



Request for Qualifications  
Penticton Regional Hospital  
Patient Care Tower

RFQ # 6544

September 17, 2014

## SUMMARY OF KEY INFORMATION

<b>RFQ TITLE</b>	The title of this RFQ is: <b>RFQ – Penticton Regional Hospital Patient Care Tower</b> Please use this title on all correspondence.
<b>CONTACT PERSON</b>	The Contact Person for this RFQ is: <b>Catherine Silman</b> Email: <a href="mailto:catherine.silman@partnershipsbc.ca">catherine.silman@partnershipsbc.ca</a> Please direct all Enquiries, by email, to the above named Contact Person. <u>No telephone Enquiries please.</u>
<b>ENQUIRIES</b>	Respondents 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 to permit consideration by the Authority; the Authority may, in its discretion, decide not to respond to any Enquiry.
<b>RECEIPT CONFIRMATION FORM</b>	The Addenda and any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form.
<b>SUBMISSION TIME</b>	The Submission Time is: <b>10:00 am Pacific Time on November 6, 2014</b>
<b>SUBMISSION LOCATION</b>	Responses are to be submitted to: <b>Suite 900, 1285 West Pender Street</b> <b>Vancouver, V6E 4B1</b> <b>Attention: Catherine Silman</b>

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## 1 INTRODUCTION

### 1.1 PURPOSE OF THIS RFQ

The purpose of this Request for Qualifications (“**RFQ**”) is to invite interested parties to submit Responses to this RFQ indicating their interest in, and qualifications for, the Penticton Regional Hospital Patient Care Tower Project (the “**Project**”). Based on these Responses, Interior Health (the “**Authority**”) intends to select, in accordance with the terms of this RFQ, a shortlist of up to three Proponents to be invited to participate in the next stage of the Competitive Selection Process, the Request for Proposals (“**RFP**”) stage.

This RFQ is not a tender or an offer or a request for proposals, and there is no intention by the Authority to make an offer by issuing this RFQ.

Under the Competitive Selection Process, the Authority is seeking to enter into a contract (the “**Project Agreement**”) with a qualified entity (“**Project Co**”) to design, build, partially finance and maintain a new Patient Care Tower and Parkade at Penticton Regional Hospital in Penticton (the “**Facility**”).

If a capitalized term used in this RFQ is not defined in Section 7 of this RFQ, it will be defined in the section of the RFQ in which it is first used.

### 1.2 ADMINISTRATION OF THIS RFQ

Partnerships British Columbia Inc. (“**Partnerships BC**”) is managing this RFQ and the Competitive Selection Process on behalf of the Authority.

### 1.3 ELIGIBILITY

Any interested party, or parties, may submit a Response to this RFQ. Respondents may be individuals, corporations, joint ventures, consortia, partnerships or any other legal entities. If the Respondent is not a legal entity, the Respondent shall act through the legal entity or entities comprising the Respondent.

### 1.4 PROJECT BRIEF

The Authority has issued a separate document entitled the Project Brief for the purpose of providing an informal and convenient summary of aspects of the Project. The Project Brief is not included as part of the RFQ or RFP, and is not intended to be included with, or referred to in any way in interpreting the requirements of, the RFQ, the RFP or the Project Agreement, or to in any way define or describe any party’s rights with respect to the Project.

## 2 THE PROJECT

### 2.1 PENTICTON REGIONAL HOSPITAL PATIENT CARE TOWER

Penticton Regional Hospital is one of six referral centres within Interior Health's network of hospitals. Penticton Regional Hospital provides secondary and specialized acute care for patients living in the South Okanagan referral area.

The hospital's roles for acute care and diagnostics are well integrated with residential, community, mental health and primary care services in the community of Penticton and the surrounding area. The hospital is located in an area of Penticton that has become, in essence, an integrated campus of care. Patients identify this part of Penticton as the place that offers services supporting their care needs. The co-locations and physical adjacencies support both the functions of the care continuum and the actual steps of the patient journey. The Penticton Health Centre (with Community and Mental Health services) is located across the street from the hospital. Westview is adjacent to the hospital and provides residential care. The Moog and Friends Hospice House was built on site in 1998 to provide palliative care. The Okanagan Similkameen Neurological Society Child Development Centre is located immediately west of the hospital. Physician offices for some disciplines are in close proximity to the hospital.

Penticton Regional Hospital was incorporated to serve its community in 1913. The current hospital was constructed in 1951 with building additions in 1969 and 1989/1991. The 1969 additions provided infrastructure for Laboratory, Radiology, Operating Suites, South Pavilion and Westview North. The 1989/1991 additions were built for the care areas of Ambulatory Care, Critical Care, Westview South and Psychiatry.

There are critical challenges facing Penticton Regional Hospital. The current infrastructure impedes delivery of safe, timely and effective patient care. These challenges are amplified by patient numbers being over-capacity, patient access problems, and infection control issues caused in part by multi-bed wards. Work environments are unsafe; for example, there is inadequate space to meet ergonomic standards and provide aids such as ceiling lifts. Room configurations compromise patient confidentiality, safety and privacy; for example, some patient waiting areas are in public hallways, treatment bays are open spaces, and inpatient rooms have 3 and 4 beds with shared washroom facilities. The physical constraints also extend to an inability to adequately participate in clinical education to prepare future health care providers. The physical facility has not kept pace with growing health care needs in the South Okanagan.

Completion of the Penticton Regional Hospital Patient Care Tower will have a profoundly positive impact on the patients served.

The Project's all-in capital cost is in the range of \$325 million. This includes a design build finance maintain capital component of approximately \$245 million.

## 2.2 PROJECT OBJECTIVES

The overall purpose of the Project is to design, build, finance and maintain a new Patient Care Tower and parking structure.

The proposed location for the new Patient Care Tower is on the existing Penticton Regional Hospital Campus. The eastern portion of this site was chosen for consideration due to its relatively undeveloped condition. The planning also respects the campus Master Plan which envisions the eventual development of the northern portion to accommodate future Acute Care Services expansion.

The Project Agreement will require the successful Proponent to design, build, finance, and provide building maintenance, as well as life cycle maintenance and repair services, for the new Facility for a Project period of 30 years commencing from the anticipated date of occupation of the Facility. The Project Company's scope of responsibility will also include facility and equipment maintenance and repair for the existing campus.

## 2.3 PROJECT SCOPE

The Patient Care Tower is Phase 1 of a two-phased project on the Penticton Regional Hospital Campus. The indicative design work proposes a seven-story building and a five-story parking garage. Phase 2 includes renovation for an expanded Emergency Department, plus renovations for the support areas of Pharmacy, Stores and Laundry. Phase 2 is not included in this procurement.

The Project is being procured using a design, build, finance and maintain ("DBFM") approach. The Patient Care Tower is planned to be approximately 26,700 square metres (gross floor area) of new clinical, administrative and support spaces. The major program components include ambulatory care clinics, surgical services and inpatient units. The Patient Care Tower will be constructed on the current Penticton Regional Hospital site. In order to accommodate the required number of parking stalls to support the site, a parking garage is planned for approximately 500 stalls. The Project Company's scope of responsibility will also include the facility and equipment maintenance and repair for the existing campus.

The table below summarizes the Project scope:



**Table 1: Project Scope Summary**

Patient Care Tower
<ul style="list-style-type: none"><li>▪ Medical/Surgical Inpatient Units (three 28-bed units)</li><li>▪ Surgical Services Suite</li><li>▪ Medical Device Reprocessing</li><li>▪ Ambulatory Care Centre</li><li>▪ UBC Faculty of Medicine Program</li><li>▪ Retail Space</li><li>▪ Parking Garage (approximately 500 Stalls)</li><li>▪ Helipad</li></ul>

## 2.4 PROJECT TEAM

### 2.4.1 Interior Health

Interior Health (the “**Authority**”) was established as one of five geographically-based health authorities in 2001 by the Government of British Columbia. It is responsible for ensuring publicly-funded health services are provided to more than 742,000 residents of the Southern Interior.

Serving a large geographic area of approximately 216,000 square kilometres, the Authority’s service area includes larger cities such as Kamloops, Kelowna, Cranbrook, Trail, Penticton and Vernon, as well as a multitude of rural and remote communities totaling 58 municipalities, 95 unincorporated areas, 55 First Nation Communities and seven regional hospital districts.

Currently, the Authority operates 16 community hospitals, four service area hospitals, and two tertiary referral hospitals. It has 6,584 residential care and assisted living beds (as of 2014) and provides services for acute care, health promotion and prevention, community care, residential care, mental health, substance misuse, public health and more.

All health care services will continue to be funded by the Province and delivered by the Authority. The Province maintains control and decision-making over services and owns the land and facilities over the life of the agreement.

Additional information about Interior Health is available at: [www.interiorhealth.ca](http://www.interiorhealth.ca)

### 2.4.2 Partnerships BC

Partnerships BC was established by the Province of British Columbia to structure and implement partnership delivery solutions for public infrastructure.

The Authority has engaged Partnerships BC to manage the procurement of the Project.

Additional information about Partnerships BC is available at [www.partnershipsbc.ca](http://www.partnershipsbc.ca).

## 2.5 ADVANCE WORK BY THE AUTHORITY

The following sections provide an overview of the work undertaken on the Project to-date, and work planned to be undertaken prior to Financial Close.

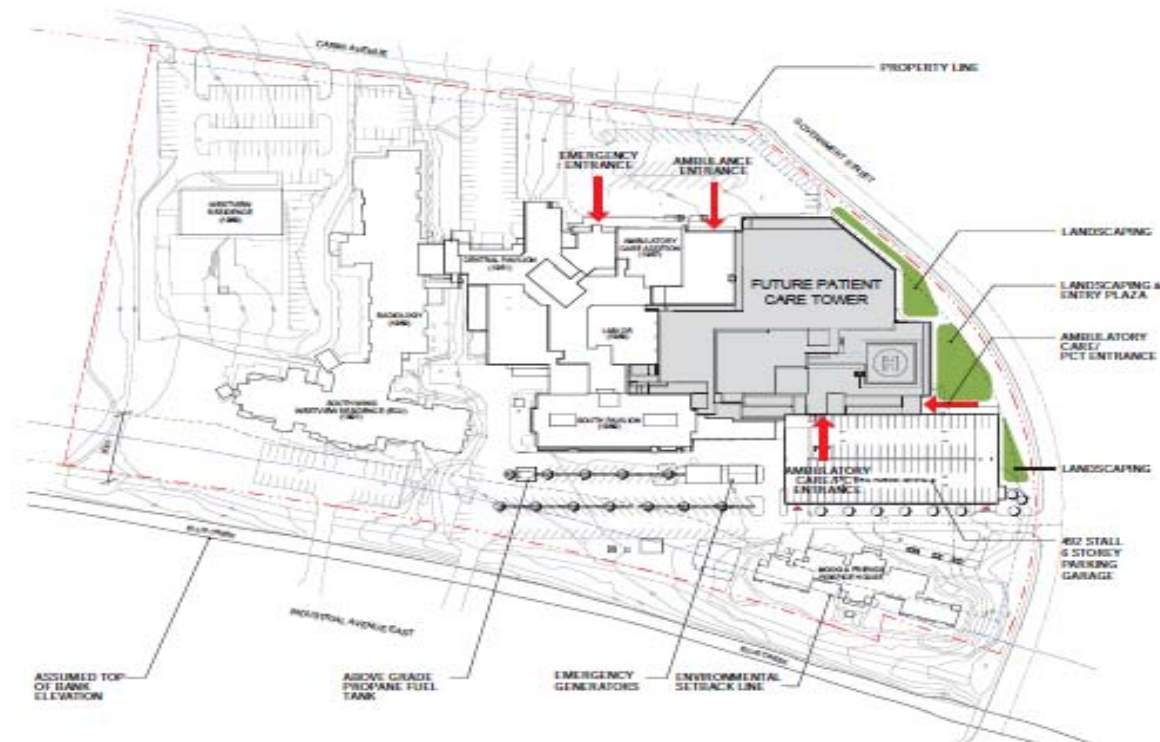
### 2.5.1 Approval

The Project has been approved to proceed to procurement by the Province of British Columbia and was announced on July 30, 2014. Further Authority and Province approvals are expected to be required prior to issuance of the RFP and Financial Close.

