



UPDATE INSURANCE & BOND DISCUSSION





Insurance Update

- Early September GATE Staff and Middletown Township's Administrator met with the a Risk Management Consultant.
- We discussed the insurance and bond requirements associated with the Fort Hancock Leases.
- NPS provided the Risk Management Consultant with the sample Lease for review and evaluation.

Lease Requirements

The standard Lease terms and conditions require the Lessee to obtain insurance and provide proof of same to the United States. The types of insurance required include but may not be limited to the following :

- Insurance During Construction:
 - Builders Risk
 - Bonds may be applicable
- Property Insurance
- Flood Insurance
- General Liability
- Liquor Liability
- Other, As Appropriate



Builder's Risk Insurance

Should the Builder's Risk Insurance be based on:

- a. Replacement Cost New?
- b. Cost of the proposed improvements?
- c. Government Cost Estimate to complete the project in the event a Lessee does not complete the rehabilitation?



Recommendation: The Insurance Company will identify the amount of insurance based on the determinations made in the ordinary course of business, based on what the market will bear, accounting for factors typical of the project.

Property Insurance



NPS will require Lessees to obtain Property Insurance in an amount of “Replacement Cost New” (RCN).

Recommendation:

- a. RCN property coverage amount will be determined by the insurance company.
- b. Property insurance will replace Builders Risk once the rehabilitation is completed.
- c. A new Certificate of Insurance (COI) listing the amount of coverage provided by the insurer is required upon completion of construction.

Flood Insurance

- Is required in sufficient coverage amounts up to the maximum available through the National Flood Insurance Program.

https://www.floodsmart.gov/floodsmart/pages/residential_coverage/rc_overview.jsp.

- Flood Insurance available through the NFIP is capped at \$250K.



General Liability & Umbrella

- The Lease requires the Lessee to obtain a General Liability Insurance policy, providing at minimum coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate.

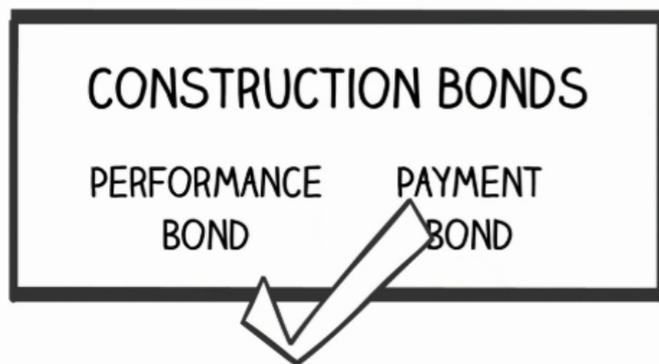


Question

- Is the minimum requirement sufficient?
- **Recommendation:**
 - The minimum seems sufficient but can always be adjusted depending on use.
 - The Certificate of Insurance (COI) may include Umbrella Coverage as well as General Liability in order to meet the overall Liability Insurance requirements.

Bond

Under the Lease, NPS reserves the right to require a construction bond



Questions

- Under what conditions should NPS forego a bond?
- How should we determine the required bond amount?

UPDATE

Two performance bond underwriters identified the below potential bond requirement obstacles:

- Financial statements must be reviewed or audited by a CPA acceptable to the surety
- Substantial side collateral may be required
- Prior experience converting or restoring buildings may be required to qualify
- Historic standard requirements make the process more cumbersome
- Experience of the contractors performing the renovation on the Lessee's behalf
- One-off nature
- Expensive premium due to risks

CONCLUSION

Only second or third tier sureties would have an interest in underwriting this type of risk. A low rated surety might not even be acceptable to the park service.

Recommended Certificate of Insurance (COI) Checklist

- The name of the party Insured listed on the COI should match that of the Lessee.
- COI should include all required coverages:
 - General liability
 - Umbrella Liability
 - Workers' Compensation
 - Builders' Risk
- Once the rehabilitation is complete, a new COI must be issued with the required property coverage and any reference to Workers' Compensation insurance will be removed.
- The United States and the National Park Service should be listed as "Loss Payee" on the property policy. If the Lessee receives a settlement check from the insurance carrier as a result of a claim they cannot cash it without NPS approval.
- The United States and the National Park Service should be named as additional insured on all coverages except Workers' Compensation.
- In the "Description of Operations" section of the COI, there should be language similar to: "... are listed as additional insured as their interests may appear by written contract in Lease # xxxxxx for property at (specific address of subject property)"
- If Lessee is using a contractor to undertake renovations, the contractor must also provide a COI with the same types of coverage and limits as the Lessee is required to provide. The United States, National Park Service must also be named as additional insured by any contractor undertaking work on behalf of a Lessee.