



## City of Norwich

Department of Finance – Purchasing Agent  
100 Broadway, Room No. 105  
Norwich, CT 06360

Phone: (860)823-3706  
Fax: (860)823-3812  
E-mail: [whathaway@cityofnorwich.org](mailto:whathaway@cityofnorwich.org)

### REQUEST FOR PROPOSALS

**RFP No.:** 20-09

**Opening Date and Time:** October 31, 2019 at 2:00 pm EST

**Title:** Investment Fee Audit Services

**Special Instructions:** None.

The following information must appear in the lower left hand corner of the envelope:

Sealed Proposal No.: 20-09  
Not to be opened until October 31, 2019 at 2:00 pm EST

#### Return Proposals to:

William R. Hathaway, Purchasing Agent  
City of Norwich  
100 Broadway, Room 105  
Norwich, CT 06360-4431



# City of Norwich

Department of Finance – Purchasing Agent  
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**PLEASE RETURN THIS FORM IMMEDIATELY!**

## Acknowledgement: Receipt of RFP Documents

**RFP No.: 20-09**  
**Title: Investment Fee Audit**

Please take a moment to acknowledge receipt of the attached documents. Your compliance with this request will help the City of Norwich to maintain proper follow-up procedures and will ensure that your firm will receive any addendum that may be issued.

Date Issued: October 2, 2019

Date Documents Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Do you plan to submit a response? \_\_\_\_\_ Yes \_\_\_\_\_ No

Print or type the following information:

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

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Received by: \_\_\_\_\_

**Note: Faxed or e-mailed acknowledgements are requested.**

**Fax No.: (860)823-3812**

**E-mail: [whathaway@cityofnorwich.org](mailto:whathaway@cityofnorwich.org)**

**Fax or e-mail this sheet only. A cover sheet is not required.**

**DO NOT FAX OR E-MAIL YOUR RESPONSE TO THIS RFP**

## Purpose

The City of Norwich (hereinafter referred to as “City”) is requesting proposals from qualified and experienced firms to perform an Investment Fee Audit.

## Background

The City serves an area of 27.1 square miles with a population of 40,000. The City's fiscal year begins on July 1 and ends on June 30. The City of Norwich provides the following services to its citizens: Police, Fire Protection, Animal Control, Ambulance, Street Lights, Emergency Management, Road Repair, Snow Removal, Refuse Removal, Recycling, Human Services, Recreation, Education, Waste Treatment, Public Utilities and General Government Service.

The City (including education and utilities) has a total payroll of \$75 million covering 1,100 employees.

You can find additional detailed background information about the City and its operations in these documents available online.

- Adopted Budgets - <http://norwichct.org/Archive.aspx?AMID=41>
- Comprehensive Annual Financial Reports - <http://norwichct.org/Archive.aspx?AMID=38>

## Pension Fund

The City is the administrator of single-employer Public Employee Retirement Systems (PERS) established and administered by the City to provide pension benefits for its employees. The City of Norwich Retirement System (“Pension Fund”) provides retirement, disability, and death benefits through a contributory defined benefit plan to plan members and beneficiaries. The Pension Fund covers all City employees, non-certified staff of the NPS and NPU employees. The fund has approximately \$183 million of assets held by Comerica Bank as trustee and custodian and UBS Princeton-Hartford Investment Consulting as the non-discretionary investment advisor. Here are the investments held by the fund as of September 30, 2019:

- MFS Value
- Vanguard Equity Income
- Vanguard 500 Index
- Clearbridge Large Growth
- Eagle Mid Growth
- Fidelity Mid Cap Index
- NFJ Small Value
- Kayne Anderson Small Core
- Lazard International
- Delaware International
- Capital Group
- Western Asset Core Plus
- RNC Genter Quality Short Term
- Bradford Marzec Core Plus
- PRISA LP

