

THE CITY OF WALTHAM
MASSACHUSETTS

PURCHASING DEPARTMENT

Owner's Project Management (OPM) Services for the New Police Station, 2022

ADDENDUM NO. 3

February 18, 2022

CHANGES, CORRECTIONS AND CLARIFICATIONS

The attention of bidders submitting proposals for the above subject project is called to the following addendum to the specifications. The items set forth herein, whether of omission, addition, substitution or clarification are all to be included in and form a part of the proposal submitted.

THE NUMBER OF THIS ADDENDUM (NO. 3) MUST BE ACKNOWLEDGED IN YOUR COVER LETTER.

ITEM 1: ADD

- **ADD** after pg 28, "**Exhibit A**" included in this Addendum to clarify Responsibilities to the Scope of Work.

SECTION 1: RELATIONSHIP OF THE PARTIES

- 1.1 The Owner's Project Manager shall act as an independent contractor of the Owner in providing the services required under this Contract.
- 1.2 The Owner's Project Manager warrants and represents to the Owner that it has fully, completely and truthfully represented the qualifications and skills of the Owner's Project Manager, its Subconsultants, agents, servants and employees in the proposal submitted by the Owner's Project Manager, the Contract documents and in all communications with the Owner relative to this Contract and the services to be performed hereunder by the Owner's Project Manager, its Subconsultants, agents, servants and employees.
- 1.3 The Owner's Project Manager shall perform its services under this Contract with no less than that degree of skill and care ordinarily exercised by similarly situated members of the Owner's Project Manager's profession on projects of similar size, scope and complexity as is involved on the Project. The Owner's Project Manager's services shall be rendered in accordance with this Contract.
- 1.4 The Parties hereto agree that the Designer is solely responsible for the design requirements and design criteria for the Project (except to the extent specifically delegated to others) and for performing in accordance with the contract between the Owner and Designer.
- 1.5 The Parties hereto agree that the Contractor or CM at Risk, as the case may be, shall be solely responsible for construction means, methods, techniques, sequences and procedures, the Contractor's or CM at Risk's schedules, and for safety precautions and programs in connection with the Project and for performing in accordance with the Owner-Contractor Agreement or the Owner-CM at Risk Agreement. The Owner's Project Manager shall be responsible for the Owner's Project Manager's negligent acts or omissions but shall not have control over or charge over acts or omissions of the Contractors, CM at Risk, Subcontractors, Trade Contractors or Non-Trade Contractors or the agents or employees of the Contractor, CM at Risk, Subcontractors, Trade Contractors or Non-Trade Contractors the Designer, the Owner or the Commissioning Consultant.
- 1.6 Nothing in this Contract shall be construed as an assumption by the Owner's Project Manager of the responsibilities or duties of the Contractor or the CM at Risk or the Designer. The Owner's Project Manager's services shall be rendered compatibly and in coordination with the services provided by the Designer. It is not intended that the services of the Owner's Project Manager and Designer be competitive or duplicative, but rather complementary. The Owner's Project Manager shall be entitled to rely upon the Designer and Contractor or CM at Risk for the proper performance of their obligations pursuant to their respective contracts with the Owner.

SECTION 2: RESPONSIBILITIES OF THE OWNER

- 2.1 The Owner shall be responsible to oversee and monitor the performance of the Owner's Project Manager to ensure that it performs its obligations in a satisfactory manner. The Owner shall provide the necessary general direction and broad management coordination required to execute the Project.
- 2.2. The Owner shall designate an individual or individuals who shall have the authority to act on behalf of the Owner under this Contract and who shall be responsible for day-to-day communication between the Owner and the Owner's Project Manager.
- 2.3 Upon satisfactory completion of services performed, the Owner shall make payments to the Owner's Project Manager as provided in Articles 7, 8, 9 and 10.
- 2.4 The Owner shall be responsible for requiring the Contractor or CM at Risk and/or the Designer to comply with their respective contract obligations and to cooperate with the Owner's Project Manager.
- 2.5 The Owner shall provide timely information with respect to its requirements relative to the Project Schedule and the Project Budget, and shall further give timely notice to the Owner's Project Manager of any changes or modifications to the same.
- 2.6 To the extent such data is available, the Owner shall furnish to the Owner's Project Manager existing surveys of the Project site, building plans, borings, test pits, structural, mechanical, chemical or other test data, tests for air and water pollution and for hazardous materials, photographs and utility information. The Owner's Project Manager shall be entitled to reasonably rely upon the sufficiency and accuracy of the information furnished under this Article 3.6, provided that the Owner's Project Manager shall notify the Owner in writing of any deficiencies in such data that the Owner's Project Manager becomes aware of.

