



Request for Proposals
Design Early Works Agreement Stage
Cariboo Memorial Hospital Redevelopment
Project

Issued: October 19, 2020

SUMMARY OF KEY INFORMATION

RFP TITLE	The title of this RFP is: Cariboo Memorial Hospital Redevelopment Project Proponents should use this title on all correspondence.
CONTACT PERSON	The Contact Person for this RFP is: Brad Beswick, Infrastructure BC Email: brad.beswick@partnershipsbc.ca Please direct all Enquiries, in writing, to the above named Contact Person. No telephone or fax enquiries please.
ENQUIRIES	Proponents are encouraged to submit Enquiries at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time for the Proposals to permit consideration by the Authority; the Authority may, in its discretion, decide not to respond to any Enquiry.
The following submissions are to be delivered before the time, and at the location, indicated below:	
SUBMISSION TIME FOR ADDITIONAL KEY INDIVIDUALS	November 3, 2020 at 16:00 Pacific Time
SUBMISSION TIME FOR INTERIM CONSULTING AGREEMENT SUBMISSION	November 3, 2020 at 16:00 Pacific Time
SUBMISSION TIME FOR COLLABORATIVE MEETING	November 17, 2020 at 16:00 Pacific Time
SUBMISSION LOCATION	By email to the Contact Person: brad.beswick@partnershipsbc.ca
The following submissions are to be delivered before the time, and at the location, indicated below:	
SUBMISSION TIME FOR PROPOSALS	January 6, 2021 at 11:00 Pacific Time
SUBMISSION LOCATION	By electronic upload to the Contact Person: brad.beswick@partnershipsbc.ca

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1 INTRODUCTION

1.1 PURPOSE OF THIS RFP

Interior Health Authority (the Authority) is seeking a Design-Builder for the redevelopment of the Cariboo Memorial Hospital (CMH), specifically to design and build the expansion of the CMH (Phase One) and for the Design-Builder's Constructor to provide construction management services for the CMH renovations (Phase Two) in Williams Lake, British Columbia (B.C.) (the Project).

The purpose of this Design Early Works Agreement Request for Proposals (RFP) is to invite eligible Proponents to prepare and submit Proposals to enter into a design early work agreement (Design Early Works Agreement) to develop the Design for Phase One of the Project.

Based on these Proposals, the Authority intends to select, in accordance with the terms of this RFP, a Proponent to finalize the Design Early Works Agreement (Preferred Proponent). Upon execution of the Design Early Works Agreement the successful Proponent will proceed to negotiations which will be structured under a request for proposal acceptable to the Authority (DBA RFP).

Upon execution of the Design Early Works Agreement, the successful Proponent will commence the Design. The Authority and the successful Proponent will then proceed to negotiate in accordance with the DBA RFP to enter into a Design-Build Agreement for delivery of Phase One of the Project and will also negotiate to enter into a Construction Management Agreement for the delivery of construction management services for Phase Two of the Project.

1.2 ELIGIBILITY TO PARTICIPATE IN THIS RFP

Through a Request for Qualifications (RFQ) issued April 29, 2020 by the Authority, the following design-builders are qualified to participate in this RFP:

- (a) Graham Design Builders LP
- (b) PCL Constructors Westcoast Inc.
- (c) Bird Design-Build Construction Inc.

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 this RFP:

Activity	Timeline
Issue RFP to Proponents	October 15, 2020
All Proponents Kick Off Meeting	October 28, 2020
Submission Time for Additional Key Individuals	November 3, 2020
Submission Time for Interim Consulting Agreement Submission	November 3, 2020
Submission Time for Collaborative Meetings	November 17, 2020
Collaborative Meetings	Week of November 23, 2020
Issue Final Draft Design Early Works Agreement	Week of December 7, 2020
Submission Time for Proposals	January 6, 2021
Proponent Team Interviews	Week of January 27, 2021
Selection of Preferred Proponent	March 2021
Contract Execution for Design Early Works Agreement	April 2021
Design Commences	April 2021
Issue DBA RFP to Preferred Proponent	April 2021

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

2.2 COLLABORATIVE MEETINGS

The Authority will make available certain of its personnel, consultants and advisors (the Authority Representatives) to participate in collaborative discussions with the Proponents (the Collaborative Meetings). The Authority anticipates holding one Collaborative Meeting with each Proponent prior to the Submission Time for Proposals.

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 in the development of the Proposals, and in particular:
 - (1) to permit the Authority's Representatives to discuss the Interim Consulting Agreement Submission and Additional Key Individuals with each Proponent, if required;

- (2) to permit a Proponent's representatives to provide the Authority Representatives with comments and feedback on commercial and legal issues related to the Initial Draft Design Early Works Agreement and/or the Initial Draft Design-Build Agreement (if required); and
 - (3) to permit a Proponent's representatives to discuss and ask questions related to relevant aspects of the Project's design development requirements and specifications.
- (b) in advance of the Collaborative Meetings, each Proponent is strongly encouraged to provide the Authority with:
- (1) a proposed meeting agenda (including any consultants and advisors a Proponent would like in attendance from the Authority Representatives); and
 - (2) a list of prioritized issues the Proponent would like to discuss, and any materials relevant to such issues;

Materials not submitted by the Submission Time for Collaborative Meeting may not be reviewed by the Authority.

The Authority may provide Proponents with comments on the agendas and a list of any prioritized issues the Authority would like to discuss.

- (c) upon review of the proposed agendas, the Authority will determine which Authority Representatives will be present at any Collaborative Meeting;
- (d) except as may be expressly stated otherwise in this RFP, including Section 11.5, the Authority will retain all information received from a Proponent during a Collaborative Meeting(s) as strictly confidential, and will not disclose such information to the other Proponents or any third party. The Authority may disclose such information to its consultants and advisors who are assisting or advising the Authority with respect to the Project;
- (e) at the Collaborative Meetings, 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 Meetings provided that the Authority may, in its discretion, limit the number of participants at any one meeting;
- (f) 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 the Collaborative Meetings, 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 Meetings, 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;

- (g) if for the purposes of the preparation of its Proposal a Proponent wishes to rely upon anything said or indicated at the Collaborative Meetings, 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 Design Early Works Agreement, request an Addendum to this RFP clarifying and amending the provision in question;
- (h) by participating in the Collaborative Meetings, a Proponent confirms its agreement with these procedures and acknowledges that the Collaborative Meetings are an integral part of the procurement process as described in this RFP and is in the interests of all parties;
- (i) following the release of this RFP, the Authority will consult with each Proponent to confirm specific dates for the Collaborative Meetings. If the Authority considers it desirable or necessary to schedule additional Collaborative Meetings, the Authority may, in its discretion, amend the anticipated schedule;
- (j) Proponents may request that the Authority schedule additional Collaborative Meetings on specific topics by providing the request in writing to the Contact Person with proposed dates and details of the topic or topics to be discussed; and
- (k) it is expected that Collaborative Meetings will be held in Vancouver, B.C or by videoconference at the Authority's discretion. If Collaborative Meetings are held in Vancouver B.C., participation should be in person.

2.3 COMMENTS ON THE DESIGN EARLY WORKS AGREEMENT

Each Proponent should review the Initial Draft Design Early Works 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 the Proponents, as part of the Collaborative Meeting process, to discuss possible clarifications or amendments to the Initial Draft Design Early Works Agreement, including with respect to commercial, legal, and design aspects of Phase One of the Project;
- (b) each Proponent should provide the Authority in advance of the Collaborative Meeting with a prioritized list of requested changes, if any, to the Initial Draft Design Early Works Agreement using the Proponent Comments Form attached as Appendix E, together with an agenda and issues list as described in Section 2.2;

(1) Proponents should identify any material issues or provisions that would prevent the Proponent from proceeding with the Design Early Works Agreement; 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 Design Early Works Agreement as the Authority may determine, in its discretion.

Prior to the Submission Time for the Proposal, the Authority intends to issue by Addendum one or more revised drafts of the Design Early Works Agreement, including one that will be identified as the final draft design early works agreement (the Final Draft Design Early Works Agreement). The Final Draft Design Early Works Agreement will be the basis for the preparation of Proposals. The Proponents should not, in their Proposals, make any modifications, changes or additions to the Final Draft Design Early Works Agreement.

Proponents will be required to make certain acknowledgements in the Proposal Declaration Form (Appendix C) regarding the Design Early Works Agreement and the Initial Draft Design-Build Agreement.

2.3.1 Design Early Works Agreement and Design Development Process

The Authority will evaluate the Proposals in accordance with Appendix A of this RFP and following the evaluation will select a Preferred Proponent to enter into final discussions to settle all terms of the Design Early Works Agreement, based on that Proponent's Proposal, including any clarifications that the Proponent may have provided during the evaluation of the Proposal. Following the execution of the Design Early Works Agreement, the Authority will invite that Proponent to proceed to the DBA RFP.

2.4 COMMENTS ON THE INITIAL DRAFT DBA RFP AND INITIAL DRAFT DESIGN-BUILD AGREEMENT

Each Proponent should review the initial draft request for proposal for the Design-Build Agreement (the Initial Draft DBA RFP) and the Initial Draft Design-Build Agreement. In particular, the Initial Draft Design-Build Agreement is incorporated by reference into the Design Early Works Agreement and forms the basis upon which the Design proceeds.

Proponents are encouraged to submit Enquiries regarding the Initial Draft DBA RFP and the Initial Draft Design-Build Agreement.

