

## PART A - REQUEST FOR QUALIFICATION FORMS FORM A-1 – MASTER RFQ SUBMISSION FORM

Name of Proponent: \_\_\_\_\_

Name of Proponent Representative: \_\_\_\_\_

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

City / Province / Postal: \_\_\_\_\_

Proponent  
Representative Contact: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Alternate Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

The above named Proponent Representative hereby declares on its own behalf and, for clarity, on behalf of all Proponent Team Members that:

(a) it has the power and authority to bind the Proponent for the purpose of the RFQ;

(b) the Proponent is a:

- a sole proprietor
- a limited liability or general partnership
- a corporation
- a joint venture
- Other \_\_\_\_\_

carrying on business under the above mentioned Proponent name;

(c) it acknowledges that all terms not otherwise defined herein shall have the meaning given to them in the RFQ;

(d) the Proponent agrees to comply with and be bound by the requirements, terms and conditions contained in the RFQ;

(e) the Proponent acknowledges its obligations regarding confidential information contained in B17 of the RFQ and agrees to be, bound by such terms, irrespective of whether the Proponent, potential Proponent Team Members or Proponent Team Members submit a Qualification Submission in the RFQ Process or are invited to submit or submit a proposal in the subsequent Request for Proposals process for the Project;

(f) the information submitted in the Qualification Submission or otherwise related to the RFQ is accurate and complete;

(g) the information required by the RFQ has been provided in the Qualification Submission;

(h) the Proponent recognizes that subject to provisions of B17, the information submitted will be treated as confidential and will be used only to establish the list of Prequalified Proponents based on the RFQ;

(i) the Proponent agrees that the information submitted may be clarified, verified and investigated by the City and that pertinent information may be obtained and hereby consent to such clarification, verification and investigation;

- (j) the Proponent agrees that the City is not obliged, in any way whatsoever, to carry out further clarifications, verifications or investigations of any Qualification Submission;
- (k) the Proponent understands that any omission or failure to substantially complete the Qualification Submission or failure to substantially comply with a requirement included in the RFQ may result in the Proponent being disqualified;
- (l) the Proponent understands that it must submit a substantially complete Qualification Submission in accordance with the timelines and requirements of the RFQ and a failure to do so may result in disqualification of the Proponent;
- (m) the Proponent understands that the RFQ is not an offer to enter into any contract of any kind whatsoever and is not intended to create a bidding contract (often referred to as "Contract A");
- (n) the Proponent understands that the RFQ does not constitute any offer of work by the City;
- (o) the Proponent acknowledges B16 of the RFQ and understands that the Proponent may be disqualified if the Proponent or any Proponent Team Member breaches the provisions of B16, or has been convicted of carrying out inappropriate bidding or procurement practices or engaging in unethical behaviour in relation to a procurement process in Canada;
- (p) the Proponent confirms that the Proponent and each Proponent Team Member has conducted itself with integrity and propriety and has not engaged in any inappropriate bidding practices or unethical behaviour in the course of this RFQ Process, and there are no charges or investigations by a public body or convictions related to inappropriate bidding practices or unethical behaviour by the Proponent or any Proponent Team Member in relation to a tender or procurement in any Canadian jurisdiction that:
  - (i) are related to the Project;
  - (ii) may compromise the reputation or integrity of the City so as to affect public confidence in the Project; or
  - (iii) would contravene any applicable law or could have a material adverse effect on the Proponent or any Proponent Team Member in a way which could impair the Proponent or any Proponent Team Member's ability to perform its obligations under the Design Build Agreement;
- (q) The Proponent certifies that the following addenda have been received by the Proponent and agrees that they shall be deemed to form a part of its Qualification Submission:

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

***[NOTE TO PROPONENTS: Proponents to list and date all Addenda to RFQ issued by the City as part of the RFQ Process]***

this Form A-1 – Master Submission Form has not been modified in any manner, except to include the Proponent's required information and the Addenda information required by this Form.

In witness whereof, the Proponent Representative has executed this Form A-1 – Master RFQ Submission Form as of the date indicated below.

