

THE SCOPE OF SERVICES ADDED BY THIS AMENDMENT IS FOR A CM AT RISK PROJECT ONLY. THE SCOPE OF SERVICES SPECIFIED BELOW INCLUDES ARTICLES 8.1, 8.3, 8.4, 8.5, 8.6, 8.7 AND 8.8. THE SERVICES SPECIFIED IN ARTICLE 8.1 HEREIN ARE INTENDED TO SUPPLEMENT (OR BE ADDITIVE) AND NOT SUPERCEDE ARTICLE 8.1 IN THE ORIGINAL STANDARD CONTRACT BETWEEN THE PARTIES.

ARTICLE 8: BASIC SERVICES

In addition to those Basic Services included in the original Contract between the Parties, the Owner's Project Manager shall perform the following Basic Services during the Design Development/Construction Documents/Bidding/Construction/Completion Phases:

8.1 Project Management

8.1.1 A draft of the communication plan shall be submitted to the Owner for approval within 30 days of the Approval to proceed to Design Development/Construction Documents/Bidding Phase and be further updated (a) as needed to include the award of a construction contract and (b) no later than 30 days after Approval to proceed to the Construction Phase. The Owner's Project Manager shall include the Designer in its distribution of the Project Budget, Schedule, Monthly Progress Report and other reports as appropriate and as outlined in the Communications Plan.

8.1.1.2 The Owner's Project Manager shall assist the Owner in the preparation of all information, material, documentation, and reports that may be required or requested by the Authority, including without limitation, documentation related to incentive reimbursement percentage points that may be awarded to the Owner by the Authority, requests for reimbursement, and audit materials. The Owner's Project Manager shall assist the Owner in the preparation of all material and documents, including bid solicitations and construction contracts, necessary for the Owner to ensure compliance with the federal Davis Bacon and Massachusetts labor standards.

8.1.1.3 The Owner's Project Manager shall prepare agendas for and attend school building committee meetings, attend meetings with other representatives of the Owner, municipal administration and the school department, and attend neighborhood meetings relating to the Project. The Owner's Project Manager shall take minutes of all of the above-referenced meetings and promptly distribute minutes of these meetings to the Owner. The Owner's Project Manager shall be responsible for taking minutes of all of the above-referenced meetings and distributing them to the Owner until such time as the Owner has given the CM at Risk a Notice to Proceed pursuant to an Owner-CM at Risk contract in which case, the CM at Risk shall be responsible for taking minutes. On behalf of the Owner, the Owner's Project Manager shall review the minutes prepared by the CM at Risk for accuracy and completeness and shall advise the Owner accordingly.

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

8.1.2 Project Control

During the Design Development/Construction Documents/Bidding Phase, the Owner's Project Manager shall monitor and report to the Owner and the Authority any changes to the Project Budget and Schedule established in the Owner-Authority Project Scope and Budget Agreement or the Project Funding Agreement.

8.1.2.1 Project Budget

The Owner's Project Manager will use the baseline Project Budget as the Project control against which all Designer estimates, contractor bids, Guaranteed Maximum Price (if applicable), and other cost information will be measured. The Owner's Project Manager shall maintain and update the baseline Project Budget throughout the term of this Contract. The Owner's Project Manager shall report any variances to the baseline Project Budget as part of the Monthly Progress Report.

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

8.1.2.2 Cost Estimating

The Owner's Project Manager shall prepare detailed independent cost estimates as specified in each Design phase (design development and construction documents), until such time as the CM at Risk has been given a Notice to Proceed. The Owner's Project Manager shall record and track the cost estimates at each Design phase and submit this information with each design submittal due to the Authority using the Authority's Cost Estimate Comparison Spreadsheet. If the Owner requires the Owner's Project Manager to prepare an independent cost estimate, the Owner's Project Manager shall compare its cost estimate to that prepared by the Designer to identify and notify the Owner of any variances.

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

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

The Owner's Project Manager shall review all construction cost estimates (design development and construction documents) provided by the Designer and/or the CM at Risk; provide advice, consultation, guidance and assistance to the Owner concerning said construction cost estimates; and work with the Designer and the CM at Risk as necessary to reconcile any variances in the construction cost estimates provided by each of them.

8.1.2.3 Project Schedule

The Owner's Project Manager shall submit this detailed baseline Project Schedule to the Owner and the Authority within 30 days of Approval to proceed to the Design Development/Construction Documents/Bidding Phase. The Owner's Project Manager shall maintain and update the Project Schedule throughout the term of this Contract. The Owner's Project Manager shall assess the actual progress of the Project relative to the baseline Project Schedule and report any variances from the baseline Project Schedule as part of the Monthly Progress Report.

