



Ruthanne Fuller
Mayor

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Office of the Mayor

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January 20, 2022

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Honorable City Councilors:

I respectfully submit this docket item to this Honorable Council requesting the authorization to appropriate and expend the sum of \$1,146,500 from the Sewer Enterprise Fund - Undesignated Fund Balance Account # 6100-3599 to fund the Infiltration & Inflow (I&I) CIP Project 8 Construction Services.

Weston & Sampson Engineers will be doing the Project 8 construction. They have performed construction services for the management and oversight of all previous I&I construction projects and will perform the same construction services for the management and oversight for CIP Project 8 construction. Project 8 covers approximately 138,000 linear feet of sewer line in Upper Falls, Newton Highlands, Thompsonville and Oak Hill. The total project cost is \$10.3 million with substantial funding from MWRA's grant/loan program.

Please see the attached memo from Public Works Commissioner McGonagle.

Thank you for your consideration of this matter.

Sincerely,

Mayor Ruthanne Fuller

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CITY CLERK
NEWTON, MA. 02459

DEPARTMENT OF PUBLIC WORKS
OFFICE OF THE COMMISSIONER
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449

January 20, 2022

To: Maureen Lemieux, Chief Financial Officer

From: James McGonagle, Commissioner of Public Works
Theodore J. Jerdee, Utilities Director

Subject: Request to allocate Sewer Surplus funding for CIP Project 8 Construction Services (Weston & Sampson Engineers, Inc.)

Brief Description:

The Department of Public Works Sewer Inflow & Infiltration (I&I) CIP Project 8 Construction will be awarded February 2022. Weston & Sampson Engineers, Inc. has in the past performed Construction Services for the management and oversight of all previous I&I construction projects and will perform the same Construction Services for the management and oversight for CIP Project 8 construction. Therefore, I respectfully request for your consideration the allocation of \$1,146,500 from the Sewer Surplus Account to fund the attached Engineering Services Agreement for CIP Project 8 Construction Services.

Please docket this request with the Honorable City Council for their consideration.

Sincerely,

James McGonagle
Commissioner Public Works

Attachment: Agreement for Engineering Services by and between the City of Newton Massachusetts and Weston & Sampson Engineers, Inc.

AGREEMENT FOR ENGINEERING SERVICES
BY AND BETWEEN THE
CITY OF NEWTON, MASSACHUSETTS
AND
WESTON & SAMPSON ENGINEERS, INC.

CIP Project 8 Construction Services

This AGREEMENT is made this _____ day of _____, 2022, by and between the City of Newton acting herein by and through its Commissioner of Public Works, but without personal liability to him, with an address of 1000 Commonwealth Avenue, Newton, Massachusetts 02459, hereinafter called the OWNER, and WESTON & SAMPSON ENGINEERS, INC., with offices at 55 Walkers Brook Drive, Reading, Massachusetts, hereinafter called the ENGINEER.

WITNESSETH, for the consideration hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE ENGINEER

- 1.1 The OWNER hereby engages the ENGINEER, and the ENGINEER hereby accepts the engagement to perform certain professional engineering services hereinafter described as Construction Engineering Office Services and Resident Project Representative Services related to the CIP Project 8 Rehabilitations, hereinafter called the PROJECT.
- 1.2 This Agreement covers all Services defined in Article 2 as agreed on, in writing, by both the OWNER and the ENGINEER for scope and fee.
- 1.3 The ENGINEER's services will be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. The ENGINEER makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

ARTICLE 2 - SCOPE OF SERVICES

2.1 Construction Engineering Office Services

- 2.1.1 The ENGINEER agrees to perform the following tasks prior to and during the construction phase of the PROJECT.
 - a. Meet with the OWNER or designated representative of the OWNER, local officials (and state officials as appropriate) throughout the construction phase of the PROJECT to discuss construction issues, progress of the PROJECT, and to coordinate the work as needed.

- b. Arrange and conduct a pre-construction conference with the CONSTRUCTION CONTRACTOR, the OWNER, and representatives of the Police and Fire Department, OWNER's EEO, Transportation, Utilities, and any other group directly affected by the construction.
- c. Retain subconsultant(s) as required to support construction of the PROJECT.
- d. Review shop and erection drawings and shop and mill test reports submitted by the CONSTRUCTION CONTRACTOR for general compliance with contract documents.
- e. Prepare and process any change orders that may be required during the PROJECT.
- f. Prepare supplementary drawings/sketches as required to clarify/resolve field construction problems that may occur.
- g. Conduct bi-weekly visits to the construction site by project manager or project engineer to observe construction progress.
- h. Submit reports on project progress to the OWNER as required.
- i. Review CONSTRUCTION CONTRACTOR's monthly application for payment requests based on quantities and work completed and prepare a recommendation to the OWNER for payment to the CONSTRUCTION CONTRACTOR.
- j. Prepare and submit recommendation of substantial completion to the OWNER.
- k. Prepare and submit a report on the completed construction contract based on final observations listed in paragraph 2.2.2.i.1.
- l. Prepare record tables of the completed project and submit one set of reproducible to the OWNER.

