



Interior Health

**REQUEST FOR PROPOSALS**

**for**

**INTERIOR HEART AND SURGICAL CENTRE**

**PROJECT**

<b>SUBMISSION TIME FOR TECHNICAL SUBMISSIONS</b>	December 20, 2011 2:00 p.m. (local time in Kelowna, BC)
<b>SUBMISSION TIME FOR CONSTRUCTION MANAGEMENT SERVICES SUBMISSIONS</b>	December 20, 2011 2:00 p.m. (local time in Kelowna, BC)
<b>SUBMISSION TIME FOR FINANCIAL SUBMISSIONS</b>	March 15, 2012 2:00 p.m. (local time in Kelowna, BC)
<b>SUBMISSION LOCATION</b>	B3 – 1620 Dickson Avenue Kelowna, BC V1Y 9Y2
<b>CONTACT PERSON</b>	Doris Langlois
<b>EMAIL ADDRESS</b>	ihscrfp@interiorhealth.ca

## SUMMARY OF KEY INFORMATION

<b>RFP TITLE</b>	<p>The title of this RFP is:</p> <p><b>Interior Heart and Surgical Centre Project</b></p> <p>Proponents should use this title on all correspondence.</p>
<b>CONTACT PERSON</b>	<p>The Contact Person for this RFP is:</p> <p><b>Doris Langlois</b></p> <p><b>Email: ihscrfp@interiorhealth.ca</b></p> <p>Please direct all Enquiries, in writing, to the above named Contact Person. <b>No telephone or fax enquiries please.</b></p>
<b>ENQUIRIES</b>	<p>Proponents are encouraged to submit Enquiries at an early date to permit consideration by the Authority; the Authority may, in its discretion, decide not to respond to any Enquiry received after 3:00 p.m. (local time) on the day that is 15 days before the Submission Time.</p>
<b>SUBMISSION TIME FOR TECHNICAL SUBMISSIONS</b>	<p>December 20, 2011</p> <p>2:00 p.m. (local time in Kelowna, BC)</p>
<b>SUBMISSION TIME FOR CONSTRUCTION MANAGEMENT SERVICES SUBMISSIONS</b>	<p>December 20, 2011</p> <p>2:00 p.m. (local time in Kelowna, BC)</p>
<b>BASE RATE(S) AND CREDIT SPREAD BENCHMARK SUBMISSION</b>	<p>February 27, 2012</p> <p>2:00 p.m. (local time in Kelowna, BC)</p>
<b>SUBMISSION TIME FOR FINANCIAL SUBMISSIONS</b>	<p>March 15, 2012</p> <p>2:00 p.m. (local time in Kelowna, BC)</p>
<b>SUBMISSION LOCATION</b>	<p>The Submission Location is:</p> <p><b>B3 – 1620 Dickson Avenue</b></p> <p><b>Kelowna, BC V1Y 9Y2</b></p>
<b>DELIVERY HOURS</b>	<p>Deliveries will be accepted at the Submission Location on weekdays (excluding Statutory Holidays) from 8:30 a.m. to 4:00 p.m. (local time in Kelowna, BC).</p>

## TABLE OF CONTENTS

<b>1. INTRODUCTION.....</b>	<b>5</b>
1.1 Purpose of this RFP.....	5
1.2 Eligibility to Participate in this RFP .....	5
<b>2. RFP PROCUREMENT PROCESS .....</b>	<b>5</b>
2.1 Estimated Timeline .....	5
2.2 Collaborative Meetings .....	6
2.3 Comments on the Project Agreement.....	8
2.4 Data Room .....	9
2.5 Interim Financial Review on Affordability .....	9
<b>3. KEY PROJECT ISSUES .....</b>	<b>10</b>
3.1 Municipal Approvals.....	10
3.2 Equipment .....	11
3.3 Services .....	11
3.4 LEED® / Energy .....	11
3.5 Wood First.....	12
<b>4. CONSTRUCTION MANAGEMENT SERVICES.....</b>	<b>12</b>
<b>5. AFFORDABILITY .....</b>	<b>12</b>
5.1 Affordability Ceiling .....	12
5.2 Affordability Model .....	13
5.3 Life Cycle Costs.....	13
5.4 Changes to Performance Specifications to Ensure Affordability (Scope Ladder) .....	14
<b>6. PROPOSAL REQUIREMENTS.....</b>	<b>15</b>
6.1 Participation Agreement.....	15
6.2 Proposal Form and Content .....	15
6.3 Financing Plan.....	15

6.4	Credit Spread benchmarks .....	15
6.5	Base Rate Fluctuation Risk.....	16
6.6	Base Rate Benchmarks .....	16
<b>7.</b>	<b>SUBMISSION INSTRUCTIONS .....</b>	<b>17</b>
7.1	Submission Times and Submission Location.....	17
7.2	Number of Copies.....	18
7.3	No Fax or Email Submission .....	18
7.4	Language of Proposals .....	19
7.5	Receipt of Complete RFP .....	19
7.6	Enquiries .....	19
7.7	Electronic Communication .....	20
7.8	Addenda.....	20
7.9	Intellectual Property Rights .....	21
7.10	Inconsistency between Paper and Electronic Form .....	22
7.11	Amendments to Proposals .....	22
7.12	Changes to Proponent Teams .....	22
7.13	Validity of Proposals .....	23
7.14	Material Change After Submission Time for Financial Submissions.....	24
7.15	Mandatory Requirements.....	24
<b>8.</b>	<b>EVALUATION.....</b>	<b>24</b>
8.1	Proposal Review and Evaluation.....	24
8.2	Evaluation of Proposals .....	25
<b>9.</b>	<b>SELECTION OF PREFERRED PROPONENT AND AWARD.....</b>	<b>27</b>
9.1	Selection and Award .....	27
9.2	Final Draft Project Agreement.....	28
9.3	Preferred Proponent Security Deposit .....	29

9.4	Return of Security Deposit .....	30
9.5	Retention of Security Deposit.....	30
9.6	Communication Regarding Progress to Financial Close .....	31
9.7	Changed Funding Arrangements .....	31
9.8	Credit Spread Refresh Lock-In.....	32
9.9	Spread Decrease on Credit Spread Hold Facilities.....	32
9.10	Partial Compensation for Participation in this RFP.....	33
9.11	Debriefs.....	34
<b>10.</b>	<b>CONFLICT OF INTEREST AND RELATIONSHIP DISCLOSURE.....</b>	<b>34</b>
10.1	Reservation of Rights.....	34
10.2	Relationship Disclosure.....	34
10.3	Use or Inclusion of Restricted Parties.....	34
10.4	Current Restricted Parties.....	35
10.5	Conflict of Interest Adjudicator .....	36
10.6	Request for Advance Decision .....	36
10.7	The Authority May Request Advance Decisions .....	37
10.8	Decisions Final and Binding.....	37
10.9	Shared Use .....	37
10.10	Exclusivity.....	38
10.11	External Legal Counsel.....	39
<b>11.</b>	<b>RFP TERMS AND CONDITIONS.....</b>	<b>40</b>
11.1	No Obligation to Proceed.....	40
11.2	No Contract .....	40
11.3	Freedom of Information and Protection of Privacy Act .....	40
11.4	Cost of Preparing the Proposal .....	41
11.5	Confidentiality of Information.....	41

11.6	Reservation of Rights.....	41
11.7	No Collusion .....	42
11.8	No Lobbying .....	42
11.9	Partnerships BC Projects.....	43
11.10	Ownership of Proposal.....	43
11.11	Disclosure and Transparency.....	43
11.12	Fairness Advisor .....	44
11.13	Limitation of Damages .....	45
<b>12.</b>	<b>INTERPRETATION.....</b>	<b>46</b>
12.1	Definitions.....	46
12.2	Interpretation .....	49
<b>APPENDIX A EVALUATION OF PROPOSALS</b>		
<b>APPENDIX B PROPOSAL REQUIREMENTS</b>		
<b>APPENDIX C PROPOSAL DECLARATION FORM</b>		
<b>APPENDIX D RELATIONSHIP DISCLOSURE FORM</b>		
<b>APPENDIX E PROPONENT COMMENTS FORM</b>		
<b>APPENDIX F PARTICIPATION AGREEMENT</b>		
<b>APPENDIX G COMMITMENT LETTER TEMPLATE</b>		
<b>APPENDIX H PREFERRED PROPONENT SECURITY DEPOSIT</b>		
<b>APPENDIX I CONSTRUCTION INSURANCE UNDERWRITING QUESTIONNAIRE</b>		
<b>APPENDIX J DRAFT PROJECT AGREEMENT</b>		
<b>APPENDIX K DRAFT CONSTRUCTION MANAGEMENT AGREEMENT</b>		
<b>APPENDIX L CONSTRUCTION MANAGEMENT SERVICES</b>		
<b>APPENDIX M CONSTRUCTION MANAGEMENT FIXED FEE AND REIMBURSEMENT RATES PROPOSAL FORM</b>		
<b>APPENDIX N BASE RATE(S) AND CREDIT SPREAD BENCHMARK SUBMISSION</b>		

## 1. INTRODUCTION

### 1.1 PURPOSE OF THIS RFP

The purpose of this request for proposals (“**RFP**”) is to invite eligible Proponents to prepare and submit competitive Proposals for the design, construction, financing and maintenance of a new heart and surgical centre in Kelowna, British Columbia (collectively the “**Project**” or the “**Facility**”) under a long-term project agreement (the “**Project Agreement**”). As part of the Proposal, the Authority is also seeking proposals from a Construction Manager who will provide construction management services (the “**Construction Manager**”).

### 1.2 ELIGIBILITY TO PARTICIPATE IN THIS RFP

Through a request for qualifications (“**RFQ**”) issued February 18, 2011 by the Authority, the following consortia are qualified to participate in this RFP:

1. Alliance Health Group;
2. Jade Health; and
3. Plenary Health.

Only these three Proponents, subject to changes in Proponent team membership as permitted by this RFP, may submit Proposals or otherwise participate in this RFP.

## 2. RFP PROCUREMENT PROCESS

### 2.1 ESTIMATED TIMELINE

The following is the Authority’s estimated timeline for the Project:

Activity	Timeline
RFP issued to Proponents	August 3, 2011
First Collaborative Meeting between Proponents and Authority including Review of Indicative Design	Weeks of August 8 or 15, 2011
Second Collaborative Meeting between Proponents and Authority	Week of September 12, 2011
Proponents Meeting with City of Kelowna	September 27, 2011
Third Collaborative Meeting between Proponents and Authority (if required)	Week of October 17, 2011

Activity	Timeline
Final Draft Project Agreement issued	Week of October 31, 2011
Submission Time for Technical Submissions	2:00 pm on December 20, 2011
Submission Time for Construction Management Services Submissions	2:00 pm on December 20, 2011
Invitation to make a Financial Submission	February 20, 2012
Base Rate(s) and Credit Spread Benchmark Submission	February 27, 2012
Submission Time for Financial Submissions	2:00 pm on March 15, 2012
Selection of Preferred Proponent	April 2012
Conformation of the Project Agreement	May - June 2012
Financial Close (“Effective Date”)	June, 2012
Construction Commences	June, 2012
Occupancy (Service Commencement)	Not later than February 29, 2016

This estimated timeline is subject to change at the sole and absolute discretion of the Authority.

## 2.2 COLLABORATIVE MEETINGS

Prior to the Submission Time for Technical Submissions, the Authority will make available certain of its personnel, consultants and advisors (the “**Authority Representatives**”) to participate in collaborative meetings (“**Collaborative Meetings**”) with the Proponents. The Authority expects the Collaborative Meetings to take place as follows:

- (a) the purpose of the Collaborative Meetings is to provide a process that will assist the Proponents to develop optimal solutions for the Project while minimizing the risk that a Proponent’s solution is unresponsive to the Authority’s requirements, and in particular:
  - (1) to permit the Proponent’s Representatives to provide the Authority’s Representatives with comments and feedback on material issues such as affordability or provisions of the Initial Draft Project Agreement; and
  - (2) to permit a Proponent to discuss with the Authority potential solutions and approaches that the Proponent may be considering for various aspects of its Proposal;



- (b) at least five Business Days in advance of each Collaborative Meeting (10 Business Days in the case of any Collaborative Meeting with respect to insurance matters), each Proponent should provide the Authority with a proposed meeting agenda, a list of prioritized issues it would like to discuss and any materials relevant to such issues and the Authority may provide Proponents with comments on the agenda and a list of any prioritized issues the Authority would like to discuss;
- (c) the Authority will determine which Authority Representatives will be present at any Collaborative Meeting;
- (d) at each Collaborative Meeting, a Proponent may have such officers, directors, employees, consultants and agents of the Proponent and the Proponent Team members present as the Proponent considers reasonably necessary for effective communication with the Authority and to fulfil the objectives of the Collaborative Meeting provided that the Authority may, in its discretion, limit the number of participants at any one meeting. Participation in Collaborative Meetings is in person only;
- (e) to facilitate free and open discussion at the Collaborative Meetings, Proponents should note that any comments provided by or on behalf of the Authority during any Collaborative Meeting, including in respect of any particular matter raised by a Proponent or which is included in any documents or information provided by a Proponent prior to or during the Collaborative Meeting, and any positive or negative views, encouragement or endorsements expressed by or on behalf of the Authority during the Collaborative Meetings to anything said or provided by Proponents, will not in any way bind the Authority and will not be deemed or considered to be an indication of a preference by the Authority even if adopted by the Proponent;
- (f) if for the purposes of the preparation of its Proposal a Proponent wishes to rely upon anything said or indicated at a Collaborative Meeting, then the Proponent must submit an Enquiry describing the information it would like to have confirmed and request that the Authority provide that information to the Proponent in written form and, if such information relates to a clarification, explanation or change to a provision of this RFP or the Project Agreement, request an Addendum to this RFP clarifying and amending the provision in question;

- (g) by participating in the Collaborative Meetings a Proponent confirms its agreement with these procedures and acknowledges that the meetings are an integral part of the procurement process as described in this RFP and are in the interests of all parties; and
- (h) the Authority anticipates holding three or more Collaborative Meetings with each Proponent prior to the Submission Time for Technical Submissions. Following the release of the RFP, the Authority will consult with each Proponent to confirm specific dates for Collaborative Meetings. If the Authority considers it desirable or necessary to schedule additional or fewer Collaborative Meetings, the Authority may, in its discretion, amend the anticipated schedule.

### 2.3 COMMENTS ON THE PROJECT AGREEMENT

Each Proponent should review the Initial Draft Project Agreement for the purpose of identifying any issues or provisions that the Proponent would like to see clarified or amended. Following such review:

- (a) the Authority will invite Proponents as part of the Collaborative Meeting process to discuss possible clarifications or amendments to the Initial Draft Project Agreement, including with respect to commercial, legal, design and construction, and facilities management matters;
- (b) at least five Business Days in advance of the Collaborative Meeting at which the Proponent wishes to discuss the Initial Draft Project Agreement, each Proponent should provide the Authority with a prioritized list of requested changes, if any, to the Initial Draft Project Agreement using the Proponent Comments Form attached as Appendix E, together with the agenda and issues list described in Section 2.2(b); and
- (c) the Authority will consider all comments and requested clarifications or amendments received from the Proponents in the Collaborative Meetings and may respond to some or all of the comments received, and will amend the Initial Draft Project Agreement as the Authority may determine in its discretion.

Prior to the Submission Time for Technical Submissions, the Authority intends to issue by Addendum one or more revised drafts of the Project Agreement, including one that will be identified as the "Final Draft Project Agreement" (the "**Final Draft Project Agreement**"). The Authority may further modify the Final Draft Project Agreement by Addendum prior to the Submission Time for Financial Submissions. The Final Draft Project Agreement will be the common basis for the preparation of all Proposals, and Proponents should not in their Proposal make any modifications, changes or additions to the Final Draft Project

Agreement except for modifications, changes or additions to the Performance Specifications as provided for in Section 5.4 or modifications, changes or additions provided for in Section 9.2.

## 2.4 DATA ROOM

The Authority has established a web site to be used as an electronic data room (the “**Data Room**”) in which it has placed documents in the possession of the Authority that the Authority has identified as relevant to the Project and to the Project site, and that may be useful to Proponents. The Authority does not make any representation as to the relevance, accuracy or completeness of any of the information available in the Data Room except as the Authority may advise in writing with respect to a specific document. The Authority will grant Proponents access to the Data Room and will require Proponents to execute an agreement to keep information contained in the Data Room confidential.