In the event that actual progress of the Project varies from the baseline Project Schedule, the Owner's Project Manager shall consult with the Designer and the CM at Risk and make appropriate recommendations to the Owner relative to actions that should be taken by the Designer or the CM at Risk to achieve the baseline Project Schedule and/or recommend revisions to the Project Schedule. The Owner's Project Manager shall not be responsible for delays caused by the Designer, CM at Risk, or Subcontractors, or the employees, agents or subconsultants of the Designer, CM at Risk, or Subcontractors.

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

8.1.2.4 Construction Schedule

The CM at Risk shall be responsible for preparing and updating its construction schedule on a monthly basis. The Owner's Project Manager shall meet once each month with the CM at Risk, and Designer to review and update its schedule, develop the monthly progress information to support the CM at Risk's payment estimate, and monitor the CM at Risk's performance for compliance with its contract.

The Owner's Project Manager shall notify the Owner of and include in its Monthly Progress Report any significant changes or delays to the construction schedule. The Owner's Project Manager shall make appropriate recommendations to the Owner relative to the actions that should be taken by the CM at Risk and/or advise the Owner when liquidated damages, if included in the CM at Risk contract, are anticipated to be incurred.

8.1.3 Monthly Progress Report

The Owner's Project Manager shall submit to the Owner and the Authority 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 Authority and shall describe work performed by all project participants (OPM, Designer, 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, CM at Risk's safety performance, Designer's QA/QC, CM at Risk's environmental compliance, community issues, Designer and

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 Change Order and Claims Administration

The Owner's Project Manager shall review and coordinate its review with the Designer and make specific document and processing recommendations to the Owner, consistent with the General Laws and the construction contract documents, which minimize change order and claims processing costs and time. Services provided by the Owner's Project Manager shall include:

8.1.4.1 Change Order Administration

- 8.1.4.1.1 Review all CM at Risk proposals for change orders and supporting schedules for time extension requests. For change orders in excess of \$100,000, prepare independent cost estimate analysis with associated schedule impact.
- 8.1.4.1.2 Initiate, conduct, and document negotiations through a memorandum of negotiations with the CM at Risk.
- 8.1.4.1.3 For all change order requests by the CM at Risk, make recommendations to the Owner for their modification, acceptance or rejection and provide an analysis and recommendation regarding the cost.
- 8.1.4.1.4 Prepare and finalize any documentation required for processing change orders including a summary of the Owner's Project Manager's review of the reasonableness of the costs and documentation to support or reject the change.
- 8.1.4.1.5 Maintain a status report system for logging and tracking change orders, claims, and disputes to resolution. At a minimum, monthly reports shall include contract number, description of change order or claim, reason for change, date initiated, magnitude of estimated cost, actions required (identification of action parties and response dates) and status. This report shall be included in the Monthly Progress Report.

8.1.4.2 Claims and Disputes Management

- 8.1.4.2.1 Implement a claims management procedure consistent with the construction contract documents.
- 8.1.4.2.2 Analyze CM at Risk claims and propose recommendations to the Owner in support of the Owner's obligations under the claims article of the construction contract documents. Prepare responsive positions in coordination with the Owner, and obtain appropriate input from the Designer and/or CM at Risk.
- 8.1.4.2.3 In the event that a dispute arises between the CM at Risk, and/or any Subcontractors, and/or the Designer, including, but not necessarily limited to, disputes regarding the performance, quality, acceptability, fitness and rate of progress of the Project or the requirements of the Designer's contract or the

CM at Risk's construction contract(s), the Owner's Project Manager shall report any such claims, disputes or other matters in question relating to the performance by the CM at Risk, Subcontractor, Designer or vendor to the Owner and the Authority in writing as soon as reasonably possible.

8.1.4.2.4 The Owner's Project Manager shall take all reasonable efforts designed to resolve any such claims, disputes, or other matters in question.

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Design Development/Construction Documents/Bidding Phase

8.3 **CM at Risk Prequalification and Selection,**

8.3.1 General

When directed by the Owner, the Owner's Project Manager shall assist and advise the Owner in the selection of a Construction Manager at Risk ("CM at Risk") in accordance with the provisions of M.G.L. c. 149A §§5 and 6, the applicable regulations and procedures promulgated by the Inspector General, and all other applicable law.

The Owner's Project Manager shall serve as a member of the Owner's CM at Risk Prequalification Committee and CM at Risk Selection Committee, as required by M.G.L. c. 149A §§5 and 6, and shall provide advice and assistance to the Owner and to said committees in relation to the CM at Risk selection process in accordance with the provisions of M.G.L. c. 149 §§ 5 & 6, the applicable regulations and procedures promulgated by the Inspector General, and all other applicable law.

8.3.2 CM at Risk Prequalification, Public Notice, Solicitation and Advertisement

8.3.2.1 The Owner's Project Manager shall assist and advise the Owner in the proper administration and coordination of the CM at Risk prequalification process, including but not limited to the preparation of the request for qualifications ("RFQ") and the preparation of the public notice, solicitation, and advertisement for responses to the RFQ in accordance with the provisions of M.G.L. c. 149A, § 5, and the applicable regulations and procedures promulgated by the Inspector General.