Date: \_\_\_\_\_

**Proponent Representative**

Per:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company \_\_\_\_\_

Per:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company \_\_\_\_\_

I/We have authority to bind the Proponent Representative and to bind the Proponent and each Proponent Team Member.

**FORM A-2 – PROPONENT TEAM MEMBER CONSENT DECLARATION**

I, \_\_\_\_\_, am an authorized officer or director of \_\_\_\_\_  
("Proponent Team Member") and confirm for and on behalf of the Proponent Team Member and without  
any personal liability that:

- (a) the Proponent Team Member has read and understands the RFQ and acknowledges that all terms not otherwise defined herein shall have the meaning given to them in the RFQ;
- (b) the Proponent Team Member agrees to be bound by the requirements of the RFQ;
- (c) the Proponent Team Member consents to its inclusion in the Proponent's Qualification Submission;
- (d) the Proponent Team Member confirms that the Qualification Submission accurately reflects the qualifications of the Proponent Team Member;
- (e) the Proponent Team Member consents to the City performing reference checks in accordance with the RFQ;
- (f) the Proponent Team Member understands and accepts the obligations imposed on the Proponent and itself through the Proponent, as a result of the Qualification Submission; and
- (g) declares that this Form A-2 – Proponent Team Member Consent Declaration has not been modified in any manner, except to complete the required information.

In witness whereof, the Proponent Team Member has executed this Form A-2 – Proponent Team Member Consent Declaration as of the date indicated below.

Date \_\_\_\_\_

**Proponent Team Member**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the Proponent Team Member.

### FORM A-3 – CONFLICT OF INTEREST, CONFIDENTIAL INFORMATION AND LITIGATION DECLARATION

**[NOTE TO PROPONENTS: Notwithstanding the submission of this declaration, Conflicts of Interest must be disclosed to the Contract Person as soon as one is discovered by the Proponent or a Proponent Team Member.]**

This Form A-3 – Conflict of Interest, Confidential Information and Litigation Declaration is delivered pursuant to the RFQ. All terms not otherwise defined herein have the meaning given to them in the RFQ.

Notwithstanding the existence of and/or submission of this declaration, the Proponent hereby acknowledges B16 and the Proponent's obligation to continue to declare all Conflicts of Interest as soon as one is discovered and is under a continuing obligation to disclose all Conflicts of Interest that exist or may exist in the future.

The Proponent Representative hereby declares on behalf of the Proponent, the Proponent Team Members and the Key Individuals that:

1. There is not nor was there any actual or perceived Conflict of Interest or any other type of unfair advantage in our submitting the Qualification Submission.  True  Not True

If the answer to the above statement is "Not True", attach:

- a. on a separate page, a list and explanation of situations, each of which may be a Conflict of Interest or an instance of unfair advantage, or which may appear as a potential Conflict of Interest or unfair advantage in the Proponent submitting the Qualification Submission and/or
- b. all correspondence related to any Conflict of Interest information which was submitted to the Contact Person prior to the Submission Deadline in accordance with B16.

2. We have no knowledge of or the ability to avail ourselves of Confidential Information (other than Confidential Information which may have been disclosed by the City to the Proponents in the normal course of the Request for Qualifications) that is or was relevant to the Project or the Request for Qualifications evaluation process.  True  Not True

If the answer to the above statement is "Not True", attach, on a separate page, a brief explanation.

3. Neither the Proponent, the Proponent Team Members, nor any Key Individual are the subject of any adverse ruling or conviction determined in the last 5 years involving fraud, fraudulent misrepresentation or professional misconduct.  True  Not True

If the answer to the above statement is "Not True", attach, on a separate page, a brief explanation.

4. Neither the Proponent, the Proponent Team Members nor any Key Individual are involved in any litigation that is currently ongoing, either directly or indirectly (e.g. through a related party) that:
- a) is against or involving the City; or  True  Not True
  - b) may materially adversely affect the Proponent's, the Proponent Team Member's or the Key Individual's ability to participate in the Project; or  True  Not True
  - c) may materially adversely affect the City's reputation or Project procurement process if the City selects the Proponent as a Prequalified Proponent;  True  Not True

If the answer to any of the above statements is "Not True", attach, on a separate page, a brief explanation and include the following information: (1) plaintiff name; (2) defendant name; (3) year litigation initiated; (4) disputed amount (\$CAD); and (5) nature of dispute.

