



## Request for Proposals

# Dawson Creek and District Hospital Replacement Project

Issued January 18, 2023  
Conformed – April 13, 2023



**SUMMARY OF KEY INFORMATION**

<b>RFP TITLE</b>	The title of this RFP is: Dawson Creek and District Hospital Replacement Project Proponents should use this title on all correspondence.
<b>CONTACT PERSON</b>	The Contact Person for this RFP is: Ramona Daly <b>Email:</b> ramona.daly@northernhealth.ca Please direct all Enquiries, in writing, to the above named Contact Person.
<b>ENQUIRIES</b>	Proponents are encouraged to submit Enquiries at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time for Financial Submissions to permit consideration by the Authority; the Authority may, in its discretion, decide not to respond to any Enquiry.
<b>The following submissions are to be delivered at the times and location indicated below:</b>	
<b>SUBMISSION TIME FOR ELIGIBILITY DOCUMENTATION</b>	February 10, 2023 at 11:00 Pacific Time
<b>SUBMISSION TIME FOR FINANCIAL SUBMISSIONS</b>	May 23, 2023 at 11:00 Pacific Time
<b>SUBMISSION LOCATION</b>	By electronic upload to the Contact Person in accordance with Section 6.1.

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## 1 INTRODUCTION

### 1.1 PURPOSE OF THIS RFP

Northern Health Authority (the “**Authority**”) is seeking a Design-Builder to design and build the new Dawson Creek and District Hospital in Dawson Creek, B.C. (the “**Project**”) under a design-build agreement (the “**Design-Build Agreement**”). The purpose of this request for proposals (the “**RFP**”) is to invite parties to seek eligibility as a Proponent and to prepare and submit Proposals.

Infrastructure BC Inc. (“**Infrastructure BC**”) is managing the Competitive Selection Process on behalf of the Authority.

### 1.2 ELIGIBILITY TO PARTICIPATE IN THIS RFP

Each interested party must complete, sign and deliver to the Contact Person, eligibility documents (the “**Eligibility Documents**”) consisting of the Registration Form and Participation Agreement, substantially in the form attached as Appendix E and Appendix F respectively. The Eligibility Documents may be submitted at any time until the Submission Time for Eligibility Documentation set out in the Summary of Key Information.

The Authority will evaluate the information submitted in the Registration Form against the following criteria:

- (a) Demonstration of a lead role in the delivery of major vertical construction projects (e.g. healthcare) in the last ten years with a capital value of at least \$200 million.
- (b) Demonstration of bonding capacity for a performance bond and a labour and materials payment bond, each for a minimum of \$200 million.
- (c) Demonstration of qualified individuals (the “**Key Individuals**”) to fill the following roles:
  - (1) Design-Build Director.
  - (2) Design-Build Design Manager.
  - (3) Design-Build Construction Manager.

The Authority may request, and in its discretion consider, clarifications and additional information.

If the Authority determines the information provided is sufficient to demonstrate the party is sufficiently capable of making a bona fide Proposal and entering into and performing the Design-Build Agreement, the party will be granted proponent status (the “**Proponent**”). Proponents will be invited to attend the introductory Project meeting, receive access to the Data Room, receive Addenda, and be invited to

participate in the Competitive Selection Process and to submit a Proposal. The Authority reserves the right to determine who is designated a Proponent.

Please note that access to the Data Room will be provided to a Proponent upon achieving Proponent status and parties are therefore encouraged to submit the Eligibility Documents as early as possible.

Only those determined to be Proponents by the Authority, subject to changes in Proponent Team membership as permitted by this RFP, may submit a Proposal or otherwise participate in this RFP. Partial compensation will be offered to those Proponents who meet the conditions described in Section 8.6 of this RFP.

