

ITEM 4.2

May 5, 2021

TO: Facilities Planning Committee

FROM: J. David Green, Secretary Treasurer

RE: Vancouver Project Office Memorandum of Understanding

Reference to Strategic Plan:

Goal 4 Provide effective leadership and governance and stewardship

Objective: Effectively utilize school district resources and facilities

INTRODUCTION:

This report is a follow-up to the June 15, 2020 report to the Facilities Planning Committee on the renegotiation of the Memorandum of Understanding (MOU) with the Vancouver Project Office (VPO) and the events that occurred since then in the renegotiation process. The June 2020 report is attached as Appendix A for reference.

This report contains a recommendation.

BACKGROUND:

As indicated in the June 2020 report to the Facilities Planning Committee, during the development of the 2019 Draft Long Range Facilities Plan concerns were raised by stakeholders about the perceived lack of public engagement in moving seismic projects forward. At the May 27-29, 2019 Board Meeting the Board passed the following motions in response:

That the Board engage with the Ministry of Education in a renegotiation of the Memorandum of Understanding (MOU) for Seismic Mitigation Projects. As part of a renewed MOU the District would seek increased opportunities to engage the public in the process and to increase transparency.

That the Board request of the Minister of Education to have a trustee serve as a non-voting member of the Vancouver Project Steering Committee.

After the June 15, 2020 meeting of the Facilities Planning Committee, the Board received a report from staff in Private Session on the discussion that took place at the meeting. As a result of that discussion the Board wrote the attached July 14, 2020 letter to the Minister (Appendix B). The Minister's September 21, 2020 reply is also attached (Appendix C). In that reply an amendment to the original MOU, which had an expiry date of August 21, 2020, was offered to extend the current term to June 1, 2021 so negotiations could take place. The District accepted that offer and signed the amendment.

ANALYSIS:

In the Minister’s response he once again indicated he was not prepared to have a trustee sitting on the VPO Steering Committee as a non-voting member. He also expressed the desire that discussions between District staff and Ministry staff that led to accepted amendment to the MOU would be reviewed and endorsed by the VPO Steering Committee.

These discussions have taken place and proposed amendments have been presented at the Steering Committee. At the last meeting of the committee District and Ministry staff were directed to conclude the discussions and report back to the Facilities Planning Committee (May 5, 2021) and the VPO Steering Committee (May 19, 2021).

The following is a summary of the negotiated points.

Negotiation Point	Resolution
Change the first VBE roles and responsibilities under the roles and responsibilities in Schedule A to read “Submit a Long Range Facilities Plan to the Province annually” and remove “for approval”	Ministry has agreed
Change Clause 2.2 to include a non-voting VBE trustee as a member of the Steering Committee	Ministry has not agreed
Remove Clause 2.17 and replace with “SMP projects will take into account deferred maintenance costs and life cycle costs in the calculation of the lowest cost option for the purposes of determining whether the project is an upgrade to an existing building or a replacement.”	Leave Clause 2.17 as is but add at the end as a separate sentence “Life cycle costing and deferred maintenance is considered by the Province. “ <i>Ministry will supply life cycle costing and deferred maintenance to the Treasury Board along with the lowest cost option for Treasury Board decision.</i>
That a clause be included to include actual escalation costs of projects.	Ministry has not agreed. Escalation estimates must be included in the business case as they are not under the control of the Ministry.
A project timeline be included as a schedule to the MOU.	Ministry has partially agreed but have not agreed to include the timeline as an appendix to the MOU. The project timeline that was developed basically focuses on a replacement school project or a very significant seismic upgrade and covers an extended timeline. Other projects have a much quicker timeline for completion such as the Selkirk and Maquinna projects.

An updated version of the MOU, incorporating these changes, is attached as Appendix D.

Other Matters

During the negotiations, these other matters were discussed:

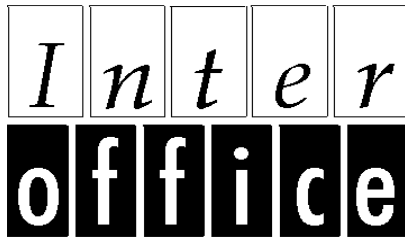
1. The term of the MOU would be for three years starting on June 1, 2021.
2. Letters of expectation could be developed to address more operational type matters that may not be suitable for the MOU. There could be separate ones for elementary projects and secondary projects, given the difference in timelines.
3. There is consideration of inviting a representative from the City of Vancouver to attend meetings of the Steering Committee on an as needed basis to discuss project concerns around permitting times and to provide clarity on bylaw rulings, etc. This was discussed at a VSB/CoV Leadership meeting on April 29, 2021 and was met with approval by City Staff.

RECOMMENDATION:

That the Facilities Planning Committee recommends to the Board of Education that the revised MOU for the Vancouver Project Office be approved.

Attachments:

- Appendix A – June 2020 report
- Appendix B – July 14, 2020 letter to the Minister
- Appendix C – September 21, 2020 Minister's response letter
- Appendix D – Revised MOU for the Vancouver Project Office



Memorandum

vancouver school board

The logo for the Vancouver School Board (VSB) is a stylized, handwritten-style "VSB" in black.