## Other Postemployment Benefits Fund

The City provides post-employment benefits for certain employees for current and future health and life insurance benefit expenses through a single-employer plan for City, NPS, and NPU employees (“OPEB Fund”). The fund has approximately \$21 million of assets held by Comerica Bank as trustee and custodian and UBS Princeton-Hartford Investment Consulting as the non-discretionary investment advisor. Here are the investments held by the fund as of September 30, 2019:

- MFS Value
- Vanguard Equity Income
- Vanguard 500 Index
- Clearbridge Large Growth
- Eagle Mid Growth
- Fidelity Mid Cap Index
- NFJ Small Value
- Kayne Anderson Small Core
- Lazard International
- Delaware International
- Capital Group
- Western Asset Core Plus
- RNC Genter Quality Short Term
- Bradford Marzec Core Plus

## Volunteer Firefighters' Relief Fund

The City provides a contributory length of service award program "relief fund" plan for volunteer firefighters ("VFFRF Fund"). The fund has approximately \$3 million of assets held by Charles Schwab Bank as custodian and Hooker & Holcombe Investment Advisors as the non-discretionary investment advisor. Here are the investments held by the fund as of September 30, 2019:

- American Funds Capital World Bond R4
- Columbia Contrarian Corefd CI Adv
- Dodge & Cox Income Fd
- Fidelity Adv Real Estate Inc CI I
- Fidelity Total Bd
- MFS Intl Diversification CI R6
- Neuberger Berman Strat Inc I
- Pimco Fds Incm Fd I2
- Pimco Intl Bd Us Dollar Hedged I 2
- Pimco Investment Grade Cr Bd I2
- Pioneer Strategic Income Fd CI Y
- Russell Equity Income
- Russell Strategic Bond S
- Russell Us Small Cap Eqty Fd CI S
- Russell Us Strategic Eqty CI
- Schwab Fundamental Us Lrge Co Index
- Schwab Intl Index Fd
- Schwab S&P 500 Index Fund - Select S
- Schwab Small Cap Index Select
- T Rowe Price Emerging Mkts Stk Fd
- Vanguard Dividend Growth Fund Inv
- Vanguard Emrg Mkts Stk Index Fd Adm
- Vanguard Growth Index Fd Admiral
- Vanguard Mid Cap Index Fund Admiral
- Schwab Bank Savings

## Cemetery Trust Fund

The City has a trust fund for the maintenance of City-owned cemeteries. The fund has approximately \$1.7 million of assets held by Dime Bank as custodian and trustee and Mystic Asset Management as the discretionary investment manager.

## Scope of Services

### Mandatory

Review the investment activity of the Pension and OPEB funds from July 1, 2016 through December 31, 2019 and provide a report of fees and expenses, revenue sharing and rebating from all advisory, consultant, investment management, custodial and trust parties.

Determine whether any refunds or reimbursements including interest, if applicable, are due to the Pension and/or OPEB funds and facilitate the recovery of those monies.

Make recommendations to minimize fees and expenses and to make the total cost of investments more transparent prospectively.

### Optional

Provide the same services for the VFFRF and Cemetery Trust funds.

## Proposed Selection Schedule

The following table is the estimated schedule for this project:

Description	Date & Time	Location
<b>RFP Issued</b>	October 2, 2019	<a href="http://www.norwichct.org/Bids.aspx">http://www.norwichct.org/Bids.aspx</a>
<b>Requests for Information (RFI)</b>	October 16, 2019 at 4:00 pm	City Hall Purchasing Agent Room 105
<b>Responses to RFI Posted</b>	October 23, 2019	<a href="http://www.norwichct.org/Bids.aspx">http://www.norwichct.org/Bids.aspx</a>
<b>RFP Due Date/ Opening</b>	October 31, 2019 at 2:00 pm EST	City Hall Room 319
<b>Finalist Presentations</b>	Tentatively scheduled November 13, 2019 9:00 am to Noon	City Hall Room 335
<b>Award recommendation submitted to City Manager</b>	Tentatively scheduled for November 20, 2019	City Hall Room 219

## Requests for Information

All questions or requests for information or clarification must be submitted in writing to William R. Hathaway no later than 4:00 pm on October 16, 2019. No oral interpretation will be made to any proposer as to the meaning of the proposal specifications or any part thereof. Questions may be submitted by email to [whathaway@cityofnorwich.org](mailto:whathaway@cityofnorwich.org), by fax to (860)823-3812 or by U.S. Mail to 100 Broadway, Room 105, Norwich, CT 06360.