## 2 RFP PROCUREMENT PROCESS

### 2.1 ESTIMATED TIMELINE

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

Activity	Timeline
Issue RFP and Initial Draft Design-Build Agreement	January 18, 2023
Evaluation of Registration Forms	As received (prior to Submission Time for Eligibility Documentation)
Introductory Project Meeting (virtual)	February 1, 2023
Authority to upload 60% Design compliance feedback to the Data Room	February 6, 2023
Submission Time for Eligibility Documentation	11:00 on February 10, 2023
Collaborative Meeting Period (virtual)	February – first week of March 2023 (specific dates to be determined as per Section 2.2)
Issue Final Draft Design-Build Agreement	Week of March 20, 2023
Submission Time for Financial Submissions	11:00 on May 23, 2023
Selection of Preferred Proponent	May 2023
Contract Execution	June 2023
Construction Commences	June 2023

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

### 2.2 COLLABORATIVE MEETINGS

The Authority will make available certain of its personnel, consultants and advisors (the “**Authority Representatives**”) to participate in collaborative discussions with the Proponents (the “**Collaborative Meetings**”). It is expected that Collaborative Meetings will be held via a virtual meeting platform with screen sharing capabilities, unless otherwise permitted at the discretion of the Authority. The Authority expects that Proponents will make available all necessary consultants to attend the Collaborative Meetings.

Unless otherwise agreed by the Authority, each Proponent will be granted a maximum of 12 hours of dedicated Collaborative Meeting time with the Authority. The purpose of the Collaborative Meetings is:

- (1) to permit the Proponent to provide the Authority's Representatives with comments and feedback on material issues such as provisions of the Initial Draft Design-Build Agreement; and



- (2) to present potential solutions and approaches that the Proponent may be considering for various aspects of its Proposal;

Each Proponent should submit to the Authority a proposed Collaborative Meeting plan (e.g. dates, duration and potential topics) by February 10, 2023 to permit the Authority to schedule its resources. The Authority will provide feedback on the proposed plan and will schedule the agreed upon Collaborative Meetings with each Proponent.

At least 3 Business Days in advance of each Collaborative Meeting, each Proponent should submit its proposed meeting agenda (including any consultants and advisors a Proponent would like in attendance from the Authority Representatives) and a list of prioritized issues the Proponent would like to discuss, and any materials relevant to such issues. The Authority may provide Proponents with comments on the agenda and a list of any prioritized issues the Authority would like to discuss.

If the Authority considers it desirable or necessary to offer more Collaborative Meeting hours to Proponents, the Authority may, in its discretion, amend the total hours allocated to each Proponent.

The Authority expects the Collaborative Meetings to take place as follows:

- (a) the Authority will determine which Authority Representatives will be present at any Collaborative Meeting;
- (b) except as may be expressly stated otherwise in this RFP, including Section 10.5, the Authority will retain all information received from a Proponent during a Collaborative Meeting(s) as strictly confidential, and will not disclose such information to the other Proponents or any third party. The Authority may disclose such information to its consultants and advisors who are assisting or advising the Authority with respect to the Project;
- (c) at each Collaborative Meeting, a Proponent may have such officers, directors, employees, consultants and agents of the Proponent and the Proponent Team members present as the Proponent considers reasonably necessary for effective communication with the Authority and to fulfil the objectives of the Collaborative Meeting provided that the Authority may, in its discretion, limit the number of participants at any one meeting.
- (d) to facilitate free and open discussion at the Collaborative Meetings, Proponents should note that any comments provided by or on behalf of the Authority during any Collaborative Meeting, including in respect of any particular matter raised by a Proponent or which is included in any documents or information provided by a Proponent prior to or during the Collaborative Meeting, and any positive or negative views, encouragement or endorsements expressed by or on behalf of the Authority during the Collaborative Meetings to anything said or provided by Proponents, will

not in any way bind the Authority and will not be deemed or considered to be an indication of a preference by the Authority even if adopted by the Proponent;

- (e) if for the purposes of the preparation of its Proposal a Proponent wishes to rely upon anything said or indicated at a Collaborative Meeting, then the Proponent must submit an Enquiry describing the information it would like to have confirmed and request that the Authority provide that information to the Proponent in written form and, if such information relates to a clarification, explanation or change to a provision of this RFP or the Design-Build Agreement, request an Addendum to this RFP clarifying and amending the provision in question; and
- (f) by participating in the Collaborative Meetings, a Proponent confirms its agreement with these procedures and acknowledges that the meetings are an integral part of the Competitive Selection Process as described in this RFP and are in the interests of all parties.