Date: June 15, 2020

ITEM 2.3

To: Facilities Planning Committee

From: J. David Green, Secretary-Treasurer

Re: **Vancouver Project Office – Memorandum of Understanding (Renegotiation)**

REFERENCE TO STRATEGIC PLAN:

Goal 4: Provide effective leadership, governance and stewardship

Objectives:

- Advocate for public education
- Support effective communication, engagement and community partnerships
- Effectively utilize school district resources and facilities

INTRODUCTION:

The operation of the Vancouver Project Office is governed by a Memorandum of Understanding (MOU) to which the Project Office, the Ministry of Education and the Vancouver Board of Education are parties. The current MOU (attached) was signed in August 2017 for a three year term ending on August 20, 2020. During the discussion in 2019 on the development of a Long Range Facilities Plan for the District, the following motions pertaining to the MOU were passed at the May 27-29, 2019 Board Meeting:

That the Board engage with the Ministry of Education in a renegotiation of the Memorandum of Understanding (MOU) for Seismic Mitigation Projects. As part of a renewed MOU the District would seek increased opportunities to engage the public in the process and to increase transparency.

That the Board request of the Minister of Education to have a trustee serve as a non-voting member of the Vancouver Project Steering Committee.

The Board Chair wrote to the Minister of Education on June 24, 2019 requesting a response to the Board motions.

BACKGROUND:

The Minister responded to the Board Chair's letter on September 9, 2019, indicating a willingness to renegotiate the MOU to ensure it accurately reflects the requirements of each party. The Minister's letter is attached. The request to have a trustee serve as a non-voting member of the Vancouver Project Office Steering Committee was not supported. On January 17, 2020 the

Secretary Treasurer sent the following email to trustees, asking for suggestions to be included in the negotiation of a new MOU:

In response to the Chair's letter to the Minister in June requesting a conversation about making amendments to the VPO MOU, the Minister provided the attached letter. In it he indicates a willingness to renegotiate the MOU. As this is a positive response from the Minister in response to a Board motion, there is an opportunity to have a conversation about the terms of the MOU. In order to move this forward District staff needs to know what changes you as Trustees would like to see so that a response can be formulated. I've also attached the MOU for your reference as well as the Project Timeline that Ministry of Education and District staff have agreed on. The Minister references this work in his letter. As the MOU expires in August of this year, any of your suggested changes will likely be part of the negotiation of a new MOU and the District response to the Minister's letter would reflect that. Please provide your thoughts by January 31, 2020.

ANALYSIS:

The following responses to the email were received. Attached to this report is the current MOU with the changes or omissions that the trustees below suggested, where possible. Some of the suggestions are questions for further consideration. Some answers (in red) from staff are provided.

Trustee Cho

One of the most important issues is the rising cost of projects. I think we all agree that the funding for SMP projects should include actual escalation costs not just projected escalations costs. Can this requirement be added to the MOU?

Could we suggest that the lowest cost option include deferred maintenance costs and the rationale would be that it is a more effective use of public money and would give the public more confidence in the value of the SMP.

Trustee Fraser – Response to Trustee Cho

I fully agree with and support Carmen's suggestion that the lowest cost option include deferred maintenance costs, however I'm not sure if that is an issue that would fall within the VPO MOU. Maybe there's a different and more appropriate route to bring this to the Minister's attention, should the board wish to do so.

Trustee Reddy

Item 2.2

- The Steering Committee that shall provide oversight and direction to the VPO, and be comprised of the following members, is hereby established:

two representatives of the VBE, being the VBE's Superintendent and Secretary-Treasurer, or their designates *who take direction from the Board of Trustees*; and...

Item 2.5

- ~~OMIT: The VBE shall not select or publicly present a preferred option for a SMP project unless and until that option has been endorsed by the Steering Committee~~

Item 2.17

- SMP projects will be selected from a variety of options included but not limited to upgrades to existing facilities, full facility replacements and other hybrid options depending on educational needs, community input, accommodation options, and cost ~~OMIT: are expected to be upgrades to existing facilities and not full facility replacement projects, except where replacement is the lowest cost option~~

Trustee Fraser

As this renegotiation is discussed with trustees it may be helpful to better understand the reasons trustees wanted these changes to see if there are measures that can be taken within the VSB that can help address the concerns.

For the MOU itself:

1. I am concerned that the current process does not adequately account for escalation costs which results in the board agreeing to:
 - Reduced project scope to narrow the gap between the money available and the lowest tender. This results in schools that have reduced ability to meet students' educational needs and/or reduced building quality.
 - No risk reserves which results in additional financial risk for the VSB.
 - Additional funding from the VSB. This is an unanticipated use of our capital funds which are then not available for enhancement projects.
2. I would also like to know if any unused funds from VSB projects, both above and below the line (I think that is the correct terminology), could be allocated to future VSB projects.