The information in the Data Room may be supplemented or updated from time to time. Although the Authority will attempt to notify Proponents of all updates, Proponents are solely responsible for ensuring they check the Data Room frequently for updates and to ensure the information used by the Proponents is the most current, updated information.

## 2.5 INTERIM FINANCIAL REVIEW ON AFFORDABILITY

It is in the interests of the Authority and all Proponents to identify at an early stage of the procurement whether the Project, as defined in this RFP, is affordable within the limits set out in Section 5. Accordingly, as part of the third Collaborative Meeting, Proponents and the Authority will conduct an interim financial review as follows:

- (a) the purpose of the interim financial review is to give early warning of any difficulty in staying within the Affordability Ceiling, and to permit the Authority and the Proponents to consider and implement steps so that the Competitive Selection Process can proceed with confidence that Proposals will be within the Affordability Ceiling;
- (b) at least 5 days prior to the third Collaborative Meeting, each Proponent should submit to the Authority its best estimate of the anticipated net present cost of its Proposal using the Affordability Model as described in Section 5.2 based upon its expected funding terms, and a summary of the proposed Financing Plan containing the high level aspects of information contemplated in Section 5.6.1 of Appendix B. While not prescribing the form of the submission, the Authority is expecting it to be no more than 10 pages in length and to include cost and input assumptions in sufficient detail to allow the Authority to understand the Proponent’s cost base (with at least all major cost headings included) and financing structure;

- (c) the Authority will retain each of the interim financial submissions as strictly confidential, and will invite each Proponent, as part of the third Collaborative Meeting, to discuss any aspect of its submission, including any recommendations for amendment of the Project requirements if a Proponent determines that the Project as described will exceed the Affordability Ceiling; and
- (d) unless expressly referred to or included by reference in its Proposal, a Proponent's interim financial submission will not be considered part of its Proposal and the Authority will not consider or evaluate it as to adequacy, quality, content or otherwise.

The Authority understands that the values indicated in a Proponent's interim financial submission are not a commitment and that all aspects could change in the final Proposal.

### **3. KEY PROJECT ISSUES**

#### **3.1 MUNICIPAL APPROVALS**

In accordance with the Project Agreement, Project Co will be responsible for obtaining all permits and approvals required for the design and construction of the Facility, and to ensure that its design for the Facility complies with the applicable zoning and related City of Kelowna ("City") requirements. In addition, Project Co will be responsible for all off-site development costs, development cost charges, and development and building permit fees.

The Authority is in the process of undertaking a campus-wide rezoning of the Kelowna General Hospital ("KGH") campus which would allow for increased Site coverage and more flexibility for Proponents' designs.

The Authority has initiated preliminary discussions with respect to City requirements for the Project and the Competitive Selection Process as follows:

- (a) off-site servicing and services relocation;
- (b) City Engineering Department requirements;
- (c) design guidelines; and
- (d) Advisory Design Panel requirements.

Pursuant to the Project Agreement, Project Co will have the responsibility to obtain a Development Permit from the City as required for Project Co's design of the Facility, and to obtain the City's approval for utility

connections and other matters. Project Co may, at its risk, seek zoning variances or permit modifications for the benefit of its design and Proposal.

The City will meet separately and confidentially with individual Proponents on the date indicated in Section 2.1. It is expected that all Proponents will attend this general meeting and then each Proponent will have the opportunity to meet separately with City representatives. Proponents may request other meetings with the City prior to the Submission Time for Technical Submissions to allow Proponents to obtain information they may require for the preparation of Proposals. All Proponent meetings with the City will include an Authority representative.

### 3.2 EQUIPMENT

Project Co will be responsible for designing the Facility to accommodate the installation, operation, repair and maintenance of all equipment required as part of the Facility operations, or for the intended uses of the Facility, in accordance with the Project Agreement. The Authority and Project Co will be responsible to procure and deliver the equipment in accordance with Appendix 2E [Equipment and Furniture] of the Project Agreement.

### 3.3 SERVICES

Project Co will be responsible for providing the following services over the term of the Project Agreement:

- (a) Plant Services (see Appendix 4D of the Initial Draft Project Agreement);
- (b) Interface Services (see Appendix 4E of the Initial Draft Project Agreement);
- (c) Utility Management Services (see Appendix 4G of the Initial Draft Project Agreement);  
and
- (d) Help Desk Services (see Appendix 4F of the Initial Draft Project Agreement).

### 3.4 LEED® / ENERGY

Project Co will be required to obtain LEED® Gold Certification for the facility. The facility has been registered with the Green Building Council under the LEED® Canada-NC 1.0 rating system. Registration under LEED® NC 1.0 rating system allows for the use of certain credit targets or thresholds under LEED® NC 2009 or LEED® NC 1.0 as per equivalencies allowed by the Green Building Council.

In addition, Appendix 8C [Energy] of the Project Agreement will include provision for a design and construction energy target for energy efficiency, and a requirement for Project Co to take all reasonable

steps to obtain funding by application to the BC Hydro Power Smart New Construction Program or other funding or incentives for the Authority.

### 3.5 WOOD FIRST

As required by the Wood First Act (British Columbia), Project Co will be required to use wood wherever the Building Code requirements permit. Schedule 3 [Design and Construction Specifications] of the Project Agreement provides a matrix which indicates specific locations where wood must be used. In addition, Proponents are encouraged to use wood in areas that may require innovation, including any Building Code alternative solutions.

## 4. CONSTRUCTION MANAGEMENT SERVICES

Within the Proposal, the Construction Manager will be required to include a supplementary proposal for the provision of construction management services related to Royal Building renovations as a priced option. The Authority may, in its sole discretion and as a separate procurement, elect to enter into a Construction Management Agreement with the Construction Manager for the provision of construction management services for the Royal Building renovations. Refer to Appendices A and L for more information.

## 5. AFFORDABILITY

A key objective of the Competitive Selection Process is to maximize the Project scope while meeting the Project's Affordability Requirements.

### 5.1 AFFORDABILITY CEILING

The Authority has identified a mandatory Affordability Ceiling for the Project of \$131.79 million, being the net present cost of the Periodic Payments. Project approvals by the Authority have been based on this Affordability Ceiling.

In determining the Affordability Ceiling, the Authority and its advisors developed a shadow financial model to determine an estimate of the Periodic Payments for the Minimum Acceptable Scope based on the following assumptions:

- (a) an estimate of all development, construction and commissioning costs (excluding interest costs and financing fees) to the end of the Construction Period of \$128.17 million (nominal) that is based on an Indicative Design that meets the requirements of the Initial Draft Project Agreement and the Performance Specifications;

- (b) the application of Authority Funding (being up to 32.8% of the hard construction costs contained within the Design Build Contract for this Project) in accordance with parameters described in Form A3 of Appendix B to the RFP and Appendix 8D of the Initial Draft Project Agreement;
- (c) a Discount Rate of 7.5%;
- (d) CPI at a constant rate of 2.50% for portions of the Services Payments that are Index-Linked;
- (e) construction schedule of 44 months, starting in June 2012;
- (f) facilities management and life cycle costs based on a cost consultant's estimation of the quantum and timing of costs over the life of the Project;
- (g) no Deductions from the Periodic Payments;
- (h) a funding structure and financing terms representative of the likely market for funding based on current markets and where markets will be when the Project reaches Financial Close; and
- (i) Periodic Payments discounted to June 1, 2012.

## 5.2 AFFORDABILITY MODEL

The Authority has developed a financial model (the "**Affordability Model**") to determine the net present cost to the Provincial Government and the Interior Health Authority of the Project based on a Proposal.

Each Proponent is required to calculate the net present cost of its Proposal, being the sum of the net present cost of the Periodic Payments and the net present cost of the Authority Funding as calculated using the Affordability Model provided by the Authority. The Affordability Model is available in the Data Room as "AffordabilityModel.xls", and is to be completed by linking to the appropriate outputs from the Proponent's Financial Model. The Authority reserves the right to recalculate or make such adjustments to the Affordability Model as may be required by the Authority in its analysis.

## 5.3 LIFE CYCLE COSTS

Each Proponent may propose that the portion of its proposed Periodic Payments that covers life cycle costs be either uniform or non-uniform. If proposing a non-uniform approach, the proposed life cycle

payments schedule should be consistent with the Proponent's life cycle/capital replacement plan as contemplated under the Final Draft Project Agreement and Section 3.2.4.4 of Appendix B.

#### 5.4 CHANGES TO PERFORMANCE SPECIFICATIONS TO ENSURE AFFORDABILITY (SCOPE LADDER)

If not all of the elements of the Performance Specifications are achievable within the Affordability Ceiling, a Proponent may propose to amend the scope of the Project as set out in the Performance Specifications in order to ensure that the net present cost of its Periodic Payments is equal to or below the Affordability Ceiling. Proponents proposing changes to the Performance Specifications should limit their proposed changes to items identified by the Authority in the following "scope ladder":

- a) Tier 1 changes (may be made in any order):
  - (1) reduce number of public elevators but retain elevator shaft for future fit-out;
  - (2) reduce or omit the requirements for sunshades;
  - (3) reduce or omit all green roofs; and
  - (4) reduce the amount of glazing along links (begin with links from IHSC building to the Centennial building).
- b) Tier 2 changes (may be made in any order but should only be made if all Tier 1 changes have been made):
  - (1) remove elevator capacity to the fifth floor of the Facility;
  - (2) remove requirement for the capability to construct the fifth floor of the Facility;  
and
  - (3) single independent UPS system with multiple modules.
- c) Tier 3 changes (may be made in any order but should only be made if all Tier 1 and Tier 2 changes have been made):
  - (1) remove finishes in 2 Operating Rooms for future development;
  - (2) remove finishes in Pre-Op bays on a ratio of 3 to every 1 Operating Room; and



- (3) remove finishes in Post-Anaesthetic Recovery Bays on a ratio of 1.5 to every 1 Operating Room.

## 6. PROPOSAL REQUIREMENTS

### 6.1 PARTICIPATION AGREEMENT

As a condition of participating in this RFP each Proponent and each of its Equity Members must sign and deliver to the Contact Person a participation agreement (the “**Participation Agreement**”), substantially in the form attached as Appendix F or otherwise acceptable to the Authority in its discretion. Proponents will not be permitted to participate in Collaborative Meetings, or participate further in the Competitive Selection Process unless and until they have signed and delivered a Participation Agreement as required by this Section.

### 6.2 PROPOSAL FORM AND CONTENT

Proposals should be in the form and include the content described in Appendix B. Each Proponent will be entitled to submit a maximum of one Technical Submission and, if invited to do so, one Financial Submission.

### 6.3 FINANCING PLAN

Proponents should include in the Financial Submission of their Proposal a Financing Plan as contemplated in Section 5.6.1 of Appendix B.

In its Financing Plan, each Proponent should advise the Authority in writing:

- (a) which form(s) of lending facility, if any, for which it will hold Credit Spreads from Financial Submission to Financial Close (the “**Credit Spread Hold Facilities**”); and
- (b) which form(s) of lending facility, if any, in respect of which the Credit Spread will be determined on the Credit Spread Refresh Lock-in Date (the “**Credit Spread Refresh Facilities**”). For a Credit Spread Refresh Facility, the credit spread on the facility will be reset on the Credit Spread Refresh Lock-in Date to reflect the movement in the Credit Spread Benchmark as defined in Section 6.4.

### 6.4 CREDIT SPREAD BENCHMARKS

If a Proponent wishes to designate some or all of its lending facilities as Credit Spread Refresh Facilities, the Proponent should, on or before the Base Rate(s) and Credit Spread Benchmark Submission date, make a Credit Spread Benchmark submission to the Authority as described in Appendix N.

Within 5 Business Days after such submission, the Authority will advise each Proponent whether, in the Authority's sole discretion, the Proponent's proposed Credit Spread Benchmark is satisfactory. If the Authority advises a Proponent, with particulars, that its proposed Credit Spread Benchmark is unsatisfactory, the Proponent should within 5 Business Days of receiving such advice, submit a revised Credit Spread Benchmark submission that addresses the Authority's concerns and the Authority will advise the Proponent within a further 3 Business Days whether the revised Credit Spread Benchmark submission is acceptable. The process will be repeated until an acceptable Credit Spread Benchmark is provided.

The Credit Spread Benchmark submission, as revised if applicable, will be deemed to be a part of the Proponent's Financial Submission for evaluation purposes.

## 6.5 BASE RATE FLUCTUATION RISK

The Authority assumes the risk of fluctuations in the Base Rate for senior debt financing facilities (and not for subordinated debt, or equity) up to Financial Close, as set out in this Section, subject to the Authority's rights under this RFP, including Sections 9.7 and 11.1.

The Authority assumes the risk of fluctuations in the Base Rate for reinvestment products associated with senior debt facilities during construction, if applicable (and not for working capital or reserve accounts), up to Financial Close, as set out in this Section, subject to the Authority's rights under this RFP, including Sections 9.7 and 11.1.

At Financial Close, the Periodic Payments will be set to reflect the Base Rate for senior debt financing agreements and any reinvestment products (if applicable) determined as at Financial Close.

If a Proponent's Financing Plan contains several senior finance facilities, each having a different Base Rate, the Periodic Payment adjustment will take into account fluctuations (positive or negative, as the case may be) in the Base Rate for each senior finance facility.

## 6.6 BASE RATE BENCHMARKS

On or before the Base Rate(s) and Credit Spread Benchmark Submission date, Proponents should identify the benchmark securities and other information, from the list provided by the Authority in accordance with Appendix N, that it will propose to use in its Financial Submission. Requirements of this submission are described in Appendix N.

With the exception of the potential switches described in Appendix N, Proponents should note that no changes to the Proponent's selected benchmark securities and other information used to build the Base Rate(s) will be permitted after the Base Rate(s) and Credit Spread Benchmark Submission date.

Based on the information provided by the Proponent on the Base Rate(s) and Credit Spread Benchmark Submission Date, the Authority will confirm within approximately 5 Business Days the Base Rate(s) that the Proponent should use in preparation of its Financial Submission. The Authority will verify the respective Base Rate(s) to each Proponent independently and such information will not be provided to other Proponents.

## 7. SUBMISSION INSTRUCTIONS

### 7.1 SUBMISSION TIMES AND SUBMISSION LOCATION

With respect to the delivery of Proposals:

- (a) Technical Submission: Proponents must submit the technical portion of the Proposal (the “**Technical Submission**”) to the Submission Location by the Submission Time for Technical Submissions.

The Technical Submission should be made up of the following:

- (1) the cover letter (and all attachments) to the Technical Submission as described in the Technical Submission section of Appendix B; and
- (2) the portion of the Proposal Requirements described in the Technical Submission section of Appendix B.

- (b) Financial Submission: If invited to do so pursuant to Section 8.1, Proponents must submit the financial portion of the Proposal (the “**Financial Submission**”) to the Submission Location by the Submission Time for Financial Submissions.

The Financial Submission should be made up of the following:

- (1) a completed Proposal Declaration Form in the form attached as Appendix C;
- (2) the cover letter (and all attachments) to the Financial Submission as described in the Financial Submission section of Appendix B;
- (3) one or more commitment letters, substantially in the form of Appendix G which for Credit Spread Hold Facilities should include confirmation of the Credit Spread that will be applicable to such facility until Financial Close;

- (4) the portion of the Proposal Requirements described in the Financial Submission section of Appendix B;
- (5) the completed Pricing Forms as described in Appendix B;
- (6) if and to the extent required in order to keep the net present cost of its Periodic Payments from exceeding the Affordability Ceiling, written descriptions of:
  - i. proposed amendments to the scope of the Project, made in accordance with Section 5.4; and
  - ii. amendments to its Technical Submission if reasonably required as a direct result of such scope changes; and
- (7) an independent Financial Model audit, for the benefit of, and reliance of, the Authority.

## 7.2 NUMBER OF COPIES

For its Financial Submission, a Proponent should submit 6 hard copies (5 bound copies numbered 1 through 5; plus one unbound copy marked as “Master”) and one electronic copy (CD or USB flash drive in PDF format, with a label on each describing its contents) appropriately packaged and clearly marked “Request for Proposals for Interior Heart and Surgical Centre”, except the Financial Model should be submitted in electronic (CD or USB flash drive) form only.