2.5 DATA ROOM

The Authority has established a website to be used as an electronic data room (the Data Room) in which it has placed documents that the Authority has identified as relevant to the Project, and that may be useful to Proponents. The Authority makes no 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. Prior to Proponents being granted access, the Authority will require Proponents to sign 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. The Authority will attempt to notify Proponents of all updates; however, Proponents are solely responsible for ensuring they check the Data Room frequently for updates and to ensure the information used by Proponents is the most current information.

2.6 PROPONENT'S CONTACT REPRESENTATIVE

The Authority intends to communicate solely with the Proponent's Contact Representative, and may disregard communications from other persons on behalf of the Proponent during the Competitive Selection Process and during the DBA RFP.

Although the Authority may rely on the Proponent's Contact Representative's authority to bind the Proponent, execution of documents by the Proponent's Contact Representative is not required. The Authority may rely on the authority to bind the Proponent by any person or persons representing the Proponent.

3 KEY PROJECT ELEMENTS

Any description or overview of the Initial Draft Design Early Works Agreement and Initial Draft Design-Build Agreement in this RFP is provided for convenience only and does not replace, supersede, supplement or alter the Initial Draft Design Early Works Agreement and Initial Draft Design-Build Agreement.

The Design Early Works Agreement incorporates the Initial Draft Design-Build Agreement as a reference point for the Design-Builder pertaining to the Design of the Phase One new expansion to the CMH (Facility) and its related obligations. The development of Design under the Design Early Works Agreement will happen concurrently with the Authority and successful Proponent negotiating in accordance with the DBA RFP to enter into a Design-Build Agreement. Once executed, the Design Build Agreement will supersede the Design Early Works Agreement.

3.1 DESIGN-BUILDER

3.1.1 Design Early Works Agreement

The Design-Builder will be responsible for all aspects of Phase One in accordance with the Design Early Works Agreement. This includes but is not limited to design of the Facility and related obligations under the draft Design-Build Agreement and the DBA RFP.

3.1.2 Design-Build Agreement

The Design-Builder will be responsible for all aspects of Phase One in accordance with the Design-Build Agreement. This includes but is not limited to:

- (a) design and construction of the Facility and integration of the various building components with each other;
- (b) provision of utilities and other site services required to support the Facility, including off-site works as required for connection to existing City of Williams Lake (the City) infrastructure; and
- (c) achieving Substantial Completion.

3.1.3 Construction Management Agreement

The Design-Builder's Constructor will be responsible for providing construction management services to the Authority for Phase Two of the Project, in accordance with the Construction Management Agreement. This includes but is not limited to contracting the construction work and managing the construction.

3.2 MUNICIPAL APPROVALS

In accordance with the Design-Build Agreement, the Design-Builder will be responsible for obtaining and paying for all permits and approvals required for the design and construction of the Facility, and to ensure that its Design for the Facility complies with related City requirements.

The CMH site (Site) is currently zoned as 322 Civic, Assemble and Institutional P-1 and is appropriate for the Project.

3.3 SPACE REQUIREMENTS AND INDICATIVE DESIGN

The Design-Builder will be required to design and construct the Facility to meet the requirements of the Design-Build Agreement, including accommodation of the spaces, activities, functions, design features and adjacencies.

The Indicative Design should not be relied on by Proponents. It is for illustrative and general guidance purposes only and does not relieve the Design-Builder in any way of all responsibility for the Design of the Facility.

Drawings describing the Indicative Design for the Facility are available in the Data Room.

3.4 EQUIPMENT

The Design-Builder will complete the Facility to accommodate equipment, including all required electrical, IMIT, mechanical and plumbing connections, structural support, seismic restraints and space for efficient access, all to the tolerances and specifications as may be specified and required by the manufacturers or suppliers of the equipment, and in accordance with the Design-Build Agreement.

The equipment list, is appended to the Statement of Requirements of the Design-Build Agreement as Appendix 1J.

The Design-Builder is required to coordinate Authority provided equipment installation with the building construction schedule. All equipment that is Design-Builder installed is expected to be completed prior to Substantial Completion unless otherwise noted in the equipment list.

3.5 INDEPENDENT CERTIFIER

As set out in the Design-Build Agreement, the Authority and the Design-Builder will jointly appoint an Independent Certifier to certify payment. The responsibilities of the Independent Certifier are further described in the Design-Build Agreement.

3.6 LEED®/ENERGY

The Design-Builder will be required to obtain LEED® Gold certification for the Facility. The Facility has been registered under the LEED® v4 for Building Design + Construction (BD+C), Healthcare, rating system.

In addition, Schedule 8 [Energy and Carbon Guarantee] of the Design-Build Agreement requires the Design-Builder to:

- (a) design and construct the Facility to not exceed the Energy and Carbon Targets; and
- (b) take all reasonable steps to obtain incentives, rebates or credits by application to BC Hydro, FortisBC and CleanBC for the benefit of the Authority.

3.7 WOOD FIRST

The Design-Builder will comply with the requirements of the *Wood First Act* (British Columbia), in accordance with the requirements in the Design-Build Agreement.

3.8 APPRENTICESHIP AND TRAINING

The Design-Builder will comply with the Province's "Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines" (the Apprentices Guidelines) in providing apprenticeships and skills training opportunities.

The Apprentices Guidelines are available at https://www2.gov.bc.ca/assets/gov/business/economic-development/assets/apprentices-on-public-projects/policy_and_procedure_guidelines.pdf.

4 INTERIM CONSULTING AGREEMENT SUBMISSION AND NOMINATED ADDITIONAL KEY INDIVIDUALS

Each Proponent will submit to the Authority for review and approval:

- a) by the Submission Time for Interim Consulting Agreement Submission, the form of the Consulting Agreements which the Proponent proposes to enter into with its design consultants and sub-consultants (the Interim Consulting Agreement Submission), should they be selected as the Preferred Proponent (see Section 4.1); and
- b) by the Submission Time for Additional Key Individuals, the requested information in respect of Additional Key Individuals (see Section 4.2).

4.1 INTERIM CONSULTING AGREEMENT SUBMISSION

The Authority wishes to review the Proponents' Consulting Agreements in anticipation of entering the Design Early Works Agreement to ensure that the Proponents' Consulting Agreements are in a form acceptable to the Authority as per the requirements set out in Table 3 (Section 1.3) of Appendix B of this RFP.

- (a) each Proponent will provide an Interim Consulting Agreement Submission, which should include:
 - (1) a list of all consultants and sub-consultants that will be involved in Design; and
 - (2) a draft of the form(s) of Consulting Agreement that the Proponent intends to enter into with each of the consultants and with each sub-consultant listed in (a)(1) above, as applicable;
- (b) the Authority will review the Interim Consulting Agreement Submissions and will retain each of the Interim Consulting Agreement Submissions as strictly confidential;
- (c) the Authority will invite each Proponent, as part of the Collaborative Meetings, to discuss any aspect of its Interim Consulting Agreement Submission; and
- (d) unless expressly referred to or included by reference in its Proposal, the Interim Consulting Agreement Submission will not be considered part of the Proposal.

4.2 NOMINATED ADDITIONAL KEY INDIVIDUALS

Each Proponent must nominate the following Additional Key Individuals:

- (a) Clinical Lead/Planner;
- (b) IMIT Lead;
- (c) Electrical Engineer Lead;

- (d) Equipment Lead;
- (e) Mechanical Engineer Lead; and
- (f) Quality Manager.

For each of the Additional Key Individuals required by this Section 4.2 the Proponent should provide in writing to the Contact Person the credentials of the Additional Key Individuals that include, at a minimum:

- (a) name;
- (b) summary of education and professional qualifications/designation(s);
- (c) role and responsibility for Phase One of the Project;
- (d) relevant experience and capability in relation to Phase One of the Project;
- (e) two references (with up-to-date contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) who have knowledge of the Additional Key Individual. At least one of the references should be the project lead for the owner and ideally should be from a project actively worked on in the last ten years. The Proponent should confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Authority; and
- (f) the percentage of time the Additional Key Individual will dedicate to undertake Phase One of the Project at each major phase (i.e., procurement and design development under the Design Early Works Agreement, detailed design, construction, and commissioning), in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project, and identify those other projects (including percentage of time committed to those projects).

Each Proponent should provide the requested information for the Additional Key Individuals by the Submission Time for Additional Key Individuals.

The credentials of the Additional Key Individuals will be reviewed based on the demonstrated strength and relevance of their experience to undertake their respective obligations under the Design-Build Agreement and are subject to the approval of the Authority, acting reasonably.

The Authority may discuss the nominated Additional Key Individuals and may instruct a Proponent to provide additional information on the Additional Key Individuals at a Collaborative Meeting.

Each Proponent will provide to the Authority such additional credentials and information as may be requested by the Authority.

4.3 NOTICE OF CONTINUED STATUS

The Authority anticipates providing each Proponent within ten Business Days, or such longer period as may be required by the Authority, of receiving the nominated Additional Key Individuals and Interim Consulting Agreement Submission the following:

- (a) a confidential response indicating issues for discussion, if any, with the Interim Consulting Agreement Submission; and
- (b) a confidential response approving or rejecting the Additional Key Individuals.

Once the Authority is satisfied with the form of the Interim Consulting Agreements and with the nominated Additional Key Individuals, the Authority will confirm a Proponent's continued status as Proponent (the Notice of Continued Status).

Until receipt of the Notice of Continued Status, the Proponent may change:

- (c) the Additional Key Individuals and, if making changes, the Proponent will provide further credentials and information for any other such Additional Key Individuals. After receipt of the Notice of Continued Status, any changes to the Proponent Team are subject to Section 7.12 of this RFP;
- (d) the form of Consulting Agreements and, if making changes, the Proponent will provide a blackline highlighting the changes to the form of Consulting Agreements for the Authority's review and approval. After receipt of the Notice of Continued Status, any changes to the form of Consulting Agreement require advanced approval from the Authority.

