

# MEMORANDUM OF AGREEMENT

## NEW WEST PARTNERSHIP TRADE AGREEMENT

ACEC British Columbia represents the business interests of the 90 consulting engineering firms in British Columbia, employing approximately 7,800 staff.

ACEC British Columbia fully supports the intent of NWPTA to improve the flow of goods, services, capital and people across borders in Canada. This sentiment is shared by the corresponding consulting engineering associations in other provinces, as well as our national association. However, we also share the concern that NWPTA, and its predecessor, the Trade, Investment and Labour Mobility Agreement (TILMA), both inadvertently increase the cost to the taxpayer of the procurement process, and create a climate that hampers the implementation of Qualifications Based Selection (QBS), the widely-recognised best practice for the procurement of professional services. QBS is described more fully at [www.thebestpractice.ca](http://www.thebestpractice.ca). It maximizes the value of a consulting engineer's contribution to a project while reducing the project's life cycle costs, saving taxpayer dollars and optimizing public safety and welfare. QBS is mandated by law in the USA and the Province of Québec.

*We, the undersigned senior executive representatives of member firms of ACEC British Columbia, affirm that TILMA caused the following unintended negative consequences and, because of its identical language, NWPTA will spread these consequences to Saskatchewan.*

1. Because NWPTA requires that all firms be permitted to compete for every project above the threshold, large numbers of consulting engineering firms are preparing proposals or pre-qualification documents, at considerable expense, for every government-funded assignment exceeding a value of \$75,000. These costs are eventually passed on to the taxpayer.
2. Clients that wish to use QBS find it difficult to do so because NWPTA disallows many of the selection criteria normally required by good practice, such as performance history with the actual client versus other clients, proximity to the site and client, and experience with actual local conditions, regulations, practices and policies.
3. Clients that persevere with QBS must spend considerable time and resources in evaluating an unlimited number of submissions, thus further increasing the cost of procurement to the taxpayer.
4. Because of the unlimited number of respondents, clients that lack the resources to carry out QBS have little option but to revert to the simple solution of selecting lowest fee. Price based selection of engineering services usually results in sub-optimal designs, higher costs for construction, operations and maintenance, and, in the worst case, compromised public safety.
5. Many of the undersigned represent firms with interests in BC and Alberta. After two years' experience with TILMA we can attest that the aforementioned effects are being felt in both Provinces.

*Furthermore, we, the undersigned, request the Government of British Columbia, to modify NWPTA as follows:*

1. Provide an exemption for professional engineering services from the procurement provisions of the NWPTA, just as they are exempt from the Agreement on Internal Trade, and just as the legal profession is exempt from NWPTA.
2. Recognising that exemption may take time to achieve, issue an interpretation bulletin to mandate the implementation of QBS for all government procurement, and facilitate a process of short-listing that eliminates the onerous limitations imposed by current interpretations of NWPTA.

Attachment: *Signatures of authorized Voting Members of ACEC British Columbia*  
*Signed in Vancouver, on the ninth day of June, 2011*

