

**CITY OF NEWTON  
PURCHASING DEPARTMENT  
*CONTRACT FOR PUBLIC BUILDINGS***

**PROJECT MANUAL:  
ON CALL CITY'S PROJECT MANAGER SERVICES  
*REQUEST FOR QUALIFICATIONS #23-41***

**Bid Opening Date: November 10, 2022 at 10:30 a.m.**

**October 2022  
Ruthanne Fuller, Mayor**

**CITY OF NEWTON  
PURCHASING DEPARTMENT  
REQUEST FOR QUALIFICATIONS #23-41**

This City of Newton Request For Qualifications (RFQ) invites sealed Statements of Qualifications (SOQs) in accordance with M.G.L. c.149, §44A½ for an On Call City's Owner's Project Management (OPM) Services for various City of Newton construction projects.

**Responses will be received until 10:30 a.m., Thursday, November 10, 2022**

at the Newton Purchasing Department, Room 108, Newton City Hall, 1000 Commonwealth Ave., Newton, MA 02459. Immediately following the deadline for submission, the City shall prepare and publish a list of all Statements of Qualifications (SOQs) submitted.

The City is requesting OPM qualifications to complete On Call Services on various projects as assigned in accordance with the specifications within this RFQ.

Documents associated with this RFQ (Contract Documents) will be available online at the City's website: [www.newtonma.gov/bids](http://www.newtonma.gov/bids) after: 10:00 a.m., October 27, 2022.

Respondents are responsible for downloading the specifications from the City's web site at [www.newtonma.gov/bids](http://www.newtonma.gov/bids). Respondents must email the Purchasing Department ([purchasing@newtonma.gov](mailto:purchasing@newtonma.gov)) their Company Name, Address, Email address, Phone & Facsimile number and bid number (i.e. #23-41) they have downloaded.

SOQs should be responsive to all information requested in the RFQ. All SOQs shall be submitted as (i) six (6) hard copies and (ii) two (2) USB digital copies.

Respondents' attention is directed to the requirements of the City's Supplemental Equal Employment Opportunity, Anti-Discrimination and Affirmative Action Program and also to the Minority/Women Business Enterprise Plan, December 1999, all of which are available on the Purchasing Department's web page. In the event of conflict between any of the above listed policies, the stricter policy shall apply.

All City of Newton bids are available on the City's web site, [www.newtonma.gov/bids](http://www.newtonma.gov/bids). It is the sole responsibility of Respondents downloading the RFQ to ensure they have received any and all addenda prior to the SOQ opening. Addenda will be available online within the original bid document as well as a separate file. If you download the RFQ from the internet site and would like to make it known that your company has done so, you must email the Purchasing Department ([purchasing@newtonma.gov](mailto:purchasing@newtonma.gov)) the Company Name, Address, Email address, Phone & Facsimile number and what bid # (i.e. #23-41) has been downloaded.

The City will reject any and all SOQs in accordance with the above referenced General Laws. In addition, the City reserves the right to waive minor informalities in any or all SOQs, or to reject any or all SOQs (in whole or in part) if it be in the public interest to do so.

In the event that any person wishes to attend a bid opening or pre-bid meeting, accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. For Telecommunications Relay Service, please dial 711.

CITY OF NEWTON



Nicholas Read  
Chief Procurement Officer  
October 27, 2022



Ruthanne Fuller,  
Mayor

**CITY OF NEWTON**  
**PURCHASING DEPARTMENT**  
**REQUEST FOR ON CALL CITY'S PROJECT**  
**MANAGEMENT SERVICES QUALIFICATIONS**  
**(OPM RFQ) #23-41**

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## 1. Introduction

The City of Newton, Massachusetts, ("City"), acting through its Public Buildings Department and the Designer Selection Committee, (DSC), is seeking the qualifications of a qualified City's Owner's Project Manager (OPM) as defined in Massachusetts General Laws Chapter 149, Section 44A½ and as further defined by the provisions of this RFQ, to provide project management qualifications for the design, and construction of additions to and renovation of the current City facilities on an on call basis.

The City is requesting OPM qualifications to assist in Programming and Feasibility Study, the Schematic Design, Design Development, Construction Documents, Bidding and Construction Administration and Project Closeout Phases for City projects. All projects are subject to the approval and further subject to continued funding authorized by the City. The contract between the City and the OPM is On Call based and fees will be negotiated for each project assigned to the OPM. The maximum per project fee shall not exceed \$1,875,000 with an aggregate total not to exceed \$2,000,000 in any contract year.

The City believes in a design approach where all project stakeholders are involved in the design process from start to finish on a collaborative basis as indicated in the City's Public Buildings Department Building Design and Construction Sustainability Guidelines. (**Attachment G**). The process recognizes that non-inclusive and compartmentalized design decisions made unilaterally may have adverse impacts on achieving sustainable design goals. An integrated design approach is required for the project. The City's OPM may be required to will coordinate the collaborative design team process for options analysis, criteria development and strategic plan approval. In other instances the OPM may be required to provide specific services for specific tasks and phases of projects as indicated in the form of contract and attached Schedules at **Attachment B** below.

## 2. Background

### History, Profile and Organizational Structure

The City was settled in 1639 and incorporated as a City in 1873. The City is located approximately seven miles from downtown Boston. The City has a population of approximately 84,000 and occupies a land area of 18.33 square miles. The City is principally suburban-residential in character and consists of 13 distinct villages – Auburndale; Chestnut Hill; Newton Centre, Newton Corner; Newton Highlands; Newton Lower Falls; Newton Upper Falls; Newtonville; Nonantum; Oak Hill; Thompsonville; Waban; and West Newton.

The City is governed under a home-rule charter, which vested executive authority and responsibility in an elected Mayor, who serves a four-year term. Legislative authority is vested in a 24-member City Council, of which eight members are elected from the City's eight wards and sixteen are elected at large. Members of the City Council are elected every two years. An eight-member school committee is elected every two years and is responsible for appointing the Superintendent of Schools, who has responsibility for the daily administration of the Newton Public Schools. The Mayor is also a member of the School Committee.

### Statement of Objectives

The City, through its Designer Selection Committee, is currently seeking expressions of interest from individuals and firms for Project Manager professional services for the following work funded through the City's Public Buildings Department.

It is the City's intent to award contracts to as many firms as are deemed highly qualified.

OPM Services associated with Architectural, Interior Space Planning and other related engineering projects are to be provided on an “on-call” basis, i.e., as the City requests work at any time as needed. Covered services shall include but not be limited to evaluations of programming, feasibility studies, design contract drawings and documents. Covered services may also include Development of project schedules and budgets, cost estimating, materials testing, commissioning, constructability reviews, bidding, on-site representation, construction administration as well as Project Closeout for a variety of proposed projects including the following types:

**BUILDING ENVELOPE, ADDITIONS, RENOVATIONS, LANDSCAPING DESIGN SERVICES, SITE ENGINEERING SERVICES:**

- I. Roof replacement at various school and municipal buildings
- II. Window and door replacement at various school and municipal buildings
- III. Masonry and related repairs at various school and municipal buildings
- IV. Misc. Facility repairs/upgrades/renovations, <50,000 sq. ft.: additions and renovations at various school and municipal buildings
- V. New Facility Design
- VI. Facility Sustainability
- VII. Code analysis/review
- VIII. Historic restoration and related work at various school and municipal buildings
- IX. Accessibility related accommodations/upgrades at various school and municipal buildings
- X. Modular Classroom Additions
- XI. Preparation of various trade contract specifications for “On Call” service contracts

**SPACE PROGRAMMING; ANALYSIS; FEASIBILITY:**

- I. Space planning at various school and municipal buildings
- II. Space Programming at various school and municipal buildings
- III. Facility Physical Assessment Analysis
- IV. Master Planning of Departments/facilities
- V. Feasibility studies for potential projects at various school and municipal buildings

**RELATED ENGINEERING SERVICES:**

- I. Structural engineering services at various school and municipal buildings
- II. Survey/Civil/Site/Landscape Improvement Projects
- III. MEP/FP Engineering Services at various school and municipal buildings related to or identified in the above list of projects
- IV. Other related Engineering services not shown above but related to various projects

**PROJECT DESIGN/CONSTRUCTION UPSET VALUES:**

- I. The upset value for the design cost, including all consultants, for each project shall not exceed \$1,875,000 per project
- II. The upset value for all design work performed shall not exceed \$2,000,000 per contract year
- III. The upset value for any Construction Project shall not exceed \$27,500,000 per project.

To accomplish this, the selected OPM will be working in partnership with the Public Buildings Department various City departments, committees, and sub-committees. These will include at a minimum:

- 1. Designer (and Consultant) Selection Committee (DSC) - Standing Committee appointed by the City Council, School Committee and the Mayor – the DSC is involved in selection of the OPM.
- 2. School Committee – Elected.
- 3. Design Review Committee (DRC) – Standing Committee appointed by the City Council, School Committee and Mayor established to coordinate the design review process for any public City facility.
- 4. Planning and Development Department, Development Review Team (DRT) - Prior to construction at any municipal building, the Director of Planning reviews projects for consistency and compatibility with the Newton Comprehensive Plan and other applicable planning and analytical studies.
- 5. Public Facilities Committee of the City Council – For required local approvals.
- 6. Programs and Qualifications Committees of the City Council – For required local approvals.
- 7. Finance Committee of the City Council – For required local approvals.
- 8. Public Buildings Department (PBD) – Commissioner is responsible for the construction, alteration, repair and maintenance of all public buildings. PBD will provide direction to the OPM. The Public Buildings Commissioner also serves as the Secretary of the DSC and DRC and will be supported by the OPM.
- 9. Other committees including the Committee on Disabilities, Conservation Commission, Fire Department, Department of Public Works, etc. – As may be required for local reviews.
- 10. Public Meetings with the community and neighborhood residents.

The OPM shall assist the City in identifying other approvals required by the Commonwealth of Massachusetts and coordinate submittal materials with a selected designer for such approvals. Such approvals may include but are not limited to:

- 1. The Environmental Protection Agency (EPA)
- 2. Massachusetts Department of Environmental Protection (DEP)

**3. Description of Services, Objectives and Scope of Qualifications**

- Reviewing and assessing the documentation of existing conditions at various facilities, as assigned and the corresponding educational/operational programs;
- Ensuring that the educational/operational programs are fully understood, updated as necessary, and incorporated into the process;
- Reviewing and assessing the alternative conceptual designs, their constructability, and developing cost estimates for each of the design solutions;
- Identifying community concerns that may impact study options;

- Identifying land takings, if any, that would be required for any or all design options;
- Collaborating with a designer to develop a detailed comprehensive Project Schedule that incorporates the City's approval process, to achieve specified start and completion milestones.
- Each Project Schedule will have its own anticipated construction start.
- Developing a design that is of high quality, efficient, cost effective, and conforms to the educational programs and the Massachusetts High Performance Green Schools Guidelines (MA-CHPS Guidelines) and LEED for Schools at a minimum, and complies with all applicable regulatory requirements including the Massachusetts Stretch Code which has been adopted by the City. In addition, design teams are directed to the City– Building Design and Construction Sustainability Guidelines **Attachment G** for additional requirements.
- Evaluating creative energy efficiency solutions and innovative alternative sustainable design solutions, including but not limited to active/passive solar, geothermal, etc., and identifying alternate funding sources, first costs and paybacks.
- Developing accurate and complete cost estimates, including life cycle cost analysis.
- Assisting the City in determining appropriateness of CM-at-Risk Delivery Method for each Project.
- Assisting the City in evaluating Iterative Whole Building Energy modeling at the inception and completion of each phase.
- Engaging with all stakeholders from Project outset and ensure a collaborative approach is maintained throughout the design process, including involvement from multiple City entities.
- For School Projects, The City has adopted qualification requirements set forth in the MSBA's standard contract for OPM Qualifications (Contract), a copy of which is attached hereto and incorporated by reference herein. For purposes of emphasis and clarification, the City's Project Manager shall provide the following qualifications as part of the contract for City's Project Management Qualifications, **Attachment B**.
- Permitting and Approvals Assistance - assist the City and coordinate with a designer in identifying other approvals required by any governing agency and coordinating submittal materials for such approvals.
- Information Management – assistance in communicating Project details with the public; and development and maintenance of Project Web Site.
- LEED AP Qualifications – assist the City and coordinate with the designer as required for submittals, documentation and LEED On-Line for certification of the Project.
- Review and critique Project Design Specifications, Drawings and other related documents for accuracy and completeness of details and adherence to the State Building Code and other related codes and regulations
- Review any Project Cost Estimate provided by the Designer and others as well as provide the OPM's own Project Cost Estimates during each phase
- Structural Peer Review – coordinate the structural peer review in accordance with the requirements of the Massachusetts State Building Code.
- Construction Phase Testing – coordinate materials testing in accordance with the requirements of the Massachusetts State Building Code; and other materials and systems tests as may be identified or required by the City.

- Assist the City with procuring the qualifications of a Hazardous Materials Consultant, Traffic Engineer, Geotechnical Engineering, Commissioning Agent, Surveyor and any other consultant or consulting qualifications as may be required for this Project.
- Knowledge of the purpose and practices of the qualifications of Building Commissioning Consultants and providing services as authorized and requested for any assigned project
- Act on behalf of the City in all matters of program and Project management, designer selection, design review, construction manager or contractor procurement, construction phase and Project closeout qualifications.

If the City decides to proceed with the various Project(s) when the project delivery method is changed from either Design/Bid/Build or CM-at-Risk, the fee for the approved project may be amended accordingly. The durations of the Phases shown below are estimates only, based on the City's experience. Actual durations may vary depending upon the Project agreed upon by the City.

Each Project may consist of the following as appropriate:

Operational/Educational Programming

Feasibility Study

Schematic Design Phase/Site Plan Approval:

Design Development

Construction Documents/Bidding Phase:

Construction Phase

Project Close out

The OPM's initial contract period shall be from January 1, 2023 through December 31, 2023, with the possibility of two (1) Year Extensions. The City reserves the right to terminate the services provided by the selected OPM at the end of the First Year of the Contract and re-solicit project management qualifications or to continue with another selected respondent beyond the first year in accordance with the Contract for Project Management Qualifications **Attachment B**.

#### **4. Minimum Requirements and Evaluation Criteria**

##### Minimum Requirements:

In order to be eligible for selection, each Respondent must certify in its cover letter that it meets the following minimum requirements. Any SOQ that fails to include such certification in its response, demonstrating that these criteria have been met, will be rejected without further consideration.

Each Respondent must designate an individual who will serve as the Project Director. The Project Director shall be certified in the Massachusetts Certified Public Purchasing Officer Program as administered by the Inspector General of the Commonwealth of Massachusetts and must also meet the following minimum requirements:

The Project Director shall be a person who is registered by the Commonwealth of Massachusetts as an architect or professional engineer and who has at least 5 years of experience in the construction and supervision of construction and design of public buildings. Or, if not registered as an architect or professional engineer, the Project Director must be a person who has at least 10 years of experience in the construction and supervision of construction and design of public buildings.

## Evaluation Criteria

In addition to the minimum requirements set forth above, all Respondents must demonstrate that they have significant experience, knowledge and abilities with respect to public construction projects, particularly those involving the construction and renovation of K-12 schools as well as other municipal facilities in Massachusetts. The City will evaluate SOQs based on criteria that shall include, but not be limited to, the following:

### **A. Relevant Experience**

Past performance of the Respondent, if any, with regard to public, private, and, if applicable, MSBA-funded school and other municipal projects across the Commonwealth, as evidenced by:

- a. Documented performance on previous projects as set forth in **Attachment C**, including the number of projects managed, project dollar value, number and percentage completed on time, number and dollar value of change orders, average number of projects per project manager per year, number of accidents and safety violations, dollar value of any safety fines, and number and outcome of any legal actions; and
- b. Describe management philosophy of working relationships with designers, contractors, City, and local officials.