8.3.2.2 The Owner's Project Manager shall assist and advise the Owner in preparing evaluation procedures and criteria for selecting the CM at Risk in accordance with the provisions of M.G.L. c. 149, §5.

8.3.2.3 The Owner's Project Manager shall assist and advise the Owner in preparing a specific description of the scope of services expected of the selected CM at Risk during the design, pre-construction, and construction phases of the project.

- 8.3.2.4 The Owner's Project Manager shall assist and advise the Owner in the preparation of the public notice, solicitation, and advertisement for the RFQ.
- 8.3.2.5 The Owner's Project Manager shall distribute the Request for Qualifications to responding CM at Risk firms.
- 8.3.2.6 The Owner's Project Manager shall assist and advise the Owner in reviewing all CM at Risk responses to the Request for Qualifications and make recommendations to the Owner regarding the selection of CM at Risk firms prequalified to submit a Statement of Qualifications for review by the Prequalification Committee.

8.3.3 Evaluation of CM at Risk Statements of Qualifications

- 8.3.3.1 As a member of the Owner's CM at Risk prequalification committee and on behalf of the Owner, the Owner's Project Manager shall review and evaluate in conjunction with the Prequalification Committee the Statements of Qualifications received from CM at Risk firms on the basis of the evaluation criteria established in the Request for Qualifications.
- 8.3.3.2 The Owner's Project Manager shall advise and assist, and make appropriate recommendations to, the Owner and the Prequalification Committee regarding the selection of qualified CM at Risk firms to receive a Request for Proposals ("RFP") from the Owner in accordance with the provisions of M.G.L. c. 149A, § 5(f) and the applicable regulations and procedures promulgated by the Inspector General.
- 8.3.3.3 Pursuant to G. L. c. 149A, §5(f), in the event that the Prequalification Committee is unable to identify a minimum of three (3) qualified CM at Risk firms, at the Owner's direction, the Owner's Project Manager shall assist and advise the Owner in re-advertising the Request for Qualifications or, in the alternative, at the direction of the Owner, assist and advise the Owner in procuring the project pursuant to M.G.L. c. 149, §§ 44A - 44J.

8.3.4 CM at Risk Request for Proposals ("RFP"), Issuance, Evaluation, Ranking

- 8.3.4.1 The Owner's Project Manager shall assist and advise the Owner in the proper administration and coordination of the request for proposals ("RFP") process, including, but not limited to, the preparation and issuance of the RFP; the evaluation of the technical and cost proposals; the selection and ranking of CM at Risk firms; review and analysis of cost proposals; non-fee negotiations; and record-keeping, in accordance with the provisions of M.G.L. c. 149, § 6 and the applicable regulations and procedures promulgated by the Inspector General.
- 8.3.4.2 As a member of the Owner's CM at Risk selection committee, the Owner's Project Manager shall review and evaluate the RFP's received from prequalified CM at Risk firms on the basis of the evaluation criteria included in the RFP.

- 8.3.4.3 The Owner's Project Manager shall coordinate the evaluation of the RFP's received on behalf of the Prequalification Committee and make recommendations regarding the evaluation and ranking of RFP's and the conduct of interviews, if any, in accordance with the provisions of M.G.L. c. 149A, § 6(d), and the applicable regulations and procedures promulgated by the Inspector General.
- 8.3.4.4 If the proposal of the best qualified CM at Risk firm exceeds the budget established in the Project Scope and Budget Agreement or the Project Funding Agreement, as the case may be, the Owner's Project Manager shall consult with the Owner and Designer and make recommendations to the Owner in regard to maintaining the Project Budget which may include, consistent with Massachusetts public construction laws, reviewing and recommending the acceptance of alternatives, re-advertising for a CM at Risk, or seeking additional funding from the City/Town/Regional District.
- 8.3.5 Negotiations, Contract Award, Guaranteed Maximum Price
- 8.3.5.1 The Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner and the CM at Risk Selection Committee in non-fee negotiations with the prequalified CM at Risk firms until the Selection Committee has reached an acceptable contract with one of said firms in accordance with M.G.L. c. 149A § 6(2)(e).
- 8.3.5.2 The Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner in the preparation and execution of the Owner-CM at Risk contract.
- 8.3.5.3 The Owner's Project Manager shall obtain from the CM at Risk and maintain on file any required performance and payment bonds, including, but not limited to, those in the amount of the Guaranteed Maximum Price ("GMP") in accordance with M.G.L. c. 149A, §§ 5(a) & 7(b)(4) and those in the full amount of trade contracts in accordance with M.G.L. c. 149A, § 8; any required insurance certificates; and any other documents and certificates required by law or by the provisions of the Owner-CM at Risk contract.
- 8.3.5.4 The Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner in negotiating amendments to the to the CM at Risk contract to incorporate the scope and cost of early delivery work in accordance with the provisions of M.G.L. 149A, §§5-8, and the applicable regulations and procedures promulgated by the Inspector General.
- 8.3.5.5 The Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner in the negotiation of the GMP in accordance with M.G.L. c. 149A, §7, and the applicable regulations and procedures promulgated by the Inspector General. The OPM shall verify that the GMP is consistent with the requirements of the CM at Risk contract and that the CM at Risk has implemented an adequate cost control system to provide verification that all costs incurred within the GMP are true and actual in accordance with the CM at Risk contract.