### 2.3 COMMENTS ON THE DESIGN-BUILD AGREEMENT

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

- (a) the Authority will invite Proponents as part of the Collaborative Meeting process to discuss possible clarifications or amendments to the Initial Draft Design-Build Agreement, including with respect to commercial, legal, and design and construction aspects of the Project. In the interest of the Project schedule and given the work completed by the Authority to date, the Authority expects only to discuss material issues that are raised; and
- (b) the Authority will consider all comments and requested clarifications or amendments received from the Proponents in the Collaborative Meetings and will only respond to those it considers material and will amend the Initial Draft Design-Build Agreement as the Authority may determine in its discretion.

Prior to the Submission Time for Financial Submissions, the Authority intends to issue by Addendum one or more revised drafts of the Design-Build Agreement, including one that will be identified as the final draft design-build agreement (the “**Final Draft Design-Build Agreement**”). The Final Draft Design-Build Agreement will be the common basis for the preparation of all Proposals, and Proponents should not, in their Proposal, make any modifications, changes or additions to the Final Draft Design-Build Agreement except for modifications, changes or additions provided for in Section 8.2.

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

inconsistencies between the terms of the Final Draft Design-Build Agreement and the description or overview of those terms set out in this RFP or the Initial Draft Design-Build Agreement, the terms of the Final Draft Design-Build Agreement will prevail.

## 2.4 DATA ROOM

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

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

## 2.5 PROPONENT’S CONTACT REPRESENTATIVE

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

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

### 3 KEY PROJECT ELEMENTS

The Authority has retained Stantec Architecture Ltd. to develop the Project's Statement of Requirements and act as its compliance team. In addition, HDR Architecture Associates, Inc. ("**HDR**") and its team of subconsultants have carried out design services to meet the Authority's Statement of Requirements and other obligations of the Initial Design-Build Agreement.

The Data Room includes a 60% Design which was submitted for the Authority's review in mid-January. The Authority intends to share its compliance feedback on the design with both HDR and the Proponents.

HDR, and its subconsultants, are currently under a contract that has been assigned to the Authority. The successful Design-Builder may enter a new contract (e.g. CCDC 15) for HDR to perform the Design services for the Design-Builder. The successful Design-Builder may alternatively obtain Design services from another party. Under Section 9.9, HDR, and its subconsultants, are Shared Use Persons.

Proponents may directly contact a designated HDR commercial contact person, with carbon copy to the Fairness Reviewer, to arrange contractual discussions to act as the Design-Builder's design firm and consultants.

If a Proponent chooses not to contract with HDR to act as the Design-Builder's design firm, the Proponent should ask for instructions from the Authority on how to proceed by submitting an Enquiry.

#### 3.1 DESIGN-BUILDER'S RESPONSIBILITIES

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

- (a) design and construction of the Facility and integration of the various building components with each other;
- (b) provision of utilities and other site services required to support the Facility, including connection to existing City of Dawson Creek (the "**City**") infrastructure;
- (c) achieving Substantial Completion and Total Completion;
- (d) performing warranty repairs for a period of two years following Substantial Completion; and
- (e) achieving LEED Gold Certification.

## 3.2 MUNICIPAL APPROVALS

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

The Authority has had extensive discussions with the City and has incorporated its requirements into the Statement of Requirements as appropriate. The Project does not require a development permit and the City is amenable to a two-stage building permit process.

### 3.2.1 Communications with the City

Each Proponent will have the opportunity to meet separately and confidentially one time with City representatives prior to the Submission Time for Financial Submissions to allow Proponents to obtain information they may require for the preparation of Proposals. Proponents should provide a detailed agenda with specific discussion topics and questions before the meeting.