2.2 Resident Project Representative Services

2.2.1 General

Resident Project Representative is the ENGINEER's Agent and shall act under the supervision of the ENGINEER. His authority and responsibilities are limited to observing the work for general conformance to the contract documents, and are not to be construed as directing or supervising the work. He shall confer with the ENGINEER regarding his actions. His involvement in matters pertaining to onsite work will, in general, be with the ENGINEER and CONSTRUCTION

CONTRACTOR, keeping the OWNER advised as indicated below and as necessary. His involvement with subcontractors will only be through or in the presence of the CONSTRUCTION CONTRACTOR or his designated representative. He shall generally communicate with the OWNER with the knowledge of the ENGINEER.

2.2.2 Duties and Responsibilities of the Resident Project Representative:

- a. Schedules: Review the proposed progress schedule, schedule of shop drawing submissions and schedule of project values, all as prepared by the CONSTRUCTION CONTRACTOR and consult with the ENGINEER concerning their acceptability.
- b. Conferences: Attend a preconstruction conference; establish a monthly schedule of work progress meeting and other pertinent conferences as required in consultation with the ENGINEER or the OWNER and notify in advance those expected to attend. Attend meetings and prepare, circulate, and maintain copies of minutes thereof.
- c. Liaison:
 1. Serve as ENGINEER's liaison with CONSTRUCTION CONTRACTOR, working principally through CONSTRUCTION CONTRACTOR's designated onsite representative, and assist him in understanding the intent of the contract documents. Assist the ENGINEER in serving as the OWNER's liaison with the CONSTRUCTION CONTRACTOR when CONSTRUCTION CONTRACTOR's operations affect the OWNER's onsite operations.
 2. Assist in obtaining from the OWNER additional details or information when required at the job site for proper execution of the work.
- d. Shop Drawings and Samples:
 1. Maintain a file of shop drawings and samples submitted by the CONSTRUCTION CONTRACTOR.
 2. Advise ENGINEER and CONSTRUCTION CONTRACTOR immediately at the commencement of any work requiring a shop drawing or sample submission if the submission has not been accepted by the ENGINEER.
- e. Review of Work, Rejection of Defective Work, Inspections and Tests:

1. Observe daily work in progress, or as otherwise necessary, to determine (1) if the work is proceeding in general conformance with the contract documents and (2) that completed work generally conforms to the contract documents. The Resident Project Representative shall confirm the accuracy of horizontal and vertical controls established by the CONSTRUCTION CONTRACTOR prior to the start of construction, but such does not relieve the CONSTRUCTION CONTRACTOR of its independent obligation to establish the starting controls.
 2. Report to the ENGINEER who, in turn, will notify the OWNER whenever any work is unsatisfactory, faulty, or defective, or does not conform to the contract documents, or has been damaged, or does not meet the requirements of any inspections, tests, or approvals required to be made. Advise the ENGINEER when he believes work should be uncovered for observation, or requires special testing or inspection or approval. Record and advise the CONSTRUCTION CONTRACTOR of work failing to meet the contract requirements.
 3. Verify that tests, equipment, and system start-ups are performed and operating and maintenance training is conducted as required by the contract documents and in the presence of the required personnel, and that the CONSTRUCTION CONTRACTOR maintains adequate records thereof; observe, record and report to the ENGINEER appropriate details relative to the test procedures and start-ups.
 4. Accompany visiting inspectors representing public or other agencies having jurisdiction over the PROJECT, and record the outcome of these inspections.
 5. Performance of the services outlined in Subsection "e", parts 1 through 4, will not guarantee the CONSTRUCTION CONTRACTOR's performance, but it endeavors to verify compliance with the contract documents and thereby protect the OWNER against defects and deficiencies in the work. Nothing in Subsection "e" relieves the CONSTRUCTION CONTRACTOR of its independent obligations under its contract with the OWNER in performing its services. The ENGINEER shall not be responsible for the CONSTRUCTION CONTRACTOR's failure to perform the construction work in accordance with the contract documents nor for the CONSTRUCTION CONTRACTOR's construction methods and procedures, nor for the safety program and safety precautions implemented by the CONSTRUCTION CONTRACTOR.
- f. Interpretation of Contract Documents: Transmit to the CONSTRUCTION CONTRACTOR, clarifications and interpretations of the contract documents.

