



REQUEST FOR TENDERS

For

Cardinal Carter Catholic High School Maintenance

1 Gym Folding Partition Replacement

210 Bloomington Rd., Aurora ON L4G 0P9

Request for Tender No.: 2021-127-T

Issued: June 7, 2021

Submission Deadline: Before 12:00:00pm Local Time on
June 21, 2021

RFT Coordinator: Kelly McCarthy, Coordinator
Kelly.mccarthy@ycdsb.ca

“Official Copy”



INSTRUCTIONS TO BIDDERS

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1. INTRODUCTION

1.1 INVITATION

1.1.1 This Request for Tenders is an invitation by the York Catholic District School Board to prospective Bidders to submit Bids for the Work, as further described in the RFT Documents.

1.2 THE PORTAL

1.2.1 The Owner is using an electronic web portal site for this RFT and for the electronic submission of Bids at “<https://ycdsb.bidsandtenders.ca>” (the “**Portal**”). Bidders must register to access the Portal and should contact “support@bidsandtenders.ca” or visit the website at “www.bidsandtenders.ca” if they have questions relating to the use of the Portal. Each Bidder is solely responsible to ensure it has the appropriate hardware and software to access the Portal and to enter, input, submit, post, download and upload content from and to the Portal.

1.3 NOTIFICATION OF INTENT TO NOT SUBMIT A BID

1.3.1 Bidders are requested to notify the Owner if they do not intend to submit a Bid by so indicating on the Portal by no later than 72 hours before the site meeting identified in the table at paragraph 1.5.1. Where no site meeting will be held, Bidders are requested to notify the Owner as soon as possible and, in any event, by no later than 7 days before the Submission Deadline.

1.3.2 Bidders are reminded that failure to comply with paragraph 1.3.1 may impact their eligibility to be considered for an invitation to respond to future procurements issued by the Owner.

1.4 SCHEDULE

1.4.1 If the table at paragraph 1.5.1 includes a date for the start of the Work and/or a date for substantial performance of the Work, each Bidder that submits a Bid will, by doing so, be deemed to represent to the Owner that it has the resources and capacity, including labour, equipment, materials and facilities, needed to execute and complete the Work within the date(s) indicated. If a Bidder is unable to meet the date(s) indicated in the table at paragraph 1.5.1, such Bidder should not submit a Bid and should notify the Owner in accordance with paragraph 1.3.1.

1.5 SUMMARY OF KEY INFORMATION

1.5.1 The table below provides a summary of some of the key information contained in the RFT Documents and is provided solely as a convenience. Bidders are urged to read all of the RFT Documents carefully and thoroughly to ensure they fully understand all of the terms and conditions of this RFT.

RFT Coordinator	The “ RFT Coordinator ” is Kelly McCarthy, Kelly.mccarthy@ycdsb.ca
Site meeting	There will be a mandatory site meeting.
Site meeting date, time and location(s)	June 9, 2021 at 11:00 AM. 210 Bloomington Rd., Aurora ON L4G 0P9. Face Shield and Masks are a mandatory requirement.
Question Deadline	The deadline for Bidders to submit questions (the “ Question Deadline ”) is three (3) business days before the Submission Deadline.
Submission Deadline	Bids must be received BEFORE 12:00:00pm Local Time on



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	June 21, 2021 (the “ Submission Deadline ”).
Manner of Bid submission	Bids must be submitted electronically through the Portal at: https://ycdsb.bidsandtenders.ca
Irrevocability Period	Bids must be irrevocable and remain open for consideration by the Owner for a period of 90 days starting from the day after the Submission Deadline (the “ Irrevocability Period ”).
Security Documents	Not required
Start of the Work	The successful Bidder is to start the Work by no later than June 28, 2021.
Substantial performance of the Work	The successful Bidder is to attain substantial performance of the Work by no later than November 4, 2021.

1.6 THE BID CONTRACT

- 1.6.1 The Bidders and the Owner acknowledge it is their intention to create a process contract, sometimes referred to as “Contract A” (the “**Bid Contract**”), between the Owner and each Bidder whose Bid passes all Mandatory Requirements. The Bidders and the Owner further acknowledge that if a Bid Contract is created between the Owner and one or more Bidders, the terms of the Bid Contract are represented by the RFT Documents and include an obligation on the successful Bidder, if any, to sign the Contract.

1.7 BIDDERS’ EXPENSES

- 1.7.1 The Owner shall not be responsible for and Bidders shall bear all costs and expenses incurred by them in any way related to any aspect of their participation or intended participation or involvement in this RFT including, without limitation, all costs and expenses related to a Bidder’s:
- (a) due diligence, investigations, and information gathering activities;
 - (b) attendance and/or participation at any and all meetings, visits and presentations;
 - (c) preparation and submission of a Bid and responding to Requests for Additional Information.

1.8 TRADE AGREEMENTS

- 1.8.1 Bidders should note that procurements coming within the scope of:
- (a) Chapter Five of the Canadian Free Trade Agreement;
 - (b) Chapter Nineteen of the Canada-European Union Comprehensive Economic and Trade Agreement; or
 - (c) within the scope of the Trade and Cooperation Agreement Between Ontario and Quebec, are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFT.

