



## Request for Qualifications

### New Westminster Secondary School Replacement Project

RFQ #8069

January 24, 2017  
(CONFORMED)

## SUMMARY OF KEY INFORMATION

<b>RFQ TITLE</b>	The title of this RFQ is: <b>RFQ – New Westminster Secondary School Replacement Project</b> Please use this title on all correspondence.
<b>CONTACT PERSON</b>	The Contact Person for this RFQ is: <b>Catherine Silman</b> Email: <a href="mailto:catherine.silman@partnershipsbc.ca">catherine.silman@partnershipsbc.ca</a> Please direct all Enquiries, by email, to the above-named Contact Person. <u>No telephone Enquiries please.</u>
<b>ENQUIRIES</b>	Respondents are encouraged to submit Enquiries at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time to permit consideration by the Owner; the Owner may, in its discretion, decide not to respond to any Enquiry.
<b>RECEIPT CONFIRMATION FORM</b>	The Addenda and any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form.
<b>SUBMISSION TIME</b>	The Submission Time is: <b>11:00 am Pacific Time on January 25, 2017</b>
<b>SUBMISSION LOCATION</b>	Responses are to be submitted to: <b>Suite 900, 1285 West Pender Street Vancouver BC V6E 4B1 Attention: Catherine Silman</b>
<b>DELIVERY HOURS</b>	Deliveries will be accepted at the Submission Location on weekdays (excluding Statutory Holidays) from 08:30 to 16:00 Pacific Time (but not later than the Submission Time).

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## 1 INTRODUCTION

### 1.1 PURPOSE OF THIS RFQ

The purpose of this request for qualifications (“**RFQ**”) is to invite interested parties to submit Responses indicating their interest in, and qualifications for, the New Westminster Secondary School Replacement Project (“the **Project**”). Based on these Responses, the Board of Education of School District No.40 (New Westminster) (“**SD40**” or the “**Owner**”) intends to select, in accordance with the terms of this RFQ, a shortlist of up to three Proponents to be invited to participate in the next stage of the Competitive Selection Process, the Request for Proposals (“**RFP**”) stage.

This RFQ is not a tender or an offer or a request for proposals, and there is no intention by the Owner to make an offer by issuing this RFQ.

Under the Competitive Selection Process, the Owner is seeking to enter into a contract (the “**Design-Build Agreement**”) with a qualified entity (the “**Design-Builder**”) to design and construct a new school in New Westminster, B.C. (the “**Facility**”).

If a capitalized term used in this RFQ is not defined in Section 7, it will be defined in the section of the RFQ in which it is first used.

### 1.2 ADMINISTRATION OF THIS RFQ

Partnerships British Columbia Inc. (“**Partnerships BC**”) is managing this RFQ and the Competitive Selection Process on behalf of the Owner.

### 1.3 ELIGIBILITY

Any interested party, or parties, may submit a Response to this RFQ. Respondents may be individuals, corporations, joint ventures, partnerships or any other legal entities. If the Respondent is not a legal entity, the Respondent shall act through the legal entity or entities comprising the Respondent.

### 1.4 PROJECT BRIEF

The Owner has issued a Project Brief for the purpose of providing an informal and convenient summary of aspects of the Project. The Project Brief is not included as part of the RFQ or RFP, and is not intended to be included with, or referred to in any way in interpreting the requirements of, the RFQ, the RFP, the Design-Build Agreement, or to in any way define or describe any party’s rights with respect to the Project.

## 2 THE PROJECT

### 2.1 NEW WESTMINSTER SECONDARY SCHOOL REPLACEMENT PROJECT

New Westminster Secondary School (“**NWSS**”) was built in 1949 and is one of the largest secondary schools in B.C. It is nearing the end of its useful life and requires replacement.

In June 2016, the Minister of Education announced funding for replacement of NWSS. The Facility will provide a state-of-the-art learning environment for 1,900 students from Grades 9 to 12 to prepare for a rapidly changing society.

The Facility will be constructed adjacent to NWSS using a design-build procurement approach. NWSS will remain fully operational throughout construction. Design and construction is expected to start in September 2017, with the Facility opening in September 2019.

The Owner is planning the proposed Project to include:

- A Facility that is approximately 19,800 m<sup>2</sup> (building gross area) including:
  - Learning capacity;
  - Gymnasium capacity;
  - A 500-seat high school drama theatre;
  - Learning commons; and
  - Kitchen and cafeteria facilities;
- Parking for staff, students and visitors;
- Field / outdoor athletic space; and
- Flexibility to allow for future expansion.

In addition to providing a day-time learning environment for students from diverse backgrounds, the community uses NWSS for adult educational programs. As well, the fields provide recreational opportunities for many community team practices and competitions.

The Project’s Site is constrained and it is therefore anticipated that the Facility will necessarily be more vertical than NWSS, which could result in a high school building that is unique within British Columbia.

The capital cost of the design-build portion of the Project is estimated to be in the order of \$60 million.

## 2.2 PROJECT CONSIDERATIONS

Some of the key considerations for the Project include:

- NWSS will remain open and fully operational throughout the construction period. The continued and uninterrupted use of NWSS is essential;
- The Massey Theatre, a 1,260-seat theatre connected to the NWSS gymnasium, will remain operational throughout construction;
- Importance of design in delivering a modern learning environment on a constrained Site; and
- The Site is adjacent to other community users (e.g., Massey Theatre, Moody Park Arena, and Mercer Stadium) and access is anticipated to be limited.

## 2.3 PROJECT TEAM

SD40 is located within the Greater Vancouver Regional District and has an annual enrollment of 6,500 students from kindergarten to grade 12, and has one secondary school, three middle schools, and eight elementary schools.

Additional information about the Owner and the Project is available at <http://newwestschools.com/> and [newnwss.com](http://newnwss.com).

### 2.3.1 Partnerships BC

Partnerships BC was established by the Province of British Columbia to structure and implement partnership delivery solutions for public infrastructure.

The Owner has engaged Partnerships BC to manage the procurement of the New Westminster Secondary School Replacement Project.

Additional information about Partnerships BC is available at [www.partnershipsbc.ca](http://www.partnershipsbc.ca).

## 2.4 ADVANCE WORK BY THE OWNER

The following sections provide an overview of the work undertaken on the Project to date, and work planned to be undertaken prior to contract award.

### 2.4.1 Approvals

The Project has been approved to proceed to procurement and construction by the Province of British Columbia and was announced in June 2016.

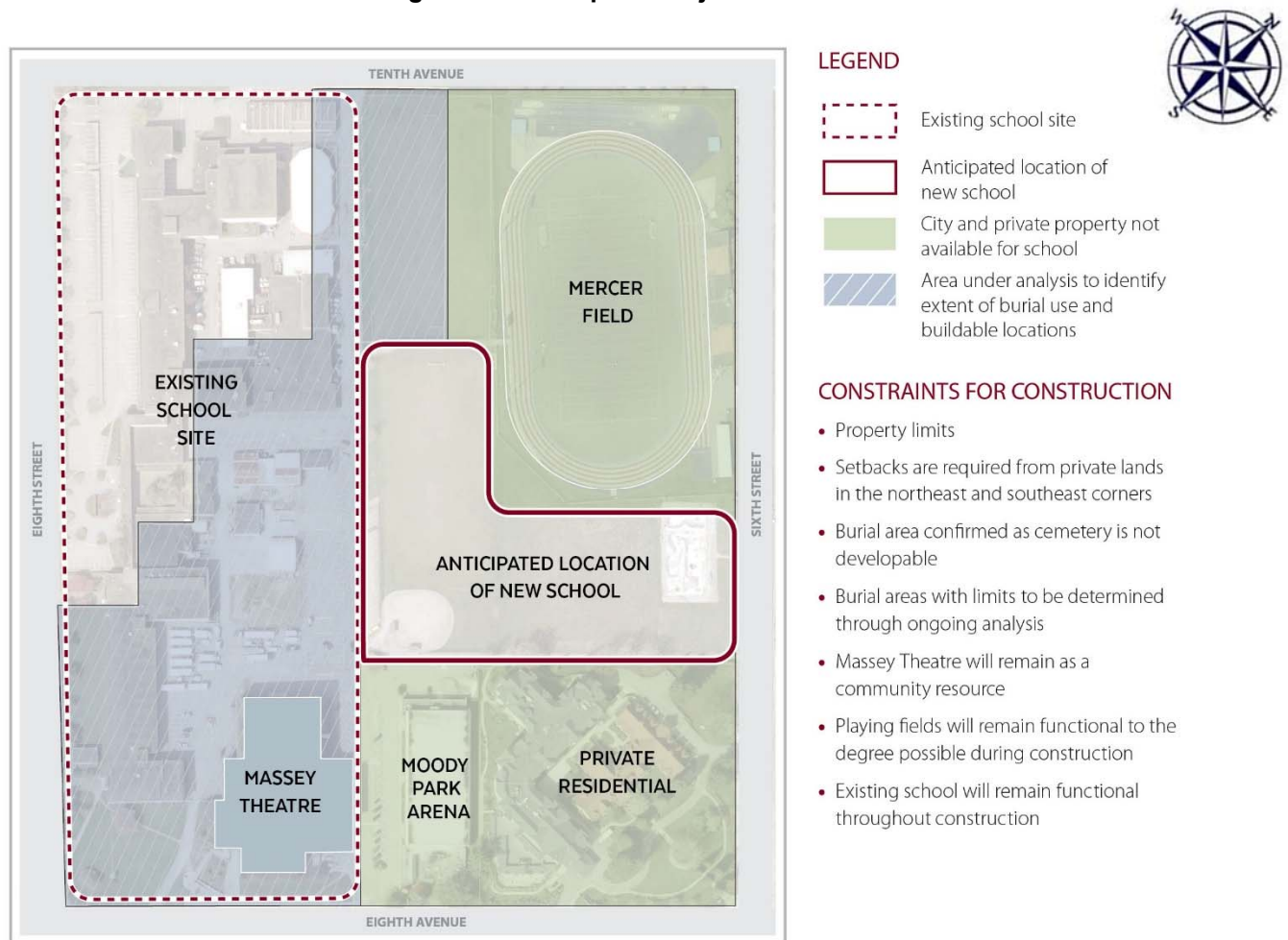




## 2.4.2 Site Planning and Constraints

The Government of British Columbia and SD40 have publicly committed that no construction will take place on any known burial area. In keeping with this commitment, further geophysical investigation is currently underway to confirm the boundaries of the Project's Site (see Figure 1 below).

**Figure 1: Site Map and Adjacencies**



In addition, further geotechnical and geoenvironmental work is underway to better define existing conditions. It is anticipated that environmental remediation will be required in order to attain a Certificate of Compliance (COC) for the Site from the Ministry of Environment.

The responsibilities for the geophysical, geotechnical and geoenvironmental work are detailed in Table 1 below.

**Table 1: Site Planning Elements**

Project Elements	Owner	Design-Builder
Geophysical	<ul style="list-style-type: none"> <li>Responsible for archaeological monitoring and risk of discovered conditions</li> </ul>	<ul style="list-style-type: none"> <li>Mitigate risks related to discovered conditions</li> </ul>
Geotechnical	<ul style="list-style-type: none"> <li>Provide Geotechnical Report</li> </ul>	<ul style="list-style-type: none"> <li>Responsible for risks of geotechnical condition through design and construction</li> </ul>
Geoenvironmental	<ul style="list-style-type: none"> <li>Provide complete Phase 1, Phase 2 studies and Detailed Site Investigation report</li> <li>Will initiate Certificate of Compliance (COC)</li> <li>Remediation as required</li> </ul>	<ul style="list-style-type: none"> <li>Responsible for risks related to design and construction if disclosed prior to contract award and mitigate risks related to discovered conditions</li> </ul>

### 2.4.3 City-Related Issues

SD40 and the City of New Westminster (the “City”) are currently working to define a number of requirements that could impact the Project, such as building height, access/egress, and parking.