### **B. Knowledge of Codes, Procurement and Sustainability**

1. Provide examples of and demonstrate the Respondent's past performance and thorough knowledge of the Massachusetts State Building Code, regulations related to the Americans with Disabilities Act, and all other pertinent codes, regulations, and approvals related to successful completion of the project including Massachusetts Department of Environmental Protection and/or EPA approvals process.
2. Provide examples of and demonstrate the Respondent's past performance and thorough knowledge of Commonwealth construction procurement laws, regulations, policies and procedures, as amended by the 2004 Construction Reform laws.
3. Thorough knowledge and experience with CM-at-Risk (M.G.L. c. 149A, §§1-15) procurement methodology.
4. Familiarity with Massachusetts-CHPS (MA-CHPS) High Performance Green Schools Guidelines and USGBC LEED for Schools (LEED-S). Demonstrated experience working on high performance green buildings (if any), green building rating system used (e.g., MA-CHPS or LEED-S), life cycle cost analysis and recommendations to public entities about building materials, finishes etc., ability to assist in grant applications for funding and track City documentation for MA-CHPS or LEED-S prerequisites.
5. Thorough knowledge and demonstrated experience with life cycle cost analysis cost estimating and value engineering with examples of recommendations on other projects and associated achieved benefits.
6. Knowledge of the purpose and practices of the qualifications of Building Commissioning Consultants.

### **C. Project Understanding and Approach**

Management approach: Describe the Respondent's approach to providing the level and nature of qualifications required for the project as described herein including staffing level; project management systems; information management; and examples of problem solving approaches to resolving issues that impact time and cost.

### **D. Project Team / Commitments / Availability**

Key personnel: Provide an organizational chart that shows the interrelationship of key personnel to be provided by the Respondent for this project and that identifies the individuals and associated firms (if any) who will fill the roles of Project Director, Project Representative and any other key roles identified by the Respondent, including but not limited to roles in design review, estimating, cost and schedule control. Specifically, describe the time commitment, experience and references for these key personnel including relevant experience in the



supervision of construction of several projects that have been either successfully completed or in process that are similar in type, size, dollar value and complexity to the project being considered.

**E. Firm Qualifications / Capacity**

1. Capacity and skills: Identify existing employees by number and area of expertise (e.g. field supervision, cost estimating, schedule analysis, value engineering, constructability review, quality control and safety). Identify any qualifications to be provided by sub-consultants.
2. Provide references as set forth in **Attachment D.1**, and from cities, designers and contractors which have collaborated with the Respondent on projects of similar size and complexity.
3. Identify the Respondent’s current and projected workload for projects estimated to cost in excess of \$1.5 million.
4. Financial Stability: Provide two years of financial statements including current balance sheet, income statement, and a Certificate of Insurance that certifies the Respondent can meet the insurance requirements set forth in the Contract For On-Call OPM Services, **Attachment B**.
5. Quality of work and level of performance. The City will seek evidence of practicality, creativity, attention to detail and follow through, as well as professional competence.
6. Ability to schedule, undertake and complete responsibilities in a timely manner.

In order to establish a short list of Respondents to be interviewed, the City will base its initial ranking of Respondents on the above Evaluation Criteria. The City will establish its final ranking of the short-listed Respondents after conducting interviews and reference checks.

Based upon the responses to the above Evaluation Criteria, the City will rank the Respondents in each of the above categories, and will weight them as follows:

A.	Relevant Experience:	20%
B.	Knowledge of Codes, Procurement and Sustainability:	15%
C.	Project Understanding and Approach:	30%
D.	Project Team Commitments / Availability:	20%
E.	<u>Firm Qualifications / Capacity:</u>	<u>15%</u>
	<b>Total</b>	<b>100%</b>

The City may or may not, within its sole discretion, seek additional information from Respondents.

This RFQ, any addenda issued by the City, and the selected Respondent’s SOQ will become part of the executed contract. The key personnel that the Respondent identifies in its response must be contractually committed for the any project. No substitution or replacement of key personnel or change in the sub-consultants identified in the response shall take place without the prior written approval of the City.

The selected Respondent(s) will be required to execute a Contract For On Call OPM Services with the City in the form that is attached hereto as **Attachment B** and incorporated by reference herein. Prior to execution of the Contract for Project Management Qualifications with the City, the selected Respondent will be required to submit to the City a certificate of insurance that meets the requirements set forth in the Contract for Project Management Qualifications.

Prior to execution of the Contract for Project Management Qualifications, a base hourly fee for services shall be negotiated between the City and the selected Respondent to the satisfaction of both. Fees for specific projects assigned to the OPM will be negotiated from Programing/Feasibility Study through Construction Administration and Closeout as required.

## **Selection Process and Selection Schedule**

### Process:

1. The City, acting through its Public Buildings Department and DSC, will perform a review of all responses as follows:
  - a. The DSC, in accordance with Chapter 5, Article III of the City’s Ordinance, is appointed for the selection of the City’s Project Manager.
  - b. The DSC will be responsible for reviewing each Respondent’s proposal to determine if they have met the minimum criteria established in the RFQ. Respondents who do not meet the minimum criteria will not be further considered.
  - c. The DSC will review the Respondents’ applications and check references.
2. The DSC members will score each proposal that has met the minimum criteria based on the weighted evaluation criteria identified in Section 4 of the RFQ.
3. Based on the initial scores the DSC will rank the Respondents and short-list a minimum of three (3) Respondents.
4. The DSC will schedule interviews with the short-listed Respondents. Each short-listed Respondent will be given an opportunity to make a brief presentation on its experience and capabilities to successfully provide the required project management service. DSC members will have an opportunity to discuss the responses and ask questions.
5. Following the interviews, the DSC members will develop final rankings based, in part on, the weighted Evaluation Criteria in the RFQ and on additional information obtained during the interviews.
6. In accordance with the City’s Designer Selection Procedures, the DSC will transmit a list of ranked finalists to the Mayor. The submitted list shall be accompanied by a written explanation.
7. As more fully described in **Attachment E**, City DSC Designer Selection Procedures, the City will commence fee negotiations with the first-ranked Respondent.
8. If the City is unable to negotiate a contract with the first-ranked selection, the City will then commence negotiations with its second-ranked selection and so on, until a contract is successfully negotiated and approved by the City. If fee negotiations fail the Mayor may request three (3) additional recommendations from which he may select, or the City may re-advertise the RFQ.
9. The City may re-advertise the RFQ if fewer than three responses are received.

### **Contract Award Schedule:**

The following is a tentative schedule of the selection process, subject to change at the City’s discretion.

October 19, 2022	Advertisement in RFQ in Central Register
October 27, 2022	RFQ Available
November 4, 2022, 12:00 PM	Last day for questions from Respondents
November 7, 2022, 5:00 PM	City’s responses to OPM questions posted
November 10, 2022, 10:30 AM	SOQs due
November 17, 2022*	Respondents short-listed

November 23, 2022*	Interview short-listed Respondents, if required
December 7, 2022*	Negotiate with selected Respondent
December 21, 2022*	Execute contract

\*These dates are estimates.

The RFQ may be obtained on or after October 27, 2022, from the City’s website:

<https://www.newtonma.gov/bids>

or at

Purchasing Department  
Newton City Hall Room 108  
1000 Commonwealth Avenue  
Newton, Massachusetts 02459  
Email: [purchasing@newtonma.gov](mailto:purchasing@newtonma.gov)  
Phone # 617.796.1220

Any questions concerning this RFQ must be submitted in writing to Purchasing Department as indicated above, by 12:00 noon on November 4, 2022.

Sealed SOQs to the RFQ for OPM qualifications must be clearly labeled “On Call Owner’s Project Management Services for RFQ 23-41” and delivered to Purchasing Department at the address above no later than 10:30 AM on November 10, 2022. The sealed SOQs must include six (6) hard copies and two electronic versions in pdf format on two (2) USB drives.

SOQs are to be delivered in person or by certified/express mail. SOQs submitted by fax or electronic mail will not be considered.

The City assumes no responsibility or liability for late delivery or receipt of SOQs. All SOQs received after the stated submittal date and time will be judged to be unacceptable and will be returned unopened to the Respondent.

## 6. Requirements for content of response

Submit six (6) hard copies of the response to this RFQ and two electronic versions in PDF format on two (2) USB drives. All SOQs shall be:

- In ink or typewritten;
- Presented in an organized and clear manner;
- Must include the required forms in **Attachments C and D**;
- Must include all required certifications;
- Must include the following information:
  1. Cover letter, maximum of two pages in length;
  2. An acknowledgement of all addenda issued to the RFQ.
  3. An acknowledgement that the Respondent has read the RFQ. Respondent shall note any exceptions to the RFQ in its cover letter.
  4. An acknowledgement that the Respondent has read the Contract For On Call OPM Services and related documents (**Attachments C and D**) (Standard OPM Contract) and noted any exceptions to the Standard OPM Contract and/or Standard OPM Contract amendments in its cover letter.

5. A specific statement regarding compliance with the minimum requirements identified in Item 4 of this Request for Qualifications to include identification of registration, number of years of experience and where obtained (as supported by the resume section of **Attachment C**), as well as the date of the MCPPO certification. (A copy of the MCPPO certification should be attached to the cover letter).
6. A description of the Respondent's organization and its history.
7. The signature of an individual authorized to negotiate and execute the Standard OPM Contract, in the form that is attached to the RFQ, on behalf of the Respondent.
8. The name, title, address, e-mail and telephone number of the contact person who can respond to requests for additional information.
9. The response shall address the Respondent's ability to meet the "Selection Criteria" Section including submittal of additional information as needed. The total length of the Response (including **Attachment C** only but excluding **Attachments B** and **D**) may not exceed twenty (20) single-sided numbered pages with a minimum acceptable font size of "12 pt" for all text.
10. Respondents may supplement their SOQ with graphic materials and photographs that best demonstrate its project management capabilities of the team proposed for this project. Limit this additional information to a maximum of three (3) - 8½"x 11" pages, double-sided.
11. Respondents will be required to submit certifications required in M.G.L. c. 7C, §38H(e) (i) through (iv).

**7. Payment Schedule and Fee Explanation:**

The City will negotiate the fee for qualifications 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. As construction cost is but one of several factors, a final construction figure in excess of the initial construction estimate will not, in and of itself, constitute a justification for an increased City's Project Manager fee.

**8. Other Provisions**

**A. Public Record**

All SOQs and information submitted in response to this RFQ are subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7(26). Any statements in submitted responses that are inconsistent with the provisions of these statutes shall be disregarded.

**B. Waiver/Cure of Minor Informalities, Errors and Omissions**

The City reserves the right to waive or permit cure of minor informalities, errors or omissions prior to the selection of a Respondent, and to conduct discussions with any qualified Respondents and to take any other measures with respect to this RFQ in any manner necessary to serve the best interest of the City and its beneficiaries.

**C. Communications with the City**

The City's Procurement Officer for this RFQ is:

Nicholas Read, Chief Procurement Officer  
 Purchasing Department  
 Newton City Hall  
 1000 Commonwealth Avenue Room 108  
 Newton, Massachusetts 02459  
 Phone # 617.796.1220  
 Email: purchasing@newtonma.gov  
 Fax # 617.796.1227

Respondents that intend to submit an SOQ are prohibited from contacting any of the City's staff other than the City's Purchasing Department.

An exception to this rule applies to Respondents that currently do business with the City, but any contact made with persons other than the Purchasing Department must be limited to that business, and must not relate to this RFQ. In addition, such respondents shall not discuss this RFQ with any of the City's consultants, legal counsel or other advisors. ***FAILURE TO OBSERVE THIS RULE MAY BE GROUNDS FOR DISQUALIFICATION.***

**D. Costs**

The City is not liable for any costs incurred by any Respondent in preparing its SOQ or for any other costs incurred prior to entering into a Contract with the City.

**E. Withdrawn/Irrevocability of SOQs**

A Respondent may withdraw and resubmit its SOQ prior to the deadline. No withdrawals or re-submissions will be allowed after the deadline

**F. Rejection of Responses, Modification of RFQ**

The City reserves the right to reject any and all responses if the City determines, within its own discretion, that it is in the City's best interests to do so. This RFQ does not commit the City to select any Respondent, award any contract, pay any costs in preparing a response, or procure a contract for any qualifications. The City also reserves the right to cancel or modify this RFQ in part or in its entirety, or to change the RFQ guidelines. A Respondent may not alter the RFQ or its components.

**G. Subcontracting and Joint Ventures**

Respondent's intention to subcontract or partner or joint venture with other firm(s), individual or entity must be clearly described in its SOQ.

**H. Validity of Response**

Submitted SOQs must be valid in all respects for a minimum period of ninety (90) days after the submission deadline.

## **FURTHER INFORMATION**

### **ATTACHMENTS:**

#### **Attachment A:**

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Not Applicable

#### **Attachment B:**

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Contract Forms    Contract For On Call OPM Services  
                          Schedule A – Scope of Services  
                          Schedule B - Compensation and Method of Payment  
                          Schedule C – Work Program and Schedule  
                          Schedule D – Certificate of Authority

#### **Attachment C:**

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OPM Application Form - March 2017

#### **Attachment D:**

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Required Certifications

- D.1        Bidders Qualifications and Reference Form
- D.2        Certificate of Authority – Business Corporation
- D.3        Certification of Vote
- D.4        Satisfaction of State Tax Requirements – Attest Form
- D.5        Certificate of Foreign Corporation (if applicable)
- D.6        Certificate of Non-Collusion
- D.7        Debarment Letter
- D.8        IRS Form W-9
- D.9        Business Category Information Form

#### **Attachment E:**

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City of Newton Designer Selection Committee  
Designer Selection Procedures

#### **Attachment F:**

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City of Newton Ordinances  
Design Review Committee Ordinance

#### **Attachment G:**

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City of Newton – Public Buildings Department  
Building Design and Sustainability Guidelines

**ATTACHMENT A**  
**NOT APPLICABLE**

## **ATTACHMENT B**

### **CONTRACT FORMS**

The awarded bidder will be required to complete and submit documents substantially similar in form to the following.

These forms may need to be modified on account of changed circumstances, and are provided for informational purposes only.



# CONTRACT FOR ON CALL OWNER'S PROJECT MANAGEMENT SERVICES

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## ARTICLE 1: DEFINITIONS

All terms that this Contract defines may be used with or without initial capital letters. Other terms, abbreviations and references are defined as they appear herein. Words and abbreviations that are not defined in the Contract Documents but which have recognized technical or trade meanings are used in accordance with those meanings.

**APPLICABLE LAWS** – All applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, of the Commonwealth of Massachusetts, its political subdivisions, and the Federal Government applicable to the Project.

**APPROVAL** – a written communication from the City approving either the work of the current Phase, as identified on **Attachment A**, or authorizing the City's Project Manager to proceed to the next Phase or approving the scope and compensation for either Extra Qualifications or Reimbursable Expenses.

**BASIC QUALIFICATIONS** – the minimum scope of qualifications to be provided by the City's Owner's Project Manager (OPM) under this Contract, unless the Contract is otherwise terminated pursuant to Article 12.

**CERTIFICATE OF FINAL COMPLETION**- The form which contains the certification of the Designer, OPM and the City that the Project has reached Final Completion.

**COMMISSIONING CONSULTANT**- a person or firm engaged by the City to provide building commissioning qualifications, including advisory qualifications during design and construction.

**CONTRACT**- this Contract, inclusive of all Attachments, between the City and the City's Project Manager; all written amendments to this Contract; and all Approvals issued pursuant to this Contract.

**CONTRACTOR or GENERAL CONTRACTOR**- the person or firm with whom the City has contracted to perform the construction for this Project pursuant to the provisions of G.L. c. 149, §§ 44A-44J.

**CONSTRUCTION MANAGEMENT AT RISK or CONSTRUCTION MANAGEMENT AT RISK QUALIFICATIONS or CONSTRUCTION MANAGEMENT AT RISK DELIVERY METHOD or CM at RISK DELIVERY METHOD** - a construction method described in M.G.L. c. 149A wherein a Construction Management at Risk firm provides a range of preconstruction qualifications and construction management qualifications which may include cost estimation and consultation regarding the design of the building project, the preparation and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the Trade Contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating Trade Contractors and subcontractors, and providing management and construction qualifications, all at a Guaranteed Maximum Price, which shall represent the maximum amount to be paid by the public agency for the building project, including the cost of the work, the general conditions and the fee payable to the Construction Management at Risk Firm.

CONSTRUCTION MANAGER AT RISK, CONSTRUCTION MANAGEMENT at RISK FIRM or CM at RISK- a sole proprietorship, partnership, corporation, or other legal entity with which the City has contracted pursuant to G.L. c. 149A, § 6(e), to provide Construction Management at Risk Qualifications.

DESIGNER – a registered architect or professional engineer assigned to a Project.