2. DEFINITIONS

Capitalized and other terms used in this RFT and not otherwise defined shall have the meanings indicated in this Article, unless the context requires otherwise.

- 2.1.1 “**Adjusted Bid Price**” has the meaning assigned to such term in paragraph 9.4.1.



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- 2.1.2 **“Bid”** means, collectively, all information and documents entered, inputted, submitted, posted and/or uploaded to the Portal by a Bidder in response to this RFT, and any information and documents received from a Bidder in response to Requests for Additional Information.
- 2.1.3 **“Bidder”** means a legal entity that participates in this RFT, whether or not it submits a Bid. The term **“Bidder”** also includes such an entity prior to the submission of its Bid.
- 2.1.4 **“Bid Contract”** means the contract described in paragraph 1.6.1.
- 2.1.5 **“Bid Price”** has the meaning assigned to such term in paragraph 8.2.2(a).
- 2.1.6 **“Board of Trustees”** means the board of trustees of the Owner.
- 2.1.7 **“business day”** means any day the Owner is open for business.
- 2.1.8 **“Conflict of Interest”** has the meaning assigned to such term in paragraph 12.2.1.
- 2.1.9 **“Contract”** means the written agreement to be signed between the Owner and the successful Bidder, if any, in the form of CCDC 2-2008 stipulated price contract, as amended by Supplementary Conditions.
- 2.1.10 **“Evaluation Score”** has the meaning assigned to such term in paragraph 9.4.2.
- 2.1.11 **“Irrevocability Period”** has the meaning assigned to such term in the table at paragraph 1.5.1.
- 2.1.12 **“Local Time”** means the time measured and recorded on the Portal.
- 2.1.13 **“Mandatory Requirements”** means the mandatory requirements listed in paragraph 9.3.1.
- 2.1.14 **“Owner”** means the York Catholic District School Board and includes its employees, officers, directors, agents and Board of Trustees, whether involved with the RFT or not.
- 2.1.15 **“Portal”** has the meaning assigned to such term in paragraph 1.2.1.
- 2.1.16 **“Question Deadline”** is the date identified as such in the table at paragraph 1.5.1.
- 2.1.17 **“Reports”** has the meaning set out in paragraph 4.1.1.
- 2.1.18 **“Request for Additional Information”** has the meaning set out in paragraph 9.2.1.
- 2.1.19 **“RFT”** means this request for tenders process described in the RFT Documents.
- 2.1.20 **“RFT Coordinator”** is the person identified as such in the table at paragraph 1.5.1.
- 2.1.21 **“RFT Documents”** means the documents listed in paragraph 3.2.1.
- 2.1.22 **“Security Documents”** has the meaning assigned to such term in paragraph 8.2.6(a).
- 2.1.23 **“Submission Deadline”** is the date and time identified as such in the table at paragraph 1.5.1.
- 2.1.24 **“Supplementary Conditions”** means the Supplementary Conditions for the CCDC 2-2008 stipulated price contract included on the Portal.
- 2.1.25 **“Work”** means the total construction and related services described in the RFT Documents.

3. RFT DOCUMENTS

3.1 ACCESS TO THE RFT DOCUMENTS

- 3.1.1 The RFT Documents will only be made available to Bidders electronically on the Portal. The Portal will include all RFT Documents and all other relevant notices, information and communications relating to the RFT.
- 3.1.2 Each Bidder is solely responsible to ensure that it:



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- (a) registers with (as a "Plan Taker") and obtains access to the Portal; and
- (b) has the appropriate hardware and software to access the Portal and to enter, input, submit, post, download and upload content from and to the Portal; and
- (c) visits and reviews the Portal as frequently as it deems necessary to ensure that it has the most current information and addenda.

The Portal will be updated from time to time and Bidders are solely responsible for accessing and checking the Portal for new addenda and other postings and to ensure the information and documents used by Bidders are the most correct and up-to-date information and documents.

- 3.1.3 If there is a conflict or inconsistency between an electronic version of any RFT Document on the Portal and any other version of the same document, whether in electronic or paper form, the latest electronic version on the Portal shall govern.

3.2 THE RFT DOCUMENTS

- 3.2.1 Bidders should ensure they have and/or have access to all of the documents listed below (collectively the "**RFT Documents**"). A Bid will be deemed to have been prepared on the basis of all RFT Documents available on the Portal prior to the Submission Deadline, and the Owner accepts no responsibility for any Bidder lacking or not being able to access any of the RFT Documents.

- (a) Instructions to Bidders (this document).
- (b) Supplementary Conditions (Amendments to CCDC 2-2008 Stipulated Price Contract).
- (c) Specifications.
- (d) Drawings.
- (e) Addenda, if any, issued before the Submission Deadline.

- 3.2.2 Bidders should notify the RFT Coordinator immediately if any documents are missing or incomplete or upon finding any discrepancies or omissions in the RFT Documents. For technical questions or issues Bidders should contact "support@bidsandtenders.ca".

- 3.2.3 The RFT Documents are made available only for the purpose of submitting Bids for the Work. Availability and/or use of the RFT Documents does not confer a license or grant for any other purpose.