For its Technical Submission, a Proponent should submit 7 hard copies with full-size drawings and 4 hard copies with half-size drawings (bound copies numbered 1-7 and 8-11; plus one unbound copy with full size drawings marked as ‘Master’) and one electronic copy (CD or USB flash drive in PDF format, (architectural floor plans should also be provided in AutoCAD version 2009 format) with a label on each describing its contents) appropriately packaged and clearly marked “Request for Proposals for Interior Heart and Surgical Centre”.

## 7.3 NO FAX OR EMAIL SUBMISSION

Proposals submitted by fax or email will not be accepted.

#### 7.4 LANGUAGE OF PROPOSALS

Proposals should be in English. Any portion of a Proposal not in English may not be evaluated.

#### 7.5 RECEIPT OF COMPLETE RFP

Proponents are responsible to ensure that they have received the complete RFP, as listed in the table of contents of this RFP, plus any Addenda. A submitted Proposal will be deemed to have been prepared on the basis of the entire RFP issued prior to the Submission Time for Technical Submissions. The Authority accepts no responsibility for any Proponent lacking any portion of this RFP.

#### 7.6 ENQUIRIES

All enquiries regarding any aspect of this RFP should be directed to the Contact Person by email (each, an “**Enquiry**”), and the following applies to any Enquiry:

- (a) responses to an Enquiry will be in writing;
- (b) all Enquiries, and all responses to Enquiries from the Contact Person, will be recorded by the Authority;
- (c) the Authority is not required to provide a response to any Enquiry;
- (d) a Proponent may request that a response to an Enquiry be kept confidential by clearly marking the Enquiry “Commercial in Confidence” if the Proponent considers the Enquiry is commercially confidential to it;
- (e) if the Authority decides that an Enquiry marked “Commercial in Confidence”, or the Authority’s response to such an Enquiry, must be distributed to all Proponents, then the Authority will permit the enquirer to withdraw the Enquiry rather than receive a response and if the Proponent does not withdraw the Enquiry, then the Authority may provide its response to all Proponents;
- (f) notwithstanding Sections 7.6(d) and 7.6(e):
  - (1) if one or more other Proponents submits an Enquiry on the same or similar topic to an Enquiry previously submitted by another Proponent as “Commercial in Confidence”, the Authority may provide a response to such Enquiry to all Proponents; and

- (2) if the Authority determines there is any matter which should be brought to the attention of all Proponents, whether or not such matter was the subject of an Enquiry, including an Enquiry marked “Commercial in Confidence”, the Authority may, in its discretion, distribute the Enquiry, response or information with respect to such matter to all Proponents.

Information offered from sources other than the Contact Person with regard to this RFP is not official, may be inaccurate, and should not be relied on in any way, by any person for any purpose.

## 7.7 ELECTRONIC COMMUNICATION

Proponents should not communicate with the Contact Person by fax. The Contact Person will not respond to any communications sent by fax.

The following provisions will apply to any email communications with the Contact Person, or the delivery of documents to the Contact Person by email where such email communications or deliveries are permitted by the terms of this RFP:

- (a) the Authority does not assume any risk or responsibility or liability whatsoever to any Proponent:
  - (1) for ensuring that any electronic email system being operated for the Authority or Partnerships BC is in good working order, able to receive transmissions, or not engaged in receiving other transmissions such that a Proponent’s transmission cannot be received; or
  - (2) if a permitted email communication or delivery is not received by the Authority or Partnerships BC, or received in less than its entirety, within any time limit specified by this RFP; and
- (b) all permitted email communications with, or delivery of documents by email to, the Contact Person will be deemed as having been received by the Contact Person on the dates and times indicated on the Contact Person’s electronic equipment.

## 7.8 ADDENDA

The Authority may, in its sole and absolute discretion through the Contact Person, amend this RFP at any time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFP, and no other form of communication whether written or oral, including written responses to Enquiries as provided by Section 7.6, will be included in, or in any way amend, this RFP. Only the

Contact Person is authorized to amend or clarify this RFP by issuing an Addendum. No other employee or agent of the Authority is authorized to amend or clarify this RFP. The Authority will provide a copy of all Addenda to all Proponents.

## 7.9 INTELLECTUAL PROPERTY RIGHTS

### (a) Grant of Licence

Subject to Section 7.9(b), by submitting a Proposal, each Proponent will, and will be deemed to have:

- (1) granted to the Authority a royalty-free license without restriction to use for this Project any and all of the information, ideas, concepts, products, alternatives, processes, recommendations, suggestions and other intellectual property or trade secrets (collectively the “**Intellectual Property Rights**”) contained in the Proponent’s Proposal, or that are otherwise disclosed by the Proponent to the Authority; and
- (2) waived or obtained a waiver of all moral rights contained in the Proposal.

Proponents will not be responsible or liable for any use by the Authority or any sub-licensee or assignee of the Authority of any Intellectual Property Rights contained in a Proposal.

### (b) Exceptions to Licence

The license granted under Section 7.9(a) does not extend to Third Party Intellectual Property Rights to non-specialized third party technology and software that are generally commercially available. By submitting a Proposal, each Proponent represents to the Authority that it owns or has, and will continue to own or have at the Submission Time for Technical Submissions, all necessary rights to all Third Party Intellectual Property Rights contained in its Proposal or otherwise disclosed by the Proponent to the Authority and, subject to the foregoing exceptions, has the right to grant a license of such Third Party Intellectual Property Rights in accordance with Section 7.9(a).

## 7.10 INCONSISTENCY BETWEEN PAPER AND ELECTRONIC FORM

If there is any inconsistency between the paper form of a document issued by or on behalf of the Authority to Proponents and the digital, electronic or other computer readable form, the paper form of the document will prevail.

## 7.11 AMENDMENTS TO PROPOSALS

A Proponent may:

- (a) amend any aspect of its Technical Submission by delivering written notice, or written amendments, to the Submission Location prior to the Submission Time for Technical Submissions;
- (b) amend any aspect of its Financial Submission by delivering written notice, or written amendments, to the Submission Location prior to the Submission Time for Financial Submissions; and
- (c) in its Financial Submission, amend its Technical Submission as contemplated in Section 7.1(b).

A Proponent may not amend any aspect of its Proposal except as set out above.

## 7.12 CHANGES TO PROPONENT TEAMS

If for any reason a Proponent wishes or requires to change a member of its Proponent Team after it was shortlisted by the Authority under the RFQ, or to remove a member of its team, or to include new members on its team, or there is a material change in ownership or control of the Proponent Team or a team member, or changes to the legal relationship between the Proponent or individual team members, then the Proponent must submit a written application to the Authority for approval, including supporting information that may assist the Authority in evaluating the change. The Authority, in its sole and absolute discretion, may grant or refuse an application under this Section, and in exercising its discretion the Authority will consider the objective of achieving a competitive procurement process that is not unfair to the other Proponents. For clarity:

- (a) the Authority may refuse to permit a change to the Proponent Team if the change would, in the Authority's judgement, result in a weaker team than the Proponent team originally shortlisted; or



- (b) the Authority may, in the exercise of its discretion, permit any changes to a Proponent Team, including changes as may be requested arising from changes in ownership or control of a Proponent or a team member, or changes to the legal relationship between the Proponent or individual team members, such as the creation of a new joint venture or other legal entity or relationship in place of the Proponent team originally shortlisted.

The Authority's approval may include such terms and conditions as the Authority may consider appropriate.

### 7.13 VALIDITY OF PROPOSALS

By submitting a Proposal, each Proponent agrees that:

- (a) its Proposal, including all prices and input costs (except senior debt margins), will remain fixed and irrevocable from the Submission Time for Financial Submissions until midnight at the end of the 150<sup>th</sup> day following the Submission Time for Financial Submissions (the "**Proposal Validity Period**"); and
- (b) after the expiry of the Proposal Validity Period, all prices and input costs (except senior debt margins) in its Proposal may not be adjusted unless the Proponent provides notice to the Authority of any proposed adjustment and demonstrates to the satisfaction of the Authority that the Proponent has used its best efforts to continue to maintain the prices and input costs firm and valid, but that despite such best efforts, the specified adjustments to the prices and input costs are required solely as a direct result of one or more events that:
  - (1) are external to the Proponent and the Proponent Team members;
  - (2) could not have been prevented by, and are beyond the control of, the Proponent and any of its Proponent Team Members; and
  - (3) constitute a material adverse change to the conditions underlying the prices and input costs that are subject to the adjustment.

A Proponent may indicate in its Proposal a Proposal Validity Period which exceeds 150 days.

## 7.14 MATERIAL CHANGE AFTER SUBMISSION TIME FOR FINANCIAL SUBMISSIONS

A Proponent will give immediate notice to the Authority of any material change that occurs to a Proponent after the Submission Time for Financial Submissions, including a change to its membership or a change to the Proponent's financial capability.

## 7.15 MANDATORY REQUIREMENTS

The Authority has determined that the following are the Mandatory Requirements:

- (a) the Proponent and each of its Equity Members must have signed and delivered to the Contact Person the Participation Agreement in accordance with Section 6.1;
- (b) the Technical Submission must be received at the Submission Location before the Submission Time for Technical Submissions and the Financial Submission must be received at the Submission Location before the Submission Time for Financial Submissions;
- (c) the net present cost of the Periodic Payments as at the Submission Time for Financial Submissions must not exceed the Affordability Ceiling and the Total Facility Development and Capital Costs of the Proposal as at the Submission Time for Financial Submissions must not exceed \$128.17 million (nominal); and
- (d) the Technical Submission must achieve a score of at least 30 of the maximum 100 total points available as described in Appendix A.

Subject to Section 8.1, the Authority reserves the right to evaluate any Proposal where the scope ladder has been exhausted and the Affordability Ceiling requirements have not been met, but will do so only in the event that the Proposals received from all the Proponents do not meet the Affordability Ceiling requirement as per Section 7.15(c) above.

## 8. EVALUATION

### 8.1 PROPOSAL REVIEW AND EVALUATION

The Authority will review each Technical Submission to determine whether, in the Authority's sole discretion, such Technical Submission fails to meet to a material extent, an important or essential requirement of the Final Draft Project Agreement (a "**Material Non-Compliance**"). The Proponents, by submitting their Technical Submission, each recognize that the nature of the Competitive Selection Process and the process under the Project Agreement when awarded, are such that the Technical

Submission is only indicative of the Proponent's interpretation at the Submission Time for Technical Proposals of how the Proponent proposes to meet the requirements of the Final Draft Project Agreement and that the Technical Submission will not relieve the successful Proponent from meeting the requirements of the Final Draft Project Agreement.

The Authority will provide a response to each Technical Submission with one of the following responses, in its sole discretion:

- (a) an invitation to provide a Financial Submission;
- (b) a list of items that, in the Authority's sole discretion, appear to be Material Non-Compliances, together with an invitation to provide a Financial Submission on the condition that the Proponent agrees in writing prior to the Submission Time for Financial Proposals that, if selected, the Proponent will address all Material Non-Compliances, whether listed or not, such that the Proponent will meet all of the requirements of the Final Draft Project Agreement. A Proponent receiving such list and invitation will not be required to revise or resubmit the Technical Submission and the Authority will not review any resubmission; or
- (c) a letter advising the Proponent that it will not be invited to provide a Financial Submission.

The Authority is not responsible for identifying all Material Non-Compliances, and irrespective of whether the Authority has identified or has failed to identify a Material Non-Compliance, a Proponent is not relieved in any way from meeting the requirements of this RFP.

## 8.2 EVALUATION OF PROPOSALS

The Authority will evaluate Proposals in the manner set out in Appendix A.

The Authority may, in its discretion, take any one or more of the following steps, at any time and from time to time, in connection with the review and evaluation, including ranking, of any aspect of a Proposal, including if the Authority considers that any Proposal, including the Technical Submission or the Financial Submission, or any part of a Proposal, requires clarification or more complete information, contains defects, alterations, qualifications, omissions, inaccuracies or misstatements, or does not for any reason whatsoever satisfy any requirements of this RFP at any time, or for any other reason the Authority in its discretion deems appropriate and in the interests of the Authority and this RFP, or either of them:

- (a) waive any such defect, ambiguity, alteration, qualification, omission, inaccuracy, misstatement or failure to satisfy, and any resulting ineligibility on the part of the Proponent, or any member of the Proponent team;
- (b) independently consider, investigate, research, analyze, request or verify any information or documentation whether or not contained in any Proposal;
- (c) request interviews or presentation with any, all or none of the Proponents to clarify any questions or considerations based on the information included in Proposals during the evaluation process, with such interviews or presentations conducted in the discretion of the Authority, including the time, location, length and agenda for such interviews or presentations;
- (d) conduct reference checks relevant to the Project with any or all of the references cited in a Proposal and any other persons (including persons other than those listed by Proponents in any part of their Proposals) to verify any and all information regarding a Proponent, inclusive of its directors/officers and Key Individuals, and to conduct any background investigations that it considers necessary in the course of the Competitive Selection Process, and rely on and consider any relevant information from such cited references in the evaluation of Proposals;
- (e) conduct credit, criminal record, litigation, bankruptcy, taxpayer information and other checks;
- (f) not proceed to review and evaluate, or discontinue the evaluation of any Proposals, including any Technical Submission or Financial Submission, and disqualify the Proponent from this RFP; and
- (g) seek clarification or invite more complete, supplementary, replacement or additional information or documentation from any Proponent or in connection with any Proposal, including with any Technical Submission or Financial Submission or any part of their component packages.

Without limiting the foregoing, the Authority may in its discretion, decline to review, evaluate or rank, or may reject outright any Proposal which in the opinion of the Authority is materially incomplete or irregular, which contains omissions, exceptions or variations not acceptable to, or material to, the Authority, which contains any false or misleading statements, claims or information, or for which background investigations reveal any false statements, criminal affiliations or activities by a Proponent or Proponent Team Member.

To enable the Authority to take any one or more of the above-listed steps, the Authority may enter into separate and confidential communications of any kind whatsoever, with any person, including any Proponent. The Authority has no obligation whatsoever to take the same steps, or to enter into the same or any communications in respect of all Proponents and Proposals, or in respect of any Proponent, including the Proponent whose Proposal is the subject of the review or evaluation, as the case may be.

The review and evaluation, including the ranking, of any Proposal may rely on, take into account and include any information and documentation, including any clarification, more complete, supplementary and additional or replacement information or documentation, including information and documentation obtained through any of the above-listed investigations, research, analyses, checks, and verifications.

Proponents will not submit any clarifications, information or documentation in respect of the Technical Submission after the Submission Time for Technical Submissions and in respect of the Financial Submission after the Submission Time for Financial Submissions, without the prior written approval of the Authority or at the invitation or request of the Authority.

If any information, including information as to experience or capacity, contained in a Proposal is not verified to the Authority's satisfaction, the Authority may, in its discretion, not consider such cited experience, capacity or other information.

The Authority is not bound by industry custom or practice in taking any of the steps listed above, in exercising any of its discretions, in formulating its opinions and considerations, exercising its discretions in making any decisions and determinations, or in discharging its functions under or in connection with this RFP, or in connection with any Proponent, Proposal, or any part of any Proposal, including any Technical Submission or Financial Submission.

The Authority's decision, in its discretion, as to whether or not a Technical Submission contains a Material Non-Compliance will be final and the Authority need not consult with any Proponent in making its decision.

## **9. SELECTION OF PREFERRED PROPONENT AND AWARD**

### **9.1 SELECTION AND AWARD**

If the Authority selects a Preferred Proponent, the Proponent with the highest ranked Proposal will be selected as the Preferred Proponent, and the Authority will invite the Preferred Proponent to enter into final discussions to settle all terms of the Project Agreement, based on the Preferred Proponent's Proposal, including any clarifications that the Preferred Proponent may have provided during the evaluation of Proposals.

The Authority may also choose to enter into final discussions with the Construction Manager to settle all terms of the Construction Management Agreement.

If for any reason the Authority determines that it is unlikely to reach final agreement with the Preferred Proponent, then the Authority may terminate the discussions with the Preferred Proponent and proceed in any manner that the Authority may decide, in consideration of its own best interests, including:

- (a) terminating the procurement process entirely and proceeding with some or all of the Project in some other manner, including using other contractors; or
- (b) inviting one of the other Proponents to enter into discussions to reach final agreement for completing the Project.

Any final approvals required by the Authority, such as from the Provincial Government, will be conditions precedent to the final execution or commencement of the Project Agreement.