### 2.5.2 Site Zoning

The location for the new Patient Care Tower is on the existing Penticton Regional Hospital Campus shown in the site plan below.

**Figure 1: Existing Penticton Regional Hospital Campus Overview with New Patient Care Tower**



The Authority will own the Site and all buildings and other improvements on the Site, subject to any license or other rights to be granted to the partner or third parties. The Site is appropriately zoned for the Project.

### 2.5.3 Programming

The Authority has completed its programming and the indicative design. Drafting of performance specifications (the “**Performance Specifications**”) is in process.

### 2.5.4 Indicative Design

The Indicative Design reflects program areas and significant design. Functionality has been reviewed with clinical users who have provided input on the general layout, adjacencies and flows. Drawings describing the Indicative Design for the Facility will be available to Proponents at the RFP phase. The Indicative Design should not be relied upon by Proponents.

The Indicative Design model shows one possible form of a design solution and is not to be interpreted as the ideal design for the current healthcare needs. It is for illustrative and general guidance purposes only and will not relieve Project Co in any way of all responsibility for the design of the Facility.

Proponents at the RFP phase may use the Indicative Design as a reference for its design, but the Authority makes no representation as to the accuracy or completeness of any aspect of the Indicative Design, and expects Project Co to deliver innovation in its Detailed Design.

## 2.6 GENERAL SCOPE OF PROJECT CO'S RESPONSIBILITY

### 2.6.1 Project Agreement

The Project will be managed under one Project Agreement. The Authority intends to attach an Initial Draft Project Agreement to the RFP which will include:

- (a) Performance Specifications for:
  - (1) the design, construction and maintenance of the Facility; and
  - (2) the scope of services to be provided by the successful Proponent; and
- (b) Proposed commercial terms.

The Authority will issue a Final Draft Project Agreement, which will be the basis upon which the Proposals will be prepared in response to the RFP.

### 2.6.2 General Scope of Responsibility

The Authority anticipates that the general scope of Project Co's responsibilities under the Project Agreement will be as follows:

(a) Design

Project Co will be responsible for all aspects of the design for the Facility including the integration of the various building components with each other. The final design will comply with the Performance Specifications that will be included in the Project Agreement, and all applicable laws, including City of Penticton ("**City**") zoning.

(b) Construction

Project Co will be responsible for:

- (1) obtaining all permits and approvals necessary for construction of the Facility, excluding zoning approvals already in place;
- (2) provision of utilities and other site services required to support the Facility, including off-site works as required to connect the Facility to existing City infrastructure;
- (3) design and construction of the Facility; and
- (4) estimated substantial completion of the Facility by March 2019.

(c) Equipment

The relevant categories of equipment, and responsibilities for each, will be set out in the Project Agreement. Project Co will have a significant role in procurement and integrating the equipment into the design.

(d) Finance

It is anticipated that the Authority will make milestone payments during construction (the amount, timing and terms and conditions of which will be set out in the RFP, but which are anticipated to be in the range of 40 per cent of Project capital costs). Project Co will be required to provide all other required funding for design, construction and finance costs by way of equity and/or debt financing.

The Authority will pay Project Co annual service payments over the term of the Project in accordance with the Project Agreement. The annual service payments are subject to deductions if performance requirements are not met. Details will be available in the RFP. It is anticipated that there will be an Affordability Ceiling in the RFP stipulating a maximum net present cost of the annual service payments over the term of the Project Agreement and a Capital Cost Ceiling stipulating a maximum capital cost of the PPP scope, and that it will be mandatory to comply with those requirements.

(e) Maintenance Services

Project Co's scope of responsibility will include facility maintenance for the new Patient Care Tower and the existing campus. It is anticipated that Project Co will start providing the services for the existing campus six months after Financial Close. The scope of required facility maintenance services for the existing campus would be the same as the scope of services for the new Patient Care Tower. During the term of the Project Agreement, after occupation of the Facility by the Authority, Project Co will be required to provide facility maintenance services which may include:

- (1) general management services
- (2) plant services
- (3) environmental services
- (4) grounds maintenance and landscaping services
- (5) help desk services
- (6) utility management services
- (7) pest control services

(f) Life Cycle Maintenance

Project Co will be responsible for the life cycle maintenance of the Facility. In addition, Project Co will be required to maintain the Facility to the agreed physical and performance standards during the term of the Project Agreement, and to return the Facility to the Authority in the specified condition at the end of the term.

(g) Wood First

As contemplated by the Wood First Act (British Columbia), Project Co will be required to use wood in the Project consistent with Wood First legislation.

(h) Leadership in Energy and Environmental Design (LEED®)

The successful Proponent will be required to build the Facility to achieve LEED® Gold certification.

(i) Communication and Consultation

The Authority and Project Co will work together on all aspects of public communication and consultation as set out in the Project Agreement.

## 2.7 COMMERCIAL TERMS

### 2.7.1 Key Commercial Terms

The following are some of the key commercial terms that the Authority anticipates will be included in the Project Agreement:

- (a) Term: the term of the Project Agreement will commence on signing, and a 30-year maintenance term will commence from the anticipated substantial completion of the Facility. It is anticipated that construction will commence in February 2016 and the Facility is estimated to be substantially complete and available for use in March 2019.
- (b) Payment: the Authority will make milestone payments during construction. The Authority will pay service payments to Project Co commencing on the month when the Facility is available for use by the Authority in accordance with a move-in schedule to be established under the Project Agreement. At this time the Authority does not anticipate starting payments earlier than the date the Facility is scheduled to be completed. The Authority anticipates making payments on a monthly payment cycle.
- (c) Payment Deductions: the Project Agreement will permit the Authority to make deductions from the service payments if Project Co fails to make the functional areas available for use as required by the Project Agreement, or fails to meet the defined performance standards.
- (d) End of Term: the Project Agreement will describe the hand-back requirements for the Facility at the end of the term and describe the provisions to enforce those requirements.

### 3 COMPETITIVE SELECTION PROCESS

This section describes the process that the Authority expects to use in the selection of a Preferred Proponent and the execution of the Project Agreement. The anticipated Competitive Selection Process includes two stages: (a) the RFQ stage and (b) the RFP stage, which includes Financial Close.

#### 3.1 RFQ STAGE

The Authority intends to select, in accordance with the terms of this RFQ, a shortlist which the Authority anticipates will be no more than three Proponents, and then issue an RFP to that shortlist only, from which the Preferred Proponent will be selected in accordance with the terms of the RFP.

#### 3.2 RFP STAGE

The Authority's objective at the RFP stage is to select the Preferred Proponent with whom it may enter into the Project Agreement. The RFP stage is expected to include:

##### 3.2.1 Collaborative Meetings

The RFP stage will include collaborative discussions (the "**Collaborative Meetings**") relating to technical and commercial matters through workshops and topic meetings in accordance with the terms of the RFP, to allow Proponents to provide comments on Project-specific issues raised through the process. Attendance at Collaborative Meetings will be in person.

The Authority anticipates that the RFP stage will allow Proponents to provide input on the Initial Draft Project Agreement as follows:

- (a) the Authority will invite each Proponent to review the Initial Draft Project Agreement as attached to the RFP and then meet confidentially and separately with the Authority to discuss any comments or amendments that the Proponent requests to be considered;
- (b) the Authority will consider all comments and requested amendments received from the Proponents and may, in its discretion, amend the Initial Draft Project Agreement, and by one or more Addenda issue a revised Initial Draft Project Agreement; and
- (c) ultimately the Authority will issue a Final Draft Project Agreement as the common basis for the preparation of Proposals by the Proponents.

##### 3.2.2 RFP Submission

The form of the RFP submission will be described in the RFP and will address both technical and financial aspects of the Project. It is anticipated that the Project will include an interim financial

submission, details to be provided in the RFP documents. It is anticipated that a technical submission addressing the technical aspects of the RFP will be submitted in advance of the financial submission.

The technical submission will not require pricing, but is anticipated to be well-developed and to include the following:

- (a) a schematic design identifying key elements of the Proponent's technical submission; and
- (b) plans outlining the Proponent's approach to items such as quality assurance, construction management, facility operations, asset preservation, communications and environmental management.

It is anticipated that the financial submission during the RFP stage will occur after the technical submission. The financial submission is expected to include the following:

- (a) fully committed financing, including confirmation from the Proponent's funding sources confirming acceptance of the terms of the Project Agreement;
- (b) a commitment to enter into the Project Agreement by Project Co; and
- (c) committed pricing for the Project, inclusive of all taxes except GST.

### 3.3 COMPENSATION FOR PARTICIPATION IN THE COMPETITIVE SELECTION PROCESS

The Authority will not provide any compensation to Respondents for participating in the RFQ stage of the Competitive Selection Process.

If the Competitive Selection Process continues into the RFP stage, the Authority intends to make provision for partial compensation in the amount of \$300,000 payable to each unsuccessful Proponent in accordance with the terms of the RFP.

### 3.4 COMPETITIVE SELECTION TIMELINE

The following is the Authority's estimated timeline for the Competitive Selection Process and the Project:

Activity	Timeline
RFQ issue date	September 17, 2014
Introductory Project Meeting	October 6, 2014
RFQ Submission Time	November 6, 2014
Announce Shortlisted Respondents	January 2015
Issue RFP and Initial Draft Project Agreement to Proponents	January 2015
Collaborative Meetings	February 2015 – May 2015



Activity	Timeline
Business to Business Meeting	February 2015
Issue Final Draft Project Agreement	May 2015
Submission Time for Technical Submissions	July 2015
Submission Time for Financial Submissions	September 2015
Selection of Preferred Proponent	October 2015
Financial Close	February 2016
Construction commences (Phase 1)	February 2016
Commence Facility Maintenance for the Existing Campus	July 2016
Estimated Substantial Completion (Phase 1)	March 2019

All dates in the above timeline are subject to change at the discretion of the Authority.

