



**Invitation to Tender**  
**For**  
**Renovation for Adult & Continuing Education at**  
**Glenforest Secondary School South**

Invitation to Tender No.: **RFTMA20-4547**

Issued: **December 3, 2020**

Submission Deadline: **Thursday, January 7, 2020 at 3:00pm local time**

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# PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

## 1.1 Invitation to Bidders

This Invitation to Tender (the “ITT”) is an invitation by Peel District School Board (“the Board”) to pre-qualified prospective bidders to submit bids for **the construction of Renovation for Adult & Continuing Education at Glenforest Secondary School South**, as further described in Section A of the ITT Particulars Appendix D.

The Board operates 215 elementary schools and 42 secondary schools with a total enrolment of approximately 155,000 students. The Board has a full time staff complement of approximately 18,020. The Board’s jurisdiction includes the Town of Caledon, City of Brampton and City of Mississauga. For further information about the Peel District School Board, please visit <http://www.peelschools.org>.

## 1.2 ITT Contact

For the purposes of this procurement process, the “ITT Contact” will be:

**John Marinescu**

[john.marinescu@peelsb.com](mailto:john.marinescu@peelsb.com)

Bidders and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials or other representatives of the Board, other than the ITT Contact, concerning matters regarding this ITT. Failure to adhere to this rule may result in the disqualification of the bidder and the rejection of the bidder’s bid.

## 1.3 Type of Contract for Deliverables

The selected bidder will be required to enter into an agreement with the Board for the provision of the Deliverables in the form attached as Appendix A to the ITT (the “Agreement”). It is the Board’s intention to enter into the Agreement with only one (1) legal entity. It is anticipated that the agreement will be executed within sixty (60) days of the tender close.

## 1.4 ITT Timetable

Issue Date of ITT	December 3, 2020
<b>Mandatory Site Meeting</b>	Site visit and meeting will occur on Thursday, <b>December 17, 2020</b> starting at <b>12:30pm</b> local time at the following location:  <b><u>Glenforest SS South</u></b> <b>1490 Ogden Ave., Mississauga, ON.</b> (north entrance)  All potential Respondents are to meet at the north entrance and await direction from the Board representative(s). Site meeting attendance is mandatory.
Deadline for Questions	Tuesday, December 21, 2020 at 4:00 PM local time.
Deadline for Issuing Addenda	Thursday, December 23, 2020 at 4:00 PM
Submission Deadline	Thursday, January 7, 2021 at 3:00 PM local time.
Public Opening	Invitation only
Anticipated Execution Date for Agreement	Within 60 days of tender close.
Irrevocability Period	60 days

The ITT timetable is tentative only and may be changed by the Board at any time.

## 1.5 Submission of Bids

### 1.5.1 Bids to be Submitted at Prescribed Location

The Board will use the BonfireHub portal to accept and evaluate quotes digitally for this Request for Quote.

Please contact Bonfire at support@gobonfire.com for questions related to the uploading of your submission.

Please follow these instructions when submitting your documents electronically on Bonfire.

**Upload your Submission at:** <https://peelsb.bonfirehub.ca/opportunities>

Your Submission must be uploaded prior to the Submission Deadline established for this Quote.

- (a) Uploading large documents may take significant time, depending on the size of the file(s) and Respondent's internet connection speed.
- (b) Onus and responsibility rests solely with the Respondent to deliver its Quote as indicated in the details on or before the Submission Deadline. The Board does not accept any responsibility for submissions delivered to any other location by the Respondent or its delivery agents. Respondents are advised to make submissions well before the deadline. Respondents making submissions near the deadline do so at their own risk. Submissions shall be deemed to be received once they enter into the Bonfire

system and a confirming email is returned to the submitting party. Respondent will receive an email from Bonfire with a unique confirmation receipt once they finalize their submission.

- (c) Only the number of files indicated in the Bidding System can be uploaded for each Requested Document. If an uploaded document(s) needs to be changed, the Respondent will need to first delete the old file before re-uploading a new file.
- (d) Respondent should not embed any documents within uploaded files as they will not be accessible.
- (e) Each submission file uploaded is instantly sealed and will only be visible after the closing date and time.
- (f) Each file has a maximum size of 1000MB. Any requested documents exceeding this limit will not be accepted by Bonfire.
- (g) Minimum system requirements: Internet Explorer 8/9/10+, Google Chrome, or Mozilla Firefox. Javascript must be enabled and Adobe Flash Player version 9+ installed.
- (h) There is no cost to the Respondent for uploading submission on Bonfire

### **1.5.2 Bids to be Submitted on Time**

Bids must be submitted on or before the Submission Deadline. Bids submitted after the Submission Deadline will not be accepted. Bidders are advised to make submissions well before the deadline. Bidders making submissions near the deadline do so at their own risk.

### **1.5.3 Bids to be Submitted in Prescribed Format**

All bidders shall have a Bidding System vendor account and be registered as a plan taker for this opportunity, which will enable the bidder to download the solicitation document, to receive addenda email notifications, download addenda and submit their bids electronically through the Bidding System.

Bidders are cautioned that the timing of their bid submission is based on when the bid is received by the Bidding System, not when a bid is submitted by a bidder, as transmission can be delayed due to file transfer size, transmission speed or other technical factors.

For the above reasons, the Board recommends that bidders allow sufficient time to upload their submissions and attachment(s) (if applicable) and to resolve any issues that may arise. The closing date and time shall be determined by the Board's Bidding System web clock.

Bidders should contact the ITT Contact at least twenty-four hours prior to deadline if they encounter any problems. The Bidding System will send a confirmation email to the bidder advising when the bid was submitted successfully. If bidders do not receive a confirmation email, they should contact the ITT Contact immediately.

To ensure receipt of the latest information and updates via email regarding this opportunity, or if a bidder has obtained this solicitation document from a third party, the onus is on the bidder to

create a Bidding System Vendor account and register as a plan taker for the opportunity at <https://peelsb.bonfirehub.ca>.

#### **1.5.4 Amendment of Bids**

Bidders may amend their bids prior to the Submission Deadline. However, the bidder is solely responsible for ensuring that the amended bid is received by the Bidding System by the Submission Deadline.