## 9.2 FINAL DRAFT PROJECT AGREEMENT

It is the intention of the Authority that:

- (a) any issues with respect to the Project Agreement will be discussed during the Collaborative Meetings and fully considered prior to issuance of the Final Draft Project Agreement; and
- (b) once issued, the Final Draft Project Agreement will not be further substantively modified and will be executed by the Preferred Proponent without further substantive amendment, except for changes, modifications and additions:
  - (1) relating to the determination by the Authority, in its discretion, of which:
    - i. parts, if any, of the Proposal are to be incorporated by reference or otherwise, into the Project Agreement or otherwise pursuant to express provisions of the Project Agreement; or
    - ii. modifications, changes or additions, if any, requested by a Proponent pursuant to Section 5.4 that are acceptable to the Authority;
  - (2) to those provisions or parts of the Final Draft Project Agreement which are indicated as being subject to completion or finalization, or which the Authority

determines in its discretion require completion or finalization, including provisions which require:

- i. modification or the insertion or addition of information relating to the Proponent's formation (e.g., corporate, partnership or trust structure) and funding structure; and
  - ii. modification or the insertion or addition of information in order to reflect accurately the nature of the Proponent's relationships with its principal subcontractors (including each of the Project Contractors);
- (3) required by the Authority to complete, based on the Proposal, any provision of the Final Draft Project Agreement, including changes, modifications and additions contemplated in, or required under the terms of, the Final Draft Project Agreement;
  - (4) that are necessary to create or provide for a legally complete, enforceable and binding agreement;
  - (5) that enhance clarity in legal drafting; or
  - (6) that may be required as a consequence of Changed Funding Arrangements.

The Authority also reserves the right in its discretion to negotiate changes to the Final Draft Project Agreement and to the Preferred Proponent's Proposal.

### 9.3 PREFERRED PROPONENT SECURITY DEPOSIT

Subject to the terms of this RFP:

- (a) the Authority will invite the Preferred Proponent to deliver the Preferred Proponent Security Deposit on or before the date and time specified by the Authority, such date not to be earlier than 5 Business Days after notification of the appointment of the Preferred Proponent; and
- (b) the Preferred Proponent's eligibility to remain the Preferred Proponent is conditional upon the Preferred Proponent delivering the Preferred Proponent Security Deposit to the Authority on or before the date and time specified by the Authority.

#### 9.4 RETURN OF SECURITY DEPOSIT

Subject to Section 9.5, the Authority will return the Preferred Proponent Security Deposit to the Preferred Proponent:

- (a) within 10 days after receipt by the Authority of notice of demand from the Preferred Proponent, if:
  - (1) the Authority exercises its right under Section 11.1 to terminate this RFP prior to entering into the Project Agreement for reasons unrelated to the Preferred Proponent or any member of the Preferred Proponent's Proponent Team; or
  - (2) the Authority fails, within the Proposal Validity Period, to execute and deliver an agreement substantially in the form of the Final Draft Project Agreement finalized by the Authority in accordance with Section 9.2, provided that such failure is not the result of:
    - i. the failure of the Preferred Proponent to satisfy any conditions set out in the Final Draft Project Agreement; or
    - ii. any extensions to the Proposal Validity Period arising from any agreement by the Authority to negotiate changes to the Final Draft Project Agreement pursuant to Section 9.2; or
- (b) within 10 days after Financial Close with such Preferred Proponent.

#### 9.5 RETENTION OF SECURITY DEPOSIT

Notwithstanding any receipt by the Authority of the notice described in Section 9.4, the Authority may, in its discretion, draw on, retain and apply the proceeds of the Preferred Proponent Security Deposit for the Authority's own use as liquidated damages, if:

- (a) the Proponent or any Proponent Team member is in material breach of any term of this RFP or the Participation Agreement; or
- (b) after receipt of written notice from the Authority:



- (1) the Preferred Proponent fails to execute and deliver an agreement substantially in the form of the Final Draft Project Agreement finalized by the Authority in accordance with Section 9.2; or
- (2) Financial Close fails to occur within 30 days (or such longer period as the parties may agree) of receipt of such notice from the Authority,

unless:

- (3) any such failure was the result of a significant event which could not have been reasonably prevented by, or was beyond the reasonable control of, the Preferred Proponent; and
- (4) the Preferred Proponent demonstrates to the Authority's satisfaction, acting reasonably, that the occurrence of such significant event would materially frustrate or render it impossible for the Preferred Proponent to perform its obligations under the Project Agreement for a continuous period of 180 days as if the Project Agreement was in force and effect.

## 9.6 COMMUNICATION REGARDING PROGRESS TO FINANCIAL CLOSE

Between selection as Preferred Proponent and Financial Close, the Preferred Proponent must communicate regularly with the Authority with respect to progress towards Financial Close and also keep the Authority fully apprised on any credit market issues or other circumstances which could lead to changes in Base Rates and Credit Spreads.

Prior to Financial Close, the Preferred Proponent will undertake several "dry runs" with the Authority so that the parties are familiar with, and agree on, the technical process for determining the final Base Rate(s) and Credit Spreads to be included in the Financial Model.

## 9.7 CHANGED FUNDING ARRANGEMENTS

Without limiting the Authority's rights under this RFP, if at any time after selection of the Preferred Proponent the net present cost of the Preferred Proponent's Periodic Payments exceeds the Affordability Ceiling, the Authority may request the Preferred Proponent to seek alternative funding arrangements, subject to the review and approval of the Authority; or the Authority may obtain additional or other funding; or the Authority and the Preferred Proponent may together seek any alternative funding arrangements (collectively, the "**Changed Funding Arrangements**"), and the parties may negotiate the Changed Funding Arrangements and any related matter.

## 9.8 CREDIT SPREAD REFRESH LOCK-IN

The “**Credit Spread Refresh Lock-In Date**” will be the date, not to be later than the Business Day prior to Financial Close, when the Preferred Proponent will either confirm the Credit Spread applicable to each Credit Spread Refresh Facility or change the Credit Spread applicable to each Credit Spread Refresh Facility by submitting to the Authority:

- (a) the revised Credit Spreads calculated using the Credit Spread Benchmark and formulae approved pursuant to Section 6.4 (including all detail for the Authority to confirm the movement in the Credit Spread Benchmark and applicable revision to the Credit Spread);
- (b) a fully optimized Financial Model that has been revised only to reflect the then-current value for the Base Rate and Credit Spread on each Credit Spread Refresh Facility;
- (c) pricing schedules revised only with respect to the then-current value for the Base Rate and Credit Spread on each Credit Spread Refresh Facilities; and
- (d) if applicable and exclusively as a result of a change of Base Rate and Credit Spread on the Credit Spread Refresh Facilities, a revised schedule of Periodic Payments reflecting the financial effect of the revised Base Rate and Credit Spread.

As of the Credit Spread Refresh Lock-In Date, but subject to all other rights of the Authority under this RFP, the revised Credit Spread(s) on the Credit Spread Refresh Facilities and any re-optimization of its Financial Model and any revisions to its Financing Plan provided by the Preferred Proponent will apply through to Financial Close.

Prior to the Credit Spread Refresh Lock-In Date the Preferred Proponent will undertake several “dry runs” with the Authority so that the parties are familiar with, and agree on, the technical process for determining the final Credit Spread and Financial Model.

## 9.9 SPREAD DECREASE ON CREDIT SPREAD HOLD FACILITIES

With respect to Credit Spread Hold Facilities, if the Preferred Proponent or any Affiliate of the Preferred Proponent is able to secure financing for the Project on terms more favourable than the terms submitted at Financial Submission, the resulting gain will accrue 50% to the Preferred Proponent and 50% to the Authority. The mechanism and process to be used to calculate and apportion such gain will be substantially similar to that used to calculate a Refinancing Gain under the Project Agreement.

#### 9.10 PARTIAL COMPENSATION FOR PARTICIPATION IN THIS RFP

Upon execution of the Project Agreement, the Authority will pay \$200,000 (inclusive of any GST/HST payable) to each unsuccessful Proponent that:

- (a) submitted a bona fide and responsive Technical Submission and Financial Submission;
- (b) has not withdrawn from the Competitive Selection Process or been disqualified by the Authority in accordance with the terms of this RFP; and
- (c) provides to the Authority written acknowledgment of:
  - (1) the disclaimers, limitations and waivers of liability and Claims contained in this RFP, including Section 11.13; and
  - (2) the grant of Intellectual Property Rights to the Authority and waiver of moral rights pursuant to Section 7.9.

If the Authority exercises its right under Section 11.1 to terminate the RFP process prior to entering into the Project Agreement with a Proponent, the Authority will pay to each Proponent the lesser of:

- (d) \$200,000 (inclusive of any GST/HST payable); and
- (e) the substantiated out-of-pocket costs reasonably incurred by the Proponent in preparing its Proposal,

provided that if the Authority exercises such rights after the selection of a Preferred Proponent, the Preferred Proponent must have delivered the Preferred Proponent Security Deposit in accordance with Section 9.3 to be entitled to receive any such payment.

In determining whether to make available the partial compensation described in this Section 9.10, the Authority considered the potential value of obtaining the licence to the Authority of rights to the Intellectual Property Rights and the waiver of moral rights pursuant to Section 7.9. Accordingly, after selection of the Preferred Proponent, Financial Close or the expiry of the Proposal Validity Period, the Authority may be willing to consider payment of up to \$200,000 (inclusive of any GST/HST payable) to a Proponent that fails to meet the Mandatory Requirements on conditions satisfactory to the Authority and the Proponent. The conditions may include the Authority reviewing the Intellectual Property Rights (such as for a Proposal that was returned) and being satisfied with the value of such rights, and the Proponent entering into an agreement with the Authority granting license rights to the Authority. Such arrangements will not be governed by this RFP.

### 9.11 DEBRIEFS

The Authority will, following Financial Close, upon request from a Proponent within 60 days of Financial Close, conduct a debriefing for that Proponent.

## 10. CONFLICT OF INTEREST AND RELATIONSHIP DISCLOSURE

### 10.1 RESERVATION OF RIGHTS

The Authority reserves the right to disqualify any Proponent that in the Authority's opinion has a conflict of interest or an unfair advantage (including access to any confidential information not available to all Proponents), whether real, perceived, existing now or likely to arise in the future, or may permit the Proponent to continue and impose such conditions as the Authority may consider to be in the public interest or otherwise required by the Authority.

### 10.2 RELATIONSHIP DISCLOSURE

Each Proponent, including each member of the Proponent Team, should fully disclose all relationships they may have with the Authority, any Restricted Party, or any other Person providing advice or services to the Authority with respect to the Project or any other matter that gives rise, or might give rise, to a conflict of interest or an unfair advantage:

- (a) by submission of completed Relationship Disclosure Forms with its Proposal; and
- (b) thereafter during the Competitive Selection Process by written notice addressed to the Contact Person promptly after becoming aware of any such relationship.

At the time of such disclosure, the Proponent will include sufficient information and documentation to demonstrate that appropriate measures have been, or will be, implemented to mitigate, minimize or eliminate the actual, perceived or potential conflict of interest or unfair advantage, as applicable. The Proponent will provide such additional information and documentation and implement such additional measures as the Authority may require in its discretion in connection with the Authority's consideration of the disclosed relationship and proposed measures.

### 10.3 USE OR INCLUSION OF RESTRICTED PARTIES

The Authority may, in its discretion, disqualify a Proponent, or may permit a Proponent to continue and impose such conditions as the Authority may consider to be in the public interest or otherwise required by the Authority, if the Proponent is a Restricted Party, or if the Proponent uses a Restricted Party:

- (a) to advise or otherwise assist the Proponent respecting the Proponent's participation in the Competitive Selection Process; or
- (b) as a Proponent Team member or as an employee, advisor or consultant to the Proponent or a Proponent Team member.

Each Proponent is responsible to ensure that neither the Proponent nor any Proponent Team member uses or seeks advice or assistance from any Restricted Party, or includes any Restricted Party in the Proponent Team.

#### 10.4 CURRENT RESTRICTED PARTIES

At this RFP stage, and without limiting the definition of Restricted Parties, the Authority has identified the following persons, firms or organizations as Restricted Parties:

- (a) Boughton Law Corporation (COI Adjudicator);
- (b) Jane Shackell, QC, Miller Thomson LLP (Fairness Advisor);
- (c) Miller Thomson LLP;
- (d) Ernst & Young Advisory Inc. (Business Advisor);
- (e) Fasken Martineau Dumoulin LLP (Legal Advisor);
- (f) Spiegel Skillen & Associates Limited (Quantity Surveyor);
- (g) Cannon Design and sub-consultants (Authority's compliance team) including:
  - Bush Bohlman and Partners;
  - Genivar Inc.;
  - H.H. Angus & Associates Ltd.; and
  - CTQ Consultants Ltd.
- (h) Levelton Consulting Ltd. (Geotechnical);
- (i) Sullivan Healthcare Consulting Canada Co. (LEAN);
- (j) Infusion Health KVH General Partnership (members of Infusion Health KVH General Partnership are not currently restricted on an individual basis); and

- (k) the Authority and Partnerships BC, including their former and current employees who fall within the definition of “Restricted Party”.

This is not an exhaustive list of Restricted Parties. Additional persons, firms or organizations may be added to, or deleted from, the list during any stage of the Competitive Selection Process through an Addendum.

#### 10.5 CONFLICT OF INTEREST ADJUDICATOR

The Authority has appointed a conflict of interest adjudicator (the “**COI Adjudicator**”) to provide decisions on conflicts of interest or unfair advantage issues, including whether any person is a Restricted Party. The Authority may, at its discretion, refer matters to the COI Adjudicator.

#### 10.6 REQUEST FOR ADVANCE DECISION

A Proponent or a prospective member or advisor of a Proponent who has any concerns regarding whether a current or prospective employee, advisor or member of that Proponent is, or may be, a Restricted Party, or has a concern about any conflict or unfair advantage it may have, is encouraged to request an advance decision in accordance with this Section through the following process:

- (a) to request an advance decision on whether a person is a Restricted Party, a Proponent or prospective team member or advisor of that Proponent should submit to the Contact Person, not less than ten (10) days prior to the Submission Time for Technical Submissions, by email, the following information:
  - (1) names and contact information of the Proponent and the person or firm for which the advance opinion is requested;
  - (2) a description of the relationship that raises the possibility or perception of a conflict of interest or unfair advantage;
  - (3) a description of the steps taken to date, and future steps proposed to be taken, to mitigate the conflict of interest or unfair advantage, including the effect of confidential information; and
  - (4) copies of any relevant documentation.

The Authority may make an advance decision or may refer the request for an advance decision to the COI Adjudicator. If the Authority refers the request to the COI Adjudicator, the Authority may make its own submission to the COI Adjudicator.

If a Proponent or prospective team member or advisor becomes a Restricted Party, it may be listed in an Addendum or in subsequent Competitive Selection Process documents as a Restricted Party.

#### 10.7 THE AUTHORITY MAY REQUEST ADVANCE DECISIONS

The Authority may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Authority identifies a potential conflict, unfair advantage or a person who may be a Restricted Party. The Authority will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Authority seeks an advance decision from the COI Adjudicator, the Authority will give notice to the Proponent, and may give notice to the possible Restricted Party so that it may make its own response to the COI Adjudicator.

The onus is on the Proponent to clear any potential conflict, unfair advantage, or Restricted Party, or to establish any conditions for continued participation, and the Authority may require that the Proponent make an application under Section 10.6.

#### 10.8 DECISIONS FINAL AND BINDING

The decision of the Authority or the COI Adjudicator, as applicable, is final and binding on the persons requesting the ruling and all other parties including Proponents, Proponent Team members and the Authority. The Authority or the COI Adjudicator, as applicable, has discretion to establish the relevant processes from time to time, including any circumstances in which a decision may be reconsidered.

The Authority may provide any decision by the Authority or the COI Adjudicator regarding conflicts of interest to all Proponents if the Authority, in its discretion, determines that the decision is of general application.

#### 10.9 SHARED USE

A “**Shared Use Person**” is a person identified by the Authority as eligible to do work for more than one Proponent, including a person who has unique or specialized information or skills such that the Authority considers in its discretion their availability to all Proponents to be desirable in the interests of the Competitive Selection Process. Any Shared Use Person will be required to agree not to enter into exclusive arrangements with any Proponent.

The following are designated Shared Use Persons:

- Black & McDonald

With respect to Black& McDonald, Proponents are advised of the following:

The Authority entered into a Project Agreement (“KVH Project Agreement”) dated August 19, 2008 between the Authority and Infusion Health KVH General Partnership, a general partnership of John Laing Investments KVH Ltd. and Bilfinger Berger KVH Inc. (“KVH Project Co”).