A summary of all questions and answers will be made available by addendum to this RFP.

## Addenda

If it becomes necessary to revise any part of this request or if additional data is necessary to enable interpretation of provisions of this document, revisions or addenda will be provided to all prospective firms that receive this document. Such revisions or addenda will additionally be posted on the following websites:

<http://www.norwichct.org/bids.aspx>

[https://das.ct.gov/SCP\\_Search/Default.aspx](https://das.ct.gov/SCP_Search/Default.aspx)

This document includes an acknowledgement page which must be faxed or e-mailed to the Purchasing Agent in order to ensure proper notification of changes to the published documents. The City does not assume responsibility for any vendor that does not receive revisions or addenda, where the vendor has not acknowledged receipt of the proposal documents.

## Instructions for Submission

Responses must be submitted in sealed envelopes and clearly marked with the RFP reference title, number, due date, and time. The Proposer's name and address must appear on the envelope.

Unless otherwise stated in this RFP, please submit one original (clearly marked) and five copies of all materials included in your proposal, along with one electronic copy on either a CD or flash drive. **Do not use 3-ring binders.**

Your proposal must be submitted in a sealed envelope as instructed above and must be received no later than October 31, 2019 at 2:00 pm EST at the offices of:

William R. Hathaway, Purchasing Agent  
City of Norwich  
100 Broadway, Room 105  
Norwich, CT 06360-4431

## Format of Proposal

Submittals shall consist of the following:

1. A transmittal letter signed by the appropriate officer of the firm which, at a minimum, includes statements:
  - a. Agreeing to the Scope of Services
  - b. Offering the proposal and certifying that the proposal and any cost projection included will remain in effect for 120 days after the due date
  - c. That the firm will comply with all of the Contract Considerations of RFP 20-09
  - d. That the firm accepts the City's standard agreement for professional services in Appendix C
2. Fee Proposal Form
3. Completed Questionnaire
4. Non-Collusion Affidavit

## Firm Interviews

Interviews are tentatively scheduled for November 13, 2019 between 9:00 am and 12:00 pm Room 335 of Norwich City Hall, 100 Broadway, Norwich, CT 06360. Selected finalists will be given as much advance notice as possible, and should be available to attend on the above dates.

## Selection Criteria

A panel will evaluate proposals based on the following criteria to determine each firm's qualifications. The order does not indicate relative ranking.

- A. Demonstration of competence, technical expertise, experience in providing these services for clients similar to the City. Both the firm's capabilities and the experience of individual team members assigned to the City account will be considered.
- B. Proposed fees.
- C. Responsiveness of the firm's proposal to the RFP, including clarity and organization of response, clear presentation of firm's experience and approach to ensuring the needs of City are fully met.

## Contract Considerations

### Equal Opportunity – Affirmative Action

The Firm shall comply with all aspects of the Equal Employment Opportunity Act.

A firm with 15 or more employees shall be required to have an Affirmative Action Plan which declares that the firm does not discriminate on the basis of race, color, religion, gender, national origin, age or gender stereotyping, and which specifies goals and target dates to ensure the implementation of equal employment.

A firm with fewer than 15 employees shall be required to have a written equal employment opportunity policy statement declaring that it does not discriminate on the basis of race, color, religion, gender, national origin, age or gender stereotyping.

Findings of noncompliance with State and/or Federal equal employment opportunity laws and regulations could be sufficient cause for revocation or cancellation of any contract that results from this RFP.