Although the City will endeavour to provide accurate responses to questions to the best of its ability based on the information at hand, the responses are not binding on the City or the Authority and are on a without prejudice basis. All Proponent meetings with the City will include an Authority representative and will be coordinated through the Contact Person.

The City will not respond directly to questions from Proponents regarding the Project. All such requests for information from the City are to be submitted to the Contact Person through the Enquiry process outlined in Section 6.5.

## 3.3 TECHNICAL REPORTS

The Authority has made available certain reports in the Data Room describing Site conditions for reference by Proponents. The following information is available to Proponents in the Data Room:

- (a) Site survey plan;
- (b) geotechnical reports; and
- (c) environmental report.

The investigations and reports outlined in Section 3.3 of this RFP are limited to a factual record of materials and groundwater encountered at certain locations and elevations. Except as may be further qualified by the Design-Build Agreement, only objective factual data provided in investigations and reports outlined in Section 3.3 of this RFP can be relied upon for accuracy (subject to any qualifications or

conditions set out in such investigations or reports or the Design-Build Agreement) but such data cannot be relied on for sufficiency, relevancy or interpretation.

### 3.4 SITE CONSIDERATIONS

In submitting a Proposal, Proponents should satisfy themselves as to the Site conditions and the impact they could have on any or all of the Work, as defined in the Design-Build Agreement.

### 3.5 EQUIPMENT

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

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

### 3.6 LEED®/ENERGY

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

In addition, Schedule 9 [Energy Guarantee] of the Design-Build Agreement requires the Design-Builder to:

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

### 3.7 WOOD FIRST

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

### 3.8 APPRENTICESHIPS AND TRAINING

The Design-Builder will be required to comply with the Province's "Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines" (the "**Apprentices Guidelines**") in providing

apprenticeships and skills training opportunities. The Apprentices Guidelines address use of registered apprentices and reporting on registered apprentices and trainees.

The Apprentices Guidelines are available at: [https://www2.gov.bc.ca/assets/gov/business/economic-development/assets/apprentices-on-public-projects/policy\\_and\\_procedure\\_guidelines.pdf](https://www2.gov.bc.ca/assets/gov/business/economic-development/assets/apprentices-on-public-projects/policy_and_procedure_guidelines.pdf).

## 4 VALUE AND NOMINAL COST OF THE PROPOSAL

A key objective of the Competitive Selection Process is to select a Design-Builder to deliver the Project at a cost that provides value to the Authority.

### 4.1 NOMINAL COST CALCULATION

Each Proponent should calculate the Nominal Cost of the Proposal and should use the Form A1 - Breakdown of Contract Price provided by the Authority in the Data Room. This Nominal Cost of the Proposal will be evaluated as described in Appendix A of this RFP.



## 5 PROPOSAL REQUIREMENTS

### 5.1 PROPOSAL FORM AND CONTENT

The Proposal should be in the form and include the content described in Appendix B. Each Proponent may only submit one Financial Submission.

## 6 SUBMISSION INSTRUCTIONS

### 6.1 SUBMISSION TIMES AND SUBMISSION LOCATION

Proponents must submit the Financial Submission to the Submission Location by the Submission Time for Financial Submissions. The Financial Submission should include the Proposal Requirements described in Appendix B.

For its Financial Submission, the Proponent should submit one electronic copy by upload to a secure web-based platform of the Proponent's choosing, and the Contact Person given access, as confirmed with the Contact Person in advance. Proponents are responsible to arrange a test of the secure web-based platform with the Contact Person at least 5 Business Days in advance of the Submission Time for Financial Submissions.

### 6.2 NUMBER OF COPIES

The Proponent should submit one electronic copy.

### 6.3 LANGUAGE OF PROPOSALS

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

### 6.4 RECEIPT OF COMPLETE RFP

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

### 6.5 ENQUIRIES

All enquiries regarding any aspect of this RFP should be directed to the Contact Person by email (each an **"Enquiry"**).