The KVH Project Agreement includes two new buildings at the KGH site and other services on that site. Black & McDonald is the Service Provider to KVH Project Co.

The Authority recognizes that Black & McDonald intends to seek opportunities to participate as part of a Proponent team for the Project. The Authority wishes to encourage competition and the continued ability of Black & McDonald to participate in the procurement of the IHSC. For that purpose, the Authority has designated Black & McDonald as a Shared Use Person.

All Proponents will be able, but not obligated, to work with Black & McDonald if they wish. Proponents will be able to integrate Black & McDonald into their Proposal as they see fit in order to provide the most competitive Proposal possible.

The Authority may require Black & McDonald to demonstrate that its participation has met the requirements of the Competitive Selection Process including the RFQ and RFP.

The Competitive Selection Process includes provision for a Fairness Advisor and Conflict of Interest Adjudicator. The Authority may seek advice and rulings from those persons as to the proposed arrangements regarding Black & McDonald as a Shared Use Person. It is possible that other arrangements may be required.

The Authority intends to disclose, upon issuance of the RFP, all relevant information Black & McDonald may have relating to the Project.

#### 10.10 EXCLUSIVITY

Unless permitted by the Authority in its sole and absolute discretion or permitted as a Shared Use Person, the following may only participate as a member of one Proponent Team:

- a Prime Team Member;
- a Key Individual; and
- the Affiliated Persons of a Prime Team Member or a Key Individual

If any Proponent, Prime Team Members, Key Individuals or their respective Affiliated Persons contravenes the foregoing, the Authority reserves the right to disqualify any or all of affected Proponents, or may permit any or all such Proponents to continue and impose such conditions as may be required by the Authority. Each Proponent is responsible, and bears the onus, to ensure that the Proponent, its



Prime Team Members and Key Individuals and their respective Affiliated Persons do not contravene the foregoing.

A Proponent or a prospective Prime Team Member or a Key Individual of a Proponent who has any concerns regarding whether participation does or will contravene the foregoing is encouraged to request an advance decision in accordance with this Section through the following process:

- (a) To request an advance decision on matters related to exclusivity, the Proponent or prospective Prime Team Member or Key Individual of that Respondent should submit to the Contact Person, not less than ten (10) days prior to the Submission Time by email, the following information:
  - (1) Names and contact information of the Proponent or Prime Team Member or a Key Individual or prospective Proponent or Prime Team Member or a Key Individual making the disclosure;
  - (2) A description of the relationship that raises the possibility of non-exclusivity;
  - (3) A description of the steps taken to-date, and future steps proposed to be taken, to mitigate any material adverse or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
  - (4) Copies of any relevant documentation.

The Authority may require additional information or documentation to demonstrate to the satisfaction of the Authority in its discretion that no such non-exclusivity exists or, if it does, that measures satisfactory to the Authority in its discretion have been or will be implemented to eliminate or mitigate any risk to the competitiveness or integrity of the Competitive Selection Process.

#### 10.11 EXTERNAL LEGAL COUNSEL

Proponents should not retain Fasken Martineau DuMoulin LLP to advise or assist them in any matter relating to this RFP. By submitting a Proposal, the Proponent expressly consents to Fasken Martineau continuing to represent the Authority for all matters in relation to this RFP and the Project, including any such matter that is adverse to the Proponent, despite any information of the Proponent and any solicitor-client relationship that the Proponent may have had, or may have, with Fasken Martineau in relation to matters other than this RFP and the Project. This Section is not intended to waive any of the Proponent's

rights of confidentiality or solicitor-client privilege. The Authority reserves the right at any time to waive any provision of this Section.

## **11. RFP TERMS AND CONDITIONS**

### **11.1 NO OBLIGATION TO PROCEED**

This RFP does not commit the Authority to select a Preferred Proponent or enter into a Project Agreement, and the Authority reserves the complete right to at any time reject all Proposals and to terminate this RFP and the Competitive Selection Process and proceed with the Project in some other manner.

### **11.2 NO CONTRACT**

Other than to the extent provided in the Participation Agreement, this RFP is not a contract between the Authority and any Proponent nor is this RFP an offer or an agreement to purchase work, goods or services. No contract of any kind for work, goods or services whatsoever is formed under, or arises from this RFP, or as a result of, or in connection with, the submission of a Proposal, unless the Authority and the Preferred Proponent execute and deliver the Project Agreement, and then only to the extent expressly set out in the Project Agreement.

### **11.3 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT**

All documents and other records in the custody of, or under the control of, the Authority are subject to the Freedom of Information and Protection of Privacy Act (“**FOIPPA**”) and other applicable legislation. Except as expressly stated in this RFP, and subject to FOIPPA or other applicable legislation, all documents and other records submitted in response to this RFP will be considered confidential.

By submitting a Proposal, the Proponent represents and warrants to the Authority that the Proponent has complied with applicable Laws, including by obtaining from each Person any required consents and authorizations to the collection of information relating to such individual and to the submission of such information to the Authority as part of the Proposal for the purposes of this RFP and the Competitive Selection Process.

#### 11.4 COST OF PREPARING THE PROPOSAL

Subject to Section 9.10, each Proponent is solely responsible for all costs it incurs in the preparation of its Proposal, including all costs of providing information requested by the Authority, attending meetings and conducting due diligence.

#### 11.5 CONFIDENTIALITY OF INFORMATION

All information pertaining to the Project received by any Proponent or Proponent Team member through participation in this RFP is confidential and may not be disclosed without written authorization from the Contact Person, and in no event will a Proponent discuss the Project with any member of the public or the media without the prior written approval of the Authority.

#### 11.6 RESERVATION OF RIGHTS

The Authority reserves the right, in its discretion, to:

- (a) amend the scope of the Project, and/or modify, cancel or suspend the Competitive Selection Process at any time for any reason;
- (b) accept or reject any Proposal based on the Authority's evaluation of the Proposals in accordance with Appendix B, and in particular the Authority is not obliged to select the Proposal with the lowest net present cost of Periodic Payments;
- (c) disqualify a Proposal that fails to meet the Mandatory Requirements;
- (d) waive a defect, irregularity, non-conformity or non-compliance in or with respect to a Proposal or failure to comply with the requirements of this RFP except for Mandatory Requirements, and accept that Proposal even if such a defect, irregularity, non-conformity or non-compliance or failure to comply with the requirements of this RFP would otherwise render the Proposal null and void;
- (e) reject, disqualify or not accept any or all Proposals without any obligation, compensation or reimbursement to any Proponent or any of its team members subject to any payment required pursuant to Section 9.10;
- (f) re-advertise for new Proposals to this or a modified RFP, call for quotes, proposals or tenders, or enter into negotiations for this Project or for work of a similar nature;
- (g) make any changes to the terms of the business opportunity described in this RFP;

- (h) negotiate any aspects of a Preferred Proponent's Proposal; and
- (i) extend, from time to time, any date, time period or deadline provided in this RFP, upon written notice to all Proponents.

#### 11.7 NO COLLUSION

Proponents and Proponent Team members, their employees and representatives involved with the Proposal, including Key Individuals, will not discuss or communicate, directly or indirectly, with any other Proponent or any director, officer, employee, consultant, advisor, agent or representative of any other Proponent (including any Proponent Team Member or Key Individual of such other Proponent) regarding the preparation, content or representation of their Proposals.

By submitting a Proposal, a Proponent, on its own behalf and as authorized agent of each firm, corporation or individual member of the Proponent and Proponent Team, represents and confirms to the Authority, with the knowledge and intention that the Authority may rely on such representation and confirmation, that its Proposal has been prepared without collusion or fraud, and in fair competition with Proposals from other Proponents.

#### 11.8 NO LOBBYING

Proponents, Proponent Team Members and Key Individuals, and their respective directors, officers, employees, consultants, agents, advisors and representatives will not engage in any form of political or other lobbying whatsoever in relation to the Project, this RFP, or the Competitive Selection Process, including for the purpose of influencing the outcome of the Competitive Selection Process. Further, no such person (other than as expressly contemplated by this RFP) will attempt to communicate in relation to the Project, this RFP, or the Competitive Selection Process, directly or indirectly, with any representative of the Authority, the Government of British Columbia (including any Minister or Deputy Minister, any member of the Executive Council, any Members of the Legislative Assembly, or any employee of the Ministry of Health), Partnerships BC, any Restricted Parties, or any director, officer, employee, agent, advisor, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of:

- (a) commenting on, or attempting to influence views on, the merits of the Proponent's Proposal, or in relation to Proposals of other Proponents;
- (b) influencing, or attempting to influence, the evaluation and ranking of Proposals, the selection of the Preferred Proponent, or any negotiations with the Preferred Proponent;

- (c) promoting the Proponent or its interests in the Project, including in preference to that of other Proponents;
- (d) commenting on or criticizing aspects of this RFP, the Competitive Selection Process, the Project, or the Project Agreement, including in a manner which may give the Proponent a competitive or other advantage over other Proponents; and
- (e) criticizing the Proposals of other Proponents.

In the event of any lobbying or communication in contravention of this Section, the Authority in its discretion may at any time, but will not be required to, reject any and all Proposals submitted by that Proponent without further consideration and the Proponent will not be eligible for, or receive, the partial compensation as set out in Section 9.10.

#### 11.9 PARTNERSHIPS BC PROJECTS

The Authority may at any time, including without limitation for purposes of evaluation and negotiation, take into account any relevant information that becomes available to it from any source. Without limiting the foregoing, the Authority has engaged Partnerships BC, which is currently engaged in projects across a variety of sectors, and the Authority may receive information in respect of those other projects which may be relevant to Proponents or Proponent Team members. Subject to Section 2.2, the Authority may share information that is available from this Project with Partnerships BC and other projects. The Authority assumes no responsibility to identify relevant information from other projects and Proponents remain fully responsible to submit a complete Proposal.

#### 11.10 OWNERSHIP OF PROPOSAL

All Proposals submitted to the Authority become the property of the Authority and will be received and held in confidence by the Authority, subject to the provisions of FOIPPA and this RFP.

#### 11.11 DISCLOSURE AND TRANSPARENCY

The Authority is committed to an open and transparent procurement process. To assist the Authority in meeting its commitment, Proponents will cooperate and extend all reasonable accommodation to this endeavour.

The Authority expects to publicly disclose the following information during this stage of the Competitive Selection Process:

1. the RFP;
2. the number of Proponents; and

3. the name of Proponents.

Following Financial Close, the Authority expects to publicly disclose:

1. the Fairness Advisor's report;
2. a Project Report; and
3. the final Project Agreement.

Each Proponent agrees that:

- (a) to ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence the RFP process, the disclosure of any public information generated in relation to the Project, including communications with the media and the public, must be coordinated with, and is subject to prior written approval of, the Authority;
- (b) it will notify the Authority of any and all requests for information or interviews received from the media; and
- (c) it will ensure that all of the Proponent Team members and others associated with the Proponent comply with the requirements of this RFP.

#### 11.12 FAIRNESS ADVISOR

The Authority has appointed Jane Shackell, QC (the "**Fairness Advisor**") to monitor the Competitive Selection Process. The Fairness Advisor will provide a written report to the Authority that the Authority will make public.

The Fairness Advisor will be:

- (a) provided full access to all documents, meetings and information related to the evaluation processes under this RFP which the Fairness Advisor, in its discretion, decides is required; and
- (b) kept fully informed by the Authority of all documents and activities associated with this RFP.

Proponents may contact the Fairness Advisor directly with regard to concerns about the fairness of the Competitive Selection Process.

### 11.13 LIMITATION OF DAMAGES

Each Proponent on its own behalf and on behalf of the Proponent Team and any member of a Proponent Team:

- (a) agrees not to bring any Claim against the Authority or any of its employees, advisors or representatives for damages in excess of the amount equivalent to the reasonable costs incurred by the Proponent in preparing its Proposal for any matter in respect of this RFP or Competitive Selection Process, including:
  - (1) if the Authority accepts a non-compliant proposal or otherwise breaches, or fundamentally breaches, the terms of this RFP or the Competitive Selection Process; or
  - (2) if the Project or Competitive Selection Process is modified, suspended or cancelled for any reason (including modification of the scope of the Project or modification of this RFP or both) or the Authority exercises any rights under this RFP; and
- (b) waives any and all Claims against the Authority or any of its employees, advisors or representatives for loss of anticipated profits or loss of opportunity if no agreement is made between the Authority and the Proponent for any reason, including:
  - (1) if the Authority accepts a non-compliant proposal or otherwise breaches or fundamentally breaches the terms of this RFP or the Competitive Selection Process; or
  - (2) if the Project or Competitive Selection Process is modified, suspended or cancelled for any reason (including modification of the scope of the Project or modification of this RFP or both) or the Authority exercises any rights under this RFP.

This Section does not limit the Authority's obligation to make payment under Section 9.10 but in no event will the Authority's liability exceed the amount calculated pursuant to Section 9.10.

## 12. INTERPRETATION

### 12.1 DEFINITIONS

In this RFP:

Capitalized terms in this RFP that are not defined in this Section have the meaning given in the Project Agreement.

**Addendum** means an addendum to this RFP issued by the Contact Person as described in Section 7.8;

**Affordability Ceiling** has the meaning set out in Section 5.1;

**Affordability Model** has the meaning set out in Section 5.2;

**Authority** means Interior Health Authority;

**Authority Funding** means payments from the Authority to Project Co during the Construction Period pursuant to Schedule 8 [Payments] of the Project Agreement;

**Authority Representatives** has the meaning set out in Section 2.2;

**Base Rate** means the base interest rate for any proposed senior debt facility as shown in the Proponent's Financial Model;

**Changed Funding Arrangements** has the meaning set out in Section 9.7;

**City** means the City of Kelowna;

**Claim** means any claim, demand, suit, action, or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto;

**COI Adjudicator** means the person described in Section 10.5;

**Collaborative Meetings** has the meaning set out in Section 2.2;

**Competitive Selection Process** means the overall process for the selection of a Preferred Proponent for the Project including, but not limited to, this RFP stage;

**Construction Management Agreement** has the meaning set out in Section 4;

**Construction Management Services Submission** has the meaning set out in Appendix B;

**Construction Manager** is the constructor who will provide the construction management services;

**Contact Person** means the person identified as such in the Summary of Key Information;



**Credit Spread** means for any debt facility the rate of interest applicable to the amount of such debt facility as shown in the Financial Model minus the applicable Base Rate;

**Credit Spread Benchmark** means publicly verifiable and observable tools/rates or a basket of tools/rates used to measure the movement of the Credit Spread;

**Credit Spread Hold Facilities** has the meaning set out in Section 6.3;

**Credit Spread Refresh Lock-In Date** has the meaning set out in Section 9.8;

**Credit Spread Refresh Facilities** has the meaning set out in Section 6.3;

**Data Room** has the meaning set out in Section 2.4;

**Enquiry** has the meaning set out in Section 7.6;

**Equity IRR** means Project Co's Nominal blended equity internal rate of return (inclusive of all success and development fees to the equity providers) calculated on an after tax basis at the level of Project Co in accordance with the Financial Model as shown in Cell ▼ of the Outputs Summary Sheet, having regard to Distributions made and projected to be made;

**Equity Member** of a Proponent means an individual, corporation, joint venture, partnership or other legal entity who will have an ownership or equity interest in the Project, as described in the Proposal;

**Facility** has the meaning set out in Section 1.1;

**Fairness Advisor** has the meaning set out in Section 11.12;

**Final Draft Project Agreement** has the meaning set out in Section 2.3;

**Financial Close** means the time when the Project Agreement, Project financing and other agreements related to the Project have been executed and delivered and all conditions of the Project Agreement and Project financing agreements have been satisfied;

**Financing Plan** has the meaning set out in Section 5.6.1 of Appendix B;

**Financial Model** has the meaning set out in Section 5.7 of Appendix B;

**Financial Submission** has the meaning set out in Appendix B;

**FOIPPA** has the meaning set out in Section 11.3;

**GST/HST** at any given time means the tax imposed at that time pursuant to Section IX of the Excise Tax Act (Canada);

**Indicative Design** has the meaning set out in Schedule 3 [Design and Construction Specifications];

**Initial Draft Project Agreement** means the draft Project Agreement labelled “Initial Draft Project Agreement” and posted in the Data Room;

**Intellectual Property Rights** has the meaning set out in Section 7.9;

**Key Individuals** of a Proponent means the specific firms and persons, exclusive to the Proponent, filling the following roles (or equivalent) in the Proponent’s Proposal:

- Project Co’s Project Director;
- Design Builder’s Project Director;
- Design Builder’s Design Team Lead;
- FM Services Team Lead; and
- Healthcare Equipment Specialist.