### 3.5 INTRODUCTORY PROJECT MEETING

The Authority intends to hold an introductory meeting to introduce the Project to which all interested parties will be invited. The date of this meeting will be October 6, 2014 in Penticton, British Columbia. All parties who wish to attend should complete and submit a Receipt Confirmation Form for further details. Participation will not be mandatory.

A list of those attendees who have registered through the Contact Person will be made available to those who have submitted a Receipt Confirmation Form. Minutes will not be prepared or circulated. No information from the meeting may be relied upon unless set out in an Addendum or a response to an Enquiry under Section 4.7. It is anticipated that the meeting will include a tour of the Site.

### 3.6 BUSINESS-TO-BUSINESS NETWORKING EVENT

The Authority intends to hold an in-person business-to-business networking event in Penticton to which only Proponents will be invited. The event will provide a forum for businesses to network at the Project team level and with potential sub-contract partners. The specific date of this meeting has not yet been set, but will take place close to the first Collaborative Meetings. A date will be issued in the RFP. Participation will be mandatory.

## **4 SUBMISSION AND PROCESS INSTRUCTIONS**

### **4.1 MANDATORY REQUIREMENTS**

Responses to this RFQ must be received at the Submission Location before the Submission Time as stated in the Summary of Key Information. Responses received after the Submission Time will not be considered and will be returned unopened. All times will be determined with reference to the clock used by the Contact Person for that purpose.

### **4.2 RESPONSE FORM AND CONTENT**

Responses to this RFQ should be in the form and content described in Appendix A.

### **4.3 LANGUAGE OF RESPONSES AND ENQUIRIES**

Responses and Enquiries should be in English. Any portion of a Response not in English may not be evaluated, and any Enquiry not in English may not be considered.

### **4.4 NO FAX OR EMAIL SUBMISSION**

Responses submitted by fax or email will **not** be accepted.

### **4.5 RECEIPT OF COMPLETE RFQ**

Respondents are solely responsible to ensure that they have received the complete RFQ, as listed in the Table of Contents of this RFQ, plus any Addenda. Each and every Response is deemed to be made on the basis of the complete RFQ issued prior to the Submission Time. The Authority accepts no responsibility for any Respondent that does not receive all RFQ information.

### **4.6 RECEIPT CONFIRMATION FORM**

Any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form (Appendix B). This form will be completed, executed and delivered to the Contact Person via email.

### **4.7 ENQUIRIES**

Respondents 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 to permit consideration by the Authority; the Authority may, in its discretion, decide not to respond to any Enquiry.

All Enquiries regarding any aspect of this RFQ should be directed to the Contact Person by email, and the following will apply to any Enquiry:

- (a) any responses will be in writing;
- (b) Enquiries to, and responses from, the Contact Person will be recorded;
- (c) a Respondent may request that an Enquiry and the response to an Enquiry be kept confidential if the Respondent considers the Enquiry to be commercially sensitive, and if the Authority decides that an Enquiry or the response or both should be distributed to all Respondents, then subject to Section 4.7 (d), the Authority will permit the enquirer to withdraw the Enquiry rather than receive a response;
- (d) subject to Section 4.7 (c), any Enquiry and response may, in the Authority's discretion, be distributed to all Respondents, if the Authority in its discretion considers the matter to be a matter of substance or a matter that should be brought to the attention of all Respondents for purposes of fairness in, or maintaining the integrity of, the Competitive Selection Process. The Authority may keep either or both the Enquiry and response confidential if in the judgment of the Authority it is fair or appropriate to do so; and
- (e) the Authority may, in its discretion, decline to respond to an Enquiry

#### **4.8 UNOFFICIAL INFORMATION**

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

#### **4.9 DELIVERY AND RECEIPT OF FAX AND EMAIL COMMUNICATIONS**

No fax communication with the Contact Person is permitted with respect to the Project.

The following provisions shall apply to any communications with the Contact Person, or the delivery of documents to the Contact Person, by email where such email communications or delivery is permitted by the terms of this RFQ:

The Authority does not assume any risk or responsibility or liability whatsoever to any Respondent:

- (a) for ensuring that any electronic email system being operated for the Authority or Partnerships BC is in good working order, able to receive emails, or not engaged in receiving other emails such that a Respondent's email cannot be received; and/or
- (b) if a permitted email communication or delivery is not received by the Contact Person, or received in less than its entirety, within any time limit specified by this RFQ.

All permitted email communications with, or delivery of documents 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 or by the clock used by the Contact Person for that purpose.

#### **4.10 ADDENDA**

The Authority may, in its absolute discretion through the Contact Person, amend or clarify the terms or contents of this RFQ at any time before the Submission Time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFQ, and no other form of communication, whether written or oral, including written responses to Enquiries as provided by Section 4.7, will be included in, or will in any way amend or clarify this RFQ. Only the Contact Person is authorized to amend or clarify this RFQ by issuing an Addendum. No other employee or agent of the Authority is authorized to amend or clarify this RFQ. The Authority will send a notification of any Addendum to all parties who have delivered a completed Receipt Confirmation Form.

#### **4.11 DEFINITIVE RECORD**

If there is any inconsistency between the paper form of a document and the digital, electronic or other computer readable form, the electronic conformed version of the RFQ in the custody and control of the Authority prevails.

#### **4.12 REVISIONS PRIOR TO THE SUBMISSION TIME**

A Respondent may amend or withdraw its Response at any time prior to the Submission Time by delivering written notice to the Contact Person at the Submission Location prior to the Submission Time.

#### **4.13 RESPONSE DECLARATION FORM**

Respondents are required to complete the Response Declaration Form, substantially in the form attached as Appendix D or as otherwise acceptable to the Authority in the Authority's discretion, and should include the completed form as part of its Response. The Response Declaration Form will be executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent's Representative.

#### **4.14 RELATIONSHIP DISCLOSURE FORM**

Respondents are required to complete the Relationship Disclosure Form, substantially in the form attached as Appendix E, or as otherwise acceptable to the Authority in the Authority's discretion, and should include the completed form as part of their Response. The Relationship Disclosure Form will be

executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent's Representative.

## 5 EVALUATION

### 5.1 EVALUATION

The evaluation of Responses will be carried out by the Authority with assistance from other persons as the Authority may decide it requires, including technical, financial, legal and other advisors or employees of the Authority or Partnerships BC.

### 5.2 EVALUATION CRITERIA

The Authority will evaluate Responses by application of the Evaluation Criteria as outlined in Appendix A.

### 5.3 EVALUATION AND SELECTION PROCEDURES

To assist in the evaluation of the Responses, the Authority may, in its discretion, but is not required to:

- (a) conduct reference checks relevant to the Project with any or all of the references cited in a Response to verify any and all information regarding a Respondent, inclusive of its directors/officers and Key Individuals;
- (b) conduct any other reference checks or conduct any background investigations and/or seek any additional information that it considers necessary in the course of the Competitive Selection Process;
- (c) seek clarification of a Response or supplementary information from any or all Respondents;
- (d) request interviews with any, some, or all Respondents to clarify any questions or considerations based on the information included in Responses or seek any supplementary information; and
- (e) rely on and consider any information obtained as a result of such reference checks, background investigations, requests for clarification or supplementary information, interviews, and/or any additional information in the evaluation of Responses.

The Authority is not obligated to complete a detailed evaluation of all Responses and may, in its discretion, after completing a preliminary review of all the Responses, discontinue detailed evaluation of any Respondent who, when compared to the other Respondents, the Authority judges is not in contention to be shortlisted.

The Authority will notify Respondents of the RFQ results by sending a written notice to the Respondent's Representative.

The Authority will conduct a debriefing, upon request, for any Respondent if the debriefing is requested within 90 days after a shortlist has been announced. In a debriefing the Authority will discuss the relative

strengths and weaknesses of that Respondent's Response, but the Authority will not disclose or discuss any confidential information of another Respondent.

#### 5.4 INTERVIEWS

Respondents may be required by the Authority to have interviews regarding their Response during the evaluation process at the request of the Authority. The interviews should be specific to the Project and may not contain any marketing information of the Respondent or any member of the Respondent Team.

#### 5.5 CHANGES TO RESPONDENT TEAMS

The Authority intends to issue the RFP only to Respondents that have been shortlisted under this RFQ as Proponents for the RFP process. If for any reason after the Submission Time a Respondent wishes or requires to add, remove or otherwise change a member of its Respondent Team, or there is a material change in ownership or control of a member of the Respondent Team, or there is a change to the legal relationship among any or all of the Respondent and its Respondent Team members, then the Respondent 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 Selection Process that is not unfair to the other Respondents. For clarity:

- (a) if the application is made after the Proponents have been determined, the Authority may refuse to permit a change to the membership of a Respondent Team if the change would, in the Authority's judgment, result in a weaker team than was originally shortlisted; or
- (b) the Authority may, in the exercise of its discretion, permit any changes to a Respondent Team, including changes as may be requested arising from changes in ownership or control of a Respondent or a Respondent Team member, or changes to the legal relationship among the Respondent Team members such as the creation of a new joint venture or other legal entity or relationship in place of the Respondent Team.

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

This Section 5.5 shall apply until issuance of the RFP.

## 6 RFQ TERMS AND CONDITIONS

### 6.1 NO OBLIGATION TO PROCEED

This RFQ does not commit the Authority in any way to proceed to an RFP stage or award a contract, and the Authority reserves the complete right to, at any time, reject all Responses and to terminate the Competitive Selection Process established by this RFQ and proceed with the Project in some other manner as the Authority may decide in its discretion.

### 6.2 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 Response, the Respondent represents and warrants to the Authority that the Respondent has complied with applicable laws, including by obtaining from each individual any required consents and authorizations to the collection of information relating to such individual and to the submission of such information to the Authority as part of the Response for the purposes of this RFQ and the Competitive Selection Process.

### 6.3 CONFIDENTIALITY OF AUTHORITY INFORMATION

All non-public information pertaining to, or provided by or on behalf of, Partnerships BC or the Authority obtained by a Respondent as a result of participation in this RFQ is confidential and will not be disclosed without written authorization from Partnerships BC or the Authority (as applicable). Except as expressly stated in this RFQ and subject to the FOIPPA or other applicable legislation, all documents and other records submitted in response to this RFQ will be considered confidential; however, such information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

By submitting a Response, a Respondent will be deemed to have agreed to all the terms of the Confidentiality Agreement attached as part of Appendix C to this RFQ.

Proponents will also be required to sign a Participation Agreement as a condition of participating in the 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 F.

The Owner has engaged Partnerships BC. Partnerships BC has been and continues to be involved in other projects, and the Owner may receive information in respect of other projects which may be relevant to the Project. Subject to the terms of the Request for Qualifications including limitations on “Commercial in Confidence” information under Section 3.2.1 (Collaborative Meetings) and Section 4.7 (Enquiries) the



Owner may in its discretion disclose information that is available from this Project to Partnerships BC and other projects and may obtain information from other projects.

#### **6.4 COST OF PREPARING THE RESPONSE**

Each Respondent is solely responsible for all costs it incurs in the preparation of its Response, including without limitation all costs of providing information requested by the Authority, attending meetings, and conducting due diligence.