#### **1.5.5 Withdrawal of Bids**

Bidders may withdraw their bids prior to the Submission Deadline. However, the bidder is solely responsible for ensuring that the withdrawn bid is withdrawn through the Bidding System by the Submission Deadline.

#### **1.5.6 Bids Irrevocable after Submission Deadline**

Bids shall be irrevocable for a period of 60 days running from the moment that the Submission Deadline passes.

[End of Part 1]

## **PART 2 – EVALUATION AND AWARD**

### **2.1 Stages of Evaluation**

The Board will conduct the evaluation of bids in the following stages:

### **2.2 Stage I – Mandatory Submission Requirements**

Stage I will consist of a review to determine which bids comply with all of the mandatory submission requirements. Bids that do not comply with all of the mandatory submission requirements as of the Submission Deadline will, subject to the express and implied rights of the Board, be disqualified and not evaluated further. The mandatory submission requirements are listed in Section C of the ITT Particulars (Appendix D).

#### **2.2.1 No Amendment to Forms**

Other than inserting the information requested on the mandatory submission forms set out in the ITT, a bidder may not make any changes to any of the forms. Any bid containing any such changes, whether on the face of the form or elsewhere in the bid, may be disqualified.

### **2.3 Stage II – Mandatory Technical Requirements**

Stage II will consist of a review to determine which bids comply with all of the mandatory technical requirements. Bids that do not comply with all of the mandatory technical requirements as of the Submission Deadline will, subject to the express and implied rights of the Board, be rejected. The mandatory technical requirements are listed in Section D of the ITT Particulars (Appendix D).

### **2.4 Stage III – Pricing**

Stage III will consist of a scoring of the submitted pricing of each compliant bid in accordance with the evaluation method set out in Pricing (Appendix C). The evaluation of price will be undertaken after the evaluation of mandatory requirements has been completed.

### **2.5 Selection of Lowest Compliant Bidder**

Subject to the Board's reserved rights, the compliant bidder with the lowest pricing will be selected to enter into the Agreement in accordance with the following section. In the event of a tie, the selected bidder will be determined by way of best and final offer.

### **2.6 Notice to Bidder and Execution of Agreement**

Notice of selection by the Board to the selected bidder shall be in writing. The selected bidder shall execute the Agreement in the form attached as Appendix A to this ITT and satisfy any other applicable conditions of this ITT, including the pre-conditions of award listed in Section E of the ITT Particulars (Appendix D), within ten (10) business days of notice of selection. This provision is solely for the benefit of the Board and may be waived by the Board.

### **2.7 Failure to Enter into Agreement**

In addition to all other remedies available to the Board, if a selected bidder fails to execute the Agreement or satisfy any applicable conditions within ten (10) business days of notice of selection,

the Board may, without incurring any liability, withdraw the selection of that bidder and proceed with the selection of another bidder.

[End of Part 2]



## **PART 3 – TERMS AND CONDITIONS OF THE ITT PROCESS**

### **3.1 General Information and Instructions**

#### **3.1.1 ITT Incorporated into Bid**

All of the provisions of this ITT are deemed to be accepted by each bidder and incorporated into each bidder's bid. A bidder who submits conditions, options, variations or contingent statements to the terms as set out in this ITT, including the terms of the Agreement in Appendix A, either as part of its bid or after receiving notice of selection, may be disqualified. If a bidder is not disqualified despite such changes or qualifications, the provisions of this ITT, including the Agreement set out in Appendix A, will prevail over any such changes or qualifications in the bid.

#### **3.1.2 Bidders to Follow Instructions**

Bidders should structure their bids in accordance with the instructions in this ITT. Where information is requested in this ITT, any response made in a bid should reference the applicable section numbers of this ITT.

#### **3.1.3 Bids in English**

All bids are to be in English only.

#### **3.1.4 No Incorporation by Reference**

The entire content of the bidder's bid should be submitted in a fixed form, and the content of websites or other external documents referred to in the bidder's bid but not attached will not be considered to form part of its bid.

#### **3.1.5 References and Past Performance**

N/A for Pre-Qualified Bidders.

#### **3.1.6 Information in ITT Only an Estimate**

The Board and its advisers make no representation, warranty or guarantee as to the accuracy of the information contained in this ITT or issued by way of addenda. Any quantities shown or data contained in this ITT or provided by way of addenda are estimates only, and are for the sole purpose of indicating to bidders the general scale and scope of the Deliverables. It is the bidder's responsibility to obtain all the information necessary to prepare a bid in response to this ITT.

#### **3.1.7 Bidders to Bear Their Own Costs**

The bidder will bear all costs associated with or incurred in the preparation and presentation of its bid, including, if applicable, costs incurred for interviews or demonstrations.

#### **3.1.8 Bid to be Retained by the Board**

The Board will not return the bid or any accompanying documentation submitted by a bidder.

### **3.1.9 No Guarantee of Volume of Work or Exclusivity of Contract**

The Board makes no guarantee of the value or volume of work to be assigned to the successful bidder. The Agreement will not be an exclusive contract for the provision of the described Deliverables. The Board may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

## **3.2 Communication after Issuance of ITT**

### **3.2.1 Bidders to Review ITT**

Bidders shall promptly examine all of the documents comprising this ITT, and

- (a) shall report any errors, omissions or ambiguities; and
- (b) may direct questions or seek additional information

in writing by email to the ITT Contact on or before the Deadline for Questions. All questions or comments submitted by bidders by email to the ITT Contact shall be deemed to be received once the email has entered into the ITT Contact's email inbox. No such communications are to be directed to anyone other than the ITT Contact, and the Board shall not be responsible for any information provided by or obtained from any source other than the ITT Contact. The Board is under no obligation to provide additional information. It is the responsibility of the bidder to seek clarification from the ITT Contact on any matter it considers to be unclear. The Board shall not be responsible for any misunderstanding on the part of the bidder concerning this ITT or its process.

### **3.2.2 All New Information to Bidders by Way of Addenda**

This ITT may be amended only by addendum in accordance with this section. If the Board, for any reason, determines that it is necessary to provide additional information relating to this ITT, such information will be communicated to all bidders by addenda. Each addendum forms an integral part of this ITT and may contain important information, including significant changes to this ITT. Bidders are responsible for obtaining all addenda issued by the Board. In the Submission Form (Appendix B), bidders should confirm their receipt of all addenda by setting out the number of each addendum in the space provided.