### Property Rights

For purposes of this RFP and for the contract, the term "Work" is defined as all data, records, files, information, work products, discs or tapes developed, produced or generated in connection with the services to be provided by the Firm. The City and the Firm intend the contract to be a contract for services and each considers the Work and any and all documentation or other products and results of the services to be rendered by the Firm to be a work made for hire. In

submitting a proposal in response to this RFP, the Firm acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of the City.

The Firm and the Firm's employees shall have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of the City. Any property or Work not specifically included in the Contract as property of the Firm shall constitute property of the City.

In addition to compliance with the right to audit provisions of the contract, the Firm must deliver to the City, no later than the 24 hours after receipt of the City's written request for same; all completed, or partially completed, Work and any and all documentation or other products and results of the services under such contract. The Firm's failure to timely deliver such work or any and all documentation or other products and results of the services will be considered a material breach of the contract. With the prior written approval of the City, this 24 hour period may be extended for delivery of certain completed, or partially completed, work or other such information, if such extension is in the best interests of the City.

The Firm will not make or retain any copies of the Work or any and all documentation or other products and results of the services provided under such Contract without the prior written consent of the City.

### **Indemnification**

The Firm shall indemnify, defend, and save harmless, the City, its officers, agents and employees from any and all claims and losses to the extent caused by the negligence, error or omission of the awarded firm in the performance of this work, except to the caused by the negligent acts of the City or its officers, agents or employees.

### **Insurance**

The City is requiring insurance coverage as listed below for this work.

Note: The term "Firm" shall also include their respective agents, representatives, employees or subcontractors; and the term "City " shall include their respective officers, agents, officials, employees, volunteers, boards and commissions of the City of Norwich, Norwich Public Schools, and Norwich Public Utilities. The insurance required shall be written for not less than the scope and limits of insurance specified hereunder, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage requirement is greater. It is agreed and understood that the scope and limits of insurance specified hereunder are minimum requirements and shall in no way limit or exclude the City from additional limits and coverage provided under the Firm's policies.

*All policies shall include a waiver of subrogation*

### **Worker's Compensation Insurance**

With respect to all operations the Firm performs the Firm shall carry worker's compensation insurance in accordance with the requirements of the laws of the State of Connecticut. The Firm shall carry employers liability limits of \$100,000 each accident and \$100,000 each employee by disease and \$500,000 policy limit disease.

### **Commercial General Liability**

With respect to all operations the Firm performs the Firm shall carry Commercial General Liability insurance providing for a total limit of \$1,000,000 per occurrence for each job site or location for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification provided under this contract. Each annual aggregate limit shall not be less than \$2,000,000.

### **Automobile Liability**

With respect to any owned, non-owned, or hired vehicles the Firm shall carry Automobile Liability insurance providing \$1,000,000 per accident for bodily injury and property damage.

## **Errors and Omissions/Professional Liability**

With respect to any damage caused by an error, omission or any negligent acts of the Firm performed under this contract the Firm shall carry \$1,000,000 per claim for any wrongful act.

### ***"Tail" Coverage***

If any of the required liability insurance is on a "claims made basis," "tail" coverage will be required at the completion of this contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. Firm shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. If continuous "claims made" coverage is used, Firm shall be required to keep the coverage in effect for a duration of not less than 24 months from the end of the Contract.

## **Acceptability of Insurers**

The Contractor's policies shall be written by insurance companies licensed to do business in the State of Connecticut, with an AM Best rating of A-VII, or otherwise acceptable to the City. Additionally, all carriers are subject to approval by the City.

## **Subcontractors**

The Firm shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability insurance, unless Errors and Omissions/Professional Liability insurance is applicable to the work performed by the subcontractor. All Certificates of Insurance shall be provided to Purchasing Agent's office as required herein.

## **Aggregate Limits**

Any aggregate limits must be declared to and approved by the City. It is agreed that the Firm shall notify the City when 50% of the aggregate limits are eroded during the contract term. If the aggregate limit is eroded for the full limit, the Firm agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. The premium shall be paid for by the Firm.

## **Deductibles and Self-Insured Retentions**

Any deductible or self-insured retentions must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Firm to pay and/or to indemnify.