EXTRA QUALIFICATIONS - qualifications requested by the City to be performed by the City's OPM but which are additional (or "extra") to the qualifications performed as Basic Qualifications.

FEE FOR BASIC QUALIFICATIONS – the fee to be paid to the City's Project Manager for satisfactorily performing, in the City's sole discretion, the Basic Qualifications required under this Contract, exclusive of the compensation to which the City's Project Manager is entitled pursuant to Articles 9 and 10.

FINAL COMPLETION- The work has been completed in accordance with the Construction Contract Documents.

GENERAL LAWS – the Massachusetts General Laws as amended, including any rules, regulations and administrative procedures implementing said laws.

GUARANTEED MAXIMUM PRICE or GMP- The agreed total dollar amount for the Construction Management at Risk qualifications, including the cost of the work, the general conditions and the fees charged by the Construction Management at Risk firm.

GUIDELINES AND STANDARDS – Documents published by the City including regulations and procedures that supplement the tasks of OPM's contracting with the City, and as they may be amended from time to time by the City.

NON-TRADE CONTRACTOR- for purposes of a project utilizing the CM at Risk construction delivery method only, a subcontractor, as described in M.G.L. c. 149A, §8, who is not a Trade Contractor, as defined herein, and who has a direct contractual relationship with a CM at Risk whether or not the work exceeds the threshold sum as identified in M.G.L. c. 149, §44F(1).

NOTICE to PROCEED- the written communication issued by the City to the Contractor or the CM at Risk authorizing him to proceed with the qualifications specified in the construction contract or the CM at Risk contract and establishing the date for commencement of the contract time.

CITY – the entity identified as such on page one of this Contract, or its authorized representative, that is the City of the property that is the site of the Project and is responsible for administering this Contract.

OWNER'S PROJECT MANAGER- herein also referred to as the OPM-- the person or firm with whom the City has contracted to perform the professional designer qualifications for a Project.

PHASE- a distinct portion of the work of this Contract and its associated duration, as identified on **Attachment A**. Prior approval to proceed for each Phase is required from the City.

PRINCIPALS – the City's and/or officers of the City's Project Manager who are actively involved in the management of the Project.

PROJECT - all work that pertains to the study, planning, design, construction, reconstruction, installation, demolition, maintenance or repair, if any, assigned to the OPM under this Contract.

PROJECT BUDGET – a complete and full enumeration of all costs of the Project.

PROJECT DIRECTOR- the employee of the City's Project Manager who has been designated in writing by the City's Project Manager as its authorized representative, as approved by the City.

PROJECT REPRESENTATIVE – the employee or a Subconsultant of the City's Project Manager, who shall be dedicated exclusively to the Project, on-site full-time during the Construction Phase in accordance with the requirements of Article 8.6.2.

PROJECT SCHEDULE – a complete list of all activities, time and sequence required to complete the Project.

REIMBURSABLE QUALIFICATIONS OR REIMBURSABLE EXPENSES – the cost of qualifications requested by the City to be performed by the OPM or the cost of expenses paid by the City's OPM that are reimbursable pursuant to the provisions of Article 10.

SUBCONTRACTOR – for purposes of a project utilizing the design-bid-build construction delivery method pursuant to M.G.L. c. 149, a person or entity having a direct contractual relationship with the Contractor, who has the contract to perform the construction of the Project, except as otherwise specifically provided herein or as required by Law.

SUBCONSULTANT – any individual, company, firm, or business having a direct contractual relationship with the City's Project Manager, who provides qualifications on the Project.

TRADE CONTRACTOR – for purposes of a project utilizing the CM at Risk construction delivery method only, subcontractors having a direct contractual relationship with a CM at Risk pursuant to M.G.L. c. 149A, § 8 (a)-(i), to perform one or more so-called sub-bid classes of work listed in M.G.L. c. 149 §44F and all other sub-bid classes of work selected by the public agency for the Project, provided the sub-bid work meets or exceeds the threshold sum identified in M.G.L. 149 §44F(1).

## ARTICLE 2: RELATIONSHIP OF THE PARTIES

- 2.1 The City's OPM shall act as an independent contractor of the City in providing certain project management qualifications required for the Project except where the OPM is an existing public employee of the City as described in M.G.L. c. 149, § 149A1/2.
- 2.2 The City's OPM warrants and represents to the City that it has fully, completely and truthfully represented the qualifications and skills of the City's OPM, its Subconsultants, agents, servants and employees in the proposal submitted by the City's OPM, the Contract documents and in all communications with the City relative to this Contract and the qualifications to be performed hereunder by the City's OPM, its Subconsultants, agents, servants and employees.
- 2.3 The City's OPM shall perform its qualifications under this Contract with no less than that degree of skill and care ordinarily exercised by similarly situated members of the City's OPM's profession on projects of similar size, scope and complexity as is involved on the Project. The City's OPM's qualifications shall be rendered in accordance with this Contract.
- 2.4 The Parties hereto agree that the OPM is solely responsible for the management of a Project (except to the extent specifically delegated to others) and for performing in accordance with the contract between the City and OPM.
- 2.5 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 City-Contractor Agreement or the City-CM at Risk

Agreement. The City's OPM shall be responsible for its negligent acts or omissions but shall not have control over or charge over acts or omissions of 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 Authority, the City or the Commissioning Consultant.

- 2.6 Nothing in this Contract shall be construed as an assumption by the City's OPM of the responsibilities or duties of the Contractor or the CM at Risk or a designer. The City OPM's qualifications shall be rendered compatibly and in coordination with the qualifications provided by the Designer. It is not intended that the qualifications of the City's OPM and designer be competitive or duplicative, but rather complementary. The City's OPM 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 City.

### ARTICLE 3: RESPONSIBILITIES OF THE CITY

- 3.1 The City shall be responsible to oversee and monitor the performance of the City's OPM to ensure that it performs its obligations in a satisfactory manner. The City shall provide the necessary general direction and broad management coordination required to execute a Project.
- 3.2. The City shall designate an individual or individuals who shall have the authority to act on behalf of the City under this Contract and who shall be responsible for day-to-day communication between the City and the City's OPM,
- 3.3 Upon satisfactory completion of qualifications performed, the City shall make payments to the City's OPM as provided in Articles 7, 8, 9 and 10.
- 3.4 The City 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 City's OPM.
- 3.5 The City shall provide timely information with respect to its requirements relative to a Project Schedule and Project Budget, and shall further give timely notice to the City's OPM of any changes or modifications to the same.
- 3.6 To the extent such data is available, the City shall furnish to the City's OPM 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 City's OPM shall be entitled to reasonably rely upon the sufficiency and accuracy of the information furnished under this Article 3.6, provided that the City's OPM shall notify the City in writing of any deficiencies in such data that the City's OPM becomes aware of.

#### ARTICLE 4: RESPONSIBILITIES OF THE CITY'S PROJECT MANAGER

- 4.1 The City's OPM shall provide project management qualifications 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 qualifications and workmanship and shall recommend courses of action to the City when respective contractual requirements are not being fulfilled. Qualifications shall continue through substantial use and occupancy by the City, and Project closeout. As part of Basic Qualifications, the City's OPM shall provide information as requested during final auditing.
- 4.2 The City's OPM shall perform the qualifications required under this Contract in conformance with applicable federal, state, and local laws, ordinances and regulations.
- 4.3 The City's OPM shall report to the City any act or inaction in connection with the Project which the City's OPM believes creates a substantial health or safety risk. Notwithstanding the immediately preceding sentence, the City's OPM 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.
- 4.4 The City's OPM shall comply with terms and conditions of all project agreements executed between the City and a third party and any and all administrative directives issued by the third party now in effect or hereafter promulgated during the term of this Contract, without any additional compensation. The City shall reasonably compensate the City's OPM for complying with any such term or condition or directive, that was not provided to or was not readily available to the City's OPM prior to such Qualifications being performed and that materially impacts the City OPM's scope, or other aspect of its Qualifications, Fee, schedule, or any obligations and responsibilities under this Contract.
- 4.5 The City's OPM acknowledges the importance that the City attributes to the abilities and qualifications of the key members of the City OPM's team, including Subconsultants, and the continuity of key member's participation in the qualifications to be provided under this Contract. This Contract has been entered into on the representation of the City OPM 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 City, except when necessitated by causes beyond the City OPM's control. If the City OPM proposes to replace one of the key members of its team, it shall propose a person or consultant with qualifications at least equal to the person or firm the City OPM proposes to replace. The City 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 City, the City's OPM shall consult with the City to resolve any situation in which the City determines that a member of the City's OPM team is failing to perform qualifications in an acceptable manner to the City. The City shall have the right to direct the removal of any such person or consultant. No act or omission of the City made or permitted under this Section shall relieve the City's OPM of its responsibility for the performance of the qualifications specified in this Contract.

- 4.6 The City's OPM 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 City's OPM.
- 4.7 The City's OPM shall be and shall remain liable to the City for all damages incurred by the City as a result of the failure of the City's OPM to perform in conformance with the terms and conditions of this Contract.

#### **ARTICLE 5: SUBCONSULTANTS**

- 5.1 The City's OPM may employ Subconsultants, subject to the prior written approval of the City and subject to paragraph 10.3 in order to perform Basic, Extra and Reimbursable qualifications under this Contract. The employment of Subconsultants shall not in any way relieve the City's OPM from its responsibilities under this Contract. Nor shall the City's approval of a Subconsultant in any way relieve the City's OPM from its responsibilities under this Contract.
- 5.2 Upon request, the City's OPM shall provide the City copies of its agreements with Subconsultants, including amendments thereto, and shall consult with the City with respect to the inclusion therein of appropriate terms and conditions to assure timely, efficient and competent performance of the Subconsultants.
- 5.3 No substitution of Subconsultants and no use of additional Subconsultants shall be made without prior written approval of the City, which approval shall not be unreasonably withheld.
- 5.4 The OPM shall be responsible for all compensation to be paid to a Subconsultant. No Subconsultant shall have recourse against the City or any third party for payment of monies alleged to be owed to the Subconsultant by the City's OPM, and the City's OPM shall include in all contracts with its Subconsultants language so providing.
- 5.5 All contracts between the City's OPM and its Subconsultants shall include a provision in which the City's rights to initiate corrective action shall be stipulated

#### **ARTICLE 6: TERM AND TIMELY PERFORMANCE**

- 6.1 The City's OPM acknowledges that expeditious completion of the City's OPM qualifications and any Project is of the utmost importance to the City. The term of this Agreement shall commence on the date stipulated in an approval to proceed from the City. The City's OPM shall complete the qualifications required under this Contract in a prompt and continuous manner. The City's OPM shall perform its qualifications in a timely manner and shall not delay the work of any Designer, Contractor or CM at Risk. The City's OPM shall monitor the performance of a Designer and any Contractor or CM at Risk in accordance with schedules of performance that are established under their contracts with the City. The City's OPM shall immediately advise the City, as well as any Designer or Contractor or CM at Risk, in writing, any time the City's OPM determines that either the Designer or the Contractor's or CM at Risk's performance is jeopardizing a Project Schedule or Project Budget.

- 6.2 Time is of the essence in the performance of the City OPM's obligations under this Agreement and under any amendment. The City's OPM agrees that no other work in its organization will be permitted to interfere with its timely performance of the work required under this Agreement or any amendment.
- 6.3 The City OPM's qualifications are to be provided in accordance with the time schedule set forth by the OPM and accepted by the Public Buildings Commissioner. If the schedule changes causing the need for revisions to the City's OPM's qualifications, the City's Project Manager shall notify the City of the revisions to its qualifications. The City shall have the right to extend the term of this Contract by amendment. All the rights and obligations of the parties for such extended periods shall be as set forth in this Contract or in the amendment.

#### ARTICLE 7: COMPENSATION

- 7.1 For the satisfactory performance of all qualifications required pursuant to this Contract, excluding those qualifications specified under Articles 9 and 10, the City's Project Manager shall be compensated by the City in an amount up to the Not-to-Exceed Fee for Basic Qualifications, identified on **Attachment B, Schedule B**. The City's Project Manager shall submit invoices on a monthly basis in accordance with the Payment Schedule included as **Attachment B, Schedule B**. The City shall use best efforts to make payments to the City's OPM within 30 days of the City's approval of the invoice, which approval shall not be unreasonably withheld or delayed.
- 7.2 The Fee for Basic Qualifications shall include, but not necessarily be limited to, all labor, overhead, profit, insurance, legal qualifications, transportation, communication expenses, reasonable printing and copying necessary for completion of a Project. The fee for Basic Qualifications also shall include (a) the costs of rebidding and re-solicitation of proposals, bids, or qualifications if due to the fault of the City's OPM, and (b) assisting the City as provided by paragraph 8.1.4.2 in litigation or resolution of claims or other administrative proceedings associated with a bid protest arising out of the Designer contract or the construction contract and for assistance beyond the requirements of paragraph 8.1.4.2 if such litigation or claims are due to the fault of the City's OPM.
- 7.3 When the City's OPM receives payment from the City, it shall promptly make payment to each Subconsultant whose work was included in the work for which such payment was received. The City shall have the contractual right to investigate any breach of performance of a Subconsultant and to initiate corrective measures it determines are necessary and in the best interest of the City. All contracts between the City's OPM and its Subconsultants shall include a provision in which the City's rights to initiate corrective action shall be stipulated.
- 7.4 The City's OPM shall be paid the remainder of the Fee for Basic Qualifications, less previous payments, upon acceptance by the City of the Certificate of Final Completion and submission of evaluations.



## ARTICLE 8: BASIC QUALIFICATIONS

The City's OPM shall perform the following Basic Qualifications:

### 8.1 Project Management (For All Phases)

8.1.1 The City's OPM shall prepare a communication and document control procedure during the Educational Programming and Feasibility / Schematic Design Phases and continue to update it as specified for each subsequent phase as the contract may be amended. This procedure shall detail the responsibilities and lines of communication among all Project participants (City, Authority, City'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 City's OPM 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.

8.1.1.2 The City's OPM shall assist the City in the preparation of all information, material, documentation, and reports that may be required requested by a third party, including without limitation, documentation related to incentive reimbursement percentage points that may be awarded to the City, requests for reimbursement, and audit materials.

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

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

### 8.1.2 Project Control

During Phases of a Project, the City's OPM shall monitor and report to the City any changes to the Feasibility Study Budget, Scope and Schedule.

#### 8.1.2.1 Project Budget

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

The City's OPM shall prepare revisions to baseline Project Budgets, as needed, and submit them to the City for approval.

#### 8.1.2.2 Cost Estimating

The City's OPM shall prepare detailed *independent* cost estimates at each Design phase after a Feasibility Phase (Design Development, Construction) when required by the City. If the City requires the City's OPM to prepare an independent cost estimate, it shall compare its cost estimate to that prepared by a Designer to identify and notify the City of any variances.

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

The City's OPM shall provide cost estimating qualifications, as may be required, to develop cash flows.

#### 8.1.2.3 Project Schedule

The City's OPM shall prepare Project Schedules in a form acceptable to the City.

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

#### 8.1.3 Monthly Progress Report

The City's OPM shall submit to the City 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 City 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.

#### 8.1.4 INTENTIONALLY LEFT BLANK

#### 8.1.5 MBE/WBE Compliance Monitoring (All Phases)

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

### 8.1.6 Site Investigations and Environmental Testing

Prior to Designer Selection, the City's OPM shall assist the City 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 qualifications or testing need to be performed shall rest with the City or Designer.

### 8.1.7 Project Records and Reports (All Phases)

The City's OPM shall maintain a complete Project file including, but not necessarily limited to, a copy of the executed agreements of the City-City's Project Manager, City-Architect/Engineer and the City-Contractor or City- 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 City's Project Manager shall assist the City in responding to any public records request received by the City.

## 8.2 Educational Programing

### 8.2.1 Designer Selection

The City's OPM shall coordinate the designer selection process for the City. Qualifications shall include:

- 8.2.1.1 The City's OPM shall assist the City in preparing the schedule for designer selection, advertisement, request for qualifications, selection criteria and other materials required for the application .
- 8.2.1.2 The City's OPM shall record the names and addresses of all designers who request an application package, shall notify all interested designers of any changes to the request for qualifications or application package and shall respond to project specific questions. The City's OPM shall complete reference checks on all applicants and provide the City with a report on the references. .
- 8.2.1.3 The City's OPM shall review each submitted application to be sure it is complete and shall submit the application packages as well as the completed references to the City at least two weeks before the targeted Designer Selection Panel meeting.
- 8.2.1.4 The City's OPM shall present the project particulars and the results of the reference checks to the City's Designer Selection Committee.
- 8.2.1.5 The City's OPM shall assist the City in the negotiation of the design contract with the first-ranked firm.