4. BIDDERS' DUE DILIGENCE

- 4.1.1 In addition to the RFT Documents, the Portal may include the Owner's information, data and environmental, geotechnical or other reports prepared or obtained with respect to the Work (collectively the "**Reports**"). The Reports should not be considered a representation of the conditions of the entire Work and are provided for general information and guidance purposes only. The Owner does not guarantee the accuracy or completeness of the Reports nor assumes any responsibility for any interpretations or conclusions that Bidders may make or draw from the Reports.

- 4.1.2 Nothing in this RFT or in the RFT Documents or in the Reports is intended to relieve Bidders from undertaking their own research, investigations or other due diligence, or forming their own opinions and conclusions with respect to the Work, the RFT Documents, the Contract, and all other matters related to this RFT. The Owner (a) does not accept or assume any responsibility for any interpretations or conclusions that Bidders may make or draw from the RFT Documents or the Reports, (b) does not represent, warrant or guarantee that the RFT Documents or the Reports



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are complete, accurate or comprehensive or exhaustive, and (c) assumes no responsibility for the completeness or accuracy of the RFT Documents or the Reports, or anything else provided or made available by the Owner during this RFT.

- 4.1.3 No allowances will be made for additional costs and no claims will be entertained in connection with:
- (a) conditions which could reasonably have been ascertained by the Bidders through investigation or other due diligence undertaken prior to the Submission Deadline; and/or
 - (b) Work which is required and which is reasonably inferable from the Bid Documents and/or the Reports as being necessary.

5. COMMUNICATIONS, QUESTIONS AND ADDENDA

5.1 COMMUNICATIONS

- 5.1.1 Except as provided in the RFT Documents, Bidders and their representatives are not to communicate with or otherwise contact any of the Owner's employees, agents or other representatives, including any member of the Board of Trustees, regarding this RFT at any time before execution of the Contract, if any. A Bidder's failure to comply with this paragraph may result in the disqualification of the Bidder and the rejection of its Bid.
- 5.1.2 All questions and communications with the Owner permitted by the RFT Documents are to be in writing and:
- (a) if sent before the Submission Deadline, are to be submitted to the Portal only, using the "Submit a Question" link; and
 - (b) if sent after the Submission Deadline, are to be sent by e-mail to the RFT Coordinator.

5.2 BIDDERS' QUESTIONS

- 5.2.1 Bidders should examine the RFT Documents carefully and thoroughly and are encouraged to ask questions or request clarification with respect to any part of this RFT or any RFT Documents which do not appear clear.
- 5.2.2 Questions received by the Question Deadline will be reviewed and if the Owner believes that a response is warranted, it will include the question and its answer in an addendum. The Owner may, in its discretion, consider and respond to questions received after the Question Deadline but is under no obligation to do so. In responding to questions the Owner may answer similar questions from different Bidders only once, may edit or rephrase the questions, and may ignore questions which, in the Owner's opinion, do not require a response.

5.3 ADDENDA

- 5.3.1 This RFT and the RFT Documents may be amended only by written addendum posted to the Portal. Answers, responses, clarifications, instructions or any other information or communication provided by any other means, by any person, in whatever context or setting, are not binding on the Owner and will not amend this RFT or any RFT Documents and are not to be relied upon by any Bidder unless and until they are posted to the Portal in the form of an addendum.
- 5.3.2 Addenda will be posted to the Portal only and will not be sent or otherwise distributed to the Bidders. Bidders are solely responsible:
- (a) to regularly access and review the Portal for addenda;



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- (b) to ensure they have received and that their Bid incorporates all addenda posted to the Portal before the Submission Deadline.

The Owner shall not be responsible if any addenda are not obtained by a Bidder.

6. SITE MEETING

6.1 GENERAL

- 6.1.1 This Article 6 applies if the table at paragraph 1.5.1 indicates that a site meeting will be held.
- 6.1.2 All Bidders attending a site meeting will be required to sign an attendance log to confirm their attendance. The attendance log will be the official record of attendance.
- 6.1.3 Each Bidder attending a site meeting shall, for its own forces and for its agents, consultants, contractors, subcontractors and all others attending with them, assume overall responsibility for compliance with all aspects of the applicable workers' compensation and occupational health and construction safety legislation and all related rules, regulations and practices, and shall indemnify and save the Owner harmless from, and shall be responsible for, all claims, demands, losses, costs, expenses or damages related to or arising from the attendance and any activities undertaken at the site meeting, whether or not such activities were authorized by the Owner.

6.2 MANDATORY SITE MEETING

- 6.2.1 If the table at paragraph 1.5.1 indicates attendance at a site meeting is mandatory, then:
 - (a) Bids received from Bidders who fail to attend the mandatory site meeting, as determined from the attendance log, will not be considered;
 - (b) if mandatory site meetings are held at different sites, Bids received from Bidders who fail to attend a mandatory site meeting at a particular site, as determined from the attendance log, will not be considered for that particular site or may not be considered at all, at the sole discretion of the Owner.

6.3 OPTIONAL SITE MEETING

- 6.3.1 If the table at paragraph 1.5.1 indicates attendance at a site meeting is optional, Bidders are strongly encouraged to attend. Failure to attend an optional site meeting is at the sole risk and responsibility of the Bidder.
- 6.3.2 Bidders who do not attend an optional site meeting waive any and all right to contest, claim, complain, protest and/or dispute this RFT based on the fact that information may have been obtained by another Bidder as a result of that Bidder's attendance at an optional site meeting.