## **Notice of Cancellation or Nonrenewal**

Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided or cancelled before the expiration date except after 30 days prior written notice by certified mail, return receipt requested, has been given to the City. Notwithstanding this requirement, the Firm is primarily responsible for providing such written notice to the City 30 days prior to any policy change or cancellation that would result in a change of the amount or type of coverage provided. In the event of any such change the Firm shall provide comparable substitute coverage so that there is no lapse in applicable coverage or reduction in the amount of coverage available to the City related to the Firm's services.

## **Waiver of Governmental Immunity**

Unless requested otherwise by the City, the Firm and his insurer shall waive governmental immunity as defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.



## **Additional Insured**

The liability insurance coverage, except Errors and Omissions, Professional Liability, or Workers Compensation, if included, required for the performance of the Contract shall include the City as Additional Insured but only with respect to the Firm's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

## **Certificate of Insurance**

As evidence of the insurance coverage required by this Contract, the Firm shall furnish Certificate(s) of Insurance to Purchasing Agent's Office prior to the award of the Contract if required by the RFP document, but in all events prior to Firm's commencement of work under this Contract. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring certificates shall be filed 30 days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to Purchasing Agent, City of Norwich, 100 Broadway, Room 105, Norwich, CT 06360-4431.

## **Waiver of requirements**

The Purchasing Agent, may vary the requirements at Purchasing Agent's sole discretion; if Purchasing Agent determines that the City's interests will be adequately protected without meeting all stated requirements.

## **Invoicing and Payment**

Invoices shall be paid promptly on a monthly basis by the City by ACH transfer unless any invoiced items are questioned, in which case payment will be withheld pending verification of the amount claimed and the validity of the claim. The City's standard payment terms are Net 30 days from receipt of properly executed invoice(s).

## **Award Consideration**

The City reserves the right to accept or reject any and all responses, in whole or in part, to waive technical defects, irregularities and omissions, if, in its judgment, the best interests of the City will be served. The City also reserves the right to negotiate further with one or more of the firms as to any features of their qualifications and submittals and to accept modifications of the work and price when such negotiations will be in the best interest of the City. Work performed under this contract shall be authorized by an engagement letter, with the letter signed by both a designated authority from the awarded firm, the City Manager or his designee and the Comptroller.

The individual signing this submittal hereby declares that no person or persons other than members of his/her organization are interested in this project or in the contract proposed to be taken; that it is made without any connection with any person or persons making a submission for the same work and is in all respects fair and without collusion or fraud; that no person acting for or employed by the City is directly or indirectly interested therein, or in the supplies or works to which it relates or will receive any part of the profit or any commission therefrom in any manner which is unethical or contrary to the best interests of the City.

Unless otherwise noted within a submission received in response to this RFP, the proposed fees are assumed to be valid for 120 days from the date of the RFP opening. If an award is not made within such time, the submission can be considered no longer valid, or can be extended with mutual consent of the City and the firm making the submission. Any documents, reports, and data generated as a result of the work under this contract shall become the property of the City.

## **Termination**

Subject to the provision below, the contract may be terminated by either party upon 30 days' advance notice to the other party. If any work or services hereunder are in progress, but not completed as of the date of termination, the contract may be extended upon written approval by the City until said work is completed and accepted.

**Termination for Convenience**

In the event that the contract is terminated or canceled upon request and for the convenience of the City without the required 30 days' advance written notice, then the City shall negotiate reasonable termination costs, if applicable.

**Termination for Cause**

Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The 30 days' advance notification requirement is waived in the event of termination for cause.

**Availability of Funds**

Any contract executed by the City is subject to the appropriation of funds.

# Fee Proposal Form

Proposal to:

William R. Hathaway, Purchasing Agent

City of Norwich

100 Broadway, Room 105

Norwich, CT 06360-4431

I, \_\_\_\_\_, have received the following contract documents:

1. Request for Proposal number 20-09,
2. Addenda \_\_\_ through \_\_\_, posted at <http://www.norwichct.org/Bids.aspx> and <http://das.ct.gov>

and have included their provisions in my fee proposal.

