission or act arising out of the performance of Company's Services, and Client fails to prove such claim upon final adjudication, then Client shall pay all costs incurred by Company in defending itself against the claim, including, without limitation, court costs, and other claim-related expenses, including, without limitation, costs, fees, and expenses of experts.

## **Section 13. Delays**

In providing the referenced Services and absent any fault on the part of the Company, its employees or agents, the Company shall not be responsible for delays.

## **Section 14. Amendment of Agreement**

These printed terms and conditions cannot be modified orally or by any course of conduct. Any modification must be acknowledged in writing by Company. These conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document issued by Client. Client shall not assign any aspect of the agreement between Client and Company except upon the prior written consent of Company.

## **Section 15. Choice of Laws/Jurisdiction**

The agreement between Company and Client as set forth in the Proposal and in these Terms and Conditions shall be governed by and enforceable in accordance with the laws of the State of Connecticut. Any dispute resulting in legal action shall be adjudicated within the jurisdiction of the State of Connecticut.

## **Section 16. Severability**

In the event that any provisions of this agreement shall be deemed invalid or unenforceable, the other provisions herein shall remain in force and effect and binding upon the parties hereto.