g. Modifications:

1. Consider and evaluate the CONSTRUCTION CONTRACTOR's suggestions for modifications in contract documents and report them with recommendations to the ENGINEER.
2. Monitor and record the labor, equipment and materials utilized by the CONSTRUCTION CONTRACTOR and subcontractors when modifications are constructed.

h. Records:

1. Maintain, at the job site, orderly files for correspondence, reports of job conferences, shop drawings, sample submissions, reproductions of original contract documents, including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the contract, the ENGINEER's clarifications and interpretations of the contract documents, progress reports, record drawings and records, and other project-related documents.
2. Record hours worked by the CONSTRUCTION CONTRACTOR on the job site; weather conditions; data relative to questions of extras or deductions; list of principal visitors and representatives of fabricators, manufacturers, suppliers and distributors; daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures.
3. Record names, addresses and telephone numbers of the CONSTRUCTION CONTRACTOR, subcontractors, and major suppliers of equipment and materials.

i. Reports:

1. Prepare periodic reports as required of progress of the work and of the CONSTRUCTION CONTRACTOR's compliance with the progress schedule and schedule of shop drawing submissions.
2. Consult with the ENGINEER in advance of scheduled major tests, inspections by others or start of important phases of the work.
3. Obtain all backup material, prepare and recommend to the ENGINEER Change Orders, Extra Work Orders, and Field Changes.

- j. Payment Requisitions: Review applications for payment with the CONSTRUCTION CONTRACTOR for compliance with the established procedure and forward them with recommendations to the ENGINEER, noting particularly their relation to the schedule of values, work completed, and materials and equipment delivered at the site but not incorporated in the work.
- k. Certificates, Operation and Maintenance Manuals: During the course of the work verify that certificates, operation and maintenance manuals and other data required to be assembled and furnished by the CONSTRUCTION CONTRACTOR are applicable to the items actually installed and deliver this material to the ENGINEER for review.
- l. Completion:
 - 1. Before the ENGINEER issues a recommendation of substantial completion to the OWNER, submit to the CONSTRUCTION CONTRACTOR a list of observed items requiring correction or completion.
 - 2. Conduct final observation of the project in the company of the ENGINEER, OWNER, and the CONSTRUCTION CONTRACTOR and prepare a final list of items to be corrected.
 - 3. Verify that all items on final list have been completed or corrected and make recommendations to the ENGINEER concerning acceptance and start of warranty.

2.2.3 Limitations of Authority: The Resident Project Representative:

- a. Shall not authorize any deviation from the contract documents or approve any substitute materials or equipment.
- b. Shall not direct, supervise, or undertake any of the responsibilities of the CONSTRUCTION CONTRACTOR.
- c. Shall not expedite work for the CONSTRUCTION CONTRACTOR.
- d. Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the contract documents.
- e. Shall not advise or issue directions as to safety precautions and programs in connection with the work.
- f. Shall not authorize the OWNER to occupy the PROJECT in whole or in part.

- g. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by the ENGINEER.
- h. Shall not exceed limitations of the ENGINEER's authority as set forth in the contract documents.
- i. Shall not issue "stop work" orders unless directed by the OWNER, in writing, to do so.

2.2.4 Duties and responsibilities of the Construction Representative(s):

- a. Construction Representative(s) shall be responsible for monitoring the day-to-day activities of the construction crew(s), recording all quantities for payment to the CONSTRUCTION CONTRACTOR, and documenting and reporting to the Resident Representative action(s) by the CONSTRUCTION CONTRACTOR of any nature that would result in nonconformance with the contract documents. Where directed by the Resident Project Representative or the ENGINEER' Project Manager, the Construction Representative(s) shall be authorized to require the CONSTRUCTION CONTRACTOR to conform to the contract documents, including repairing and/or replacing any work found to be nonconforming.

2.3 Re-Test Inspection

- a. Re-testing shall be completed approximately one-year after substantial construction completion as directed by the ENGINEER. The ENGINEER will select areas for re-testing based on the requirements outlined in the Contract Documents and provide the CONSTRUCTION CONTRACTOR with a list of line segments and manholes to re-test.
- b. The ENGINEER shall provide Construction Engineering Office Services and Resident Project Representative Services, as described in Article 2.1 and 2.2, during the re-test process.