### 2.4.4 Zoning

The Site is zoned P2, which permits the use of the property for public schools as well as off-street parking and loading.

### 2.4.5 Site Preparation

The Owner is in the process of making arrangements that will, if required, result in the relocation of the existing baseball diamond and skate park.

### 2.4.6 Programming and Performance Requirements

The Owner is in the process of completing its programming, indicative design and preparation of performance specifications (the “**Statement of Requirements**”).

## 2.5 GENERAL SCOPE OF DESIGN-BUILDER’S RESPONSIBILITY

### 2.5.1 Design-Build Agreement

The Project will be managed under one Design-Build Agreement. The Owner intends to attach an Initial Draft Design-Build Agreement to the RFP which will include:

- (a) Statement of Requirements for the design and construction of the Facility; and



(b) Proposed commercial terms.

The Final Draft Design-Build Agreement will be the basis upon which the Proposals will be prepared in response to the RFP.

### 2.5.2 General Scope of Responsibility

The Owner anticipates that the general scope of the Design-Builder's responsibility under the Design-Build Agreement will be as follows:

(a) Design

The Design-Builder will be responsible for all aspects of the design for the Facility including the integration of the various building components with each other. The final design will comply with the Design-Build Agreement and all applicable laws, including those from the City.

(b) Construction

The Design-Builder will be responsible for:

- (1) obtaining all permits and approvals necessary for construction of the Facility, including development variance permits, development permits, building permits, and occupancy permits, as required;
- (2) provision of utilities and other services required to support the Facility, including off-site works as required to connect the Facility to existing infrastructure;
- (3) design and construction of the Facility starting September 2017; and
- (4) substantial completion in summer 2019 with occupancy of the Facility by September 2019.

(c) Payment

It is anticipated that the Owner will make progress payments during construction (the amount, timing and terms and conditions of which will be set out in the RFP).

It is anticipated there will be a Design-Build Price Ceiling in the RFP stipulating a maximum price over the construction period, and that it will be mandatory to comply with this requirement.

(d) Wood First

The Design-Builder will be required to use wood in the Project consistent with the Wood First Act.

(e) Leadership in Energy and Environmental Design ("LEED®")

The Design-Builder will be required to design and build the Facility to achieve LEED® Gold certification.

(f) Communication and Consultation

The Owner and Design-Builder will work together on all aspects of public communication and consultation as set out in the Design-Build Agreement.

(g) Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines

Respondents are referred to the “Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines”. The Guidelines address use of registered apprentices and reporting on registered apprentices and trainees.

The Guidelines are available at: <http://www2.gov.bc.ca/gov/content/industry/construction-industry/apprentices>.

The Design-Build Agreement includes a requirement for the Design-Builder to comply with the policy, procedure and guidelines.

### 2.5.3 Additional Proponent Team Members

Respondents should anticipate that in the RFP the Owner will, in its discretion, require within four weeks of the release of the RFP, as a condition of continued status as a Proponent, that Proponents nominate a lead mechanical and electrical engineering firm, or firms.

All such firms will be subject to the approval of the Owner, acting reasonably.

### 2.5.4 Key Individuals

In regards to all Key Individuals, Respondents should also anticipate that the Owner will include certain deductions to the Design-Builder, and/or payments to the Owner, in the Design-Build Agreement to address the availability of Key Individuals. In certain instances where a Key Individual resigns or is otherwise unavailable to perform the duties, and no replacement satisfactory to the Owner has been retained within the specified timelines, certain deductions and payments may be required in recognition of the resulting costs and/or losses or damages incurred by the Owner.

## 2.6 COMMERCIAL TERMS

The following are some of the key commercial terms that the Owner anticipates will be included in the Design-Build Agreement:

- (a) Payment: The Owner will make progress payments to the Design-Builder over the construction period in accordance with the Design-Build Agreement.
- (b) Price: It is anticipated that the successful Proponent will not exceed the Design-Build Price Ceiling threshold to be set out in the RFP.
- (c) Risk Allocation: The Design-Build Agreement will allocate risks to the party best able to manage them. Risks allocated to the Design-Builder will include design, schedule and price.
- (d) Extended Warranty: The Owner anticipates requiring the Design-Builder to provide a two-year warranty for the Project.

### 3 COMPETITIVE SELECTION PROCESS

This section describes the process that the Owner expects to use in the selection of a Preferred Proponent and the execution of the Design-Build Agreement. The anticipated Competitive Selection Process includes two stages: (a) the RFQ stage and (b) the RFP stage, which includes contract award.

#### 3.1 RFQ STAGE

The Owner anticipates that it will select a shortlist of no more than three Respondents to be Proponents, and then issue an RFP to that shortlist only, from which the Preferred Proponent will be selected in accordance with the terms of the RFP.

#### 3.2 RFP STAGE

The Owner's objective at the RFP stage is to select the Preferred Proponent with whom it may enter into the Design-Build Agreement. The RFP stage is expected to include:

##### 3.2.1 Collaborative Meetings

The RFP stage will include collaborative discussions (the "**Collaborative Meetings**") relating to technical and commercial matters through workshops and topic meetings in accordance with the terms of the RFP, to allow Proponents to provide comments on Project-specific issues raised through the process. Attendance at Collaborative Meetings will be in person.

The Owner anticipates that the RFP stage will allow Proponents to provide input on the Initial Draft Design-Build Agreement as follows:

- (a) the Owner will invite each Proponent to review the Initial Draft Design-Build Agreement as attached to the RFP and then meet confidentially and separately with the Owner to discuss any comments or amendments that the Proponent requests to be considered;
- (b) the Owner will consider all comments and requested amendments received from the Proponents and may, at the discretion of the Owner, amend the Initial Draft Design-Build Agreement, and by one or more Addenda issue a revised Initial Draft Design-Build Agreement; and
- (c) ultimately the Owner will issue the Final Draft Design-Build Agreement as the common basis for the preparation of Proposals by the Proponents.

##### 3.2.2 RFP Submission

The form of the RFP submission will be described in the RFP and is expected to address both technical and financial aspects of the Project. It is anticipated that a technical submission addressing the technical

aspects of the RFP will be submitted in advance of the financial submission. The RFP submission is expected to include the following:

- (a) a fully binding Proposal to design and build the Facility;
- (b) a commitment to enter into the Design-Build Agreement by the Design-Builder; and
- (c) committed pricing for the Project, inclusive of all taxes except GST.

### 3.3 COMPENSATION FOR PARTICIPATION IN THE COMPETITIVE SELECTION PROCESS

The Owner will not provide any compensation to Respondents for participating in the RFQ stage of the Competitive Selection Process.

If the Competitive Selection Process continues into the RFP stage, the Owner intends to make provision for partial compensation in the amount of \$75,000, inclusive of all taxes, payable to each unsuccessful Proponent in accordance with the terms of the RFP.

### 3.4 COMPETITIVE SELECTION TIMELINE

The following is the Owner's estimated timeline for the Competitive Selection Process and the Project:

Activity	Timeline
RFQ issue date	November 25, 2016
Introductory Project Meeting	December 15, 2016
RFQ Submission Time	January 25, 2017
Respondent interviews (optional)	Week of February 20, 2017
Announce Shortlisted Respondents	March 3, 2017
Issue RFP and Initial Draft Design-Build Agreement to Proponents	March 2017
Collaborative Meetings	March – June 2017
Issue Final Draft Design-Build Agreement	June 2017
Submission Time for Technical Submissions	July 2017
Submission Time for Financial Submissions	August 2017
Selection of Preferred Proponent	September 2017
Contract award	September 2017
Design and Construction Phase commences	September 2017
Substantial Completion	Summer 2019
Occupancy	September 2019

All dates in the above timeline are subject to change at the discretion of the Owner.

### 3.5 INTRODUCTORY PROJECT MEETING

The Owner intends to hold an introductory meeting, in person, to introduce the Project to which all interested parties will be invited. The date of this meeting will be December 15, 2016 in New Westminster, British Columbia. All parties who wish to attend should complete and submit a Receipt Confirmation Form for further details. Attendance will not be mandatory.

A list of registered attendees will be made available to everyone attending or who has submitted a Receipt Confirmation Form. Minutes will not be prepared or circulated. No information from the meeting may be relied upon unless set out in an Addendum or a response to an Enquiry under Section 4.7.



## 4 SUBMISSION AND PROCESS INSTRUCTIONS

### 4.1 MANDATORY REQUIREMENTS

Responses to this RFQ must be received at the Submission Location before the Submission Time as stated in the Summary of Key Information. Responses received after the Submission Time will not be considered and will be returned unopened. All times will be determined with reference to the clock used by the Contact Person for that purpose.

### 4.2 RESPONSE FORM AND CONTENT

Responses to this RFQ should be in the form and content described in Appendix A.

### 4.3 LANGUAGE OF RESPONSES AND ENQUIRIES

Responses should be in English. Any portion of a Response not in English may not be evaluated.

### 4.4 NO FAX OR EMAIL SUBMISSION

Responses submitted by fax or email will **not** be accepted.

### 4.5 RECEIPT OF COMPLETE RFQ

Respondents are solely responsible to ensure that they have received the complete RFQ, as listed in the Table of Contents, plus any Addenda. Each and every Response is deemed to be made on the basis of the complete RFQ issued prior to the Submission Time. The Owner accepts no responsibility for any Respondent that does not receive all RFQ information.

### 4.6 RECEIPT CONFIRMATION FORM

Any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form (Appendix B). This form will be completed, executed and delivered to the Contact Person via email.

### 4.7 ENQUIRIES

Respondents are encouraged to submit Enquiries at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time to permit consideration by the Owner; the Owner may, in its discretion, decide not to respond to any Enquiry.

All Enquiries regarding any aspect of this RFQ should be directed to the Contact Person by email, and the following will apply to any Enquiry:

- (a) any responses will be in writing;
- (b) Enquiries to, and responses from, the Contact Person will be recorded;
- (c) a Respondent may request that an Enquiry and a response to an Enquiry be kept confidential if the Respondent considers the Enquiry to be commercially sensitive, and if the Owner decides that an Enquiry should be distributed to all Respondents, then the Owner will permit the enquirer to withdraw the Enquiry rather than receive a response;
- (d) subject to Section 4.7 (c), any Enquiry and response may, in the Owner's discretion, be distributed to all Respondents, if the Owner in its discretion considers the matter to be a matter of substance or a matter that should be brought to the attention of all Respondents for purposes of fairness in, or maintaining the integrity of, the Competitive Selection Process. The Owner may keep either or both the Enquiry and response confidential if in the judgment of the Owner it is fair or appropriate to do so; and
- (e) the Owner is not required to provide a response to any Enquiry.

#### 4.8 UNOFFICIAL INFORMATION

Information offered to Respondents in respect of this RFQ from sources other than the Contact Person is not official, may be inaccurate, and should not be relied on in any way, by any person for any purpose.

#### 4.9 DELIVERY AND RECEIPT OF FAX AND EMAIL COMMUNICATIONS

No fax communication with the Contact Person is permitted with respect to the Project.