Answer: A Certificate of Approval (COA) is provided for all VSB Projects so the District can draw down funds as projects proceed. Initially the COA will be the funds above the line (those allocated to fund the project without dipping into the escalation and other risk reserves). If the use of escalation and other risk reserves (below the line items) are approved, the COA is increased accordingly. At the end of the project all approved funding that has not been used will be transferred to Ministry Restricted Capital and be available, with Ministry approval, to contribute to other projects. Project funding that is not approved will not be transferred to Ministry Restricted Capital.

3. Section 2.8. Is the funding mechanism adequate and working well?

Answer: The VPO budget comes from Project Management Fees that are part of the Capital Project Funding Agreements and those fees are adequate to cover the expenses of the Office.

4. Section 3. The term of our MOU is three years and for Richmond and Surrey this is five years. Is there an advantage in changing to five years?

5. Schedule A. "Submit a long range facilities plan to the Province for approval annually" Given the change in LRFP guidelines should this just be submit the LRFP annually?
6. Schedule A. I think the approval of VBE funding should be tied to Section 2.15 and not 2.16 (there may have been renumbering for the 2017 version).
7. Schedule A. Are the roles and responsibilities of the VPO Director appropriate?
8. Do staff have any recommendations on how to improve the MOU?

District Staff Suggested Changes

1. Could Life-Cycle costing be included in the Low Cost Option analysis? – If the Board could arrive at an arrangement with the Ministry of Education to co-fund the difference between the Low Cost Option and the Low Cost Life Cycle Costed Option, subject of course to the District having sufficient capital revenue to fund the difference.
2. The other concern that staff shares with trustees is the increased pressure to complete projects within approved budgets due to escalating construction costs. Staff would be recommending that language be included in a renegotiated MOU that would address that concern, either in the form of a set percentage for escalation costs or an ability to have a project agreement revised to account for increased escalation.

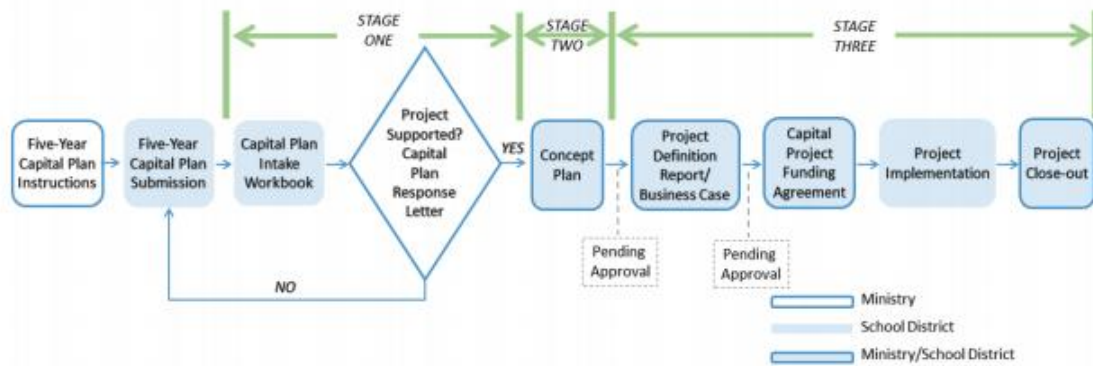
District Staff Analysis

As the Minister indicated in his letter, District staff and Ministry of Education staff had started work on potential amendments to the MOU. An example is the creation of a timeline for a seismic project that allows for some community involvement during the development of a Project Definition Report for a project in the form of a School Advisory Group to work with District staff and the VPO. The timeline is located at this link [Seismic Roadmap Timeline](#). One of the concerns that had been expressed by communities impacted by seismic work was a perceived lack of public consultation in that the VBE was bound by the terms of the MOU not to select or publicly present a preferred option for a SMP project unless and until that option has been endorsed by the Steering Committee. The District has established School Advisory Groups for recent projects and the communication between those and the VBE and the VPO is working well.

Recently the Ministry introduced a new step in the major capital plan approval process. The following chart illustrates the new need for districts to submit a Concept Plan. In addition, with respect to seismic projects, there is now an additional requirement for a more detailed costing earlier in the approval process. Because of these changes District staff will be engaging in discussion with the Ministry staff on making changes to the current seismic timeline.

Staff is recommending the timeline be an actual schedule included as part of the renegotiated MOU.

Figure 1-2 illustrates this process:



RECOMMENDATION:

There is no recommendation. This report is provided for the Committee’s information and discussion. Staff are looking for further direction from the Board of Education on the suggestions they have made and the recommendations from staff.