6.4 INFORMATION OBTAINED AT A SITE MEETING

- 6.4.1 Each Bidder acknowledges and agrees that:
 - (a) notwithstanding the Owner may give answers and may provide information during a site meeting, such answers and information, whether in verbal or in written form, will not in any way bind the Owner or amend this RFT or any RFT Documents and are not to be relied upon in any way by a Bidder, except and only to the extent expressly confirmed in an addendum;
 - (b) anything said, written or done by the Owner or any other person, and any views or comments expressed in response to anything said or done during a site meeting, will not in any way bind the Owner or amend this RFT or any RFT Documents and is not to be relied



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upon in any way by a Bidder, except and only to the extent expressly confirmed in an addendum.

7. SITE INVESTIGATION BY BIDDERS

- 7.1.1 Each Bidder is solely responsible, at its own cost and expense, to carry out its own independent research and due diligence and to perform any investigations considered necessary by the Bidder to satisfy itself as to the existence and/or locations of utilities and underground services and all other existing conditions, circumstances and limitations affecting the Work, the RFT Documents, the Contract, and all other matters related to this RFT. The Bidders' obligations set out in this paragraph apply irrespective of the information contained in the RFT Documents or the Reports or that is made available to the Bidders during this RFT.
- 7.1.2 Bidders shall not undertake any independent investigation activities on any Owner properties except as provided in this Article 7.
- 7.1.3 Bidders who would like an opportunity to undertake an investigation of an Owner property must submit a request to the RFT Coordinator through the Portal and must indicate the proposed date and time and a description of the proposed investigation. Bidders must not contact a school directly.
- 7.1.4 If the Owner approves a Bidder's site investigation request, the RFT Coordinator will issue a written notification of the date and time on which the Bidder may attend at the site, as well as the investigation activity(ies) which the Bidder is authorized to undertake, and the duration of such activity(ies). A representative of the Owner may attend to monitor the Bidder's activities.
- 7.1.5 Bidders acknowledge that unforeseen circumstances may arise and the Owner may, in its sole discretion, cancel, reschedule and/or modify the Bidder's visit and/or investigation activities on short notice or no notice to the Bidder.
- 7.1.6 Each Bidder acknowledges and agrees:
- (a) that anything said, written or done by the Owner or its representatives, and any views or comments expressed in response to anything said or done during the Bidder's site investigation, will not in any way bind the Owner or amend this RFT or any RFT Documents, and is not to be relied upon by the Bidder;
 - (b) to waive any and all right to contest, claim, complain, protest and/or dispute this RFT based on the fact that findings, information, results or data may have been obtained by another Bidder as a result of that Bidder's site investigation, that were not obtained by, shared with, or provided to other Bidders.
- 7.1.7 Bidders shall, for their own forces and for their agents, consultants, contractors, subcontractors and all others attending a site investigation with them or on their behalf:
- (a) assume overall responsibility for compliance with all aspects of the applicable workers' compensation and health and construction safety legislation and all related rules, regulations and practices, and shall ensure that appropriate occupational health and safety instruction and training are provided to all those attending at the site;
 - (b) perform only investigations authorized by the Owner;
 - (c) avoid disturbing and take all reasonable steps necessary to promote and maintain the safety of the occupants of the site and any adjacent properties and the public in general;



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- (d) respect and comply with local regulations and the Owner's requirements regarding permitted work hours and noise levels, and conduct themselves in a respectful manner;
- (e) indemnify and save the Owner harmless from, and be responsible for, all claims, demands, losses, costs or damages related to or arising from anything done or not done by the Bidder or anyone attending with or on behalf of the Bidder at a site investigation, whether or not authorized by the Owner.

8. INSTRUCTIONS FOR BID COMPLETION AND SUBMISSION

8.1 BIDS TO BE COMPLETED AND SUBMITTED THROUGH THE PORTAL ONLY

- 8.1.1 Bids must be completed and submitted through the Portal only. Bids submitted by any other means will not be considered.
- 8.1.2 Bidders must ensure all required information and documents are entered, inputted, submitted, posted and/or uploaded to the Portal BEFORE the Submission Deadline. Bidders who fail to do so will be unable to submit a Bid. Bidders are solely responsible for the timing of delivery of their Bids and are cautioned that Bid transmission can be delayed or can fail due to high internet traffic, internet outage or unavailability, file size, transmission speed and other factors.
- 8.1.3 The Portal will generate a confirmation e-mail to a Bidder once a Bid is received. Bidders that do not receive a confirmation e-mail should contact "support@bidsandtenders.ca".

8.2 INSTRUCTIONS FOR BID COMPLETION

- 8.2.1 Bidders shall enter, input, submit, post and/or upload all requested documents and information to and on the Portal.
- 8.2.2 Bid Price.
 - (a) Bidders shall enter in the space provided on the Portal the fixed, all-inclusive lump sum price for the Work (the "**Bid Price**"). The Bid Price shall be in Canadian dollars and shall exclude the Harmonized Sales Tax (HST) but shall include all other applicable taxes and duties.
 - (b) If required, Bidders shall input a breakdown of their Bid Price on the Portal. In the case of conflict or ambiguity between the Bid Price and the sum of the breakdown of the Bid Price, the Bid Price shall govern.
- 8.2.3 Quick Payment Discount. If and where required on the Portal, Bidders shall enter a percentage discount offered to the Owner if the Owner makes payment within 7 business days of the Owner's receipt of a Proper Invoice (as defined in the Contract).
- 8.2.4 Unit, Separate and Alternative Prices. If and where required on the Portal, Bidders shall enter the following prices, all of which shall exclude the Harmonized Sales Tax (HST) but shall include all other applicable taxes and duties:
 - (a) unit prices;
 - (b) separate prices for work, if any, which the Owner may add to or delete from the Bid Price for the amount(s) indicated;
 - (c) alternative prices for work, if any, which the Owner may substitute for Work which is included in the Bid Price for the amount(s) indicated.