- 8.3.5.6 The Owner's Project Manager shall provide the CM at Risk, Designer, Owner and the Authority with required copies of executed construction contract documents.
- 8.3.5.7 Once the CM at Risk has been given a Notice to Proceed and begins preparing meeting minutes on behalf of the Owner in accordance with Article 8.1.1.3, the Owner's Project Manager shall review the minutes prepared by the CM at Risk for accuracy and completeness and shall advise the Owner accordingly.
- 8.3.5.8 Pursuant to M.G.L. c. 149A, § 7(b)(4), in the event the Owner is unable to negotiate an acceptable GMP with a CM at Risk, at the direction of the Owner, the Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner in negotiating with the next highest ranked proposer and, if directed by the Owner, in procuring the Project in accordance with Chapter 149, §§ 44A-44J.
- 8.3.5.9 The Owner's Project Manager shall assist and advise the Owner and the Designer in preparing and sending the Notice to Proceed to the Construction Manager at Risk

8.4 Design Development

8.4.1 General

During the Design Development Phase, the Owner's Project Manager shall be responsible for maintaining and updating the Project Budget and Schedule, oversight of both the Designer and CM at Risk, the review of all Designer submittals, coordination with the Authority's Commissioning Consultant, and, if the Owner has not yet contracted with a CM at Risk, the development of a construction cost estimate for comparison with the Designer's cost estimates. If the Owner has given the CM at Risk a Notice to Proceed pursuant to the Owner-CM at Risk contract, the Owner's Project Manager shall review any construction cost estimates provided by the Designer and/or the CM at Risk and provide such advice, consultation, guidance and assistance to the Owner concerning said construction cost estimates as is reasonable and necessary.

The Owner's Project Manager shall consult with the CM at Risk on the design of the Project and work together and in harmony with the CM at Risk and Designer in a manner consistent with the Owner's best interests to develop a design that conforms to provisions of the Project Scope and Budget Agreement and the Project Funding Agreement.

The Designer shall remain responsible for the design requirements and design criteria for the Project. Unless otherwise directed by the Owner, nothing in this section shall be construed as an assumption of duties or responsibilities of the Designer or CM at Risk by the Owner's Project Manager.

- 8.4.2 The Owner's Project Manager shall continue to oversee the activities and responsibilities of the Designer in the further development of the scope, schedule and budget including a general review of the Designer's detailed scaled plans, elevations and sections of all aspects of the design. The Owner's Project Manager shall:

- a. Review and reconcile the construction cost estimates of the Designer and the CM at Risk. In the event that the Owner has not executed a contract with a CM at Risk by the end of the Design Development Phase, the Owner's Project Manager shall prepare an independent construction cost estimate for comparison with the Designer's cost estimate.
 - b. Work with the Owner, Designer and CM at Risk to update the Project Budget and Schedule.
- 8.4.3 The Owner's Project Manager shall monitor and coordinate the schedule, technical accuracy, efficiency, coordination, and constructability of the Project and cost-effectiveness of all designs, drawings, reports, estimates and other work furnished by the Designer, and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the Designer's contract with the Owner are not being fulfilled.
- 8.4.4 The Owner's Project Manager shall promptly review all Designer submissions and shall meet with the Designer and CM at Risk as necessary to discuss and resolve all issues with the Designer's submissions. The Owner's Project Manager shall review any recommendations made by the CM at Risk with respect to the drawings, specifications and other design documents produced by the Designer and shall meet with the Designer and the CM at Risk as necessary to discuss and resolve all issues raised by the CM at Risk's recommendations. Upon completion of its review, the Owner's Project Manager shall recommend that the Owner: 1) approve the submission as made; 2) approve that part of the submission that is acceptable and reject the remainder; 3) reject the submission; or 4) require the Designer to submit additional information or details in support of its submission.
- 8.4.5 The Owner's Project Manager shall coordinate the timely review of the design between the Designer, CM at Risk, and the Commissioning Consultant. The Owner's Project Manager shall be responsible for providing the necessary documents to the Commissioning Consultant for its review, distributing review comments made to the Designer, Owner, CM at Risk, and the Authority and coordinate the timely resolution and incorporation of the Commissioning Consultant's recommendations. The Owner's Project Manager shall not be responsible for the Commissioning Consultant's performance, but if the Owner's Project Manager becomes aware of any performance or lack of performance issues with the Commissioning Consultant, the Owner's Project Manager shall immediately notify the Owner and the Authority of such issues.
- 8.4.6 The Owner's Project Manager shall oversee the activities and responsibilities of the CM at Risk during design development in regard to constructability review, schedule development, cost estimates and other responsibilities set forth in the Owner-CM at Risk Contract and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the CM at Risk's contract with the Owner are not being fulfilled.
- 8.4.7 Early Delivery of Construction Bid Documents

During the Design Development Phase the Owner may request the Designer to prepare early bid packages of final Construction Documents for the site work,

demolition, structural steel, excavation, and foundation work, and other elements of the work.