The following provisions shall apply to any communications with the Contact Person, or the delivery of documents to the Contact Person, by email where such email communications or delivery is permitted by the terms of this RFQ:

The Owner does not assume any risk or responsibility or liability whatsoever to any Respondent:

- (a) for ensuring that any electronic email system being operated for the Owner or Partnerships BC is in good working order, able to receive emails, or not engaged in receiving other emails such that a Respondent's email cannot be received; and/or
- (b) if a permitted email communication or delivery is not received by the Contact Person, or received in less than its entirety, within any time limit specified by this RFQ.

All permitted email communications with, or delivery of documents to, the Contact Person will be deemed as having been received by the Contact Person on the dates and times indicated on the Contact Person's electronic equipment or by the clock used by the Contact Person for that purpose.

#### **4.10 ADDENDA**

The Owner may, in its absolute discretion through the Contact Person, amend or clarify the terms or contents of this RFQ at any time before the Submission Time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFQ, and no other form of communication, whether written or oral, including written responses to Enquiries as provided by Section 4.7, will be included in, or will in any way amend or clarify this RFQ. Only the Contact Person is authorized to amend or clarify this RFQ by issuing an Addendum. No other employee or agent of the Owner is authorized to amend or clarify this RFQ. The Owner will send a notification of any Addendum to all parties who have delivered a completed Receipt Confirmation Form.

#### **4.11 DEFINITIVE RECORD**

If there is any inconsistency between the paper form of a document and the digital, electronic or other computer readable form, the electronic conformed version of the RFQ in the custody and control of the Owner prevails.

#### **4.12 REVISIONS PRIOR TO THE SUBMISSION TIME**

A Respondent may amend or withdraw its Response at any time prior to the Submission Time by delivering written notice to the Contact Person at the Submission Location prior to the Submission Time.

#### **4.13 RESPONSE DECLARATION FORM**

Respondents are required to complete the Response Declaration Form, substantially in the form attached as Appendix D or as otherwise acceptable to the Owner in the Owner's discretion, and should include the completed form as part of its Response. The Response Declaration Form will be executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent's Representative.

#### **4.14 RELATIONSHIP DISCLOSURE FORM**

Respondents are required to complete the Relationship Disclosure Form, substantially in the form attached as Appendix E, or as otherwise acceptable to the Owner in the Owner's discretion, and should include the completed form as part of their Response. The Relationship Disclosure Form will be executed

by a signatory with authority to bind each member of a Respondent Team, and for clarity such signatory may be different than the Respondent's Representative.

## 5 EVALUATION

The evaluation of Responses will be carried out by the Owner with assistance from other persons as the Owner may decide it requires, including technical, financial, legal and other advisors or employees of the Owner or Partnerships BC.

### 5.1 EVALUATION CRITERIA

The Owner will evaluate Responses by application of the Evaluation Criteria as outlined in Appendix A.

### 5.2 EVALUATION AND SELECTION PROCEDURES

The Owner will evaluate Responses based on the information described in Table 3 of Appendix A and may, in its discretion, also consider any or all additional information received from the steps described in (a)-(e) below.

To assist in the evaluation of the Responses, the Owner may, in its discretion, but is not required to:

- (a) conduct reference checks relevant to the Project with any or all of the references cited in a Response to verify any and all information regarding a Respondent, inclusive of its directors/officers and Key Individuals;
- (b) conduct any additional investigations and/or seek any additional information that it considers necessary in the course of the Competitive Selection Process, including with respect to Nominated Projects and projects in which a Respondent Team member has been involved in the last five years but which are not Nominated Projects;
- (c) seek clarification of a Response or supplementary information from any or all Respondents;
- (d) request interviews with any, some, or all Respondents to clarify any questions or considerations based on the information included in Responses or seek any supplementary information; and
- (e) rely on and consider in the evaluation of Responses any information obtained as a result of such reference checks, investigations, requests for clarification or supplementary information, interviews, and/or any additional information that it receives during the evaluation process.

The Owner is not obligated to complete a detailed evaluation of all Responses and may, in its discretion, after completing a preliminary review of all the Responses, discontinue detailed evaluation of any Respondent who, when compared to the other Respondents, the Owner judges is not in contention to be shortlisted.

The Owner will notify Respondents of the RFQ results by sending a written notice to the Respondent's Representative.

The Owner will conduct a debriefing, upon request, for any Respondent if the debriefing is requested within 90 days after a shortlist has been announced. In a debriefing the Owner will discuss the relative strengths and weaknesses of that Respondent's Response, but the Owner will not disclose or discuss any confidential information of another Respondent.

### 5.3 INTERVIEWS

Respondents may be required by the Owner to have interviews regarding their Response during the evaluation process at the request of the Owner. The presentations should be specific to the Project and may not contain any marketing information of the Respondent or any member of the Respondent Team. Key Individuals are expected to attend the interviews.

### 5.4 CHANGES TO RESPONDENT TEAMS

The Owner intends to issue the RFP only to Respondents that have been shortlisted under this RFQ as Proponents for the RFP stage. If for any reason after the Submission Time a Respondent wishes or requires to add, remove or otherwise change a member of its Respondent Team, or there is a material change in ownership or control (which includes the ability to direct or cause the direction of the management actions or policies of a member) of a member of the Respondent Team, or there is a change to the legal relationship among any or all of the Respondent and its Respondent Team members, then the Respondent must submit a written application to the Owner for approval, including supporting information that may assist the Owner in evaluating the change. The Owner, in its discretion, may grant or refuse an application under this Section, and in exercising its discretion the Owner will consider the objective of achieving a Competitive Selection Process that is not unfair to the other Respondents. For clarity:

- (a) if the application is made after the Proponents have been determined, the Owner may refuse to permit a change to the membership of a Respondent Team if the change would, in the Owner's judgment, result in a weaker team than was originally shortlisted; or
- (b) the Owner may, in the exercise of its discretion, permit any changes to a Respondent Team, including changes as may be requested arising from changes in ownership or control of a Respondent or a Respondent Team member, or changes to the legal relationship among the Respondent Team members such as the creation of a new joint venture or other legal entity or relationship in place of the Respondent Team.

The Owner's approval may include such terms and conditions as the Owner may consider appropriate.  
This Section 5.4 shall apply until issuance of the RFP.

## 6 RFQ TERMS AND CONDITIONS

### 6.1 NO OBLIGATION TO PROCEED

This RFQ does not commit the Owner in any way to proceed to an RFP stage or award a contract, and the Owner reserves the complete right to, at any time, reject all Responses and to terminate the Competitive Selection Process established by this RFQ and proceed with the Project in some other manner as the Owner may decide in its absolute discretion.

### 6.2 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

All documents and other records in the custody of, or under the control of, the Owner are subject to the Freedom of Information and Protection of Privacy Act (“**FOIPPA**”) and other applicable legislation.

By submitting a Response, the Respondent represents and warrants to the Owner that the Respondent has complied with applicable laws, including by obtaining from each individual any required consents and authorizations to the collection of information relating to such individual and to the submission of such information to the Owner as part of the Response for the purposes of this RFQ and the Competitive Selection Process.

### 6.3 CONFIDENTIALITY OF OWNER INFORMATION

All non-public information pertaining to, or provided by or on behalf of, Partnerships BC or the Owner obtained by a Respondent as a result of participation in this RFQ is confidential and will not be disclosed without written authorization from Partnerships BC or the Owner (as applicable). Except as expressly stated in this RFQ and subject to the FOIPPA or other applicable legislation, all documents and other records submitted in response to this RFQ will be considered confidential; however, such information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

By submitting a Response, a Respondent will be deemed to have agreed to all the terms of the Confidentiality Agreement attached as part of Appendix C to this RFQ.

Proponents will also be required to sign a Participation Agreement as a condition of participating in the RFP, and such agreement will include confidentiality and other provisions. The Owner expects that the form of the Participation Agreement will be substantially as set out in Appendix F.

The Owner has engaged Partnerships BC. Partnerships BC has been and continues to be involved in other projects, and the Owner may receive information in respect of other projects which may be relevant to the Project. Subject to the terms of the RFQ, the Owner may in its discretion disclose information that is



available from this Project to Partnerships BC and other projects and may obtain information from other projects.

#### **6.4 COST OF PREPARING THE RESPONSE**

Each Respondent is solely responsible for all costs it incurs in the preparation of its Response, including without limitation all costs of providing information requested by the Owner, attending meetings, and conducting due diligence.

#### **6.5 NO REPRESENTATION OR WARRANTY**

Each Respondent acknowledges by its submission of a Response that it has investigated and satisfied itself of every condition that affects the Project. Each Respondent further acknowledges and represents that its investigations have been based on its own examination, knowledge, information and judgment, and not upon any statement, representation or information made or given by the Owner, the Contact Person or any advisor to the Owner, other than the information contained in this RFQ. Submission of a Response is deemed to be conclusive evidence that the Respondent has made such investigations and that the Respondent is willing to assume, and does assume, all risks affecting the Project, except as otherwise specifically stated in this RFQ. The Owner accepts no responsibility for any Respondent lacking any information.

#### **6.6 RESERVATION OF RIGHTS**

The Owner reserves the right, in its discretion, to exercise any or all of the following rights:

- (a) amend the scope of the Project, modify, cancel or suspend the RFQ process or any or all stages of the Competitive Selection Process, at any time for any reason;
- (b) accept or reject any Response based on the Evaluation Criteria as evaluated by the Owner;
- (c) disqualify a Response that fails to meet the Mandatory Requirements set out in Section 4.1, or for any of the reasons set out in Part 2 of Appendix A, or any other reason the Owner determines appropriate;
- (d) waive a defect, irregularity, non-conformity or non-compliance in or with respect to a Response or failure to comply with the requirements of this RFQ, except for Mandatory Requirements, and accept that Response even if such a defect, irregularity, non-conformity or non-compliance or failure to comply with the requirements of this RFQ would otherwise render the Response null and void;
- (e) not accept any or all Responses;

- (f) reject or disqualify any or all Response(s) for any reason without any obligation, compensation or reimbursement to any Respondent or any of its team members;
- (g) re-advertise for new Responses, call for quotes, proposals or tenders, or enter into negotiations for this Project or for work of a similar nature;
- (h) make any changes to the terms of the business opportunity described in this RFQ; and
- (i) amend, from time to time, any date, any time period or deadline provided in this RFQ, upon written notice to all Respondents who submitted a Receipt Confirmation Form.

## 6.7 LIMITATION OF DAMAGES

Each Respondent, by submitting a Response, agrees that in no event will the Owner or Partnerships BC, or any of their employees, advisors or representatives, be liable, under any circumstances, for any Claim, or to reimburse or compensate the Respondent in any manner whatsoever, including but not limited to costs of preparation of the Response, loss of anticipated profits, loss of opportunity, or for any other matter. Without in any way limiting the above, each Respondent specifically agrees that it will have absolutely no Claim against the Owner or any of its employees, advisors or representatives if the Owner for any reason whatsoever:

- (a) does not select a shortlist of Respondents;
- (b) suspends, cancels or in any way modifies the Project or the Competitive Selection Process (including modification of the scope of the Project or modification of this RFQ or both);
- (c) accepts any compliant or non-compliant Response or selects a shortlist of one or more Respondent(s);
- (d) under the terms of this RFQ, permits or does not permit a Restricted Party to advise, assist or participate as part of a Respondent Team; or
- (e) for any breach or fundamental breach of contract or legal duty of the Owner, whether express or implied.

The Respondent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not shortlisted in the Competitive Selection Process or for any other reason whatsoever.

## 6.8 OWNERSHIP OF RESPONSES

All Responses submitted to the Owner become the property of the Owner.

## 6.9 DISCLOSURE AND TRANSPARENCY

The Owner is committed to an open and transparent Competitive Selection Process while understanding the Respondents' need for protection of confidential commercial information. To assist the Owner in meeting its commitment, Respondents will cooperate and extend all reasonable accommodation to this endeavour.