5. This Form A-3 – Conflict of Interest, Confidential Information and Litigation Declaration has not been modified in any manner, except to complete the required information.
6. Full disclosure of the requirements set out in the RFQ has been made.

In witness whereof, the Proponent Representative has executed this Form A-3 – Conflict of Interest, Confidential Information and Litigation Declaration as of the date indicated below.

Date: \_\_\_\_\_

**Proponent Representative**

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company \_\_\_\_\_

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company \_\_\_\_\_

I/We have authority to bind the Proponent Representative and to bind the Proponent and each Proponent Team Member.

**FORM C-1 – PROPONENT REPRESENTATIVE AND PROPONENT REPRESENTATIVE CONTACT INDIVIDUAL**

**Reference B34**

<b>Name of Proponent:</b>	<i>e.g. ABC Joint Venture</i>	
<b>Proponent Representative– Details</b>		
<b>Name of Proponent Representative:</b>	<i>i.e. Business organization (e.g. AECOM Canada Ltd)</i>	
<b>Proponent Representative Mailing Address:</b>	Address	
	City	
	Province/State	
	Postal Code	
	Country	
<b>Proponent Representative Telephone Number:</b>		
<b>Proponent Representative E-Mail Address:</b>		
<b>Proponent Representative Web-site Address:</b>		
<b>Proponent Representative Contact Individual – Details</b>		
<b>Name:</b>	<i>e.g. John Doe, PMP</i>	
<b>Title:</b>	<i>e.g. Partner</i>	
<b>Company:</b>	<i>e.g. AECOM Canada Ltd</i>	
<b>Mailing Address:</b>	Address	
	City	
	Province/State	
	Postal Code	
	Country	
<b>Telephone Number:</b>		
<b>Fax Number:</b>		
<b>E-mail Address:</b>		

**FORM C-2 – PROPONENT AND PROPONENT TEAM LEAD(S) MEMBER COMPOSITION**

**Reference B34**

Proponent Name: \_\_\_\_\_ (e.g. ABC Joint Venture or ABC Construction Ltd)

<b>Company / Firm Name</b>	<b>Role</b>	<b>Anticipated Equity Participation (%)</b>	<b>Summary Scope of Work/ Responsibilities</b>	<b>Name / Title of Lead Individual</b>
<i>List each person(s) comprising the Proponent and each person(s) comprising Proponent Team Lead Member</i>				
<i>e.g. XYZ Canada Ltd</i>	<i>Proponent in ABC Joint Venture</i>	<i>50%</i>	<i>Responsible as a potential design builder to manage the Project</i>	<i>John Doe, PMP / senior vice president</i>
<i>e.g PQR Inc.</i>	<i>Design Team Lead Member</i>	<i>0%</i>	<i>Responsible for overseeing all the design for the Project</i>	<i>James Roe , Principal</i>
<i>e.g. XYZ Canada Ltd</i>	<i>Construction Team Lead Member</i>	<i>0%</i>	<i>Responsible for overseeing all the Construction for the project</i>	<i>John Doe, PMP / senior vice president</i>
<i>e.g. ABC Holdings Ltd.</i>	<i>Proponent Guarantor</i>	<i>60%</i>	<i>Parent Company Guarantor for the Proponent to meet minimum net worth</i>	