The Owner's Project Manager shall work with the Designer and CM at Risk to develop a schedule for the delivery of early bid packages of final Construction Documents for the site work, demolition, structural steel, excavation, and foundation work, and other elements of the work as directed. The Owner's Project Manager shall provide the resources necessary to support the timely and accurate completion of early bid packages.

The Owner's Project Manager shall assist the Owner in negotiating amendments to the Owner-CM at Risk Contract to incorporate the scope and cost of the early delivery work in accordance with M.G.L. c. 149A, §7.

8.5 Construction Documents

- 8.5.1 The Owner's Project Manager shall continue to oversee the activities and responsibilities of the Designer and CM at Risk during the preparation of complete construction specifications and drawings in order to maintain consistency with the Project Scope and Budget Agreement and the Project Funding Agreement.

The Owner's Project Manager shall continue to monitor the schedule of the Designer and CM at Risk.

- 8.5.2 The Owner's Project Manager shall meet with the Designer and CM at Risk as necessary to discuss and resolve all issues with the construction documents. The Owner's Project Manager shall monitor and review the performance of the CM at Risk in its review of the construction documents for, among other things, conciseness, clarity consistency, constructability, maintainability/operability, coordination among the trades, coordination between the specifications and drawings, bid-ability, compliance with M.G.L. c.149A for procurement, installation and construction, and sequence of construction and for quality, cost, and schedule improvements. The Owner's Project Manager shall review any recommendations made by the CM at Risk with respect to the construction documents produced by the Designer and shall meet with the Designer and the CM at Risk as necessary to discuss and resolve all issues raised by the CM at Risk's recommendations. The Owner's Project Manager shall:

- a. Review and reconcile the construction cost estimates of the Designer and the CM at Risk
- b. Provide advice, consultation and guidance to the Owner relative to value engineering recommendations and other recommendations made by the CM at Risk relative to the construction documents.
- c. Work with the Owner, Designer, and CM at Risk to update the construction budget and schedule.

- 8.5.3 The Owner's Project Manager shall provide advice, consultation and guidance to the Owner and the Designer relative to the Trade Contractor and Non-Trade Contractor prequalification and selection process pursuant to M.G.L. c. 149A § 8, including participation as a member of the Owner's Prequalification Committee if directed by the Owner.
- 8.5.4 The Owner's Project Manager shall review the information provided by the CM at Risk on Trade and Non-Trade Contractor scope of work pursuant to M.G.L. c. 149A § 8, paying particular attention to the contract drawings and specifications prepared for Trade Contractors. The Owner's Project Manager shall fully understand the delineation of work as determined by the CM at Risk and the Designer between Trade and Non-Trade Contractors for the purpose of verifying the actual costs of such scopes of work.
- 8.5.6 The Owner's Project Manager's review of the construction documents shall also include, but not be limited to, any concerns of the Owner's Project Manager and/or the Owner relative to access, usable area, parking, utilities, anticipated noise sources during construction and identification of field offices, facilities, supplies and equipment.
- 8.5.7 The Owner's Project Manager shall coordinate the timely review of the construction documents by the Commissioning Consultant to determine that plans and specifications include the recommendations made during design development in regard to materials selection, installation and testing criteria in regard to commissioning and start-up and provide adequate information and allow sufficient time for functional and system testing.
- 8.5.8 The Owner's Project Manager shall monitor the schedule of the Designer, provide review and comment of the Designer's work product and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the Designer's contract with the Owner are not being fulfilled.
- 8.5.9 The Owner's Project Manager shall monitor the schedule of the CM at Risk, provide review and comment of CM at Risk's work product and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the CM at Risk's contract with the Owner are not being fulfilled.

8.6 Bidding Phase

8.6.1 General

The Owner's Project Manager shall provide advice, consultation, guidance and assistance to the Owner in the proper administration and coordination of the Trade Contractor prequalification and selection process and the Non-Trade Contractor selection process in accordance with the provisions of 149A, § 8, the applicable regulations and procedures promulgated by the Inspector General, and all other applicable law, including participation as a member of the Owner's Trade Contractor prequalification committee if directed by the Owner.

The Owner's Project Manager shall monitor the activities and responsibilities of the Designer and the CM at Risk in the Trade Contractor prequalification and selection process and the Non-Trade Contractor selection process.