The Owner expects to publicly disclose the following information during this stage of the Competitive Selection Process: this RFQ document, the number of Respondents, and the names of Proponents.

To ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence the outcome of the Competitive Selection Process, the disclosure of any public information generated in relation to the Project, including communications with the media and the public, will be coordinated with, and is subject to prior approval of, the Owner.

Respondents will notify the Owner of any and all requests for information or interviews received from the media.

Respondents will ensure that all members of the Respondent Team and all others associated with the Respondent also comply with these requirements.

## 6.10 NO COMMUNICATION OR COLLUSION

By submitting a Response, a Respondent, on its own behalf and as authorized agent of each firm, corporation or individual member of the Respondent Team, represents and confirms to the Owner, with the knowledge and intention that the Owner may rely on such representation and confirmation, that its Response has been prepared without collusion or fraud, and in fair competition with Responses from other Respondents.

Respondents and their Respondent Team members are not to discuss or communicate, directly or indirectly, with other Respondents or their Respondent Team members or any of their respective directors, officers, employees, consultants, advisors, agents or representatives regarding the preparation, content or submission of their Responses or any other aspect of the Competitive Selection Process.

## 6.11 NO LOBBYING

Respondents and their respective Respondent Teams, the members of their Respondent Teams, and their respective directors, officers, employees, consultants, agents, advisors and representatives will not engage in any form of political or other lobbying whatsoever in relation to the Project, this RFQ, or the Competitive Selection Process, including for the purpose of influencing the outcome of the Competitive

Selection Process. Further, no such person (other than as expressly contemplated by this RFQ) will attempt to communicate in relation to the Project, this RFQ, or the Competitive Selection Process, directly or indirectly, with any representative of the Owner, the Government of British Columbia (including any Minister or Deputy Minister, any member of the Executive Council, or any Members of the Legislative Assembly, or any employee of the Owner), Partnerships BC, any Restricted Parties, or any director, officer, employee, agent, advisor, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever.

In the event of any lobbying or communication in contravention of this Section by any Respondent, Respondent Team members, or their respective directors, officers, employees, consultants, agents, advisors or representatives, the Owner in its discretion may at any time, but will not be required to, reject any and all Responses submitted by that Proponent without further consideration.

## 6.12 RELATIONSHIP DISCLOSURE AND REVIEW PROCESS

The Owner reserves the right to disqualify any Respondent that in the Owner's opinion has a conflict of interest or an unfair advantage, whether it is existing now or is likely to arise in the future, or may permit the Respondent to continue and impose such conditions as the Owner may consider to be in the public interest or otherwise required by the Owner.

Respondents will submit the form attached as Appendix E and disclose all conflicts of interest or unfair advantage.

Respondents, including all firms, corporations or individual member of a Respondent Team, will promptly disclose to the Contact Person any potential conflict of interest and existing business relationships they may have with the Owner, Partnerships BC or any members of the Owner or others providing advice or services to the Owner with respect to the Project, or any other matter that gives rise, or might give rise, to an unfair advantage. At the time of such disclosure, the Respondent will advise the Contact Person how the Respondent proposes to mitigate, minimize or eliminate the situation.

For the purposes of this RFQ, references to unfair advantage include references to confidential information that is not, or would not reasonably be expected to be, available to all Respondents.

The Owner and the Conflict of Interest Adjudicator (the "**COI Adjudicator**") may, in their discretion, consider actual, perceived or potential conflicts of interest and unfair advantage.

#### 6.12.1 Use or Inclusion of Restricted Parties

The Owner may, in its discretion, disqualify a Respondent, or may permit a Respondent to continue and impose such conditions as the Owner may consider to be in the public interest or otherwise required by the Owner, if the Respondent is a Restricted Party, or if the Respondent uses a Restricted Party:

- (a) to advise or otherwise assist the Respondent respecting the Respondent's participation in the Competitive Selection Process; or
- (b) as a Respondent Team member or as an employee, advisor or consultant to the Respondent or a Respondent Team member.

Each Respondent is responsible, and bears the onus, to ensure that neither the Respondent nor any Respondent Team member uses or seeks advice or assistance from any Restricted Party or includes any Restricted Party in the Respondent Team except as permitted by this Section 6.12.

#### 6.12.2 Current Restricted Parties

At this RFQ stage, and without limiting the definition of Restricted Parties, the Owner has identified the following persons as Restricted Parties.

- Boughton Law Corporation; (COI Adjudicator)
- Joan Young, McMillan LLP; (Fairness Advisor)
- Fasken Martineau Dumoulin LLP; (Legal Advisor)
- Kirk & Co. Consulting Ltd.;
- Nancy Spooner Consulting Inc.;
- SSA Quantity Surveyors Ltd.;
- Golder Associates Ltd.;
- Lisa Bell & Associates;
- IBI Group and their sub-consultants, including;
  - CWMM Consulting Engineers Ltd.;
  - Smith + Andersen;
  - Binnie Consulting Ltd.; and
- The Owner and Partnerships BC, including their former and current employees who fall within the definition of Restricted Party.

This is not an exhaustive list of Restricted Parties. Additional persons may be added to or deleted from the list during any stage of the Competitive Selection Process through an Addendum.

#### 6.12.3 Shared Use

A Shared Use Person is a person identified by the Owner as eligible to enter into arrangements with any and all Respondents but may not enter into exclusive arrangements with any Respondent. As of the date of this RFQ, no Shared Use Persons have been identified.

#### 6.12.4 Conflict of Interest Adjudicator

The Owner has appointed a COI Adjudicator to provide decisions on conflicts of interest or unfair advantage issues, including whether any person is a Restricted Party.

The COI Adjudicator and the Owner may make decisions or exercise rights under this Section 6.12 and this RFQ for conflicts of interest, unfair advantage whether addressed in advance or otherwise, and all provisions of this Section 6.12 will apply with such modifications as the Owner or the COI Adjudicator may consider necessary.

The Owner or the COI Adjudicator, as applicable, has discretion to establish the relevant processes from time to time.

There is no requirement for all issues to be referred to the COI Adjudicator.

#### 6.12.5 Request for Advance Decision

A Respondent or a prospective member or advisor of a Respondent Team who has any concerns regarding whether a current or prospective employee, advisor or member of that Respondent Team is or may be a Restricted Party or has a concern about any conflict or unfair advantage it may have, is encouraged to request an advance decision in accordance with this Section.

To request an advance decision on whether a person is a Restricted Party, a Respondent or prospective team member or advisor of that Respondent Team should submit to the Contact Person, not less than 10 Business Days prior to the Submission Time by email, the following information:

- (a) names and contact information of the Respondent and the person for which the advance opinion is requested;
- (b) a description of the relationship that raises the possibility or perception of a conflict of interest or unfair advantage;
- (c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate the conflict of interest or unfair advantage, including the effect of confidential information; and

(d) copies of any relevant documentation.

The Owner may make an advance decision or may refer the request for an advance decision to the COI Adjudicator. If the Owner refers the request to the COI Adjudicator, the Owner may provide input regarding the issues raised to the COI Adjudicator.

Subject to Section 6.2, all requests for advance decisions will be treated in confidence. If a Respondent or prospective team member or advisor becomes a Restricted Party, it may be listed in an Addendum or in subsequent Competitive Selection Process documents as a Restricted Party.

#### 6.12.6 The Owner May Request Advance Decision

The Owner may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Owner identifies a potential conflict, unfair advantage or a person who may be a Restricted Party. The Owner will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Owner seeks an advance decision from the COI Adjudicator, the Owner will give notice to the possible Respondent and may give notice to the possible Restricted Party so that they may provide input regarding the issues raised to the COI Adjudicator.

The onus is on the Respondent to clear any potential conflict, unfair advantage, or Restricted Party, or to establish any conditions for continued participation, and the Owner may require that the Respondent make an application under Section 6.12.5.

#### 6.12.7 Decisions Final and Binding

The decision of the Owner or the COI Adjudicator, as applicable, is final and binding on the persons requesting the ruling and all other parties including Respondents, Respondent Team members and the Owner. The Owner or the COI Adjudicator, as applicable, has discretion to establish the relevant processes from time to time, including any circumstances in which a decision may be amended or supplemented.

#### 6.12.8 Exclusivity

Unless permitted by the Owner in its discretion or permitted as a Shared Use Person, each Respondent will ensure that no member of its Respondent Team, any firm or employer of any of its Key Individuals, or any Affiliated Person of any member of its Respondent Team, or any firm or employer of any of its Key Individuals, participates as a member of any other Respondent Team.

If the Respondent contravenes the foregoing, the Owner reserves the right to disqualify the Respondent, or to permit the Respondent to continue and impose such conditions as may be required by the

Owner. Each Respondent is responsible, and bears the onus, to ensure that the Respondent, each member of its Respondent Team, and their respective Affiliated Persons do not contravene the foregoing.

A Respondent or a prospective Respondent Team member who has any concerns regarding whether participation does, or will, contravene the foregoing is encouraged to request an advance decision. To request an advance decision on matters related to exclusivity, the Respondent or prospective Respondent Team member should submit to the Contact Person, not less than ten (10) Business Days prior to the Submission Time by email, the following information:

- (a) names and contact information of the Respondent or prospective Respondent Team member making the disclosure;
- (b) a description of the relationship that raises the possibility of non-exclusivity;
- (c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate any material adverse or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
- (d) copies of any relevant documentation.

The Owner may require additional information or documentation to demonstrate to the satisfaction of the Owner in its discretion that no such non-exclusivity exists or, if it does, that measures satisfactory to the Owner in its discretion have been or will be implemented to eliminate or mitigate any risk to the competitiveness or integrity of the Competitive Selection Process.

#### 6.12.9 Exclusivity – The Owner May Request Advance Decisions

The Owner may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Owner identifies a matter related to exclusivity. The Owner will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Owner seeks an advance decision from the COI Adjudicator, the Owner will give notice to the Respondent so that it may make its own response to the COI Adjudicator.

The onus is on the Respondent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Owner may require that the Respondent make an application under Section 6.12.8.

#### 6.12.10 Exclusivity – Decisions Final and Binding

The decision of the Owner or the COI Adjudicator, as applicable, is final and binding on the persons requesting the ruling and all other parties including Respondents, Respondent Team members and the Owner. The Owner or the COI Adjudicator, as applicable, has discretion to establish the relevant



processes from time to time, including any circumstance in which a decision may be amended or supplemented.

The Owner may provide any decision by the Owner or the COI Adjudicator regarding matters related to exclusivity to all Respondents if the Owner, in its discretion, determines that the decision is of general application.

### **6.13 LEGAL COUNSEL**

Fasken Martineau Dumoulin LLP (Fasken Martineau) is a Restricted Party. By submitting a Response, the Respondent expressly consents to Fasken Martineau continuing to represent the Owner for all matters in relation to this RFQ and the Project, including any matter that is adverse to the Respondent, despite any information of the Respondent and any solicitor-client relationship that the Respondent may have had, or may have, with Fasken Martineau in relation to matters other than this RFQ and the Project. This Section is not intended to waive any of the Respondent's rights of confidentiality or solicitor-client privilege. The Owner reserves the right at any time to waive any provision of this Section.

### **6.14 FAIRNESS ADVISOR**

The Owner has appointed Joan Young of McMillan LLP as the Fairness Advisor to monitor the Competitive Selection Process. The Fairness Advisor will act as an independent observer of the fairness of the implementation of the Competitive Selection Process, up to the selection of a Preferred Proponent. The Fairness Advisor will provide a written report to the Owner that the Owner will make public.