SECTION 3: RESPONSIBILITIES OF THE OWNER'S PROJECT MANAGER

- 3.1 The Owner's Project Manager shall provide project management services to monitor procurement procedures, design, construction and other related activities and to facilitate, coordinate and manage the Project with respect to timely performance in accordance with the Project Schedule and monitor the quality of services and workmanship and shall recommend courses of action to the Owner when respective contractual requirements are not being fulfilled. Services shall continue through substantial use and occupancy by the Owner, and Project closeout. As part of Basic Services, the Owner's Project Manager shall provide information as requested during final auditing as conducted by the Owner.
- 3.2 The Owner's Project Manager shall perform the services required under this Contract in conformance with applicable federal, state, and local laws, ordinances and regulations.
- 3.3 The Owner's Project Manager shall report to the Owner any act or inaction in connection with the Project which the Owner's Project Manager believes creates a substantial health or safety risk. Notwithstanding the immediately preceding sentence, the Owner's Project Manager shall not assume responsibility for safety precautions and programs in connection with the Project, which shall remain the sole responsibility of the Contractor or CM at Risk, as the case may be.
- 3.4 The Owner's Project Manager shall comply with terms and conditions of all project agreements executed between the Owner and any and all administrative directives issued now in effect or hereafter promulgated during the term of this Contract, without any additional compensation. The Owner shall reasonably compensate the Owner's Project Manager for complying with any such term or condition or directive, that was not provided to or was not readily available to the Owner's Project Manager prior to such Services being performed and that materially impacts the Owner's Project Manager's scope, or other aspect of its Services, Fee, schedule, or any obligations and responsibilities under this Contract.
- 3.5 The Owner's Project Manager acknowledges the importance that the Owner attributes to the abilities and qualifications of the key members of the Owner's Project Manager's team, including Subconsultants, and the continuity of key members participation in the services to be provided under this Contract. This Contract has been entered into on the representation of the Owner's Project Manager that the individuals, consultants, assignments and responsibilities will be maintained throughout the duration of this engagement. No substitution or replacement of individuals or change in the Subconsultants, listed in Attachment B, shall take place without the prior written approval of the Owner, except when necessitated by causes beyond the Owner's Project Manager's control. If the Owner's Project Manager proposes to replace one of the key members of the Owner's Project Manager's team, the Owner's Project Manager shall propose a person or consultant with qualifications at least equal to the person or firm the Owner's Project Manager proposes to replace. The Owner shall have the right to approve any substitution or replacement or change in status for the persons or Subconsultants listed in Attachment B and such approval shall not be unreasonably withheld. At the request of the Owner, the Owner's Project Manager shall consult with the Owner to resolve any situation in which the Owner determines that a member of the Owner's Project Manager's team is failing to perform services in an acceptable manner to the Owner. The Owner shall have the right to direct the removal of any such person or consultant. No act or omission of the Owner made or permitted under this Section shall relieve the Owner's Project Manager of its responsibility for the performance of the services specified in this Contract.
- 3.6 The Owner's Project Manager shall employ at all times professional and support personnel with requisite expertise and adequate numbers to assure the complete, timely and high quality performance of the obligations of the Owner's Project Manager.

3.7 The Owner's Project Manager shall be and shall remain liable to the Owner for all damages incurred by the Owner as a result of the failure of the Owner's Project Manager to perform in conformance with the terms and conditions of this Contract.

SECTION 4: BASIC SERVICES

The Owner's Project Manager shall perform the following Basic Services:

4.1 Project Management (For All Phases)

4.1.1 The Owner's Project Manager shall prepare a communication and document control procedure during the Feasibility Study/Schematic Design Phase and continue to update it as specified for the duration of the Project. This procedure shall detail the responsibilities and lines of communication among all Project participants (Owner, Owner's Project Manager, Designer, Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors and other consultants, vendors or suppliers) and establish the procedure for correspondence, document control, designer and contractor or CM at Risk submittal logs, change order reporting logs and other tracking logs, as needed. The Owner's Project Manager shall include the Designer in its distribution of the Project Budget, Schedule, Monthly Progress Report and other reports as appropriate and as outlined in the Communications Plan.

4.1.2 The Owner's Project Manager shall assist the Owner in the preparation of all information, material, documentation, and reports that may be required, including without limitation, documentation related to incentive reimbursement percentage points that may be awarded to the Owner, requests for reimbursement, and audit materials.

4.1.3 The Owner's Project Manager shall prepare agendas for and attend school building committee meetings, attend meetings with other representatives of the Owner, municipal administration and the school department, and attend neighborhood meetings relating to the Project, and participate as a member of the Owner's Prequalification Committee. The Owner's Project Manager shall take minutes of all of the above-referenced meetings and promptly distribute minutes of these meetings to the Owner.

