

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No. 2017-118

Council Meeting Date: 04-24-2017

Date Adopted: 04-24-2017

TITLE: RESOLUTION RETAINING THE PROFESSIONAL SERVICES OF  
SUBURBAN CONSULTING ENGINEERS, INC. FOR PROFESSIONAL  
ENGINEERING SERVICES FOR STREETScape PROJECT PHASE 2

Councilperson Muñoz submitted the following resolution, which was duly seconded by Councilperson Madden.

WHEREAS, there exists a need for the Mayor and Council of the Borough of New Providence to obtain professional engineering services for construction administration of the Streetscape Project, Phase 2; and

WHEREAS, Suburban Consulting Engineers, Inc. have submitted a proposal date, April 13, 2017 to perform construction administration services; and

WHEREAS, the maximum amount of the proposal is not to exceed \$12,500.00, and said funds are available from the following accounts:

C-04-55-973-290-404900

and have been certified by the Chief Financial Officer; and

WHEREAS, said contract is awarded for professional services to be performed by Suburban Consulting Engineers, licensed in the State of New Jersey; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1) requires that the resolution authorizing and awarding of contracts for "professional services" without competitive bids and the contract itself must be available for public inspection.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of New Providence that they hereby agree as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute the attached proposal with Suburban Consulting Engineer.

2. Such contract is awarded without competitive bids as a "professional service" in accordance with N.J.S.A. 40A:11-5(1) (a) of the Local Public Contracts Law, because the services to be rendered are professional in nature and are un-specifiable as to requirements for performance. Such services must be rendered by a person particularly trained and licensed in this area, which requires extensive specific education and extended experience in both the Federal and State procedural requirements.
3. A notice of this action shall be published once in the Courier News.

BE IT FURTHER RESOLVED that the Chief Financial officer has certified as to the availability of funds provided for herein.

APPROVED, this 24<sup>th</sup> day of April, 2017.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 24<sup>th</sup> day of April, 2017.

Wendi B. Barry, Borough Clerk



April 13, 2017

**Via Electronic Mail (dmarvin@newprov.org) and Regular Mail**

Borough of New Providence  
360 Elkwood Avenue  
New Providence, New Jersey 07974

Attn.: Douglas Marvin  
Borough Administrator

Re: Borough of New Providence, County of Union, State of New Jersey  
Downtown Improvement Project  
Plans & Specifications  
Our File No.: Proposal SCE-P02457.021

Dear Mr. Marvin;

**SUBURBAN CONSULTING ENGINEERS, INC. (SCE)** is pleased to provide this proposal for the plan and specifications for the Downtown Improvement project located in the Borough of New Providence, New Jersey. It is our understanding that in response to direction received from the NJDOT, the Borough of New Providence is considering splitting the current Streetscape project into two (2) projects; one (1) that is federally funded and another that is municipally funded.

**Scope of Services**

- Federally Funded Construction Documents
  - Revise current Construction Plans (Revision F) to only include Base Bid Items.
  - Revised Construction Details and Traffic Control Plans to match revised scope of Work.
  - Revise Current Specifications to match revised Scope of Work.
  
- Municipally Funded Construction Document
  - Generate a new set of Construction Plans to include items originally called out in Alternate Bids A through D of Revision F. The plan callouts will be in similar format to the federally funded construction plans.
  - Generate a new Front End Specifications based on New Providences Bidding Policies to match the scope of Work.
  - Generate a new technical specification for the Scope of Work. The format will be in a similar format to the federally funded specifications.
  - Revised the Construction Details and Traffic Control to match the scope of work.
  - Provide Bidding Support for the new project.



### Fee Proposal

SCE proposes to provide the above referenced scope of services for the following fees:

• Revised Construction Documents	<b>Lump Sum Fee</b>	<b>\$ 10,250</b>
• Bidding Support	<b>Lump Sum Fee</b>	<b>\$ 2,250</b>
	<b>TOTAL LUMP SUM FEE</b>	<b>\$ 12,500</b>

### Fee Structure

SCE will utilize the following fee structure for all tasks where fee is estimated and for any additional work authorized by client or for client initiated revisions. It should be noted that our fee is based on the specific tasks as explained in the above sections of this proposal. Additional services and items may be determined to be required during the course of the project that have not been included in this cost proposal.

Revisions to address any review agency comments that develop during the review process are typically required to obtain approvals. SCE is not able to predict the course of action necessary to address such comments at this time. All costs associated with addressing the review agency comments will be invoiced in accordance with the fee structure on a time and material basis.

- Principal/Project Officer \$160/hour
- Project Manager \$155/hour
- Senior Engineer/Project Coordinator \$145/hour
- Engineer \$130/hour
- Landscape Architect \$130/hour
- Professional Land Surveyor \$130/hour
- Senior Designer \$120/hour
- Designer \$115/hour
- Technician \$90/hour
- Senior Inspector \$100/hour
- Inspector \$90/hour
- Secretarial/Clerical \$50/hour
- Survey Equipment Unit Cost
  - Robotic/GPS \$50/hour
- Any actual disbursements or unusual expenses which we incur on your behalf, such as filing fees, delivery charges, travel, parking and toll charges will be included as expense charges in your invoices. (Minimum reproduction charge of \$20 per event).
  - Large format black and white document reproduction \$0.50/square foot
  - Large format color document reproduction \$3.00/square foot
  - Large volume black and white photocopies \$0.15/copy
  - Large volume color photocopies \$0.30/copy
  - Mileage will be billed at \$0.57 per mile.
  - Approved subcontracted services will be billed at actual cost plus 15 percent.