The Fairness Advisor will be:

- (a) provided full access to all documents, meetings and information related to the process under this RFQ which the Fairness Advisor, in its discretion, decides is required; and
- (b) kept fully informed by the Owner of all documents and activities associated with this RFQ.

Respondents may contact the Fairness Advisor directly with regard to concerns about the fairness of the Competitive Selection Process.

## 7 DEFINITIONS AND INTERPRETATION

### 7.1 DEFINITIONS

In this RFQ:

**“Addenda”** or **“Addendum”** means each amendment to this RFQ issued by the Contact Person as described in Section 4.10.

**“Affiliated Persons”**, or affiliated persons, or persons affiliated with each other, are:

- (a) a corporation and
  - (1) a person by whom the corporation is controlled,
  - (2) each member of an affiliated group of persons by which the corporation is controlled, and
  - (3) a spouse or common-law partner of a person described in subparagraph (1) or (2) or (b);
- (b) two corporations, if
  - (1) each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,
  - (2) one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or
  - (3) each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;
- (c) a corporation and a partnership, if the corporation is controlled by a particular group of persons, each member of which is affiliated with at least one member of a majority interest group of partners of the partnership, and each member of that majority interest group is affiliated with at least one member of the particular group;
- (d) a partnership and a majority interest partner of the partnership;
- (e) two partnerships, if
  - (1) the same person is a majority interest partner of both partnerships,
  - (2) a majority interest partner of one partnership is affiliated with each member of a majority interest group of partners of the other partnership, or
  - (3) each member of a majority interest group of partners of each partnership is affiliated with at least one member of a majority interest group of partners of the other partnership;

- (f) a person and a trust, if the person
  - (1) is a majority interest beneficiary of the trust, or
  - (2) would, if this subsection were read without reference to this paragraph, be affiliated with a majority interest beneficiary of the trust; and
- (g) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and
  - (1) a majority interest beneficiary of one of the trusts is affiliated with a majority interest beneficiary of the other trust,
  - (2) a majority interest beneficiary of one of the trusts is affiliated with each member of a majority interest group of beneficiaries of the other trust, or
  - (3) each member of a majority interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority interest group of beneficiaries of the other trust.

**“Business Day(s)”** means a standard day for conducting business, excluding government holidays and weekends.

**“City”** means the City of New Westminster.

**“Claim”** means any claim, demand, liability, damage, loss, suit, action, or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto.

**“Collaborative Meetings”** has the meaning set out in Section 3.2.1.

**“Conflict of Interest Adjudicator”** or **“COI Adjudicator”** has the meaning set out in Section 6.12.3.

**“Competitive Selection Process”** means the overall process for the selection of a Preferred Proponent for the Project including, but not limited to, this RFQ.

**“Confidential Information”** has the meaning set out in Appendix C.

**“Confidentiality Agreement”** means the agreement referred to in Appendix C to this RFQ.

**“Contact Person”** means the person identified as such in the Summary of Key Information, or such other person as may be appointed by the Owner for that purpose.

**“Design-Build Agreement”** has the meaning set out in Section 1.1.

**“Design-Build Construction Manager”** means the individual responsible for leading the construction of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Build Director”** means the individual who represents the Design-Builder and has overall responsibility to design and build the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Build Design Manager”** means the Design-Builder’s representative in charge of oversight of the Design Team, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Build Price Ceiling”** means the maximum sum of the nominal progress payments (inclusive of all taxes except GST) to be paid to the Design-Builder as defined in the Design-Build Agreement.

**“Design-Builder”** means the individuals, corporations, other entities or the underlying legal entities that make up a legal structure and who have the direct responsibility to design and build the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Firm(s)”** means the firm(s) engaged by the Design-Builder to design the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Team”** means the team responsible for the design, including architects, engineers, and specialty consultants.

**“Design Team Technical Lead”** means the individual who manages and is responsible for the design consultants and other advisors during development of the design.

**“Draft Statement of Requirements”** means the specifications for the design and construction of the Facility as set out in the Initial Draft Design-Build Agreement or Final Draft Design-Build Agreement.

**“Enquiry”** has the meaning set out in Section 4.7.

**“Evaluation Criteria”** means the criteria referred to in Section 2.2 of Appendix A.

**“Facility”** means the new school replacing the existing New Westminster Secondary School.

**“Fairness Advisor”** has the meaning set out in Section 6.14.

**“Final Draft Design-Build Agreement”** has the meaning set out in Section 2.5.1.

**“Freedom of Information and Protection of Privacy Act” or “FOIPPA”** has the meaning set out in Section 6.2.

**“GST”** means Goods and Services Tax.

**“Guarantor”** means an entity providing financial and/or performance support to the Design-Builder by way of a guarantee or a commitment to provide a parent company guarantee or other proposed credit support in relation to the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Initial Draft Design-Build Agreement”** means the draft form of Design-Build Agreement issued under the RFP, as amended pursuant to the terms of the RFP.

**“Key Individuals”** of a Respondent Team means the specific individuals, exclusive to the Respondent, filling the following roles (or equivalent, as described in the Respondent’s Response and as may be changed pursuant to this RFQ):

- Design-Build Director;
- Design-Build Design Manager;
- Lead Architect;
- Design Team Technical Lead; and
- Design-Build Construction Manager.

Key Individuals may fill multiple roles provided they have the qualifications and experience for all the roles. A Key Individual role may only be filled by one individual

**“Lead Architect”** means the individual responsible for leading the design of the Project and managing the design team, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Mandatory Requirements”** has the meaning set out in Section 4.1.

**“Minimum Requirements”** has the meaning set out in Appendix A.

**“Nominated Projects”** has the meaning set out in Section 1 of the Evaluation Criteria in Appendix A, and as requested in Form A-1 Nominated Project Details of Appendix A.

**“Owner”** or **“SD40”** means the Board of Education of School District No.40 (New Westminster).

**“Participation Agreement”** means the form substantially as attached as Appendix F.

**“Partnerships BC”** means Partnerships British Columbia Inc.

**“Preferred Proponent”** means the Proponent selected by the Owner pursuant to the RFP to finalize the Design-Build Agreement.

**“Project”** means the design and construction of the Facility and all other works ancillary to the Facility in accordance with the Design-Build Agreement.

**“Project Brief”** has the meaning set out in Section 1.4.

**“Proponent”** means a Respondent who has been shortlisted under this RFQ to be eligible to submit a Proposal in response to the RFP.

**“Proposal”** means the submission prepared by a Proponent in response to the Request for Proposals.

**“Receipt Confirmation Form”** means the form substantially as attached as Appendix B.

**“Relationship Disclosure Form”** means the form substantially as attached as Appendix E.

**“Respondent”** means:

- (a) before the Submission Time any party described in Section 1.3 that has signed and submitted a Receipt Confirmation Form confirming an intention to submit a Response; and
- (b) after the Submission Time any party described in Section 1.3 that has submitted a Response.

**“Respondent’s Representative”** means the person, identified in the Receipt Confirmation Form (Appendix B) and Response Declaration Form (Appendix D), who is fully authorized to represent the Respondent in any and all matters related to its Response.

**“Respondent Team”** means a Design-Builder, its Design-Build Design Firms, its Key Individuals and Guarantor(s), as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Response”** means the formal response to this RFQ by a Respondent.

**“Response Declaration Form”** means the form substantially as attached as Appendix D.

**“Restricted Party”** means those persons (including their former and current employees) who have a conflict of interest or had, or currently have, participation or involvement in the Competitive Selection Process or the design, planning or implementation of the Project, and who have or may provide a material unfair advantage, including without limitation as a result of any Confidential Information that is not, or would not reasonably be expected to be, available to all other Respondents.

**“RFP”** means the Request for Proposals, which may be issued by the Owner as a stage of the Competitive Selection Process.

**“RFQ”** means this Request for Qualifications, including the Appendices, issued by the Owner as the first stage of the Competitive Selection Process.

“**SD40**” or “**Owner**” means the Board of Education of School District No.40 (New Westminster).

“**Shared Use Person**” means those persons, if any, who are specifically named in Section 6.12.3.

“**Site**” means the site upon which the Facility is to be constructed.

“**Statement of Requirements**” means the specifications for the design and construction of the Project as set out in the Design-Build Agreement.

“**Submission Location**” means the submission location identified as such in the Summary of Key Information.

“**Submission Time**” means the time and date indicated as such in the Summary of Key Information.

## 7.2 INTERPRETATION

In this RFQ:

- (a) when an action, decision, consent, approval or any other thing is said to be in the Owner’s “discretion” or words of like effect, unless the context otherwise requires it means the sole, absolute and unfettered discretion of the Owner;
- (b) the use of headings is for convenience only and headings are not to be used in the interpretation of this RFQ;
- (c) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFQ;
- (d) words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa;
- (e) the word “including” when used in this RFQ is not to be read as limiting;
- (f) all dollar values are Canadian dollars unless otherwise indicated;
- (g) a reference to a “person” includes a reference to an individual, legal personal representative, corporation, body corporate, firm, partnership, trust, trustee, syndicate, joint venture, limited liability company, association, unincorporated organization, union or government authority;
- (h) each Appendix attached to this RFQ is an integral part of this RFQ as if set out at length in the body of this RFQ; and
- (i) this RFQ may be subject to one or more trade agreements.

## APPENDIX A RESPONSE GUIDELINES AND EVALUATION CRITERIA

### **Table of Contents – Appendix A**

#### **Part 1. Response Guidelines**

#### **Part 2. Evaluation**

#### **Part 3. Response Format**

#### **Attached Sample Forms:**

**Form A-1: Nominated Projects Summary Matrix**

**Form A-2: Nominated Project Details**



## Part 1. Response Guidelines

### Responses should:

- (a) be clearly marked with the words, “**Response to RFQ – New Westminster Secondary School Replacement Project**” and addressed to the Submission Location;
- (b) include all of the information requested in this Appendix A. Materials that are not requested in this Appendix A will not be evaluated;
- (c) be limited to 60 double-sided sheets (120 pages), including the Key Individuals’ resumes, but excluding Form A-1 and Form A-2, and the Appendices, for Package 2. Material submitted which exceeds the page limit may not be evaluated, at the discretion of the Owner;
- (d) be on 8.5” x 11” paper size with a minimum font size of 11 point; and
- (e) be submitted as follows:

Package	Contents	Number of Copies
Package 1	<ol style="list-style-type: none"> <li>1) Transmittal Letter;</li> <li>2) Response Declaration Form (see Appendix D) signed by the Respondent;</li> <li>3) A table containing the names and company names of the Key Individuals; and</li> <li>4) Relationship Disclosure Form (see Appendix E) signed by the Respondent.</li> </ol>	One hard copy.
Package 2	Response (see Part 3 of this Appendix A) excluding the financial information provided in Package 3.	Five bound copies, one marked “Master”.
Package 3	Financial information (see Section 5 of Part 3 of this Appendix A).	Five bound copies, one marked “Master”.

### Electronic Copy:

One electronic copy in PDF format include on a USB Flash Drive. The electronic copy should be organized and submitted as follows:

- 1) A consolidated file containing the entire Response;
- 2) An individual file for each of Packages 1, 2 and 3; and
- 3) Individual files within Packages 2 and 3 for each major section described in Part 3 of the Appendix A.

## Part 2. Evaluation

### 2.1 Minimum Requirements

The Owner will evaluate Responses and determine in its discretion if the Respondent Team adequately meets the Minimum Requirements stated in Table 2. Should any Respondent Team fail to adequately meet the Minimum Requirements, the Owner may discontinue the evaluation of that Respondent Team's Response in accordance with Sections 5.2 and 6.6 of this RFQ.