**Mandatory Requirements** means the Proposal requirements described in Section 7.15;

**Material Non-Compliance** has the meaning set out in Section 8.1;

**Partnerships BC** means Partnerships British Columbia Inc.;

**Participation Agreement** has the meaning set out in Section 6.1;

**Performance Specifications** means the specifications for the design, construction and maintenance of the Facility as set out in the Project Agreement, including Schedule 3 [Design and Construction Specifications] and Schedule 4 [Services Protocols and Specifications];

**Preferred Proponent** means the Proponent selected pursuant to this RFP to enter into negotiations with the Authority for a Project Agreement;

**Preferred Proponent Security Deposit** means an irrevocable letter of credit in the amount of \$500,000 in the form set out in Appendix H or in such other form acceptable to the Authority in its discretion;

**Pricing Forms** means the forms set out in Appendix B;

**Project** means the design, construction, financing, commissioning and maintenance and other specified services of and for the Facility and all other works ancillary to the Facility;

**Project Agreement** has the meaning set out in Section 1.1;

**Project Co** means the entity that enters into the Project Agreement with the Authority;

**Project Work** means the scope of work undertaken by Project Co in the completion of the Project;

**Proponent** means one of the consortia identified in Section 1.2;

**Proponent Team** means a Proponent, its Equity Members and Key Individuals;

**Proposal** means a proposal submitted in response to this RFP;

**Proposal Requirements** means the requirements described in Appendix B;

**Proposal Validity Period** has the meaning set out in Section 7.13;

**Relationship Disclosure Form** means a form substantially as set out in Appendix D or as otherwise acceptable to the Authority;

**Restricted Party** means those persons or firms (including their former and current employees) who had, or currently have, participation or involvement in the Competitive Selection Process or the design, planning or implementation of the Project, and who may provide a material unfair advantage or confidential information to any Proponent that is not, or would not reasonably be expected to be, available to other Proponents;

**RFP** means this request for proposals;

**RFQ** has the meaning set out in Section 1.2;

**Shared Use Person** has the meaning set out in Section 10.9;

**Submission Location** means the submission location identified as such in the Summary of Key Information;

**Submission Time for Construction Management Services Submissions** means the time indicated as such in the Summary of Key Information;

**Submission Time for Financial Submissions** means the time indicated as such in the Summary of Key Information;

**Submission Time for Technical Submissions** means the time indicated as such in the Summary of Key Information;

**Technical Submission** has the meaning set out in Appendix B;

**Third Party Intellectual Property Rights** means all Intellectual Property Rights of any Person which is not a member of, or a related party to, a member of the Proponent Team;

**Total Facility Development and Capital Costs** of a Proposal means the amount described as such in, and calculated in accordance with, Pricing Form A6 (Total Facility Development and Capital Cost).

## 12.2 INTERPRETATION

In this RFP:

- (a) the use of headings is for convenience only and headings are not to be used in the interpretation of this Agreement;
- (b) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFP;
- (c) words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa;
- (d) the word “including” when used in this RFP is not to be read as limiting; and
- (e) each Appendix attached to this RFP is an integral part of this RFP as if set out at length in the body of this RFP.

**APPENDIX A**  
**EVALUATION OF PROPOSALS**

Provided as separate document.

**APPENDIX B**  
**PROPOSAL REQUIREMENTS**

Provided as separate document.

**APPENDIX C**  
**PROPOSAL DECLARATION FORM**

1. This Proposal Declaration must be executed by the Proponent.
2. By executing this Proposal Declaration, the Proponent agrees to the provisions of the RFP and this Proposal Declaration.
3. Capitalized terms are defined in Section 12.1 of the RFP.

**[RFP Proponent's Letterhead]**

To: [Insert client and address]

Attention: [Insert contact person]

In consideration of the Authority's agreement to consider our Proposal in accordance with the terms of the RFP, the Proponent hereby agrees, confirms and acknowledges on its own behalf and on behalf of each member of the Proponent team, that:

**1. Proposal**

- (a) this Proposal Declaration Form has been duly authorized and validly executed;
- (b) the Proponent is bound by all statements and representations in its Proposal;
- (c) its Proposal strictly conforms with the RFP and that any failure to strictly conform with the RFP may, in the discretion of the Authority, be cause for rejection of its Proposal;
- (d) its Proposal is made without collusion or fraud;
- (e) the Authority reserves the right to verify information in its Proposal and conduct any background investigations including criminal record investigations, verification of the Proposal, credit enquiries, litigation searches, bankruptcy registrations and other investigations on all or any of the Proponent Team members, and by submitting a Proposal, the Proponent agrees that they consent to the conduct of all or any of those investigations by the Authority.

**2. Acknowledgements with Respect to the RFP**

- (a) the Proponent has received, read, examined and understood the entire RFP including all of the terms and conditions, all documents listed in the RFP “Table of Contents”, and any and all Addenda;
- (b) the Proponent has provided a Proposal that does not exceed the Affordability Ceiling as defined in the RFP;
- (c) the Proponent agrees to be bound by the entire RFP including all of the terms and conditions, all documents listed in the RFP “Table of Contents”, and any and all Addenda;
- (d) the Proponent’s representative identified below is fully authorized to represent the Proponent in any and all matters related to its Proposal, including but not limited to providing clarifications and additional information that may be requested in association with the RFP;
- (e) the Proponent has disclosed all relevant relationships, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (f) the Final Draft Project Agreement is in a form acceptable to the Proponent Team and the Senior Lenders.

**3. Consent of Proponent Team**

- (a) The Proponent has obtained the express written consent and agreement of each member of the Proponent Team, as listed below, to all the terms of this Proposal Declaration Form.

**4. Proponent Team consists of:**

Name	Address	Equity Member or Key Individual



**PROPONENT REPRESENTATIVE**

---

Name

Name of Employer

---

Address

Email Address

---

Name of Authorized Signatory

Telephone

Signature

[ IF THE PROPONENT IS A JOINT VENTURE, CONSORTIUM OR SPECIAL PURPOSE  
ENTITY – BY EACH OF ITS JOINT VENTURE OR CONSORTIUM MEMBERS, AS  
APPLICABLE ]

---

**APPENDIX D**  
**RELATIONSHIP DISCLOSURE FORM**

**This form must be completed by the Proponent on its own behalf and on behalf of each member of the Proponent Team.**

The Proponent declares on its own behalf and on behalf of each member of the Proponent Team that:

- (a) This declaration is made to the best of the knowledge of the Proponent and, with respect to relationships of each member of the Proponent team, to the best of the knowledge of that member.
- (b) The Proponent and the members of the Proponent Team have reviewed the definition of Restricted Parties and the non-exhaustive list of Restricted Parties in Section 10.4.
- (c) The following is a full disclosure of all known relationships the Proponent and each member of the Proponent Team has, or has had, with:
  - (1) The Authority;
  - (2) Any listed Restricted Party;
  - (3) Any current employee, shareholders, directors or officers, as applicable, of the Authority or any listed Restricted Party;
  - (4) Any former shareholders, directors or officers, as applicable, of the Authority or any listed Restricted Party, who ceased to hold such position within two calendar years prior to the Submission Time for Technical Submissions; and
  - (5) Any other person who, on behalf of the Authority or a listed Restricted Party, has been involved in the Competitive Selection Process or the design, planning or implementation of the Project.

Name of Proponent Team member	Name of party with relationship (e.g., list Authority, Restricted Party)	Details of the Nature of the relationship with the listed Restricted Party/Person (e.g., Proponent Team member was an advisor to the Restricted Party from _____ to _____)

**NAME OF PROPONENT:**

---

Name of Firm – Proponent/Key Individual:

---

Address:

---

Email Address:

---

Telephone:

---

Name of Authorized Signatory for  
 Proponent/Key Individual:

---

Signature:

---



---

[IF THE PROPONENT IS A JOINT VENTURE, CONSORTIUM OR SPECIAL PURPOSE ENTITY – BY EACH OF ITS JOINT VENTURE OR CONSORTIUM MEMBERS, AS APPLICABLE ]

---

**APPENDIX E  
PROPONENT COMMENTS FORM**

**(Collaborative Meetings – s. 2.3(b))**

**Interior Heart and Surgical Centre Project**

<b>Section</b>	<b>Proposed Change (including detailed drafting)</b>	<b>Reasons for Proposed Change</b>	<b>Authority Response</b>

## APPENDIX F PARTICIPATION AGREEMENT

Month Day, 20XX

Interior Health Authority  
B3 – 1620 Dickson Avenue  
Kelowna, BC V1Y 9Y2  
Victoria, BC V8W 3G3

Attention: Doris Langlois, Contact Person

Dear Sirs/Mesdames:

Re: Interior Heart and Surgical Centre Project – Participation Agreement in respect of the Request for Proposals issued by Interior Health Authority (the Authority) on Month Day, 20XX, as amended or otherwise clarified from time to time, including by all Addenda (the RFP)

This letter agreement sets out the terms and conditions of the Participation Agreement between ▼ [insert name of Proponent] (the **Proponent**) and the Authority, pursuant to which the Proponent agrees with the Authority as follows:

- 1. Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP
- 2. Participation.** The Proponent agrees that as a condition of participating in the RFP, including the Competitive Selection Process, Collaborative Meetings and access to the Data Room, the Proponent and each of its Equity Members will comply with the terms of this Participation Agreement and the terms of the RFP.
- 3. Confidentiality.** The Proponent will comply with, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with, the Confidentiality Conditions attached as Schedule 1 to this Participation Agreement, all of which conditions are expressly included as part of this Participation Agreement.
- 4. Terms of RFP.** The Proponent will comply with and be bound by, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with and are bound by, the provisions of the RFP, all of which are incorporated into this Participation Agreement by reference. Without limiting the foregoing the Proponent agrees:

- (a) that the terms of this Participation Agreement do not limit the Proponent's obligations and requirements under the RFP, any Data Room agreement, or any other document or requirement of the Authority;
- (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and any indemnities contained in the RFP, including Section 11.13 (Limitation of Damages) of the RFP. In no event will the liability of the Authority exceed the amount calculated pursuant to Section 9.10 (Partial Compensation for Participation in the RFP) of the RFP;
- (c) that the Authority's and the Proponent's obligations in respect of payments of partial compensation or other similar payment are as set out in Section 9.10 (Partial Compensation for Participation in the RFP) of the RFP; and
- (d) that the Authority's and the Proponent's obligations in respect of the Preferred Proponent Security Deposit are as set out in Sections 9.3, 9.4 and 9.5 of the RFP.

**5. Amendments.** The Proponent acknowledges and agrees that:

- (a) the Authority may in its sole and absolute discretion amend the RFP at any time and from time to time; and
- (b) by submitting a Proposal the Proponent accepts, and agrees to comply with, all such amendments and, if the Proponent does not agree to any such amendment, the Proponent's sole recourse is not to submit a Proposal.

**6. General.**

- (a) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:
  - (1) it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
  - (2) this Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
  - (3) this Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.

- (b) *Survival following cancellation of the RFP.* Notwithstanding anything else in this Participation Agreement, if the Authority, for any reason, cancels the Competitive Selection Process or the RFP, the Proponent agrees that it continues to be bound by, and will continue to comply with, Section 3 of this Participation Agreement.
- (c) *Severability.* If any portion of this Participation Agreement is found to be invalid or unenforceable by law by a court of competent jurisdiction, then that portion will be severed and the remaining portion will remain in full force and effect.
- (d) *Enurement.* This Participation Agreement enures to the benefit of the Authority and binds the Proponent and its successors.
- (e) *Applicable Law.* This Participation Agreement is deemed to be made pursuant to the laws of the Province of British Columbia and the laws of Canada applicable therein and will be governed by and construed in accordance with such laws.
- (f) *Headings.* The use of headings is for convenience only and headings are not to be used in the interpretation of this Participation Agreement.
- (g) *Gender and Number.* In this Participation Agreement, words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa.
- (h) *Including.* The word including when used in this Participation Agreement is not to be read as limiting.

Yours truly,

---

(Name of Proponent)

---

(Name of Equity Member)

---

Authorized Signatory

---

Authorized Signatory

---

Name of Authorized Signatory  
(please print)

---

Name of Authorized Signatory  
(please print)

---

(Name of Equity Member)

---

Authorized Signatory

---

Name of Authorized Signatory  
(please print)

**[Add signature block for each Equity  
Member]**



## SCHEDULE 1

### CONFIDENTIALITY CONDITIONS

1. **Definitions.** In these confidentiality conditions:

- (a) **“Confidential Information”** means all documents, knowledge and information provided by the Disclosing Party to, or otherwise obtained by, the Receiving Party, whether before or after the date of the RFP, whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, the RFP, the RFQ or the Competitive Selection Process, including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information which:
- (1) is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
  - (2) is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Schedule 1 and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - (3) was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of the RFP and did not originate, directly or indirectly, from the Disclosing Party;
  - (4) was developed independently by the Receiving Party without the use of any Confidential Information; or
  - (5) is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
- (b) **“Disclosing Party”** means the Authority or any of its Representatives;

- (c) **“Permitted Purposes”** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Participation Agreement;
  - (d) **“Receiving Party”** means a Proponent or any of its Representatives;
  - (e) **“Representative”** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Equity Member, Key Individual, Project team members or any other person contributing to or involved with the preparation or evaluation of Proposals or proposals, as the case may be, or otherwise retained by the Receiving Party, the Authority or Partnerships BC in connection with the Project.
2. **Confidentiality.** The Receiving Party will keep all Confidential Information strictly confidential and will not without the prior written consent of the Authority, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Receiving Party will make all reasonable, necessary, and appropriate efforts to safeguard the Confidential Information from disclosure to any other person, firm, corporation, or other entity except as permitted in this Schedule 1, and will ensure that each of its Representatives agrees to keep such information confidential and to act in accordance with the terms contained herein.
3. **Ownership of Confidential Information.** The Authority owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Schedule 1, the Receiving Party will keep all Confidential Information that the Receiving Party receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of the RFP, and will not, without the prior express written consent of an authorized representative of the Authority, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person, firm, corporation or other entity for any purpose whatsoever.
4. **Limited Disclosure.** The Receiving Party may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Proposal or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Receiving Party will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.

5. **Destruction on Demand.** On written request, the Receiving Party will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Receiving Party will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC (for this purpose information stored electronically will be deemed destroyed upon removal from all storage systems and devices); provided, however, that the Receiving Party may retain one copy of any Confidential Information which it may be required to retain or furnish to a court or regulatory authority pursuant to applicable law.
6. **Acknowledgment of Irreparable Harm.** The Receiving Party acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Authority or Partnerships BC may be irreparably harmed if any provision of this Schedule 1 were not performed by the Receiving Party or any party to whom the Receiving Party provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Receiving Party further acknowledges and agrees that the Authority will be entitled to injunctive and other equitable relief to prevent or restrain breaches of any provision of this Schedule 1 by the Receiving Party or any of its Representatives, or to enforce the terms and provisions hereof, by an action instituted in a court of competent jurisdiction, which remedy or remedies are in addition to any other remedy to which the Authority may be entitled at law or in equity.
7. **Waiver.** No failure to exercise, and no delay in exercising, any right or remedy under this Schedule 1 by the Authority will be deemed to be a waiver of that right or remedy.

**APPENDIX G  
COMMITMENT LETTER TEMPLATE**

**Financial Submission**

**The commitment letter submitted as part of the Financial Submission should be in substantially the following form, addressed to the Authority, and sent from all Senior Lenders supporting the Proposal, either individually or (provided that all of them sign the letter) as a group. Separate letters from separate groups of Senior Lenders (e.g., senior, mezzanine, capital markets, and financial guarantors) may be provided, if appropriate.**

To: Interior Health Authority  
B3 – 1620 Dickson Avenue  
Kelowna, BC V1Y 9Y2  
Attention: Doris Langlois, Contact Person

Re: [insert Project Name]  
  
(the “Project”)

[Individual letter - Bank or other financial institution name] [Group letter]

The signatories of this letter provide(s) this letter in support of the Proposal (as defined in the RFP) submitted by [the Proponent’s name] (the “Proponent”) in response to the RFP issued by the Authority on August 3, 2011, as amended, in relation to the Project and in consideration of the Authority inviting the Proponent to submit such Proposal.

