RFPQ/Contract Alert – Brookfield GIS

Consulting Services for Place du Portage III
Project Number GOC479411 – PC RFPQ

Architects should be aware of what are considered unfair and unreasonable conditions of an RFPQ currently issued by Brookfield GIS for a Prime Consultant for Place du Portage III, Project # GOC479411 – PC RFPQ.

Architects responding must be licenced in Quebec. Note that Quebec Civil Code applies and may impose different liabilities than Ontario law does.

This RFPQ contains terms and conditions that may be uninsurable under the architect's professional liability insurance and provides additional risks with terms that are unbalanced. The Supplementary Conditions are not provided so the OAA is unable to comment on them. It is recommended that members not agree to unknown conditions (RFPQ item 4.19).

Problematic items include: requiring the architect to “ensure” (guarantee) performance (C.1(y), (aa), Schedule D.4 3.4); improperly transferring liability by making the architect responsible for designated substances reports and hazardous materials abatement (C.1 (c), (j)) (Refer to OAA PT.30); and partially implementing IPD, which presents many concerns, including that the architect’s fee is at risk at the discretion of BGIS (C.7).

Architects should review the RFPQ carefully giving due consideration to the professional liability and business risks of the clauses it contains, and to how Quebec law differs from that in Ontario.