**Table 2: Minimum Requirements**

Financial Capacity
Sufficient financial capacity of the Design-Builder to undertake the Project.
See Section 4 of Response Format (Part 3 of Appendix A).

### 2.2 Evaluation Criteria

Subject to Section 5.2, for those Respondent Teams that adequately meet the Minimum Requirements, the Owner will evaluate Responses by applying the Evaluation Criteria and weighting in Table 3.

**Table 3: Evaluation Criteria and Weighting**

Section	Evaluation Criteria	Weighting
<b>Section 2 Design-Builder</b>	<p>Strength and relevance of demonstrated experience and capability of the Design-Builder to undertake the Project with respect to the following:</p> <p>2.1 Project Development and Management Experience</p> <p>2.2 Design-Builder Key Individuals' Experience</p> <ul style="list-style-type: none"> <li>▪ Design-Build Director</li> <li>▪ Design-Build Design Manager</li> </ul> <p>2.3 Key Project Considerations</p> <p>See Section 2 of Table 4 Response Content Requirements</p>	30 points
<b>Section 3 Design</b>	<p>Strength and relevance of demonstrated experience and capability to undertake the design of the Project based on the following:</p> <p>3.1 Design Firm Experience</p> <p>3.2 Design Team Key Individuals' Experience</p> <ul style="list-style-type: none"> <li>▪ Lead Architect</li> <li>▪ Design Team Technical Lead</li> </ul> <p>See Section 3 of Table 4 Response Content Requirements</p>	50 points

Section	Evaluation Criteria	Weighting
<b>Section 4 Construction</b>	Strength and relevance of demonstrated experience and capability to undertake the construction of the Project based on the following: 4.1 Construction Experience 4.2 Construction Key Individual’s Experience <ul style="list-style-type: none"> <li>▪ Design-Build Construction Manager</li> </ul> See Section 4 of Table 4 Response Content Requirements	20 points
<b>Total</b>		<b>100 points</b>

### 2.3 Disqualification of Responses

Without limitation, the Owner may, in its discretion, disqualify a Response if:

- (a) investigations reveal any criminal affiliations or activities by the Respondent or a member of the Respondent Team and such affiliations or activities would, in the opinion of the Owner, interfere with the integrity of the Competitive Selection Process; or
- (b) the Response includes a false or misleading statement, claim or information.

The Respondent and any member of the Respondent Team may be required to undertake a criminal records check in order to participate in the Project.

### Part 3. Response Format

Respondents should use the section numbers and titles provided in Table 4 below in preparing their Responses.

**Table 4: Response Content Requirements**

Section	Title	Response Content Requirements
<b>1.</b>	<b>Introduction and Nominated Projects</b>	
<b>1.1</b>	<b>Proposed Respondent Team and Organization</b>	<p>a) Provide the legal name of the following entities:</p> <ul style="list-style-type: none"> <li>i. the Design-Builder; and</li> <li>ii. the Design Firm;</li> </ul> <p>with a short description of each for publication of teams shortlisted for the RFP stage.</p> <p>b) Provide organization chart(s), at the corporate level, including Key Individuals, which show the relationships within the Respondent Team and any anticipated changes contemplated over the Project delivery cycle. Describe the management structure within the Respondent Team, and how the Design-Builder and Design Team will be integrated.</p> <p>c) Describe any business relationships amongst the Respondent Team members (e.g., corporation, joint-venture, partnership, etc.).</p>
<b>1.2</b>	<b>Contact Information</b>	<p>Provide the name and contact details for the Respondent's Representative. The Respondent's Representative will be the only person to receive communication from the Contact Person regarding this RFQ.</p> <ul style="list-style-type: none"> <li>i. Name;</li> <li>ii. Employer;</li> <li>iii. Mailing/courier addresses;</li> <li>iv. Telephone number; and</li> <li>v. Email address.</li> </ul>
<b>1.3</b>	<b>Nominated Projects</b>	<p>a) Submit a maximum of eight (8) Nominated Projects using Form A-1 of this Appendix A. Note that more current Nominated Projects (completed within the last 5 years) may be considered to have greater relevance than older ones.</p> <p>b) Confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Owner.</p>

Section	Title	Response Content Requirements
<b>2.</b>	<b>Project Development and Management</b>	
<b>2.1</b>	<b>Project Development and Management Experience</b>	<p>a) Using up to three (3) Nominated Projects relevant to <u>each</u> sub-bullet below, describe the Design-Builder's experience and capability for each of the following:</p> <ol style="list-style-type: none"> <li>i. Developing, managing and delivering projects similar in scope and size to the Project (e.g., K-12 education facilities; post-secondary facilities), including managing the design process in consultation with various program user groups;</li> <li>ii. Project delivery on time and on budget, indicating any variances in the final project schedule and budget from those originally approved, including examples of how specific schedule and budget challenges during design and construction were managed;</li> <li>iii. Effective relationship management with Owners or the Owners' agents and multi-disciplinary project teams, including specific examples of coordination, collaboration and communication that led to a benefit for the Project or avoidance of an issue; and</li> <li>iv. Managing the transition, commissioning, user acceptance, and correction of deficiencies of the Project to the client.</li> </ol>
<b>2.2</b>	<b>Design-Builder Key Individuals' Experience:</b> <ul style="list-style-type: none"> <li>• <b>Design-Build Director</b></li> <li>• <b>Design-Build Design Manager</b></li> </ul>	<p>a) Describe the role and responsibility of the Design-Builder's Key Individuals for the Project, as defined in this RFQ and identified in the Project organization chart(s):</p> <ol style="list-style-type: none"> <li>i. Design-Build Director; and</li> <li>ii. Design-Build Design Manager.</li> </ol> <p>b) Provide a resume for each of the Design-Builder's Key Individuals. At a minimum, the following information is requested:</p> <ol style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s) and a summary of education; and</li> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to at least two (2) relevant projects within the past three (3) years.</li> </ol> <p>c) Provide a list of relevant projects and positions held by each of the Design-Builder's Key Individuals within the past ten (10) years, in chronological order, providing a brief description of their role and responsibility for each. Demonstrate how this experience supports the capability of the Design-Builder's Key Individuals for their proposed role on the Project.</p> <p>d) Describe the availability of each of the Design-Builder's Key Individuals as follows:</p> <ol style="list-style-type: none"> <li>i. Describe the percentage of time each of the Design-Builder's Key Individuals will dedicate to each phase of the Project by the following four phases: RFP; design; construction; and commissioning.</li> </ol>

Section	Title	Response Content Requirements
		<ul style="list-style-type: none"> <li>ii. Describe any foreseeable time constraints that will impact each of the Design-Builder's Key Individuals' ability to perform according to the Project schedule.</li> <li>iii. Describe how each of the Design-Builder's Key Individuals will undertake their responsibilities on the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project and identify those other projects.</li> </ul>
2.3	<b>Key Project Considerations</b>	In a maximum of three (3) double-sided pages (6 pages), list and describe key considerations for the Project under the headings of "Challenges / Risks" and "Opportunities" that the Respondent deems important to the success of the Project, including a description of how the Respondent Team and each Respondent Team member are uniquely suited to successfully address them.
<b>3.</b>	<b>Design</b>	
3.1	<b>Design Firm Experience</b>	<ul style="list-style-type: none"> <li>a) Using up to three (3) Nominated Projects relevant to <u>each</u> sub-section below, describe the Design Firm's design experience and capability for each of the following: <ul style="list-style-type: none"> <li>i. Designing facilities similar to the Project, especially involving K-12 education facilities and/or post-secondary facilities;</li> <li>ii. Developing designs in consultation with program user groups, including a description of the consultative tools and procedures and how the tools and procedures were utilized effectively;</li> <li>iii. Developing designs that incorporate modern learning concepts. Please provide images, photos and/or renderings from the Nominated Projects referenced to demonstrate these design elements;</li> <li>iv. Incorporating "best practices" concepts into design to deal with issues such as LEED® Gold certification, energy efficiency, integration of capital, operating, and life cycle costing;</li> <li>v. Designing projects with strict schedule requirements; and</li> <li>vi. Working effectively with a Design-Builder.</li> </ul> </li> </ul>
3.2	<b>Design Team Key Individuals' Experience</b> <ul style="list-style-type: none"> <li>• <b>Lead Architect</b></li> <li>• <b>Design Team Technical Lead</b></li> </ul>	<ul style="list-style-type: none"> <li>a) Describe the role and responsibility of the Lead Architect and the Design Team Technical Lead for the Project.</li> <li>b) Provide a resume for the Lead Architect and the Design Team Technical Lead as defined in this RFQ and identified in the Project organization chart(s). At a minimum, the following information is required: <ul style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s) and a summary of education; and</li> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to at least two (2) relevant projects within the past three (3) years. Respondents are to confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Owner.</li> </ul> </li> </ul>

Section	Title	Response Content Requirements
		<p>c) For each of the Lead Architect and the Design Team Technical Lead, provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, including:</p> <ol style="list-style-type: none"> <li>i. A brief description of the role and responsibility for each project; and</li> <li>ii. Demonstrate how this experience supports the capability of the Lead Architect and the Design Team Technical Lead for the proposed role in the Project.</li> </ol> <p>d) Describe the availability of the Lead Architect and the Design Team Technical Lead as follows:</p> <ol style="list-style-type: none"> <li>i. Describe the percentage of time the Lead Architect and the Design Team Technical Lead will dedicate to each phase of the Project by the following four phases: RFP; design; construction; and commissioning.</li> <li>ii. Describe any foreseeable time constraints that will impact the ability of the Lead Architect and the Design Team Technical Lead to perform according to the Project schedule.</li> <li>iii. Describe how the Lead Architect and the Design Team Technical Lead will undertake their responsibilities on the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project and identify those other projects.</li> </ol>
4.	<b>Construction</b>	
4.1	<b>Construction Experience</b>	<p>a) Using up to three (3) Nominated Projects relevant to <u>each</u> sub-section below, describe the Design-Builder's construction experience and capability for each of the following:</p> <ol style="list-style-type: none"> <li>i. Constructing projects similar in size, scope, and complexity, such as: <ol style="list-style-type: none"> <li>a. On a constrained site;</li> <li>b. On a site that requires minimizing disruption to ongoing operations and adjacent facilities and residents; and</li> <li>c. When discovered conditions (e.g., environmental and archaeological) required managing to mitigate impacts.</li> </ol> </li> <li>ii. Constructing fast-tracked projects; and</li> <li>iii. Providing value-added, innovative solutions to construction and specifically how the solutions benefitted the Nominated Project.</li> </ol>
4.2	<b>Construction Key Individual's Experience</b> <ul style="list-style-type: none"> <li>• <b>Design-Build Construction Manager</b></li> </ul>	<p>a) Describe the role and responsibility of the Design-Build Construction Manager for the Project.</p> <p>b) Provide a resume for the Design-Build Construction Manager as defined in this RFQ and identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ol style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s) and a summary of education; and</li> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to at least two (2) relevant projects within the</li> </ol>

Section	Title	Response Content Requirements
		<p>past three (3) years. Respondents are to confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Owner.</p> <p>c) Provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, including:</p> <ul style="list-style-type: none"> <li>i. A brief description of the role and responsibility for each; and</li> <li>ii. Demonstrate how this experience supports the capability of the Design-Build Construction Manager for the proposed role in the Project.</li> </ul> <p>d) Describe the availability of the Design-Build Construction Manager as follows:</p> <ul style="list-style-type: none"> <li>i. Describe the percentage of time the Design-Build Construction Manager will dedicate to each phase of the Project by the following four phases: RFP; design; construction; and commissioning;</li> <li>ii. Describe any foreseeable time constraints that will impact the Design-Build Construction Manager's ability to perform according to the Project schedule; and</li> <li>iii. Describe how the Design-Build Construction Manager will undertake her/his responsibilities on the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project and identify those other projects.</li> </ul>
<b>5.</b>	<b>Financial Capacity</b>	
<b>5.1</b>	<b>Financial Capacity</b>	<p>Demonstrate the financial capacity of the Respondent Team (Design-Builder or Guarantor as applicable) by providing the following:</p> <p>a) Written confirmation, generally in the form of the Insurance Undertakings contained in Appendix H and Appendix I, from an insurer that the following coverages will be available for the Project if the Respondent is awarded a contract:</p> <ul style="list-style-type: none"> <li>i. Commercial general liability insurance coverage of not less than \$10 million inclusive per occurrence; \$20 million general aggregate for bodily injury; death and damage to property including loss of use thereof; product/completed operations liability with a limit of \$10 million annual aggregate; and</li> <li>ii. Professional liability insurance coverage of not less than \$5 million per occurrence and \$5 million aggregate.</li> </ul> <p>b) Written confirmation, generally in the form of the Bonding Undertaking contained in Appendix G, from a surety that the Respondent will be able to obtain a \$30 million performance bond and a \$30 million labour and materials payment bond written by a surety, or sureties, authorized to conduct business in British Columbia if the Respondent is awarded a contract.</p>



**Form A-1 Nominated Projects Matrix**

See separate excel file.