1. We confirm that we have undertaken the due diligence that we consider necessary on the Project to enable us to offer committed financing to the Proponent in an amount of not less than \$▼.00 in support of the Proponent’s Proposal, which the Proponent has confirmed to us complies with the requirements of the RFP. The provision of such financing will be subject only to the following:
  - (a) the completion of a satisfactory audit of the financial close financial model;
  - (b) negotiation and finalization of funding documentation based on the attached debt term sheet; and
  - (c) negotiation and finalization of Principal Contracts based on the heads of terms included in the Proposal.
2. We have carried out and relied upon the due diligence referred to in paragraph 1 above with support from, and in cooperation with, [name] (our legal advisors), [name] (our technical advisors) and [name] (our insurance advisors) [and [name] (our model auditors)]. In particular:

- (a) due diligence on the Technical Submission proposed for the Project by the Proponent has been undertaken on our behalf and we are satisfied with the Technical Submission;
  - (b) due diligence on the insurance proposals contained in the Proposal and the Authority's requirements in relation to insurances for the Project has been undertaken on our behalf and we can confirm that we are satisfied with the adequacy of the proposed insurance arrangements contained within the Proposal (assuming that such insurance arrangements are commercially available at the time of financial close);
  - (c) due diligence has been undertaken on the Financial Model included in the Proposal and we confirm that the results of the Financial Model (including the sensitivities) are satisfactory and capable of supporting the proposed financing described in the attached debt term sheet; and
  - (d) we confirm that we accept the terms and risk allocation of and have no further comments on the Final Draft Project Agreement, and that this agreement is acceptable without modification (except as contemplated therein) for purposes of financing the Project as contemplated in this letter.
3. We are satisfied that the attached debt term sheet sets out all significant commercial terms and conditions relating to the financing referred to in paragraph 1 above and the debt funding structure and, if any, all required terms relating to any material adverse change conditions to which the commitment referred to in paragraph 1 above is subject.
4. [If individual letters submitted] We confirm that we have received credit committee approval and, if any, other required internal approvals for the underwriting of up to [ ] % of the [describe relevant facilities referred to in debt term sheet] on the terms contemplated by this letter and the attached debt term sheet.
- [If group letters submitted] We confirm that we have received credit committee approval and, if any, other required internal approvals for the underwriting of the facilities referred to in the attached debt term sheet in the following percentages and on the terms contemplated by this letter and the attached debt term sheet:
- [List banks/financial institutions individually and the percentage participations of each of them in each facility]
- [If individual or group letters submitted] We confirm that [our commitment] [the commitment of each signatory of this letter] described in this letter in the amount represented by the percentage[s] detailed above will not be affected by any subsequent withdrawal by, or removal of, any other Senior Lender from the Proponent's financing plan].

5. We confirm that we will be able to meet the Authority's timetable to achieve Financial Close (i.e., execution and delivery of all funding agreements and satisfaction of all conditions precedent to initial drawdown) 10-12 weeks after the announcement of the Proponent as the Preferred Proponent.

This letter does not constitute an offer of finance or a legally binding commitment of any kind to provide finance. This letter is intended for your exclusive use and may not be relied upon or used by any other person. This letter is provided on the condition that the contents will be treated as strictly private and confidential and shall not be disclosed or quoted in whole or in part to any person other than the Authority, other governmental authorities including the Province of British Columbia, and/or their advisors.

The provisions of this letter and attached debt term sheet have been approved for a period expiring not less than 120 days from the date of the Financial Submission on March 15, 2012. (the "Submission Time for Financial Submission" under the RFP).

**APPENDIX H**  
**PREFERRED PROPONENT SECURITY DEPOSIT**

[Note: The Preferred Proponent Security Deposit should be a Letter of Credit substantially in the following form, issued by, or confirmed by, a Canadian chartered bank acceptable to the Authority in its discretion and be callable at the bank's counters in Vancouver, British Columbia.]

**TO:     Insert Authority Name**

<>

**(the "Beneficiary")**

**RE:     PREFERRED PROPONENT SECURITY DEPOSIT**

IRREVOCABLE LETTER OF CREDIT NO: \_\_\_\_\_

Dear Sirs:

At the request of our client, \_\_\_\_\_ (the "**Customer**"), we hereby issue in your favour our irrevocable letter of credit No. \_\_\_\_\_ ("**Letter of Credit**") for a sum not exceeding in the aggregate XXXXXXXXXXXXXx Thousand Canadian Dollars (CDN \$XXX,000) effective immediately.

This bank will immediately pay to you under this Letter of Credit any amount or amounts claimed, not exceeding in the aggregate the sum of CDN \$250,000 upon your written demand(s) for payment being made upon us at our counter during normal business hours, <> [**Note: insert address of Bank in Vancouver, British Columbia**], Canada referencing this irrevocable Letter of Credit No.

\_\_\_\_\_ dated \_\_\_\_\_.

Partial drawings are permitted.

This Letter of Credit is issued subject to Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600.

Drawings up to the full amount of the Letter of Credit may be made where the drawing is accompanied by a certificate executed by an authorized signatory of the Beneficiary stating that:

- (a) the person signing the certificate is an authorized signatory of the Beneficiary; and

(b) the Beneficiary is entitled to draw upon this Letter of Credit.

Any drawings made under this Letter of Credit must be accompanied by the original or certified copy of this Letter of Credit, together with an original certificate complying with the conditions set out above.

We will honour your written demand(s) for payment on presentation without enquiring whether you have a legitimate claim between yourself and our said Customer.

All banking charges are for the account of the Customer.

This Letter of Credit will remain in full force and effect and, unless renewed, will expire at the close of business on \_\_\_\_\_ [insert 180 days after the Submission Time for Financial Submissions]

Notice of non-renewal will be provided to the Beneficiary in writing by registered mail by not later than 30 days before the expiry date.

---

Authorized Signatory

---

Authorized Signatory



**APPENDIX I**  
**CONSTRUCTION INSURANCE UNDERWRITING QUESTIONNAIRE**

<b>CONSTRUCTION INSURANCE</b>	
<b>UNDERWRITING QUESTIONNAIRE</b>	
<p>✓ Complete this questionnaire for any/all construction being performed on your property.</p> <p>✓ Only fill in areas applicable to your construction project.</p>	<p><b>SUBMIT THE COMPLETED QUESTIONNAIRE TO:</b></p> <p>Risk Management Branch, PO Box 9405 Stn Prov Govt, Victoria BC V8W 9V1 OR FAX to (250) 953-3050</p>

<b>CONSTRUCTION PROJECT TYPE:</b>	New Construction <input checked="" type="checkbox"/>	Addition <input type="checkbox"/>	Renovation <input type="checkbox"/>	Envelope Repair <input type="checkbox"/>	Roofing <input type="checkbox"/>
-----------------------------------	--	-----------------------------------	-------------------------------------	--	----------------------------------

<b>Owner:</b>	Insert Authority Name
<b>Mailing Address:</b>	Insert Address
<b>Project Location Address:</b>	Insert Address
<b>Legal Description:</b>	Insert Legal Description
<b>Project Description (name):</b>	Insert Project Name

<b>NAME AND ADDRESS OF THE FOLLOWING:</b>	
<b>Project Manager:</b>	
<b>General Contractor:</b>	
<b>Architect:</b>	
<b>Architectural &amp; Engineering Consultants:</b>	
<b>Mortgagee:</b>	1 <sup>st</sup>
<i>(include address)</i>	2 <sup>n</sup>

\_\_\_\_\_

<b>BUDGET SUMMARY:</b>	Provide copy of provisional construction budget summary.	<b>Attached</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		:		
<b>Estimated Project Cost:</b>	\$ _____	<b>Hard Costs:</b>	\$ _____	e.g. all materials, labour, estimate for inflation, consulting fees (including architect, engineer, etc.), etc.
		<b>Soft Costs:</b>	\$ _____	e.g. property taxes, building permits, insurance premiums, construction loan fees, additional interest expenses, leasing and marketing expenses, sustained as a consequence of insured physical damage.

<b>Project Duration:</b>	<b>Proposed Starting Date:</b>	<b>Estimated Completion Date:</b>
	_____	_____
	<i>dd-mmm-yyyy</i>	<i>dd-mmm-yyyy</i>

<b>CONSTRUCTION INFORMATION:</b>	<b>No. of Buildings:</b>	<b>No. of Units:</b>	<b>No. of Storeys:</b>
	_____	_____	_____
	<b>Distance between Buildings</b> (if applicable):	<b>Wall Construction:</b>	<b>Roof Construction:</b>
	_____ <i>feet</i>	_____	_____

<b>RENOVATION PROJECTS:</b>	<b>Year Structure Built:</b>	<b>Roofing Work:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>
	<b>Will the existing building(s) be in the care and custody of the contractor?</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	
	<b>If yes to Roofing Work Describe:</b>	<b>Estimate of Roofing Work</b> \$ _____

<b>FIRE PROTECTION:</b>	<b>No. of operating Fire Hydrants:</b>	<b>Distance to Fire</b> _____ <i>feet</i>
	_____	

	<b>Hydrants:</b> _____
Distance to Fire Hall: _____	<i>Miles</i>
If <b>NEW CONSTRUCTION</b> , confirm hydrants will be pressurized prior to framing:    Yes <input type="checkbox"/> No <input type="checkbox"/>	

<b>SURROUNDING EXPOSURES:</b>										
	<b>Buildings:</b>	North	_____	<i>feet</i>	South	_____	<i>feet</i>	East	_____	<i>feet</i>
	<b>Roads:</b>	North	_____	<i>feet</i>	South	_____	<i>feet</i>	East	_____	<i>feet</i>

<b>DESCRIBE SITE SECURITY DETAILS:</b>	
--	--

<b>INTENDED OCCUPANCY OF COMPLETED PROJECT?</b>	If partial occupancy prior to completion, what portion?
---	---

<b>TRANSIT LIMIT OF EXPOSURE:</b>	\$		<b>Materials being transported outside of Canada or the USA?</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		Maximum value of material stored away from the construction site?			\$

<b>TYPE OF AREA:</b>	Business: <input type="checkbox"/>	Downtown: <input type="checkbox"/>	Industrial: <input type="checkbox"/>	Residential: <input type="checkbox"/>	Rural: <input type="checkbox"/>	Other: <input type="checkbox"/>
----------------------	------------------------------------	------------------------------------	--------------------------------------	---------------------------------------	---------------------------------	---------------------------------

<b>SUB-CONTRACTORS:</b>	<b>With respect to the 4 largest sub-contractors please provide the following:</b>	
	<b>Description of Work:</b>	<b>Estimated Price Including Materials:</b>
		\$
		\$
		\$

	\$
--	----

<b>BLASTING (if any):</b>	Estimated Price: \$ _____	Pre-Blast Survey: Yes <input type="checkbox"/> No <input type="checkbox"/>	
		Seismographic Readings: Yes <input type="checkbox"/> No <input type="checkbox"/>	

<b>EXCAVATION (if any):</b>	Performed By: _____	Estimated Price: \$ _____	
Excavated Material Types: _____	Water table above bottom of excavation? Yes <input type="checkbox"/> No <input type="checkbox"/>		
If yes, how will it be controlled? _____			

<b>ASBESTOS REMOVAL:</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Duration: _____ weeks	Estimated Value: \$ _____
--------------------------	--	-----------------------	---------------------------

<b>SHORING (if applicable):</b>	Underpinning: Yes <input type="checkbox"/> No <input type="checkbox"/>	Estimated Price: \$ _____
Performed By: _____		

<b>PILE DRIVING (if applicable):</b>	Estimated Price: \$ _____	Pre-Inspection for existing damage: Yes <input type="checkbox"/> No <input type="checkbox"/>	
		Seismographic Readings: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Performed By: _____			

<b>DEMOLITION (if applicable):</b>	Estimated Price: \$ _____	Method of Demolition: _____
Performed By: _____		
Type of Structure: _____	Height: _____ feet	Storeys which equals? _____ feet

<b>WELDING</b> (if applicable):	<b>Fire Precautions:</b>
---------------------------------	------------------------------

<b>ERECTION OF STRUCTURE:</b>	<b>Estimated Price:</b> \$ _____	<b>Height:</b> _____ <i>feet</i>	<b>Storeys which equals?</b> _____ <i>feet</i>
<b>Performed By:</b> _____			

<b>PRECAUTIONS TAKEN:</b>	<b>To Prevent Injury to Public:</b>		
	<b>Underground:</b> _____ <i>feet</i>	<b>Overhead Lines:</b> _____ <i>feet</i>	

<b>IS PROJECT:</b>	<b>Attached to any existing structure?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	<b>Within any existing complex, plant, etc.?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

<b>WHAT "OFF-SITE" WORKS INVOLVED?</b>	Describe any works involving transmission lines, pipelines, access roads, railways, dams, bridges, tunnels, etc.
_____	

<b>RELOCATION</b> (if applicable):	Details of relocation of existing services (e.g. roads, railways, utilities, etc.)
<b>Performed By:</b>	_____

<b>VOLUNTEERS</b> (if applicable):	<b>Liability coverage required?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	<b>No. of volunteers</b>	_____
<b>Activities Description:</b>							

<b>ADDITIONAL INFORMATION: REQUIRED FIELD</b>	<b>One Page Site Plan (all Projects)</b>	<b>Attached:</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
---	--	------------------	-----	--------------------------	----	--------------------------

**Soils Report (New Construction)**

**Attached:** Yes  No

---

(Signature)

---

(Title)

---

(Date Signed)

**APPENDIX J**  
**DRAFT PROJECT AGREEMENT**

Posted in the Data Room.

**APPENDIX K**  
**DRAFT CONSTRUCTION MANAGEMENT AGREEMENT**

Posted in the Data Room.



**APPENDIX L**  
**CONSTRUCTION MANAGEMENT SERVICES**

**1) Scope of Construction Management Services**

Within the Proposal, the Construction Manager will be required to include a supplementary proposal for the provision of construction management services related to Royal Building renovations as a priced option. The Construction Manager will provide construction management-related expertise and services (the “**Work**”) during the pre-construction, construction, commissioning and post-construction stages of the renovation as outlined in the Construction Management Agreement (the “**Construction Management Agreement**”). The Authority, in its sole discretion, may procure the construction management services directly from the Construction Manager. The construction management services and the Construction Management Agreement will at all times be independent of the Project and the Project Agreement. The Authority reserves the right, in its sole discretion, to not procure construction management services for the Royal Building renovations from the proposals submitted and may elect to procure such services through a separate procurement process. The Construction Management Agreement and submission for the construction management services can be a topic of the discussions described in Sections 2.2 and 2.3 of this RFP. The Draft Construction Management Agreement is attached as Appendix K.

The scope of Work includes the following;

<b>Pre-Construction Services</b>	Management of the bidding process for work packages. (Design and contract documents will be in place by the time the Construction Manager begins Work)
<b>Project Costing Services</b>	Provision of costing services, including but not limited to cost plan development, cost estimating and control services, monthly construction cost reports, cash flow forecasts (not less frequently than quarterly) and value analysis services. These services will be provided from inception to completion of the Work.
<b>Project Scheduling Services</b>	Provision of project scheduling services, including project schedule development, ongoing monitoring of the schedule and monthly project schedule updates. These services will be provided from inception to completion of the Work.
<b>Sub Trade Procurement and Trade Contract Work</b>	Procure and contract with trade contractors. The intent is that all trade contracts will be competitively procured and the Construction Manager will not be allowed to compete without prior consent of the Authority and notification to other bidders.

<b>General Requirement Work</b>	Provide General Requirement work as agreed with the Authority
---------------------------------	---

**2) Royal Building Renovations**

The provision of construction management services is related to the Royal Building renovations. These renovations include the following;

<b>Royal Building</b>	<ul style="list-style-type: none"> <li>• 2 Cardiac Catheterization Labs (plus space for 1 future Catheterization Lab)</li> <li>• 14 Interventional Short Stay beds</li> <li>• Diagnostic Cardiology</li> <li>• Minor renovations to Diagnostic Imaging</li> <li>• Pharmacy expansion</li> </ul>
-----------------------	---

The approved construction budget for the renovations is \$17 million (order of magnitude), which is comprised of the construction management fee, all construction management reimbursements, the construction contingency, and all associated escalation costs, but excludes the Harmonized Sales Tax as described in the Construction Management Agreement.

Compensation to the Construction Manager for completion of the Work will be provided in two ways: namely, payment of a fixed fee; and reimbursements for specified costs and special expenses incurred as described in the Construction Management Agreement.

