

CITY OF NEWTON, MASSACHUSETTS
PURCHASING DEPARTMENT
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March 25, 2022

ADDENDUM #1
INVITATION FOR BID #22-56

RFQ DESIGN & ENGINEERING SERVICES FOR WASHINGTON STREET REDESIGN

THIS ADDENDUM IS TO: ANSWER THE QUESTIONS BELOW:

Q1. How many project examples are required from Prime Consultant and any Sub Consultants?

A1. We recommend at least 3.

Q2. (a) SOQ REQUIREMENTS iii) Supplemental Materials. *Applicants may supplement this proposal with graphic materials and photographs that best demonstrate design capabilities of the team proposed for this project subject to the page limitations as set forth in the Standard Designer Application Form*

A2. All references to a Standard Designer Application Form should be deleted.

Q3. I do not see any Standard Designer Application Form attached. What are the page limitations?

A3. See A2. above. There are no page limitations.

Q4. The Diversity and Inclusiveness requirements look incomplete, what is the rest of the sentence? Briefly describe your plans to ensure diversity and inclusiveness in both the project team

A4. The sentence should read: "Briefly describe your plans to ensure diversity and inclusiveness in both the project team and any subcontract."

Q5. Howard Stein Hudson is writing to confirm that the Washington Street RFQ is a non-price proposal that does not require a proposed fee. The RFQ describes that the fee is negotiated with the first-ranked designer; however, Page 11 under Project Approach lists "Schedule and budget" as selection criteria. This is the only bullet implying budget may be required. Please confirm that budget is not required.

A5. A budget is not required.

Q6. Page 7 of the RFQ states, "Applicants may supplement this proposal with graphic materials and photographs that best demonstrate design capabilities of the team proposed for this project subject to the page limitations as set forth in the Standard Designer Application Form." However, the page limit isn't specified anywhere in the RFQ, and a Standard Design Application Form wasn't attached to the RFQ.

- Will you please clarify the page limitations?
- Will you also please provide a copy of the Standard Designer Application Form, if applicable?

A6. See A2. above.

Q7. On Page 8, the Diversity and Inclusiveness section reads, "Briefly describe your plans to ensure diversity and inclusiveness in both the project team," but then the sentence cuts off. Will you please provide the remainder of this sentence/the remainder of this requirement?

A7. See A4. Above.

Q8. The schedule included in the RFQ indicates that you will post answers to questions by March 29th and the submission deadline is March 31st. Would it be possible to provide answers to questions sooner so that we have time to address any necessary changes that may result from the answers?

A8. Yes, we will try to post answers on a rolling basis.

Q9. Page 14 of the RFQ lists “accompanying document and certifications” as a required item. Is this referencing the attachments/forms at the end of the document, or should we also be attaching copies of our company and staff licenses/certifications?

A9. This refers to the attachments/forms at p. 28 of the RFQ and to such additional forms as any Addendum may require.

Q10. Do our subconsultants have to complete any of the forms as well or are the forms for prime consultants only?

A10. No.

Q11. On the Minority/Women Business Enterprise Plan document, a MWBE goal of 10% MBE and 5% WBE is listed for construction and 5% WBE and 5% MBE is listed for goods and services.

- **Will you please clarify which of these percentages apply to this project? In other words, what is the DBE goal for this project?**

A11. This RFQ is for goods and services.

Q12. On page 11, a “schedule and budget” are listed are two of the requirements for the Project Approach section. However, the rest of the proposal seems to indicate that rates/costs/budget information are to be provided at a later time: “The City will negotiate the fee for services dependent upon an evaluation of the level of effort required, job complexity, specialized knowledge required, estimated construction cost, comparison with past project fees, and other considerations.”

- **Will you please clarify whether or not a budget and rates are needed for the SOQ submission?**

A12. See A5. above.

Q13. Design Services Agreement: As a design professional, Designer’s actions are measured by a common law standard of care which is defined as, “what like professionals would do under similar circumstances”. The Designer’s professional liability insurance is designed to make clients whole if the Designer does not meet this standard or, in other words, when it is negligent. As written, Article XII is not applicable to the Designer who will provide professional services under any awarded agreement. Would the City be amenable to modifying this language as follows upon any contract award to ensure it is consistent with the Designer’s standard of care and professional liability insurance coverage?