ATTACHMENTS:

- APPENDIX A – Letter from the Ministry of Education to Trustee Chair
- APPENDIX B – DRAFT MOU



September 9, 2019

Ref: 212746

Janet Fraser, Chair
Board of Education
School District No. 39 (Vancouver)
Email: janet.fraser@vsb.bc.ca

Dear Ms. Fraser:

Thank you for your letter of June 24, 2019, regarding a request to amend the existing Memorandum of Understanding (MOU) associated with the Vancouver Project Office (VPO). More specifically, the following two motions were passed by the Vancouver Board of Education (VBE) on May 27/29, 2019:

- 1) That the Board engage with the ministry of education in a renegotiation of the memorandum of understanding for Seismic Projects. As part of a renewed MOU the District would seek increased opportunities to engage the public in the process and to increase transparency; and
- 2) That the Board request to have a trustee serve as a non-voting member of the Vancouver Project Steering Committee.

The Ministry of Education is certainly willing to renegotiate the MOU to ensure it accurately reflects the requirements of each party. I understand that VBE and Ministry staff have begun a process of considering amendments to the MOU, which will then be reviewed and endorsed by the Steering Committee. The Ministry and VBE will have an opportunity to review any suggested amendments before an updated MOU is prepared for final signature.

School districts are encouraged to involve their local education partners and the public in school capital planning and development. This is an important part of successful school capital project development. However, the Ministry is not supportive of the VBE selecting or publicly presenting a preferred option for a seismic project prior to government approval of a project.

I would like to thank you for your participation at the Vancouver Education Roundtable in July. It was a productive meeting with many good ideas generated. There was significant discussion about enhancing public consultation for school projects and how schools are used. I see value in consultation for planning a school upgrade or replacement however this must not come at the cost of slowing the pace of seismic projects. The VBE, the City of Vancouver and the Ministry must all be working to expedite seismic projects so that safe seats are delivered as fast as possible for students, families, teachers and staff.

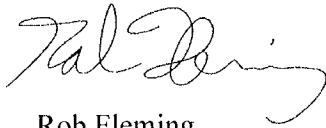
.../2

Government has created several boards and steering committees to provide additional coordination and guidance for school capital projects. These are operational entities that do not include MLAs, Ministers or trustees. Having a VBE trustee serve as a non-voting member on the VPO Steering Committee is not supported.

Since the VPO was established, over 20 seismic projects have been approved and are in various stages of development (design, construction, etc.) or have been completed. As a result, thousands of seismically safe seats are being created for Vancouver students. I fully expect that the current MOU and Steering Committee structure will enable us to continue the accelerated pace of seismic project approval that we have seen since September 2017.

Again, thank you for writing.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Fleming". The signature is fluid and cursive, with the first name "Rob" being more prominent than the last name "Fleming".

Rob Fleming
Minister

pc: Reg Bawa, Assistant Deputy Minister, Resource Management Division, Ministry of Education
Joel Palmer, Executive Director, Capital Management Branch, Ministry of Education
Kim Anderson, Assistant Vice President, Partnerships BC
Janson Ho, Director, Vancouver Project Office
Suzanne Hoffman, Superintendent, Vancouver School Board
David Green, Secretary Treasurer, Vancouver School Board
Jim Meschino, Director of Facilities, Vancouver School Board

MEMORANDUM OF UNDERSTANDING REGARDING
VANCOUVER BOARD OF EDUCATION SEISMIC
MITIGATION PROJECT OFFICE

(this "Agreement") is made and is in effect as of August 21st, 2017 (the "Effective Date"),

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE
OF BRITISH COLUMBIA, as represented by the Minister of Education

(the "Province")

AND:

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 39 (VANCOUVER)

(the "VBE")

1. Context and Scope

The Province and the VBE (individually, a "Party" and collectively, the "Parties") consider student safety to be a top priority, and have committed to reducing seismic risk to protect students through the Seismic Mitigation Program ("SMP") for schools. The primary objective of the SMP is to achieve a life-safety standard for schools by minimizing the probability of local structural collapse as a result of a seismic event.

The purpose of this Memorandum of Understanding ("MOU") is to facilitate the establishment of a project office (the "VPO") to manage all of the VBE's SMP projects, to define the terms of reference for the VPO, the director (the "Director") and the steering committee (the "Steering Committee"), and to identify the respective roles and responsibilities of the VBE, the Province, the Steering Committee, the VPO and the Director. The Parties intend that the VBE will complete its SMP projects in an effective and efficient manner and within the parameters of the SMP.

While the VPO is to be a part of the VBE, the intent is that the VPO will function with limited interaction with the day-to-day VBE operations.

2. Terms and Conditions

2.1 The VPO is hereby established to manage the SMP in the Vancouver school district.

2.2 The Steering Committee that shall provide oversight and direction to the VPO, and be comprised of the following members, is hereby established:

two representatives of the VBE, being the VBE's Superintendent and Secretary-Treasurer, or their designates, **who take direction from the Board of Education**; and

two representatives of the Province, including its Deputy Minister of Education and another Deputy Minister, or their designates.

Additionally, staff of the VBE and the Province may be invited to attend meetings of the Steering Committee as non-voting members, as and when appropriate from time to time.

