



## REQUEST FOR PROPOSALS

### **PROFESSIONAL CONSTRUCTION INSPECTION SERVICES FOR CURB, GUTTER AND SIDEWALK REPAIRS CITY WIDE**

**CITY PROJECT NO. 7198**

RFP NO. 15-457

CITY OF NORWALK  
Engineering Division  
12700 Norwalk Boulevard, Room 12  
Norwalk, CA 90650  
(562) 929-5723

#### **Key RFP Dates**

Issued:	March 3, 2015
Written Questions:	March 10, 2015 at 2:00 PM
Proposals Due:	March 18, 2015 at 2:00 PM

## TABLE OF CONTENTS

	PAGE
SECTION I - INSTRUCTIONS TO OFFERORS .....	1
SECTION II - PROPOSAL CONTENT .....	6
SECTION III - SCOPE OF WORK .....	10
SECTION IV - PROJECT SCHEDULE .....	18
SECTION V - EVALUATION AND AWARD .....	20
SECTION VI - PROPOSED AGREEMENT .....	22
SECTION VII - CONFLICT OF INTEREST DISCLAIMER .....	34
SECTION VIII - ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS .....	36

**SECTION I**  
**INSTRUCTIONS TO OFFERORS**

## **SECTION I - INSTRUCTIONS TO OFFERORS**

### **A. EXAMINATION OF PROPOSAL DOCUMENTS**

By submitting a proposal, Offeror represents that it has thoroughly examined and become familiar with the work required in this RFP and that it is capable of performing quality work to achieve the objectives of the City of Norwalk **Engineering** Division.

### **B. ADDENDA**

Any City of Norwalk changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The City of Norwalk will not be bound to any modifications or deviations from the requirements set forth in this RFP as the result of oral instructions. Offerors shall acknowledge receipt of addenda in their proposals. Failure to acknowledge receipt of all addenda may cause a proposal to be deemed non-responsive.

### **C. CITY CONTACT**

All questions and/or inquiries regarding this RFP shall be submitted in writing and directed to:

**William Zimmerman**  
**Interim City Engineer**  
City of Norwalk  
12700 Norwalk Boulevard, Room 12  
Norwalk, California 90650  
Phone: (562) 929-5727  
Fax: (562) 929-5584  
E-mail: [bwzimmerman@norwalkca.gov](mailto:bwzimmerman@norwalkca.gov)

### **D. CLARIFICATIONS**

#### **1. Examination of Documents**

Should an Offeror require clarifications regarding the RFP, the Offerer shall notify **William Zimmerman** of the City of Norwalk **Engineering Division** in writing in accordance with Section I.D.2. Should it be found that the point in question is not clearly and fully set forth in the RFP, the City of Norwalk will issue a written addendum clarifying the matter(s). The written addendum will be sent to all firms registered as offerors via e-mail.

#### **2. Submitting Requests**

a. All questions must be submitted in writing to the City of Norwalk no later than 2:00PM on **March 10, 2015**.

b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions Re: **RFP for Professional Construction Inspection Services for Curb, Gutter and Sidewalk Repairs City Wide City Project No. 7198**" The City of Norwalk is not responsible for failure to respond to a request that has not been labeled as such.

c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:

(1) U.S. Mail or Personal Courier: Attention: **William Zimmerman**, Interim City Engineer, City of Norwalk, 12700 Norwalk Boulevard, Room 12, Norwalk, CA 90650.

(2) Facsimile: The City of Norwalk's fax number is (562) 929-5584, attention: **William Zimmerman**.

(3) E-mail: [bzimmerman@norwalkca.gov](mailto:bzimmerman@norwalkca.gov)

### **3. City of Norwalk Responses**

Responses from the City of Norwalk will be e-mailed to all listed Offeror's and placed on the City's Website no later than 5:00PM on March 12, 2015.

## **E. SUBMISSION OF PROPOSALS**

### **1. Date and Time**

Proposals must be submitted on or before 2:00PM on **March 18, 2015**. Proposals received after the above-specified date and time will be returned to Offerors unopened.