#### **6.5 NO REPRESENTATION OR WARRANTY**

Each Respondent acknowledges by its submission of a Response that it has investigated and satisfied itself of every condition that affects the Project. Each Respondent further acknowledges and represents that its investigations have been based on its own examination, knowledge, information and judgment, and not upon any statement, representation or information made or given by the Authority, the Contact Person or any advisor to the Authority, other than the information contained in this RFQ. Submission of a Response is deemed to be conclusive evidence that the Respondent has made such investigations and that the Respondent is willing to assume, and does assume, all risks affecting the Project, except as otherwise specifically stated in this RFQ. The Authority accepts no responsibility for any Respondent lacking any information.

#### **6.6 RESERVATION OF RIGHTS**

The Authority reserves the right, in its discretion, to exercise any or all of the following rights:

- (a) amend the scope of the Project, modify, cancel or suspend the RFQ process or any or all stages of the Competitive Selection Process, at any time for any reason;
- (b) accept or reject any Response based on the Evaluation Criteria as evaluated by the Authority;
- (c) disqualify a Response that fails to meet the Mandatory Requirements set out in Section 4.1 of this RFQ, or for any of the reasons set out in Part 2 of Appendix A, or any other reason the Authority determines appropriate;
- (d) waive a defect, irregularity, non-conformity or non-compliance in or with respect to a Response or failure to comply with the requirements of this RFQ, except for Mandatory Requirements, and accept that Response even if such a defect, irregularity, non-conformity or non-compliance or failure to comply with the requirements of this RFQ would otherwise render the Response null and void;
- (e) not accept any or all Responses;

- (f) reject or disqualify any or all Response(s) for any reason without any obligation, compensation or reimbursement to any Respondent or any of its team members;
- (g) re-advertise for new Responses, call for quotes, proposals or tenders, or enter into negotiations for this Project or for work of a similar nature;
- (h) make any changes to the terms of the business opportunity described in this RFQ; and
- (i) amend, from time to time, any date, any time period or deadline provided in this RFQ, upon written notice to all Respondents who submitted a Receipt Confirmation Form.

## 6.7 LIMITATION OF DAMAGES

Each Respondent, by submitting a Response, agrees that in no event will the Authority or Partnerships BC, or any of their employees, advisors or representatives, be liable, under any circumstances, for any Claim, or to reimburse or compensate the Respondent in any manner whatsoever, including but not limited to costs of preparation of the Response, loss of anticipated profits, loss of opportunity, or for any other matter. Without in any way limiting the above, each Respondent specifically agrees that it will have absolutely no Claim against the Authority or any of its employees, advisors or representatives if the Authority for any reason whatsoever:

- (a) does not select a shortlist of Respondents;
- (b) suspends, cancels or in any way modifies the Project or the Competitive Selection Process (including modification of the scope of the Project or modification of this RFQ or both);
- (c) accepts any compliant or non-compliant Response or selects a shortlist of one or more Respondent(s);
- (d) under the terms of this RFQ, permits or does not permit a Restricted Party to advise, assist or participate as part of a Respondent Team; or
- (e) for any breach or fundamental breach of contract or legal duty of the Authority, whether express or implied.

The Respondent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not shortlisted in the Competitive Selection Process or for any other reason whatsoever.

## 6.8 OWNERSHIP OF RESPONSES

All Responses submitted to the Authority become the property of the Authority.

## 6.9 DISCLOSURE AND TRANSPARENCY

The Authority is committed to an open and transparent Competitive Selection Process while understanding the Respondents' need for protection of confidential commercial information. To assist the Authority in meeting its commitment, Respondents will cooperate and extend all reasonable accommodation to this endeavour.

The Authority expects to disclose the following information during this stage of the Competitive Selection Process: this RFQ document, the number of Respondents, and the names of Proponents.

To ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence the outcome of the Competitive Selection Process, the disclosure of any public information generated in relation to the Project, including communications with the media and the public, will be coordinated with, and is subject to prior approval of, the Authority.

Respondents will notify the Authority of any and all requests for information or interviews received from the media.

Respondents will ensure that all members of the Respondent Team and all others associated with the Respondent also comply with these requirements.

## 6.10 NO COMMUNICATION OR COLLUSION

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

Respondents and their Respondent Team members are not to discuss or communicate, directly or indirectly, with other Respondents or their Respondent Team members or any of their respective directors, officers, employees, consultants, advisors, agents or representatives regarding the preparation, content or submission of their Responses or any other aspect of the Competitive Selection Process.

## 6.11 NO LOBBYING

Respondents and their respective Respondent Teams, the members of their Respondent Teams, 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 RFQ, 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 RFQ) will

attempt to communicate in relation to the Project, this RFQ, 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, or any Members of the Legislative Assembly, or any employee of the Authority), Partnerships BC, any Restricted Parties, or any director, officer, employee, agent, advisor, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever.

In the event of any lobbying or communication in contravention of this Section by any Respondent, Respondent Team members, or their respective directors, officers, employees, consultants, agents, advisors or representatives, the Authority in its discretion may at any time, but will not be required to, reject any and all Responses submitted by that Respondent without further consideration.

## 6.12 RELATIONSHIP DISCLOSURE AND REVIEW PROCESS

The Authority reserves the right to disqualify any Respondent that in the Authority's opinion has a conflict of interest or an unfair advantage, whether it is existing now or is likely to arise in the future, or may permit the Respondent to continue and impose such conditions as the Authority may consider to be in the public interest or otherwise required by the Authority.

Respondents will submit the form attached as Appendix E and disclose all conflicts of interest or unfair advantage.

Respondents, including all firms, corporations or individual member of a Respondent Team, will promptly disclose to the Contact Person any potential conflict of interest and existing business relationships they may have with the Authority, Partnerships BC or any members of the Authority or others providing advice or services to the Authority with respect to the Project, or any other matter that gives rise, or might give rise, to an unfair advantage. At the time of such disclosure, the Respondent will advise the Contact Person how the Respondent proposes to mitigate, minimize or eliminate the situation.

For the purposes of this RFQ, references to unfair advantage include references to confidential information that is not, or would not reasonably be expected to be, available to all Respondents.

The Authority and the Conflict of Interest Adjudicator (the "**COI Adjudicator**") may, in their discretion, consider actual, perceived or potential conflicts of interest and unfair advantage.

### 6.12.1 Use or Inclusion of Restricted Parties

The Authority may, in its discretion, disqualify a Respondent, or may permit a Respondent 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 Respondent is a Restricted Party, or if the Respondent uses a Restricted Party:

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

Each Respondent is responsible, and bears the onus, to ensure that neither the Respondent nor any Respondent Team member uses or seeks advice or assistance from any Restricted Party or includes any Restricted Party in the Respondent Team except as permitted by this Section 6.12.

#### 6.12.2 Current Restricted Parties

At this RFQ stage, and without limiting the definition of Restricted Parties, the Authority has identified the following persons as Restricted Parties.

- Boughton Law Corp. (COI Adjudicator);
- John Singleton, Q.C., Singleton Urquhart LLP (Fairness Advisor);
- PricewaterhouseCoopers (Business Advisor);
- SSA Quantity Surveyors Ltd. (Quantity Surveyor);
- IBI Group Inc. and sub-consultants (owner's compliance team) including;
  - WSP Group (including FOCUS Engineering);
  - Golder and Associates;
  - CWMM Consulting Engineers Ltd;
  - Gage-Babcock Associates Ltd;
  - Daniel Lyzun and Associates (DL&A) Ltd.;
- Fasken Martineau DuMoulin LLP (Legal Advisor); and
- The Authority and Partnerships BC, including their former and current employees who fall within the definition of Restricted Party.

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

#### 6.12.3 Shared Use

A Shared Use Person is a person identified by the Authority as eligible to enter into arrangements with any and all Respondents but may not enter into exclusive arrangements with any Respondent. As of the date of this RFQ, no Shared Use Persons have been identified.

#### 6.12.4 Conflict of Interest Adjudicator

The Authority has appointed a COI Adjudicator to provide decisions on conflicts of interest or unfair advantage issues, including whether any person is a Restricted Party.

The COI Adjudicator and the Authority may make decisions or exercise rights under this Section 6.12 and this RFQ for conflicts of interest, unfair advantage whether addressed in advance or otherwise, and all provisions of this Section 6.12 will apply with such modifications as the Authority or the COI Adjudicator may consider necessary.

The Authority or the COI Adjudicator, as applicable, has discretion to establish the relevant processes from time to time.

There is no requirement for all issues to be referred to the COI Adjudicator.

#### 6.12.5 Request for Advance Decision

A Respondent or a prospective member or advisor of a Respondent Team who has any concerns regarding whether a current or prospective employee, advisor or member of that Respondent Team is or may be a Restricted Party or has a concern about any conflict or unfair advantage it may have, is encouraged to request an advance decision in accordance with this section.

To request an advance decision on whether a person is a Restricted Party, a Respondent or prospective team member or advisor of that Respondent Team should submit to the Contact Person, not less than 10 Business Days prior to the Submission Time by email, the following information:

- (a) names and contact information of the Respondent 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 provide input regarding the issues raised to the COI Adjudicator.

Subject to Section 6.2, all requests for advance decisions will be treated in confidence. If a Respondent 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.

#### 6.12.6 The Authority May Request Advance Decision

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 possible Respondent and may give notice to the possible Restricted Party so that they may provide input regarding the issues raised to the COI Adjudicator.

The onus is on the Respondent 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 Respondent make an application under Section 6.12.5.

#### 6.12.7 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 Respondents, Respondent 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 circumstance in which a decision may be amended or supplemented.

#### 6.12.8 Exclusivity

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

If the Respondent contravenes the foregoing, the Authority reserves the right to disqualify the Respondent, or to permit the Respondent to continue and impose such conditions as may be required by the Authority. Each Respondent is responsible, and bears the onus, to ensure that the Respondent, each member of its Respondent Team, and their respective Affiliated Persons do not contravene the foregoing.

A Respondent or a prospective Respondent Team member who has any concerns regarding whether participation does, or will, contravene the foregoing is encouraged to request an advance decision. To request an advance decision on matters related to exclusivity, the Respondent or prospective Respondent Team member should submit to the Contact Person, not less than ten (10) Business Days prior to the Submission Time by email, the following information:

- (a) names and contact information of the Respondent or prospective Respondent Team member making the disclosure;



- (b) a description of the relationship that raises the possibility of non-exclusivity;
- (c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate any material adverse effect or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
- (d) 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.

#### 6.12.9 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 Respondent so that it may make its own response to the COI Adjudicator.

The onus is on the Respondent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Authority may require that the Respondent make an application under Section 6.12.8.

#### 6.12.10 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 Respondents, Respondent 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 circumstance 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 Respondents if the Authority, in its discretion, determines that the decision is of general application.

### 6.13 LEGAL COUNSEL

Fasken Martineau DuMoulin LLP is a Restricted Party. By submitting a Response, the Respondent expressly consents to Fasken Martineau DuMoulin LLP continuing to represent the Authority for all matters in relation to this RFQ and the Project, including any matter that is adverse to the Respondent, despite any information of the Respondent and any solicitor-client relationship that the Respondent may



have had, or may have, with Fasken Martineau DuMoulin LLP in relation to matters other than this RFQ and the Project. This Section is not intended to waive any of the Respondent's rights of confidentiality or solicitor-client privilege. The Authority reserves the right at any time to waive any provision of this Section.