Receipt of a Notice of Continued Status is a condition of the Proponents' continued status as a Proponent and a Mandatory Requirement.

5 AFFORDABILITY AND VALUE

A key objective of the Authority is to achieve the Project scope at or below the Project's Design-Build Price Ceiling requirements.

5.1 DESIGN-BUILD PRICE CEILING

The Authority has identified a Design-Build Price Ceiling of \$138.1 million for the Aggregated Nominal Cost of the Proposal which include the following components.

Table 1: Design-Build Price Ceiling Components

Design-Build Price Ceiling Components
Nominal Cost of the Proposal (Contract Price)
Amount Paid under Design Early Works Agreement
Phase Two Construction Management Services

Project approvals by the Authority have been based on this Design-Build Price Ceiling.

5.2 DESIGN EARLY WORKS PRICE

Proponents should calculate the fixed price proposal for the Design Early Works Agreement (Design Early Works Price) using Table 1 and Table 2 in "Form A1 - Breakdown of Design Early Works Price", provided by the Authority in Appendix B of this RFP.

Proponents should submit the completed Form A1 as part of the Proposal.

5.3 DELIVERING VALUE

A Proposal that delivers value will be a prerequisite to the Authority entering into the Design Early Works Agreement. The ability to deliver value will be a focus of Proposal evaluations as described in Appendix A of this RFP.

As part of the evaluation, the Authority may use professional quantity surveyors or other advisors to support and validate the Design Early Works Price developed by the Proponent.

6 PROPOSAL REQUIREMENTS

6.1 PARTICIPATION AGREEMENT

As a condition of participating in this RFP each Proponent must sign and deliver to the Contact Person a Participation Agreement, substantially in the form attached as Appendix F1 of this RFP or otherwise acceptable to the Authority, in its discretion. A Proponent will not be permitted to participate in Collaborative Meetings, have access to the Data Room, or participate further in the Competitive Selection Process unless and until it has signed and delivered a Participation Agreement as required by this Section.

Receipt of the Participation Agreement is a Mandatory Requirement.

6.2 PROPOSAL FORM AND CONTENT

Proposals should be in the form and include the content described in Appendix B of this RFP. Each Proponent may only submit one Proposal.

7 SUBMISSION INSTRUCTIONS

7.1 SUBMISSION TIMES AND SUBMISSION LOCATION

With respect to the delivery of Proposals, Proponents will submit their Proposal to the Submission Location by the Submission Time for the Proposals. The Proposal should be made up of the following:

- (a) a completed Proposal Declaration Form in the form attached as Appendix C of this RFP;
- (b) a completed Relationship Disclosure Form in the form attached as Appendix D of this RFP;
- (c) the cover letter (and all attachments) to the Proposal as described in Appendix B of this RFP; and
- (d) the Proposal Requirements described in Appendix B of this RFP.

7.2 NUMBER OF COPIES

For its Proposal, a Proponent should submit one electronic copy, by upload to a secure web-based platform of their choosing, as agreed to by the Authority, clearly marked "Request for Proposals for Cariboo Memorial Hospital Redevelopment Project". Proponents are responsible to arrange a test of the secure-web-based platform with the Contact Person at least five Business Days in advance of the Submission Time for Proposals.

7.2.1 Electronic Copy

To facilitate the Authority's evaluation, Proponents should provide the electronic copy of their Proposal in a number of separate files. As a minimum breakdown, and with reference to Appendix B of this RFP, Proponents should provide individual files for the following Proposal Requirement sections:

- (a) Entire Proposal
- (b) Package 1: Transmittal Package
- (c) Package 2: Design-Builder Project Approach and Process
- (d) Package 3: Implementation of Design
- (e) Package 4: Design Early Works Price

7.3 NO FAX OR EMAIL SUBMISSION

Proposals submitted by fax or email will not be accepted, except as specifically permitted in this RFP.

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 this 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 this entire RFP issued prior to the Submission Time for Proposals. 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).

Proponents are encouraged to submit Enquiries using the Enquiry Form (Appendix J) at an early date to permit consideration by the Authority and, in any event, no later than 15:00 Pacific Time on the day that is ten Business Days before the Submission Time for the Proposal.

The Authority may, in its discretion, decide not to respond to any Enquiry.

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 that the Enquiry is commercially confidential to the Proponent;
- (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 (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, for any purpose.

7.7 ELECTRONIC COMMUNICATION

Proponents should only communicate with the Contact Person by email. The Contact Person will not respond to any communications sent by any other method.

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 Infrastructure 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 Infrastructure 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 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 licence 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) in favour of the Authority, 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 licence granted under Section 0 (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 licence of such Third Party Intellectual Property Rights in accordance with Section 0 (a).

7.10 DEFINITIVE RECORD

The electronic conformed version of the document in the custody and control of the Authority prevails.

7.11 AMENDMENTS TO PROPOSALS

A Proponent may amend any aspect of its Proposal by delivering written notice, or written amendments, to the Submission Location prior to the Submission Time for Proposals.

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 add, remove or otherwise change a member of its Proponent Team after it was shortlisted by the Authority under the RFQ (or, in the case of Additional Key Individuals, after they have been approved by the Authority), or there is a material change in ownership or control (which includes the ability to direct or cause the direction of the management actions or policies of a member) of a member of the Proponent Team, or there is a change to the legal relationship among any or all of the Proponent and its Proponent 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 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 membership of a Proponent Team if the change would, in the Authority's judgement, result in a weaker team than was originally shortlisted; or
- (a) 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 Proponent Team member, or changes to the legal relationship among the Proponent and/or Proponent 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 will remain fixed and irrevocable from the Submission Time for Proposals until midnight at the end of the 120th day following the Submission Time for Proposals (the Proposal Validity Period); and
- (b) after the expiry of the Proposal Validity Period, all prices and input costs 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, 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 that exceeds 120 days.

7.14 MATERIAL CHANGE AFTER SUBMISSION TIME FOR PROPOSALS

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

8 EVALUATION

8.1 MANDATORY REQUIREMENTS

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

- (a) the Proponent must have signed and delivered to the Contact Person the Participation Agreement in accordance with Section 6.1;
- (b) the Proponent must have received a Notice of Continued Status in accordance with Section 4.3; and
- (c) the Proposal must be received at the Submission Location before the Submission Time for Proposals.

8.2 EVALUATION OF PROPOSALS

The Authority will evaluate Proposals in the manner set out in Appendix A of this RFP. The Authority will not evaluate a Proposal if it has been rejected, or if the applicable Proponent has been disqualified, in accordance with this RFP.

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, or any part of a Proposal, requires clarification or more complete information, contains defects, ambiguities, alterations, qualifications, omissions, inaccuracies or misstatements, or does not for any reason whatsoever satisfy the Authority that the Proposal meets 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 presentations 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 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 or any part of their component packages.

Without limiting the foregoing or Appendix A, the Authority may, in its discretion (and without further consultation with the Proponent), reject any Proposal which in the opinion of the Authority: (i) is materially incomplete or irregular, (ii) contains omissions, exceptions or variations (including any modifications, changes or additions to the Final Draft Design Early Works Agreement or the Initial Draft Design-Build Agreement), (iii) contains any false or misleading statement, claims or information, or (iv) contains any 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, 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 scoring, 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.

A Proponent may not submit any clarifications, information or documentation in respect of its Proposal after the Submission Time for Proposals, without the prior written approval of the Authority or without an invitation or request by 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.

As part of the evaluation of the Proposal, the Authority may identify that it is not satisfied that the Proposal meets one or more requirements of the Final Draft Design Early Works Agreement. The Authority may, but is not required to, reject that Proposal in accordance with the terms of this RFP. If the Authority does not exercise its discretion to reject the Proposal, the Authority may provide to the Proponent a list of the items that the Authority is not satisfied meet the requirements of the Final Draft Design Early Works Agreement. The Proponent will, if selected as Preferred Proponent, be required to comply with the requirements of the Final Draft Design Early Works Agreement, including by rectifying any non-compliances (material or otherwise) in its Proposal.

The Authority is not responsible for identifying all areas in which a Proposal does not meet the requirements of the Final Draft Design Early Works Agreement. Irrespective of whether the Authority has identified or has failed to identify any such areas, a Proponent is not relieved in any way from meeting the requirements of this RFP, and if selected as Preferred Proponent will not be relieved from meeting all requirements of the Final Draft Design Early Works Agreement, including by rectifying any non-compliances (material or otherwise) in its Proposal.

9 SELECTION OF PREFERRED PROPONENT AND AWARD

9.1 SELECTION AND AWARD

If the Authority selects a Preferred Proponent, the Proponent with the highest scored Proposal will be selected as the Preferred Proponent. The Authority will invite the Preferred Proponent to enter into final discussions to settle all terms of the Design Early Works Agreement, based on that Proposal, including any clarifications that the Preferred Proponent may have provided during the evaluation of Proposals.

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

- (a) invite one of the other Proponents to enter into final discussions to settle all terms of the Design Early Works Agreement, based on that Proponent's Proposal, including any clarifications that the Proponent may have provided during the evaluation of Proposals; or
- (b) terminate the Competitive Selection Process entirely and proceed with some or all of the Project in some other manner, including using other contractors.

Any final approvals required by the Authority, such as from the Province, will be conditions precedent to the final execution or commencement of the Design Early Works Agreement.