### **2. Address**

Proposals delivered in person or by the U.S. Postal Service shall be submitted to the following address:

William Zimmerman  
Interim City Engineer  
City of Norwalk  
12700 Norwalk Boulevard, Room 12  
Norwalk, California 90650

### **3. Identification of Proposals**

Offeror shall submit 1 original and 3 copies of its proposal in a sealed package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

**"PROPOSAL FOR PROFESSIONAL CONSTRUCTION INSPECTION SERVICES FOR CURB, GUTTER AND SIDEWALK REPAIRS CITY WIDE CITY PROJECT NO. 7198"**

### **4. Acceptance of Proposals**

- a. The City reserves the right to accept or reject any or all proposals, waive any informalities or irregularities in the proposals, request additional information or revisions to the proposals, and to negotiate with any or all Offerors.
- b. The City of Norwalk reserves the right to withdraw this RFP at any time without prior notice and the City of Norwalk makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The City of Norwalk reserves the right to postpone the proposal opening for its own convenience.
- d. The City of Norwalk reserves the right to issue a new RFP for the work.
- e. Proposals received by the City of Norwalk are subject to public inspection under the California Public Records Act (Government Code Section 6250 *et seq.*), unless exempt and will be made available upon request after award.
- f. Proposals submitted are not to be copyrighted.
- g. The City of Norwalk reserves the right to require confirmation of information furnished by any Offeror and/or request any Offeror to provide additional evidence of qualifications to successfully perform the work.

**F. PRE-CONTRACTUAL EXPENSES**

The City of Norwalk shall not, in any event, be liable for any pre-contractual expense incurred by Offeror in the preparation of its proposal. Pre-contractual expenses are defined as expenses incurred by Offeror in:

- 1. Preparing its proposal in response to this RFP
- 2. Submitting its proposal to the City of Norwalk
- 3. Negotiating with the City of Norwalk on any matter related to its proposal
- 4. Any other expenses incurred by Offerer prior to date of award

**G. JOINT OFFERS**

Where two or more Offerors desire to submit a single proposal in response to this RFP, they shall do so on a prime-sub-consultant basis rather than as a joint venture. The City of Norwalk intends to contract with a single firm and not with multiple firms doing business as a joint venture.

**H. CONTRACT TYPE**

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be for work at hourly rates up to a not-to-exceed amount.

## **I. PREVAILING WAGES**

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 *et. seq.* These labor categories when employed for any work on or in the execution of a "Public Works" project require payment of prevailing wages.

Wage guidelines entitled, *Consultant Guidelines for Prevailing Wage and Labor Compliance on Architectural and Engineering (A&E) Contracts* is used to administer Caltrans Consultant contracts and is available at:

[http://www.dot.ca.gov/hg/construc/ A&E Guidelines/ A&EGuidelines.pdf](http://www.dot.ca.gov/hg/construc/A&E%20Guidelines/A&E%20Guidelines.pdf)

Wage information is available through the Caltrans Division of Local Assistance web site at:

[http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html)

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. The Davis-Bacon wages can be found at: <http://www.wdol.gov>

**SECTION II**

**PROPOSAL CONTENT**



## **SECTION II - PROPOSAL CONTENT**

### **A. PRESENTATION**

Offerors must submit 1 original and 3 copies of their proposals, along with an electronic version (Or USB flash drive), on or before 2:00PM on March 18, 2015 to be considered.

Proposals shall be typed and submitted on 8 1/2" x 11 " size paper, using a single method of fastening. Offerors should not include any unnecessarily elaborate promotional material. Lengthy narrative is discouraged and proposals should be brief, clear and concise.

### **B. LETTER OF TRANSMITTAL**

A Letter of Transmittal shall be addressed to William Zimmerman, Interim City Engineer, and must, at a minimum, contain the following information:

1. Identification of Offeror who will have contractual responsibility with the City of Norwalk. Identification shall include legal name of company, corporate address, telephone number and **email address of the contact person** identified during the period of proposal evaluation.
2. Proposed working relationship between Offeror and sub-consultants, if applicable.
3. Acknowledgment of receipt of all addenda, if any.
4. A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of submittal.
5. Signature of the official authorized to bind Offeror to the terms of the proposal.
6. Signed statement attesting that all information submitted with the proposal is true and correct.

### **C. TECHNICAL PROPOSAL**

#### **1. Qualifications, Relevant Experience and References**

This section of the proposal shall establish the ability of the Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature to the Scope of Work shown in Section III; proven competence in the services to be provided; strength and stability of the firm; staffing capability; current work load; track record of meeting schedules on similar projects and supportive client references.

The Offeror shall:

- (a) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, or sole proprietorship); number, size and location of offices; and total number of employees.

(b) Provide a general description of the firm's financial condition and identify any conditions (e.g. bankruptcy, pending litigation, planned office closures, impending merger, etc.) that may impede the Offeror's ability to provide these services.

(c) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to the City.

(d) Describe specialized training, experience and professional competence in the area directly related to this RFP.

(e) Identify sub-consultants by company name, address, contact person, telephone number and project function, if applicable. The list should include a summary of the roles and responsibilities of each sub-consultant.

(f) Provide a minimum of three (3) references for completed work similar to that in scope of work contained in this RFP. Furnish the contact name, title, address and telephone number of the person at each client agency/organization who is most knowledgeable about the work performed.