## Mandatory

Provide flat fees for providing the Mandatory items included in the Scope of Services, including all out-of-pocket expenses.

Fund	Fee
Pension Fund	
OPEB Fund	

## Optional

Provide flat fees for providing Optional items included in the Scope of Services, including all out-of-pocket expenses.

Fund	Fee
VFFRF	
Cemetery Trust Fund	

Name of Business: \_\_\_\_\_

Address: \_\_\_\_\_

Authorized Representative (Print Name & Title): \_\_\_\_\_

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

## Questionnaire

In order for your proposal to be considered and accepted, your organization must provide answers to the questions presented in this section. When answering the questions contained in the Questionnaire Section of this Request for Proposal, please repeat the questions and provide your answers numbered to correspond to the question as indicated in the RFP. All questions must be answered in a concise manner. Reference should not be made to a prior response. Be sure to refer to the earlier sections of this RFP before responding to any of the questions so that you have a complete understanding of all of the City's requirements with respect to the proposal.

1. Name of the proposed firm and name of the representative submitting the proposal. Include all contact information.
2. Provide an overview of your firm and its ownership/organizational structure, philosophy/culture, licensing within the State of Connecticut, and number of employees.
3. Identify members of your staff that would be assigned to this contract and provide a summary of their qualifications.
4. Describe your view of what differentiates your firm from other firms.
5. Identify a minimum of three other clients similar in size and scope for which you had provided similar services which can serve as a reference for your service. Give a brief description of the services provided to those clients.
6. Describe all services your firm/agency will offer the City.
7. Describe the steps and timeframe you anticipate will be needed to complete the work described in the Scope of Services.

# Non-Collusion Affidavit

State of \_\_\_\_\_ )  
 )  
County of \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. (Individual's Name) He/she is \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_  
(Sole Owner, Partner, President, Secretary, etc.) (Corporation Name)  
herein after referred to as the "Proposer" that has submitted the attached bid;
2. He/she is fully informed respecting the preparation and content of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham proposal;
4. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including the affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Proposer, firm or person to submit a collusive or sham bid, in connection with the contract for which the attached Proposal has been submitted or to refrain from bidding in connection with such contract, or has in any manner directly or indirectly, sought by agreement or collusion or communications or conference with any other Proposer, firm or person to fix the price or prices in the attached Proposal or of any Proposer, or to fix any overhead, profit or cost element of the Proposal price or the Proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Norwich, CT or any person interested in the proposed contract; and
5. The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties of interest, including this affiant.
6. That no officer or employee or person whose salary is payable in whole or in part from the City of Norwich is directly or indirectly interested in this Proposal, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.

Signed: \_\_\_\_\_

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

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ My Commission expires on \_\_\_\_\_

Notary Public



## City of Norwich

100 Broadway  
Norwich, CT 06360

Phone: (860)823-3700  
Fax: (860)885-2131

### AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT made and entered into this \_\_\_ day of \_\_\_\_\_, by and between, hereinafter called “**Consultant**” and the City of Norwich, 100 Broadway, Norwich, CT 06360, hereinafter called “**City**.”

WHEREAS, the City desires to enter into an agreement for services, and the Consultant represents itself as competent and qualified to accomplish the specific requirements of this agreement to the satisfaction of the City, therefore this agreement is entered into under the following terms and conditions:

The Consultant agrees to perform the \_\_\_ services described below

1. **TERM OF THE AGREEMENT:** The start date for this agreement shall be \_\_\_ and the completion date shall be \_\_\_\_\_.
2. **SERVICE TO BE PERFORMED:** The Consultant shall perform the services in accordance with the provisions contained in RFP No. \_\_\_\_\_, as specifically stated in the \_\_\_\_\_ and as may be specifically designated and additionally authorized by the City. Such additional authorizations will be in the form of a Purchase Order. Each Purchase Order shall set forth a specific scope of services, the amount of compensation and the required completion date.
3. **COMPENSATION:** The City shall pay Consultant \_\_\_\_\_, (\$ \_\_\_\_\_), in accordance with the provisions contained in the \_\_\_\_\_, which is attached hereto as Exhibit \_\_\_\_\_, and incorporated herein as if set forth in full.
4. **STANDARD OF CARE:** Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by a Consultant under similar circumstances and Consultant shall, at no additional cost to the City, re-perform services which fail to satisfy the foregoing standard of care.
5. **INDEMNIFICATION**

**For General Liability** – To the fullest extent permitted by law and except with respect to damages, liabilities and costs arising or alleged to have arisen out of the Consultant’s acts, errors or omissions in the performance of professional services that are addressed in this agreement, the Consultant agrees to defend, indemnify and hold harmless the City, its officers (both elected and appointed), employees and agents from and against liabilities, claims, damages and costs (including attorneys’ fees) to the extent caused by the Consultant’s performance, acts, errors or omissions under this Agreement.

**For Professional Liability** – With respect to damages, costs, liabilities and expenses that arise from or are alleged to have arisen from the Consultant’s acts, errors or omissions in the performance of the professional services that are addressed in this Agreement and to the fullest extent permitted by law, the Consultant agrees to hold the City, its officers (both elected and appointed), employees and agents harmless from and against liabilities, damages and costs (including reasonable attorney’s fees) to the extent caused by the negligence of the Consultant in performance of services under this Agreement. This indemnification excludes the duty of the Consultant to defend the City. However, the absence of the duty to defend shall not preclude the City from seeking its reasonable attorneys’ fees as part of its damages where and to the extent such fees are caused by the Consultant’s negligence. Nothing in this paragraph shall apply to indemnification of general liability.

Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.

The Consultant shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees (including appellate attorney's fees) and costs.

City reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Consultant under the indemnification agreement. Nothing contained herein is intended nor shall it be construed to waive City's rights and immunities under the common law or Connecticut General Statutes as amended from time to time.

- 6. INDEPENDENT CONSULTANT:** Consultant undertakes performance of the services as an independent contractor under this Agreement, and shall be wholly responsible for the methods of performance. The City shall have no right to supervise the methods used, but the City shall have the right to observe such performance. Consultant shall work closely with the City in performing services under this Agreement.
- 7. PAYMENTS:** The City shall pay in full the Agreement Sum to the Consultant upon completion of the work listed in Article 2 of this Agreement unless the parties agree otherwise. The City shall pay the Consultant for work performed subject to the specifications of the job and subject to any additions and deductions by subsequent change order provided in the agreement documents.
- 8. COMPLIANCE WITH LAWS:** In performance of the services, Consultant shall comply with applicable regulatory requirements including federal, state, and local laws, rules regulations, orders, codes, criteria and standards.
- 9. INSURANCE:** During the performance of the services under this Agreement, the Consultant shall maintain the following insurance policies, written by an insurance company authorized to do business in Connecticut, and shall provide the City with a Certificate of Insurance naming the City of Norwich, its officers (both elected and appointed), employees and agents as additional insured on the following policies:
  - Comprehensive General Liability (including completed operations coverage) in the amounts of \$1,000,000 each occurrence and \$2,000,000 aggregate
  - Commercial Automobile Coverage, including owned, non-owned, leased and hired vehicles (if used on City property) in the amount of \$1,000,000 combined single limit.

The minimum limits of coverage shall be \$1,000,000 per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This coverage shall be an "Any Auto" type policy. The City must be listed as an Additional Insured under the Policy. Thirty (30) days written notice must be provided to the City via Certified Mail in the event of cancellation.

The Consultant shall also provide a Certificate of Insurance reflecting the following coverage:

- Professional Liability (Errors and Omissions) Insurance in the amount of \$2,000,000 each occurrence
- Workers Compensation Coverage in accordance with State of Connecticut requirements. The policy must contain a waiver of subrogation in favor of the City of Norwich, executed by the insurance company.