ARTICLE 3 - RESPONSIBILITIES OF THE OWNER

The OWNER, without cost to the ENGINEER, will do the following in a timely manner so as not to delay the services of the ENGINEER:

- 3.1 Designate in writing a person to act as the OWNER's representative with respect to work to be performed under this AGREEMENT, such person to have complete authority to transmit instructions, receive information, interpret and define the OWNER'S policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this AGREEMENT.

- 3.2 Through its officials and other employees who have knowledge of pertinent conditions, confer with the ENGINEER regarding both general and special considerations relating to the PROJECT.
- 3.3 Assist the ENGINEER by placing at the disposal of the ENGINEER, all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- 3.4 Pay all application and permit fees associated with approvals and permits from all governmental authorities having jurisdiction over the PROJECT and such approvals and consents from others as may be necessary for completion of the PROJECT.
- 3.5 Arrange for access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform its work under this AGREEMENT.
- 3.6 Furnish the ENGINEER all needed property, boundary and right-of-way maps.
- 3.7 Cooperate with and assist the ENGINEER in all additional work that is mutually agreed upon.
- 3.8 Pay the ENGINEER for work performed in accordance with the terms specified herein.

ARTICLE 4 - TIME OF PROJECT

- 4.1 The ENGINEER will initiate work under this AGREEMENT within ten (10) days following formal acceptance of this AGREEMENT by the OWNER. The PROJECT will conclude on or before December 31, 2025.

ARTICLE 5 - PAYMENTS TO THE ENGINEER

- 5.1 For services performed under this AGREEMENT, the OWNER agrees to pay the ENGINEER monthly as charges accrue on a cost plus fixed fee basis. Monthly charges will include costs incurred during the billing period based on the amount and value of the work and services performed plus a fixed fee based on the proportionate value of costs incurred to date to the total cost ceiling. Any balance of fixed fee remaining upon completion of the work will be billed in full in the ENGINEER'S final invoice for the PROJECT. The cost ceiling (which does not include the fixed fee), which the ENGINEER will not exceed without the AGREEMENT being formally amended, and the fixed fee which will not be increased except for an AGREEMENT amendment increasing the scope of work, are as follows:

Cost ceiling: \$1,023,661
Fixed fee: \$ 122,839
Total Contract \$1,146,500

The ENGINEER shall provide as many as 5,028 hours of On-Site Resident Project Representative Service as well as many as 765 hours of Construction Engineering Office Services during Construction.

The ENGINEER shall provide as many as 900 hours of On-Site Resident Project Representative Service services and as many as 415 hours of Construction Engineering Office Services during Re-test Inspection and Project Closeout.

- 5.2 It is agreed that the total cost-plus fixed fee amounts represent estimated costs for Engineering Services outlined in ARTICLE 2 - SCOPE OF SERVICES.
- 5.3 Costs as used herein, are defined as direct labor, indirect costs, and other direct costs.
- 5.3.1 Direct labor costs are salaries and wages paid to personnel for work directly charged to the PROJECT by the ENGINEER'S employees.
- 5.3.2 Indirect costs are allocation of overhead and general and administrative costs that are incurred by the ENGINEER.
- 5.3.3 Other direct costs are identifiable expenses which include transportation, printing and reproduction of plans and reports, telephone charges, postage, computer time, subconsultant charges such as specialty engineering, soils, surveying, and testing of materials and other identifiable expenses.
- 5.4 If the OWNER fails to make any payment due the ENGINEER for services and expenses within thirty (30) days after receipt of the ENGINEER'S statement therefore, the ENGINEER may, after giving seven (7) days' written notice to OWNER, suspend services under this AGREEMENT. Unless the ENGINEER receives payment within seven (7) days of the date of the notice, the suspension will take effect without further notice. In the event of a suspension of services, the ENGINEER will have no liability to the OWNER for delay or damage caused the OWNER because of such suspension of services.
- 5.5 When the costs incurred total approximately 60 percent of the total estimated costs listed in ARTICLE 5.1, or if, at any time, the ENGINEER has reason to believe that the total estimated costs will be greater or substantially less than the then total estimated cost, the ENGINEER shall notify the OWNER giving a revised estimate of the total cost of services to be furnished. Should the revised total estimated cost exceed the total estimated cost, this AGREEMENT shall either be amended to cover the increase in estimated cost or the scope of services shall be reduced to stay within the total estimated cost.