- 2.3 The Steering Committee will be an advisory committee to the VBE and the Province.
- 2.4 The VPO shall be led by the Director, who will receive direction from the Steering Committee on issues related to the planning and implementation of seismic projects and the SMP in Vancouver.
- ~~2.5 The VBE shall not select or publicly present a preferred option for a SMP project unless and until that option has been endorsed by the Steering Committee.~~
- 2.6 Recommendations concerning individual projects agreed upon by the Steering Committee by consensus will be forwarded to the VBE and the Province for approval, as required.
- 2.7 If the Steering Committee does not reach a consensus on a recommendation for a specific project, then a report will be provided to the VBE and the Province outlining the respective positions.
- 2.8 The VPO's annual operating budget, including office lease costs, shall be approved by the Steering Committee and funded from SMP capital project budgets.
- 2.9 For the purposes of managing the SMP, the VPO will consist of project managers and other professional and support staff as are approved by the Steering Committee.
- 2.10 The Steering Committee shall be responsible for developing the qualifications and criteria required for the Director position. The Steering Committee will oversee the hiring of the Director through a competitive process.
- 2.11 The Steering Committee will provide guidance regarding the overall structure of the VPO and approve and monitor the annual budget of the VPO.
- 2.12 The Director shall be responsible for staffing the VPO. VPO staff, including the Director, will be employees of the VBE.
- 2.13 The VBE staff currently engaged in delivering SMP projects may be assigned to the VPO, if agreed to by the Steering Committee.
- 2.14 The VPO is to develop a SMP implementation schedule annually, for approval by the VBE and the Province that enables the VBE to complete the SMP within a reasonable and achievable timeframe.
- 2.15 Building or site improvements will be funded by the SMP only where these are required as a result of necessary SMP structural work. The VBE, at its discretion, may provide

Commented [DG2]: Trustee Reddy suggestion

additional funding from VBE resources to address building or site improvements not resulting from necessary SMP structural work.

- 2.16 Off-site improvements and code upgrades that are (i) required by authorities having jurisdiction as a condition of issuing permits for completion of SMP work, and (ii) approved by the Steering Committee, shall be considered SMP project costs to be funded by the Province.
- 2.17 SMP projects **will be selected from a variety of options included but not limited to upgrades to existing facilities, full facility replacements and other hybrid options depending on educational needs, community input, accommodation options, and cost** ~~are expected to be upgrades to existing facilities and not full facility replacement projects, except where replacement is the lowest cost option.~~
- 2.18 Where temporary accommodation is required as a result of an SMP project, every reasonable effort will be made to provide accommodation in existing schools. Project costs will provide for transportation costs and reasonable costs for upgrades to host schools, where needed.
- 2.19 The Province's obligation to pay money to the VBE is subject to the Financial Administration Act, which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due.

Commented [DG3]: Trustee Reddy suggestion

3. Term of MOU

This MOU will be in force for a term of three years from the Effective Date. Provided that the Parties agree the term of the MOU may be extended at any time by written agreement, and either Party may terminate this Agreement on at least ninety days written notice to the other Party.

Commented [DG4]: Question from Trustee Fraser – could the term be for five years?

4. Roles and Responsibilities

The Province (through the Ministry of Education), the VBE, the Steering Committee, the VPO and the Director shall have the respective roles and responsibilities set out in Schedule A attached hereto.

Her Majesty the Queen in Right of the Province of British Columbia,
by the authorized representative of the Minister of Education



Name: Honourable Rob Fleming
Title: Minister of Education
Ministry of Education

The Board of Education of School District No. 39 (Vancouver)
Per:



Authorized Signatory
Name: Dianne Turner
Title: Official Trustee

SCHEDULE A
TO MEMORANDUM OF UNDERSTANDING
REGARDING VANCOUVER BOARD OF EDUCATION
SEISMIC MITIGATION PROJECT OFFICE

Roles and Responsibilities

Province (through the Ministry of Education)

Approval of supported projects.
Approval of Project Definition Reports (PDRs).
Approval of Project Agreements (PAs).
Approval and provision of provincial funding for SMP projects.

VBE

Submit a long range facilities plan to the Province ~~for approval~~ annually
Approval of PDRs.
Approval of PAs.
Approval and provision of VBE funding, if required, for additional costs as per Section 2.16.

Commented [DG5]: Given the change in the Long Range Facilities Plan guidelines should this just say submit annually?

Steering Committee

Develop qualifications and criteria required for the VPO Director.
Oversee hiring of VPO Director.
Approve the annual budget for the VPO.
Approve policies and procedures for the VPO.
Recommend PDRs to VBE and the Province (Ministry of Education).
Recommend PAs to VBE and the Province (Ministry of Education).
Recommend scope, budget, and schedule changes to the VBE and the Province (Ministry of Education).

VPO Director

Responsible to the Steering Committee for the planning and delivery of seismic projects and the SMP in Vancouver.
Responsible for ensuring project upgrades fit with the Province's (Ministry of Education's) and governments overall rules for seismic upgrade projects.
Responsible for developing an annual VPO operating budget that must be approved by the Steering Committee.
Responsible for hiring staff for the VPO.
Responsible for the day-to-day operation of the VPO.