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The Owner reserves the right to accept or reject any or all unit, separate and/or alternative prices received, and such prices shall remain in effect for the duration of the Contract.

8.2.5 Listing Subcontractors / Suppliers.

- (a) If and where required on the Portal, Bidders shall input a list of the subcontractors and/or suppliers proposed to perform or supply an item of the Work identified on the Portal.
- (b) If the Owner has identified, in the RFT Documents, one or more subcontractors or suppliers to perform or supply a specific item of the Work, Bidders shall select only one of the identified subcontractors or suppliers to perform or supply that item of Work. Bids that fail to comply with this paragraph 8.2.5(b) will be declared non-compliant.
- (c) Where a Bidder lists "own forces" in place of a subcontractor, the Bidder shall perform such item of the Work with its own forces. In such case the Owner reserves the right to obtain information from the Bidder and from third parties respecting the qualifications and experience of the Bidder's own forces to perform such item of the Work.

8.2.6 Security Documents. If the table at paragraph 1.5.1 indicates that Bidders are required to submit Security Documents, then:

- (a) Each Bidder shall submit an agreement to bond or surety's consent issued by a surety licensed to conduct surety and insurance business in Canada undertaking to provide a performance bond and a labour and material payment bond, each in the amount of fifty percent (50%) of the Bid Price (collectively the "**Security Documents**"), by posting/uploading a scanned copy (in "pdf" format) to the Portal. The agreement to bond / surety's consent shall remain valid for at least the duration of the Irrevocability Period.
- (b) Bidders shall include the costs of all Security Documents in their Bid Price.
- (c) Bids that do not comply with paragraph 8.2.6(a) will be declared non-compliant.

8.3 **AMENDING OR WITHDRAWING BIDS AFTER SUBMISSION**

8.3.1 Bidders may amend their Bids but only before the Submission Deadline. Bidders are solely responsible for ensuring that the amended Bid is submitted to the Portal before the Submission Deadline.

8.3.2 Bidders may withdraw their Bids but only before the Submission Deadline. Bids cannot be withdrawn after the Submission Deadline.

9. **EVALUATING BIDS**

9.1 **GENERAL**

9.1.1 Bids will be opened in private.

9.2 **REQUESTS FOR ADDITIONAL INFORMATION**

9.2.1 The Owner, through the RFT Coordinator, may contact any one or more Bidders to request clarification of any information or documents submitted as part of a Bid, or to request supplementary information (collectively, "**Request for Additional Information**"), without any obligation to make the same or any Request for Additional Information of any other Bidder. Notwithstanding the preceding sentence, the Owner has no obligation to make any Request for Additional Information.



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9.2.2 Bidders shall respond to all Requests for Additional Information within the time and in the manner stipulated in each Request for Additional Information. For certainty, the Owner may require that a Bidder's response be presented in the form of a meeting or interview with the Owner. Any information received in response to a Request for Additional Information will form an integral part of a Bidder's Bid. If a Bidder fails to respond to a Request for Additional Information, its Bid will be considered and evaluated based solely on the original Bid contents received.

9.2.3 A Bidder's response to a Request for Additional Information shall not be an opportunity for the Bidder to correct errors or to change its Bid in any substantive manner. Subject to that, information, prices, rates and documents received in response to a Request for Additional Information shall form part of a Bidder's Bid.

9.3 MANDATORY REQUIREMENTS

9.3.1 Only Bids which are received through the Portal before the Submission Deadline and, subject to paragraph 9.3.2, which pass all of the mandatory requirements listed below (collectively, the "**Mandatory Requirements**") on a "pass/fail" basis, will be eligible for evaluation and award of the Contract:

- (a) if the table at paragraph 1.5.1 indicates a site meeting is mandatory, the Bidder must have attended the mandatory site meeting, as determined from the attendance log; and
- (b) if the table at paragraph 1.5.1 indicates that Security Documents are required, the Bid must include the agreement to bond or surety's consent specified in paragraph 8.2.6(a); and
- (c) if the RFT Documents specify one or more subcontractors or suppliers to perform or supply a particular item of the Work, the Bid must include only the specified subcontractor(s) and supplier(s) to perform or supply that item of Work;
- (d) the Bid substantially complies with the requirements of the RFT Documents. In this respect, the Owner reserves the right, in its sole and unfettered discretion, to waive minor errors and matters of non-compliance contained in a Bid.

