



66-2010 ADDENDUM 13

REQUEST FOR PROPOSALS FOR PROFESSIONAL CONSULTING SERVICES FOR THE DESIGN AND DEVELOPMENT OF THE WINNIPEG POLICE SERVICE HEADQUARTERS AT 266 GRAHAM AVENUE (FORMER CANADA POST BUILDING) IN WINNIPEG

URGENT

PLEASE FORWARD THIS DOCUMENT TO WHOEVER IS IN POSSESSION OF THE BID OPPORTUNITY

ISSUED: June 10, 2010
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THIS ADDENDUM SHALL BE INCORPORATED INTO AND FORMS PART OF THE REQUEST FOR PROPOSALS.

Template Version: A20070419

Please note the following and attached changes, corrections, additions, deletions, information and/or instructions in connection with the Request for Proposals, and be governed accordingly.

QUESTIONS AND ANSWERS

Responses to all Questions will be included in Addenda as the responses are developed. Numbering may not be in sequence as a result

GENERAL QUESTIONS

- GQ19 We request that the following revisions be made to Appendix C - General Conditions to the Consultant Agreement:
- GQ19-2 C9.1 – Please amend line 4 to read “shall become the sole property of the City upon full payment of all monies owed to the Consultant, with the exception of the materials and information in the...”
- GA19-2 See Addendum 12 General Conditions.
- GQ19-3 C.9.4 – Please delete.
- GA19-3 The City will not delete this clause.
- GQ19-4 C.9.12.1 – Please delete.
- GA19-4 The City will not delete this clause.
- GQ19-5 C10.11 – Please delete “for costs or expenses arising from default or the negligence of the Consultant” from lines 4-5.
- GA19-5 See Addendum 12 General Conditions.
- GQ19-6 C12.2 – Please delete “to a maximum of the Contract price plus two million dollars” from the last 2 lines. Please replace with: “The total amount of all claims the City may have against the

Consultant under this Agreement or arising from the performance or non-performance of the Services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees or \$1,000,000. As the City's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against the Consultant and not against any of the Consultant's employees, officers or directors.

The Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services and the Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the City, including but not limited to, claims for loss of use, loss of profits and loss of markets."

- GA19-6 See Addendum 12 General Conditions.
- GQ19-7 C.12.4 – Please insert “reasonable” before “legal fees” in line 1.
- GA19-7 See Addendum 12 General Conditions.
- GQ19-8 C13.2 (a) – Please delete.
- GA19-8 See Addendum 12 General Conditions.
- GQ19-9 C13 – Please add: “The Contractor may terminate this Agreement upon seven (7) days’ notice in writing in the event the City has committed material breach of this Agreement. Non-payment of the Contractor’s invoices will be considered a material breach of this Agreement.”
- GA19-9 See Addendum 12 General Conditions.
- GQ19-10 C13.8 – Please delete.
- GA19-10 The City will not delete this clause.
- GQ19-13 C15.1 – Please delete “arbitration” from line 4 and replace with: “mediation. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be referred to arbitration.”
- GA19-13 See Addendum 12 General Conditions.
- GQ26 Are Conceptual Drawings available as discussed in the Feasibility Study, Part G – Electrical Outline Specifications, Special Requirements, Item .9 found on page G.51?
- GA26 Single Line Diagram added to Information FTP Site on June 7, 2010 (under Feasibility Study)
- GQ27 The City of Winnipeg’s requirement for “project specific liability insurance” states that the “coverage shall include an extended reporting period of not less than 36 months from Completion of the Service.” Does this mean 36 months after the warranty inspections and Certificate of Acceptance two years after Total Performance of the Existing Building Redevelopment construction contract, i.e., to the year 2019?
- GA27 See revised D9 of Addendum 9 RFP document.

- GQ31 We respectfully request that the cost of E & O insurance be listed as a defined line item along with allowable expenses rather than being buried in the fixed fee. This will allow the City to review the insurance details, and be better able to compare the fixed fee costs related to services. In the alternative, the City could purchase the Project Policy.
- GA31 See revised D9 of Addendum 9 RFP document
- GQ32 We suggest a less onerous and more equitable clause to C12.2 would be:
- GQ32-1 Indemnity: the consultant shall use due care in the performance of the obligations under this Contract.
- GA32-1 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ32-2 The consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, directors and employees (collectively, client) against all damages, liabilities or costs, including reasonable legal fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its sub consultants or anyone for whom the consultant is legally liable.
- GA32-2 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ32-3 The City agrees, to the fullest extent permitted by law, to indemnify and hold harmless the consultant, its officers, directors, employees and sub consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable legal fees and defense costs, to the extent caused by the City's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the client is legally liable.
- GA32-3 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ32-4 Neither the City nor the consultant shall be obligated to indemnify the other party in any manner whatsoever for See revised C12 of Addendum 12 General Conditions for Consultant Services the other party's own negligence or for the negligence of others
- GA32-4 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ33 If this is not acceptable, as an alternative, we suggest as a minimum, that the word "defect" be eliminated and that the wording, "it has assumed responsibility" should be replaced by "it is legally liable".
- GA33 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ34 The Limitation of Liability of the Contract Price plus two million dollars is onerous. We suggest that a sum of \$4,000,000 is a more reasonable
- GA34 See revised C12 of Addendum 12 General Conditions for Consultant Services
- GQ35 We are informed by our insurers that clauses C12.3 and C12.4 present significant problems for them and that these specific clauses are un-insurable. Our insurers will not give up their right to defend.
- GA35 See revised C12 of Addendum 12 General Conditions for Consultant Services.

GQ36 Re: LEED Commissioning:

In D5.1 (c) and (f) xxvii there is reference to "Coordination with Commissioning Agent(s)". Can we assume that the City of Winnipeg will be engaging their own Commissioning Agents? We would like to confirm that the City's commissioning agent is supporting the LEED review process

GA36 The City intends to award a separate contract for Commissioning Agent services.

Any LEED review or certification requirements will not be part of this Contract. The Commissioning Agent will not be engaged during the 30% design portion.