**FORM C-3 – PROPONENT TEAM MEMBERS ROLES AND RESPONSIBILITIES**

***Reference B34***

<b>Proponent Team Member Name:</b>	<i>Indicate Name of Business organization</i>	
<b>No. of years in Business</b>		
<b>Average Volume of work</b>	<i>Include the average volume of work in the last 5 years</i>	
<b>Number of Employees</b>	<i>Indicate the total number of employees globally</i>	
<b>Office Location</b>	<i>Indicate the corporate office and other office locations (if any)</i>	
<b>Role in NEWPCC Upgrade DB Project</b>	<i>Indicate the proposed role on the NEWPCC Upgrade DB Project e.g. Construction Team Lead/ Design Team member/ etc.</i>	
<b>Summary Scope of Services</b>	<i>Indicate the aspect of the NEWPCC Upgrade Project the Proponent Team member will be involved e.g. undertaking piling for the project</i>	
<b>Member Scope as % of Total Project Cost</b>	%	
<b>Mailing Address:</b>	Address	
	City	
	Province/State	
	Postal Code	
	Country	
<b>Telephone Number:</b>		
<b>Fax Number:</b>		
<b>E-mail Address:</b>		
<b>Website Address:</b>		
<b>Main Contact Individual:</b>		
<b>Mailing Address:</b>	Address	
	City	
	Province/State	
	Postal Code	
	Country	
<b>Telephone Number:</b>		
<b>Fax Number:</b>		
<b>E-mail Address:</b>		

**FORM C-4 – PROPONENT TEAM MEMBER(S) – LEGAL STATUS**

***Reference B34***

Proponent / Proponent Team Member(s)  
Name: \_\_\_\_\_

<b>Type of Entity</b>	<i>Corporation, Partnership, Joint Venture, etc.</i>
<b>Legal Name</b>	
<b>Jurisdiction of Incorporation / Registration</b>	
<b>Registration No.</b>	
<b>Year of Incorporation / Registration</b>	
<b>Registered Address</b>	
<b>Current Trading/Business Name</b>	
<b>For Privately Held Corporation Provide Director List</b>	
<b>For Subsidiary Corporation, Provide Parent Name</b>	
<b>For Subsidiary Corporation, Provide Relationship between the Parent Organization and Proponent Team Member</b>	

**NOTE:** Complete Form C-4 for every firm or Legal entity that makes up the Proponent or Proponent Team Member (i.e. if the Proponent or Proponent Team Member comprises more than one firm or legal entity)

**Form D-1(R1) – Past Project Experience  
Reference B35**

<b>Name of Organization:</b>	<i>e.g. AECOM Canada Ltd</i>
<b>Proposed Role on NEWPCC Upgrade DB Project:</b>	<i>e.g. Proponent, Project Management Lead, Design Lead, Construction Team Lead, a member of the Construction Team etc.</i>
<b>Project # _____</b>	
<b>Past Project Owner and location (City, Province / State, Country):</b>	<i>e.g. City of Winnipeg, Manitoba Canada</i>
<b>Past Project Name:</b>	<i>e.g. Lift station Upgrades</i>
<b>Delivery Method: (DB, DBB, DBO, DBOFM, etc.)</b>	
<b>Past Project Overall Scope Description:</b>	
<b>Relevance of Past Project to this Project:</b>	<i>(Indicate how this past project is relevant to the NEWPCC Upgrade Headworks Facilities Project based on the criteria provided in B35 size, type, challenges, location, etc. – list all relevant items)</i>
<b>Proponent/ Proponent Team members Role and Responsibility on Past Project:</b>	
<b>Total Project Schedule Dates (start–finish), duration (mos.) and % complete</b>	<i>Indicate original past project schedule and actual past project delivery schedule, showing design schedules and the construction schedules and provide the reasons for any discrepancies between the two (if any).</i>
<b>Total Project Cost: Original vs. Final; explain difference</b>	<i>Provide the original and final cost of the past project. Identify the amount of scope changes (if any) and the reasons for each of them</i>
<b>Your Work Schedule Dates: (start-finish, duration (mos.) and % complete</b>	<i>Indicate the original and actual past project schedules related to your scope of work on the past project and provide the reasons for any discrepancies between the two (if any).</i>
<b>Your Contract Cost: Original vs. Final, and explain difference</b>	<i>Provide the value of the scope of your assignment. Identify the amount of scope changes related to your assignment and the reasons for each of them</i>
<b>Name(s) of other Proponent Team Member(s) involved in past project and their Roles:</b>	
<b>Accomplishments on Past Project that may relate to this Project</b>	
<b>Past Project Client Reference</b>	Reference Name:
	Title:
	Role on/Relation to Project:
	Phone No.:
	Email:

**FORM E-1 – KEY INDIVIDUAL QUALIFICATIONS AND EXPERIENCE**

**Reference B36**

<b>Key Individual's Name:</b>	<i>John Doe</i>
<b>Current Employer – Proponent / Proponent Team Member:</b>	<i>e.g. AECOM Canada Ltd – Proponent or AECOM Canada Ltd – Construction Team Member</i>
<b>Education, Professional Licenses / Certifications &amp; Specialized Training (include institutions, certifying agency &amp; license / cert. numbers:</b>	<i>e.g. P.Eng., PE, PMP etc., trained in confined space entry</i>
<b>Proposed Role &amp; Scope of Responsibility on this Headworks Facilities Project:</b>	
<b>Years of Experience</b>	<p><i>Indicate</i></p> <ul style="list-style-type: none"> <li>• <i>years of experience similar to the proposed role for the NEWPCC Upgrade: Headworks Facilities Project and</i></li> <li>• <i>Total years of experience</i></li> </ul>
<b>Project 1</b>	
<b>Name and location of Past Project</b>	
<b>Past project owner</b>	<i>e.g. City of Edmonton</i>
<b>Description of Past Project:</b>	<i>Description of past project should be applicable to the criteria indicated in B36</i>
<b>Role and Responsibility of Key Individual on Past Project:</b>	
<b>Percentage of time assigned to Past Project:</b>	
<b>Client Reference for Past Project:</b>	Reference Contact Name:
	Title:
	Reference Role on Past Project:
	Phone No.:
	Email:
<b>Project 2</b>	
<b>Name and location of <u>Past</u> Project</b>	
<b>Past Project Owner</b>	<i>e.g. City of Edmonton</i>
<b>Description of <u>Past</u> Project:</b>	<i>Description of past project should be applicable to the criteria indicated in B36</i>
<b>Role and Responsibility of Key Individual on <u>Past</u> Project:</b>	
<b>Percentage of time assigned to <u>Past</u> Project:</b>	
<b>Client Reference for <u>Past</u> Project:</b>	Reference Contact Name:
	Title:
	Reference Role on Past Project:
	Phone No.:
	Email:

**FORM H-1 –PROPONENT AND PROPONENT TEAM LEAD(S) BUSINESS INFORMATION  
IDENTIFICATION**

*Reference B39*

Proponent Name	
Proponent Entity (Corporation, Partnership, Joint Venture, etc.)	
Design Team Lead(s) Name(s)	
Construction Team Lead(s) Name(s)	
Project Management Team Lead(s) Name(s)	

**FORM H-2 – LICENCED FINANCIAL INSTITUTION CREDIT REFERENCE**  
*(To be placed on the Licenced Financial Institution's Letterhead)*

**Reference B39**

<b>To:</b>	The City of Winnipeg
<b>From:</b>	<i>(Insert legal name of financial institution)</i>
<b>Proponent:</b>	<i>(Insert legal name of appropriate Person)</i>
<b>Project:</b>	DESIGN BUILD OF NORTH END SEWAGE TREATMENT PLANT (NEWPCC) UPGRADE: HEADWORKS FACILITIES - RFQ 659-2018

Please answer the following questions. If any answer to questions 1-6 below is yes, provide a summary description following the applicable question.

1. Has your financial institution extended credit to the business organization in the past 5 years?  
Yes / No
2. Has the business organization ever defaulted on a loan with your institution?  
Yes / No
3. Has the business organization's credit history included any instances of delinquent payments?  
Yes / No
4. To your knowledge, has the business organization ever filed for bankruptcy or been involved in any bankruptcy proceedings? Yes / No
5. To your knowledge, has any creditor ever filed any criminal charges against the business organization?  
Yes /No
6. Please discuss any other questions or issues that have been identified in any financial due diligence evaluation or credit check performed by your institution on the business organization. If none, so state: \_\_\_\_\_
7. Overall, how would you rank the financial stability or credit worthiness of the business organization (e.g. excellent, good, satisfactory, below average, poor)? \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Legal Name of Licenced Financial Institution