## **2. Proposed Team**

This section of the proposal shall establish the method that will be used by the Offerer to provide requested services as well as identify key personnel assigned.

The Offeror shall:

(a) Provide the education, training, experience and applicable professional credentials of the proposed Construction Inspector.

(b) Furnish brief resumes (two pages maximum per resume) for the proposed Construction inspector and key personnel (including sub-consultants).

(c) Identify key personnel proposed to perform the specified tasks and include major areas of sub-consultant work.

(d) Include a statement that key personnel will be available to the extent proposed for the duration of the required services acknowledging that no person designated as "key" shall be removed or replaced without the prior written concurrence of the City of Norwalk.

## **3. Detailed Work Plan**

The Offeror shall:

(a) Describe the proposed approach and work plan for completing the services specified in the Scope of Work. The description of the proposed approach shall discuss the services in sufficient detail to demonstrate the Offerer's ability to accomplish the City's objectives.

(b) Describe approach to managing resources, including a description of the role(s) of any subconsultants, if applicable, their specific responsibilities, and how their work will be supervised. Identify methods that Offeror will use to ensure quality, budget, and schedule control.

#### **4. Exceptions and Deviations**

The Offeror shall state any exceptions or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where the Offeror wishes to propose alternative approaches to meeting the City of Norwalk's technical or contractual requirements, these shall be thoroughly explained. If no contractual exceptions are noted, Offeror will be deemed to have accepted the contract requirements as set forth in Section VI, "Proposed Agreement."

#### **5. Fee Proposal**

Fee Proposal shall be submitted in a separately sealed envelope. The offeror shall provide a Not-to-Exceed Fee Proposal to perform tasks services in Section III, including a schedule of hourly rates that will be charged to provide these services. The fee proposal shall divide the work into tasks and milestones with the associated costs.

#### **6. Conflict of Interest Disclaimer**

Complete and submit Section VII, "Conflict of Interest Disclaimer" Form with the proposal.

#### **7. Acknowledgement of Insurance Requirements**

Complete and submit Section VIII, "Acknowledgement of Insurance Requirements" Form with the proposal.

#### **8. Appendices**

Information considered by Offeror to be pertinent to this RFP and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Offerors are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials. Appendices shall be relevant and brief.

**SECTION III**

**SCOPE OF WORK**

## SECTION III - SCOPE OF WORK

### **A. PROJECT DESCRIPTION**

The City of Norwalk has budgeted for inspection of the following project in Fiscal Year 2014/2015. The project is NOT federally funded.

Curb, Gutter and Sidewalk Repairs City Wide – City Project 7198

The proposed project will remove and replace the existing concrete parkway improvement such as curbs, gutters and sidewalks within various zones throughout the city (per attached location map).

The concrete repair work is focused mostly on replacing curbs and gutters, (about 480 locations) with minor sidewalk and drive apron replacements. There is also the possibility of constructing ADA compliant curb access ramps.

The project will include tree removals by other contractors.

The construction project will be awarded in April 2015 and has a 100 working day limit.

### **B. SCOPE OF SERVICES**

The consultant shall provide services as described in Chapter 16, “Administer Construction Contracts,” of the State of California Department of Transportation’s (Caltrans) Local Assistance Procedure Manual (LAPM).

More specifically, **Inspection and optional survey services shall include, but are not limited to:**

#### **B. 1 Construction inspection:**

1. Review plans, specifications, and other contract and construction-related documents. Become familiar with traffic control plans, construction schedules, construction sequences, and permit requirements from other agencies.
2. Photograph prior, during, and after construction.
3. Attend pre-construction meetings and present special concerns, if any.
4. Interpret plans, specifications and regulations and ensure that contractors are following their contracts. Provide inspections to ensure projects are constructed according to project specifications.