9.3.2 If all Bids fail at least one of the Mandatory Requirements the Owner, in its sole discretion, may:

- (a) evaluate one or more Bids selected by the Owner, in its sole discretion, and proceed with the RFT and treat such Bid(s) as having passed all of the Mandatory Requirements; and/or
- (b) enter into negotiations towards the Contract for the whole or any part of the Work with any Bidder; and/or
- (c) take any action in accordance with paragraph 11.2.1(e) or paragraph 11.2.1(f).

9.4 EVALUATION

9.4.1 Only Bids that pass all Mandatory Requirements or that are selected in accordance with paragraph 9.3.2(a) will be evaluated and scored based on the Bid Prices offered, as adjusted by:

- (a) any quick payment discount offered, and
- (b) any separate and/or alternative price(s) which the Owner, in its discretion, decides to accept

(referred to as the Bidder's "**Adjusted Bid Price**"). For certainty, where a Bidder does not offer a quick payment discount and where the Owner does not accept any separate or alternative prices, such Bidder's Adjusted Bid Price will be the same as the Bid Price.

9.4.2 A Bidder's "**Evaluation Score**" will be calculated in accordance with the formula below:

- (a) the Bidder with the lowest Adjusted Bid Price will be awarded 100 points;



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- (b) the points to be awarded to each of the other Bidders will be calculated as follows:

$$\frac{\text{lowest Adjusted Bid Price}}{\text{other Bidder's Adjusted Bid Price}} \times 100 = \text{Evaluation Score}$$

- 9.4.3 If there are two or more Bidders with the highest Evaluation Score, the tie will be broken by a coin toss or by the drawing of lots performed by the Owner in the presence of the tied Bidders.

10. AWARD OF THE CONTRACT, DOCUMENTS TO BE DELIVERED, AND SIGNING THE CONTRACT

10.1 AWARD SUBJECT TO APPROVAL OF THE BOARD OF TRUSTEES

- 10.1.1 Notwithstanding anything else contained in the RFT Documents, the Owner's award of the Contract, if any, is conditional upon and is subject to the approval of the Board of Trustees, in its sole and unfettered discretion. Bidders shall have no claims whatsoever against the Owner or the Board of Trustees arising out of the latter's exercise of its authority, and/or in the event the Owner, in its sole and unfettered discretion, and for any or no reason, decides not to award the Contract.

10.2 AWARD OF THE CONTRACT

- 10.2.1 Subject to paragraph 10.2.2, if the Owner decides to award the Contract it will issue an award letter to the Bidder that submitted the Bid with the highest Evaluation Score.
- 10.2.2 If the Adjusted Bid Price of the Bid with the highest Evaluation Score exceeds the Owner's budget for the Contract, the Owner may proceed in accordance with Section 13.4 of CCDC 23-2018 – A Guide to Calling Bids and Awarding Construction Contracts.

10.3 DOCUMENTS TO BE DELIVERED

- 10.3.1 Within ten (10) business days of receiving an award letter from the Owner, or within such other time as the Owner may agree, the successful Bidder shall deliver to the Owner all of the following documents:
- (a) a current WSIB clearance certificate;
 - (b) true copies of the certificates of insurance confirming the insurance policies specified in the Contract are in place;
 - (c) if the table at paragraph 1.5.1 indicates that Security Documents are required, an original signed performance bond and an original signed labour and material payment bond in the forms specified in the Contract, each in the amount of fifty percent (50%) of the "Contract Price", as that term is defined in the Contract;
 - (d) a copy of the Bidder's in-house safety program to be implemented for the Contract;
 - (e) a copy of the "notice of project" filed with the appropriate Ministry naming the Bidder as "constructor" for the Work.
- 10.3.2 A Bidder's failure to comply with paragraph 10.3.1 will constitute a breach of the Bid Contract and will result in the cancellation of the award of the Contract to such Bidder. The Owner may then award the Contract to the Bidder with the next-highest Evaluation Score or may cancel this RFT.



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10.4 SIGNING THE CONTRACT

10.4.1 Within ten (10) business days after receiving the Contract for execution, or within such other time as the Owner may agree, the successful Bidder must sign and deliver the signed Contract to the Owner. A Bidder's failure to comply with this paragraph will constitute a breach of the Bid Contract and will result in the cancellation of the award of the Contract to such Bidder. The Owner may then award the Contract to the Bidder with the next-highest Evaluation Score or may cancel this RFT.

10.5 CRIMINAL BACKGROUND CHECKS

10.5.1 The Owner is required by provincial legislation to ensure that all contractors and other individuals who potentially have direct and regular contact with 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 Royal Canadian Mounted Police at the Canadian Police Information Centre ("**Criminal Background Check**"). If the Work will or will likely involve direct and regular contact with students, the successful Bidder will be required to obtain satisfactory Criminal Background Checks for all persons, including employees, subcontractors and suppliers who, in the course of the Work, may have direct and regular contact with students.

11. OWNER'S RIGHTS

11.1 GENERAL

11.1.1 In addition to any other provisions contained in the RFT Documents or any rights which may be implied in the circumstances, the Owner may exercise any or all or a combination of the rights described in this Article 11. The Owner shall not be liable for any costs, expenses, losses or damages incurred or claimed by a Bidder resulting from the Owner's exercise of any of its rights.

11.1.2 A Bidder's submission or the Owner's evaluation of any Bid, even where only one Bid is submitted before the Submission Deadline and even where only one Bid passes all Mandatory Requirements, will not obligate the Owner to accept any Bid, award the Contract, or proceed further with this RFT.