Compensation of the Construction Manager is in no way related to the compensation of Project Co.

The expected schedule for this work is as follows:

Activity	Timeline
Royal Building renovations commence	May 2012
Royal Building completion	September 2013

**APPENDIX M**  
**CONSTRUCTION MANAGEMENT FIXED FEE AND REIMBURSEMENT RATES PROPOSAL FORM**

**1.0 CONSTRUCTION MANAGEMENT FIXED FEE**

1.1 As referenced in the Standard Form Of Agreement between the Authority and Construction Manager, we, the Construction Management Firm, having examined the Documents for the project, including Addendum Number(s) \_\_\_\_\_  
(insert addendum number(s), agree to perform our obligations under the Contract Documents **at the TOTAL Construction Management Fixed Fee the sum of**

\$ \_\_\_\_\_, plus HST of \$ \_\_\_\_\_

allocated as follows:

1.1.1 For services performed during the Pre-Construction Phase, a fixed fee of

\$ \_\_\_\_\_, plus HST, payable at the rate of

\$ \_\_\_\_\_, plus HST per month.

1.1.2 For services performed during the Construction Phase, a fixed fee of

\$ \_\_\_\_\_, plus HST, payable at the rate of

\$ \_\_\_\_\_, plus HST per month.

1.1.3 For services performed during the Post-Construction Phase, a fixed fee of

\$ \_\_\_\_\_, plus HST, payable at the rate of

\$ \_\_\_\_\_, plus HST per month.

All payments to the Construction Management Firm will be made in Canadian Funds.

**2.0 CONSTRUCTION MANAGEMENT PERSONNEL AND SYSTEMS INCLUDED IN THE FEE**

**CATEGORIES OF THE CONSTRUCTION MANAGER'S MANAGEMENT AND SUPERVISORY PERSONNEL AND SYSTEMS INCLUDED IN THE FEE**

2.1 The provision of the following categories of personnel by the Construction Manager is included in the *Fee for Construction Management Services*.

Personnel Titles/Roles	Weekly Rate Per Individual for Extensions in Contract Time
1. Senior Project Managers	<u>\$ .00</u>
2. Project Managers	<u>\$ .00</u>
3. Project Superintendents	<u>\$ .00</u>
4. Assistant Project Superintendents	<u>\$ .00</u>
5. Project Schedulers	<u>\$ .00</u>
6. Project Coordinators	<u>\$ .00</u>
7. Project Safety Officers	<u>\$ .00</u>
8. Project Estimators	<u>\$ .00</u>
Overhead personnel located off-site and/or on-site including, but not limited to: <ul style="list-style-type: none"> <li>a. Principal(s)</li> <li>b. Office management and administration staff</li> <li>c. Secretarial staff</li> <li>d. Finance/accounting staff</li> <li>e. Procurement and expediting staff</li> <li>f. Legal counsel</li> <li>g. Firm <i>Construction Manager</i></li> <li>h. Firm safety officer, including First Aid Attendant</li> <li>i. Policies and procedures/quality control officer</li> <li>j. Information systems personnel</li> <li>k. Cost estimating, cost control, and value analysis support personnel</li> <li>l. Scheduling support personnel</li> <li>m. Living Out Allowance</li> </ul>	Included in Above Rates

The *Construction Management Fee* includes, in addition to the personnel referred to, all other overhead costs and operating expenses, including but not limited to facilities, utilities, business systems (telephones, cellular telephones, fax machines, photocopiers), computer and software systems, office consumables (pens, paper, pencils, printing, photocopying), whether used on- or off-site, and profit.

- 2.2 The *Construction Management Fee* excludes the costs for *Special Expenses* listed in Schedule "C" of the *Agreement*.
- 2.3 The Rates applicable to extensions in the Contract Time for the Construction Manager's *Personnel Included in the Fee* as set out above include all overhead and profit and may be subject to review and adjustment by the *Owner*. The rates as described herein will remain fixed for the duration of this *Agreement*. The first opportunity for a review of the rates will arise once *Substantial Completion* has been achieved and declared. On the Review Date, the average percentage increase/decrease in the actual payroll paid by the *Construction Manager* to all personnel within the categories of personnel falling within the *Construction Manager's Personnel Included in the Fee* working in the local area over the same amount determined will be determined and that percentage used to adjust all Rates applicable to extensions.

**3.0 REIMBURSEMENT RATES FOR ALL WORK PERFORMED BY THE CONSTRUCTION MANAGER'S PERSONNEL NOT INCLUDED IN THE FEE**

3.1 The *Construction Manager* will assign the following salaried or contract employees to *Work Performed by the Construction Manager's Personnel Not Included in the Fee* as required and as approved by the *Owner*. Compensation for the said salaried or contract employees as required and approved will be reimbursed by the *Owner* at the labour rates indicated which include the *Construction Manager's* mark-ups for overhead and profit and with no additional mark-ups of any kind:

3.2

POSITION	HOURLY RATE
1. Labour Foremen (Refer to Note below)	\$ [redacted] per hour
2. Carpenter Foremen (Refer to Note below)	\$ [redacted] per hour
3. General Foreman (Refer to Note below)	\$ [redacted] per hour
4. Journeyman Carpenters	\$ [redacted] per hour
5. Apprentice Carpenters (4 <sup>th</sup> Year)	\$ [redacted] per hour
6. Apprentice Carpenters (3 <sup>rd</sup> Year)	\$ [redacted] per hour

POSITION	HOURLY RATE
7. Apprentice Carpenters (2 <sup>nd</sup> Year)	\$ [redacted] per hour
8. Apprentice Carpenters (1 <sup>st</sup> Year)	\$ [redacted] per hour
9. Skilled Labourers	\$ [redacted] per hour
10. Unskilled Labourers	\$ [redacted] per hour
11. Crane Operators	\$ [redacted] per hour
12. Cement Finishers	\$ [redacted] per hour
13.	\$ [redacted] per hour
14.	\$ [redacted] per hour
15.	\$ [redacted] per hour
16.	\$ [redacted] per hour

Note: \*For the purpose of clarifying and designating the *Construction Management Personnel Not Included in the Fee*, Carpenter Foremen, Labour Foremen and General Foremen are salaried or contract personnel in the direct employ of the *Construction Manager* who are not included in the *Construction Manager's Fee*. For the purposes of this *Contract*, the main responsibility of such Carpenter Foremen, Labour Foremen and General Foremen will be the supervision and direction of other *Construction Management Personnel Not Included in the Fee* such as carpenters, labourers, cement finishers, equipment operators, etc. Compensation for Carpenter Foremen, Labour Foremen and General Foremen will be reimbursed by the *Owner* at the labour rates indicated with no additional mark-up for overhead and profit.

All other field supervisory personnel will be classified as Project Superintendents, Assistant Superintendents or Trade Coordinators, and they will be included in the *Construction Management Fee*.

3.3 The hourly labour rates for the *Construction Manager's Personnel Not Included in the Fee* as set out in 1.1 above will be subject to annual review and adjustment by the *Owner*. The hourly rates as described therein will remain fixed for a period of 12 months from the date of the *Agreement*. The first opportunity for a review of the hourly rates will arise on the anniversary date of the date of the *Agreement* and a review will be conducted annually (every 12 months) thereafter (each review date is referred to as a "Review Date"). On each Review Date the average percentage increase/decrease in the actual hourly rate paid by the *Construction Manager* to personnel in the local area in the categories of those personnel engaged in *Work Performed by the Construction Manager's Personnel Not Included in the Fee* on a reimbursable basis over the same amount determined on the prior Review Date (or date of *Agreement* in the first Review Date) will be determined and that percentage used to adjust the hourly rates referenced, as previously adjusted.

3.4 The *Construction Manager* will use overlapping labour shifts during the performance of *Work Performed by the Construction Manager's Personnel Not Included in the Fee* to minimize the need for any premium time. However, where such overtime work is required and approved by the *Owner*, the *Owner* will reimburse the *Construction Manager* for the *Construction Manager's Personnel Not Included in the Fee* who are engaged in the overtime based upon the actual cost of labour for the premium time expended in the performance of such work.

**4.0 RENTAL RATES FOR CONSTRUCTION MANAGER'S MAJOR EQUIPMENT, MACHINERY, AND TOOLS (EXCLUDING HAND TOOLS) ENGAGED IN WORK PERFORMED BY CONSTRUCTION MANAGER'S PERSONNEL NOT INCLUDED IN THE FEE**

4.1 The *Construction Manager* should include in the proposal submission a list of the major equipment, machinery, and tools required for the *Work Performed by the Construction Manager's Personnel Not Included in the Fee*.

4.2 The *Construction Manager* will provide the major equipment, machinery, and tools for the *Work Performed by the Construction Manager's Personnel Not Included in the Fee* as required and as approved by the *Owner*. Compensation for the equipment, machinery and tools so required and approved will be reimbursed by the *Owner* at the unit rates indicated or will be determined in accordance with this schedule, as applicable, and in either case with no additional mark-up for overhead and profit.

4.3 Where the unit rates do not cover any equipment, machinery or tools provided, the unit rates charged by the *Construction Manager* will be the lowest applicable rental rates available from commercial equipment rental firms in the local area, including all rental rate discounts reasonably available and applicable.

4.4 The unit rates include all of the *Construction Manager's* mark-up for overhead and profit.

4.5 The unit rates for the *Construction Manager's* major equipment, machinery and tools will be subject to annual review and adjustment by the *Owner*. The unit rates as described therein will remain fixed for a period of 12 months. The first opportunity for a review of the unit rates will arise on the anniversary date that the *Agreement* was signed by the parties, and then annually (every 12 months) thereafter (each review date is referred to as a "Review Date"). The annual adjustment of the unit rates on each Review Date will be based upon the average percentage increase/decrease in the actual rental rates for rental equipment, machinery, and tools generally in the local area, provided however that the increase in any year cannot exceed the increase in the consumer Price Index, published by Statistics Canada over the same period of time.

4.6 The *Construction Manager* should provide a list of equipment, machinery or tools that, based on a cost/benefit comparison, may be recommended for purchase by the

*Owner* in lieu of renting equipment for the *Project*. Any such equipment, machinery or tools purchased by the *Owner* will be used exclusively for the *Project* for the duration of the *Work* and disposed of, to or for the benefit of the *Owner*, at the completion of the *Project* as the *Owner* directs.

**5.0 PRODUCTS**

Products provided by the *Construction Manager* for *Work Performed by Construction Manager's Personnel Not Included in the Fee* will be reimbursed at cost with no mark up for overhead and profit. All such overhead and mark up will be included and deemed included in the *Construction Management Fee*.

Submitted on this \_\_\_\_\_ day of \_\_\_\_\_, 20XX by:

**Name of Construction Management Firm(s):**

\_\_\_\_\_

**Signature:** \_\_\_\_\_

*(Name and Title of Person Signing)*

**Signature:** \_\_\_\_\_

*(Name and Title of Person Signing)*



**APPENDIX N**  
**BASE RATE(S) AND CREDIT SPREAD BENCHMARK SUBMISSION**

**(1) Base Rate Benchmarks**

For the Base Rate(s) and Credit Spread Benchmark Submission, Proponents must:

- (a) Identify the benchmark securities, from the list provided by the Authority below;
- (b) Confirm acceptance of the mid-market rate(s) of the selected benchmark securities that the Authority will provide one week in advance of the Base Rate(s) and Credit Spread Benchmark Submission date as the basis for determining the Base Rate(s) for its Financial Submission; and
- (c) Confirm that the Base Rate(s) is quoted excluding all margins and fees.

The Base Rate(s) may be based on any one or a combination of the benchmark securities referred to below in a) or in the case of swapped Base Rate(s), swap terms and maturities also identified below in b).

a) The following Government of Canada benchmark securities:

- Government of Canada 2% August 1 2013 (2 year benchmark);
- Government of Canada 2% March 1 2014 (3 year benchmark);
- Government of Canada 2.5% June 1 2015 (4 year benchmark);
- Government of Canada 2% June 1 2016 (5 year benchmark);
- Government of Canada 4.25% June 1 2018 (7 year benchmark);
- Government of Canada 3.25% June 1 2021 (10 year benchmark);
- Government of Canada 5.75% June 1 2029 (20 year benchmark); and
- Government of Canada 4% June 1 2041 (30 year benchmark).

To the extent that the benchmark securities switch to alternative Government of Canada securities between the issuance of this RFP and Financial Close, the pricing of any debt facilities based on the affected Government of Canada benchmark security will also switch to the new benchmark security.

To the extent the Government of Canada benchmark securities identified above are not suitable for the anticipated debt structure contemplated by a Proponent, the Proponent may suggest, before the Base Rate(s) and Credit Spread Benchmark Submission Date, an alternate security or securities for consideration by the Authority that would be suitable for its anticipated debt structure. In such instances, the Proponent is to provide sufficient information to allow the Authority to confirm that the Government of Canada benchmark securities identified above are not suitable for the Proponent's anticipated debt

structure and that the alternate security or securities are suitable and possess similar characteristics in terms of information access, rating, duration, liquidity and amortisation as Government of Canada benchmark securities. Alternate security or securities may be accepted or rejected by the Authority in its absolute discretion.

The Authority will, one week prior to the Base Rate(s) and Credit Spread Benchmark Submission date, provide Proponents with the mid-market rate for the above-mentioned Government of Canada benchmark securities.

- b) For swapped Base Rate(s), the Proponent is to provide the information contained in the table below and all other information required by the Authority to confirm the Proponent's calculated swap Base Rate. For greater clarity all rates will not include any credit spreads or swap margins.

Fixed leg payment frequency	Quarterly or Monthly
Floating leg basis	1-month or 3-month CDOR [(or CAD Libor)]
Floating rate spread	Flat
Floating rate reset frequency	Quarterly or Monthly
Notional Structure and Principal Profile	Quarterly or Monthly
Day Count Convention	Actual/365
Business Day Convention	Modified following Toronto business day or following business day

The Authority will, one week prior to the Base Rate(s) and Credit Spread Benchmark Submission, provide Proponents with the benchmark swap rates, the Futures prices and Basis Swap Curve with which Proponents must construct their swap term structure. These rates/prices will be updated periodically by the Authority and provided to Proponents to update their calculation of the swapped Base Rate(s). (Samples of these curves are available in the Data Room).

The Base Rate(s) is to be priced at the mid-market rate excluding all margins and fees. For additional clarity, the Base Rate(s) are to exclude any execution spread/margin and any swap margin.

The Authority will confirm the Proponent's Base Rates as described in Section 6.6 of the RFP.

**(2) Reinvestment Rate Benchmarks**

If a Proponent's Financing Plan contains assumptions with respect to an interest income rate for a reinvestment product associated with any portion of a senior finance facility, then the information requested in this Section of this Appendix in relation to each Base Rate should also be provided by the

Proponent for each interest income rate used to calculate the value of interest generated from the reinvestment product.

### (3) Credit Spread Benchmarks

If a Proponent wishes to designate some or all of its lending facilities as Credit Spread Refresh Facilities, the Proponent should, on or before the Base Rate(s) and Credit Spread Benchmark Submission date, submit to the Authority:

- (a) a proposed Credit Spread Benchmark, such Credit Spread Benchmark being a security (i.e., an index) or weighted “basket” of securities that the Proponent believes possesses similar credit characteristics as the facility for the IHSC Project in terms of rating, duration, size and currency and for which observable rates through publicly verifiable screen shots are available;
- (b) rationale for the suitability of the Credit Spread Benchmark including consideration for relevance, liquidity and diversification within the “basket”;
- (c) information and documentation to support, and to enable a third party to verify, the proposed Credit Spread Benchmark priced at the mid rate at 9:00 am Pacific Standard Time the day before the Base Rate(s) and Credit Spread Benchmark Submission date, or at a time to be agreed with the Proponent, such information and documentation to include:
  - (1) details of how the Credit Spread Benchmark was priced and software applied;
  - (2) copies of the price quotes (using a Bloomberg screen shot or similar); and
  - (3) details of the pricing conventions inherent in the pricing.
- (d) a proposed formula describing how the Credit Spread on each Credit Spread Refresh Facility will move upwards or downwards with the movement in the Credit Spread Benchmark; and
- (e) a detailed protocol (the “**Credit Spread Refresh Protocol**”) for confirming the Credit Spread Benchmark applicable to each Credit Spread Refresh Facility on the Credit Spread refresh Lock-In Date (see Section 9.8).