### **3.2.3 Post-Deadline Addenda and Extension of Submission Deadline**

If the Board determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, the Board may extend the Submission Deadline for a reasonable period of time.

### **3.2.4 Verify, Clarify and Supplement**

When evaluating bids, the Board may request further information from the bidder or third parties in order to verify, clarify or supplement the information provided in the bidder's bid. The response received by the Board shall, if accepted by the Board, form an integral part of the bidder's bid.

### **3.3 Notification and Debriefing**

#### **3.3.1 Notification of Unofficial Results**

The Board will publish the unofficial bid results within two (2) hours of bid closing by way of public notice in the bidding system.

#### **3.3.2 Notification to Other Bidders**

Once the Agreement is executed by the Board and a bidder, the other bidders may be notified directly in writing and shall be notified by public posting in the same manner that this ITT was originally posted of the outcome of the procurement process.

#### **3.3.3 Debriefing**

Bidders may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the ITT Contact and must be made within sixty (60) days of such notification. The intent of the debriefing information session is to aid the bidder in presenting a better bid in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process.

#### **3.3.4 Procurement Protest Procedure**

If a bidder wishes to challenge the ITT process, it should provide written notice within 10 days of debriefing to the ITT Contact in accordance with the Board's procurement protest procedures and any applicable trade agreement or other applicable bid protest procedures. The notice must provide a detailed explanation of the bidder's concerns with the procurement process or its outcome. The Board will respond in accordance with Section 14 of its Procurement Regulations.

### **3.4 Conflict of Interest and Prohibited Conduct**

#### **3.4.1 Conflict of Interest**

For the purposes of this ITT, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the ITT process, the bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of the Board in the preparation of its bid that is not available to other bidders, (ii) communicating with any person with a view to influencing preferred treatment in the ITT process (including but not limited to the lobbying of decision makers involved in the ITT process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive ITT process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations contemplated under a contract for the Deliverables, the bidder's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

### **3.4.2 Disqualification for Conflict of Interest**

The Board may disqualify a bidder for any conduct, situation or circumstances, determined by the Board, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

### **3.4.3 Disqualification for Prohibited Conduct**

The Board may disqualify a bidder, rescind a notification of selection or terminate a contract subsequently entered into if the Board determines that the bidder has engaged in any conduct prohibited by this ITT.

### **3.4.4 Prohibited Bidder Communications**

Bidders must not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix B).

### **3.4.5 Bidder Not to Communicate with Media**

Bidders must not at any time directly or indirectly communicate with the media in relation to this ITT or any agreement entered into pursuant to this ITT without first obtaining the written permission of the ITT Contact.

### **3.4.6 No Lobbying**

Bidders must not, in relation to this ITT or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the successful bidder(s).

### **3.4.7 Illegal or Unethical Conduct**

Bidders must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion. Bidders must not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of the Board; deceitfulness; submitting bids containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this ITT.

### **3.4.8 Past Performance or Past Conduct**

The Board may prohibit a supplier (or any individual that owns, controls, operates, manages or directs the supplier) from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, including but not limited to the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour submitted pricing or other commitments; or
- (c) any conduct, situation or circumstance determined by the Board, in its sole and absolute discretion, to have constituted a Conflict of Interest;

- (d) litigation history.

### **3.5 Confidential Information**

#### **3.5.1 Confidential Information of the Board**

All information provided by or obtained from the Board in any form in connection with this ITT either before or after the issuance of this ITT

- (a) is the sole property of the Board and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this ITT and the performance of the Agreement;
- (c) must not be disclosed without prior written authorization from the Board; and
- (d) must be returned by the bidder to the Board immediately upon the request of the Board.

#### **3.5.2 Confidential Information of Bidder**

A bidder should identify any information in its bid or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the Board. The confidentiality of such information will be maintained by the Board, except as otherwise required by law or by order of a court or tribunal. Bidders are advised that their bids will, as necessary, be disclosed, on a confidential basis, to advisers retained by the Board to advise or assist with the ITT process, including the evaluation of bids. . In addition and for the purposes of a report to the Trustees of the Board, pricing information as well as total dollar value of the bid may be reported in a public report and will not be considered confidential. Further, the Board may be ordered by the Information and Privacy Commissioner under the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M56, as amended, to disclose additional information identified by a bidder as proprietary and confidential. The bidder acknowledges that any personal or confidential information which bidders provide is being collected and will be used exclusively for the purposes of analyzing, evaluating and assessing bids submitted. If a bidder has any questions about the collection and use of personal information pursuant to this ITT, questions are to be submitted to the ITT Contact.

### **3.6 Reserved Rights and Limitation of Liability**

#### **3.6.1 Reserved Rights of the Board**

The Board reserves the right to

- (a) make public the names of any or all bidders;
- (b) make changes, including substantial changes, to this ITT provided that those changes are issued by way of addendum in the manner set out in this ITT;
- (c) request written clarification or the submission of supplementary written information in relation to the clarification request from any bidder and incorporate a bidder's response to that request for clarification into the bidder's bid;

- (d) assess a bidder's bid on the basis of: (i) a financial analysis determining the actual cost of the bid when considering factors including quality, service, price and transition costs arising from the replacement of existing goods, services, practices, methodologies and infrastructure (howsoever originally established); and (ii) in addition to any other evaluation criteria or considerations set out in this ITT, consider any other relevant information that arises during this ITT process;
- (e) waive formalities and accept bids that substantially comply with the requirements of this ITT;
- (f) verify with any bidder or with a third party any information set out in a bid;
- (g) disqualify a bidder, rescind a notice of selection or terminate a contract subsequently entered into if the bidder has engaged in any conduct that breaches the process rules or otherwise compromises or may be seen to compromise the competitive process;
- (h) select a bidder other than the bidder whose bid reflects the lowest cost to the Board;
- (i) cancel this ITT process at any stage;
- (j) cancel this ITT process at any stage and issue a new ITT for the same or similar deliverables;
- (k) accept any bid in whole or in part; or
- (l) reject any or all bids;

and these reserved rights are in addition to any other express rights or any other rights that may be implied in the circumstances.