## Form A-2 Nominated Project Details

Identify Respondent, Respondent Team Member, and number projects sequentially 1 through 8. Maximum 3 pages in length per project.

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name and contract number.</i>
<b>Location of project</b>	<i>Country, province/state, highway/road/facility, site or project extent.</i>
<b>Owner</b>	<i>Organization name.</i>
<b>Reference contact details</b>	<i>Current information for key client contacts (individuals), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. By providing this information you are authorizing the Owner or the Owner's representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Relevance</b>	<i>Describe the relevance of the Nominated Project to the Project (e.g., procurement approach, experience with active school sites, school building and designing in dense urban centres, archaeological sites, knowledge of the local trades and local labour market, and working collaboratively with third-party contractors).</i>
<b>Contract period (term)</b>	<i>Contract commencement date, end of construction date and contract end date.</i>
<b>Time period of involvement</b>	<i>Commencement date and duration.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity, including purpose of facility.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Contract model</b>	<i>Contract structure i.e., public private partnership, design-build, stipulated sum.</i>
<b>Role(s) on project</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team members.</i>
<b>Joint Venture</b>	<i>If the project involved a joint venture, identify the joint venture partner(s) and discuss the breakdown of responsibility between the parties.</i>
<b>Performance</b>	<p><i>Describe the performance in meeting obligations related to the contract. Please describe any issues during the design and construction phase (e.g., interpretation issues) and how they were resolved.</i></p> <p><i>In addition, describe performance as it relates to:</i></p> <ul style="list-style-type: none"> <li><i>• Schedule management</i></li> <li><i>• Scope management</i></li> <li><i>• Budget management</i></li> </ul>

Item	Notes to Respondents
	<ul style="list-style-type: none"><li data-bbox="569 277 810 302">• <i>Client satisfaction</i></li></ul>
<b>Other information</b>	<i>Any information the Respondent considers relevant to the Evaluation Criteria.</i>
<b>Lessons Learned</b>	<i>Describe key lessons learned from this project on how these have been incorporated into future projects.</i>

**APPENDIX B RECEIPT CONFIRMATION FORM**

(To be submitted by the Respondent's Representative on receipt of this RFQ)

Request for Qualifications

**New Westminster Secondary School Replacement Project**

To receive any further distributed information  
about this **Request for Qualifications**,  
please execute and email both pages of this  
Receipt Confirmation Form as soon as possible to:

**Partnerships BC**

Email: [catherine.silman@partnershipsbc.ca](mailto:catherine.silman@partnershipsbc.ca)

**Respondent Contact Information**

Name of Respondent: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ Postal/Zip Code: \_\_\_\_\_

Province/State: \_\_\_\_\_ Country: \_\_\_\_\_

Mailing Address, if different: \_\_\_\_\_

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

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



**ACKNOWLEDGMENT OF TERMS OF RFQ AND CONFIDENTIALITY**

The undersigned is a duly authorized representative of the Respondent and has the power and authority to sign this Receipt Confirmation Form on behalf of such Respondent or other interested party.

The Respondent or other interested party hereby acknowledges receipt and review of this RFQ and all of the terms and conditions contained therein, including, without limitation, all appendices attached thereto and agrees to comply with all of the terms and conditions set out in this RFQ.

For greater certainty, the Respondent or other interested party in executing this Receipt Confirmation Form agrees to comply with the Confidentiality Agreement provisions set out in Appendix C.

Respondent's Representative or other interested party:

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Authorized Signature

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Name of the Authorized Signatory

---

Title

---

Date

## APPENDIX C CONFIDENTIALITY AGREEMENT

### 1. Interpretation

In this Agreement:

- (a) Agreement means this Appendix C, which is subject to the RFP,
- (b) Confidential Information means all documents, knowledge and information provided by the Owner or any of its Representatives (the Disclosing Party) to, or otherwise obtained by, the Recipient or any of its Representatives (the Receiving Party), whether before or after the date of this Agreement, and whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, this RFQ, the RFP or the Competitive Selection Process including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information that:
  - (1) is or subsequently becomes available to the public, other than through a breach of this Agreement by the Receiving Party or through a breach of a Confidentiality Agreement which another person has entered into concerning the Confidential Information;
  - (2) is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Agreement and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - (3) was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of this Agreement and did not originate, directly or indirectly, from the Disclosing Party;
  - (4) was developed independently by the Receiving Party without the use of any Confidential Information; or
  - (5) is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law.
- (c) Permitted Purposes means evaluating the Project, preparing a Response, and any other use permitted by this Agreement.

- (d) Recipient means a Respondent or any other interested party who completes a Receipt Confirmation Form.
- (e) Representative means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Key Individual, or other member of a Respondent Team or any other person contributing to or involved with the preparation or evaluation of Responses or proposals, as the case may be, or otherwise retained by the Recipient, the Owner or Partnerships BC in connection with the Project.
- (f) all capitalized terms not otherwise defined in this Agreement have the respective meanings ascribed to them in Section 0.

## **2. Confidentiality**

The Recipient will keep all Confidential Information strictly confidential and will not without the prior written consent of the Owner, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Recipient will make all reasonable, necessary and appropriate efforts to safeguard the Confidential Information from disclosure to any other person except as permitted in this Agreement, and will ensure that each of its Representatives agrees to keep such information confidential and to be bound by the terms contained herein.

## **3. Ownership of Confidential Information**

The Owner owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Agreement, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of this Agreement, and will not, without the prior express written consent of an authorized representative of the Owner, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person for any purpose whatsoever.

## **4. Limited Disclosure**

The Recipient may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Response or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.

## **5. Destruction on Demand**

On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC; provided, however, that the Receiving Party may retain one copy of any Confidential Information that it may be required to retain or furnish to a court or regulatory authority pursuant to applicable law.

## **6. Acknowledgment of Irreparable Harm**

The Recipient acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Owner or Partnerships BC may be irreparably harmed if any provision of this Agreement were not performed by the Recipient or any party to whom the Recipient provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Recipient further acknowledges and agrees that the Owner will be entitled to injunctive and other equitable relief to prevent or restrain breaches of any of the provisions of this Agreement by the Recipient or any of its Representatives, or to enforce the terms and provisions hereof, by an action instituted in a court of competent jurisdiction, which remedy or remedies are in addition to any other remedy to which the Owner may be entitled at law or in equity.

## **7. Waiver**

No failure to exercise, and no delay in exercising, any right or remedy under this Agreement by the Owner will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

## **8. Severability**

If any portion of this Agreement is found to be invalid or unenforceable by law by a court of competent jurisdiction then that portion will be severed and the remaining portion will remain in full force and effect.

## **9. Enurement**

This Agreement enures to the benefit of the Owner and Partnerships BC and binds the Recipient and its successors.



## APPENDIX D RESPONSE DECLARATION FORM

By executing this Response Declaration Form, the Respondent agrees to the provisions of this RFQ and this Response Declaration Form. Capitalized terms in this Response Declaration Form are defined in Section 7.1 of this RFQ.

### [RFQ Respondent's Letterhead]

To: Board of Education of School District No.40 (New Westminster).  
c/o Partnerships BC

Attention: Catherine Silman

Re: Request for Qualifications titled New Westminster Secondary School Replacement Project

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### [Insert Respondent Name] Response

In consideration of the Owner's agreement to consider Responses in accordance with the terms of this RFQ, the Respondent hereby agrees, confirms and acknowledges, on its own behalf and on behalf of each member of the Respondent Team, that:

(a) Response

- (1) This Response Declaration Form has been duly authorized and validly executed;
- (2) The Respondent is bound by all statements and representations in its Response;
- (3) Its Response is in all respects a fair Response made without collusion or fraud; and
- (4) The Owner reserves the right to verify information in the Respondent's Response and conduct any background investigations including criminal record investigations, verification of the Response, credit enquiries, litigation searches, bankruptcy registrations and taxpayer information investigations or other investigations on all or any of the Respondent Team members, and by submitting a Response the Respondent agrees that they consent to the conduct of all or any of those investigations by the Owner.

(b) Acknowledgements with Respect to this RFQ

- (1) The Respondent has received, read, examined and understood the entire RFQ including all of the terms and conditions, all documents listed in this RFQ's Table of Contents, and any and all Addenda;
- (2) The Respondent agrees to be bound by the entire RFQ including all of the terms and conditions, including without limitation section 6.7, all documents listed in this RFQ's Table of Contents, and any and all Addenda;
- (3) The Respondent's Representative identified below is fully authorized to represent the Respondent in any and all matters related to its Response, including but not limited to providing clarifications and additional information that may be requested in association with this RFQ;
- (4) The Respondent has disclosed all relevant relationships, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (5) The Respondent has had sufficient time to consider, and has satisfied itself as to the applicability of the material in this RFQ and any and all conditions that may in any way affect its Response.

(c) Evaluation of Responses

- (1) This RFQ is not an offer, a tender or a request for proposals; it is a Request for Qualifications and the responsibility of the Owner is limited to consider Responses in accordance with this RFQ.

(d) Consent of Respondent Team

- (1) The Respondent has obtained the express written consent and agreement of each member of the Respondent Team, as listed below, to all the terms of this Response Declaration Form.

(e) The Respondent Team consists of:

Name of Respondent Team Member - Individual	Address	Role on Team	Key Individual (Y/N)
Any individual mentioned in the Response should be included in the table above			

**RESPONDENT**

**RESPONDENT'S REPRESENTATIVE**

---

Name of Firm

---

Name

---

Address

---

Email Address

---

Address

---

Name of Authorized Signatory

---

Telephone

---

Signature

If the Respondent is a joint venture, consortium or special purpose entity – by each of its joint venture or consortium members, as applicable.

## APPENDIX E RELATIONSHIP DISCLOSURE FORM

By executing this Relationship Disclosure Form, the Respondent is making the disclosure on its own behalf and on the behalf of each member of the Respondent Team.