VPO

Responsible for completing Seismic Project Identification Reports (SPIRs) for supported projects.
Responsible for completing PDRs for submission to the Steering Committee.
Responsible for obtaining stakeholder input on PDRs, if required.
Responsible for completing PAs for consideration by the Steering Committee.
Responsible for implementing and completing projects with approved PAs.



Vancouver Board of Education
School District No. 39
1580 West Broadway
Vancouver, B.C. V6J 5K8
Telephone: 604-713-5000

APPENDIX B

July 14, 2020

Honourable Rob Fleming

Ministry of Education
PO Box 9045 Stn Prov Govt
Victoria, BC V8W 9E2
E: educ.minister@gov.bc.ca

Dear Minister Fleming,

The current Memorandum of Understanding (MOU) between the Ministry, the Vancouver Board of Education, and the Vancouver Project Office to manage the Seismic Mitigation Program will expire as of August 21, 2020. As per the offer in your September 2019 letter to negotiate terms satisfactory to all the parties, District staff and Trustees have identified certain changes that would be the subject of negotiations. Given the time of year and the ongoing focus on the COVID-19 pandemic, it is likely that negotiations cannot be completed prior to the expiration of the current MOU.

However, to prepare for negotiations the Board of Education unanimously passed the following motion at a Private Board Meeting on June 29, 2020. This is provided for your consideration:

That the Board of Education directs the Board Chair to write to the Minister of Education that in response to the Minister's letter of September 9, 2019 the Board of Education would like to renegotiate the following terms of the Memorandum of Understanding regarding the Vancouver Project Office:

- 1. Change the first VBE roles and responsibilities Under the roles and responsibilities in Schedule A to read "Submit a Long Range Facilities Plan to the Province annually" and remove "for approval"*
- 2. Change Clause 2.2 to include a non-voting VBE trustee as a member of the Steering Committee*
- 3. Remove Clause 2.17 and replace with "SMP projects will take into account deferred maintenance costs and life cycle costs in the calculation of the lowest cost option for the purposes of determining whether the project is an upgrade to an existing building or a replacement."*

And further

- 1. That a clause be included to include actual escalation costs of projects*
- 2. A project timeline be included as a schedule to the MOU*

Board of Education Trustees:

Janet Fraser – Board Chair
Carmen Cho – Vice-Chair
Fraser Ballantyne Lois Chan-Pedley
Estrellita Gonzalez Oliver Hanson
Barb Parrott Jennifer Reddy Allan Wong

We respectfully ask for an extension of the current MOU for up to one year while these suggested changes are negotiated. We would welcome meetings at your convenience to discuss.

Thank you for the Ministry's commitment to seismic projects for Vancouver schools.

With Regards,

A handwritten signature in cursive script that reads "Janet Fraser".

Janet Fraser
Board Chair

cc: VBE Trustees
Suzanne Hoffman, Superintendent
J. David Green, Secretary-Treasurer



APPENDIX C

September 21, 2020

Ref: 232135

Janet Fraser, Chair
Board of Education
School District No. 39 (Vancouver)
Email: janet.fraser@vsb.bc.ca

Dear Janet Fraser:

Thank you for your letter dated July 14th, 2020, regarding a request by the Vancouver Board of Education (VBE) for an extension of the current Memorandum of Understanding (MOU) between the Ministry of Education (the Ministry), VBE, and the Vancouver Project Office (VPO) to manage the Seismic Mitigation Program (SMP) in the Vancouver School District. More specifically, the following motion was passed by the VBE on June 29, 2020:

That the Board of Education directs the Board Chair to write to the Minister of Education that in response to the Minister's letter of September 9, 2019 the Board of Education would like to renegotiate the following terms of the Memorandum of Understanding regarding the Vancouver Project Office:

- 1. Change the first VBE roles and responsibilities Under the roles and responsibilities in Schedule A to read "Submit a Long-Range Facilities Plan to the Province annually" and remove "for approval"*
- 2. Change Clause 2.2 to include a non-voting VBE trustee as a member of the Steering Committee*
- 3. Remove Clause 2.17 and replace with "SMP projects will take into account deferred maintenance costs and life cycle costs in the calculation of the lowest cost option for the purposes of determining whether the project is an upgrade to an existing building or a replacement."*

And further

- 1. That a clause be included to include actual escalation costs of projects*
- 2. A project timeline be included as a schedule to the MOU*

.../2

The Ministry is willing to extend the existing MOU until June 1st, 2021 so more time can be taken to reflect the expectations of each party. Attached is Amendment #1 to the existing MOU which simply extends the current term from August 21st, 2020 to June 1st, 2021. Please sign and return a copy of the document to the Ministry.

As indicated in the board motion, I understand that VBE staff are in the process of considering amendments to the MOU, which would then have to be reviewed and endorsed by the Steering Committee. The Ministry and VBE will have an opportunity to review any suggested amendments before an updated MOU is prepared for final signature.