- 8.2.1.6 The City's OPM shall provide Project Management qualifications to accomplish the tasks as more fully described in Section 3 of the RFQ for Project Management Qualifications.

#### 8.2.2 Feasibility Study / Schematic Design

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

- 8.2.2.1 Work with the City and Designer to prepare the Project Schedule.
- 8.2.2.2 Review the schematic design to recommend Value Engineering Changes (VEC) to the City. 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.
- 8.2.2.3 Lead design coordination meetings every two weeks, between the Designer and the City to provide for review and discussion of design/engineering related issues. The City's OPM shall provide technical assistance to the City. The City's OPM shall take and distribute minutes of these meetings to the City.
- 8.2.2.4 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.
- 8.2.2.5 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 City when, in the opinion of the City's OPM, requirements of the Designer's contract with the City are not being fulfilled.
- 8.2.2.6 Meet with the City, Designer and other project participants as necessary.
- 8.2.2.7 Assist the City with identifying green strategies, as appropriate, for study during this phase. The City's Project Manager shall assist the City and Designer, as needed, in the preparation of the certification required for any LEED related initiatives.

- 8.2.2.8 Assist the City in determining the appropriate construction delivery methodology for a Proposed Project. In providing such assistance, the City's OPM, in conjunction with the Designer, shall advise the City on the relative advantages and disadvantages associated with each of the construction delivery methods provided in M.G.L. Chapters 149 and 149A. The qualifications provided by the City's OPM in assisting and advising the City in its determination of the appropriate construction delivery methodology shall be included in Basic Qualifications.

If the City elects to proceed with the CM at Risk construction delivery method, the City's Project Manager shall, in a timely manner, assist and advise the City 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 City's OPM shall assist the City 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 qualifications provided by the City's OPM in assisting and advising the City with the preparation and submission of the application to proceed with the CM at Risk construction delivery method shall be included in Basic Qualifications.

If the Inspector General issues a notice to proceed with the CM at Risk delivery method, and if the City, at its option, authorizes the City's OPM to perform qualifications 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. In the event that the Inspector General does not issue a notice to proceed with the CM at Risk delivery method, the City, at its option, may elect to construct the project in accordance with the provisions of M.G.L. c. 149.

## ARTICLE 9: EXTRA QUALIFICATIONS

### 9.1 General

- 9.1.1 Extra Qualifications are those qualifications requested by the City to be performed by the City's OPM but which are additional (or "extra") to the qualifications performed as Basic Qualifications. Such qualifications are not included in the Fee for Basic Qualifications and shall be invoiced and paid for separately. Extra qualifications shall not be deemed authorized until a written Approval is received from the City.
- 9.1.2 The proposed cost, scope and schedule of all Extra Qualifications shall be presented to and approved by the City in writing prior to the performance of any Extra Qualifications.
- 9.1.3 Cost proposals for Extra Qualifications shall be computed in accordance with the Hourly Rate Schedule established in **Attachment A**.

- 9.2 Unless specifically prohibited elsewhere and with the prior written approval of the City, the City's OPM shall perform any of the following qualifications as Extra Qualifications:
- 9.2.1 Preparing special studies, reports, or applications at the written direction of the City, other than those specifically required herein as part of Basic Qualifications;
  - 9.2.2 Assisting in the appeals process of permitting boards or commissions;
  - 9.2.3 Rebidding, re-solicitation, or re-advertising for bids, proposals, or qualifications unless made necessary by the fault of the City's OPM, in which events such rebidding shall be deemed part of Basic Qualifications;
  - 9.2.4 Furnishing qualifications in connection with a bid protest filed in court or with the Office of the Attorney General, provided such activities did not arise due to the fault of the City's OPM;
  - 9.2.5 Furnishing qualifications in excess of Basic Qualifications made necessary by the termination of the General Contractor or CM at Risk;
  - 9.2.6 Providing consultation with respect to replacement of work damaged by fire or other casualty during construction;
  - 9.2.7 Assisting the City in litigation, claims resolution or non-binding mediation arising out of the Designer contract or the construction contract, provided such litigation or claims did not arise due to the fault of the City's Project Manager; and
  - 9.2.8 Providing other qualifications requested by the City that are not included as Basic Qualifications pursuant to this Contract.
- 9.3 Invoices for Extra Qualifications shall be accompanied by a complete breakdown listing the name, payroll title, date, number of hours by day, hourly rate and extended amount, per specified task of Extra Qualifications performed. Hourly rates shall be in accordance with the Hourly Rate Schedule in **Attachment A**.

#### ARTICLE 10: REIMBURSABLE EXPENSES

- 10.1 For coordination and responsibility for the work described in the following paragraphs 10.1.1 and 10.1.2, the City's OPM shall be reimbursed its actual costs and those of its Subconsultants, supported by invoices or receipts, plus 10%. The following are reimbursable expenses:
- 10.1.1 Certain out of pocket expenses paid by the City's OPM such as filing fees, and permit fees that are normally paid by the City; travel to fabrication or manufacturing locations to identify completed, identified, and stored materials or equipment specifically for the Project; field office furnishings.
  - 10.1.2 Any other specially authorized reimbursement deemed essential by the City, in the City's sole discretion, in writing.

10.2 Non-Reimbursable Items: The City shall not reimburse the City's OPM or its Subconsultants for travel expenses, sustenance, telephone, facsimiles, electronic mails, postage and delivery expenses, unless specifically required elsewhere in this Contract.

10.3 The City's OPM shall not be entitled to compensation under this Article for the qualifications of Subconsultants hired to perform Basic Qualifications under this Contract. If a Subconsultant hired to perform Basic Qualifications performs Extra Qualifications approved by the City, compensation for such Extra Qualifications shall be made under Article 9.

#### ARTICLE 11: RELEASE AND DISCHARGE

11.1 The acceptance by the City's OPM of the last payment under the provisions of Article 7 or Article 12 in the event of termination of the Contract, shall in each instance, operate as and be a release to the City its employees and agents, from all claims of the City's OPM and its Subconsultants for payment for qualifications performed and/or furnished, except for those written claims submitted by the City's OPM to the City with, or prior to, the last invoice.

#### ARTICLE 12: ASSIGNMENT, SUSPENSION, TERMINATION

##### 12.1 Assignment:

The City's OPM shall not assign or transfer any part of its qualifications or obligations under this Contract (other than as specified in Article 5), without the prior written approval of the City. Likewise, any successor to the City's OPM must first be approved by the City before performing any qualifications under this Contract. Such written consent shall not in any way relieve the City's OPM or its assignee from its responsibilities under this Contract.

##### 12.2 Suspension

12.2.1 The City may, at any time, upon seven (7) days written notice to the City's OPM, suspend this Contract. If the City provides such written notice, the City's OPM shall be compensated for work satisfactorily performed in accordance with the Contract terms prior to the effective date of such suspension for which invoices have been properly submitted.

##### 12.3 Termination

12.3.1 By written notice to the City's OPM, the City may terminate this Contract at any time with or without cause. If such termination shall occur through no fault of the City's OPM, all compensation and reimbursement due to the City's OPM in accordance with the Contract terms, for work satisfactorily performed up to the date of termination, including proportionate payment for portions of the work started but incomplete at the time of termination, shall be paid to the City's OPM, provided no payment shall be made for work not yet performed or for anticipated profit on unperformed work. If such termination is for cause then no further payment shall be due to the City's OPM beyond the date of termination.

12.3.2 By written notice to the City, the City's OPM may terminate this Contract:

- (a) if the City, within thirty (30) days following written notice from the City's OPM of any material default by the City under the Contract, shall have failed to cure such default; or
- (b) if, after the City's OPM has performed all qualifications required during any phase prior to construction, at least six (6) months have elapsed without receipt by the City's OPM of approval to proceed with the next Phase of a Project, provided the delay was not the fault of the City's OPM. This provision shall not apply to an City's OPM who has received a notice of suspension pursuant to paragraph 12.2.
- (c) Upon a proper termination by the City's OPM, it shall be compensated as provided in paragraph 12.3.1 above regarding termination without cause.

#### ARTICLE 13: NOTICES

13.1 Any notice required to be given by the City or Authority to the City's OPM, or by the City's OPM to the City or Authority, shall be deemed to have been so given, whether or not received, if mailed by certified or registered mail to the City's OPM or the City at the addresses indicated on page one.

#### ARTTICLE 14; INDEMNIFICATTON OF CITY AND AUTHORITY

14.1 With respect to professional qualifications rendered by City's OPM, to the fullest extent permitted by law, it shall defend, indemnify and hold harmless the City, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the City to the extent caused by the negligence of or the breach of any of the provisions of this Contract by the City's OPM, a person employed by the City's OPM, or any of its Subconsultants.

14.2 With respect to non-professional qualifications rendered by City's OPM, to the fullest extent permitted by law, City's OPM shall defend, indemnify and hold harmless the City, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the City arising out of or resulting from the performance of its qualifications provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are attributable to bodily injury or death or injury to or destruction of tangible property and to the extent caused by an act or omission of the City's OPM, a person employed by the City's OPM, or any of its Subconsultants.



- 14.3 The indemnification obligation in this Article shall be in addition to, and not a limitation of, any other rights and remedies available to the City under this Contract or at law.

#### ARTICLE 15: INSURANCE

- 15.1 The City's OPM shall obtain and maintain at its sole expense all insurance required by law and as may be required by the City under the terms of this Contract. The insurance required hereunder shall be provided at the sole expense of the City's OPM or its Subconsultant, as the case may be, and shall be in full force and effect for the full term of this Contract between the City and the City's OPM or for such longer period as otherwise required under this Contract.
- 15.2 All policies shall be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts with a financial strength rating of "A" or better as assigned by A.M. Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the City.
- 15.3 The City's OPM and its Subconsultants shall submit to the City original certificates of insurance evidencing the coverage required hereunder, together with evidence that all premiums for such insurance have been fully paid simultaneously with the execution of this Contract. Certificates shall show each type of insurance, insurance company, policy number, amount of insurance, deductibles/self-insured retentions, and policy effective and expiration dates. The City's OPM shall submit updated certificates to the City prior to the expiration of any of the policies referenced in the certificates so that the City shall at all times possess certificates indicating current coverage. Failure by the City's OPM to obtain and maintain the insurance required by this Section, to obtain all policy renewals, or to provide the respective insurance certificates as required shall constitute a material breach of the Contract and shall be just cause for termination of the qualifications of the City's OPM under this Contract.
- 15.4 Termination, cancellation, or material modification of any insurance required by this Contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given to the City at least thirty days prior to the effective date thereof, which shall be expressed in said notice.
- 15.5 The City's OPM shall require by contractual obligation, and shall ensure by the exercise of due diligence, that any Subconsultant hired in connection with the qualifications to be provided under this Contract shall obtain and maintain all insurance required by law and as may be required by the City under the terms of this Contract.
- 15.6 The City's OPM or its Subconsultant, as the case may be, is responsible for the payment of any and all deductibles under all of the insurance required by this Contract. The City shall not be responsible for the payment of deductibles, self-insured retentions or any portion thereof.

15.7 Workers' Compensation, Commercial General Liability, Automobile Liability, and Valuable Papers

The City's OPM shall purchase and maintain at its own expense during the life of this Contract, or such other time period as provided herein, the following types and amounts of insurance, at a minimum:

- 15.7.1 Workers' Compensation Insurance in accordance with General Laws Chapter 152. The policy shall be endorsed to waive the insurer's rights of subrogation against the City.
- 15.7.2 Commercial General Liability Insurance (including Premises/Operations; Products/Completed Operations; Contractual; Independent Contractors; Broad Form Property Damage; and Personal Injury) with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 aggregate. The City's OPM shall maintain such insurance in full force and effect for a minimum period of one year after final payment and shall continue to provide evidence of such coverage to the City. The City shall be added as an additional insured on this policy. The policy shall be endorsed to waive the insurer's rights of subrogation against the City.
- 15.7.3 Comprehensive Automobile Liability Insurance (including owned, non-owned and hired vehicles) at limits of not less than:
  - a. \$1,000,000 Each Person for Bodily Injury;
  - b. \$1,000,000 Each Accident for Bodily Injury; and
  - c. \$1,000,000 Each Accident for Property Damage.
- 15.7.4 Valuable Papers insurance in an amount sufficient to assure the restoration of any plans, drawings, computations, field notes, or other similar data relating to the work covered by this Contract or by the Agreement between the City and a Designer in the event of loss or destruction while in the custody of the City's OPM until the final fee payment is made or all data is turned over to the City, and this coverage shall include coverage for relevant electronic media, including, but not limited to, documents stored in computer-aided design drafting (CADD) systems.

15.8 Professional Liability

The City's OPM shall maintain professional liability insurance covering errors and omissions and negligent acts of the City's OPM and of any person or entity for whose performance the City's OPM is legally liable at all times while qualifications are being performed under this Contract. Certificates of professional liability insurance evidencing such coverage shall be provided to the City on or before the effective date of this Contract and for a period of at least six years after the earlier of: (1) the date of official acceptance of a completed Project by the City; (2) the date of the opening of a Project to public use; (3) the date of the acceptance by the general contractor of a final pay estimate prepared by the City pursuant to M.G.L. c. 30 §39G; or (4) the date of substantial completion of a construction contract and the taking of possession of a Project for occupancy by the City. The certificates shall indicate a retroactive date that is no later than the effective date of this Contract and a limit of not less than \$1,000,000.

In the event that the City terminates this Contract at or before the completion of the Facilities Program Phase "without cause" as provided in paragraph 12.3.1; or the Contract term ends pursuant to its own provisions at the completion of the Facilities Program Phase and the Contract is not amended to authorize the City's Project Manager to perform qualifications for subsequent feasibility, design phases, Construction Phases and/or Completion Phase; or the City otherwise elects not to proceed with the Project beyond the Facilities Program Phase, either because the City lacks sufficient funding for the Project or because the City does not approve the Project to proceed beyond the Facilities Program Phase, the City may amend this paragraph 15.8.

#### 15.9 Liability of the City's Project Manager

Insufficient insurance shall not release the City's OPM from any liability for breach of its obligations under this Contract. Without limitation, it shall bear the risk of any loss if its valuable papers insurance coverage is insufficient to cover the loss of any work product covered by this Contract.

#### 15.10 Waiver of Subrogation

To the extent damages are covered by property insurance, the City and the City's OPM waive all rights against each other and against the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors, consultants, agents, and employees of the other for damages caused by fire or other causes of loss, except such rights as they may have to the proceeds of such insurance as set forth in this Agreement or the City-CM at Risk Agreement. The City shall require of the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors, the City's OPM, consultants, Subconsultants, and agents and employees, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

### ARTICLE 16: OWNERSHIP OF DOCUMENTS

16.1 Unless provided otherwise by law, ownership and possession of all information, data, studies, designs, drawings, specifications, materials, documents, models, and any other documentation, product or tangible materials authored or prepared, in whole or in part, or purchased, obtained, created by the City's OPM pursuant to this Contract (collectively, the "Materials"), other than the City's OPM's administrative communications, records, and files relating to this Contract, shall be the sole property of, and shall vest in, the City as "works made for hire" or otherwise.

The City will own the exclusive rights, worldwide and royalty-free, to and in all Materials prepared and produced by the City's OPM pursuant to this Contract, including, but not limited to, United States and International patents, copyrights, trade secrets, know-how and any other intellectual property rights, and the City shall have the exclusive, unlimited and unrestricted right, worldwide and royalty-free, to publish, reproduce, distribute, transmit and publicly display all Materials prepared by the City's OPM. At the completion or termination of the City OPM's qualifications, all original Materials shall be promptly turned over to the City.