4.1.4 The Owner's Project Manager shall review all applications for payments, requisitions and invoices relating to the Project as submitted by the Designer, equipment vendors and all other contractors and suppliers and make recommendations to the Owner relative to amounts due.

4.1.2 Project Control

During the Feasibility Study/Schematic Design Phase of this Contract, the Owner's Project Manager shall monitor and report to the Owner any changes to the Feasibility Study Budget, Scope and Schedule established in the Owner Feasibility Study Agreement.

4.1.2.1 Project Budget

The Owner's Project Manager shall prepare a detailed baseline Project Budget in a form acceptable to the Owner, which will be reviewed and agreed upon by the Owner as part of the Project Scope and Budget Agreement. The Owner's Project Manager shall monitor and compare all Designer estimates, contractor bids, Guaranteed Maximum Price (if applicable), and other cost information to this Project Budget and identify and report all variances to the Owner.. The Owner's Project Manager shall maintain and update the baseline Project Budget throughout the term of this Contract. The Owner's Project Manager shall report any variances to the baseline Project Budget as part of the Monthly Progress Report.

The Owner's Project Manager shall prepare revisions to the baseline Project Budget, as needed, and submit them to the Owner for approval.

4.1.2.2 Cost Estimating

The Owner's Project Manager shall prepare detailed independent cost estimates at each Design phase (feasibility/schematic).when required by the Owner. If the Owner requires the Owner's Project Manager to prepare an independent cost estimate, the Owner's Project Manager shall compare its cost estimate to that prepared by the Designer to identify and notify the Owner of any variances.

In the event that the cost as estimated by the Designer exceeds the construction cost in the Project Budget at any of the Design phases, the Owner's Project Manager shall consult with the Designer and recommend to the Owner appropriate revisions to the scope of work.

The Owner's Project Manager shall provide cost estimating services, as may be required, to develop cash flows.

During the schematic design Phase, the Owner's Project Manager shall prepare a construction cost estimate in Unifomat II Level 2 format with aggregated unit rates and quantities supporting each item.

4.1.2.3 Project Schedule

The Owner's Project Manager shall prepare a Project Schedule in a form acceptable to the Owner, which will be reviewed and agreed upon as part of the Project Scope and Budget Agreement and further subject to approval.

The Owner's Project Manager shall prepare revisions to the Project Schedule, as needed, and submit them to the Owner for approval.

4.1.2.4 INTENTIONALLY LEFT BLANK

4.1.3 Monthly Progress Report

The Owner's Project Manager shall submit to the Owner no later than the twelfth day of each calendar month a written Monthly Progress Report summarizing activity during the preceding calendar month. The Monthly Progress Report shall be submitted in a format acceptable to the Owner and shall describe work performed by all project participants (OPM, Designer, Contractor or CM at Risk) during the reporting period and work planned for the next reporting period. The report shall also address matters of schedule adherence (Project Schedule as well as individual completion percentages for design and construction), costs to date (updated Project Budget and actual expenses incurred), change orders and potential change orders, cash flow projections, Contractor's or CM at Risk's safety performance, Designer's QA/QC, Contractor's or CM at Risk's environmental compliance, community issues, Designer and Contractor or CM at Risk's MBE/WBE activities, any issues that could result in additional time and/or additional costs and any anticipated problems/concerns together with recommended solutions.

4.1.4 INTENTIONALLY LEFT BLANK

4.1.5 MBE/WBE Compliance Monitoring (All Phases)

The Owner's Project Manager shall monitor and report on the Designer's and Contractor's or CM at Risk's compliance with MBE/WBE requirements.

4.1.6 Site Investigations and Environmental Testing

Prior to Designer Selection, the Owner's Project Manager shall assist the Owner in determining the need for and the implementation of site evaluation and testing including, but not necessarily limited to, site surveys, wetlands evaluation, environmental evaluations, hazardous materials evaluation, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work in the case of renovation projects. The determination that any additional services or testing need to be performed shall rest with the Owner or Designer.

4.1.7 Project Records and Reports (All Phases)

The Owner's Project Manager shall maintain a complete Project file including, but not necessarily limited to, a copy of the executed agreements of the Owner-Owner's Project Manager, Owner-Architect/Engineer and the Owner-Contractor or Owner- CM at Risk, including copies of performance and payment bonds, a master list of permits, certificates of insurance, licenses and approvals for the Project, correspondence, daily reports, payment records, shop drawings, submittals, project schedules, requests for information, change orders/amendments, change directives and meeting minutes. The Owner's Project Manager shall assist the Owner in responding to any public records request received by the Owner.