#### **6.14 FAIRNESS ADVISOR**

The Authority has appointed John Singleton, Q.C. as the Fairness Advisor to monitor the Competitive Selection Process. The Fairness Advisor 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 Advisor will provide a written report to the Authority that the Authority will make public.

The Fairness Advisor will be:

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

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

## 7 DEFINITIONS AND INTERPRETATION

### 7.1 DEFINITIONS

Unless otherwise defined in this RFQ, in this RFQ capitalized terms have the following meanings:

**“Addenda”** or **“Addendum”** means each amendment to this RFQ issued by the Contact Person as described in Section 4.10.

**“Affiliated Persons”**, or affiliated persons, 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) or (b);
- (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.

**“Affordability Ceiling”** has the meaning set out in Section 2.6.2.

**“Authority”** means Interior Health.

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

**“Capital Cost Ceiling”** has the meaning set out in Section 2.6.2.

**“City”** means City of Penticton.

**“Claim”** means any claim, demand, liability, damage, loss, suit, action, or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto.

**“Collaborative Meetings”** has the meaning set out in Section 3.2.1.

**“Conflict of Interest Adjudicator”** or **“COI Adjudicator”** has the meaning set out in Section 6.12.3.

**“Competitive Selection Process”** means the overall process for the selection of a Preferred Proponent for the Project including, but not limited to, this RFQ.

**“Confidential Information”** has the meaning set out in Appendix C.

**“Confidentiality Agreement”** means the agreement referred to in Appendix C to this RFQ.

**“Contact Person”** means the person identified as such in the Summary of Key Information, or such other person as may be appointed by the Authority for that purpose.

**“Design-Builder”** of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have the direct responsibility to design and build the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Builder Construction Lead”** means the individual responsible for leading the Design-Builder during construction of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Builder Project Lead”** means the individual responsible for leading the Design-Builder during the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Firm”** means the firm engaged by the Design-Builder to design the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Lead”** means the individual employed or engaged by the Design Firm who is responsible for leading the design of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Enquiry”** has the meaning set out in Section 4.7.

**“Equity Provider”** of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have an ownership or equity interest in the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Evaluation Criteria”** means the criteria referred to in Section 2.2 of Appendix A to this RFQ.

**“Facility”** has the meaning set out in section 1.1.

**“Fairness Advisor”** has the meaning set out in Section 6.14.

**“Final Draft Project Agreement”** has the meaning set out in Section 3.2.1 (c).

**“Financial Close”** means the time when the Project Agreement and all financing and other agreements related to the Project have been executed and delivered and all conditions to the effectiveness of the Project Agreement and Project financing agreements have been satisfied.

**“Financing Nominated Projects”** has the meaning set out in Section 1 of the Evaluation Criteria in Appendix A of this RFQ, and as requested in Form A-2 Financing Nominated Project Details of Appendix A.

**“Freedom of Information and Protection of Privacy Act” or “FOIPPA”** has the meaning set out in Section 6.2.

**“Guarantor”** means an entity providing financial and/or performance support to a Respondent or Equity Provider by way of a guarantee or a commitment to provide equity or dedicated credit facilities to support the participation by the Respondent or Equity Provider in the Competitive Selection Process and the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Initial Draft Project Agreement”** means the draft form of Project Agreement issued under the RFP, as amended pursuant to the terms of the RFP.

**“Key Individuals”** of a Respondent Team means the specific individuals, exclusive to the Respondent, filling the following roles (or equivalent), as described in the Respondent’s Response and as may be changed pursuant to this RFQ:

- Project Co Lead;
- Design-Builder Construction Lead;
- Design Lead; and
- Service Provider Lead.

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 but may change between different project phases.

**“Mandatory Requirements”** means the submission requirements set out in Section 4.1.

**“Minimum Requirements”** has the meaning set out in Appendix A of this RFQ.

**“Nominated Projects”** has the meaning set out in Section 1 of the Evaluation Criteria in Appendix A of this RFQ, and as requested in Form A-1 Nominated Project Details of Appendix A.

**“Participation Agreement”** means the form substantially as attached as Appendix F to this RFQ.

**“Partnerships BC”** means Partnerships British Columbia Inc.

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

**“Preferred Proponent”** means the Proponent selected by the Authority pursuant to the RFP to finalize the Project Agreement.

**“Project”** means the design, construction, financing, testing, commissioning and maintenance of the Facility and all other works ancillary to the Facility in accordance with the Project Agreement.

**“Project Agreement”** has the meaning set out in Section 1.1.

**“Project Brief”** has the meaning set out in Section 1.4.

**“Project Co”** means the entity proposed by the Respondent to enter into the Project Agreement with the Authority and leading the Project team through the term of the Project Agreement.

**“Project Co Lead”** means the individual proposed by the Respondent to be responsible for leading Project Co to enter into the Project Agreement with the Authority and through the term of the Project Agreement, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Proponent”** means a Respondent who has been shortlisted under this RFQ to be eligible to submit a Proposal in response to the RFP.

**“Proposal”** means the submission prepared by a Proponent in response to the Request for Proposals.

**“Receipt Confirmation Form”** means the form substantially as attached as Appendix B to this RFQ.

**“Relationship Disclosure Form”** means the form substantially as attached as Appendix E to this RFQ.

**“Respondent”** means:

- (a) before the Submission Time any party described in Section 1.3 that has signed and submitted a Receipt Confirmation Form confirming an intention to submit a Response; and
- (b) after the Submission Time any party described in Section 1.3 that has submitted a Response.

**“Respondent’s Representative”** means the person, identified in the Receipt Confirmation Form (Appendix B) and Response Declaration Form (Appendix D), who is fully authorized to represent the Respondent in any and all matters related to its Response.

**“Respondent Team”** means a Respondent Team Lead and its Design-Builder, its Service Provider ,its Equity Provider(s), its Guarantor(s) (if any), and its Key Individuals, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Respondent Team Lead”** means the entity responsible for leading the Respondent Team throughout:

- the Competitive Selection Process for the Project;
- entering into the Project Agreement with the Authority; and
- the implementation of the Project Agreement,

as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

Respondent Team Lead will include all Equity Provider(s) and may also include entities not contributing equity.

**“Response”** means the formal response to this RFQ by a Respondent.

**“Response Declaration Form”** means the form substantially as attached as Appendix D to this RFQ.

**“Restricted Party”** means those persons (including their former and current employees) who have a conflict of interest or had, or currently have, participation or involvement in the Competitive Selection Process or the design, planning or implementation of the Project, and who have or may provide a material unfair advantage, including without limitation as a result of any confidential information that is not, or would not reasonably be expected to be, available to all other Respondents.

**“RFP”** means the Request for Proposals, which may be issued by the Authority as a stage of the Competitive Selection Process.

**“RFQ”** means this Request for Qualifications, including the Appendices, issued by the Authority as the first stage of the Competitive Selection Process.

**“Service Provider”** of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have direct responsibility to provide maintenance and/or life cycle services to the Project during the operating term of the Project Agreement, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Service Provider Lead”** means the individual responsible for leading the service provider team during the design and construction phase of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Shared Use Person”** means those persons, if any, who are specifically named in Section 6.12.3.

**“Site”** means the site upon which the Project is to be constructed.

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

**“Submission Time”** means the time and date indicated as such in the Summary of Key Information.

## 7.2 INTERPRETATION

In this RFQ:

- (a) when an action, decision, consent, approval or any other thing is said to be in the Authority's "discretion" or words of like effect, unless the context otherwise requires, it means 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 RFQ;
- (c) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFQ;
- (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 RFQ is not to be read as limiting;
- (f) all dollar values are Canadian dollars unless otherwise indicated;
- (g) 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; and
- (h) each Appendix attached to this RFQ is an integral part of this RFQ as if set out at length in the body of this RFQ.



## APPENDIX A RESPONSE GUIDELINES AND EVALUATION CRITERIA

### **Table of Contents – Appendix A**

#### **Part 1. Response Guidelines**

#### **Part 2. Evaluation**

#### **Part 3. Response Format**

**Attached Sample Forms:**

- Form A-1: Nominated Project Details**
- Form A-2: Financing Nominated Project Details**
- Form A-3: Nominated Project Summary Matrix**

**Part 1. Response Guidelines**

**Responses should:**

- (a) be clearly marked with the words “**Response to RFQ – Penticton Regional Hospital Patient Care Tower**” and addressed to the Submission Location;
- (b) include all of the information requested in this Appendix A. Materials that are not requested in this Appendix A will not be evaluated;
- (c) be limited to 100 double-sided sheets (200 pages) including the Key Individuals’ résumés but excluding Form A-1 (Nominated Project forms), Package 2 (Financial Information), and the appendices. Material submitted which exceeds the page limit may not be evaluated at the discretion of the Authority;
- (d) not contain items not requested in this Appendix A;
- (e) be on 8.5” x 11” paper size [charts and tables can be on larger paper size (e.g. 11” x 17”)] with a minimum font size of 11 point; and
- (f) be submitted as follows:

Package	Contents	Number of Copies
Package 1	1) Transmittal Letter; 2) Response Declaration Form (see Appendix D of this RFQ) signed by the Respondent; 3) A table containing the individual names and company names of the Key Individuals; and 4) Relationship Disclosure Form (see Appendix E of this RFQ) signed by the Respondent.	Three bound copies including one marked “Master”.
Package 2	Response (see Part 3 of this Appendix A – Sections 1 through 4)	Three bound copies, including one marked “Master”
Package 3	Response (see Part 3 of this Appendix A – Section 5)	Three bound copies, including one marked “Master”
Nominated Projects Binder	1) Nominated Projects Summary Matrix (Form A-3) Nominated Project Details (Form A-1)	Three bound copies, including one marked “Master”

**Electronic Copy:**

One electronic copy in PDF format included on a USB Flash Drive. The electronic copy should be organized and submitted as follows:

- 1) A consolidated file containing the entire Response;
- 2) An individual file for each of Packages 1, 2, 3 and Nominated Projects Binder; and
- 3) Individual files within Packages 2 and 3 for each major section described in Part 3 of Appendix A.

## Part 2. Evaluation

### 2.1 Minimum Requirements

The Authority will evaluate Responses and determine, in its discretion, if the Respondent Team adequately meets the Minimum Requirements set out in Table 2. Should any Respondent Team fail to adequately meet the Minimum Requirements, the Authority may, in its discretion, discontinue the evaluation of that Respondent Team's Response in accordance with Section 5.3 and Section 6.6 of this RFQ.