8.6.2 CM at Risk Trade Contractor Selection Process

8.6.2.1 Trade Contractor Prequalification

8.6.2.1.1 The Owner's Project Manager shall assist and advise the Owner in the development of a prequalification and selection process for both Trade Contractors and Non-Trade Contractors that have been identified by the Owner in accordance with Chapter 149A, Section 8.

8.6.2.1.2 The Owner's Project Manager shall review the information provided by the CM at Risk describing the work to be required of each Trade Contractor and shall assist and advise the Owner and Designer in the preparation of the Request for Qualifications for Trade Contractors to be used to solicit responses from eligible Trade Contractors and to prequalify Trade Contractors for participation in the Project.

The Owner's Project Manager shall assist and advise the Owner and the Designer in the public notice, solicitation, and advertisement of the Request for Qualifications for Trade Contractors.

8.6.2.1.3 The Owner's Project Manager shall assist and advise the Trade Contractor Prequalification Committee and the Owner in reviewing and scoring all Trade Contractor responses to the Request for Qualifications and make recommendations to the Trade Contractor Prequalification Committee and the Owner regarding the selection and notification of Trade Contractors prequalified to submit a bid on the Project in accordance with the provisions of M.G.L. 149A, § 8(a) –(i).

8.6.2.2 Request for Bids for Trade Contractor Services

The Owner's Project Manager shall assist and advise the Owner and the Designer in the preparation of the Invitation for Bids for Trade Contractor services in accordance with the provisions of M.G.L. c. 149A, § 8(g).

8.6.2.2.1 The Owner's Project Manager shall assist and advise the Owner in the distribution of the Invitation for Bids to prequalified Trade Contractors in accordance with M.G.L. c. 149A §8(g).

8.6.2.2.2 The Owner's Project Manager shall attend all pre-bid conferences and meetings and Trade Contractor openings and assist and advise the Owner if directed by the Owner.

8.6.2.3 Trade Contractor Bid Review

The Owner's Project Manager shall attend all bid openings and shall review all Trade Contractor bids in conjunction with the Designer and CM at Risk to determine responsiveness, completeness, accuracy, price and conformance to the requirements of M.G.L. c.149A, § 8(a)-(i), and to provide technical guidance to the Owner regarding the acceptance or rejection of the Trade Contractor bid.

Pursuant to M.G.L. c. 149A, § 8(h), in the event that the Owner receives less than three (3) responsive bids on any Trade Contract, and the lowest responsible bid exceeds the estimated cost of the work for which bids are requested, the Owner's Project Manager shall monitor the activities and responsibilities of the CM at Risk in the negotiation of an acceptable price with the lowest prequalified bidder, and, if necessary, the second lowest prequalified bidder. If such negotiations are unsuccessful, the Owner's Project Manager shall advise the Owner, and shall monitor the activities and responsibilities of the CM at Risk, with respect to the solicitation of additional bids and the selection of Trade Contractors in accordance with the provisions of M.G.L. c. 149A, §§ 8(h) & (j).

8.6.2.4 Contract Award

8.6.2.4.1 The Owner's Project Manager shall review the contracts between Trade Contractors and the CM at Risk for conformance with the requirements of G.L. c. 149A , § 8, and all applicable public construction statutes.

8.6.2.4.2 The Owner's Project Manager shall obtain from all Trade Contractors, and maintain on file, all performance and payment bonds, bid bonds, insurance certificates, and all other documents and certificates required by law or by the terms of the Contract between the Owner and the CM at Risk.

8.6.2.4.3 The Owner's Project Manager shall provide the Designer, Owner and the Authority with required copies of executed construction contract documents.

8.6.3 Non-Trade Contractor Selection

The Owner's Project Manager shall assist and advise the Owner in the proper administration and coordination of the Non-Trade Contractor selection process in accordance with the provisions of G.L. c. 149A, § 8(j), the applicable regulations and procedures promulgated by the Inspector General, and all other applicable law.

The Owner's Project Manager shall monitor the activities and responsibilities of the CM at Risk in the selection of Non-Trade Contractors.

8.6.3.1 Non-Trade Contractor Qualification

For each class of Non-Trade Contractors, for which the CM at Risk is requesting bids, the Owner's Project Manager shall review the qualifications established by the CM at Risk for each class of Non-Trade

Contractors and the list of three (3) Non-Trade Contractors and make recommendations to the Owner regarding approval of the qualifications established by the CM at Risk, whether any of the three Non-trade Contractors should be eliminated from the list, or whether any Non-trade Contractors should be added to the list, all in accordance with the provisions of M.G.L.c. 149A, § 8(j).

8.6.3.2 Non-Trade Contractor Bidding

The Owner's Project Manager shall review the detailed bidding information developed by the CM at Risk in accordance with M.G.L. c. 149A, § 8(j) for accuracy, completeness, and coordination of scope.