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

**FORM H-3 – FINANCIAL DATA – NET WORTH**

*Reference B39*

**Proponent Name:** \_\_\_\_\_

Company Name (for this applicable data): \_\_\_\_\_

Proposed Role for Project: \_\_\_\_\_

Company Equity Participation (%) of Proponent: \_\_\_\_\_ %

	<b>Year ( indicate the last 3 fiscal years)</b>		
	<b>201_</b>	<b>201_</b>	<b>201_</b>
<b>A. Operating Revenues</b>			
<b>B. Operating Expense (not including Depreciation and Amortization )</b>			
<b>C. Depreciation and Amortization</b>			
<b>D. Operating Income (A-B-C)</b>			
<b>E. Net Income</b>			
<b>F. Total Assets</b>			
<b>G. Current Assets</b>			
<b>H. Total Liabilities</b>			
<b>I. Current Liabilities</b>			
<b>J. Net Worth (Equity) (F-H)</b>			

**Form H-4 – LICENCED FINANCIAL INSTITUTION REFERENCED LETTER**  
*(To be placed on the licenced Financial Institution's Letterhead)*

**Reference B39**

<b>To:</b>	The City of Winnipeg
<b>From:</b>	<i>(Insert legal name of financial institution)</i>
<b>Proponent:</b>	<i>(Insert legal name of Proponent)</i>
<b>Project:</b>	DESIGN BUILD OF NORTH END SEWAGE TREATMENT PLANT (NEWPCC) UPGRADE: HEADWORKS FACILITIES - RFQ 659-2018

We confirm that \_\_\_\_\_ has been a customer of \_\_\_\_\_ for \_\_\_\_\_ years.

We confirm that \_\_\_\_\_ has the capacity to access not less than fifty million Canadian Dollars (\$50,000,000 CAD) of debt or equity capital in a timely fashion in order to finance the obligations of the Work over the duration of this Project, which is anticipated to be 6 to 7 years. Other committed or proposed projects will not impair their capacity to access this minimum capital requirement.

We confirm that \_\_\_\_\_ has the capacity to provide a letter of credit in the amount of ten million Canadian Dollars (\$10,000,000 CAD), in a form satisfactory to the City, to be in place until the successful completion of all operational performance testing and demonstrations.

Further, should \_\_\_\_\_ chose to provide a letter of credit (instead of a bid bond) as a proposal security , they have the capacity to provide such in the amount of two hundred and fifty thousand Canadian Dollars (\$250,000 CAD).

Dated this \_\_\_\_\_ day of \_\_\_\_\_ , 2019

\_\_\_\_\_  
Legal Name of Licenced Financial Institution

\_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative



**Form H-5 – SURETY REFERENCE LETTER**  
(To be placed on the Surety's Letterhead)

**Reference B39**

<b>To:</b>	The City of Winnipeg
<b>From:</b>	<i>(Insert legal name of Surety)</i>
<b>Proponent:</b>	<i>(Insert legal name of Proponent)</i>
<b>Project:</b>	DESIGN BUILD OF NORTH END SEWAGE TREATMENT PLANT (NEWPCC) UPGRADE: HEADWORKS FACILITIES - RFQ 659-2018

We are the Surety for \_\_\_\_\_, and have a current bonding facility in place for our client. Subject to meeting the relevant underwriting criteria, the bond facility will support contracts with a single project value of not less than two hundred million Canadian Dollars (\$200,000,000 CAD).

In our experience \_\_\_\_\_ has demonstrated the ability to complete projects in accordance with the conditions of the contract, and have the technical and financial capacity to undertake projects of this general size and scope.

Our willingness to extend the required performance bond and labour and materials payment bond will be based on our underwriting of the contractor and analysis of the contract documents at the time of proposal submission.

Further, should \_\_\_\_\_ chose to provide a bid bond (instead of a letter of credit) as proposal security, they have the capacity to provide such in the amount of five hundred thousand Canadian Dollars (\$500,000 CAD).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Legal Name of Surety

\_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Seal

## FORM H-6 – FINANCIAL STATEMENT NON - DISCLOSURE AGREEMENT

### *Reference B39*

#### THIS AGREEMENT

#### BETWEEN:

\_\_\_\_\_  
(the "Disclosing Party"),

OF THE FIRST PART,

- and -

**THE CITY OF WINNIPEG**  
(the "City"),

OF THE SECOND PART.