#### ARTICLE 17: REGULATORY AND STATUTORY REQUIREMENTS

- 17.1 Truth-in-Negotiations Certificate: If the City OPM's fee is negotiated, by signing this Contract, the City's OPM hereby certifies to the following:
- 17.1.1 Wage rates and other costs used to support the City OPM's compensation are accurate, complete, and current at the time of contracting; and
  - 17.1.2 The Contract price and any additions to the Contract may be adjusted within one year of completion of the Contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.
- 17.2 The person signing this Contract certifies, as a principal or director of the City's OPM, that it has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Contract; no consultant to or Subconsultant for the City's OPM has given, offered or agreed to give any gift, contribution or offer of employment to the City's OPM, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the City's OPM or Subconsultant of a contract by the City's OPM; and no person, corporation or other entity, other than a bona fide full-time employee of the City's OPM, has been retained or hired by the City's OPM to solicit for or in any way assist the City's OPM in obtaining this Contract upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Contract
- 17.3 Revenue Enforcement and Protection Program (REAP): Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, the undersigned certifies under the penalties of perjury that to the best of his/her knowledge and belief that the City's OPM and the principals thereof are in compliance with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support
- 17.4 Interest of City's OPM: The City's OPM hereby certifies that it is in compliance with the provisions of M.G.L. c. 268A whenever applicable. The City's OPM covenants that 1) he/she presently has no financial interest and shall not acquire any such interest direct or indirect, which would conflict in any manner or degree with the qualifications required to be performed under this Contract or which would violate M.G.L. c. 268A, as amended from time-to-time; 2) in the performance of this Contract, no person having any such interest shall be employed by the City's OPM; and 3) no partner or employee of the firm is related by blood or marriage to any officer, official, or employee of the City, unless approved by the State Ethics Commission.

- 17.5 Equal Opportunity: The City's OPM shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children, or political beliefs. The City's OPM shall comply with all provisions of Title VI of the Civil Rights Act of 1964 and M.G.L c.151B.
- 17.6 Certification of Non-Collusion: The City's OPM certifies under penalties of perjury that its proposal has been made in and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.
- 17.7 Governing Law: This Contract shall be governed by the laws of the Commonwealth of Massachusetts.
- 17.8 Dispute Resolution: If a dispute arises between the parties related to this Contract, the parties agree to use the following procedures to resolve the dispute: (a) Negotiation. A meeting shall be held between representatives of the parties with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute; such meeting shall be held within fourteen calendar days of a party's written request for such a meeting; (b) Mediation. If the parties fail to negotiate a resolution of the dispute, they shall submit the dispute to mediation as a condition precedent to litigation and shall bear equally the costs of the mediation. The parties shall jointly appoint a mutually acceptable mediator; they shall seek assistance from an independent third party in such appointment if they have been unable to agree upon such appointment within 30 days of the meeting just noted in (a) above; (c) Litigation. If the parties fail to resolve the dispute through mediation, or are unable to convene mediation within 90 days of first attempting to do so, then either party may file suit in accordance with paragraph 17.9; and (d) This paragraph of dispute resolution provisions shall survive termination of this Contract.
- 17.9 Venue: Any suit by either party arising under this Contract shall be brought only in a court of competent jurisdiction in the county where a Project is located. The parties hereto waive any argument that this venue is improper or that the forum is inconvenient.

IN WITNESS WHEREOF the parties hereto have executed this Agreement in quintuplicate on the day first written above in. No agreement shall exist until this Agreement has been signed by all parties.

Owner's Project Manager

CITY OF NEWTON

\_\_\_\_\_

\_\_\_\_\_  
Public Buildings Commissioner

No City monies are obligated by this  
Contract until work has been assigned

Approved as to legal form and character

\_\_\_\_\_  
Comptroller of Accounts

\_\_\_\_\_  
Assistant City Solicitor

CONTRACT APPROVED

\_\_\_\_\_  
Mayor or Her Designee

CONTRACT ATTACHMENTS:

Attachment A: Payment Schedule

Attachment B: Schedules A-E

Attachment C: Form of Amendment

CONTRACT ATTACHMENT A  
**PAYMENT SCHEDULE**

Payments for qualifications shall be made in accordance with the provisions outlined in the Contract and with the following schedule: The City's OPM shall perform the Qualifications in accordance with the following Schedule:

Basic Qualifications:

Educational Program Phase	\$ _____
Feasibility Study Phase	\$ _____
Schematic Design / Site Plan Approval Phase	\$ _____
Design Development Phase	\$ _____
Construction Document Phase	\$ _____
Early bid Packages Phase	\$ _____
Bidding & Negotiations Phase	\$ _____
Construction Administration Phase	\$ _____
Project Close Out Phase	\$ _____
<b>TOTAL</b>	\$ _____

Reimbursable Qualifications:

	\$ _____
	\$ _____
	\$ _____

Extra Qualifications:

Extra Qualifications provided pursuant to Article 9 shall be compensated as determined by the City (a) by a lump sum fee agreed upon in advance in writing by the City and the City's OPM, or (b) on an hourly basis in accordance with the lesser of \$150 per hour or the rate schedule set forth below for time expended, or (c) on an hourly basis in accordance with the lesser of \$150 per hour or a multiple of 2.5 times the direct personnel expense (without benefits) of the Designers or Sub-contractors personnel including principals.

Hourly Rate Schedule:

Personnel:	Rate / Hr.
	\$ _____
	\$ _____
	\$ _____

CONTRACT ATTACHMENT B

**CONTRACT SCHEDULES**

SCHEDULES. Attached hereto are the following schedules which are incorporated into this Agreement and made a part hereof:

Schedule A	Scope of Services
Schedule B	Compensation and Method of Payment
Schedule C	Work Program and Schedule
Schedule D	General Requirements
Schedule E	Certificate of Authority

**SIGNATORIES**



## SCHEDULE A

### SCOPE OF SERVICES

1. General: Basic Services

The OPM shall review and provide one or more OPM related services associated for any of the following types of design services at the direction of the City's Public Buildings Commissioner, within thirty (30) days after notification to proceed:

- Preliminary Designs, Investigations and Reports.
- Preparation or review of working drawings, specifications and other construction and bid documents.
- Construction Phase Services.

The City's Public Buildings Commissioner shall send the OPM a Professional Services Authorization form which will outline the specifics of each project including proposed work items, estimated budget and time schedule. A fee for each project will also be determined at that time as per **Schedule B**. The OPM shall sign and return the Professional Services Authorization form within ten (10) days of receipt.

Where authorized, the OPM shall review and perform OPM related services associated with the design Basic Services described below:

A. Existing Conditions Analysis and Survey

ARCHITECT/INTERIOR SPACE PLANNER's survey and analyze existing conditions and will prepare the following if requested:

- Plans, sections and details
- Structural Analysis (as it relates to the overall safety of the proposed projects)
- Slides, photos, models or building elevations and interiors components.

B. Preliminary Schematic Recommendations

The ARCHITECT and OPM shall prepare for review and approval by the City, whose Agent shall be the Public Buildings Commissioner, assisted by the Design Review Committee, the following:

- a. Preliminary design in schematic form, outlining options for the Project's construction work, to include task list, types of repairs, new work, and related improvements. This shall include drawings and sketches as necessary (*see* also Work Authorization for details).
- b. Summary report and list of priorities.
- c. Cost estimates associated with options presented with (a) above (all estimates must be done by a certified professional estimating individual or firm).

C. Construction Documents and Final Construction Cost Estimate

Following approval of design by the Public Buildings Commissioner, the ARCHITECT shall prepare and deliver to the Public Buildings Commissioner thirty (30) sets of contract documents necessary for Public bid of the subject work. Such documents shall include (see Work Authorization for number of documents needed for each phase of the work):

- a. Working drawings for architectural, structural, electrical, mechanical, and other branches of work as appropriate.
- b. Complete technical specifications describing materials, workmanship, labor, and performance standards in sufficient detail to permit firm bids.
- c. Complete bidding documents and form, contract terms and conditions, forms of agreement between the Owner and construction contractor, and any special provisions, if appropriate.

In addition, the ARCHITECT and the OPM shall provide a final construction cost estimate, and such escalation projections as appropriate. If the bid of the lowest eligible and responsive bidder exceeds the established construction budget, the ARCHITECT shall, if instructed by the City revise the scope or quality of the Project for the purposes of bringing the cost estimate within this limit. Such revisions shall be made without additional compensation to the ARCHITECT.

D. Assistant in Bidding and Award of Contract

The ARCHITECT and OPM shall assist the Public Buildings Commissioner as follows:

- a. Prior to bid opening

- Receive all inquiries relating to bidding documents and answer questions
  - Prepare any bid addenda as required
  - Attend any pre-bid conference, if scheduled
- b. At bid opening and following:
- Attend bid opening
  - Review and evaluate bids, contractor qualifications, and acceptability (both prime and sub), and make recommendations as to contract award.
- E. Construction Administration Phase Services (from initiation to completion)

Following the award of the bid, the ARCHITECT and OPM shall administer the construction agreement, including the following:

- a. Routine construction administration.
- b. Check, approve and process shop drawings.
- c. Furnish the construction contractor with clarification drawings or written interpretations as needed.
- d. Perform on-site visits weekly, or additional, as required during construction and prepare field visit reports (minimum of one (1) visit per week).
- e. Notify the City of any work which fails to conform to construction contract documents, including the failure of the construction contractor to maintain the established time schedule and follow with recommendations to remedy the situation.
- f. Obtain from the construction contractor and deliver to the City occupancy permits, guarantees, and other similar items.
- g. Prepare punch list and issue certificate of substantial completion and final completion.

- h. Review applications for payment, verify quantity and quality of work performed by construction contractor and certify requisitions for payment by the City.
- i. Coordinate with the inspectors having jurisdictions over the work performed.
- j. Determine adequacy of work of final acceptance, and upon approval of the City issue Certificate of Completion.
- k. Attend meeting and dispute conferences as necessary and prepare minutes of such meetings.
- l. Perform post construction visit to evaluate final building condition and review guarantees submitted by contractor.

F. Meetings

As part of services required, and subject to the nature of each project, the OPM shall be required, shall be required to meet with the Design Review Committee, various City's technical departments and committees, citizen groups, and state or federal agencies, when required.

**SCHEDULE B**

**COMPENSATION AND METHOD OF PAYMENT**

I. Method of Determining Compensation

A fee for each Project shall be negotiated based upon the services called for. The City anticipates that each Project fee may be developed based either upon a set, agreed upon figure or based upon time and materials cost. In some Projects, both cost bases may be appropriate and necessary subject to the nature and requirements of the particular Project and the services needed.

II. Billing Rates

On Projects where it is determined by the City and agreed upon by the OPM that a fee shall be determined based upon time and materials cost, rates of payment shall be based upon the following:

Day rates are based on actual salaries paid to individuals performing work on the Project plus salary costs, overhead and profit.

Range of Cost Per Hour

Principals \_\_\_\_\_

Professionals \_\_\_\_\_

III. Payment Schedule

On projects where the City agrees to pay the OPM a lump sum fee for basic services, which include construction documents and construction administration, the fee is to be divided as follows:

On completion of:	% Paid
Schematic Phase	15%
Design Development	20%
Construction Documents & Final Cost Estimate	30%
Contract Award	10%
Contract Administration	10%
Final Installment (90 calendar days after Certificate of Substantial Completion accepted by the City)	15%

Such requisitions shall be submitted upon completion of work phases detailed above.

#### IV. Reimbursable Expenses

The City shall pay the OPM for reimbursable expenses, subject to the approval of the Public Buildings Commissioner, and subject to the identification of such expenses attached to a requisition submitted by the OPM to the City. Reimbursable expenses shall be those costs incurred for printing construction document for bid, for surveying, for testing, for making of models and renderings and for such specialized sub-consultant services as may be required in the performance for the work within Schedule A Scope of Services, herein and shall be reimbursed to the OPM at direct cost.

The Letter of Authorization from the City of Newton for each specific Project shall detail each reimbursable expense by line item.

Those excluded reimbursable expenses are: Long Distance Communications, Plotting, Mileage and tolls.

The City shall reimburse the OPM at their cost plus 5% for approved Consultant & Reimbursable Expenses.

#### V. Payment

Payment shall be made to the OPM within thirty (30) days of submission by the OPM to the City of a detailed requisition for payment describing the basic and extra services performed and identifying reimbursable expenditures incurred during the preceding period. The City shall have the right to review and approve the OPM'S requisition. Payment shall not be due the OPM until his requisition has been approved.

Requisitions for Projects billed on a time and materials basis shall include the number of hours worked, the individual who worked these hours, hourly rates, material and overhead costs.

All requisitions submitted shall be accomplished by a detailed time record as well as the appropriate documentation for reimbursable expenses.

## **SCHEDULE C**

- I. The Agreement shall take effect as of the date of execution and shall terminate one year from the date of the Agreement, with an option of two additional (1) year renewals, should the City of Newton wish to pick up the option.
  
- II. The Architect shall complete all work requested by the City that is within the Scope of Services set forth in Schedule A, in an expeditious manner subject to periodic reviews and approvals by the City. Where possible, the OPM shall endeavor to perform the required work in advance of schedule.
  
- III. Time schedule for specific “on call” Projects will be found in the Letter of Authorization for each specific Project.

**SCHEDULE D  
PROFESSIONAL SERVICES WORK AUTHORIZATION FORM**

\_\_\_\_\_  
Control Number \_\_\_\_\_  
Date

\_\_\_\_\_  
Time

\_\_\_\_\_  
Building Street Address

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Proposed Budget \_\_\_\_\_  
Budget Code

=====  
Compensation:

Fee Type

( ) Lump Sum \_\_\_\_\_  
Reimbursable Expenses Authorized

( ) Time and Materials Not to Exceed \_\_\_\_\_

=====  
SCOPE OF WORK:

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

\_\_\_\_\_  
Complete Date of Construction

=====  
The Architect is requested to review the described work and determine a fixed fee or a fee based upon time and material cost as called for and return for authorization. Upon authorization by the Public Buildings Commissioner, the undersigned agrees to Perform its services in accordance with the Professional Services Contract Dated \_\_\_\_\_

\_\_\_\_\_  
Fee

\_\_\_\_\_  
Project Completion Date \_\_\_\_\_  
Signature (Architect/Engineer)

=====  
You are hereby authorized to proceed with the work described herein this Professional Work Authorization and in accordance with the Professional Services Contract dated \_\_\_\_\_

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



**SCHEDULE E**

**CERTIFICATE OF AUTHORITY - CORPORATE**

1. I hereby certify that I am the Clerk/Secretary of \_\_\_\_\_  
(insert full name of Corporation)
2. corporation, and that \_\_\_\_\_  
(insert the name of officer who signed the **contract and bonds.**)
3. is the duly elected \_\_\_\_\_  
(insert the title of the officer in line 2)
4. of said corporation, and that on \_\_\_\_\_  
(insert a date that is **ON OR BEFORE** the date the officer signed the **contract and bonds.**)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. \_\_\_\_\_ the \_\_\_\_\_  
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: \_\_\_\_\_ *AFFIX CORPORATE SEAL HERE*  
(Signature of **Clerk or Secretary**)\*
7. Name: \_\_\_\_\_  
(Please print or type name in line 6)\*
8. Date: \_\_\_\_\_  
(insert a date that is **ON OR AFTER** the date the officer signed the **contract and bonds.**)

\* The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.

CONTRACT ATTACHMENT C

**CONTRACT FOR PROJECT MANAGEMENT QUALIFICATIONS**

**AMENDMENT NO. \_\_\_\_\_**

**WHEREAS**, the \_\_\_\_\_ (“City”) and \_\_\_\_\_, (the “City’s Project Manager”) (collectively, the “Parties”) entered into a Contract for Project Management Qualifications for the Project (Project Number \_\_\_\_\_) at the \_\_\_\_\_. “Contract”; and

**WHEREAS**, effective as of \_\_\_\_\_, the Parties wish to amend the Contract:

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants contained in this Amendment, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. The City hereby authorizes the City’s Project Manager (OPM) to perform the following qualifications:

\_\_\_\_\_  
\_\_\_\_\_.

pursuant to the terms and conditions set forth in the Contract, as amended.