**Table 2: Minimum Requirements**

Financial Capacity
<p>Sufficient financial capacity of each of the following Respondent Team members to undertake their respective obligations to the Project:</p> <ul style="list-style-type: none"> <li>a) Equity Provider(s)</li> <li>b) Design-Builder</li> <li>c) Service Provider</li> <li>d) Guarantor(s) (if applicable)</li> </ul> <p>as demonstrated by the Respondent's response to the content requirements set out in Section 6 of Response Format (Part 3 of Appendix A).</p>

### 2.2 Evaluation Criteria

Subject to Section 4.1 of this RFQ, for those Respondent Teams that adequately meet the Minimum Requirements, the Authority will evaluate Responses by applying the following Evaluation Criteria and weighting in Table 3, in accordance with each section of the response content requirements outlined in Table 3.

**Table 3: Evaluation Criteria and Weighting**

Section	Evaluation Criteria	Weighting
<p><b>Section 1</b>  <b>Introduction and Nominated Projects</b></p>	<p>With reference to the response content requirements in Section 1 of Table 3, each Response will contain the following information:</p> <ul style="list-style-type: none"> <li>1.1 Proposed Respondent Team</li> <li>1.2 Contact Information</li> <li>1.3 Nominated Projects</li> <li>1.4 Financing Nominated Projects</li> </ul>	<p>Not Evaluated</p>

Section	Evaluation Criteria	Weighting
<b>Section 2 Respondent Team Lead</b>	With reference to the response content requirements in Section 2 of Table 3, strength and relevance of demonstrated experience and capability of the Respondent Team Lead to undertake the Project with respect to the following: 2.1 Project Development and Management Experience; 2.2 Project Financing Experience; and 2.3 Project Co Lead	30 points
<b>Section 3 Design-Builder</b>	With reference to the response content requirements in Section 3 of Table 3, strength and relevance of demonstrated experience and capability of the Design-Builder to undertake the management of the Project's design and construction with respect to the following: 3.1 Design Firm's Qualifications and Experience; 3.2 Design Firm's Key Individuals; 3.3 Design-Builder's Project Management and Construction Qualifications and Experience; and 3.4 Design-Builder's Key Individuals.	40 points
<b>Section 4 Service Provider</b>	With reference to the response content requirements in Section 4 of Table 3, strength and relevance of demonstrated experience and capability of the Service Provider to undertake the facility management (including life cycle requirements) of the completed Facility with respect to the following: 4.1 Service Provider Qualifications and Experience; and 4.2 Service Provider's Key Individual.	30 points
<b>Total</b>		<b>100 points</b>

### 2.3 Disqualification of Respondents

Without limitation, the Authority may, in its sole and absolute discretion, disqualify a Respondent if:

- (a) background investigations reveal any criminal affiliations or activities by the Respondent or a member of the Respondent Team and such affiliations or activities would, in the sole opinion of the Authority, interfere with the integrity of the Competitive Selection Process; or
- (b) the Response includes a false or misleading statement, claim or information.

The Respondent and any member of the Respondent Team may be required to undertake a criminal records check in order to participate in the Project.

### Part 3. Response Format

Respondents should use the section numbers and titles provided in the tables below in preparing their Responses.

**Table 4: Response Content Requirements**

Section	Title	Response Content Requirements
<b>1.</b>	<b>Introduction and Nominated Projects</b>	
<b>1.1</b>	<b>Proposed Respondent Team</b>	<p>a) Provide the legal name of the entity for each of the following members of the Respondent Team:</p> <ul style="list-style-type: none"> <li>i. Respondent Team Lead</li> <li>ii. Equity Provider(s)</li> <li>iii. Design-Builder</li> <li>iv. Service Provider</li> <li>v. Guarantor(s)</li> </ul> <p>b) Provide organization charts, at the corporate level and the Key Individual level, showing the relationships between Respondent Team members for each of the following stages, indicating the changes contemplated between stages:</p> <ul style="list-style-type: none"> <li>i. RFP stage: from shortlisting under the RFQ to selection as Preferred Proponent under the RFP;</li> <li>ii. Preferred Proponent stage: from selection of Preferred Proponent to Financial Close;</li> <li>iii. Design and Construction stage: from preliminary design through to commencement of service payments;</li> <li>iv. Operations stage: from commencement of operating payments through to end of the Term.</li> </ul> <p>c) For all of the charts, include a reference to the proposed approach/management structure and the reporting relationship with the Authority. Note: Names are required only for the Key Individuals at this time.</p> <p>d) If the Respondent Team Lead is comprised of more than one entity, indicate how these entities will be organized and how decisions between entities will be efficiently and effectively made. Reference should also be made to the four phases identified in b) above.</p> <p>e) Provide a short description of the Respondent Team excluding individuals (for publication of the teams shortlisted for the RFP stage).</p>
<b>1.2</b>	<b>Contact Information</b>	<p>Provide the name and contact details for the Respondent's Representative.</p> <p><b>Please note:</b> The Respondent's Representative will be the <u>only</u> Person to receive communication from the Contact</p>

Section	Title	Response Content Requirements
		Person regarding this RFQ. Respondent's Representative: a) Name b) Employer c) Mailing/courier addresses d) Telephone number e) Email address f) Website address
1.3	<b>Nominated Projects</b>	Submit a maximum of 12 Nominated Projects using Form A-1 of this Appendix A. These forms should clearly and robustly describe the project and the role of the Respondent Team members. Confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Authority. References should be limited to Nominated Projects completed within the last five (5) years.
1.4	<b>Financing Nominated Projects</b>	Submit a maximum of three (3) Financing Nominated Projects using Form A-2 of this Appendix A. Confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Authority. References should be limited to Financing Nominated Projects completed within the last five (5) years.
2.	<b>Respondent Team Lead</b>	
2.1	<b>Project Development and Management Experience</b>	Based on the Nominated Projects that are demonstrated to be most relevant to the Project, choose up to three (3) of the Nominated Projects for each of the criteria and sub-criteria below to describe the Respondent Team Lead's experience and capability with the following: a) Developing and managing projects similar in scope and size to the Project; b) Assembling and managing multi-disciplinary teams during all project phases; c) Managing PPP arrangements including: i. Managing project risks over the life of the Nominated Project; ii. Managing contractors in the delivery of complex design-build contracts; iii. Managing contractors in the delivery of facility management contracts; iv. Working with the owner, local authorities, regulatory agencies and third parties to address issues and stakeholder relations (e.g. government relations, community relations, media relations) as they arise; and;

Section	Title	Response Content Requirements
		<p>v. Meeting performance specifications, including the response to any default situation experienced and supported by historical data.</p> <p>Note for Respondents: if the Respondent Team Lead is comprised of more than one entity, Nominated Projects in this section will be evaluated in the context of the response to Section 1.1 d).</p>
2.2	<b>Project Financing Experience</b>	a) Based on up to three (3) of the Financing Nominated Projects that reached Financial Close within the last five (5) years and are demonstrated to be relevant to this sub-section, describe the Respondent Team Lead's and/or Equity Provider(s)' experience and ability to structure and raise competitively priced project financing.
2.3	<b>Key Individual: Project Co Lead</b>	<p>a) Provide a comprehensive résumé for the Project Co Lead, as defined in this RFQ and identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ul style="list-style-type: none"> <li>i. Name;</li> <li>ii. Professional qualifications/designation(s) and summary of education;</li> <li>iii. Relevant experience and capability in relation to the Project within the past five (5) years; and</li> <li>iv. A reference (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to their proposed role. Respondents are to confirm that the reference contact is aware their name is being included and is willing to provide a reference to the Authority.</li> </ul> <p>b) Describe the Key Individual's approximate percentage availability for each stage of the Project (i.e., procurement, design and construction, commissioning and operations) in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project.</p> <p>If the intention is to have a different Project Co Lead for each phase of the Project, provide the information identified in a) and b) for each individual.</p>
3.	<b>Design-Builder</b>	
3.1	<b>Design Firm's Qualifications and Experience</b>	<p>Based on the Nominated Projects that are demonstrated to be most relevant to the Project, choose up to three (3) of the Nominated Projects for each of the criteria and sub-criteria below, to describe the Design Firm's experience and capability with the following:</p> <ul style="list-style-type: none"> <li>a) Designing complex multi-disciplinary healthcare projects delivered through a design-build or PPP contract structure similar to the Project;</li> <li>b) Coordinating and integrating design and construction amongst disciplines and demonstrating ongoing quality control;</li> <li>c) Designing sustainable and energy efficient projects by incorporating a full life cycle view on design and</li> </ul>

Section	Title	Response Content Requirements
		<p>construction; and</p> <p>d) Successful designs that have a significant and beneficial impact on the owner's (clinical) program.</p>
3.2	<b>Design Firm's Key Individual: Design Lead</b>	<p>a) Provide a résumé for the Design Lead identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ul style="list-style-type: none"> <li>i. Name;</li> <li>ii. Professional qualifications/designation and summary of education;</li> <li>iii. Detailed explanation of their role and responsibility for the Project;</li> <li>iv. Relevant project experience in relation to the Project; and</li> <li>v. A reference (with contact details including name, title, role, telephone number, email address, mailing address and preferred language of correspondence) for their role on at least one relevant project. Respondents are to confirm that the reference contact is aware their name is being included and is willing to provide a reference to the Authority.</li> </ul> <p>b) Describe the approximate percentage availability for the Key Individual at each phase of the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project.</p> <p>c) Based on up to two (2) projects that are demonstrated to be relevant to this sub-section, in particular items listed in 3.1 as applicable, for the Key Individual describe the relevant project experience and capability focusing on their role and responsibility for each project and how the experience will relate to and benefit the Project.</p> <p>The Firm's Key Individual experience does not have to be tied to the Nominated Projects.</p>



Section	Title	Response Content Requirements																																			
3.3	<b>Design-Builder's Project Management and Construction Qualifications and Experience</b>	<p>a) Based on the Nominated Projects that are demonstrated to be most relevant to the Project, choose up to three (3) of the Nominated Projects for each of the criteria and sub-criteria below, to describe the Design-Builder's project management and construction experience and capability with the following:</p> <ul style="list-style-type: none"> <li>i. Constructing large, complex projects ideally delivered through a design-build or PPP contract structure similar to the Project;</li> <li>ii. Delivering projects on time and on budget;</li> <li>iii. Innovative use of construction techniques that deliver economic, quality, schedule and environmentally sustainable benefits to the end user; and</li> <li>iv. Integrating design with construction, including working effectively with the design team and subcontractors.</li> </ul> <p>b) Provide a description of a quality assurance program used on a relevant Nominated Project including the index and a brief description of the contents.</p> <p>c) Provide a description of the Design-Builder's health and safety program along with a table completed as below:</p> <table border="1"> <thead> <tr> <th>Nominated Project Number</th> <th>Nominated Project Name</th> <th>Total Hours Worked</th> <th>Number of Disabling Injuries<sup>1</sup></th> <th>Total lost work days as result of injuries (Days Charged)</th> <th>Number of Fatal Injuries<sup>2</sup></th> <th>Further discussion and/or explanation (e.g. key corrective actions undertaken)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>.</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>12</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Nominated Project Number	Nominated Project Name	Total Hours Worked	Number of Disabling Injuries <sup>1</sup>	Total lost work days as result of injuries (Days Charged)	Number of Fatal Injuries <sup>2</sup>	Further discussion and/or explanation (e.g. key corrective actions undertaken)	1							2							.							12						
Nominated Project Number	Nominated Project Name	Total Hours Worked	Number of Disabling Injuries <sup>1</sup>	Total lost work days as result of injuries (Days Charged)	Number of Fatal Injuries <sup>2</sup>	Further discussion and/or explanation (e.g. key corrective actions undertaken)																															
1																																					
2																																					
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12																																					