5. Direct and notify construction contractors about non-compliance, correct compliance problems as soon as they are discovered.
6. Maintain daily diaries showing site and weather conditions; traffic control measures taken by contractors; labor, equipment and materials used; quantity of work performed; and major incidents/safety violations. Daily diaries will be reviewed during the project and shall be submitted to City upon project completion.
7. Review construction progress schedules on a regular basis; verify schedules are on track with project milestones; identify deviations; and ensure that corrective actions are taken to bring projects back on schedule.
8. Establish and implement job safety procedures in compliance with CAL-OSHA requirements. Monitor contractor's compliance with established safety program, respond to deficiencies and hazards, and investigate and report on accidents.
9. Provide accurate measurements of work started, in progress and completed by contractors in accordance with contract documents.
10. Track quantities of work completed for progress payment. Develop and implement procedures for review and processing of progress payment applications. Assist City with review and certification for payment.
11. Review soil compaction and materials testing certifications of compliance (COC). Coordinate with City's Acceptance Testing (AT) and Independent Assurance Program (IAP) testing firms regarding quality of work completed.
12. Ensure that contractors do not install materials without approved material testing certifications. Any failed tests shall be reported and direct contractor to take correction measures to achieve compliance.
13. Monitor contractors' utility coordination to minimize utility conflict delays and potential need for utility relocations. Report potential conflicts to utilities, and advise them to relocate or remove conflicting utilities and report outcome to City.
14. Attend weekly progress meetings to communicate, coordinate and resolve any issues or problems that may arise at the job site. Prepare and submit to contractor a "Weekly Statement of Calendar/Working Days" report.
15. Conduct field construction employee interviews to comply with Equal Employment Opportunity Law and Davis Bacon Act. Interviews shall be reported to City on a regular basis.
16. Coordinate with contractor access to adjacent businesses/residents during construction. Coordinate mitigation of construction impacts with contractor, City and other agencies.

17. Provide inspection of traffic control, channelization, and all other traffic-related work.
18. Ensure conformance with plans, specifications, department regulations, applicable laws and codes.
19. Observe construction safety, public safety and convenience, and report discovered problems to City.
20. Monitor compliance with the City's National Pollutant Discharge Elimination System (NPDES) Permits and requirements. Monitor compliance with all other local, state, and federal laws and regulations.
21. Monitor compliance with City's Construction Demolition and Recycling Ordinance.
22. Maintain data for change orders and record information regarding time of dispute, time of notification by contractor, and action taken by inspector.
23. Provide complete measurements and calculations to administer progress payments and make recommendations for payments.
24. Ensure that contractors submit certified payroll reports with monthly progress payment requests. Review reports for compliance with federal and state prevailing wage regulations. Ensure that labor and hours reported by contractors match inspector's daily diaries and inspection reports.
25. Prepare and transmit to contractors correspondence related to the inspection of the project. All correspondence sent to and received from contractors shall be copied and transmitted to City.
26. Conduct final inspection/walk through with City staff.
27. Prepare preliminary and final punch list and follow through with contractor until completion.
28. Upon project completion, conduct final inspection and close-out encroachment permit.

## **B. 2 Construction survey (Optional):**

Addresses of about 480 potential residential curb and gutter repair locations have been determined. The removal limits of the curb damage have not been determined and have to be set from a survey investigation. The city streets have a general slope that is very flat, between 0.2% and 0.12%, and the minimum acceptable slope of replacement work is 0.1%.

The goal is to determine an economical amount of curb to replace at each location that complies with the minimum slope requirements and does not interfere with the flow of adjacent curb work.

The survey work has to be completed before the contractor starts work on the project. There will be a 15 working day limit on completing the work ahead of the start of construction.

Expected output is field marks for removal limits; a report of the location, end (relative) elevations; length of removal; and notes regarding the presence of conflicts with drain outlets or drive apron elevations.

Hourly pricing and the not to exceed cost is requested for this item.

The inspector can be a member of the survey party.



**The following is a listing of the bid quantities of the construction project for reference.**  
**The engineer's estimate for the construction is \$480,000.**

**SECTION C**

**PROPOSAL FOR  
CURB, GUTTER AND SIDEWALK REPAIRS CITY WIDE  
CITY PROJECT NO. 7198**

TO THE HONORABLE MAYOR AND MEMBERS OF THE COUNCIL OF NORWALK:

In compliance with the annexed Notice Inviting Sealed Bids, the undersigned hereby proposes and agrees to perform all the work, and improvements therein described, and to furnish all labor, material, equipment and incident insurance necessary therefore, in accordance with the plans and specifications therefore which are on file in the office of the City Engineer of the City of Norwalk; and the undersigned agrees to perform the work and improvements therein mentioned to the satisfaction of and under the supervision of the City Engineer of the City of Norwalk duly appointed, and further agrees to enter into a contract therefore in the time, form and manner provided by law at the following prices with the undersigned that the time within which the aforementioned work must be completed by the undersigned is fixed at **ONE HUNDRED (100) WORKING DAYS**, starting from and after the date of execution of the contract agreement, viz:

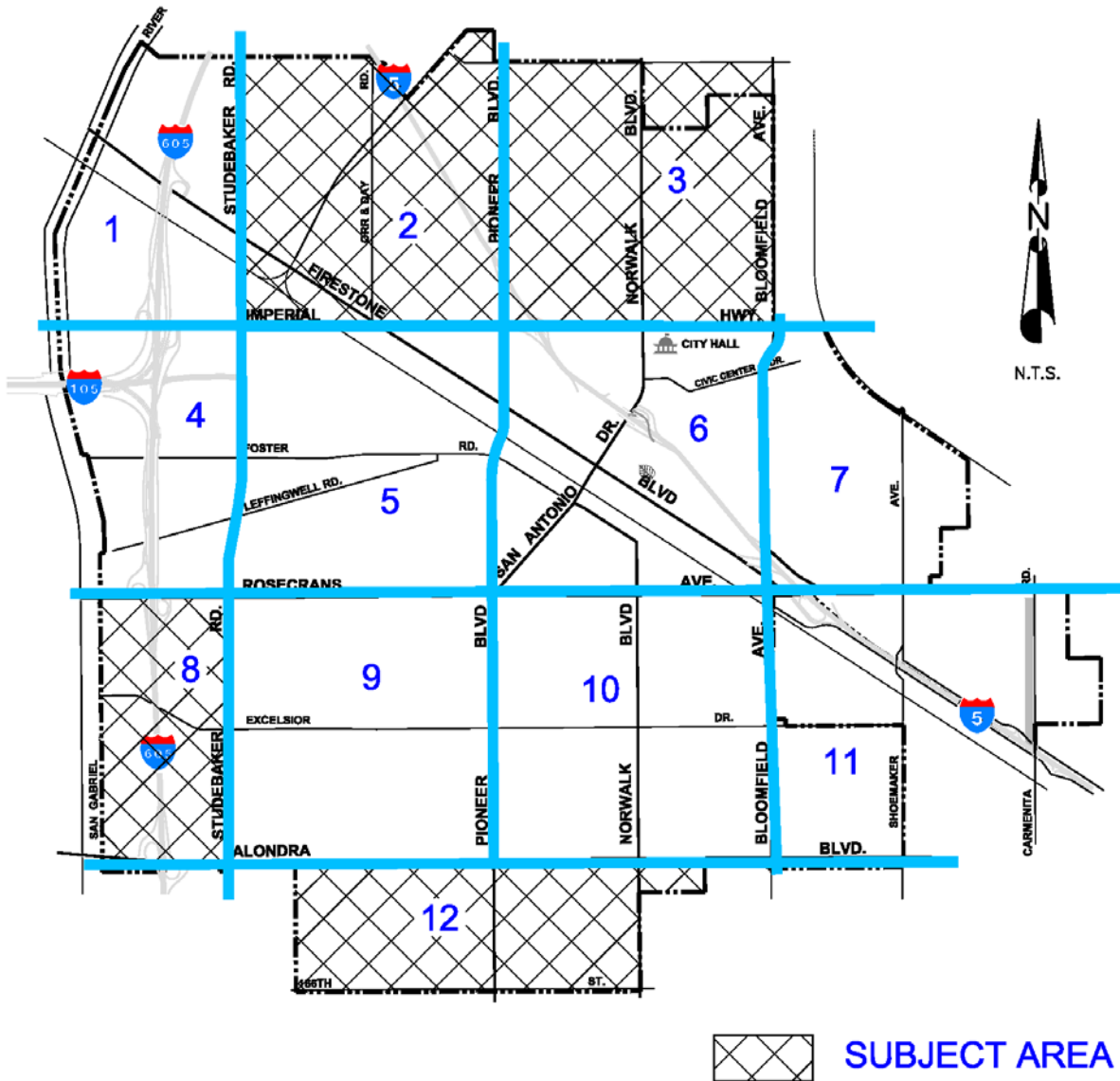
ITEM	APPROX QUANTITY	ITEM WITH UNIT PRICE WRITTEN IN WORDS	UNIT PRICE	TOTAL
1.	11,500 LF	Remove and Replace A-2 curb and gutter, including asphalt paving, complete at  _____ Dollars & _____ Cents Per Linear Foot	\$ _____	\$ _____
2.	4,000 SF	Remove and Replace 4" sidewalk, complete at  _____ Dollars & _____ Cents Per Square Foot	\$ _____	\$ _____
3.	700 SF	Remove and Replace 6" thick drive apron concrete, complete at  _____ Dollars & _____ Cents Per Square Foot	\$ _____	\$ _____
4.	8 EA	Install ADA ramp, including all curb work, asphalt paving and truncated domes, complete at  _____ Dollars & _____ Cents Per Each	\$ _____	\$ _____

ITEM	APPROX QUANTITY	ITEM WITH UNIT PRICE WRITTEN IN WORDS	UNIT PRICE	TOTAL
1.	11,500 LF	Remove and Replace A-2 curb and gutter, including asphalt paving, complete at  _____ Dollars & _____ Cents Per Linear Foot	\$ _____	\$ _____
2.	4,000 SF	Remove and Replace 4" sidewalk, complete at  _____ Dollars & _____ Cents Per Square Foot	\$ _____	\$ _____
3.	700 SF	Remove and Replace 6" thick drive apron concrete, complete at  _____ Dollars & _____ Cents Per Square Foot	\$ _____	\$ _____
4.	8 EA	Install ADA ramp, including all curb work, asphalt paving and truncated domes, complete at  _____ Dollars & _____ Cents Per Each	\$ _____	\$ _____
TOTAL AMOUNT FOR THIS PROJECT IN WORDS AND FIGURES				\$ _____

In case of discrepancy between words and figures, the words shall prevail.