**REFERENCE:** Request for Qualification No.659-2018 A (the "RFQ")

**WHEREAS** Disclosing Party, being a Proponent to the RFQ, has delivered its Qualification Submissions to the City in respect of the RFQ;

**AND WHEREAS** Disclosing Party desires, in accordance with B39 of the RFQ, that City retain in confidence the Confidential Information in accordance with this Agreement;

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement, Disclosing Party and City, intending to be legally bound, hereby agree as follows:

**1. Definitions:** In this Agreement the following terms shall have the following meanings:

- a) "Agreement" means this agreement.
- b) "Disclosing Party" means the Person named as such above.
- c) "Confidential Information" means: financial statements submitted by the Proponent in its Qualification Submission in respect of B39.3(b), details of material off-balance sheet financial arrangements representing a liability in excess of one million Canadian Dollars (\$1,000,000 CAD) submitted by the Proponent in its Qualification Submission in respect of B39.3(c), and the completed Form H-3 Financial Data – Net Worth submitted by the Proponent in its Qualification Submission in respect of B39.3.1(a), of the RFQ.
- d) "Effective Date" means the day and date this Agreement is executed by The City of Winnipeg.
- e) "Permitted Use" means evaluation of the Proponent's Qualification Submissions as contemplated in the RFQ.
- f) "Person" shall be broadly interpreted to include, without limitation, any corporation, partnership, other entity, or individual.
- g) "Proponent" has the meaning given in the RFQ.
- h) "Qualification Submissions" has the meaning given in the RFQ.
- i) "RFQ" has the meaning given above.
- j) "Third Party" means any Person other than the City or Disclosing Party.

- 2. Use of Confidential Information:** Subject to the terms and conditions of this Agreement, City may use the Confidential Information for the Permitted Use and for no other purpose whatsoever.
- 3. Restrictions:** Subject to the terms and conditions of this Agreement, City agrees that:
  - a) Confidential Information shall be kept in the strictest confidence, and shall not be disclosed to any Third Party;
  - b) City shall restrict access to Confidential Information only to its employees, agents, contractors and professional advisors with a need to know to carry out the Permitted Use, and prior to disclosing same, each such Person shall be made aware of the terms and conditions of this Agreement; and
  - c) City shall cause each such Person to whom Confidential Information is disclosed to observe the terms of this Agreement, and shall be responsible for any breach of the terms of this Agreement by it or any such Person.
- 4. Exclusions:** Confidential Information does not include information that:
  - a) is in or becomes part of the public domain without breach of this Agreement;
  - b) is previously known by City independently prior to initial disclosure by Disclosing Party or later if independently developed by City without use of Confidential Information;
  - c) is lawfully received from a Third Party which has no obligation of confidence; or
  - d) is required to be disclosed under legal process.
- 5. Disclosure:** In the event that City or any Person referred to in 3(b) to whom Confidential Information is provided becomes subject to a demand for discovery or disclosure of Confidential Information under legal process, it shall provide Disclosing Party with prompt notice (except where prohibited by law from doing so) so that Disclosing Party may at Disclosing Party's sole discretion seek a protective order or other appropriate remedy or otherwise waive the requirements of this Agreement. In the event that the requirements of this Agreement are not waived, or such protective order or other remedy is not obtained, or in cases where legal process requires City or such Person to immediately comply, City or such Person shall furnish only that portion of the Confidential Information in respect of which City or Person is required to disclose.
- 6. Term and Termination:** This Agreement will be effective as of the Effective Date and shall expire, subject to earlier termination, two (2) years from and after the Effective Date. Either party may, on thirty (30) days' written notice to the other party, terminate this Agreement. City's obligations under this Agreement shall continue until the day that is three (3) years after the expiration or earlier termination, as the case may be, of this Agreement.
- 7. Return of Confidential Information:** City shall promptly, on notice from Disclosing Party, return to Disclosing Party, or destroy, any and all Confidential Information in accordance with Disclosing Party's direction. Notwithstanding the foregoing, City may retain one (1) copy of the Confidential Information for regulatory and legal purposes.
- 8. Equitable Remedies:** City acknowledges and agrees that a breach of any term or condition of this Agreement shall cause irreparable harm to Disclosing Party which cannot be adequately compensated for in damages, and accordingly City agrees that Disclosing Party shall be entitled, in addition to any other remedies available to it, to interlocutory and permanent injunction relief to restrain any anticipated, present or continuing breach of this Agreement.