11.2 OWNER'S RIGHTS

11.2.1 The Owner may, in its sole discretion, and for any or no reason:

- (a) reject one or more or all Bids, even if only one Bid is submitted before the Submission Deadline;
- (b) reject the whole or any part of any Bid;
- (c) accept the whole or any part of a Bid;
- (d) if only one Bid passes all Mandatory Requirements, elect to accept or reject all or any part of it;
- (e) cancel this RFT at any time before awarding the Contract;
- (f) cancel this RFT at any time before awarding the Contract and issue a new procurement process for the same or similar Work with the same or different participants.

11.2.2 The Owner reserves the right, in its sole discretion, to:

- (a) waive minor errors and minor matters of non-compliance contained in a Bid;



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- (b) schedule a second mandatory site visit if it's in the best interest of the Board to do so;
- (c) meet with some or all Bidders to discuss aspects of their Bids;
- (d) reject a Bid on the basis of information received in response to a Request for Additional Information;
- (e) reject the Bid of any Bidder whose Bid contains misrepresentations or any other inaccurate or misleading information relating to matters which the Owner, in its sole discretion, considers material;
- (f) award the Contract to other than the Bidder with the lowest Bid Price;
- (g) disqualify any Bidder and reject the Bid received from any Bidder:
 - (i) whose previous performance on an Owner contract has been unsatisfactory to the Owner, acting reasonably; or
 - (ii) who has threatened or is currently involved in any legal dispute with the Owner with respect to any previously awarded contract, whether or not such dispute arose before or after the issuance of this RFT.

11.2.3 These reserved rights are in addition to any other express rights or any other rights that may be implied in the circumstances, and the Board shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Bidder or any party resulting from the Board exercising any of its express or implied rights under this Tender.

12. GENERAL

12.1 PROHIBITION ON LOBBYING AND COLLUSION

12.1.1 Bidders and their directors, officers, employees, consultants, agents, advisors and other representatives are strictly prohibited from engaging in conduct that is or could reasonably be considered as any form of political or other lobbying, or as an attempt to influence the outcome of this RFT. Without limiting the generality of the foregoing, and except as provided in this RFT, no such person shall contact, communicate or attempt to contact or communicate, directly or indirectly and in any manner whatsoever, with any staff, personnel, member or representative of the Owner (including any member of the Board of Trustees) in connection with this RFT.

12.1.2 Bidders and their directors, officers, employees, consultants, agents, advisors and other representatives are prohibited from communicating or attempting to communicate, directly or indirectly and in any manner whatsoever, with any other Bidder in connection with the preparation of a Bid.

12.1.3 A Bidder's failure to comply with this Section 12.1 may result in the disqualification of the Bidder and the rejection of its Bid.

12.2 CONFLICT OF INTEREST

12.2.1 Bidders shall declare in the Conflict of Interest section on the Portal whether they are aware of any potential or actual Conflict of Interest. For the purposes of this RFT, "**Conflict of Interest**" includes:

- (a) any situation or circumstances where, in relation to this RFT or the Contract, a Bidder's other commitments, relationships or financial interests:



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- (i) could or could be perceived to exert an improper influence over the objective, unbiased and impartial exercise of independent judgment by any member or representative of the Owner; or
- (ii) could or could be perceived to compromise, impair or be incompatible with the effective performance of the Bidder's obligations under the Contract;
- (b) any situation or circumstances where any member of the Board of Trustees or any person employed by the Owner in any capacity:
 - (i) has a direct or indirect financial or other interest in a Bidder or in the award of the Contract to a Bidder;
 - (ii) is an employee or a consultant to or under contract to a Bidder;
 - (iii) is negotiating or has an arrangement concerning future employment or contracting with a Bidder;
 - (iv) has an ownership interest in or is an officer or director or partner of a Bidder.

12.2.2 If a Bidder discovers, at any time, any potential or actual Conflict of Interest, the Bidder shall immediately send a written statement to the RFT Coordinator describing the potential or actual Conflict of Interest and the proposed steps that, if implemented, would address the identified potential or actual Conflict of Interest. The Owner will review the Bidder's written statement and proposed steps and, without limiting the generality of Article 11, the Owner may, in its sole discretion:

- (a) disqualify the Bidder from participating in this RFT and reject its Bid;
- (b) waive any potential or actual Conflict of Interest upon such terms and conditions, if any, as the Owner, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately managed, mitigated and minimized.

12.2.3 The onus is on each Bidder to conduct any and all investigations necessary to confirm and satisfy itself that there is no potential or actual Conflict of Interest and that the declaration made in the Conflict of Interest section on the Portal is true and correct. If the Owner determines that a Bidder's declaration is not materially true and correct, or if a Bidder otherwise fails to comply with this Section 12.2, the Owner may disqualify the Bidder and reject its Bid.

12.3 CONFIDENTIALITY, DISCLOSURE AND MFIPPA

12.3.1 All information provided by or obtained from the Owner in connection with this RFT must be treated as confidential and is not to be used for any purpose other than responding to this RFT.