**The bid bond per the proposal requirements shall be based on the above total amount.**

Accompanying this proposal or bid, find \_\_\_\_\_ in the amount of \_\_\_\_\_ which said amount is not less than ten percent (10%) of the aggregate of the proposal or bid, as required by the Notice Inviting Sealed Bids.



## LOCATION MAP

CURB, GUTTER AND SIDEWALK REPAIRS  
CITY WIDE

PROJECT NO. 7198

**SECTION IV**  
**PROJECT SCHEDULE**

## **SECTION IV - PROJECT SCHEDULE**

The following proposed project schedule is provided for reference only:

Send out RFP for Inspection		March 3, 2015
Deadline for Written Questions		March 10, 2015
Written Response from City (if necessary)		March 12, 2015
Proposals due		March 18, 2015
Obtain Authorization to Proceed with Inspection	(anticipated)	April 2015
Start Inspection		April 2015
Project Completion		September 2015

**SECTION V**

**EVALUATION AND AWARD**

## **SECTION V - EVALUATION AND AWARD**

### **A. EVALUATION CRITERIA**

The City of Norwalk will review and evaluate the proposals based on the following criteria:

#### **1. Qualifications of the Firm**

Technical experience in performing work of a similar nature; experience working with public agencies; strength and stability of the firm; and assessment by client references.

#### **2. Proposed Team and Organization**

Qualifications of proposed Construction Inspector(s) and key personnel; logic of organization; and adequacy of labor commitment and resources to satisfactorily perform the requested services and meet the City's needs.

#### **3. Detailed Work Plan**

Thorough understanding of the City's requirements and objectives; logic, clarity, specificity, and overall quality of work plan.

#### **4. Fee Proposal**

Reasonableness of pricing and competitiveness of the amount.

### **B. EVALUATION PROCEDURE**

An Evaluation Committee will be appointed to review all proposals. The Committee will be comprised of City staff and may include outside personnel. The Committee members will review and evaluate the proposals. The Committee will recommend to the Director of Public Services the firm whose proposal is most advantageous to the City of Norwalk. The Director of Public Services will then forward his recommendation to the City Council for final action.

### **C. AWARD**

The City of Norwalk may negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offereors simultaneously. However, since the selection and award may be made without discussion with any Offeror, the proposal submitted should contain Offeror's most favorable terms and conditions.

### **D. NOTIFICATION OF AWARD:**

Offerors who submit a proposal in response to this RFP shall be notified by mail regarding the firm who was awarded the contract. Such notification shall be made within seven (7) days of the date of contract award.

**SECTION VI**

**PROPOSED AGREEMENT**



**PROPOSED AGREEMENT**

**AGREEMENT FOR  
PROFESSIONAL SERVICES**  
**(City of Norwalk)**

This Professional Services Agreement is dated \_\_\_\_\_, 2015, and is between the City of Norwalk, a municipal corporation (“City”) and *Company name*, a \_\_\_\_\_ corporation (“Consultant”).

R E C I T A L S

A. City desires to utilize the services of Consultant as an independent contractor to provide professional \_\_\_\_\_ services.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant and Consultant desires to serve City to perform these services subject to the terms contained herein.

The parties therefore agree as follows:

1. Consultant’s Services.

1.1 Scope of Services. Consultant shall provide professional \_\_\_\_\_ services and related services, as more particularly described in Exhibit B.

1.2 Personnel. Consultant has, or shall secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

1.3 Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Consultant’s Name, Consultant’s Title (the “Consultant Representative”).

1.4 Time of Performance. Consultant shall commence the services contemplated under this Agreement immediately upon receipt of a notice to proceed from the City Representative. Consultant shall perform and complete each task identified in Exhibit B by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

2. Term of Agreement. The term of this Agreement shall be from \_\_\_\_\_ through \_\_\_\_\_, unless extended or sooner terminated as

provided in Section 13 herein. The City Manager may extend this Agreement for \_\_\_\_ (\_\_) additional one-year terms based upon the same terms and conditions set forth herein.