### **Services Not Included Unless Authorized**

It should be noted that our fee is based on the specific tasks as explained in the above sections of this proposal. Additional services and items may be determined to be required during the course of the project that have not been included in this cost proposal. These services and items include but are not limited to:

- Application and permit fees.
- Agency review fees and escrow fees other than those indicated.
- Owner or contractor initiated changes.
- Review agency required revisions.
- NJDOT requested revisions.
- NJDEP Permitting services.
- Geotechnical services.
- Design outside anticipated area of disturbance.
- Traffic engineering services.
- Environmental Impact Statement.
- Landscape and Lighting Design.
- Structural Design Services
- Site Rendering Services.
- Additional meetings, this contract assumes no meetings required at this time.

### **Standard Contract Terms & Conditions**

In accordance with the above information, Client agrees to the following:

#### *Termination of Contract*

Client may terminate this Agreement with seven days prior written notice to Suburban Consulting Engineers, Inc. (SCE) for convenience or cause. SCE may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until SCE has been paid in full all amounts due for services, expenses and other related charges.

#### *Hazardous Environmental Conditions*

It is acknowledged by both parties that SCE's Scope of Services does not include any services related to the remediation at the site of asbestos, PCBs, petroleum, hazardous waste or radioactive materials. Client acknowledges that SCE is performing professional services for Client and SCE is not and shall not be required to become an "arranger", "operator", "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

#### *Ownership of Documents*

All documents prepared or furnished by SCE pursuant to this Agreement are instruments of SCE's professional service, and SCE shall retain an ownership and property interest therein. SCE grants



Client a license to use instruments of SCE's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without SCE's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold SCE harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Indemnification

To the fullest extent permitted by law, Client and SCE each agree to indemnify the other party and the other party's officers, directors, partners, employees and representatives, from and against losses, damages and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error or omission of the indemnifying party or any of the indemnifying party's officers, directors, members, partners, agents, employees or subconsultants in the performance of services under this Agreement. If claims, losses, damages and judgments are found to be caused by the joint or concurrent negligence of Client and SCE, they shall be borne by each party in proportion to its negligence.

Force Majeure

Neither party shall be deemed in default of this agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Dispute Resolution

Client and SCE agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to the agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this agreement.

Use of Electronic Media

Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by SCE. Files in electronic media format or text, data, graphic or other types that are furnished by SCE to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, SCE makes no representations as to long-term compatibility, usability or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by SCE at the beginning of this assignment.

Construction Phase Services

If this Agreement provides for any construction phase services by SCE, it is understood that the Contractor, not SCE, is responsible for the construction of the project, and that SCE is not responsible for the acts or omissions of any contractor, subcontractor or material supplier; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the Contractor.



Opinions of Cost

When included in SCE's Scope of Services, opinions or estimates of probable construction cost are prepared on the basis of SCE's experience and qualifications and represent SCE's judgment as a professional generally familiar with the industry. However, since SCE has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, SCE cannot and does not guarantee that proposals, bids or actual construction cost will not vary from SCE's opinions or estimates of probable construction cost.

Professional Responsibility

SCE represents that the services shall be performed, within the limits prescribed by Client, in a manner consistent with the level of care and skill ordinarily exercised by other professional consultants under similar circumstances. No other representation to Client, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise. For any damage caused by professional negligence including errors, omissions or other professional acts, including unintentional breach of contract by SCE, its employees, agents or subcontractors, SCE's liability and that of its employees, agents and subcontractors is limited to SCE's total compensation paid under the contract. In no event shall either Client or SCE be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

Right of Entry

Client grants to SCE, and, if a project site is not owned by Client, warrants that permission has been granted for a right of entry from time to time by SCE, its employees, agents and subcontractors upon the project site for the purpose of providing the Services. Client recognizes that the use of investigative equipment and practices may unavoidably alter existing site conditions and affect the environment in the area being studied.

**Billing Schedule**

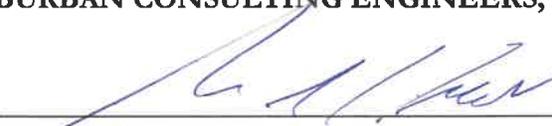
Payment for professional services shall be invoiced at the end of each month as a proportion of the total work completed or upon completion of the work product. Payment is due upon receipt of invoice. A 1-1/2 percent per month late charge will be applied for all outstanding invoices not paid within fifteen (15) days. Amounts not paid when due may be referred for collection and mechanic's lien rights may be exercised, with all costs, including reasonable attorney fees, charged to client. Both parties understand that work will be stopped if account is not current; signed drawings will not be furnished if account is past due.

If this proposal meets with your approval, please sign below and return one (1) copy to my office. We shall consider an appropriately executed copy of this letter as our formal authorization to proceed. Please note that the fees stated in this proposal are valid for thirty (30) days from the date of this correspondence. Please also note that by signing this proposal, you are agreeing to SCE's Standard



Contract Terms and Conditions referenced above. If you have any questions regarding this proposal, please do not hesitate to contact me.

Very truly yours,  
**SUBURBAN CONSULTING ENGINEERS, INC.**

By   
Andrew S. Holt, PE, PP, CME, Executive Vice President

Accepted this \_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
(Printed Name and Title)