2. For the performance of qualifications required under the Contract, as amended, the OPM shall be compensated by the City in accordance with the following Fee for Basic Qualifications:

Fee for Basic Qualifications:	Original Contract	After this Amendment
Educational Program Phase	\$ _____	\$ _____
Feasibility Study Phase	\$ _____	\$ _____
Schematic Design / Site Plan Approval Phase	\$ _____	\$ _____
Design Development Phase	\$ _____	\$ _____
Construction Document Phase	\$ _____	\$ _____
Early Bid Packages Phase	\$ _____	\$ _____
Bid & Negotiation Phase	\$ _____	\$ _____
Construction Administration Phase	\$ _____	\$ _____
Project Close Out Phase	\$ _____	\$ _____
<b>Total Fee</b>	\$ _____	\$ _____

3. The Construction Budget shall be as follows:

Original Budget: \$ \_\_\_\_\_

Amended Budget \$ \_\_\_\_\_

4. The Project Schedule shall be as follows:

Original Schedule: \_\_\_\_\_

Amended Schedule \_\_\_\_\_

5. This Amendment contains all of the terms and conditions agreed upon by the Parties as amendments to the original Contract. No other understandings or representations, oral or otherwise, regarding amendments to the original Contract shall be deemed to exist or bind the Parties, and all other terms and conditions of the Contract remain in full force and effect.

IN WITNESS WHEREOF, the City and the OPM have caused this Amendment to be executed by their respective authorized officers.

**CITY:**

CITY OF NEWTON

Ruthanne Fuller  
\_\_\_\_\_  
(print name)

Mayor  
\_\_\_\_\_  
(print title)

By \_\_\_\_\_  
(signature and seal)

Date \_\_\_\_\_

\_\_\_\_\_  
Joshua Morse  
Public Buildings Commissioner

Approved as to Legal Form & Character

\_\_\_\_\_  
Associate City Solicitor

**CITY'S PROJECT MANAGER:**

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(print title)

By \_\_\_\_\_  
(signature )

Date \_\_\_\_\_

(Attach Certificate of City)

I hereby certify funds are available for this contract  
in the amount of \$

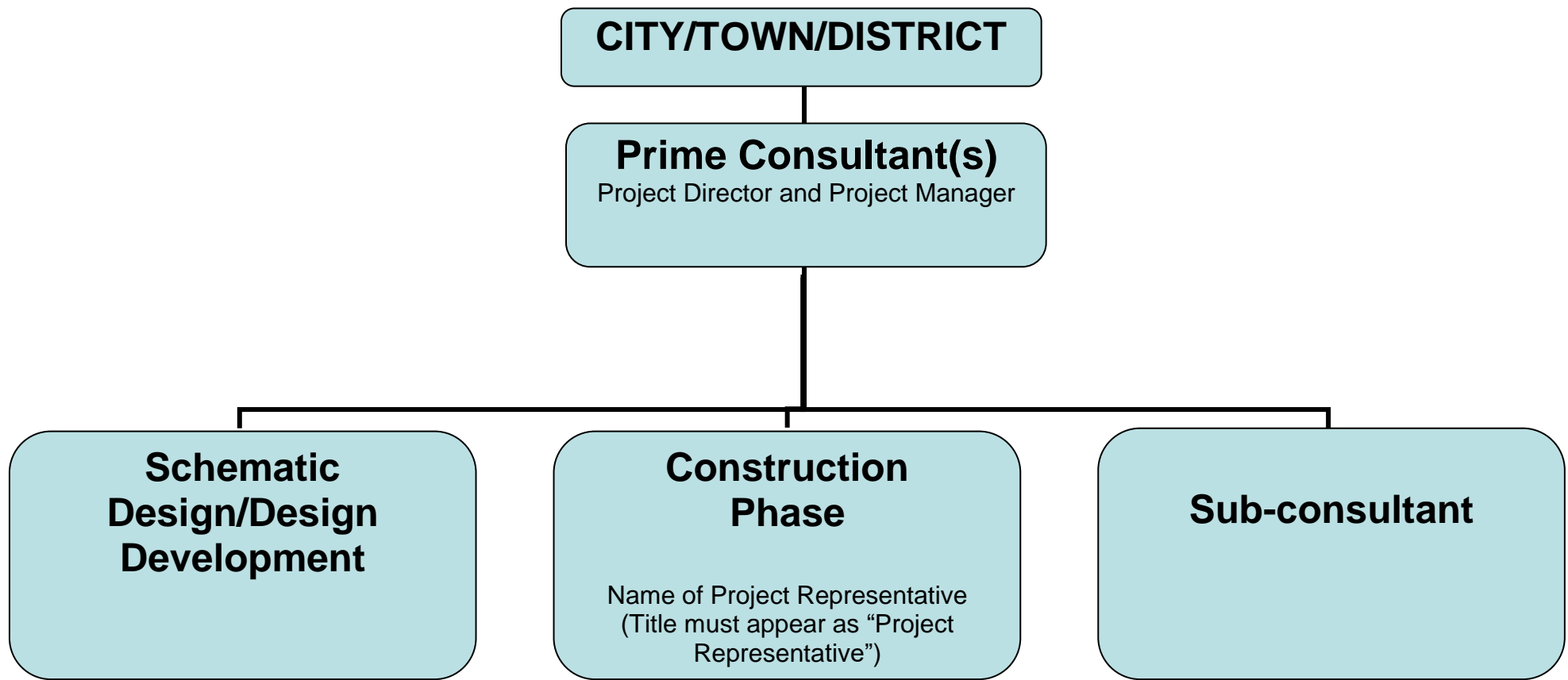
\_\_\_\_\_  
Comptroller of Accounts

**ATTACHMENT C**  
**OPM APPLICATION FORM – March 2017**

**ATTACHMENT C**

<b>City's Project Manager Application Form – March 2017</b>			
1. Project Name/Location for Which Firm is Filing:			
1a. Project Number:			
2a. Respondent, Firm (Or Joint-Venture) - Name And Address Of Primary Office To Perform The Work:	2b. Name And Address Of Other Participating Offices Of The Prime Applicant, If Different From Item 3a Above:		
2c. Date Present And Predecessor Firms Were Established:	2d. Name And Address Of Parent Company, If Any:		
2e. Federal ID #:	2f. Name of Proposed Project Director:		
3. Personnel From Prime Firm Included In Question #2 Above By Discipline (List Each Person Only Once, By Primary Function -- Average Number Employed Throughout The Preceding 6 Month Period. Indicate Both The Total Number In Each Discipline):			
Admin. Personnel _____	Cost Estimators _____	Other _____	
Architects _____	Electrical Engrs. _____	_____	_____
Acoustical Engrs. _____	Environmental Engrs. _____	_____	_____
Civil Engrs. _____	Licensed Site Profs. _____	_____	_____
Code Specialists _____	Mechanical Engrs. _____	_____	_____
Construction Inspectors _____		_____	_____
		Total	_____
4. Has this Joint-Venture previously worked together? <input type="checkbox"/> Yes <input type="checkbox"/> No			

5. List ONLY Those Prime and Sub-Consultant Personnel identified as Key personnel in the Response to Request for Qualifications. This Information Should Be Presented Below In The Form Of An Organizational Chart modified to fit the firm's proposed management approach. Include Name of Firm And Name Of The Person:



6. Brief Resume for Key Personnel <b>ONLY</b> as indicated in the Request for Qualifications. Resumes Should Be Consistent With The Persons Listed On The Organizational Chart In Question # 5. Additional Sheets Should Be Provided Only As Required For The Number Of Key Personnel And They Must Be In The Format Provided. By Including A Firm As A Subconsultant, The Prime Applicant Certifies That The Listed Firm Has Agreed To Work On This Project, Should The Team Be Selected.	
a. Name And Title Within Firm:	a. Name And Title Within Firm:
b. Project Assignment:	b. Project Assignment:
c. Name And Address Of Office In Which Individual Identified In 6a Resides:	c. Name And Address Of Office In Which Individual Identified In 6a Resides:
d. Years' Experience: With This Firm: _____ With Other Firms: _____	d. Years' Experience: With This Firm: _____ With Other Firms: _____
e. Education: Degree(s) /Year/Specialization	e. Education: Degree(s) /Year/Specialization
f. Date of MCPPO Certification:	f. Date of MCPPO Certification:
g. Applicable Registrations and Certifications :	g. Applicable Registrations and Certifications:
h. Current Work Assignments And Availability For This Project ( <i>availability should be identified as a percentage: e.g.: "As of 5/30, 50% available"</i> ):	h. Current Work Assignments And Availability For This Project ( <i>availability should be identified as a percentage: e.g.: "As of 5/30, 50% available"</i> ):
i. Other Experience And Qualifications Relevant To The Proposed Project: (Identify OPM Firm By Which Employed, If Not Current Firm. Please distinguish between OPM work and any design work performed by the firm.):	i. Other Experience And Qualifications Relevant To The Proposed Project: (Identify OPM Firm By Which Employed, If Not Current Firm. Please distinguish between OPM work and any design work performed by the firm.):



7a Past Performance: List all Completed Projects, in excess of \$1.5 million, for which the Prime Applicant has performed, or has entered into a contract to perform City's Project Management Qualifications for all Public Agencies within the Commonwealth within the past 10 years.									
a. Project Name And Location Project Director	b. Brief Description Of Project And Qualifications (Include Reference To Areas Of Similar Experience)	c. Project Dollar Value	d. Completion Date (Actual Or Estimate)	e. On Time (Yes Or No)	f. Original Construction Contract Value	g. Change Orders	h. Number of Accidents and Safety Violations	i. Dollar Value of any Safety fines	j. Number And Outcome Of Legal Actions
(1)									
(2)									
(3)									
(4)									
(5)									

7b. Past Performance: Provide the following information for those completed Projects listed above in 7a for which the Prime Applicant has performed, or has entered into a contract to perform (cont) City's Project Management Qualifications for all Public Agencies within the Commonwealth within the past 10 years.						
a. Project Name And Location Project Director	b. Original Project Budget	c. Final Project Budget	d. If different, provide reason(s) for variance	e. Original Project Completion	e. Actual Project Completion On Time (Yes or No)	f. If different, provide reason(s) for variance.
(1)						
(2)						
(3)						
(4)						
(5)						

8. **Capacity:** Identify all current/ongoing Work by Prime Applicant, Joint-Venture Members or Sub-consultants. Identify project participants and highlight any work involving the project participants identified in the response.

Project Name And Location Project Director	b. Brief Description Of Project And Qualifications (Include Reference To Areas Of Similar Experience)	c. Original Project Budget	d. Current Project Budget	d. Project Completion Date	e. Current forecast completion date On Time (Yes Or No)	f. Original Construction Contract Value	g. Number and dollar value of Change Orders	h. Number and dollar value of claims
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								

9. References: Provide the following information for completed and current Projects listed above in 7 and 8 for which the Prime Applicant has performed, or has entered into a contract to perform City's Project Management Qualifications for all Public Agencies within the Commonwealth within the past 10 years.						
a.	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person
	1)		5)		9)	
	2)		6)		10)	
	3)		7)		11)	
	4)		8)		12)	

9. Use This Space To Provide Any Additional Information Or Description Of Resources Supporting The Qualifications Of Your Firm And That Of Your Sub-consultants. If Needed, Up To Three, Double-Sided 8 1/2" X 11" Supplementary Sheets Will Be Accepted. **APPLICANTS ARE REQUIRED TO RESPOND SPECIFICALLY IN THIS SECTION TO THE AREAS OF EXPERIENCE REQUESTED.**

10. I hereby certify that the undersigned is an Authorized Signatory of Firm and is a Principal or Officer of Firm. The information contained in this application is true, accurate and sworn to by the undersigned under the pains and penalties of perjury.

Submitted By (Signature) \_\_\_\_\_ Printed Name And Title \_\_\_\_\_ Date \_\_\_\_\_

**ATTACHMENT D**

- D.1 BIDDERS QUALIFICATION AND REFERENCE FORM
- D.2 CERTIFICATE OF AUTHORITY BUSINESS CORPORATION
- D.3 CERTIFICATION OF VOTE
- D.4 SATISFACTION OF STATE TAX REQUIREMENTS – ATTEST FORM
- D.5 CERTIFICATE OF FOREIGN CORPORATION
- D.6 CERTIFICATE OF NON-COLLUSION
- D.7 DEBARMENT LETTER
- D.8 IRS FORM W-9
- D.9 BUSINESS CATEGORY INFORMATION FORM

Please review the main body of the RFQ to identify required certifications and other requirements.

**ATTACHMENT D.1  
CITY OF NEWTON**

**BIDDER'S QUALIFICATIONS AND REFERENCES FORM**

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: \_\_\_\_\_

2. WHEN ORGANIZED: \_\_\_\_\_

3. INCORPORATED? \_\_\_\_ YES \_\_\_\_ NO DATE AND STATE OF INCORPORATION: \_\_\_\_\_

4. IS YOUR BUSINESS A **MBE**? \_\_\_\_ YES \_\_\_\_ NO **WBE**? \_\_\_\_ YES \_\_\_\_ NO or **MWBE**? \_\_\_\_ YES \_\_\_\_ NO

\* 5. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OF COMPLETION:

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

\* 6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?

\_\_\_\_ YES \_\_\_\_ NO

IF YES, WHERE AND WHY?

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

\* 7. HAVE YOU EVER DEFAULTED ON A CONTRACT? \_\_\_\_ YES \_\_\_\_ NO

IF YES, PROVIDE DETAILS.

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

\* 8. LIST YOUR VEHICLES/EQUIPMENT AVAILABLE FOR THIS CONTRACT:

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

\* 9. IN THE SPACES FOLLOWING, PROVIDE INFORMATION REGARDING CONTRACTS COMPLETED BY YOUR FIRM SIMILAR IN NATURE TO THE PROJECT BEING BID. A MINIMUM OF FOUR (4) CONTRACTS SHALL BE LISTED. PUBLICLY BID CONTRACTS ARE PREFERRED, BUT NOT MANDATORY.

PROJECT NAME: \_\_\_\_\_

CITY: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_

DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_

PUBLICLY BID? \_\_\_\_ YES \_\_\_\_ NO

TYPE OF WORK?: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)

---

PROJECT NAME: \_\_\_\_\_  
CITY: \_\_\_\_\_  
CITY/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID? \_\_\_\_\_ YES \_\_\_\_\_ NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)

---

PROJECT NAME: \_\_\_\_\_  
CITY: \_\_\_\_\_  
CITY/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID? \_\_\_\_\_ YES \_\_\_\_\_ NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)

---

PROJECT NAME: \_\_\_\_\_  
CITY: \_\_\_\_\_  
CITY/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID? \_\_\_\_\_ YES \_\_\_\_\_ NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)

---

10. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: \_\_\_\_\_ BIDDER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_



**ATTACHM3NT D.2**

**CERTIFICATE OF AUTHORITY – BUSINESS CORPORATIONS**

As duly authorized meeting of the Board of Directors of \_\_\_\_\_  
(name of corporation)  
held on \_\_\_\_\_ at which all Directors were present or waived notice, it  
was voted that, \_\_\_\_\_ (name) of this company be and hereby is  
authorized to execute contracts and bonds in the name and behalf of said company, and affix  
its Corporate Seal thereto, and such execution of any contract of obligation in this  
company’s name on its behalf by such \_\_\_\_\_ under seal of the company, shall be valid and  
binding upon this company.

A TRUE COPY

ATTEST (clerk or secretary)

\_\_\_\_\_  
Place of Business

**ATTACHMENT D.3**

**CERTIFICATION OF VOTE**

I hereby certify that I am the clerk/secretary of the \_\_\_\_\_  
(name of company)  
that is the duly elected \_\_\_\_\_ of said company, and the  
above vote has not been amended or rescinded and remains in full force and  
effect as of the  
\_\_\_\_\_, date on which the corporation's  
authorized representative, named above, affixed his/her signature to this contract.

Clerk or Secretary  
(Corporate Seal)

**ATTACHMENT D.4**

**SATISFACTION OF STATE TAX REQUIREMENTS**

**ATTEST FORM**

Pursuant to M.G.L. Chapter 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

---

Social Security Number or  
Federal Identification Number

---

Signature of Individual  
or Corporate Name

---

Date:

---

Corporate Officer (if applicable)

**ATTACHMENT D.5**

**CERTIFICATE OF FOREIGN CORPORATION**

The undersigned hereby certifies that it has been duly established, organized, or chartered as a corporation under the laws of:

---

**(Jurisdiction)**

**The undersigned further certifies that it has complied with the requirements of M.G.L. c. 30, §39L (if applicable) and with the requirements of M.G.L. c. 156D, §15.03 relative to the registration and operation of foreign corporations within the Commonwealth of Massachusetts.**

---

**Name of person signing proposal**

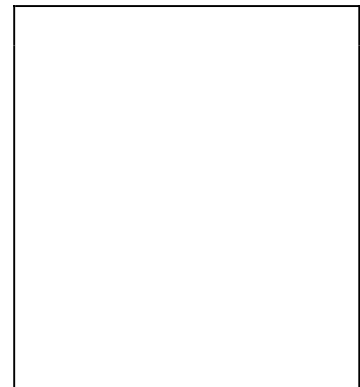
---

**Signature of person signing proposal**

---

**Name of Business (Please Print or Type)**

*Affix Corporate Seal here*



**ATTACHMENT D.6**

**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person, business, partnership, corporation, union committee, club or other organization, entity or group of individuals.