Section	Title	Response Content Requirements
		<p><sup>1</sup><i>Definition of disabling Injury:</i>            Any occupational injury that</p> <ol style="list-style-type: none"> <li>1. prevents an employee from reporting for work, or from effectively performing all the duties connected with the employee's regular work, on any day subsequent to the day on which the occupational injury occurred, whether or not that subsequent day is a working day for that employee;</li> <li>2. results in the loss by an employee of a body member or a part thereof, or in a complete loss of the usefulness of a body member or part thereof; or</li> <li>3. results in the permanent impairment of a bodily function of an employee.</li> </ol> <p><sup>2</sup><i>Definition of Fatal Injury:</i>            An occupational injury resulting in death.</p> <p>If any of the Nominated Projects referenced involved a joint venture, identify the joint venture partner(s) and discuss the breakdown of responsibility between the parties.</p>

Section	Title	Response Content Requirements
3.4	<b>Design-Builder's Key Individual: Construction Lead</b>	<p>a) Provide a résumé for the Design-Builder Construction Lead identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ul style="list-style-type: none"> <li>i. Name;</li> <li>ii. Professional qualifications/designation(s);</li> <li>iii. Role and responsibility for the Project;</li> <li>iv. Summary of education/qualifications;</li> <li>v. Relevant experience and capability in relation to the Project; and</li> <li>vi. A reference (with contact details including name, title, role, telephone number, email address, mailing address and preferred language of correspondence) for their role on at least one relevant project. References should be limited to two projects within the past three years. Confirm that the reference is aware their name is being included and is willing to provide a reference to the Authority.</li> </ul> <p>b) Describe the approximate percentage availability at each phase of the Project for the Design-Builder Construction Lead to undertake the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project.</p> <p>c) Based on up to two (2) projects that are demonstrated to be relevant to this sub-section, in particular items listed in 3.3 as applicable, for the Design-Builder Construction Lead describe the relevant experience and capability focusing on their role and responsibility for each project.          The Design-Builder Construction Lead's experience does not have to be tied to the Nominated Projects.</p>

Section	Title	Response Content Requirements
4.	<b>Service Provider</b>	
4.1	<b>Service Provider Qualifications and Experience</b>	<p>a) Based on the Nominated Projects that are demonstrated to be most relevant to the Project, choose up to three (3) Nominated Projects for each of the criteria and sub-criteria below, to describe the Service Provider's healthcare experience and capability with the following:</p> <ul style="list-style-type: none"> <li>i. Planning, developing and implementing facility management services with a focus on meeting specified service levels, quality, stakeholder, health, safety and environmental requirements over the long term;</li> <li>ii. Success at integrating facility management considerations with design and construction considerations over a long-term relationship;</li> <li>iii. Planning multi-year rehabilitation and service plans in consultation with the Authority, taking into account end of term considerations as they relate to overall asset condition and hand back requirements;</li> <li>iv. Tracking energy performance and implementing energy saving strategies to minimize energy consumption; and</li> <li>v. Meeting performance specifications, including the response to any default situation experienced.</li> <li>vi. Success of taking over existing operations and maintenance activities in a similar setting.</li> </ul>
4.2	<b>Service Provider's Key Individual: Service Provider Lead</b>	<p>a) Provide a résumé for the Service Provider Lead identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ul style="list-style-type: none"> <li>i. Name;</li> <li>ii. Professional qualifications/designation and summary of education;</li> <li>iii. Role and responsibility for the Project;</li> <li>iv. Relevant experience and capability in relation to the Project; and</li> <li>vi. A reference (with up-to-date contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) with knowledge of the Key Individual. The reference should be the project lead for the owner and ideally should be from a project actively worked on in the last three years. Respondents are to confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Authority.</li> </ul> <p>b) Describe the Service Provider Lead's availability for each of the major phases of the Project with a summary of current and possible future commitments.</p>

Section	Title	Response Content Requirements
<b>5.</b>	<b>Financial Capacity</b>	
<b>5.1</b>	<b>Financial Capacity</b>	<p>To address the Minimum Requirements stated in Table 2 of Appendix A:</p> <p>a) Provide the following information for each of the Equity Provider(s), the Design-Builder, the Service Provider, and the Guarantor(s) (if applicable):</p> <ul style="list-style-type: none"> <li>i. Copies of annual audited financial statements and the notes to the financial statements, or other similar financial information, for each of the last three fiscal years (entire annual reports should not be provided);</li> <li>ii. If available, copies of the interim financial statement for each quarter since the last fiscal year for which audited statements are provided;</li> <li>iii. Details of any material off-balance sheet financing arrangements currently in place;</li> <li>iv. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided;</li> <li>v. Details of any credit rating, including any downgrades of credit rating in last five years;</li> <li>vi. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency proceedings in the last three fiscal years, and any litigation or other material adverse proceedings (arbitration or regulatory investigations or proceedings) that are still outstanding that may affect the Respondent Team's ability to perform its obligations in relation to the Project; and</li> <li>vii. For entities where financial statements are provided for a parent company, rather than the entity listed in a) provide evidence of the parent company's willingness to act as a Guarantor, providing a guarantee in respect of the entity listed in this section a).</li> </ul> <p>b) With reference to the information provided in this section a), briefly describe in the context of the entity's proposed role and project obligations:</p> <ul style="list-style-type: none"> <li>i. Each Equity Provider's capacity to fund the Project (e.g. discuss credit rating, net assets, liquid assets, letters of commitment);</li> <li>ii. The Design-Builder's capacity to undertake its project obligations (e.g. discuss net and total asset size relative to Project scope, financial viability and ability to provide performance security, and describe support of the Design-Builder, including by a Guarantor (as applicable)); and</li> <li>iii. The Service Provider's capacity to undertake its project obligations (e.g. discuss credit rating, financial viability and describe support of the Service Provider, including by a Guarantor (as applicable)).</li> </ul>

**Form A-1 Nominated Project Details**

(Maximum 3 pages in length per project)

Respondent \_\_\_\_\_

Project number \_\_\_\_\_

(sequentially numbered 1 to 12)

Respondent Team Member(s) \_\_\_\_\_

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name and contract number.</i>
<b>Location of project</b>	<i>Country, province/state, facility/highway/road, site or project extent.</i>
<b>Project Owner</b>	<i>Organization name.</i>
<b>Reference contact details</b>	<i>Current information for key client contacts (individuals), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. By providing this information you are authorizing the Authority or the Authority's representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, end of construction date, start of operations date and contract end date.</i>
<b>Relevance</b>	<i>Describe the relevance of the Nominated Project to the Project, including the type of facility, healthcare brownfield, or other relevant aspects of the project.</i>
<b>Time period of involvement</b>	<i>Commencement date and duration.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Contract model</b>	<i>Contract structure i.e., PPP, design-build.</i>
<b>Role(s) on project</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team members, including Key Individuals.</i>
<b>Performance</b>	<i>Describe the performance in meeting obligations related to the contract. Describe the level of achievement of performance specifications, including any cured or uncured contractual details.</i>
<b>Other information</b>	<i>Any information the Respondent considers relevant to the Evaluation Criteria.</i>

**Form A-2 Financing Nominated Project Details**

(Maximum 3 pages in length per project)

Respondent \_\_\_\_\_ Project number \_\_\_\_\_ (sequentially numbered 1 to 3)

Respondent Team Member(s) \_\_\_\_\_

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name and contract number.</i>
<b>Type of project</b>	<i>Examples: post-secondary accommodation, hospital, highway.</i>
<b>Project Owner</b>	<i>Owner name.</i>
<b>Description of project</b>	<i>Capital value, purpose, scope and complexity, of facility.</i>
<b>Location of project</b>	<i>Country, province/state, facility/highway/road, site or project extent.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Reference contact details</b>	<i>Current information for key client contacts (individuals), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. By providing this information you are authorizing the Authority or the Authority's representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, end of construction date, start of operations date and contract end date.</i>
<b>Contract structure</b>	<i>Contract structure i.e., DBFOM, DBF, availability payment.</i>
<b>Relevance</b>	<i>Describe the relevance of the Financing Nominated Project to the Project.</i>
<b>Role(s) and responsibilities with respect to financing</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team members.</i>
<b>Amount of financing</b>	<i>Preference for transactions \$50 million in debt or greater.</i>
<b>Type of financing</b>	<i>Recourse or non-recourse.</i>
<b>Term of financing</b>	<i>Commencement date and duration of financing.</i>

Item	Notes to Respondents
<b>Funding source</b>	<i>Examples: private placement, corporate, third-party equity, bank loan.</i>
<b>Other information</b>	<i>Any information the Respondent considers relevant to the Evaluation Criteria.</i>

**Form A-3 Nominated Projects Summary Matrix**

See attached Excel file.



**APPENDIX B RECEIPT CONFIRMATION FORM**

(To be submitted by the Respondent's Representative on receipt of this RFQ)

Request for Qualifications

**Penticton Regional Hospital Patient Care Tower Project**

To receive any further distributed information  
about this **Request for Qualifications**,  
please execute and email both pages of this  
Receipt Confirmation Form as soon as possible to:

**Catherine Silman**

Email: **catherine.silman@partnershipsbc.ca**

**Respondent Contact Information**

Name of Respondent: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ Postal/Zip Code: \_\_\_\_\_

Province/State: \_\_\_\_\_ Country: \_\_\_\_\_

Mailing Address, if different: \_\_\_\_\_

Email Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

Contact Person: \_\_\_\_\_



**ACKNOWLEDGMENT OF TERMS OF RFQ AND CONFIDENTIALITY**

The undersigned is a duly authorized representative of the Respondent and has the power and authority to sign this Receipt Confirmation Form on behalf of such Respondent or other interested party.

The Respondent or other interested party hereby acknowledges receipt and review of this RFQ and all of the terms and conditions contained therein, including, without limitation, all appendices attached thereto and agrees to comply with all of the terms and conditions set out in this RFQ.

For greater certainty, the Respondent or other interested party in executing this Receipt Confirmation Form agrees to comply with the Confidentiality Agreement provisions set out in Appendix C of this RFQ.

Respondent's Representative or other interested party:

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Authorized Signature

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Name of the Authorized Signatory

---

Title

---

Date

## APPENDIX C CONFIDENTIALITY AGREEMENT

### 1. Interpretation

In this Agreement:

- (a) Agreement means this Appendix C, which is subject to the RFP,
- (b) Confidential Information means all documents, knowledge and information provided by the Authority or any of its Representatives (the Disclosing Party) to, or otherwise obtained by, the Recipient or any of its Representatives (the Receiving Party), whether before or after the date of this Agreement, and whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, this RFQ, 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 that:
  - (1) is or subsequently becomes available to the public, other than through a breach of this Agreement by the Receiving Party or through a breach of a Confidentiality Agreement which another person has entered into concerning the Confidential Information;
  - (2) is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Agreement and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - (3) was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of this Agreement and did not originate, directly or indirectly, from the Disclosing Party;
  - (4) was developed independently by the Receiving Party without the use of any Confidential Information; or
  - (5) is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law.
- (c) Permitted Purposes means evaluating the Project, preparing a Response, and any other use permitted by this Agreement.
- (d) Recipient means a Respondent or any other interested party who completes a Receipt Confirmation Form.