- 9. Enurement:** This Agreement shall be binding and shall enure to the benefit of the parties hereto, and their respective legal representatives, successors and permitted assigns.
- 10. Governing Law and Interpretation:** This Agreement shall be subject to, interpreted, performed and enforced in accordance with the laws of Manitoba and the applicable laws of Canada without regard to Manitoba or Federal Canadian law governing conflicts of law, even if one or more of the parties to this Agreement is resident of or domiciled in any other province or country. Section headings in this Agreement are for the convenience of the parties only, and shall not affect the interpretation of this Agreement. The recitals hereof form an integral part of this Agreement.
- 11. Severability:** If any provision in this Agreement is illegal, invalid or unenforceable at law, it shall be deemed to be severed from this Agreement and the remaining provisions shall continue in full force and effect. The parties agree that they shall endeavor to replace any such severed provision with a new provision which achieves substantially the same practical effect and which is valid and enforceable.
- 12. No Waiver:** No waiver of any provision of this Agreement, or a breach thereof, shall be effective unless it is in writing and signed by the party waiving the provision or the breach thereof. No waiver of a breach of this Agreement, whether express or implied, shall constitute a waiver of a subsequent breach thereof.
- 13. Amendments:** No amendment or change or modification of this Agreement shall be valid unless it is in writing and signed by both parties.
- 14. Assignment:** Neither party shall assign this Agreement without first having obtained the prior written consent of the other party. No assignment of this Agreement shall operate so as to relieve the assignor from any obligation of this Agreement.
- 15. No Authority:** This Agreement shall not create, nor shall it be deemed to create, the relationship of employer and employee, principal and agent, partnership, or joint venture, between City and Disclosing Party. Disclosing Party has no authority whatsoever to make any representation in respect of, enter any commitment on behalf of, or incur any liability for or on behalf of, City, or to bind or purport to bind City to any Third Party in any way whatsoever.
- 16. Further Acts and Assurances:** Each of the parties shall, from time to time, do all acts and things and execute from time to time all such further documents and assurances as may be necessary to carry out and give effect to the terms and conditions of this Agreement.
- 17. Opportunity to Negotiate:** Both parties have had the opportunity to negotiate, review and comment upon this Agreement, and obtain independent legal advice with respect to the content, meaning, and legal effect of this Agreement.

**18. Counterparts:** This Agreement may be signed in any number of counterparts, each of which is an original, and all of which taken together constitute one single document.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement, in the manner appropriate to each, as of the Effective Date.

Signed and Delivered ) \_\_\_\_\_ (Disclosing Party)  
in the presence of: )  
\_\_\_\_\_ )  
*Witness (if no corporate seal)* ) *(signature of authorized officer)*  
\_\_\_\_\_ )  
\_\_\_\_\_ ) *(Print Name and Title)*  
\_\_\_\_\_ )  
*Witness (if no corporate seal)* ) *(signature of authorized officer)*  
\_\_\_\_\_ )  
\_\_\_\_\_ ) *(Print name and Title)*

**We have authority to bind the Disclosing Party**

**THE CITY OF WINNIPEG**

Per: \_\_\_\_\_  
Chief Administrative Officer

Date: \_\_\_\_\_ (the "Effective Date")

Certified as to Contract Details:

Legally Reviewed and Certified as to Form:

\_\_\_\_\_  
Director of Water and Waste

\_\_\_\_\_  
for Director of Legal Services and City  
Solicitor

Reviewed as to Business Terms:

\_\_\_\_\_  
Manager of Engineering  
Water and Waste Department