### **3.6.2 Limitation of Liability**

By submitting a bid, each bidder agrees that

- (a) neither the Board nor any of its employees, officers, agents, elected or appointed officials, advisors or representatives will be liable, under any circumstances, for any claim arising out of this ITT process including but not limited to costs of preparation of the bid, loss of profits, loss of opportunity or for any other claim; and
- (b) the bidder waives any right to or claim for any compensation of any kind whatsoever, including claims for costs of preparation of the bid, loss of profit or loss of opportunity by reason of the Board's decision not to accept the bid submitted by the bidder, to enter into an agreement with any other bidder or to cancel this bidding process, and the bidder shall be deemed to have agreed to waive such right or claim.

### **3.7 Governing Law and Interpretation**

These Terms and Conditions of the ITT Process (Part 3)

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);

- (b) are non-exhaustive and shall not be construed as intending to limit the pre-existing rights of the Board; and
- (c) are to be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.

[End of Part 3]

## APPENDIX A – FORM OF AGREEMENT

Stipulated Price Contract – Standard Document PDSB 2011 (Rev. December 2018) and Agreement between the Board and Contractor. A PDF copy of the Form of Agreement is available for download on the Bonfire™ Bidding System Website under **ITT RFTMA-4547** at <https://peelsb.bonfirehub.ca>.



## APPENDIX B – SUBMISSION FORM

### 1. Bidder Information

Please fill out the following form, naming one person to be the bidder’s contact for the ITT process and for any clarifications or communication that might be necessary.	
Full Legal Name of Bidder:	
Any Other Relevant Name under which Bidder Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Fax Number:	
Company Website (if any):	
Bidder Contact Name and Title:	
Bidder Contact Phone:	
Bidder Contact Fax:	
Bidder Contact Email:	

### 2. Offer

The bidder has carefully examined the ITT documents and has a clear and comprehensive knowledge of the Deliverables required under the ITT. By submitting a bid, the bidder agrees and consents to the terms, conditions and provisions of the ITT, including the Form of Agreement, and offers to provide the Deliverables in accordance therewith at the rates set out in its bid.

### 3. Rates

The bidder has submitted its rates in accordance with the instructions in the ITT and in Pricing (Appendix C) in particular. The bidder confirms that it has factored all of the provisions of Appendix A, including insurance and indemnity requirements, into its pricing assumptions and calculations.

### 4. Addenda

The bidder is deemed to have read and accepted all addenda issued by the Board prior to the Deadline for Issuing Addenda. The onus is on bidders to make any necessary amendments to their bids based on the addenda. The bidder is requested to confirm that it has received all addenda by listing the addenda numbers, or if no addenda were issued by writing the word “None”, on the following line: \_\_\_\_\_. Bidders who fail to complete this section will be deemed to have received all posted addenda.

### 5. No Prohibited Conduct

The bidder declares that it has not engaged in any conduct prohibited by this ITT.

**6. Conflict of Interest**

Bidders must declare all potential Conflicts of Interest, as defined in section 3.4.1 of the RFP. This includes disclosing the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the bid; **AND** (b) were employees of the Board within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the bidder will be deemed to declare that (a) there was no Conflict of Interest in preparing its bid; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the ITT.

Otherwise, if the statement below applies, check the box.

- The bidder declares that there is an actual or potential Conflict of Interest relating to the preparation of its bid, and/or the bidder foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the ITT.

If the bidder declares an actual or potential Conflict of Interest by marking the box above, the bidder must set out below details of the actual or potential Conflict of Interest:

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**7. Disclosure of Information**

The bidder hereby agrees that any information provided in this bid, even if it is identified as being supplied in confidence, may be disclosed where required by law or by order of a court or tribunal. The bidder hereby consents to the disclosure, on a confidential basis, of this bid by the Board to the advisers retained by the Board to advise or assist with the ITT process, including with respect to the evaluation this bid.

**8. Bid Irrevocable**

The bidder agrees that its tender shall be irrevocable for a period of 60 days following the Submission Deadline.

### 9. Execution of Agreement

The bidder agrees that in the event its bid is selected by the Board, in whole or in part, it will finalize and execute the Agreement in the form set out in Appendix A to this ITT in accordance with the terms of this ITT.

---

Signature of Bidder Representative

---

Name of Bidder Representative

---

Title of Bidder Representative

---

Date

I have the authority to bind the bidder.

## APPENDIX C – PRICING

### 1. Instructions on How to Provide Pricing

- Bidders should provide the information requested under section 3 below (“Required Pricing Information”) by completing the table(s) in their quotations on the Bidding System. The bidder confirms that the pricing information provided is accurate. The bidder acknowledges that any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its bid or its eligibility for future work.

### 2. Evaluation of Pricing

Evaluation will consist of a review of all compliant bids to determine the lowest acceptable price.

See Appendix 1 – Bid Rate Table - BT-24CX and Appendix 2 – Separate Pricing – BT-01TV in Bonfire Bidding System

The evaluation will be based on either of the following 4 (four) options/scenarios at the Board's sole discretion and contingent on the budget allocated for this work:

- A) Tender Bid Amount (Lump Sum for the Entire Work + Contingency Allowance + Cash Allowance)
- B) Tender Bid Amount + Separate Price No.1
- C) Tender Bid Amount + Separate Price No.2
- D) Tender Bid Amount + Separate Price No.1 + Separate Price No. 2

### 3. Required Pricing Information

Refer to the Appendix 1 – Rate Bid Form – **BT-24CX** in the Bonfire Bidding System.

Refer to the Appendix 2 – Separate Pricing - **BT-01TV** in the Bonfire Bidding System

## APPENDIX D – ITT PARTICULARS

### A. THE DELIVERABLES

Contract includes the construction of the Renovation for Adult & Continuing Education at Glenforest Secondary School South, including some minor site work and coordination. Location of the work is 1490 Ogden Ave., Mississauga, Ontario L5E 2H8.