---

**Signature of individual submitting bid or proposal**

---


**Name of Business**

**ATTACHMENT D.7**

City of Newton



Mayor  
Ruthanne Fuller

**Purchasing Department**  
Nicholas Read  *Chief Procurement Officer*  
1000 Commonwealth Avenue  
Newton Centre, MA 02459-1449  
purchasing@newtonma.gov

Telephone  
(617) 796-1220  
Fax:  
(617) 796-1227  
TDD/TTY  
(617) 796-1089

Date

Vendor

Re: Debarment Letter for Invitation For Bid # 23-41

As a potential vendor on the above contract, the City requires that you provide a debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

**Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.**

I hereby certify under pains and penalties of perjury that neither I nor any principal(s) of the Company identified below is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

\_\_\_\_\_(Name)  
\_\_\_\_\_(Company)  
\_\_\_\_\_(Address)  
\_\_\_\_\_(Address)  
PHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

If you have questions, please contact Nicholas Read, Chief Procurement Officer at (617) 796-1220.

# ATTACHMENT D.8

Form <b>W-9</b> (Rev. November 2017) Department of the Treasury Internal Revenue Service	<h2 style="margin: 0;">Request for Taxpayer Identification Number and Certification</h2> <p style="margin: 0;">▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.</p>	Give Form to the requester. Do not send to the IRS.
Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small> <input type="checkbox"/> Other (see instructions) ▶ _____	Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

<h3 style="margin: 0;">Part I Taxpayer Identification Number (TIN)</h3> <p>Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i>, later.</p> <p><b>Note:</b> If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Social security number</td> </tr> <tr> <td style="text-align: center;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> </tr> </table> </td> </tr> <tr> <td style="text-align: center;">or</td> </tr> <tr> <td style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="text-align: center;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> </tr> </table> </td> </tr> </table>	Social security number	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> </tr> </table>					or	Employer identification number	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> <td style="width: 25%; height: 20px;"> </td> </tr> </table>				
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<h3 style="margin: 0;">Part II Certification</h3> <p>Under penalties of perjury, I certify that:</p> <ol style="list-style-type: none"> <li>The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and</li> <li>I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and</li> <li>I am a U.S. citizen or other U.S. person (defined below); and</li> <li>The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.</li> </ol> <p><b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.</p>	
---	--

<b>Sign Here</b>	Signature of U.S. person ▶ _____	Date ▶ _____
------------------	----------------------------------	--------------

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

**Attachment D.9**

**Business Category Information Form\***

**RFQ No. 23-41**

**On Call City's Project Manager Services**

<b>Business Type Categories*</b>	<b>Select All That Apply</b>
MBE: Minority-Owned Business Enterprise	
WBE: Women-Owned Business Enterprise	
VBE: Veteran Business Enterprise	
SDVOBE: Service-Disabled Veteran-Owned Business Enterprises	
DOBE: Disability-Owned Business Enterprise	
LGBTBE: Lesbian, Gay, Bisexual, Transgender Business Enterprise	

\*Information is being collected as part of a City initiative to open contract opportunities to underrepresented vendors.

I do not wish to complete this form.

There is no penalty for persons who do not complete this Form, and whether or not the Form is completed will not be taken into consideration in awarding a bid.

I certify that the foregoing information is true and correct.

\_\_\_\_\_

By: \_\_\_\_\_

Date:



## ATTACHMENT E

### CITY OF NEWTON DESIGNER SELECTION COMMITTEE – ORDINACE DESIGNER SELECTION PROCEDURES

#### PUBLIC BUILDINGS AND INSPECTIONAL QUALIFICATIONS

#### Art. IV. Designer Selection Committee, §§ 5-35—5-53

#### DESIGNER SELECTION COMMITTEE

#### ARTICLE IV.

##### Sec. 5-35. Established; purpose.

A designer selection committee is hereby established to make recommendations to the mayor whenever an architect is to be engaged by the city for any purpose involving construction, alteration, repair or maintenance of a public building, and the mayor shall consult with this committee and shall select said architect from these recommendations. At least three (3) recommendations shall be offered and the mayor may request three (3) additional recommendations. The designer selection committee shall also oversee the selection process for design qualifications contracts subject to the provisions of section 38K of chapter 7 of the General Laws. The designer selection committee shall not oversee the selection process for design qualifications contracts in any instance where an alternative procurement process inconsistent with this section is prescribed by state or federal laws or regulations.

The public buildings commissioner may consult with the designer selection committee regarding procurement of any design qualifications contract not otherwise required to be overseen by the committee pursuant to the provisions of this section. (Rev. Ords. 1973, §2-346; Ord. No. Z-109, 05-07-12)

**Cross references**—Commissions and committees generally, Ch. 2, Art. VII; regulations governing appointment to and service on commissions and committees, § 2-8

##### Sec. 5-36. Composition, appointment and compensation of members.

When the public facility to be constructed is not under the jurisdiction of the school committee, the designer selection committee shall consist of six (6) members, three (3) of whom shall be appointed by the mayor, and three

(2) of whom shall be selected by the city council. For school facilities, three (3) additional members shall be selected by the school committee. All of the persons serving on this committee shall serve without compensation and shall be residents of the city. (Rev. Ords. 1973, § 2-347)

##### Sec. 5-37. Terms of members, vacancies, procedures.

Members of the designer selection committee shall serve coterminous with the terms of their respective appointing authority. Vacancies in the committee shall be filled by appointment in the same manner by the designated appointing authority as the original appointments for the period of the unexpired term. The committee shall elect a chairman annually and establish rules and procedures. Committee members shall serve at the pleasure of their respective appointing authority. The public buildings department shall provide such assistance to the committee as is necessary for the exercise of the committee's responsibilities. Records of the committee shall be public documents.

The committee shall make reports no less than annually to the respective appointing authorities.  
(Rev. Ords. 1973, § 2-348; Ord. No. 190, 12-20-76; Ord. No. 317, 2-20-79; Ord. No. S-301, 2-1-88)

## DESIGNER SELECTION PROCEDURES

City of Newton Designer Selection  
Committee: Designer Selection  
Procedures

City of Newton Designer Selection Committee  
Designer Selection Procedures (Adopted  
October 26, 2004)

1. These procedures govern the selection of designers for any municipal building project subject to the state designer selection law, M.G.L. c. 7, §38A1/2 -0 or subject to the provisions of §11-8 of the City of Newton Charter. Any other local law governing the procurement of qualifications will be inapplicable to these procurements.
2. the Designer Selection Committee [hereinafter referred to as the "Committee"] has the authority to conduct the designer selection process for the City of Newton (hereinafter referred to as the "City") pursuant to the provisions of § 11-8 of the City of Newton Charter and §§ 5-35-5-38 of the Revised Ordinances of the City of Newton, 2001. The Committee may delegate any duties described herein to the extent such delegation is permissible by law.
3. The Committee shall conduct the designer selection process.

No member of the Committee shall participate in the selection of a designer for any project if the member, or any of the member's immediate family:

- a. has a direct or indirect financial interest in the award of the design contract to any applicant;
  - b. is currently employed by, or is a consultant to or under contract to, any applicant;
  - c. is negotiating or has an arrangement concerning future employment or contracting with any applicant; or
  - d. has an Cityship interest in, or is an officer or director of, any applicant.
4. A Request for Qualifications (RFQ) for each contract subject to these procedures shall be advertised in a newspaper of general circulation in the locality of the building project, in the *Central Register* published by the Secretary of the Commonwealth, and in any other place required by the Committee, at least two weeks before the deadline for filing applications.

5. The advertisement shall contain the following information:
  - a. a description of the project, including the specific designer qualifications sought, the estimated construction cost, and the time period within which the project is to be completed;
  - b. if there is a program for the building project, a statement of when and where the program will be available for inspection by applicants;
  - c. when and where a briefing session (if any) will be held;
  - d. the qualifications required of applicants;
  - e. the categories of designers' consultants, if any, for which applicants must list names of consultants they may use;
  - f. whether the fee has been set or will be negotiated; if the fee has been set, the amount of the fee must be listed in the advertisement;
  - g. when and where the RFQ can be obtained and the applications must be delivered.

6. The RFQ shall include the Application to Designer Selection Committee Form. The Application Form may be amended to include additional information on a project-specific basis.

7. The Committee shall evaluate applicants based on the following criteria:

- a. prior similar experience;
- b. past performance on public and private projects;
- c. financial stability;
- d. identity and qualifications of the consultants who will work with the applicants on the project;
- e. any other criteria that the Committee considers relevant to the project.

8. The Committee shall select at least three finalists. Finalists may be required to appear for an interview or provide additional information to the Committee, provided that all finalists are afforded an equal opportunity to do so. The Committee may determine that it is in the best interest of the City to reject all applicants and re-issue the RFQ.

9. The Committee shall rank the finalists in order of qualification and transmit the list of ranked finalists to the Mayor. No person or firm, including applicants' listed consultants, debated pursuant to M.G.L. c. 149, §44C, shall be included as a finalist on the list.

The list must be accompanied by a written explanation of the reasons for selection including the recorded vote, if any. The written explanation, which may be the record or the minutes of the Commission's meeting at which the selection was made, and recorded vote, if any, shall be public records and shall be maintained in the contract file of the designer selected by the Mayor.

10. If the fee was set prior to the selection process, the Mayor shall select a designer from the list of finalists. If the Mayor selects a designer other than the one ranked first by the Committee, the Mayor shall file a written justification for the selection with the Committee and maintain a copy in the contract file. In accordance with the provisions of §5-35 of the Revised Ordinances of the City of Newton, 2001, the Mayor may request three (3) additional recommendations from which he may make his selection.

11. If the fee is to be negotiated, the Mayor shall review the list of finalists and may exclude any designer from the list if a written explanation of the exclusion is filed with the Committee and maintained in the contract file. The Mayor shall request a fee proposal from the first ranked designer remaining on the list and begin contract negotiations. If the Mayor is unable to negotiate a satisfactory fee with the first ranked designer, negotiations shall be terminated and undertaken with the remaining designers, one at a time, in the order in which they were ranked by the Committee until agreement is reached.

In no event may a fee be negotiated which is higher than the maximum fee set by the Mayor prior to selection of finalists.

12. If the Mayor is unable to negotiate a satisfactory fee with any of the finalists, in accordance with the provisions of §5-35 of the Revised Ordinances of the City of Newton, 200 I, the Mayor may request three (3) additional recommendations from which he may make his selection.
13. The City may allow a designer who conducted a feasibility study to continue with the project design, provided that an independent review by a knowledgeable and competent individual or firm doing such work finds the feasibility designer's work to be reasonable and adequate. The City must first advertise for the feasibility study. The City may include a statement in the advertisement and/or RFQ that the feasibility study designer is eligible to compete for the subsequent design qualifications contract. Once the study is complete, the City may publish a second advertisement for the project design. If the feasibility designer is selected, the City may commission the independent review prior to allowing the designer to proceed with the work.
14. Every contract for design qualifications shall include the following:
  - a. certification that the designer or construction manager has not given, offered, or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the contract for design qualifications;
  - b. certification that no consultant to, or subcontractor for, the designer or construction manager has given, offered, or agreed to give any gift, contribution, or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the designer or construction manager;
  - c. certification that no person, corporation, or other entity, other than bona fide full-time employee of the designer or construction manager, has been retained or hired by the designer or construction manager to solicit for or in any way assist the designer or construction manager in obtaining the contract for design qualifications upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer; and
  - d. certification that the designer has internal accounting controls as required by M.G.L. c. 30, §39R(c) and that the designer has filed and will continue to file an audited financial statement as required by M.G.L. c. 30, §39R(d).

All fees shall be stated in design contracts, and in any subsequent amendments thereto, as

a total dollar amount. Contracts may provide for equitable adjustments in the event of changes in scope or qualifications.

15. The City shall not enter into a contract for design qualifications unless the designer has obtained professional liability insurance covering negligent errors, omissions, and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of the contract. The total amount of such insurance shall at a minimum equal the lesser of one million (\$1,000,000) dollars or ten percent (10%) of the project's estimated cost of construction, or such larger amounts as the City may require, for the applicable period of limitations. A designer required by the City to obtain all or a portion of such insurance coverage at its own expense shall furnish a certificate or certificates of insurance coverage to the City prior to the award of the contract.

16. Every contract for design qualifications shall a provision that the designer or its consultants shall not be compensated for any qualifications involved in preparing changes that are required for additional work that should have been anticipated by the designer in the preparation of the bid documents, as reasonably determined by the individual responsible for administering the design contract.

17. In the event of an emergency that precludes the normal use of these designer selection procedures, the Committee may elect to authorize expedited procedures to address the emergency. The Committee shall document in writing the reasons for the emergency declaration, the proposed scope of work, the estimated cost of construction, the established fee for the needed design qualifications, and any other relevant information.

The Committee may select three finalists from any standing list of designers who have applied for projects of a similar nature, or may otherwise select three designers to be considered as finalists for the project. The Committee shall rank the finalists in order of qualification and select the designer for the emergency work.

18. The City shall publish the name of any designer awarded a contract in the *Central Register*.

19. The following records shall be kept by the City:

- a. all information supplied by or obtained about each applicant;
- b. all actions taken relating to the project; and
- c. any other records related to designer selection.

All records shall be available for inspection by the state Designer Selection Board and other authorized agencies.

The City shall evaluate designers' performance on contracts in accordance with M.G.L. c. 7, §38E (g)

**ATTACHMENT F**  
**CITY OF NEWTON ORDINANCES**  
**DESIGN REVIEW COMMITTEE ORDINANCE**

## Chapter 5

### PUBLIC BUILDINGS AND INSPECTIONAL QUALIFICATIONS\*

- Art. I.**        **Public Buildings Department, §§ 5-1—5-15**  
**Art. V.**        **Design Review Committee, §§ 5-54—5-58**

#### ARTICLE I. PUBLIC BUILDINGS DEPARTMENT

##### **Sec. 5-1. Department established.**

There shall be established a public buildings department, which shall have as its head, a public buildings commissioner. This person shall be an officer of the city to whom the provisions of laws applicable to department heads shall apply. (Ord. No. S-301, 2-1-88)

**Charter reference**—Administrative departments, Art. 6

##### Sec. 5-2. Duties and responsibilities.

The public buildings commissioner shall have as among his duties and responsibilities the construction, alteration, repair and maintenance of all public buildings except as otherwise may be provided for by the charter of the city. (Ord. No. S-301, 2-1-88)

##### Sec. 5-3. Employees.

The public buildings commissioner, subject to the civil service laws of the commonwealth, shall have the authority to appoint or hire such support staff as the work requires, and to remove any of them for cause. (Ord. No. S-301, 2-1-88)

Secs. 5-4—5-15. Reserved.

Secs. 5-31—5-34. Reserved.

Secs. 5-38—5-53. Reserved.



**ARTICLE V.**  
**DESIGN REVIEW COMMITTEE**

**Sec. 5-54. Established.**

(a) A design review committee is hereby established to coordinate the design review process for any public facility which has been submitted to the committee by the mayor, city council or any other public agency or committee within the city.

(b) The design review committee shall examine the specifications prepared by the using agency and shall consult with the planning, public buildings and other city departments, or if appropriate, may request the public buildings commissioner to hire outside consultants to assist the design review committee in studying the feasibility of the proposed facility and shall consider to the extent the committee deems appropriate a range of solutions such as renewal, renovation or replacement within realistic budgetary limits and shall make a recommendation. The design review committee's study of the feasibility of the proposed facility shall include a review of indoor environmental health issues. The design review committee may make recommendations for specific program requirements for the proposed facility to address indoor environmental health issues. The design review committee shall include in its feasibility study a review of the proposed facility's use of natural resources and energy. The design review committee may make recommendations as to site planning, building design, or construction that contribute significantly to the proposed facility's efficient use and conservation of natural resources and energy. Whenever an architect is proposed to be engaged by the city in any design or consulting capacity, the design review committee shall review the contract between the city and the architect prior to its execution to assure that the scope of the work, as described in said contract, complies with the program requirements for the proposed public facility.