9.2 FINAL DRAFT DESIGN EARLY WORKS AGREEMENT

It is the intention of the Authority that:

- (a) any issues with respect to the Initial Draft Design Early Works Agreement will be discussed with each Proponent during their Collaborative Meeting and fully considered prior to issuance of the Final Draft Design Early Works Agreement; and
- (b) once issued, the Final Draft Design Early Works 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 Design Early Works Agreement or otherwise pursuant to express provisions of the Design Early Works Agreement;
 - (2) to those provisions or parts of the Final Draft Design Early Works Agreement that are indicated as being subject to completion or finalization, or which the Authority determines in its discretion require completion or finalization, including provisions that require:

- i. modification or the insertion or addition of information relating to the Design-Builder'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 Design-Builder's relationships with its principal consultants and sub-consultants;
- (c) required by the Authority to complete, based on the Proposal, any provision of the Final Draft Design Early Works Agreement, including changes, modifications and additions contemplated in or required under the terms of the Final Draft Design Early Works Agreement;
- (d) that are necessary to create or provide for a legally complete, enforceable and binding agreement; or
- (e) that enhance clarity in legal drafting.

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

Upon Contract Execution, the Design Early Works Agreement, and the instruments and documents to be executed and delivered pursuant to it, supersede (except as expressly incorporated therein) this RFP and the Proposal submitted in respect of the Design-Builder.

9.3 DEBRIEFS

Upon request from a Proponent, the Authority will conduct a debriefing for that Proponent within 60 days of Contract Execution or termination of the Competitive Selection Process.

10 CONFLICT OF INTEREST AND RELATIONSHIP DISCLOSURE

10.1 RESERVATION OF RIGHTS TO DISQUALIFY

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) at any time 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 or the Conflict of Interest Adjudicator (the COI Adjudicator) may require in its discretion in connection with the 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 as Restricted Parties, including their former and current employees who fall within the definition of Restricted Party:

- (a) Boughton Law Corporation: Conflict of Interest Adjudicator;
- (b) Norton Rose Fulbright Canada LLP: Legal Counsel;
- (c) Singleton Urquhart Reynolds Vogel LLP: Fairness Reviewer;
- (d) IBI Group Architects (Canada) Inc. and their sub-consultants, including;
 - (1) AES Engineering Ltd. (Electrical Engineering);
 - (2) Bush Bohlman & Partners LLP (Structural Engineering);
 - (3) CFT Engineering Inc. (Building Code);
 - (4) GUNN Consultants Inc. (Elevator);
 - (5) ILM Hardware Consulting (Architectural Hardware);
 - (6) Kane Consulting Partnership (LEED);
 - (7) WSP Canada Inc. (Civil and Mechanical Engineering);
- (e) LTA Consultants Inc.: Quantity Surveyors; and
- (f) The Authority and Infrastructure BC.

This is not an exhaustive list of Restricted Parties. Additional persons 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 COI Adjudicator to provide decisions on conflicts of interest, unfair advantage or exclusivity 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 by submitting to the Contact Person, not less than 10 Business Days prior to the Submission Time for Proposals, by email, the following information:

- (a) names and contact information of the Proponent and the person for which the advance opinion is requested;
- (b) a description of the relationship that raises the possibility or perception of a conflict of interest or unfair advantage;
- (c) 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
- (d) 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 amended or supplemented.

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.

No Shared Use Persons have been identified for this Project.

10.10 EXCLUSIVITY

Unless permitted by the Authority, in its discretion, or permitted as a Shared Use Person, each Proponent will ensure that no member of its Proponent Team, or any Affiliated Person of any member of its Proponent Team, participates as a member of any other Proponent Team.

If a Proponent contravenes the foregoing, the Authority reserves the right to disqualify the Proponent or may permit the Proponent 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 Proponent Team members and their respective Affiliated Persons do not contravene the foregoing.

A Proponent or a prospective Proponent Team member 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 Proponent Team member should submit to the Contact Person, not less than 10 Business Days prior to the Submission Time for Proposals by email, the following information:
 - (1) names and contact information of the Proponent or prospective Proponent Team member 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.

10.10.1 Exclusivity – 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 matter related to exclusivity. 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 so that it may make its own response to the COI Adjudicator.

The onus is on the Proponent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Authority may require that the Proponent make an application under Section 10.10.

10.10.2 Exclusivity – 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 amended or supplemented.

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

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 Design Early Works Agreement. 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 Design-Build Agreement, and then only to the extent expressly set out in the Design-Build 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.

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 and the use, distribution and disclosure of such information as part of the Proposal for the purposes of, or in connection with, this RFP and the Competitive Selection Process.

11.4 COST OF PREPARING THE PROPOSAL

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. For certainty, the Design Early Works Price should not include any costs related to the Proposal under the DBA RFP, including the technical and financial submissions.

11.5 CONFIDENTIALITY OF INFORMATION

Subject to the confidentiality conditions in Schedule 1 of this RFP Participation Agreement, 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. 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; however, such information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

Proponents will also be required to sign a DBA RFP Participation Agreement as a condition of participating in the DBA RFP, and such agreement will include confidentiality and other provisions. The Authority expects that the form of the Participation Agreement will be substantially as set out in Appendix F2.

The Authority has engaged Infrastructure BC, formerly named Partnerships BC. Infrastructure BC has been, and continues to be, involved in other projects, and the Authority may receive information in respect of other projects which may be relevant to the Project. Subject to the terms of this RFP, including limitations on “Commercial in Confidence” information under Section 2.2 and Section 7.6, the Authority may, in its discretion, disclose information that is available from the Project to Infrastructure BC and other projects, and may obtain information from other projects.

11.6 GENERAL 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 A of this RFP, and in particular the Authority is not obliged to select the Proposal with the lowest Design Early Works Price;
- (c) reject 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;
- (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) amend, 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, 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 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 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), any Restricted Parties, or any director, officer, employee, agent, advisor, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever.

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.

11.9 OWNERSHIP OF PROPOSALS

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.

11.10 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:

- (a) this RFP;
- (b) the number of Proponents; and
- (c) the name of Proponents.

Following Contract Execution, the Authority expects to publicly disclose:

- (d) the Fairness Reviewer's report.

Each Proponent agrees that:

- (e) to ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence this 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;
- (f) it will notify the Authority of any and all requests for information or interviews received from the media; and
- (g) it will ensure that all of the Proponent Team members and others associated with the Proponent comply with the requirements of this RFP.

11.11 FAIRNESS REVIEWER

The Authority has appointed John Singleton (the Fairness Reviewer) to monitor the Competitive Selection Process. The Fairness Reviewer will act as an independent observer of the fairness of the implementation of the Competitive Selection Process, up to the selection of a Preferred Proponent. The Fairness Reviewer will provide a written report to the Authority that the Authority will make public.

The Fairness Reviewer will be:

- (a) provided with full access to all documents, meetings and information related to the evaluation processes under this RFP that the Fairness Reviewer, 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 Reviewer directly with regard to concerns about the fairness of the Competitive Selection Process.

11.12 LEGAL ADVISOR

Norton Rose Fulbright Canada LLP is a Restricted Party. By submitting a Proposal, the Proponent, and each member of a Proponent Team, expressly consents to Norton Rose Fulbright Canada LLP continuing to represent the Authority for all matters in relation to this RFP and the Project, including any matter that is adverse to the Proponent, or any member of a Proponent Team or any of their respective related parties, despite any information of the Proponent, or any member of a Proponent Team or any of their respective related parties, and any solicitor-client relationship that the Proponent, or any member of a Proponent Team or any of their respective related parties, may have had, or may have, with Norton Rose Fulbright Canada LLP in relation to matters other than this RFP and the Project. This Section is not intended to waive any of the Proponents', or relevant member of a Proponent Teams', rights of confidentiality or solicitor-client privilege. The Authority reserves the right at any time to waive any provision of this Section.

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.

12 DEFINITIONS AND INTERPRETATION

12.1 DEFINITIONS

Capitalized terms in this RFP that are not defined in this Section have the meaning given in the Design Early Works Agreement or the Initial Draft of the Design-Build Agreement.

In this RFP:

“Addenda” or **“Addendum”** means an addendum to this RFP issued by the Contact Person as described in Section 7.8.

“Additional Key Individuals” means the individuals identified in Section 4.2.

“Affiliated Persons”, or affiliated person, or persons affiliated with each other, are:

- (a) a corporation and
 - (1) a person by whom the corporation is controlled,
 - (2) each member of an affiliated group of persons by which the corporation is controlled, and
 - (3) a spouse or common-law partner of a person described in subparagraph (1) or (2);
- (b) two corporations, if
 - (1) each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,
 - (2) one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or
 - (3) each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;
- (c) a corporation and a partnership, if the corporation is controlled by a particular group of persons each member of which is affiliated with at least one member of a majority-interest group of partners of the partnership, and each member of that majority-interest group is affiliated with at least one member of the particular group;
- (d) a partnership and a majority-interest partner of the partnership;
- (e) two partnerships, if
 - (1) the same person is a majority-interest partner of both partnerships,
 - (2) a majority-interest partner of one partnership is affiliated with each member of a majority-interest group of partners of the other partnership, or

- (3) each member of a majority-interest group of partners of each partnership is affiliated with at least one member of a majority-interest group of partners of the other partnership;
- (f) a person and a trust, if the person
 - (1) is a majority-interest beneficiary of the trust, or
 - (2) would, if this subsection were read without reference to this paragraph, be affiliated with a majority-interest beneficiary of the trust; and
- (g) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and
 - (1) a majority-interest beneficiary of one of the trusts is affiliated with a majority-interest beneficiary of the other trust,
 - (2) a majority-interest beneficiary of one of the trusts is affiliated with each member of a majority-interest group of beneficiaries of the other trust, or
 - (3) each member of a majority-interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority-interest group of beneficiaries of the other trust.