Refer to the following DRAWINGS and SPECIFICATIONS (A PDF copy of the Specification and Drawing is available for download on the Bonfire™ Bidding System Website at <https://peelsb.bonfirehub.ca> under ITT RFTMA20-4547):

- **SPECIFICATION BINDER A – ARCHITECTURAL, DESIGNATED SUBSTANCE SURVEY & ADs**
- **SPECIFICATION BINDER B – MECHANICAL & ELECTRICAL**
- **DRAWING SET** (includes as follows)

#### ARCHITECTURAL DRAWINGS

SV1 PARTIAL TOPOGRAPHIC SURVEY  
SP1 SITE PLAN  
A01 BUILDING KEY PLANS & OBC DATA  
A02 PARTIAL DEMOLITION AND PROPOSED PLANS - NEW EXIT AND SECOND FLOOR AREAS  
A03 PARTIAL DEMOLITION AND PROPOSED PLANS - ADMIN AND CON. ED. AREAS  
A04 PARTIAL DEMOLITION & PROPOSED REFLECTED CEILING PLANS ADMIN & CO-OP AREAS  
A05 PARTIAL DEMO. & PROP. PLANS - MAINTENANCE TRAINING & STUDENT SERVICES AREA  
A06 INTERIOR ELEVATIONS, ROOF PLANS AND DETAILS

#### STRUCTURAL DRAWINGS

S01 GENERAL NOTES AND TYPICAL DETAILS  
S02 PART PLANS AND DETAILS AND SCHEDULES  
S03 SECTIONS

#### MECHANICAL DRAWINGS

M01 MECHANICAL LEGENDS, GROUND AND SECOND FLOOR OVERALL PLANS  
M02 PARTIAL DEMOLITION & PROPOSED PLANS ADMIN AREA  
M03 PARTIAL DEMO & PROPOSED PLANS CON ED OFFICE AREA  
M04 PARTIAL DEMO & PROPOSED PLANS ENTRANCE AREA  
M05 PARTIAL DEMO & PROPOSED PLANS STUDENT SERVICES  
M06 PARTIAL DEMO & PROPOSED PLANS 2ND FLR CLASSROOM  
M07 PARTIAL DEMO & PROPOSED PLANS MAINTENANCE TRAINING  
M08 PARTIAL PROPOSED SPRINKLER PLANS, MAINTENANCE TRAINING, MECHANICAL DETAILS  
ME-1 MECHANICAL AND ELECTRICAL SCHEDULES

#### SPRINKLER DRAWINGS

SPK1 PROPOSED SPRINKLER LAYOUT AND DETAILS  
SPK2 SPECIFICATIONS AND DETAILS

#### ELECTRICAL DRAWINGS

E00 ELECTRICAL LEGEND, LIGHTING SCHEDULE AND DRAWING LIST  
E01 ELECTRICAL OVERALL PLAN  
E02 GROUND FLOOR ADMIN AREA LIGHTING, POWER AND SYSTEMS LAYOUT  
E03 GROUND FLOOR CON ED AREA LIGHTING, POWER AND SYSTEMS LAYOUT  
E04 GROUND FLOOR ENTRANCE AREA LIGHTING, POWER AND SYSTEMS LAYOUT  
E05 GRND FL STUDENT SERVICES & TRAINING CENTER LIGHTING, POWER & SYSTEMS LAYOUT  
E06 SECOND FLOOR CLASSROOM 202 LIGHTING, POWER AND SYSTEMS LAYOUT

## **B. MATERIAL DISCLOSURES**

### **1. STIPULATED PRICE CONTRACT AGREEMENT**

The bidder if successful will enter into the Stipulated Price Contract (attached as Appendix A) if notified in writing by the Board within sixty (60) calendar days from the closing date of the tender.

### **2. ELECTRONIC BID BOND AND AGREEMENT TO BOND**

Bidders shall upload their Bid Bond and Agreement to Bond in the Bonfire Bidding System. All bonds required by the terms of this Tender shall be in the form of an e-bond from a provider which has been assessed and approved by the Surety Association of Canada. A list of approved providers is available at the following link:

<http://www.surety-canada.com/en/ebonding/assessments.html>.

Bidders are strongly encouraged to discuss the Board's digital bond requirements with their surety company well in advance of submitting a bid, to ensure that the bond that is submitted will meet the Board's requirements.

A scanned copy of a paper bond does not constitute a digital bond and will render your submission non-compliant. Should your surety company provide you with both Bid Bond and Agreement to Bond (outlined below) in one combined document, do not attempt to split this into two separate files as it will negate the security features of the digital bond, not allowing the board to verify its authenticity and rendering it non-compliant. Simply upload the same document twice into Bonfire.

Bonds shall be made out in the name of Peel District School Board, using the latest edition of the CCDC approved bond forms. The Board does not endorse or promote any third party digital bond service provider.

#### **BID BOND**

Each submission shall be accompanied by an electronic Bid Bond in the amount of 5% of the Tender Bid Amount (total quoted as per Appendix 1 – Rate Bid Form), made out to the Peel District School Board.

*And an*

#### **AGREEMENT TO BOND**

From an approved bonding company for a 50% performance bond and a 50% labour and material payment bond.

Amounts to include all applicable taxes.

Bonfire has entered into partnership with Mobile Bonds for E-Bonding solutions. Mobile Bonds is an online application that enables contractor bidders and their bonding partners to create digital surety bonds.

The bidder acknowledges and agrees to comply with the special provisions specified with respect to the wording/and or conditions under which the Performance bond may be invoked and remain in force as a Maintenance bond.

On completion of the work the Performance Bond shall remain in force as a Maintenance Bond for a period of one (1) year from the date of acceptance of the building by the Board. It shall form a guarantee of workmanship and materials for the one (1) year period.

### 3. OCCUPANCY REQUIREMENTS

The bidder acknowledges and agrees to comply with the terms and conditions of the Project Occupancy Requirements as outlined in the Board's Stipulated Price Contract attached as Appendix A.

### 4. CONSTRUCTION SCHEDULE

Upon notification of acceptance ( by the Board) to the successful bidder via Letter of Intent the bidder agrees to proceed with construction of the Work within ten (10) calendar days of receiving such notification and will complete all work ready for full legal occupancy and substantial performance as outlined in the ITT documents.

In the event that such direction does not occur within ten (10) days following the closing date of the ITT and such direction does not occur until the eighty ninth (89) day following the closing date, the bidder shall not be entitled to a delay claim.

The bidder undertakes as part of this ITT to:

- a) Have **MAINTENANCE TRAINING 132** Renovation Area "Fit for Occupancy by:  
**Wednesday, March 31, 2021**
- b) Have the **remaining areas** of the building and site "Fit for Occupancy by:  
**Friday, May 14, 2021**
- c) Have the building(s) and site work completed by: **Monday, May 31, 2021**
- d) Have the contract completed in its entirety by: **Monday, June 14, 2021**

5. The bidder confirms that all appropriate costs such as winter heat, inclement weather protection and all overtime costs for all trades to meet the aforementioned schedule have been included in the tender price submitted to achieve this date.