The City of Norwich, its officers (both elected and appointed), employees and agents shall be named as additional insured on all policies, except Professional Liability and Workers Compensation, on a primary and non-contributory basis.

In the event that sub-Consultants used by the Consultant do not have insurance, or do not meet the insurance limits, Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-Consultants' insurance coverage, arising out of negligent acts, errors or omissions of the sub-Consultants.

Consultant shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the City.

**10. CITY'S RESPONSIBILITIES:** The City shall be responsible for providing access to all project sites, and for providing project-specific information.

#### **11. TERMINATION OF AGREEMENT**

**Termination for Convenience:** This Agreement may be terminated by the City for convenience, upon seven (7) days of written notice by the City to the Consultant in which event the Consultant shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that the Consultant abandons this Agreement or causes it to be terminated, Consultant shall indemnify the city against loss pertaining to this termination.

**Default by Consultant:** In addition to all other remedies available to the City, this Agreement shall be subject to cancellation by the City for cause, should the Consultant neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by Consultant of written notice of such neglect or failure.

**12. NONDISCLOSURE OF PROPRIETARY INFORMATION:** Consultant shall consider all information provided by City and all reports, studies, calculations, and other documentation resulting from the Consultant's performance of the Services to be proprietary unless such information is available from public sources. Consultant shall not publish or disclose proprietary information for any purpose other than the performance of the services without the prior written authorization of City or in response to legal process.

**13. UNCONTROLLABLE FORCES:** Neither the City nor Consultant shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

**14. CONNECTICUT LAW:** It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the internal laws of the State of Connecticut.



- 15. VENUE:** In the event of litigation, the parties do agree to be mutually bound to submit themselves to the personal jurisdiction of the state courts of Connecticut. The venue for any court proceeding shall be in the Superior Court for the Judicial District for Norwich at New London, Connecticut.
- 16. WAIVER OF JURY TRIAL:** CONSULTANT HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN AGREEMENT OR TORT OR OTHERWISE; AND CONSULTANT HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THE CITY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF CONSULTANT'S CONSENT TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.
- 17. MISCELLANEOUS**
- Nonwaiver:** A waiver by either City or Consultant of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.
- Severability:** Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement. The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.
- 18. SUCCESSORS AND ASSIGNS:** The City and Consultant each binds itself and its director, officers, partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives.
- 19. CONTINGENT FEES:** The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.
- 20. TRUTH-IN-NEGOTIATION CERTIFICATE:** Execution of this Agreement by the Consultant shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the Consultant's most favored customer for the same or substantially similar service.

The said rates and cost shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside Consultants. The City shall exercise its rights under this "Certificate" within one (1) year following payment.

**21. OWNERSHIP OF DOCUMENTS:** Consultant shall be required to work in harmony with other **Consultants** relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the City upon completion for its use and distribution as may be deemed appropriate by the City.

**22. FUNDING:** This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Council of the City of Norwich in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

**23. NOTICE:** Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by United States Postal Service (USPS) Certified Mail, USPS Express Mail, air or ground courier services, or by messenger, as follows:

**CITY:**

John L. Salomone, City Manager  
City of Norwich  
100 Broadway  
Norwich, CT 06360

Michael E. Driscoll, Corporation Counsel  
Brown Jacobson PC  
22 Courthouse Square  
Norwich, CT 06360

**CONSULTANT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices shall be effective when received at the address specified above. Changes in the respective addresses to which such notice may be directed may be made from time to time by any party by written notice to the other party. Facsimile is acceptable notice effective when received, however, facsimiles received (i.e.; printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Consultant and City.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in two (2) original copies on the day and year first above written.

OWNER:

CONSULTANT:

\_\_\_\_\_  
John L. Salomone  
Its City Manager

\_\_\_\_\_  
Its Duly Authorized Agent

Approved as to form:

\_\_\_\_\_  
Michael E. Driscoll, Corporation Counsel

Date Signed \_\_\_\_\_