3. **Compensation.** As full compensation for Consultant's services provided under this Agreement, and subject to the maximum amount of compensation hereafter provided, City shall pay Consultant in accordance with the rates set forth in Exhibit C. The maximum amount of compensation that City shall pay Consultant pursuant to this Agreement is \_\_\_\_\_ Dollars (\$\_\_\_\_\_.\_\_\_\_\_) for the term set forth in Section 2. City shall not withhold federal payroll, state payroll and other taxes, or other similar deductions from each payment made to Consultant. City shall not allow any claims for additional services performed by Consultant, including the performance of the optional tasks identified in Exhibit B, unless the City Council authorizes the additional services in writing prior to Consultant's performance of the additional services or the incurrence of additional expenses. Any additional services authorized by the City Council shall be compensated at the hourly rates set forth in Exhibit C, or, if not specified, at a rate mutually agreed to by the parties.

4. **Method of Payment.**

4.1 **Invoices.** Not later than the fifteenth (15<sup>th</sup>) day of each month, Consultant shall submit to City detailed invoices for all services performed and expenses incurred, if any, pursuant to this Agreement during the prior month. The invoices shall describe in detail the services performed during the period and shall list the days and hours worked, the hourly rates charged, milestone achievements, tasks performed or completed, and the services performed for each day in the period. City shall review the invoices and notify Consultant in writing within ten (10) business days of any disputed amounts.

4.2 **Payment.** City shall pay all undisputed portions of the invoices within thirty (30) calendar days after receipt up to the maximum amount of compensation specified in Section 3 of this Agreement.

4.3 **Audit of Records.** Upon City providing 24-hour prior notice, Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

5. **Standard of Performance.** Consultant shall perform all services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

6. **Ownership of Work Product.** All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Such material shall not be the subject of a copyright application by Consultant. Any alteration or reuse by City of any such materials on any project other than the project for which they were prepared shall be at the sole risk of City unless City compensates Consultant for such reuse.

7. **Status as Independent Contractor.** Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt,

obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City, provided, however, that nothing contained in this provision shall be construed or interpreted so as to deprive Consultant of any and all defenses or immunities available to public officials acting in their official capacities. Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 7.

8. Confidentiality. Consultant shall keep all data, documents, discussion, or other information (collectively "data") developed or received by Consultant or provided for performance of this Agreement confidential and shall not be disclose the data to any person or entity without prior written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. The terms of this Section 8 shall survive the termination of this Agreement.

9. Conflict of Interest. Consultant and its officers, employees, associates and sub consultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant shall retain the right to perform similar services for other clients, but Consultant and its officers, employees, associates and sub consultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or sub consultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

10. Indemnification. Consultant agrees to indemnify, defend and hold harmless City, and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors and assigns in accordance with the Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as Exhibit A. Consultant's covenant under this Section 10 shall survive the termination of this Agreement.

11. Insurance.

11.1 Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California, rated "A" or better in the most recent A.M. Best Insurance Rating Guide, and approved by City, a policy or policies of: (1) broad-form commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000); (2) automobile

liability insurance, with minimum combined single limits of One Million Dollars (\$1,000,000); (3) professional liability (errors and omissions) insurance, with minimum combined single limits coverage of One Million Dollars (\$1,000,000), on a form approved by the City Attorney; and (4) workers' compensation insurance with a minimum limit of One Million Dollars (\$1,000,000) or the amount required by law, whichever is greater. City, its officers, employees, attorneys, and designated volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automobile liability with respect to liabilities arising out of Consultant's performance of services under this Agreement.

11.2 Each insurance policy required by this Section 11 shall be endorsed as follows: (1) the insurer waives the right of subrogation against City and its officials, officers, employees, agents and representatives; (2) except for professional liability and workers' compensation policies, the policies are primary and non-contributing with any insurance that may be carried by City; and (3) the policies may not be canceled or materially changed except after thirty (30) days prior written notice by insurer to City, unless canceled for non-payment, then ten (10) days notice shall be given.

12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation that City requires.

13. Termination. Either party may terminate this Agreement for any reason without penalty or obligation on thirty (30) calendar days' written notice to the other party. Consultant shall be paid for services satisfactorily rendered to the last working day the Agreement is in effect, and Consultant shall deliver all materials, reports, documents, notes, or other written materials compiled through the last working day the Agreement is in effect. Neither party shall have any other claim against the other party by reason of such termination.

14. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be given by first class U.S. mail or by personal service. Notices shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during Consultant's and City's regular business hours or by facsimile before or during Consultant's regular business hours; or (b) on the third (3<sup>rd</sup>) business day following deposit in the United States mail, postage prepaid, to the addresses below, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this Section 14. All notices shall be delivered to the parties at the following addresses:

If to City:                      City Clerk  
   City of Norwalk  
   12700 Norwalk Boulevard  
   Norwalk, California 90650  
   Fax: (562) 929-5584

*With a copy to:*

Director of \_\_\_\_\_  
City of Norwalk

12700 Norwalk Boulevard  
Norwalk, California 90650  
Fax: (562) 929-\_\_\_\_\_

If to Consultant:     *Consultant Company Name*  
                              *Consultant Address*  
                              *Consultant City, State Zip Code*  
                              Fax: (\_\_\_\_) \_\_\_\_-\_\_\_\_\_

**15. Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation. Consultant shall take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

**16. Non-Assignability; Subcontracting.** Consultant shall not assign or subcontract all or any portion of this Agreement. Any attempted or purported assignment or sub-contracting by Consultant shall be null, void and of no effect.

**17. Compliance with Laws.** Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements applicable to this Agreement.

**18. Non-Waiver of Terms, Rights and Remedies.** Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

**19. Attorneys' Fees.** In the event that either party to this Agreement shall commence any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorneys' fees.

**20. Exhibits; Precedence.** All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of an exhibit, the provisions of this Agreement shall prevail.

**21. Entire Agreement.** This Agreement and its exhibits represent the entire and integrated agreement between Consultant and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor

any provision or breach hereof waived, except in a writing signed by the parties that expressly refers to this Agreement.

[SIGNATURE PAGE FOLLOWS]

The parties, through their respective authorized representatives, are signing this Agreement on the date stated in the introductory clause.

CITY

CITY OF NORWALK

By: \_\_\_\_\_  
Michael J. Egan, City Manager

ATTEST:

By: \_\_\_\_\_  
Theresa Devoy, City Clerk

*CONSULTANT'S COMPANY NAME*

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Steven L. Dorsey, City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**(Please note: Two signatures required for corporations pursuant to California Corporations Code Section 313.)**

**EXHIBIT A**

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT  
AND WAIVER OF SUBROGATION AND CONTRIBUTION**

Contract/Agreement/License/Permit No. or description: \_\_\_\_\_

Indemnitor(s) (list all names): \_\_\_\_\_

To the fullest extent permitted by law, Indemnitor hereby agrees, at its sole cost and expense, to protect, indemnify, and hold harmless the City of Norwalk and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), resulting from any wrongful or negligent act, failure to act, error, or omission of Indemnitor or any of its officers, agents, servants, employees, subcontractors, material men, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to the above-referenced contract, agreement, license, or permit (the "Agreement") or the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against the Indemnitor shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay Indemnitees for any attorneys fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' active negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code § 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees.

City agrees to promptly inform Indemnitor in writing of any claim that City believes to be subject to this Indemnification and Hold Harmless Agreement.

Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent non-active negligence by the Indemnitees.



In the event there is more than one person or entity named in the Agreement as an Indemnitor, then all obligations, liabilities, covenants and conditions under this instrument shall be joint and several.

“Indemnitor”

Name: \_\_\_\_\_

Name: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**

**SCOPE OF SERVICES**

Consultant shall perform the following tasks:

(From the Proposal)

**EXHIBIT C**  
**BILLING RATE SCHEDULE**

**SECTION VII**

**CONFLICT OF INTEREST DISCLAIMER**

**CONFLICT OF INTEREST DISCLAIMER**

The undersigned, \_\_\_\_\_, declares that  
(Print or Type Name)

\_\_\_\_\_ does have/does not have (cross one out)  
(Name of Firm)

interest, ownership or receives or anticipates receiving remuneration of any type from the manufacturer(s), supplier(s), or distributor(s) which may be recommended on the project, as listed below.

<u>Firm</u>	<u>Product</u>	<u>Remuneration</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Signature of President, Secretary, Partner,  
Owner or Representative

\_\_\_\_\_  
Date

**SECTION VIII**

**ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS**

**ACKNOWLEDGMENT OF INSURANCE REQUIREMENTS**  
**AND CERTIFICATION OF ABILITY TO**  
**PROVIDE COVERAGES SPECIFIED**

I, \_\_\_\_\_, the \_\_\_\_\_  
(President; Secretary; Owner or Representative)

of \_\_\_\_\_, certify that the  
(Company Name or Corporation, or Owner)

Insurance Requirements set forth in Article IV of the Proposed Agreement have been read and understood that our insurance company(ies) \_\_\_\_\_

\_\_\_\_\_  
(Name(s) of insurance company(ies))

is/are able to provide the coverages specified.

\_\_\_\_\_  
Signature of President, Secretary, Partner,  
Owner or Representative

\_\_\_\_\_  
Date