### 6. LIST OF SUBCONTRACTORS

It is acknowledged that the bidder proposes to use subcontractors and/or suppliers to perform work of this contract. The bidder confirms that such subcontractors chosen by the bidder to perform the work have been investigated by the bidder to confirm their reliability and competence to carry out the work in accordance with the contract documents. The bidder further agrees that no changes may be made without the express written approval of the Board.

Extra costs to the contract will not be considered for the subcontractor/supplier substitution regardless of the reason, except where substitution is requested by the Board

### 7. FEES FOR CHANGES IN WORK

The bidder acknowledges and agrees that the fees referred to in the Requirement of the Stipulated Price Contract attached as Appendix A will apply to changes in the Contract not covered by unit prices.

## **8. SUPPLEMENTARY INFORMATION FORM**

The three (3) top ranked bidders are requested to submit the Supplementary Information Form as presented by the Architect within a 24 hour period after the close of the tender. This form includes some or all of the following information:

- i) Cost breakdown (site work, renovation cost, addition cost)
- ii) List of subcontractors/Suppliers and Installers)
- iii) Unit prices
- iv) Itemized prices – requested by consultants
- v) In lieu of prices – requested by consultants
- vi) Alternate prices to the base bid
- vii) List of Alternative bids submitted for consideration

Failure to submit the required supplementary information forms as requested may result in the non-consideration of your bid.

## **9. BID/CONTRACT/DRAWING AND SPECIFICATION DOCUMENTS**

All documents associated with this tender call may be found on the Bonfire portal.

Documents are provided for bidding purposes only, their use does not confer license or grant for other purposes.

A copy of the soil investigation report may be found in the bid documents.

## **10. GRATUITOUS PAYMENTS**

The Board shall not entertain requests for gratuitous payments arising from errors alleged to have been made in a tender which the Board has accepted.

## **11. BUILDING PERMIT AND OTHER ASSOCIATED FEES**

The building permit has been applied for by the Consultant and shall be paid for by the Board. The successful bidder will pay all other necessary fees, deposits and charges related to municipal, provincial and federal requirements. The successful bidder is responsible for determining the amounts of these permits.

## **12. AWARDING OF WORK FOR MULTIPLE SITES**

The Board reserves the right to award contractors only the amount of work which the Board is confident can be completed on schedule by the successful bidder. In order to expedite the completion of work within the terms of the contract the Board may distribute awards from bids at its sole and unfettered discretion. The decision of the Board is final.

## **13. WSIB/INSURANCE**

The successful bidder will provide proof of WSIB coverage and applicable insurances as outlined in the Stipulated Price Contract prior to commencing work identified under this tender call.



## **14. MANDATORY SITE MEETING**

A mandatory site meeting will be held on the date described in item “1.4 ITT Timetable” at the location described in the timetable. All potential bidders are to meet and await direction from the Board representative(s). Failure of the potential bidder to be present and signed in from the time the meeting is called to order until the meeting is adjourned will result in the non-consideration of your bid. In addition to signing in, the potential bidders will be required to sign out at the adjournment of the meeting as called by the Board representative(s).

## **C. MANDATORY SUBMISSION REQUIREMENTS**

### **1. Submission Form (Appendix B)**

Each bid must include a Submission Form (Appendix B) completed and signed by an authorized representative of the bidder.

### **2. Appendix 1 – Rate Bid Form (See Bonfire Bidding System) - Pricing (Appendix C)**

Each bid must include pricing information that complies with the instructions contained in Pricing (Appendix C).

### **3. Appendix 2 – Separate Pricing (See Bonfire Bidding System) – Pricing (Appendix C)**

### **4. Electronic Bid Bond / Agreement to Bond / Letter of Credit**

Bidders shall upload their electronic Agreement to Bond and electronic Bid Bond in the bidding system.

### **5. Other Mandatory Submission Requirements**

N/A

## **D. MANDATORY TECHNICAL REQUIREMENTS**

N/A

## **E. PRE-CONDITIONS OF AWARD**

N/A

## **APPENDIX E – TERMS AND CONDITIONS**

AS ATTACHED

# Standard Terms and Conditions (APPENDIX E)

## ARTICLE 1 – INTERPRETATION

### 1.01 Defined Terms

When used in the Agreement, the following words or expressions have the following meanings:

**“Authority”** means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and **“Authorities”** means all such authorities, agencies, bodies and departments;

**“Board Confidential Information”** means all information of the Board that is of a confidential nature, including all confidential information in the custody or control of the Board, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with the Contract. For greater certainty, Board Confidential Information shall: (a) include: (i) all new information derived at any time from any such information whether created by the Board, the Supplier or any third-party; (ii) all information (including Personal Information) that the Board is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the Board or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law;

**“Education Act”** means the *Education Act*, R.S.O. 1990, c. E.2, as amended.

**“Industry Standards”** include, but are not limited to (a) the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Deliverables of the type provided hereunder in similar situations in Ontario and; (b) adherence to commonly accepted norms of ethical business practices, which shall include the Supplier establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality to any person acting on behalf of or employed by the Board;

**“Intellectual Property”** means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political

subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity;

**“MFIPPA”** means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M56, as amended;

**“Person”** if the context allows, includes any individuals, persons, firms, partnerships or corporations or any combination thereof;

**“Personal Information”** means recorded information about an identifiable individual or that may identify an individual;

**“Proceeding”** means any action, claim, demand, lawsuit, or other proceeding;

**“Rates”** means the applicable price, in Canadian funds, to be charged for the applicable Deliverables, as set out in the Contract, representing the full amount chargeable by the Supplier for the provision of the Deliverables, including but not limited to: (a) all applicable duties and taxes; HST to be shown separately as indicated (b) all labour, materials, equipment, tools, facilities, licenses, permits and approvals costs; (c) all travel and carriage costs; (d) all insurance costs; and (e) all other overhead including any fees or other charges required by law;

**“Record”**, for the purposes of the Contract, means any recorded information, including any Personal Information, in any form: (a) provided by the Board to the Supplier, or provided by the Supplier to the Board, for the purposes of the Contract; or (b) created by the Supplier in the performance of the Contract;