“Aggregated Nominal Cost of the Proposal” means the sum of the Nominal Cost of the Proposal, including the nominal cost of Phase Two construction management services, plus the amount paid under the Design Early Works Agreement.

“Authority” means Interior Health Authority.

“Authority Representatives” has the meaning set out in Section 2.2.

“Breakdown of Contract Price” means the form in which the Proponent is to provide the Authority costing of the Project and the calculation of the Aggregated Nominal Cost of the Proposal as set out in Appendix B of the DBA RFP.

“Business Day(s)” means a standard day for conducting business, excluding government holidays and weekends.

“City” means the City of Williams Lake.

“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.

“Clinical Lead/Planner” means the individual responsible for leading the clinical planning during the procurement, design and construction phases of Phase One of the Project, as identified in the Proponent’s Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

“**CMH**” means Cariboo Memorial Hospital.

“**Collaborative Meetings**” has the meaning set out in Section 2.2.

“**Competitive Selection Process**” means the overall process for the selection under this RFP of a Preferred Proponent for the Design Early Works Agreement including, but not limited to, this RFP.

“**Conflict of Interest Adjudicator**” or “**COI Adjudicator**” means the person described in Section 10.5.

“**Construction Management Agreement**” means agreement for construction management services for Phase Two of the Project.

“**Consulting Agreements**” means any agreements between the Design-Builder and its consultants, and between its consultants and their sub-consultants, for the Design Early Works, in a form approved by the Authority, acting reasonably, as set out in Section 4.1.

“**Contact Person**” means the person identified as such in the Summary of Key Information.

“**Contract Execution**” means the time when the Design Early Works Agreement and all other agreements related to the Design Early Works Agreement have been executed and delivered and all conditions to the effectiveness of the Design Early Works Agreement have been satisfied.

“**Data Room**” has the meaning set out in Section 2.5.

“**DBA RFP**” has the meaning set out in Section 1.1.

“**DBA RFP Participation Agreement**” has the meaning set out in Appendix F2.

“**Design**” means the complete design of the Facility, up to and including preparation of issued for construction drawings.

“**Design-Build Agreement**” means the legal agreement between the Design-Builder and the Authority to design and construct Phase One of the Project.

“**Design-Build Construction Manager**” means the individual responsible for leading the construction for Phase One of the Project including the oversight of the construction process and construction activities on the Site, and conducting constructability reviews through the Phase One design development process, as identified in the Proponent’s RFQ Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP or the DBA RFP.

“**Design-Build Design Manager**” means the Design-Builder’s representative in charge of oversight of the design-build Design Team, including managing design quality for Phase One of the Project, as identified in the Proponent’s RFQ Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP or the DBA RFP.

“Design-Build Director” means the individual who represents the Design-Builder and has overall responsibility to Design and build Phase One of the Project, as identified in the Proponent’s RFQ Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP or the DBA RFP.

“Design-Builder” means the entity that enters into the Design Early Works Agreement with the Authority and who may enter into the Design-Build Agreement, in which case it will have direct responsibility to Design and build Phase One of the Project, as identified in the Proponent’s RFQ Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP or the DBA RFP.

“Design-Builder’s Constructor” means the firm(s) affiliated with the Design-Builder engaged by the Design-Builder to provide construction management services for Phase Two of the Project, as identified in the Proponent’s RFQ Response and as may have been changed pursuant, or as may be changed pursuant to this RFP or the DBA RFP.

“Design-Build Price Ceiling” has the meaning set out in Section 5.1.

“Design Early Works Agreement” means the legal agreement between the Preferred Proponent and the Authority to undertake the Design.

“Design Early Works Price” means the price proposed by the Proponents to complete the Design, including management of that Design, in accordance with the requirements of the Final Draft Design Early Works Agreement.

“Design Firm(s)” means the firm(s) engaged by the Design-Builder to design Phase One of the Project and as may be changed pursuant to this RFP or DBA RFP.

“Design Team” means the team responsible for the Design of Phase One of the Project.

“Electrical Engineer Lead” means the individual responsible for leading the electrical design for Phase One of the Project, as identified in the Proponent’s Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

“Enquiry” has the meaning set out in Section 7.6.

“Equipment Lead” means the individual responsible for leading the equipment planning and procurement for Phase One of the Project, as identified in the Proponent’s Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

“Facility” means the Phase One new expansion to the CMH.

“Fairness Reviewer” has the meaning set out in Section 11.11.

“Freedom of Information and Protection of Privacy Act” or **“FOIPPA”** has the meaning set out in Section 11.3.

“GST” means Goods and Services Tax.

“Guarantor” means an entity providing financial and/or performance support to the Design-Builder by way of a guarantee or a commitment to provide a parent company guarantee or other proposed credit support in relation to the Phase One of the Project, as identified in the Proponent’s RFQ Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP or the DBA RFP.

“IMIT Lead” means the individual responsible for leading the deployment of IMIT infrastructure through design, construction, equipment fit out and commissioning and integration with other systems for Phase One of the Project, as identified in the Proponent’s Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

“Indicative Design” has the meaning set out in Section 3.3.

“Initial Draft Design-Build Agreement” means the draft Design-Build Agreement labeled “Initial Draft Design-Build Agreement” and posted in the Data Room.

“Initial Draft Design Early Works Agreement” means the draft Design Early Works Agreement labeled “Initial Draft Design Early Works Agreement” and posted in the Data Room.

“Initial Draft DBA RFP” means the draft design build agreement request for proposals labeled “Initial Draft DBA RFP” and posted in the Data Room.

“Interim Consulting Agreement Submission” has the meaning set out in Section 4.1.

“Intellectual Property Rights” has the meaning set out in Section 7.9.

“Key Individual(s)” of a Proponent means the specific individuals, exclusive to the Proponent, filling the following roles (or equivalent):

- (a) Design-Build Director;
- (b) Design-Build Design Manager;
- (c) Design-Build Construction Manager;
- (d) Lead Architect;
- (e) Clinical Lead/Planner;
- (f) IMIT Lead;
- (g) Electrical Engineer Lead;

(h) Mechanical Engineer Lead;

(i) Quality Manager;

as identified in:

(a) the Proponent's RFQ Response and as may have been changed pursuant to the RFQ or as may be changed pursuant to this RFP or DBA RFP; or

(b) the Proponent's Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

Key Individuals may fill multiple roles provided they have the qualifications and experience for all the roles. A Key Individual role may only be filled by one individual.

"Lead Architect" means the individual responsible for leading the design for Phase One of the Project, as identified in the Proponent's RFQ Response and as may have been changed pursuant to the RFQ or as may be changed pursuant to this RFP or the DBA RFP.

"Mandatory Requirements" means the proposal requirements described in Section 8.1.

"Mechanical Engineer Lead" means the individual responsible for leading the mechanical design for Phase One of the Project, as identified in the Proponent's Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

"Nominal Cost of the Proposal" means the nominal sum of the values in the Breakdown of Contract Price form provided in the DBA RFP.

"Notice of Continued Status" has the meaning set out in Section 4.3.

"Participation Agreement" has the meaning set out in Section 6.1.

"Infrastructure BC" means Infrastructure BC Inc.

"Phase One" has the meaning set out in Section 1.1.

"Phase Two" has the meaning set out in Section 1.1.

"Preferred Proponent" means the Proponent selected by the Authority pursuant to this RFP to finalize the Design Early Works Agreement.

"Project" has the meaning set out in Section 1.1.

"Proponent" means one of the design-builders identified in Section 1.2.

"Proponent Team" means:

- (a) a Design-Builder, its Design Firm(s), its Key Individuals and Guarantors, as identified in the Proponent's RFQ Response and as may have been changed pursuant to the RFQ or as may be changed pursuant to this RFP or the DBA RFP; and
- (b) the Additional Key Individuals as identified in the Proponent's Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

"Proponent's Contact Representative" means, for a Proponent, the person who under the RFQ for such Proponent was the "Respondent's Representative" (as such term is used in the RFQ), as such person may be changed from time to time by the Proponent by written notice to the Authority, and who is fully authorized to represent the Proponent in any and all matters related to this RFP.

"Proposal" means a proposal submitted in response to this RFP.

"Proposal Declaration Form" means a form substantially as set out in Appendix C, or as otherwise acceptable to the Authority.

"Proposal Requirements" means the requirements described in Appendix B.

"Proposal Validity Period" has the meaning set out in Section 7.13.

"Province" means Her Majesty the Queen in Right of the Government of British Columbia.

"Quality Manager" means the individual responsible for the overall quality of the design and construction for Phase One of the Project, as identified in the Proponent's Notice of Continued Status and as may have been changed pursuant to this RFP or the DBA RFP.

"Request for Proposals" or **"RFP"** means this request for proposals including all appendices, as may be amended by Addenda.

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

"Request for Qualifications" or **"RFQ"** has the meaning set out in Section 1.2.

"Response" means the Proponent's formal response to the RFQ.

"Restricted Party" means those persons (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.

"Shared Use Person" has the meaning set out in Section 10.9.

“Site” means the existing Cariboo Memorial Hospital site located at 517 North 6th Avenue, Williams Lake, B.C.

“Statement of Requirements” means the functional requirements and specifications for the design and construction of the Facility as set out in the Design-Build Agreement.

“Submission Location” means the submission location identified as such in the Summary of Key Information.