The Respondent declares on its own behalf and on behalf of each member of the Respondent Team that:

- (a) this declaration is made to the best of the knowledge of the Respondent and, with respect to relationships of each member of the Respondent Team, to the best of the knowledge of that member.
- (b) the Respondent and the members of the Respondent Team have reviewed the definition of Restricted Parties and the non-exhaustive list of Restricted Parties in Section 6.12.
- (c) the following is a full disclosure of all known relationships that the Respondent and each member of the Respondent Team has, or has had, with:
  - (1) the Owner;
  - (2) any listed Restricted Party;
  - (3) any current shareholders, directors or officers, as applicable, of the Owner or any listed Restricted Party;
  - (4) any former shareholders, directors or officers, as applicable, of the Owner or any listed Restricted Party, who ceased to hold such position within two calendar years prior to the Submission Time; and/or
  - (5) any other person who, on behalf of the Owner or a listed Restricted Party, has been involved in the Competitive Selection Process or the design, planning or implementation of the Project or has confidential information about the Project or the Competitive Selection Process.

Name of Respondent Team Member	Name of Party with Relationship	Details of the Nature of the Relationship with the Listed Restricted Party/Person
<i>e.g. Firm Name Ltd.</i>	<i>Partnerships BC</i>	<i>Firm Name Ltd. is working with Partnerships BC on Project X.</i>
<i>e.g. John Smith</i>	<i>Owner Name</i>	<i>Respondent Team member was an employee/advisor to the Restricted Party from _____ to _____ )</i>

(Each Respondent Team to submit one Relationship Disclosure Form. Add additional pages as required.).

---

**NAME OF RESPONDENT**

---

Address

---

Email Address

---

Telephone

---

Name of Authorized Signatory for Respondent

---

Signature



## APPENDIX F PARTICIPATION AGREEMENT

[Insert Date]

Board of Education of School District No.40 (New Westminster)  
c/o Partnerships BC  
300 – 707 Fort Street  
Victoria BC V8W 3G3

Attention: Catherine Silman, Contact Person

Dear Sirs/Mesdames:

Re: NWSS Replacement Project – Participation Agreement in respect of the Request for Proposals issued by the Board of Education of School District No.40 (New Westminster) (“SD40” or the “Owner”) on [Insert Date], as amended or otherwise clarified from time to time, including by all Addenda (the “RFP”)

This letter agreement sets out the terms and conditions of the Participation Agreement between [Insert Proponent Name] (the “Proponent”) and the Owner, pursuant to which the Proponent agrees with the Proponent as follows:

- 1. Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP.
- 2. Participation.** The Proponent agrees that as a condition of participating in the RFP, including the Competitive Selection Process, Collaborative Meetings and access to the Data Room, the Proponent will comply with the terms of this Participation Agreement and the terms of the RFP.
- 3. Confidentiality.** The Proponent will comply with, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with, the Confidentiality Conditions attached as Schedule 1 to this Participation Agreement, all of which conditions are expressly included as part of this Participation Agreement.
- 4. Terms of RFP.** The Proponent will comply with and be bound by, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with and are bound by, the provisions of the RFP all of which are incorporated into this Participation Agreement by reference. Without limiting the foregoing, the Proponent agrees:

- (a) that the terms of this Participation Agreement do not limit the Proponent's obligations and requirements under the RFP, any Data Room agreement, or any other document or requirement of the Owner;
- (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and any indemnities contained in the RFP, including Section 10.13 (Limitation of Damages) of the RFP. In no event will the liability of the Owner exceed the amount calculated pursuant to Section 8.9 (Partial Compensation for Participation in the RFP) of the RFP;
- (c) that the Owner's and the Proponent's obligations in respect of payments of partial compensation or other similar payment are as set out in Section 8.10 (Partial Compensation for Participation in the RFP) of the RFP; and
- (d) that the Owner's and the Proponent's obligations in respect of the Preferred Proponent Security Deposit are as set out in Sections 8.3, 8.4 and 8.5 of the RFP.

**5. Amendments.** The Proponent acknowledges and agrees that:

- (a) the Owner may in its discretion amend the RFP at any time and from time to time; and
- (b) by submitting a Proposal the Proponent accepts, and agrees to comply with, all such amendments and, if the Proponent does not agree to any such amendment, the Proponent's sole recourse is not to submit a Proposal.

**6. General.**

- (a) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:
  - (1) it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
    - i. this Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
    - ii. this Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.
- (b) *Survival following cancellation of the RFP.* Notwithstanding anything else in this Participation Agreement, if the Owner, for any reason, cancels the Competitive Selection Process or the RFP, the Proponent agrees that it continues to be bound by, and will continue to comply with, Section 3 of this Participation Agreement.

- (c) *Severability*. If any portion of this Participation Agreement is found to be invalid or unenforceable by law by a court of competent jurisdiction, then that portion will be severed and the remaining portion will remain in full force and effect.
- (d) *Enurement*. This Participation Agreement enures to the benefit of the Owner and binds the Proponent and its successors.
- (e) *Applicable Law*. This Participation Agreement is deemed to be made pursuant to the laws of the Province of British Columbia and the laws of Canada applicable therein and will be governed by and construed in accordance with such laws.
- (f) *Headings*. The use of headings is for convenience only and headings are not to be used in the interpretation of this Participation Agreement.
- (g) *Gender and Number*. In this Participation Agreement, words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa.
- (h) *Including*. The word “including” when used in this Participation Agreement is not to be read as limiting.

Yours truly,

---

Name of Proponent

---

Authorized Signatory



## SCHEDULE 1

### Confidentiality Conditions

1. **Definitions.** In these confidentiality conditions:

(a) **Confidential Information** means all documents, knowledge and information provided by the Disclosing Party to, or otherwise obtained by, the Receiving Party, whether before or after the date of the RFP, whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, the RFP, this RFQ or the Competitive Selection Process, including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information that:

- (1) is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
  - i. is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Schedule 1 and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - ii. was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of the RFP and did not originate, directly or indirectly, from the Disclosing Party;
  - iii. was developed independently by the Receiving Party without the use of any Confidential Information; or
  - iv. is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;

(b) **Disclosing Party** means the Owner or any of its Representatives;

(c) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Participation Agreement;

(d) **Receiving Party** means the Recipient or any of its Representatives;

- (e) **Recipient** means a Proponent or any other interested party who completes a Receipt Confirmation Form; and
- (f) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Key Individual, or any other person contributing to or involved with the preparation or evaluation of Proposals or proposals, as the case may be, or otherwise retained by the Recipient, the Owner or Partnerships BC in connection with the Project.
2. **Confidentiality.** The Recipient will keep all Confidential Information strictly confidential and will not without the prior written consent of the Owner, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Recipient will make all reasonable, necessary, and appropriate efforts to safeguard the Confidential Information from disclosure to any other person except as permitted in this Schedule 1, and will ensure that each of its Representatives agrees to keep such information confidential and to act in accordance with the terms contained herein.
3. **Ownership of Confidential Information.** The Owner owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Schedule 1, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of the RFP, and will not, without the prior express written consent of an authorized representative of the Owner, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person for any purpose whatsoever.
4. **Limited Disclosure.** The Recipient may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Proposal or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
5. **Destruction on Demand.** On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC (for this purpose information stored electronically will be deemed destroyed upon removal from all storage systems and devices);

provided, however, that the Receiving Party may retain one copy of any Confidential Information that it may be required to retain or furnish to a court or regulatory authority, pursuant to applicable law.

6. **Acknowledgment of Irreparable Harm.** The Recipient acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Owner or Partnerships BC may be irreparably harmed if any provision of this Schedule 1 were not performed by the Recipient or any party to whom the Recipient provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Recipient further acknowledges and agrees that the Owner will be entitled to injunctive and other equitable relief to prevent or restrain breaches of any provision of this Schedule 1 by the Recipient or any of its Representatives, or to enforce the terms and provisions hereof, by an action instituted in a court of competent jurisdiction, which remedy or remedies are in addition to any other remedy to which the Owner may be entitled at law or in equity.
7. **Waiver.** No failure to exercise, and no delay in exercising, any right or remedy under this Schedule 1 by the Owner will be deemed to be a waiver of that right or remedy.

**APPENDIX G BONDING UNDERTAKING**

Date: [Insert Date]

No. [To be inserted]

To: Board of Education of School District No.40 (New Westminster)

Re: Request for Qualifications

New Westminster Secondary School Replacement Project

We \_\_\_\_\_ (name of Surety), a corporation created and existing under the laws of Canada and duly authorized to transact the business of Suretyship in Canada as Surety, are the Surety for \_\_\_\_\_ (Respondent). Our client has demonstrated to us in the past an ability to complete its projects in accordance with the conditions of its contracts and we have no hesitation in recommending its services to you.

Our client wishes to be prequalified as a Respondent on the captioned Project, which we understand will require a Performance Bond in the approximate amount of \$30 million and a Labour and Materials Payment Bond in the approximate amount of \$30 million. Based on the limited information available at this time, and subject to our assessment of the New Westminster Secondary School Replacement Project, and our client’s work program at the time of submission of its Response, we do not anticipate a problem in supporting the captioned Project and supplying the requisite bonds if asked to do so. However, the execution of any bonds will be subject to an assessment of the final contract terms, conditions, financing and bond forms by our client and us.

If we can provide any further assurances or assistance, please don’t hesitate to call upon us.

(Name of Surety)

\_\_\_\_\_

\_\_\_\_\_  
*Attorney-In-Fact [NTD: this can be the surety or the broker if authorized to issue bonds on behalf of the surety]*



**APPENDIX H INSURANCE UNDERTAKINGS - COMMERCIAL**

**UNDERTAKING OF COMMERCIAL GENERAL LIABILITY INSURANCE**

Name of Respondent submitting a Response to the Request for Qualifications for the  
[Insert Project Name]:

\_\_\_\_\_

We, the undersigned, as authorized representatives on behalf of "[Insert Name of Insurance Company]" do hereby undertake and agree to provide "Wrap-Up" Commercial General Liability insurance in the amount of TEN MILLION DOLLARS (\$10,000,000.00) inclusive per occurrence, TWENTY MILLION DOLLARS (\$20,000,000.00) general aggregate for bodily injury, death and damage to property including loss of use thereof, product/completed operations liability with a limit of TEN MILLION DOLLARS (\$10,000,000.00) annual aggregate for the New Westminster Secondary School Replacement Project, subject to underwriting.

If such a policy is written, a certified copy of the policy will be provided to the Board of Education of School District No.40 (New Westminster).

Dated at \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
(Name, Title)

*(Duly Authorized Representative of Insurance Company)[NTD: Depending on the relationship between the companies, this may be the Insurance Company, Broker or Managing General Agent (as delegated by the insurance company)]*



**APPENDIX I INSURANCE UNDERTAKINGS**

**UNDERTAKING OF PROFESSIONAL LIABILITY INSURANCE**

Name of Respondent submitting a Response to the Request for Qualifications for the New Westminster Secondary School Replacement Project:

\_\_\_\_\_

We, the undersigned, as authorized representatives on behalf of "[Insert Name of Insurance Company]" do hereby undertake and agree to provide Group Professional Liability insurance in the amount of not less than FIVE MILLION DOLLARS (\$5,000,000.00) inclusive of any one claim for the New Westminster Secondary School Replacement Project, subject to underwriting.

If such a policy is written, a certified copy of the policy will be provided to the Board of Education of School District No.40 (New Westminster).

Dated at \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

SIGNED: \_\_\_\_\_

\_\_\_\_\_  
(Name, Title)

*(Duly Authorized Representative of Insurance Company) [NTD: Depending on the relationship between the companies, this may be the Insurance Company, Broker or Managing General Agent (as delegated by the insurance company)]*