As per my September 9th, 2019 letter, government has created several boards and steering committees to provide additional coordination and guidance for school capital projects. These are operational entities that do not include MLAs, Minister or trustees. Having a VBE trustee serve as a non-voting member on the VPO Steering Committee is not supported.

Since the VPO was established, over 20 seismic projects have been approved and are in various stages of development (design, construction, etc.) or have been completed. This includes 12 seismic projects being approved since September 2017. As a result, thousands of seismically safe seats are being created for Vancouver students. I look forward to your finalized Long-Range Facility Plan and I fully expect that the current MOU and Steering Committee structure will enable us to continue creating seismically safe seats in Vancouver.

Again, thank you for writing.

Sincerely,



Rob Fleming
Minister

Attachment: MOU Regarding Vancouver Board of Education Seismic Mitigation Project Office Amendment #1

pc: Vancouver Board of Education Trustees, School District No. 39 (Vancouver)
Suzanne Hoffman, Superintendent, School District No. 39 (Vancouver)
J. David Green, Secretary-Treasurer, School District No. 39 (Vancouver)
Reg Bawa, Assistant Deputy Minister, Resource Management Division (RMD)
Joel Palmer, Executive Director, Capital Management Branch, RMD
Capital Management Branch

**MEMORANDUM OF UNDERSTANDING REGARDING
VANCOUVER BOARD OF EDUCATION
SEISMIC MITIGATION PROJECT OFFICE
AMENDMENT #1**

ATTACHMENT

This AGREEMENT dated for reference the 10th day of September 2020

BETWEEN: **HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA represented by the
Minister of Education
(herein called the "Province")**

OF THE FIRST PART

AND: **THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 39
(VANCOUVER)
(herein called the "The Board of Education")**

OF THE SECOND PART

WITNESS THAT WHEREAS:

- A. The parties hereto entered in an Agreement dated the 21st day of August 2017; for reference a copy of the agreement is attached hereto as Appendix "1" (hereinafter called the "Agreement"),
- B. **AND WHEREAS** the parties have agreed to amend the Agreement.

NOW THEREFORE in consideration of the covenants and agreements herein contained, the parties agree as follows:

- (1) That effective August 21st, 2020, the Term of the MOU referenced throughout the Agreement shall be amended to read:

This MOU will be in force for a term to June 1st, 2021. Provided that the Parties agree the term of the MOU may be extended at any time by written agreement, and either Party may terminate this Agreement on at least ninety days written notice to the other party.

- (2) That, in all other respects, the terms and conditions of the Agreement remain unchanged.

The parties hereto have executed this Agreement on the day and year as set out above.

**MEMORANDUM OF UNDERSTANDING REGARDING
VANCOUVER BOARD OF EDUCATION
SEISMIC MITIGATION PROJECT OFFICE
AMENDMENT #1**

Her Majesty the Queen in Right of the Province of British Columbia, by
the authorized representative of the Minister of Education



Name: Honourable Rob Fleming
Title: Minister of Education
Ministry of Education

The Board of Education of School District No. 39 (Vancouver)
Per:

Authorized Signatory
Name: Janet Fraser
Title: Board Chair

MEMORANDUM OF UNDERSTANDING REGARDING
VANCOUVER BOARD OF EDUCATION SEISMIC
MITIGATION PROJECT OFFICE

(this "Agreement") is made and is in effect as of ~~June 1, 2021~~ ~~August 21st, 2017~~ (the "Effective Date"),

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE
OF BRITISH COLUMBIA, as represented by the Minister of Education

(the "Province")

AND:

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 39 (VANCOUVER)

(the "VBE")

1. Context and Scope

The Province and the VBE (individually, a "Party" and collectively, the "Parties") consider student safety to be a top priority, and have committed to reducing seismic risk to protect students through the Seismic Mitigation Program ("SMP") for schools. The primary objective of the SMP is to achieve a life-safety standard for schools by minimizing the probability of local structural collapse as a result of a seismic event.

The purpose of this Memorandum of Understanding ("MOU") is to facilitate the establishment of a project office (the "VPO") to manage all of the VBE's SMP projects, to define the terms of reference for the VPO, the director (the "Director") and the steering committee (the "Steering Committee"), and to identify the respective roles and responsibilities of the VBE, the Province, the Steering Committee, the VPO and the Director. The Parties intend that the VBE will complete its SMP projects in an effective and efficient manner and within the parameters of the SMP.

While the VPO is to be a part of the VBE, the intent is that the VPO will function with limited interaction with the day-to-day VBE operations.

2. Terms and Conditions

2.1 The VPO is hereby established to manage the SMP in the Vancouver school district.

2.2 The Steering Committee that shall provide oversight and direction to the VPO, and be comprised of the following members, is hereby established:

two representatives of the VBE, being the VBE's Superintendent and Secretary-Treasurer, or their designates; and

two representatives of the Province, including its Deputy Minister of Education and another Deputy Minister, or their designates.

Additionally, staff of the VBE and the Province may be invited to attend meetings of the Steering Committee as non-voting members, as and when appropriate from time to time.