12.3.2 All Bids shall become the property of the Owner and will not be returned.

12.3.3 Bidders acknowledge that the contents of their Bids will be disclosed, on a confidential basis, to the Owner and/or to the Owner's advisors. The Owner will use reasonable efforts to protect sensitive and confidential information provided by Bidders (collectively the "**Bidder Confidential Information**"), however, the Owner shall not be liable in any way whatsoever if the Bidder Confidential Information, or any part of it, is disclosed even if the Owner, its advisors, staff or any other person associated with them may have been negligent with respect to such disclosure. By submitting a Bid each Bidder agrees to such disclosure and releases the RFT Coordinator and the Owner from any liability for the same.

12.3.4 The Owner may be required to disclose parts or all of a Bid, including Bidder Confidential Information, pursuant to applicable law including the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario). Subject to the provisions of such legislation, the Owner will



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use reasonable efforts to safeguard the confidentiality of any Bidder Confidential Information, however, the Owner shall not be liable in any way whatsoever if such information is disclosed pursuant to an order, decision or obligation under such applicable law. By submitting a Bid each Bidder agrees to such disclosure and releases the RFT Coordinator and the Owner from any liability for the same.

12.4 PUBLIC STATEMENTS

12.4.1 Bidders shall not publish, issue, advertise, distribute or make any statements, postings, blogs or news release, electronic or otherwise, concerning their or any other Bid, the RFT, the Contract, the evaluation of Bids, the award of the Contract, or any other matter concerning the RFT, without the Owner's prior express written consent. A Bidder's failure to comply with this paragraph may result in the disqualification of the Bidder and the rejection of its Bid.

12.5 AWARD DOES NOT CONSTITUTE ENDORSEMENT

12.5.1 The Owner's award of the Contract, if any, does not constitute a general endorsement of the successful Bidder's work or services.

12.6 DEBRIEFING

12.6.1 Following the conclusion of this RFT, and provided the Contract has been signed, the Owner will offer separate debriefings to Bidders, but only if requested in accordance with paragraph 12.6.2. Debriefings will be held in person or by telephone call, at the Owner's discretion, and will be scheduled on a date and time and for a duration to be fixed by the Owner.

12.6.2 If a Bidder desires a debriefing it shall send a written e-mail request to the RFT Coordinator within sixty (60) days after the date of award of the Contract, if any, failing which no debriefing will be provided.

12.6.3 During a debriefing the Owner will not provide critiques or discuss the evaluation, score or the merits of any Bid other than the Bid received from the Bidder that requested the debriefing.

12.7 LIMIT OF LIABILITY

12.7.1 Each Bidder agrees that the aggregate liability of the Owner to any Bidder and the aggregate amount of damages recoverable against the Owner for any and all claims relating to or arising from this RFT or a Bidder's participation in this RFT, including:

- (a) claims arising from negligence, wilful misconduct or other conduct; and/or
- (b) claims arising from a breach of the Bid Contract or any other contractual or other relationship or obligation that may arise as a result of a Bidder's participation in this RFT and/or submission of a Bid,

shall be limited to the lesser of the sum of \$5,000 and the Bidder's reasonable demonstrated costs of preparing its Bid.

12.8 DISPUTES

12.8.1 If a dispute arises in connection with this RFT, the parties agree as follows:

- (a) The Bidder must first request a meeting with the Owner's Manager of Purchasing Services. The request must be made in writing and within ten (10) days after the date of award of the Contract, if any, and must include a detailed statement of:
 - (i) the nature of the dispute and the issues;



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- (ii) a specific identification of the provisions of the RFT and/or procurement procedure that is alleged to have been breached;
 - (iii) a specific description of each act alleged to have breached the RFT;
 - (iv) a precise statement of the relevant facts;
 - (v) the Bidder's arguments and supporting documents;
 - (vi) the Bidder's proposed resolution or remedy.
- (b) If the dispute is not resolved, the matter will be referred to the Owner's Chief Financial Officer and Treasurer for review.
 - (c) If the dispute is not resolved, a Bidder may request that a mediator be engaged to assist in resolving the dispute. If a request for mediation is made, the parties shall make reasonable attempts to agree on a mediator and shall mediate the dispute.
 - (d) If the dispute is not resolved through mediation or if the parties are unable to agree on a mediator the Owner, in its sole discretion, may refer the dispute to confidential final binding arbitration before a single arbitrator, selected by the Owner, to be held at Toronto, Ontario pursuant to the *Arbitration Act, 1991* (Ontario), as amended. If the Owner refers the dispute to arbitration, each Bidder agrees that it is bound to arbitrate such dispute. Unless the Owner refers such dispute to arbitration, there shall be no arbitration of such dispute.
- 12.8.2 If the Owner refers a dispute to arbitration, the parties to the arbitration shall exchange brief statements of their respective positions on the dispute, together with the relevant documents, and shall submit to an arbitration hearing which shall last no longer than two (2) days, subject to the discretion of the arbitrator to increase such time. The parties to the arbitration further agree that there shall be no appeal from the arbitrator's award. The costs of the arbitrator and the venue shall be shared equally among the parties to the arbitration. The Owner may give notice of a dispute to one or more Bidders, each of whom shall be a party to and shall be entitled to participate in the dispute resolution process, including in any mediation or arbitration and, in the case of arbitration, each of whom shall be bound by the arbitrator's award, whether or not they participated in the arbitration.

END OF INSTRUCTIONS TO BIDDERS