4.2 Feasibility Study/Schematic Design Phase

4.2.2 Designer Selection

The Owner's Project Manager shall coordinate the designer selection process for the Owner in accordance with the Designer Selection Guidelines. Services shall include:

4.2.2.1 The Owner's Project Manager shall assist the Owner in preparing the schedule for designer selection, advertisement, request for services, selection criteria and other materials required for the application.

4.2.2.2 The Owner's Project Manager shall record the names and addresses of all designers. The Owner's Project Manager shall complete reference checks on all applicants and provide the Owner with a report on the references.

4.2.2.3 The Owner's Project Manager shall assist the Owner in the negotiation of the design contract with the first-ranked firm.

4.2.2 Feasibility Study/Schematic Design

The Owner's Project Manager shall monitor the activities and responsibilities of the Designer during this phase and assist the Owner in the review of the proposed scope, schedule and budget, developed by the Designer, including the review of the Designer's preliminary drawings. The Owner's Project Manager shall:

- a. Prepare independent construction cost estimates pursuant to Section 8.1.2.2 of this Contract for comparison with the Designer's cost estimates. (Two estimates during Task 8.2.2)
- b. Work with the Owner and Designer to prepare the Project Schedule.

4.2.2.1 The Owner's Project Manager shall review the schematic design to recommend Value Engineering Changes (VEC) to the Owner. A Value Engineering Change shall include an analysis of the constructability, cost, quality and schedule impact. The Designer will be responsible for a thorough review and recommendation on the technical merit of any VEC.

4.2.2.2 The Owner's Project Manager shall lead design coordination meetings every two weeks, between the Designer and the Owner to provide for review and discussion of design/engineering related issues. The Owner's Project Manager shall provide technical assistance to the Owner. The Owner's Project Manager shall take and distribute minutes of these meetings to the Owner.

4.2.2.3 The Owner's Project Manager shall assist in the implementation of additional site evaluation and testing as required by the Designer, including, but not necessarily limited to, site surveys, wetlands evaluation, environmental evaluations, hazardous materials evaluation, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work in the case of renovation projects.

4.2.2.4 The Owner's Project Manager shall monitor the status of the Designer contract including monitoring the schedule of the Designer, provide review and comment of Designer's work product and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the Designer's contract with the Owner are not being fulfilled.

4.2.2.5 The Owner's Project Manager shall meet with the Owner, Designer and other project participants as necessary.

4.2.2.6 The Owner's Project Manager shall assist the Owner with the completion of grant applications for funding for the study of green design strategies and assist by identifying green strategies, as appropriate, for study during this phase. The Owner's Project Manager shall assist the Owner and Designer, as needed, in the preparation of the certification required for Green Schools in accordance with the current edition of the MA-CHPS or LEED for Schools guidelines.

4.2.2.7 The Owner's Project Manager shall assist the Owner in determining the appropriate construction delivery methodology for the Proposed Project. In providing such assistance, the Owner's Project Manager, in conjunction with the Designer, shall advise the Owner on the relative advantages and disadvantages associated with each of the construction delivery methods provided in M.G.L. Chapters 149 and 149A. The services provided by the Owner's Project Manager in assisting and advising the Owner in its determination of the appropriate construction delivery methodology shall be included in Basic Services.

If the Owner elects to proceed with the CM at Risk construction delivery method when directed by the Owner, the Owner's Project Manager shall, in a

timely manner, assist and advise the Owner in properly preparing and submitting to the Office of the Inspector General, the application to proceed with the CM at Risk construction delivery method and in obtaining a notice to proceed, in accordance with the provisions of M.G.L. c. 149A, § 4, and the applicable regulations and procedures promulgated by the Inspector General. The Owner's Project Manager shall assist the Owner in correcting and resubmitting the application to proceed, as necessary, and in responding to any requests for additional information from the office of the Inspector General.. The services provided by the Owner's Project Manager in assisting and advising the Owner with the preparation and submission of the application to proceed with the CM at Risk construction delivery method shall be included in Basic Services.

If the Inspector General issues a notice to proceed with the CM at Risk delivery method, and if the Owner, at its option, authorizes the Owner's Project Manager to perform services for subsequent design phases and/or the Construction Phases and Completion Phase, the Parties will enter into a mutually agreed upon amendment to this Contract using the amended Contract language for CM at Risk delivery method prescribed by the Owner. In the event that the Inspector General does not issue a notice to proceed with the CM at Risk delivery method, the Owner, at its option, may elect to construct the project in accordance with the provisions of M.G.L. c. 149.