“Submission Time for Additional Key Individuals” means the date and time identified as such in the Summary of Key Information.

“Submission Time for Interim Consulting Agreement Submission” means the date and time identified as such in the Summary of Key Information.

“Submission Time for Collaborative Meeting” means the date and time identified as such in the Summary of Key Information.

“Submission Time for Proposals” means the date and time identified as such in the Summary of Key Information.

“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.

12.2 INTERPRETATION

In this RFP:

- (a) any action, decision, determination, consent, approval or any other thing to be performed, made, or exercised by or on behalf of the Authority, including the exercise of “discretion” or words of like effect, unless the context requires it, is at the sole, absolute and unfettered discretion of the Authority;
- (b) the use of headings is for convenience only and headings are not to be used in the interpretation of this RFP;
- (c) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFP;
- (d) words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa;
- (e) the word “including” when used in this RFP is not to be read as limiting;

- (f) a reference to a “person” includes a reference to an individual, legal personal representative, corporation, body corporate, firm, partnership, trust, trustee, syndicate, joint venture, limited liability company, association, unincorporated organization, union or government authority;
- (g) 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; and
- (h) this RFP may be subject to the terms of one or more trade agreements.

APPENDIX A EVALUATION OF PROPOSALS

The Authority will evaluate the Proposals in accordance with this Appendix A.

EVALUATION PROCESS

- (a) Subject to the terms of this RFP, including Section 8.1 and Section 8.2, the Proposal will be evaluated and scored based on the level of achievement of the criteria in Table 2, using information provided as described in Appendix B of this RFP, and the interview process described below.
- (b) The Authority will evaluate Section 4: Design Early Works Price and score considering the following:
 - (1) that the inputs used to develop the Design Early Works Price are consistent with the Final Draft Design Early Works Agreement; and
 - (2) whether value has been proposed as described in Section 5.3.

The Proponent with the highest-scored Proposal will be invited by the Authority to become the Preferred Proponent, finalize the Design Early Works Agreement, and proceed to the DBA RFP.

PROPOSAL EVALUATION CRITERIA

Subject to Section 8.2, the Authority will evaluate the Proposals by applying the evaluation criteria and weighting in Table 2 below.

Table 2: Evaluation Criteria and Weighting

Number	Evaluation Criteria	Weighting
1	Design-Builder Project Approach and Process. This includes: <ul style="list-style-type: none"> • the Proposal’s demonstration that the Proponent Team has an understanding of how its proposal will be prepared, in a timely manner under the DBA RFP that is at or below the Design-Build Price Ceiling and meets the requirements of the Design-Build Agreement; • the Proposal’s demonstration that the Proponent Team has a good understanding of the Project and has the capability to undertake both phases of the Project, including performing the obligations of the Design-Builder under the Design-Build Agreement and performing the obligations of the Design-Builder’s 	45

Number	Evaluation Criteria	Weighting
	Constructor under the Construction Management Agreement; and <ul style="list-style-type: none"> • the Proposal's demonstration that the Proponent Team is capable of working collaboratively with the Authority during the development of the Design, throughout the DBA RFP, and during implementation following the execution of the Design-Build Agreement and the Construction Management Agreement. 	
2	Implementation of Design. This includes: <ul style="list-style-type: none"> • the Proposal's demonstration that the Proponent Team has a good understanding of the Design requirements and the obligations of the Design-Builder under the Design Early Works Agreement; and • the Proposal's demonstration that the Proponent Team understands how to manage quality during Design. 	35
3	The Design Early Works Price	20
Total		100

PROPONENT INTERVIEWS

As part of the scoring process, the Authority plans to hold an interview with each of the Proponents during the evaluation of the Proposals. These interviews are expected to be held with the group of Key Individuals, listed below, using video conferencing technology.

The Authority will prepare and distribute an agenda in advance of the interviews and the Authority may either with that agenda, or at the interview, request that the Proponents address scenarios and questions related to the evaluation criteria and their Proposal. The Proposals will be scored following the interview.

At this time, the Authority expects that each interview will include participation from the following Key Individuals:

- (a) Design-Build Director;
- (b) Design-Build Design Manager;

(c) Design-Build Construction Manager; and

(d) Lead Architect.

APPENDIX B PROPOSAL REQUIREMENTS

The following tables describe the proposal requirements for the Proposal.

Table 3: Proposal, Transmittal Package

Package 1: Proposal (Transmittal Package)	
	Transmittal Package
Section 1.1	Name and Contact Details for the Proponent’s Contact Representative
	<p>a) The Proponent’s Contact Representative will be the only person to receive communications from the Contact Person regarding this RFP. Please provide:</p> <ul style="list-style-type: none"> i) name; ii) employer; iii) mailing/courier addresses; iv) telephone number; and v) email address.
Section 1.2	Company/Firm Names and Names of Key Individuals
	<p>a) Confirmation of the company/firm name and Key Individuals, and if there have been any changes to Key Individuals from those specified in the Proponent’s RFQ response, then any such changes should be approved by the Authority in accordance with Section 7.12 of this RFP.</p> <p>b) Provide the Company/Firm name and names of the Key Individuals for the following team members in a table format as shown below:</p> <ul style="list-style-type: none"> i) Design-Build Director; ii) Design-Build Design Manager; iii) Design-Build Construction Manager; iv) Lead Architect; v) Clinical Lead / Planner; vi) Equipment Lead; vii) IMIT Lead; viii) Electrical Engineer Lead; ix) Mechanical Engineer Lead; and x) Quality Manager.

Package 1: Proposal (Transmittal Package)										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #0070C0; color: white;">Individual's Name</th> <th style="background-color: #0070C0; color: white;">Company Name</th> <th style="background-color: #0070C0; color: white;">Position</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> </tbody> </table>	Individual's Name	Company Name	Position						
Individual's Name	Company Name	Position								
Section 1.3	Documentation to be Provided									
<p>a) Confirm the Proposal substantially meets the provisions of this RFP, including the requirements set out in this Appendix of this RFP and the Final Draft Design Early Works Agreement;</p> <p>b) One fully executed copy of Appendix C1 – Proposal Declaration Form;</p> <p>c) One fully executed copy of Appendix D – Relationship Disclosure Form(s);</p> <p>d) Overview table of contents for all parts of the Proposal; and</p> <p>e) The Proponent's proposed Consulting Agreements that meets the following requirements:</p> <ul style="list-style-type: none"> i) In a form acceptable to the Authority which includes, but is not limited to; <ul style="list-style-type: none"> a. an option for the Design-Builder (and by assignment the Authority) to terminate the subcontract at its discretion, similar to the option set out in the Design Early Works Agreement; b. in the event the subcontract is terminated, the Design-Builder or the Authority shall only be required to pay for work which has been completed up to the termination date; and c. the assignment to the Authority should align with the Design Early Works Agreement and the Assignment of Contracts. ii) Upon termination of the Consulting Agreements, the liability to the Design Firm and other consultants is limited to payment for work completed with no additional amount or profit; and iii) Grants the Authority the assignment rights as set out in the Design Early Works Agreement including schedules. <p>f) Confirmation that the Proponent intends that the Consulting Agreements, submitted under section 1.3 [e], will be executed with the Design-Builder and its consultants and that each consultant intends to execute the agreement between its consultants and their sub-consultants, as applicable;</p> <p>g) If changed from the Interim Consulting Agreement Submission, include a blackline that compares the Consulting Agreements submitted under section 1.3 [e] with the Consulting Agreements submitted as the Interim Consulting Agreement Submission (Section 4.1).</p>										

Table 4: Package 2: Design-Builder Project Approach and Process

Package 2: Design-Builder Project Approach and Process	
Section 2	Proponent Team

Package 2: Design-Builder Project Approach and Process	
Section 2.1	Confirmation of RFQ Response
<p>a) The Proponent is to confirm that, other than changes permitted by the Authority, there have been no changes to information provided in its RFQ Response regarding:</p> <ul style="list-style-type: none"> i) the Design-Builder and the Design Firm(s) listed as part of the Respondent Team; ii) the Key Individuals listed for the Respondent Team; and iii) the estimated percentage of time each Key Individual expects to spend on the Project during Phase One. <p>If changes are proposed since the RFQ Response, the Proponent should clearly identify each proposed change, include a written request for the Authority’s permission, and provide additional information and documentation as required by this RFP, including Section 7.12 of this RFP.</p>	
Section 2.2	Organizational Structure and Relationships between the Proponent Team Members
<p>a) Provide an organization chart(s), at the corporate level, showing the relationships between Proponent Team members (including major sub-trades and consultants), reporting relationships, and any anticipated changes contemplated over the life of the Design Early Works Agreement.</p> <p>b) If different from section 2.2 (a), provide an organization chart(s), at the corporate level, showing the relationships between Proponent Team members (including major sub-trades and consultants), reporting relationships, and any anticipated changes contemplated over the life of the Design-Build Agreement.</p> <p>c) Describe the business relationships between the Proponent Team members (e.g., corporation, joint venture, partnership, subcontractor agreement, or consultant service agreement).</p>	
Section 2.3	Project Approach and Process
<p>a) Provide a plan describing how the Proponent Team plans to prepare a proposal, in a timely manner, that is at or below the Design-Build Price Ceiling and meets the requirements of the DBA RFP and the Design-Build Agreement.</p> <p>This plan should describe:</p> <ul style="list-style-type: none"> i) the actions required to ensure success of Phase One of the Project; ii) at what point in the design process (e.g. 20 percent design review, 50 percent design review) the Proponent would be willing to commit to a fixed price/fixed schedule for the Design-Build Agreement; iii) continual monitoring of the design in relation to affordability requirements; iv) adherence to the Phase One scope; v) given your response to (ii), how the team will optimize both schedule and cost during the development of the design under the Design Early Works Agreement, recognizing that construction is unable to begin until the Design-Build Agreement is executed; and vi) how the Proponent Team will work collaboratively together and with the Authority resulting in successful implementation of Phase One of the Project. 	