8.6.3.3 Non-Trade Contractor Bid Review and Award

Where permitted by agreement between the Owner and the CM at Risk or where otherwise permitted by law, the Owner's Project Manager shall attend all bid openings and, in conjunction with the Designer and CM at Risk, the Owner's Project Manager shall review all Non-Trade Contractor bids for responsiveness and completeness and advise the Owner on the acceptance or rejection of any Non-Trade Contractor bids by the CM at Risk. The Owner's Project Manager shall review and report on all tabulations of bids as presented by the CM at Risk in accordance with M.G.L. c. 149, § 8(j) and ascertain that the tabulations and final awards are consistent with the bids.

8.6.3.4 Non-Trade Contractor Alternate Selection Procedure

With respect to Non-Trade Contracts with an award value that does not exceed the threshold sum identified in M.G.L. c 149, § 44(F)(1), the Owner's Project Manager shall review the selection method proposed by the CM at Risk to select this class of Non-Trade Contractor and advise the Owner as to whether the Owner should approve the proposed selection method in accordance with G.L. c. 149A, § 8(j).

The Owner's Project Manager shall attend all bid openings and, in conjunction with the Designer and CM at Risk, the Owner's Project Manager shall review all such Non-Trade Contractor bids for responsiveness and completeness and advise the Owner on the acceptance or rejection of any Non-Trade Contractor selected by the CM at Risk.

8.7 Construction Phase

The Owner's Project Manager shall provide supervisory staff for each of the following activities, from Notice to Proceed to contract close-out.

8.7.1 The Owner's Project Manager shall monitor the Designer's administration of the Owner-CM at Risk Agreement including the processing of submittals, issuance of timely decisions and directives and consultant's or subconsultants' visits to the Project as necessary during the time that construction is occurring on the portions of the work to which the consultant's services relate.

- 8.7.2 The Owner's Project Manager shall provide a full-time (40 hours per week minimum) on-site Project Representative, who shall be dedicated exclusively to the Project, either as an employee of the Owner's Project Manager or as a subconsultant to the Owner's Project Manager.
- 8.7.2.1 The Project Representative shall be subject to the approval of the Owner and the Owner reserves the right to require the Owner's Project Manager to replace the Project Representative at any time during the course of the Project.
- 8.7.2.2 The Project Representative shall have at least five years experience in on-site supervision of projects similar in size and complexity to the Project.
- 8.7.2.3 Unless otherwise directed, the Project Representative shall be present at all times when the CM at Risk is conducting operations at the site starting from issuance by the Owner of a Notice to Proceed to the CM at Risk and continuing until issuance to the CM at Risk of a Certificate of Substantial Completion by the Owner and thereafter on an, as needed basis, until issuance to the CM at Risk of a Certificate of Final Completion by the Owner.
- 8.7.3 The Owner's Project Manager shall review the CM at Risk's schedule of values to determine if it represents a reasonably balanced payment schedule for work to be performed with no items front-end loaded or artificially inflated. The schedule of values shall include line items for all deliverables, testing requirements and specified operations and maintenance materials.
- 8.7.4 The Owner's Project Manager shall review the CM at Risk's submitted baseline schedule. The Owner's Project Manager shall be responsible for monitoring the timeliness of these submittals and enforcing compliance with schedule submittal requirements of the construction documents. The Owner's Project Manager shall evaluate the CM at Risk's planning for the execution of the work, evaluate the reasonableness of the proposed schedule and determine if the submitted schedule meets the requirements of the construction documents.
- 8.7.5 The Owner's Project Manager shall provide daily observation and monitoring of construction activities such that all shifts and work activities are observed and documented. Responsibilities shall include:
- 8.7.5.1 The Owner's Project Manager shall keep a daily log containing a record of weather, the CM at Risk's work on site, number of workers, visitors to the site, safety status of the Project, equipment and equipment utilization, material and equipment deliveries, non-compliance with safety procedures and issuance of any safety violation notifications, accidents, general description of work performed and quality of work, visits of code enforcement officials and any resulting reports or orders, verbal instruction to interpretations given to the CM at Risk, pay items, and any observed delays, deficiencies and field problems.

