

## RFP/Contract Alert – City of Kingston

**Request for Proposal: F31-CSG-RLS-2017-47  
Prime Consultant Services for Kingston East Community Centre  
and Grenadier Park Improvements**

Architects should be aware that an RFP currently issued by the City of Kingston for the above noted project contains what are considered inappropriate, unfair, and unreasonable conditions.

This RFP contains terms and conditions that may be uninsurable or unavailable under the architect's professional liability insurance and provides additional risks with terms that are unbalanced. The architect is held liable for any claim by the City even if there is no fault in the work. There are also terms and conditions suitable for construction contracts that should not be part of a professional services contract.

Problematic items include: many of the terms are unfair and one sided; inconsistent use of terms e.g. Proponent, Consultant, Prime Consultant; the document appears to be an inconsistent mix of non-binding RFP and binding bidding terms and conditions; the RFP transfers the owner's liability by making topographical and legal surveys the responsibility of the Architect; the use of the word "warrant" limits the applicability of the professional liability insurance which is contrary to the City of Kingston's interests; the RFP appears to have started as a construction contract template and is not fully adapted for the provision of professional services.

Architects should review the RFP carefully giving due consideration to the professional liability and business risks of the clauses it contains.

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