- 2.3 The Steering Committee will be an advisory committee to the VBE and the Province.
- 2.4 The VPO shall be led by the Director, who will receive direction from the Steering Committee on issues related to the planning and implementation of seismic projects and the SMP in Vancouver.
- 2.5 The VBE shall not select or publicly present a preferred option for a SMP project unless and until that option has been endorsed by the Steering Committee.
- 2.6 Recommendations concerning individual projects agreed upon by the Steering Committee by consensus will be forwarded to the VBE and the Province for approval, as required.
- 2.7 If the Steering Committee does not reach a consensus on a recommendation for a specific project, then a report will be provided to the VBE and the Province outlining the respective positions.
- 2.8 The VPO's annual operating budget, including office lease costs, shall be approved by the Steering Committee and funded from SMP capital project budgets.
- 2.9 For the purposes of managing the SMP, the VPO will consist of project managers and other professional and support staff as are approved by the Steering Committee.
- 2.10 The Steering Committee shall be responsible for developing the qualifications and criteria required for the Director position. The Steering Committee will oversee the hiring of the Director through a competitive process.
- 2.11 The Steering Committee will provide guidance regarding the overall structure of the VPO and approve and monitor the annual budget of the VPO.
- 2.12 The Director shall be responsible for staffing the VPO. VPO staff, including the Director, will be employees of the VBE.
- 2.13 The VBE staff currently engaged in delivering SMP projects may be assigned to the VPO, if agreed to by the Steering Committee.
- 2.14 The VPO is to develop a SMP implementation schedule annually, for approval by the VBE and the Province that enables the VBE to complete the SMP within a reasonable and achievable timeframe.
- 2.15 Building or site improvements will be funded by the SMP only where these are required as a result of necessary SMP structural work. The VBE, at its discretion, may provide

additional funding from VBE resources to address building or site improvements not resulting from necessary SMP structural work.

- 2.16 Off-site improvements and code upgrades that are (i) required by authorities having jurisdiction as a condition of issuing permits for completion of SMP work, and (ii) approved by the Steering Committee, shall be considered SMP project costs to be funded by the Province.
- 2.17 SMP projects are expected to be upgrades to existing facilities and not full facility replacement projects, except where replacement is the lowest cost option. **Life cycle costing and deferred maintenance is considered by the Province.**
- 2.18 Where temporary accommodation is required as a result of an SMP project, every reasonable effort will be made to provide accommodation in existing schools. Project costs will provide for transportation costs and reasonable costs for upgrades to host schools, where needed.
- 2.19 The Province's obligation to pay money to the VBE is subject to the Financial Administration Act, which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due.

3. Term of MOU

This MOU will be in force for a term of three years from the Effective Date. Provided that the Parties agree the term of the MOU may be extended at any time by written agreement, and either Party may terminate this Agreement on at least ninety days written notice to the other Party.

4. Roles and Responsibilities

The Province (through the Ministry of Education), the VBE, the Steering Committee, the VPO and the Director shall have the respective roles and responsibilities set out in Schedule A attached hereto.

Her Majesty the Queen in Right of the Province of British Columbia,
by the authorized representative of the Minister of Education

Name:
Title:
Ministry of Education

The Board of Education of School District No. 39 (Vancouver)
Per:

Authorized Signatory

Name:
Title:

SCHEDULE A
TO MEMORANDUM OF UNDERSTANDING
REGARDING VANCOUVER BOARD OF EDUCATION
SEISMIC MITIGATION PROJECT OFFICE

Roles and Responsibilities

Province (through the Ministry of Education)

Approval of supported projects.
Approval of Project Definition Reports (PDRs).
Approval of Project Agreements (PAs).
Approval and provision of provincial funding for SMP projects.

VBE

Submit a long range facilities plan to the Province ~~for approval~~ annually
Approval of PDRs.
Approval of PAs.
Approval and provision of VBE funding, if required, for additional costs as per Section 2.16.

Steering Committee

Develop qualifications and criteria required for the VPO Director.
Oversee hiring of VPO Director.
Approve the annual budget for the VPO.
Approve policies and procedures for the VPO.
Recommend PDRs to VBE and the Province (Ministry of Education).
Recommend PAs to VBE and the Province (Ministry of Education).
Recommend scope, budget, and schedule changes to the VBE and the Province (Ministry of Education).

VPO Director

Responsible to the Steering Committee for the planning and delivery of seismic projects and the SMP in Vancouver.
Responsible for ensuring project upgrades fit with the Province's (Ministry of Education's) and governments overall rules for seismic upgrade projects.
Responsible for developing an annual VPO operating budget that must be approved by the Steering Committee.
Responsible for hiring staff for the VPO.
Responsible for the day-to-day operation of the VPO.

VPO

Responsible for completing Seismic Project Identification Reports (SPIRs) for supported projects.
Responsible for completing PDRs for submission to the Steering Committee.
Responsible for obtaining stakeholder input on PDRs, if required.
Responsible for completing PAs for consideration by the Steering Committee.
Responsible for implementing and completing projects with approved PAs.