Package 2: Design-Builder Project Approach and Process

- b) Describe how the Proponent plans to manage the design development of the Facility. This should include:
- i) how the Proponent plans to ensure constructability of design;
 - ii) how the Proponent plans to manage the Design team during the development of the Facility's Design;
 - iii) how the Proponent Team will establish a collaborative relationship with the Authority and the approach the Proponent Team plans to use when communicating with the Authority, the Authority's representatives, and the user groups;
 - iv) the cost control process the Proponent plans to utilize during detailed design to control costs, including:
 - v) proactive and reactive processes which may be implemented during design development to ensure that the Project is within the affordability requirements; and
 - vi) outline the roles and responsibilities of Proponent Team members involved in the cost control processes, and expectations of how the Authority will be involved in the process.
- c) Describe how the Proponent Team plans to manage the construction of the Facility. This should include:
- i) how the Proponent Team will cost effectively recruit skilled labour to the Project, and how out-of-town labour will be accommodated;
 - ii) how construction will be managed to minimize impacts on the existing operational CMH;
 - iii) how the Proponent will facilitate the commissioning process and transition to the Authority;
 - iv) meeting the requirements of the Design-Build Agreement; and
 - v) how the Proponent Team will manage health and safety on the construction site.
- d) Describe whether the Proponent feels that the Design-Build Price Ceiling provides a reasonable budget to implement the Project, excluding the Phase Two construction costs which is not part of the Design-Build Price Ceiling. The description should include identification of key areas where the Proponent anticipates cost pressures that might impact on its ability to deliver the Project at or below the Design-Build Price Ceiling.

Table 5: Package 3 Implementation of Design

Package 3: Implementation of Design	
Section 3	Design
Section 3.1	Design and Construction Schedule Related to Design
<p>a) Provide a draft design and construction schedule related to Design prepared in accordance with the Final Draft Design Early Works Agreement which includes, at a minimum the following:</p> <ul style="list-style-type: none"> i) the critical path to develop the Design; ii) submittal dates and Authority's review timeframes; and 	

Package 3: Implementation of Design	
<p>iii) milestones related to the provision of mock-ups, including a detailed description of location, scope, and method of development.</p> <p>b) In less than five pages, explain how the Design will be implemented to achieve the milestone laid out above in Section 3.1(a).</p> <p>c) Provide the milestone date and basis for costing that will be used for the Interim Financial Review Submission.</p>	
Section 3.2	Submittal Schedule Related to Design
<p>a) Provide a draft submittal schedule related to Design in accordance with the requirements of Schedule 2 [Review Procedures] of the Initial Draft Design-Build Agreement and include all of the submittals listed therein.</p> <p>b) Provide a description of each submittal anticipated within one year of the Design Early Works Agreement execution, including the subject matter and form (e.g., a drawing, narrative or where applicable, a presentation), clearly outlining the components/details that are to be reviewed by the Authority and dates by which those reviews should be completed.</p>	
Section 3.3	Design Approach
<p>a) Clearly describe the design development process, the key Design issues, and the Proponent's strategy to manage those issues.</p> <p>b) Describe and provide details of how the Proponent plans to develop the Design, including:</p> <ul style="list-style-type: none"> i) how constructability considerations will be included in the Design process; ii) how site and location specific conditions will be addressed in the Design process; and iii) how the Design will be optimized from a whole-life perspective, specifically how equipment will be selected realizing that there is a balance between the purchase price maintenance and lifecycle costs. 	
Section 3.4	Quality Management Plan for Design
<p>a) Provide a summary of the Proponent's quality management approach related to Design, and a table of contents of the quality management plan based on the requirements set out in the Initial Draft Design-Build Agreement.</p> <p>b) Describe how the Proponent plans to manage quality management and control in design and also how quality management and control will be integrated with the construction process.</p> <p>c) If not already included in section 2.2 in Table 4, provide an organization chart that depicts the responsibility of the Design-Builder and the Design Firm in ensuring the quality of the Design.</p>	

Table 6: Package 4 Design Early Works Price

Package 4: Design Early Works Price	
Section 4	Design Early Works Price
Section 4.1	Insurance and Bonding

Package 4: Design Early Works Price	
a) Demonstrate the insurability of the Proponent Team by providing written confirmation from insurers that the insurance coverage required by the Final Draft Design Early Works Agreement will be available for Phase One of the Project if the Design-Builder is awarded a contract. b) Confirmation that the Bonding Undertaking provided with the RFQ Response is still valid.	
Section 4.2	Proposal Price
Section 4.2.1	Price Validity
a) Confirm the entire Proposal, including all prices contained within, will remain valid for the period of at least 120 days after the Submission Time for Proposals.	
Section 4.2.2	Form A1 – Breakdown of Design Early Works Price
Form A1 will include: <ol style="list-style-type: none"> a) the breakdown of the Design Early Works Price; and b) estimated payments over the schedule to provide the Design, reflecting the following: <ol style="list-style-type: none"> i) estimated payments must coincide with work completed based on the Design and construction schedule ; ii) general requirements related to the development of the Design and of the Design itself; and iii) development of the quality management plan described in Sections 3.4 of Table 5; iv) includes preparation of construction drawings and specifications; and v) contract administration, including Substantial Completion: <ol style="list-style-type: none"> (1) Contract Administration should be a separate row and not consolidated with any other cost category. The Proponent’s Form A1 should be consistent with the following: <ol style="list-style-type: none"> a) produced using the template supplied by the Authority with no changes or entries other than as indicated in the form; b) produced in Microsoft Excel version 2010 or newer; c) except where otherwise expressly indicated, include all taxes other than GST; d) clearly indicate, separately, GST; e) be expressed in Canadian dollars; and f) not include any hidden or password-protected cells or sheets. All sheets should be printable so that they are clear and legible on 8.5” x 11” paper and that each page includes row and column references with a minimum font size of 10 point.	

Pricing Forms

Form A1 – Breakdown of Design Early Works Price

Refer to the Excel document titled “**Form A1- Breakdown of Design Early Works Price. xlsx**” which is provided in the Data Room.

Form A1 includes a “Breakdown of Design Early Works Price” input sheet substantially in the form of Table 1 which includes prices for the Design Early Works required as described in this RFP and the Design Early Works Agreement. These prices include all taxes other than GST, except where otherwise expressly indicated.

Form A1 also includes a “Design Early Works Progress Payments” input sheet substantially in the form of Table 2 which requires the calculation of estimated Design Early Works progress payments over the design period. These estimated Design Early Works progress payments and the breakdown of the Design Early Works Price will be used to determine the Schedule of Prices to be used in Schedule 4 [Pricing] of the Design Early Works Agreement.

APPENDIX C PROPOSAL DECLARATION FORM

By executing this Proposal Declaration, the Proponent agrees to the provisions of this RFP and this Proposal Declaration. Capitalized terms are defined in Section 12.1 of this RFP.

[Proponent's Letterhead]

To: Interior Health Authority
c/o Partnerships British Columbia Inc.
Suite 1220, 800 West Pender Street
Vancouver, BC V6C 2V6

Attention: Brad Beswick

In consideration of the Authority's agreement to consider our Proposal in accordance with the terms of this RFP, the Proponent hereby agrees, confirms and acknowledges on its own behalf and on behalf of each member of the Proponent Team, to the extent applicable to such Proponent Team member and within the reasonable knowledge of such Proponent Team member, that:

1. Proposal

- (a) This Proposal Declaration Form has been duly authorized and validly executed by the Proponent;
- (b) The Proponent is bound by all statements and representations in its Proposal;
- (c) Its Proposal strictly conforms with this RFP and that any failure to strictly conform with this RFP may, in the discretion of the Authority, be cause for rejection of its Proposal;
- (d) Its Proposal is made without collusion or fraud; and
- (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 and each Proponent Team member agrees that they consent to the conduct of all or any of those investigations by the Authority.

2. Acknowledgements with Respect to the RFP, Final Draft Design Early Works Agreement, and Initial Draft Design-Build Agreement

- (a) The Proponent and each Proponent Team member has received, read, examined and understood the entire RFP including all of the terms and conditions, all documents listed in this RFP Table of Contents, and any and all Addenda;

- (b) The Proponent and each Proponent Team member 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;
- (c) The Proponent's representative identified below is fully authorized to represent the Proponent and each Proponent Team member 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;
- (d) The Proponent has disclosed all relevant relationships of the Proponent and each Proponent Team member, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (e) The Proponent acknowledges that:
 - (1) The Initial Draft Design-Build Agreement will be incorporated by reference into the Design Early Works Agreement;
 - (2) All Design performed under the Design Early Works Agreement will be performed in accordance with the Design Early Works Agreement and the relevant provisions of the Initial Draft Design-Build Agreement;
 - (3) If the Proponent is executes the Design Early Works Agreement and is later successful at the next stage under the DBA RFP and executes the Design-Build Agreement, all Design performed under the Design Early Works Agreement will be deemed to have been performed under the terms of the Design-Build Agreement;
 - (4) The Proponent has reviewed the Initial Draft Design Early Works Agreement and the Initial Draft Design-Build Agreement and has made reasonable efforts to identify and make Enquiries under Sections 2.3, 2.4 and 7.6 of the RFP;
 - (5) The Final Draft Design Early Works Agreement and the Initial Draft Design-Build Agreement (incorporated by reference into the Final Draft Design Early Works Agreement) are in a form acceptable to the Proponent and the Proponent will comply with the requirements of the Final Draft Design Early Works Agreement, including by rectifying any non-compliances (material or otherwise) in its Proposal; and
 - (6) If the Proponent raises material comments on the Initial Draft Design-Build Agreement after making this Proposal, including under the DBA RFP, there is no assurance that the Authority will make or even consider any of those comments.