**“Requirements of Law”** mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licenses, authorizations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Deliverables or any part of them;

**“Supplier”** means the party who is contracted to supply goods, services or construction to the Board and specifically identified in the Contract Award Letter. A supplier may be a manufacturer, distributor, contractor, tradesman, consultant, or other;

**“Term”** means the period of time from the effective date set out in the Contract up to and including the earlier of: (i) the completion of the contract (ii) the date of termination of the Contract in accordance with its terms;

## ARTICLE 2 – NATURE OF RELATIONSHIP BETWEEN THE BOARD AND THE SUPPLIER

### 2.01 Representatives May Bind the Parties

The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

### 2.02 Supplier Not a Partner, Agent or Employee

The Supplier shall have no power or authority to bind the Board or to assume or create any obligation or responsibility, express or implied, on behalf of the Board. The Supplier shall not hold itself out as an agent, partner or employee of the Board. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between the Board and the Supplier (or any of the Supplier's directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors).

The Supplier acknowledges that unless it obtains specific written preauthorization from the Board, any access to or use of the Board property, technology or information that is not necessary for the performance of its contractual obligations with the Board is strictly prohibited. The Supplier further acknowledges that the Board may monitor the Supplier to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Supplier.

**2.03 Responsibility of Supplier**

The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. This paragraph is in addition to any and all of the Supplier's liabilities under the Contract and under the general application of law. The Supplier shall advise these individuals and entities of their obligations under the Contract and shall ensure their compliance with the applicable terms of the Contract. In addition to any other liabilities of the Supplier pursuant to the Contract or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above mentioned individuals and entities. This paragraph shall survive the termination or expiry of this Contract.

**3.02 Condonation Not a Waiver**

Any failure by the Board to insist in one or more instances upon strict performance by the Supplier of any of the terms or conditions of the Contract shall not be construed as a waiver by the Board of its right to require strict performance of any such terms or conditions, and the obligations of the Supplier with respect to such performance shall continue in full force and effect.

**2.04 Duty to Disclose Change of Control**

In the event that the Supplier undergoes a change in control the Supplier shall immediately disclose such change in control to the Board and shall comply with any terms and conditions subsequently prescribed by the Board resulting from the disclosure.

**3.03 The Board Rights and Remedies and Supplier Obligations Not Limited to Contract**

The express rights and remedies of the Board and obligations of the Supplier set out in the Contract are in addition to and shall not limit any other rights and remedies available to the Board or any other obligations of the Supplier at law or in equity.

**2.05 Conflict of Interest**

The Supplier shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose to the Board without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by the Board to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the Board may immediately terminate the Contract upon giving notice to the Supplier where: (a) the Supplier fails to disclose an actual or potential Conflict of Interest; (b) the Supplier fails to comply with any requirements prescribed by the Board to resolve a Conflict of Interest; or (c) the Supplier's Conflict of Interest cannot be resolved. This paragraph shall survive any termination or expiry of the Contract.

**3.04 Supply to Comply with Tobacco Control Act**

Without limiting the generality of 4.02, the Supplier shall comply with the *Tobacco Control Act*, and ensure that its employees and/or subcontractors do not smoke on and in any of the Board's property, including schools, offices, administrative buildings, warehouses, other Board facilities, and non-Board vehicles on Board property.

**2.06 Contract Binding**

The Contract shall ensure to the benefit of and be binding upon the parties and their successors, executors, administrators and their permitted assigns.

**3.05 Supplier to Comply with the Board's Accessibility Requirements**

The Supplier covenants and agrees to ensure that the Deliverables provided hereunder are consistent with the *Ontario Human Rights Code* ("OHRC"), the *Ontarians Disabilities Act, 2001* ("ODA") and the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA") and their respective regulations in order to achieve accessibility for Ontarians with disabilities. Without limiting the generality of the foregoing, the Supplier covenants and agrees to comply with the Board's accessibility standards, policies, practices and procedures, as same may be in effect during the term of the Agreement and apply to the Deliverables to be provided hereunder by the Supplier.

**ARTICLE 3 – PERFORMANCE BY SUPPLIER**

**3.01 Use and Access Restrictions**

**3.06 Access to the School Site**

Where the Supplier or any of its employees, subcontractors are required to access school sites during regular hours of school operation must contact the school office upon arrival for further instruction. The Supplier shall ensure that it obtains clearance from the school Principal or designate to gain access during the hours in which the site is occupied with students. The Supplier is prohibited from having vehicular access immediately before or after school, during opening or dismissal periods and during recess or lunch period. Where the Supplier is granted permission to access a site during those particular times in which the playgrounds and general exterior premises are occupied by

students, the vehicle being used by the Supplier or any of its employees or subcontractors must be accompanied by an adult who will walk with the vehicle to its required destination.

### 3.07 **The Board's Policy #51 – Human Rights**

The Board is committed to hosting a work and educational environment in which everyone is treated with respect, and no one is subject to discrimination. This commitment stems from the Board's own philosophy and the Board's obligations under the Ontario Human Rights Code. During the term of the Contract, the Supplier shall ensure that its employees and subcontractors behave in a manner that is appropriate, respectful, and consistent with the provisions of the Ontario Human Rights Code and comply with the Board's Policy # 51 – Human Rights during the term of the Contract.

Any breach of the Ontario Human Rights Code or the Board's Policy #51 by the Supplier, its employees or subcontractor will result in the removal of that person or persons from the Board's premises. In addition, the breach of these conditions by the Supplier, its employees and subcontractors could result in the termination of the Contract and/or the barring of the Supplier and its subcontractors from entering into subsequent contracts with the Board.

## **ARTICLE 4 – CONFIDENTIALITY AND MFIPPA**

### 4.01 **Confidentiality and Promotion Restrictions**

Any publicity or publications related to the Contract shall be at the sole discretion of the Board. The Board may, in its sole discretion, acknowledge the Deliverables provided by the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the Board without the prior written consent of the Board. Without limiting the generality of this paragraph, the Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so from the Board.