- (e) Representative means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Equity Provider, Key Individual, or other member of a Respondent Team or any other person contributing to or involved with the preparation or evaluation of Responses or proposals, as the case may be, or otherwise retained by the Recipient, the Authority or Partnerships BC in connection with the Project.
- (f) all capitalized terms not otherwise defined in this Agreement have the respective meanings ascribed to them in Section 7 of this RFQ.

## **2. Confidentiality**

The Recipient 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 Recipient will make all reasonable, necessary and appropriate efforts to safeguard the Confidential Information from disclosure to any other person except as permitted in this Agreement, and will ensure that each of its Representatives agrees to keep such information confidential and to be bound by the terms contained herein.

## **3. Ownership of Confidential Information**

The Authority owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Agreement, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of this Agreement, 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.

## **4. Limited Disclosure**

The Recipient 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 Response or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.

## **5. Destruction on Demand**

On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC; provided, however, that the Receiving Party may retain one copy of any Confidential Information that it may be required to retain or furnish to a court or regulatory authority pursuant to applicable law.

## **6. Acknowledgment of Irreparable Harm**

The Recipient acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Authority or Partnerships BC may be irreparably harmed if any provision of this Agreement were not performed by the Recipient or any party to whom the Recipient provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Recipient further acknowledges and agrees that the Authority will be entitled to injunctive and other equitable relief to prevent or restrain breaches of any of the provisions of this Agreement by the Recipient or any of its Representatives, or to enforce the terms and provisions hereof, by an action instituted in a court of competent jurisdiction, which remedy or remedies are in addition to any other remedy to which the Authority may be entitled at law or in equity.

## **7. Waiver**

No failure to exercise, and no delay in exercising, any right or remedy under this Agreement by the Authority will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

## **8. Severability**

If any portion of this 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.

## **9. Enurement**

This Agreement enures to the benefit of the Authority and Partnerships BC and binds the Recipient and its successors.

## APPENDIX D RESPONSE DECLARATION FORM

1. This Response Declaration Form will be executed by the Respondent.
2. By executing this Response Declaration Form, the Respondent agrees to the provisions of this RFQ and this Response Declaration Form.
3. Capitalized terms in this Response Declaration Form are defined in Section 7 of this RFQ.

### **[RFQ Respondent's Letterhead]**

To: c/o Partnerships BC

2320 – 1111 West Georgia Street

Vancouver, V6E 4M3

Attention: Catherine Silman

Re: Request for Qualifications entitled Penticton Regional Hospital Patient Care Tower

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### **[Insert Respondent Name]** Response

In consideration of the Authority's agreement to consider Responses in accordance with the terms of this RFQ, the Respondent hereby agrees, confirms and acknowledges, on its own behalf and on behalf of each member of the Respondent Team, that:

(a) Response

- (1) this Response Declaration Form has been duly authorized and validly executed;
- (2) the Respondent is bound by all statements and representations in its Response;
- (3) its Response is in all respects a fair Response made without collusion or fraud; and
- (4) the Authority reserves the right to verify information in the Respondent's Response and conduct any background investigations including criminal record investigations, verification of the Response, credit enquiries, litigation searches, bankruptcy registrations and taxpayer information investigations or other investigations on all or any of the Respondent Team members, and by submitting a Response the Respondent agrees that they consent to the conduct of all or any of those investigations by the Authority.

(b) Acknowledgements with Respect to this RFQ

- (1) the Respondent has received, read, examined and understood the entire RFQ including all of the terms and conditions, all documents listed in this RFQ's Table of Contents, and any and all Addenda;
- (2) the Respondent agrees to be bound by the entire RFQ including all of the terms and conditions, including without limitation Section 6.7, all documents listed in this RFQ's Table of Contents, and any and all Addenda;
- (3) the Respondent's representative identified below is fully authorized to represent the Respondent in any and all matters related to its Response, including but not limited to providing clarifications and additional information that may be requested in association with this RFQ;
- (4) the Respondent has disclosed all relevant relationships, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (5) the Respondent has had sufficient time to consider, and has satisfied itself as to the applicability of the material in this RFQ and any and all conditions that may in any way affect its Response.

(c) Evaluation of Responses

- (1) this RFQ is not an offer, a tender or a request for proposals; it is a Request for Qualifications and the responsibility of the Authority is limited to consider Responses in accordance with this RFQ.

(d) Consent of Respondent Team

- (1) the Respondent has obtained the express written consent and agreement of each member of the Respondent Team, as listed below, to all the terms of this Response Declaration Form.

(e) The Respondent Team consists of:

Name of Respondent Team Member - Firm	Address	Respondent Team Role	Equity Provider (Y/N)

Name of Respondent Team Member - Individual	Address	Respondent Team Role	Key Individual (Y/N)

Any individual mentioned in the Response must be included in the table above.

**RESPONDENT**

**RESPONDENT'S REPRESENTATIVE**

\_\_\_\_\_  
 Name of Firm

\_\_\_\_\_  
 Name

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Email Address

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Name of Authorized Signatory

\_\_\_\_\_  
 Telephone

\_\_\_\_\_  
 Signature

If the Respondent is a joint venture, consortium or special purpose entity – by each of its joint venture or consortium members, as applicable.



## APPENDIX E RELATIONSHIP DISCLOSURE FORM

This Form will be completed by the Respondent on its own behalf and on behalf of each member of the Respondent Team.

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

- (a) this declaration is made to the best of the knowledge of the Respondent and, with respect to relationships of each member of the Respondent Team, to the best of the knowledge of that member.
- (b) the Respondent and the members of the Respondent Team have reviewed the definition of Restricted Parties and the non-exhaustive list of Restricted Parties in Section 6.12.2.
- (c) the following is a full disclosure of all known relationships that the Respondent and each member of the Respondent Team has, or has had, with:
  - (1) the Authority;
  - (2) any listed Restricted Party;
  - (3) any current 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; and/or
  - (5) any other person who, on behalf of the Authority or a listed Restricted Party, has been involved in the Competitive Selection Process or the design, planning or implementation of the Project.

Name of Respondent Team member	Name of Party with Relationship (e.g., list Authority, Restricted Party, etc.)	Details of the Nature of the Relationship with the Listed Restricted Party/Person (e.g., Respondent Team member was an advisor to the Restricted Party from _____ to _____ )
<i>e.g. Firm Name Ltd.</i>	<i>Partnerships BC</i>	<i>Firm Name Ltd. is working with Partnerships BC on Project X.</i>
<i>e.g. John Smith</i>	<i>Authority Name</i>	<i>Employee from 19XX – 20XX</i>

(Each Respondent Team to submit one Relationship Disclosure Form. Add additional pages as required. Corporate disclosures only need to be provided once and not repeated for every individual of that company).

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**NAME OF RESPONDENT**

---

Address

---

Email Address

---

Telephone

---

Name of Authorized Signatory for Respondent

---

Signature

## APPENDIX F PARTICIPATION AGREEMENT

[Insert Date]

Partnerships BC

2320 – 1111 West Georgia Street

Vancouver, V6E 4M3

Attention: Catherine Silman, Contact Person

Dear Sirs/Mesdames:

Re: Penticton Regional Hospital Patient Care Tower – Participation Agreement in respect of the Request for Proposals issued by the Authority on August 29, 2014, 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 Proponent Name] (the “Proponent”) and the Authority, pursuant to which the Proponent agrees with the Authority as follows:

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

- (a) that the terms of this Participation Agreement do not limit the Proponent's obligations and requirements under the RFP, any Data Room agreement, or any other document or requirement of the Authority;
- (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and any indemnities contained in the RFP, including Section 6.7 (Limitation of Damages) of the RFP. In no event will the liability of the Authority exceed the amount calculated pursuant to Section 8.10 (Partial Compensation for Participation in the RFP) of the RFP;
- (c) that the Authority's and the Proponent's obligations in respect of payments of partial compensation or other similar payment are as set out in Section 8.10 (Partial Compensation for Participation in the RFP) of the RFP; and
- (d) that the Authority's and the Proponent's obligations in respect of the Preferred Proponent Security Deposit are as set out in Sections 8.3, 8.4 and 8.5 of the RFP.

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

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

**6. General.**

(a) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:

- (1) it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
  - i. this Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
  - ii. this Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.

(b) *Survival following cancellation of the RFP.* Notwithstanding anything else in this Participation Agreement, if the Authority, for any reason, cancels the Competitive Selection Process or the RFP, the Proponent agrees that it continues to be bound by, and will continue to comply with, Section 3 of this Participation Agreement.

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

Yours truly,

---

Name of Proponent

---

Name of Equity Provider

---

Authorized Signatory

---

Authorized Signatory

---

Name of Equity Provider

---

Authorized Signatory

## SCHEDULE 1

### Confidentiality Conditions

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

- (a) **Confidential Information** means all documents, knowledge and information provided by the Disclosing Party to, or otherwise obtained by, the Receiving Party, whether before or after the date of the RFP, whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, the RFP, this RFQ or the Competitive Selection Process, including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information that:
- (1) is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
    - i. 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;
    - ii. 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;
    - iii. was developed independently by the Receiving Party without the use of any Confidential Information; or
    - iv. is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
- (b) **Disclosing Party** means the Authority or any of its Representatives;
- (c) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Participation Agreement;
- (d) **Receiving Party** means the Recipient or any of its Representatives;

- (e) **Recipient** means a Proponent or any other interested party who completes a Receipt Confirmation Form; and
- (f) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Equity Provider, Key Individual, 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 Recipient, the Authority or Partnerships BC in connection with the Project.
2. **Confidentiality.** The Recipient 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 Recipient 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.
3. **Ownership of Confidential Information.** The Authority owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Schedule 1, the Recipient will keep all Confidential Information that the Recipient 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.
4. **Limited Disclosure.** The Recipient 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 Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
5. **Destruction on Demand.** On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC (for this purpose information stored electronically will be deemed destroyed upon removal from all storage systems and devices);

provided, however, that the Receiving Party may retain one copy of any Confidential Information that it may be required to retain or furnish to a court or regulatory authority, pursuant to applicable law.

- 6. Acknowledgment of Irreparable Harm.** The Recipient acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Authority or Partnerships BC may be irreparably harmed if any provision of this Schedule 1 were not performed by the Recipient or any party to whom the Recipient provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Recipient 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 Recipient or any of its Representatives, or to enforce the terms and provisions hereof, by an action instituted in a court of competent jurisdiction, which remedy or remedies are in addition to any other remedy to which the Authority may be entitled at law or in equity.
- 7. Waiver.** No failure to exercise, and no delay in exercising, any right or remedy under this Schedule 1 by the Authority will be deemed to be a waiver of that right or remedy.