- 8.7.5.2 The Owner's Project Manager shall prepare weekly progress reports for submittal to the Designer and the Owner that summarize the progress achieved, provide a concise description of problems and include a copy of the daily log.
- 8.7.5.3 The Owner's Project Manager shall assist the Designer in determining if construction and construction related activities are performed in accordance with plans and specifications and the approved shop drawings and are consistent with Massachusetts public construction laws.
- 8.7.5.4 The Owner's Project Manager shall monitor on a daily basis Time and Materials work on change orders for less than \$50,000, including work installed, volume measurements, time sheets, crew sizes and mixes, and equipment utilized.
- 8.7.5.5 The Owner's Project Manager shall evaluate actual quantities and classification of Unit Price work performed by the CM at Risk.
- 8.7.5.6 The Owner's Project Manager shall evaluate field problems, using the proper channels for solution and communication of the information to the Designer and the Owner.
- 8.7.5.7 The Owner's Project Manager shall coordinate and track requests for clarification on drawings/specifications, design changes and proposed change orders.
- 8.7.5.8 The Owner's Project Manager shall prepare responses to CM at Risk correspondence for the Owner.
- 8.7.5.9 The Owner's Project Manager shall monitor and coordinate the scheduling and activities of independent materials testing functions at the site, including distribution of reports and any necessary actions resulting.
- 8.7.5.10 The Owner's Project Manager shall maintain at the Project site, on a current basis, a record copy of Construction Contract Documents, including, but not necessarily limited to, drawings, specifications, addenda, change orders, and directives as well as all approved shop drawings, product data, samples, submittals, operations and maintenance manuals and all other relevant documents relating to the construction of the Project.
- 8.7.5.11 The Owner's Project Manager shall monitor the CM at Risk's compliance with federal Davis Bacon prevailing wage requirements and Massachusetts prevailing wage requirements pursuant to M.G.L. c. 149 §§ 26 to 27H inclusive including assisting the Owner in cataloging and filing payroll affidavits.
- 8.7.5.12 The Owner's Project Manager shall shoot and maintain Project progress photographs showing construction progress at a frequency sufficient to document major activities or to document safety incidents, differing site

conditions and quality issues. The Owner's Project Manager shall maintain a descriptive log and captioning of the photographs on CD.

- 8.7.6 The Owner's Project Manager shall monitor the CM at Risk's compliance with the construction schedule, identify potential problems, include problem identification on the Monthly Progress Report and make recommendations to the Owner when, in the opinion of the Owner's Project Manager, requirements of the CM at Risk in the Owner-CM at Risk Agreement are not being fulfilled.
- 8.7.7 The Owner's Project Manager shall attend weekly job meetings on progress, coordination and problem resolution and negotiations. The Owner's Project Manager shall review the meeting minutes that are submitted to the Owner by the CM at Risk and shall advise the Owner as to the completeness, accuracy and general acceptability of the minutes.
- 8.7.8 The Owner's Project Manager shall schedule the Authority's Commissioning Consultant, as required to support the construction schedule, to provide commissioning services and reports as required.
- 8.7.9 The Owner's Project Manager shall monitor, review and analyze proposed change orders, and claims recommending appropriate action and resolution to the Owner in accordance with Article 8.1.4.
- 8.7.10 The Owner's Project Manager shall review and coordinate its review with the Designer to recommend approval of the CM at Risk's monthly payment requisitions. The Owner's Project Manager shall review each Trade Contractor's or Non-Trade Contractor's payment requisition and the CM at Risk's requisition of costs to ascertain that the Owner is paying for actual costs and fees in accordance with the Owner-CM at Risk contract.
- 8.7.11 The Owner's Project Manager shall oversee and monitor the procurement of furniture, fixtures, equipment and technology that is not included in the construction contract.
- 8.7.12 After the Owner and the CM at Risk have agreed on a Guaranteed Maximum Price ("GMP") in accordance with M.G.L. c. 149A, § 7, the Owner's Project Manager shall promptly notify the Owner when actual costs exceed the detail line item cost breakdowns set forth in the GMP amendment.
- 8.7.13 The Owner's Project Manager shall verify substantial completion of work; assist the Designer in the Designer's final inspection and receipt of documents, manuals, receipts, certifications, and all other materials required for final closeout as described in the Owner-CM at Risk contract, including, but not limited to, the GMP amendment and any other amendments thereto. The Owner's Project Manager shall coordinate the detailed punchlist with the Designer, including a subsequent walk-through with the Designer, CM at Risk and the Authority's Commissioning Consultant. The Owner's Project Manager and the Designer shall then coordinate a walk-through with the Owner to finalize the punchlist. The Owner's Project Manager shall then be responsible for tracking and confirming the completion of the punchlist items.

8.8 Completion Phase

- 8.8.1 The Owner's Project Manager shall monitor the activities and responsibilities of the Designer and the CM at Risk in the close-out and commissioning of the Project.
- 8.8.2 The Owner's Project Manager shall assist in securing and reviewing and recommending approval of all project completion forms and documentation necessary for occupancy and full operation of the facility including, but not necessarily limited to, inspection certificates of local building authorities, Certificate of Substantial Completion, Certificate of Final Completion, Occupancy Permit, shop drawings, as-built drawings, operations and maintenance manuals, warranties, guarantees and any and all documentation as required by the contract documents and the Authority.
- 8.8.3 The Owner's Project Manager shall assist the Owner in completing the written evaluation of the Designer(s) pursuant to M.G. L. c. 7 § 38E and prepare, sign and provide to the Owner for its signature the written evaluation of the Contractor(s) or CM at Risk, and subcontractors in accordance with the provisions of M.G.L. c. 149 § 44D.

END OF ARTICLE 8 OF BASE OPM CONTRACT AMENDMENT FOR CM AT RISK