A13. Article XII is amended to read as follows:

XII. WARRANTY. The Designer will perform all services under this Agreement with the care and skill used by members of its profession, practicing under similar circumstances at the same time and in the same locale (the “Standard of Care”). The Designer will correct any work, without cost to the City, which does not meet this Standard of Care. OWNER shall not be responsible for discovering deficiencies in the technical accuracy of DESIGNER’s services. DESIGNER shall correct deficiencies in technical accuracy without additional compensation.

Q14. As written this language is uninsurable for the Designer. It extends beyond proportionate share and it is not equitable to require the Designer to serve as a legal defense fund for the City. The duty to defend must be tied to a finding of liability by a court of competent jurisdiction, they cannot be independent. To ensure this language is equitable and insurable for the Designer, would the City be amenable to modifying this language as follows upon any contract award?

A14. Article XVIII is amended to read as follows:

XVIII. INDEMNIFICATION. The Designer shall indemnify, hold harmless and defend the City and its officers, employees, servants, and agents from and against all actions, causes of actions, claims, demands, damages, costs, loss of services, expenses and compensation, including attorney's fees and interest, arising out of the performance of the services rendered pursuant to this Agreement, provided that any such action, cause of action, claim, demand, damages, cost, loss of service, expense, compensation (1) in any way grows out of bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, which (2) is caused in whole or in part by any negligent act or omission of the Designer, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Notwithstanding the foregoing, for claims solely covered by Designer's professional liability insurance, the Designer shall not have a duty to defend and Designer's duty to indemnify shall be limited to the extent such claim arises out of the negligent acts, errors or omissions of the Designer, any of Designer's subcontractors or subconsultants, anyone directly or indirectly employed by any of them or anyone for whose acts the Designer may be liable in connection with providing services pursuant to this Agreement.

Q15. Schedule C – General Requirements: The Designer's professional liability insurance provides coverage for liability to the extent caused by the Designer's negligent acts, errors, omissions or willful misconduct only. Pursuant to insurance underwriting mandates, this policy specifically excludes any third-party, upfront defense and will only reimburse indemnitees for those reasonable legal costs and fees incurred as a result of the Designer's liability as determined by a court of competent jurisdiction. It covers the Designer's proportionate share only and will not cover any portion of the indemnitees' liability. To ensure the insurance requirements in this Section are consistent with the parameters of the Designer's insurance policy, would the City be amenable to modifying this language upon any contract award?

A15. Section 2.3.1 of Schedule C-General Requirements is amended to read as follows:

2.3.1. The Designer shall indemnify and hold harmless the City and its officers, employees, and servants against all claims, damages, losses or expenses of whatever kind or nature, including reimbursement of reasonable attorney fees, for or on account of any injuries to persons or damage to property to the extent caused by the negligent performance of services of the Designer, or the negligent performance of services of any person or business entity for whose performance the Designer is legally liable, rendered pursuant to this Agreement.

Q16. Page 7 of the RFQ under (a) SOQ Requirements, Item III: Supplemental Materials states, "Applicants may supplement this proposal with graphic materials and photographs that best demonstrate design capabilities of the team proposed for this project subject to the page limitations as set forth in the Standard Designer Application Form." Please clarify if the City is requesting applicants to submit the Massachusetts Standard Designer Application Form within the proposal submission.

A16. See A2. Above.

Q17. Is there a page limitation set for any sections of the proposal?

A17. See A3. Above.

All other terms and conditions of this bid remain unchanged.

**PLEASE ENSURE THAT YOU ACKNOWLEDGE ALL ADDENDA ON YOUR
BID FORM. FAILURE TO ACKNOWLEDGE ALL ADDENDA COULD
RESULT IN REJECTION OF YOUR BID AS NONRESPONSIVE.**

Thank you.



Nicholas Read
Chief Procurement Officer