(c) The design review committee shall review the architect's solution for compliance with the program and time schedule requirements and shall evaluate the quality, appropriateness and functional attributes of the architect's solution. The committee shall have periodic meetings with the architect and hold periodic presentations and reviews and shall make reports as the project moves through the various stages of design to contract development. Prior to the issuance of bid documents, design review recommendations to the architect shall be made by the design review committee in writing to the commissioner of public buildings for his approval and issued from his office. The commissioner of public buildings shall not permit the construction contract to be advertised for public bid until the design review committee certifies in writing that the plans and specifications substantially meet the program requirements of the project.

(d) During the construction of the public facility, the commissioner of public buildings shall consult with the design review committee concerning any changes in the plans or specifications that may affect the design or program of the facility and the committee shall act promptly on all matters before it. (Rev. Ords. 1973, § 2-361; Ord. No. 8, 8-12-74; Ord. No. 190, 12-20-76; Ord. N1o9. S-301, 2-1-88; Ord. No. V-216, 12-21-98; Ord. No. Y-29, 7-9-07)

Sec. 5-55. Composition, appointment and compensation of members.

(a) Voting membership. The design review committee shall consist of twelve (12) permanent voting members, four (4) appointed by the mayor, four (4) selected by the city council, and four (4) selected by the school committee. There shall be two (2) additional voting members for each facility under design review, who are community representatives who shall represent the interests of the community in which the proposed facility is to be located, and who reside in the immediate area of the facility. One community representative shall be appointed by the mayor and one shall be selected by the city council. In the event that more than one facility shall comprise a project, and where the city council determines that the resulting number of community representatives for said project is unreasonably large, it may reduce the total number of community representatives required to not fewer than two. (Ord. No. R-142, 4-21-81)

(b) Nonvoting membership. There shall be the following nonvoting members of the design review committee: one city councilor, one school committee member for school department building projects, the planning director or his designee, the head of the using agency or his designee, and the public buildings commissioner or his designee. The public buildings commissioner shall also serve as secretary of the design review committee. (Rev. Ords. 1973, § 2-362; Ord. No. 8, 8-12-74; Ord. No. S-301, 2-1-88)

**Cross references**—Regulations governing appointment and service on commissions and committees, § 2-8

Sec. 5-56. Terms, vacancies and rules.

(a) The members of the design review committee, excepting the community representatives, shall serve coterminous with the terms of their respective appointing authority. Vacancies in the committee shall be filled by appointment in the same manner by the same designated appointing authority as the original appointments for the period of the unexpired term. The term of community representatives shall expire upon final acceptance by the city of the facility for which they were appointed.

(b) The design review committee shall have such assistance as is reasonably necessary for the exercise of its responsibilities provided by the department of public buildings. The records of the design review committee shall be public documents. The design review committee shall elect a chairman annually and establish rules and procedures. Members shall serve at the pleasure of their respective appointing authority.

(c) It is the intent of this section that those participating in the design review process as voting members shall be a diversified group of interested citizens, independent of and not directly employed by city government, and that some of these members shall be professionally qualified.

(d) To the extent that citizens make themselves available to serve, there shall be at least one (1), but not more than two (2) voting members from each of the following professions: architect, general construction manager, electrical engineer, mechanical engineer, structural engineer, landscape architect. Professional qualifications of voting members are desirable in fields of city planning, traffic engineering and real estate development, but shall not be required.

(e) Whenever a vacancy in voting membership occurs, the appointing authority shall make inquiry of the public buildings commissioner and the chairman of the design review committee as to whether an appointee with particular professional qualifications is required, and after written response, the appointment shall be made so that the membership of the design review committee will be professionally balanced and will comply with the requirements and the intent of this section. Community representatives shall be appointed without regard for professional qualifications.

(f) No voting member of the design review committee shall hold an elected or salaried position with the city.

(g) All members shall serve without compensation and all voting members shall be residents of the city. All members shall serve until their successors take office.

(h) The two (2) voting members who are community representatives shall vote only on those matters concerning facilities for which they are appointed. (Rev. Ords. 1973, § 2-363; Ord. No. 8, 8-12-74; Ord. No. 190, 12-20-76; Ord. No. S-301, 2-1-88)

#### Sec. 5-57. Other provisions.

Any public corporation, agency, authority, commission or body of any such private organization which is empowered to construct a public or quasi-public facility within the city and which desires to submit itself to the jurisdiction of the design review committee, may enter into an agreement, in writing, with the city for this purpose, and thereafter the design review committee shall perform all of its functions and duties with respect to such facility. (Rev. Ords. 1973, § 2-364; Ord. No. 8, 8-12-74)

#### Sec. 5-58. Site plan approval for construction or modification of municipal buildings and facilities.

It shall be the policy of the city to apply similar standards of planning and control of density and environmental impact, when the city's public buildings and facilities are constructed or modified, as the city applies under chapter 30, Zoning, of the Revised Ordinances when petitions for changes in land use are initiated by its citizens or property City's. In implementing this policy for land in the public use district or otherwise classified city land, the prior establishment of a zoning classification or district (in accordance with section 30-4 of these Revised Ordinances) shall not be required.

(a) Whenever construction or modification of a municipal building or facility is undertaken which involves new construction or substantial change in usage, and which involves a change in: vehicular access; off-street parking requirements; site grading; drainage; landscape features; or service areas, the following procedures shall apply:

- (1) The executive department shall include in the architect's contract the requirement for preparation and submission of site plans suitable for review and approval in accordance with the procedure outlined in section 30-23 of these Revised Ordinances.
- (2) The department of planning and development shall maintain cognizance over the development of specifications, conceptual designs and site plans to determine the consistency

and compatibility of such designs and plans with the city's comprehensive plan and other pertinent planning and analytical studies. The director of planning and development shall make written notification of this finding to the mayor, to the clerk of the city council, to the design review committee, and (in the case of school buildings) to the secretary of the school committee.

- (3) The design review committee shall consider the project plans, designs, and specifications not only in terms of the details of layout and construction of the building or facility, but also in terms of the site and its surrounding area. Consultations shall be made with such city departments and neighborhood groups as are considered necessary and appropriate.
- (4) Upon its approval of the initial design concept and prior to recommending that the project proceed to the detailed design phase and to the preparation of construction drawings, the design review committee shall file with the clerk of the city council its approved site plan including building floor plans and architectural schematics, along with a formal petition for site plan approval in accordance with the procedure outlined in section 30-23 of these Revised Ordinances. The design review committee shall not be required to pay a filing fee for purposes of this section.
- (5) At the earliest opportunity, the city council shall for the purposes of this section assign that petition for public hearing before its committee dealing with matters of public buildings and this committee shall hold a public hearing. Due notice of such public hearing shall be given to the abutters of the proposed building or facility and to the abutters of such abutters. The committee shall deliberate and negotiate such changes to the site plan and affix such restrictions and conditions as are in the public interest, and it shall make its report to the city council within forty-five (45) days following the public hearing.
- (6) The site plan, including building floor plans and architectural schematics, as formally approved by the city council and the mayor (and in the case of school buildings, by the school committee) shall become part of the final set of project plans and construction drawings, and they shall not be changed or altered in any manner without first being resubmitted to the design review committee and to the city council in accordance with steps (3), (4) and (5) above. The city council may waive a public hearing on a previously approved site plan if in its judgment the changes proposed are not of sufficient scope as to warrant a public hearing.

(b) The city council shall not approve an appropriation of any funds for preparation of detailed construction drawings for a project applicable under this section until the requirements of (a)(1) through (a)(6) above have been satisfied.

(c) The executive department shall not formally submit a project applicable under this section to competitive construction bid unless the requirements of (a)(1) through (a)(6) have been satisfied.

(d) The requirements of this section that are not otherwise required by law or by the charter may be waived in whole or in part by a two-thirds (2/3) vote of those members of the city council present and voting. (Rev. Ords. 1973, § 2-365; Ord. No. 8, 8-12-74; Ord. No. 102, § 4, 12-15-75; Ord. No. V-195, 9-22-98)

## **ATTACHMENT G**

### **CITY OF NEWTON – PUBLIC BUILDINGS DEPARTMENT BUILDING DESIGN AND CONSTRUCTION SUSTAINABILITY GUIDELINES**

**CITY OF NEWTON – PUBLIC BUILDINGS DEPARTMENT  
BUILDING DESIGN AND CONSTRUCTION SUSTAINABILITY  
GUIDELINES**

#216-17

**CITY OF NEWTON IN CITY COUNCIL**

November 20, 2017

**ORDERED:**

That, in accordance with the recommendation of the Public Facilities Committee through its Chair Deborah J. Crossley, the City of Newton Public Buildings Department Building Design and Construction Sustainability Guidelines be and are hereby approved as follows:

**City of Newton – Public Buildings Department  
Building Design and Construction Sustainability Guidelines**

**A) Introduction and Summary**

In its decisions regarding the design and construction of new municipal buildings and the major renovation of existing municipal buildings, the City of Newton strives to reach the best balance among many goals. Key goals include those pertaining to building function, construction budget, operating costs, siting, appearance, maintenance requirements, longevity, and flexibility for future needs. This document is intended to better guide decision-makers who seek to achieve the best balance among these goals. They are recommendations and do not alter the existing jurisdiction or authority of the City Council.

- 1) These guidelines will be reviewed at least every three years by the Public Buildings Commissioner as technology developments and experience warrant.
- 2) Newton is a leader in the pursuit of a sustainable built environment. As it plans the construction and major renovation of buildings, it will look beyond minimum regulatory standards and consider intelligent building strategies that will contribute to substantial long term conservation of natural resources and operational economies. For each building design project, in addition to meeting code requirements, the City will evaluate all cost effective features that reduce energy and other operational costs and minimize environmental impacts through the use of sustainable building materials and other strategies. This document will guide building siting, design, construction, and operations.
- 3) Newton’s goal of a sustainable built environment is, to the extent possible, to
  - a. minimize the use of energy, water, and other resources

- b. maximize the use of renewable sources to provide electricity and heat
  - c. maximize building longevity through rigorous design processes and quality-controlled construction
  - d. minimize environmental impacts of construction materials and methods
  - e. institute building operations and maintenance practices to minimize environmental impacts, achieve optimal performance and maximize occupant health and well-being.
- 4) In all new buildings and in the renovation of existing buildings the City strives to minimize building energy use. To attain that goal, the City has a building design and operation approach that will reduce life cycle costs, demonstrate significant improvements over previous designs, help define a path to net zero, and educate the community regarding feasibility and value. The path to net zero includes reducing building energy use as much possible and maximizing the use of on-site renewable power and heat.
- 5) Per Sec 5-54 of the City of Newton Ordinances, a Design Review Committee (DRC) has been established to coordinate the design review process, examine specifications and study the feasibility of any proposed public facility as submitted to it by the Mayor, City Council, or other public agency (e.g., the Public Buildings Department), and shall make recommendations on a range of solutions within realistic budgetary limits. The DRC may recommend that components of these guidelines be relaxed or modified to accommodate projects whose size or inherent nature make the component inapplicable.

## **B) Guidelines for Design Teams**

### 1) Design Process Requirements

- a. Newton requires its design teams to use an integrated design approach at all phases of the design process, especially in schematics and design development. Because reduction in energy consuming features and HVAC loads may also reduce the size and cost of other parts of the project, and because choice of building materials may impact durability of construction, Newton requires its consultants to identify all building features that can be affected, when making energy efficiency related decisions. (See the attached commentary by Josh Morse, Newton’s Buildings Commissioner, regarding “Integrated Design Approach”.)
- b. During all phases of design
  - 1. Refer to “lessons learned” list from Public Buildings Department
  - 2. Evaluate Value Engineering options using life cycle cost analysis with full consideration of the impact on other building systems and components.
  - 3. Value Engineering options that increase energy use require recommendation by the DRC
  - 4. Continuously consider, propose and evaluate sustainability options
  - 5. All budget estimates to include air infiltration testing.
- c. During Conceptual Design Phase  
Provide a minimum of three options before completion of Conceptual Development Phase. These options will require creative interactive discussions among the design consultants.

These analyses will address onsite alternative energy source options and consider funding sources beyond the established building budget. The City will explore budget sources for Options 2 and 3 before completion of Conceptual Design.

Option 1. Meets all codes and budget

Option 2. Reduces energy use to 30% below code requirements, with any budget implications Option 3. Reduces energy use to net zero. If net zero is not feasible, show an option that reduces net energy use to the minimum feasible. Estimate budget implications.

d. During Schematic Design Phase

1. At the start of Schematics, the City will direct the design team regarding the major options developed in Conceptual Design.
2. The design team will develop options to improve sustainability within the parameters accepted in Conceptual Design. Evaluate life cycle costs of each option.

e. During Design Development Phase

1. The design team will develop options to improve sustainability within the parameters accepted in Schematic Design. Evaluate life cycle costs of each option.
2. Make provisions that enable future building modifications to improve sustainability.

f. During Completion of Construction Drawings

1. Develop options for commissioning building envelope construction
2. Develop options for air infiltration testing

g. Modeling for Large Projects. For projects of 20,000 square feet or more of gross floor area the design team is responsible for Building Energy Use Modeling using the following approach:

1. Establish expected schedule of building use before completion of schematics
2. As the design progresses, refine the model and complete energy model runs at Schematics, Design Development, and near completion of Construction Drawings. These models will be used to guide designers on how to achieve better energy conservation results and the impact of sustainability options being considered.

2) Certification and Ratings system requirements

Design teams are responsible to meet the following requirements. While LEED is presently the preferred benchmarking system the DRC/ Public Buildings Department may consider alternative indices.

- a. Projects of less than 20,000 sf shall meet the requirements of the most current applicable US Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) Building Design and Construction (BD+C) building rating system at the level 'Certified' or better.



b. Projects of 20,000 square feet or more of gross floor area shall meet the requirements of either:

1. The most current applicable LEED BD+C building rating system at the level “Gold” or better.

For twelve months from the time of adoption of a new version of LEED projects shall have the option to file under either the old or newly-adopted version.

OR

2.

c. To further support the design, construction, and operation of a project that meets Newton’s requirements for energy, water, indoor environmental quality, and durability, provide for implementing the LEED BD+C Enhanced Commissioning requirements.

d. The Design Review Committee may recommend any municipal project conform to the certification system without actual participation in the formal process.

### **C) Guidelines for Designer Selection Committee**

Consider the comparative capabilities and experience of design teams, including sub-consultants, to respond to these Guidelines as part of the designer selection criteria. Compare design teams' familiarity with recent sustainability achievements of similar buildings.

### **D) Guidelines for Public Buildings Department**

1) Include these Guidelines in RFQs and contracts with Design Teams.

2) For all design projects, identify means to fund Life Cycle Cost-effective options that raise the cost higher than the established budget.

3) Maintain “lessons learned” list for use by design teams. Update this list after construction of each project and after one year of its occupancy. Semi-annually provide this list to the DRC. Among many other considerations, “lessons learned” shall include:

- a. Evaluation of high performing windows used on recent projects
- b. Evaluation of air barrier and insulating wall and roof assemblies used on recent projects
- c. Evaluation of constructability of thermal break strategies in foundations and structural components on recent projects
- d. Evaluation of HVAC and lighting approaches used on recent projects
- e. Evaluation of building controls, management, monitoring and display functions
- f. Evaluation of durability and performance of building materials
- g. Evaluation of educational opportunities for users and the community

4) Two years after completion of projects larger than 20,000 sf, compare actual energy use to the building model, and include reasonable explanations for significant deviations, recommendations for performance improvements, and a plan to implement such improvements. Require re-measurement and review one year after substantial completion of any significant improvements.

Establish a formal “recommissioning” process to be completed by the third year of occupancy of buildings, and repeated every three years as follows:

- a. Projects of at least 10,000 sf of floor area but less than 20,000 sf shall meet the requirements of the most current applicable LEED Operations and Maintenance (O+M) building rating system at the level ‘Certified’ or better.
  
- b. Projects 20,000 sf or more shall meet the requirements of the most current applicable LEED O+M building rating system at the level ‘Silver’ or better.

Under Suspension of Rules

Readings Waived and Approved by Voice Vote