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 terms of this Proposal Declaration Form to the extent applicable to such Proponent Team member, and within the reasonable knowledge of such Proponent Team member.

4. The Proponent Team consists of:

Name	Address	Key Individual

PROPONENT'S CONTACT 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 – this form is to be executed by each of its joint venture or consortium members, as applicable, as identified in the response to the RFQ (and as may have been changed pursuant to this RFP) as the Respondent or the Respondent Team lead(s), or as otherwise acceptable to the Authority.

APPENDIX D RELATIONSHIP DISCLOSURE FORM

By executing this Relationship Disclosure Form, the Proponent is making the disclosure on its own behalf and on the 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;
- (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 employees, 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 participated or been involved in the Competitive Selection Process or the design, planning or implementation of the Project or has confidential information about the Project or the Competitive Selection Process.

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., <i>Proponent Team member was an advisor to the Restricted Party from 2005-2006</i>)
<i>e.g. Firm Name Ltd.</i>	<i>Infrastructure BC</i>	<i>Firm Name Ltd. is working with Infrastructure BC on Project X.</i>
<i>e.g. John Smith</i>	<i>Authority Name</i>	<i>Employee from 19XX – 20XX</i>

(Each Proponent Team to submit one Relationship Disclosure Form. Add additional pages as required).

NAME OF PROPONENT:

Name of Firm – Proponent:

Address:

Email Address:

Telephone:

Name of Authorized Signatory for Proponent:

Signature:

If the Proponent is a joint venture, consortium or special purpose entity – this form is to be executed by each of its joint venture or consortium members, as applicable, as identified in the response to the RFQ (and as may have been changed pursuant to this RFP) as the Respondent or the Respondent Team lead(s), or as otherwise acceptable to the Authority.

APPENDIX E PROPONENT COMMENTS FORM

(Collaborative Meetings – Section 2.2)

Cariboo Memorial Hospital Redevelopment Project

Section	Proposed Change (including detailed drafting)	Reasons for Proposed Change

APPENDIX F1 PARTICIPATION AGREEMENT

[Insert Month, Day Year]

Interior Health Authority
c/o Partnerships British Columbia Inc.
1220 - 800 West Pender Street
Vancouver, B.C. V6C 1J8

Attention: Brad Beswick, Contact Person

Dear Sirs/Mesdames:

Re: Cariboo Memorial Hospital Redevelopment Project – Participation Agreement in respect of the Design Early Works Agreement Request for Proposals issued by Interior Health Authority (the Authority) on [Insert Date], 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:

- (a) **Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP.
- (b) **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 will comply with the terms of this Participation Agreement and the terms of the RFP.
- (c) **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.
- (d) **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:
 - (1) 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;

(2) 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.

(e) **Amendments.** The Proponent acknowledges and agrees that:

- (1) The Authority may in its sole and absolute discretion amend the RFP at any time and from time to time; and
- (2) 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.

(f) **General.**

- (1) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:
 - i. it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
 - ii. This Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
 - iii. This Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.
- (2) *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, Sections (c) of this Participation Agreement.
- (3) *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.
- (4) *Enurement.* This Participation Agreement enures to the benefit of the Authority and binds the Proponent and its successors.
- (5) *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.
- (6) *Headings.* The use of headings is for convenience only and headings are not to be used in the interpretation of this Participation Agreement.

(7) *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.

(8) *Including.* The word including when used in this Participation Agreement is not to be read as limiting.

Yours truly,

(Name of Proponent)

Authorized Signatory

Name of Authorized Signatory
(please print)

SCHEDULE 1 – Confidentiality Conditions

(a) Definitions. In these confidentiality conditions:

- (1) **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 RFQ, the RFP, the DBA RFP 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:
 - i. Is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
 - ii. 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;
 - iii. 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;
 - iv. Was developed independently by the Receiving Party without the use of any Confidential Information; or
 - v. Is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
- (2) **Disclosing Party** means the Authority or any of its Representatives;
- (3) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by this RFP or this Participation Agreement;
- (4) **Receiving Party** means a Proponent or any of its Representatives;
- (5) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, 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 Infrastructure BC in connection with the Project.
- (b) **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 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.
- (c) **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 for any purpose whatsoever.
- (d) **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 Infrastructure BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
- (e) **Destruction on Demand.** On written request, the Receiving Party will promptly deliver to Infrastructure 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 Infrastructure BC in writing, all in accordance with the instructions of Infrastructure 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.
- (f) **Acknowledgment of Irreparable Harm.** The Receiving Party acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Authority or Infrastructure 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.

- (g) **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 F2 PARTICIPATION AGREEMENT FOR DBA RFP

[Insert Month, Day Year]

Interior Health Authority
c/o Partnerships British Columbia Inc.
1220 - 800 West Pender Street
Vancouver, B.C. V6C 1J8

Attention: Brad Beswick, Contact Person

Dear Sirs/Mesdames:

Re: Cariboo Memorial Hospital Redevelopment Project – Participation Agreement in respect of the Design Build Agreement Request for Proposals issued by Interior Health Authority (the Authority) on [Insert Date], 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:

- (a) **Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP.
- (b) **Participation.** The Proponent agrees that as a condition of participating in the RFP, RFP Process, Collaborative Meetings and access to the Data Room, the Proponent will comply with the terms of this Participation Agreement and the terms of the RFP.
- (c) **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.
- (d) **Terms of DBA 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:
 - (1) 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;

(2) 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.

(e) **Amendments.** The Proponent acknowledges and agrees that:

- (1) The Authority may in its sole and absolute discretion amend the RFP at any time and from time to time; and
- (2) 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.

(f) **General.**

- (1) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:
 - i. it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
 - ii. This Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
 - iii. This Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.
- (2) *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, Sections (c) of this Participation Agreement.
- (3) *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.
- (4) *Enurement.* This Participation Agreement enures to the benefit of the Authority and binds the Proponent and its successors.
- (5) *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.
- (6) *Headings.* The use of headings is for convenience only and headings are not to be used in the interpretation of this Participation Agreement.

(7) *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.

(8) *Including.* The word including when used in this Participation Agreement is not to be read as limiting.

Yours truly,

(Name of Proponent)

Authorized Signatory

Name of Authorized Signatory
(please print)

SCHEDULE 1 – Confidentiality Conditions

(a) Definitions. In these confidentiality conditions:

- (1) **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 RFQ, the DEWA RFP, the RFP 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:
 - i. Is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
 - ii. 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;
 - iii. 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;
 - iv. Was developed independently by the Receiving Party without the use of any Confidential Information; or
 - v. Is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
- (2) **Disclosing Party** means the Authority or any of its Representatives;
- (3) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Participation Agreement;
- (4) **Receiving Party** means a Proponent or any of its Representatives;
- (5) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, 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 Infrastructure BC in connection with the Project.
- (b) **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 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.
- (c) **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 for any purpose whatsoever.
- (d) **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 Infrastructure BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
- (e) **Destruction on Demand.** On written request, the Receiving Party will promptly deliver to Infrastructure 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 Infrastructure BC in writing, all in accordance with the instructions of Infrastructure 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.
- (f) **Acknowledgment of Irreparable Harm.** The Receiving Party acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Authority or Infrastructure 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.

- (g) **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 NOT USED

APPENDIX H INITIAL DRAFT DESIGN EARLY WORKS AGREEMENT

Posted in the Data Room.

APPENDIX 11 INITIAL DRAFT DESIGN-BUILD AGREEMENT

Posted in the Data Room.

APPENDIX I2 INITIAL DRAFT DBA RFP

Posted in the Data Room.

APPENDIX J ENQUIRY FORM

ENQUIRIES

Cariboo Memorial Hospital Redevelopment Project

Request Number: _____

Proponent Team: _____

Date: _____

Do you request this query to be Commercial in Confidence? Yes No

This form may be used for single and multiple enquiries.

Enquiry/Enquiries:

APPENDIX K BONDING UNDERTAKING

Date: [Insert Month, Day Year]

No. _____

To: Interior Health Authority

Re: Request for Proposals

Cariboo Memorial Hospital Redevelopment Project – Phase One

We _____ (name of Surety), a corporation created and existing under the laws of Canada and duly authorized to transact the business of Suretyship in Canada as Surety, are the Surety for _____ (Proponent). Our client has demonstrated to us in the past an ability to complete its projects in accordance with the conditions of its contracts and we have no hesitation in recommending its services to you.

Our client wishes to submit a Proposal for the captioned Project, which we understand will require a Performance Bond of \$70 million and a Labour and Materials Payment Bond of \$70 million. Based on the information available at this time, and subject to our assessment of the Cariboo Memorial Hospital Redevelopment Project, and our client's work program at the time of submission of its Proposal, we do not anticipate a problem in supporting the captioned Project and supplying the requisite bonds if asked to do so. However, the execution of any bonds will be subject to an assessment of the final contract terms, conditions, financing and bond forms by our client and us.

If we can provide any further assurances or assistance, please call upon us.

(Name of Surety)

(Seal)

Attorney-In-Fact