### 4.02 **Board Confidential Information**

During and following the Term, the Supplier shall: (a) keep all Board Confidential Information confidential and secure; (b) limit the disclosure of Board Confidential Information to only those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized to have such disclosure; (c) not directly or indirectly disclose, destroy, exploit or use any Board Confidential Information (except for the purpose of providing the Deliverables, or except if required by order of a court or tribunal), without first obtaining: (i) the written consent of the Board and (ii) in respect of any Board Confidential Information about any third-party, the written consent of such third-party; (d) provide Board Confidential Information to the Board on demand; and (e) return all Board Confidential Information to the Board before the end of the Term, with no copy or portion kept by the Supplier.

### 4.03 **Restrictions on Copying**

The Supplier shall not copy any Board Confidential Information, in whole or in part, unless copying is essential for the provision of the Deliverables. On each copy made by the Supplier, the Supplier must reproduce all notices that appear on the original.

### 4.04 **Injunctive and Other Relief**

The Supplier acknowledges that breach of any provisions of this Article may cause irreparable harm to the Board or to any third-party to whom the Board owes a duty of confidence, and that the injury to the Board or to any third-party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that the Board is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

### 4.05 **Notice and Protective Order**

If the Supplier or any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors become legally compelled to disclose any Board Confidential Information, the Supplier will provide the Board with prompt notice to that effect in order to allow the Board to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the Board and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Supplier will disclose only that portion of the Board Confidential Information which the Supplier is legally compelled to disclose, only to such person or persons to which the Supplier is legally compelled to disclose, and the Supplier shall provide notice to each such recipient (in co-operation with legal counsel for the Board) that such Board Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Contract and, if possible, shall obtain each recipient's written agreement to receive and use such Board Confidential Information subject to those terms and conditions.

### 4.06 **MFIPPA Records and Compliance**

The Supplier and the Board acknowledge and agree that MFIPPA applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Supplier agrees (a) to keep Records secure; (b) to provide Records to the Board within seven (7) calendar days of being directed to do so by the Board for any reason including an access request or privacy issue; (c) not to access any Personal Information unless the Board determines, in its sole discretion, that access is permitted under MFIPPA and is necessary in order to provide the Deliverables; (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the Board; (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so; (f) to restrict access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates,

volunteers or subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized by a the Board representative to have such access for the purpose of providing the Deliverables; (g) to implement other specific security measures that in the reasonable opinion of the Board would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and (h) that any confidential information supplied to the Board may be disclosed by the Board where it is obligated to do so under MFIPPA, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this paragraph shall prevail over any inconsistent provisions in the Contract.

#### 4.07 **Audit**

In addition to any other rights of inspection the Board may have under statute or otherwise, the Board, its authorized representatives or an independent auditor identified by the Board may, at its own expense, during business hours and upon twenty-four hours' notice to the Supplier, enter upon the Supplier's premises, at the Board's discretion, to inspect and copy any of the Records. The Supplier must permit the Board to exercise its rights under this section. Contractor shall retain all Records applicable to this contract for a period of 7 years.

#### 4.08 **Survival**

The provisions of this Article shall survive any termination or expiry of the Contract.

### **ARTICLE 5 – INTELLECTUAL PROPERTY**

#### 5.01 **The Board Intellectual Property**

The Supplier agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the Board to the Supplier shall remain the sole property of the Board at all times.

#### 5.02 **No Use of the Board Insignia**

The Supplier shall not use any insignia or logo of the Board except where required to provide the Deliverables, and only if it has received the prior written permission of the Board to do so.

### **ARTICLE 6 – INDEMNITIES AND INSURANCE**

#### 6.01 **Proof of WSIB Coverage**

The Supplier warrants and agrees that it has complied with and will comply with, and ensure that any subcontractors comply with, all applicable occupational health and safety laws and regulations in relation to the performance of the Supplier's obligations under this Contract.

If the Supplier is subject to the Workplace Safety and Insurance Act ("WSIA") or the *Workplace Safety and Insurance Amendment Act, 2008* ("Bill 119"), the Supplier shall submit a valid clearance certificate of Workplace Safety and Insurance Board ("WSIB")

coverage to the Board before commencing the performance of the Deliverables. In addition, the Supplier shall, from time to time during the Term and at the request of the Board, provide additional WSIB clearance certificates. The Supplier covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it/its subcontractors, from time to time during the Term, under the WSIA and/or the WSIAA, failing which the Board shall have the right, in addition to and not in substitution for any other right it may have pursuant to the Contract or otherwise at law or in equity, to pay to the WSIB any amount due pursuant to the WSIA or the WSIAA unpaid by the Supplier or its subcontractors and to deduct such amount from any amount due and owing from time to time to the Supplier pursuant to the Contract together with all costs incurred by the Board in connection therewith.

#### 6.02 **Evidence of Insurance**

The Supplier must provide the Board with evidence of all required insurance when and as required by the Board. The Board reserves the right to cancel this Contract at any time, without notice, if the Supplier fails to carry and keep in full force and effect such insurance.

#### 6.03 **Additional Insurance**

The Supplier must obtain, maintain and pay for any additional insurance, which the Supplier is required by law to carry, is required by the Board to carry or which the Supplier considers necessary to cover risks not otherwise covered by insurance specified in this Agreement in the Supplier's sole discretion.

### **ARTICLE 7 – CRIMINAL BACKGROUND CHECKS**

#### 7.01 **Criminal Background Checks**

School boards in Ontario are required by provincial legislation to ensure that all service providers on contract with the Board or school and other individuals who, potentially, have direct and regular contact with Ontario students, are cleared by a criminal background check covering convictions, charges and occurrences that would be revealed by the long version vulnerable persons search of the automated criminal records system maintained by the RCMP at the Canadian Police Information Centre ("Criminal Background Check"). Service providers are not authorized to provide their services to schools or attend on Board property unless they have completed a satisfactory Criminal Background Check which the Supplier is to retain in its Records at its head office or principal place of business. If the services provided by the Supplier involve direct and regular contact with students, the Supplier will be required to obtain satisfactory Criminal Background Checks for all such persons who may have direct and regular contact with students.

## **ARTICLE 8 - EVALUATION**

### **8.01 Supplier Performance Evaluation**

Supplier performance may be evaluated through the completion of a Supplier Performance Evaluation Form at the end of a contract or a Supplier Occurrence Form that may be issued during the contract performance period. Poor performance as noted in either of these documents may result in the Supplier being ineligible for future contracts with the Board.