Proponents are encouraged to submit Enquiries at an early date to permit consideration by the Authority. The deadline for Enquiries is prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time for Financial Submissions.

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

The following applies to any Enquiry:

- (a) responses to an Enquiry will be in writing;
- (b) all Enquiries, and all responses to Enquiries from the Contact Person, will be recorded by the Authority;
- (c) the Authority is not required to provide a response to any Enquiry;
- (d) a Proponent may request that a response to an Enquiry be kept confidential by clearly marking the Enquiry “Commercial in Confidence” if the Proponent considers that the Enquiry is commercially confidential to the Proponent;
- (e) if the Authority decides that an Enquiry marked “Commercial in Confidence”, or the Authority’s response to such an Enquiry, must be distributed to all Proponents, then the Authority will permit the enquirer to withdraw the Enquiry rather than receive a response and if the Proponent does not withdraw the Enquiry, then the Authority may provide its response to all Proponents;
- (f) notwithstanding Sections 6.5 (d) and (e):
  - (1) if one or more other Proponents submits an Enquiry on the same or similar topic to an Enquiry previously submitted by another Proponent as “Commercial in Confidence”, the Authority may provide a response to such Enquiry to all Proponents; and
  - (2) if the Authority determines there is any matter which should be brought to the attention of all Proponents, whether or not such matter was the subject of an Enquiry, including an Enquiry marked “Commercial in Confidence”, the Authority may, in its discretion, distribute the Enquiry, response or information with respect to such matter to all Proponents.

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

## 6.6 ELECTRONIC COMMUNICATION

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

- (a) the Authority does not assume any risk or responsibility or liability whatsoever to any Proponent:
  - (1) for ensuring that any electronic email system being operated for the Authority or Infrastructure BC is in good working order, able to receive transmissions, or not engaged in receiving other transmissions such that a Proponent’s transmission cannot be received; or

- (2) if a permitted email communication or delivery is not received by the Authority or Infrastructure BC, or received in less than its entirety, within any time limit specified by this RFP; and
- (b) all permitted email communications with, or delivery of documents by email to, the Contact Person will be deemed as having been received by the Contact Person on the dates and times indicated on the Contact Person's electronic equipment.

## 6.7 ADDENDA

The Authority may, in its discretion through the Contact Person, amend this RFP at any time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFP, and no other form of communication whether written or oral, including written responses to Enquiries as provided by Section 6.5, will be included in, or in any way amend, this RFP. Only the Contact Person is authorized to amend or clarify this RFP by issuing an Addendum. No other employee or agent of the Authority is authorized to amend or clarify this RFP. The Authority will provide a copy of all Addenda to all Proponents.

## 6.8 INTELLECTUAL PROPERTY RIGHTS

### (a) Grant of Licence

Subject to Section 6.8 (b), by submitting a Proposal, each Proponent will, and will be deemed to have:

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

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

### (b) Exceptions to Licence

The licence granted under Section 6.8 (a) does not extend to Third Party Intellectual Property Rights to non-specialized third-party technology and software that are generally commercially available. By submitting a Proposal, each Proponent represents to the Authority that it owns or

has, and will continue to own or have at the Submission Time for Financial Submissions, all necessary rights to all Third Party Intellectual Property Rights contained in its Proposal or otherwise disclosed by the Proponent to the Authority and, subject to the foregoing exceptions, has the right to grant a licence of such Third Party Intellectual Property Rights in accordance with Section 6.8 (a).

## 6.9 DEFINITIVE RECORD

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

## 6.10 AMENDMENTS TO PROPOSALS

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

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

## 6.11 CHANGES TO PROPONENT TEAMS

If for any reason a Proponent wishes or requires to add, remove or otherwise change a member of its Proponent Team after it was granted Proponent status by the Authority, or there is a material change in ownership or control (which includes the ability to direct or cause the direction of the management actions or policies of a member) of a member of the Proponent Team, or there is a change to the legal relationship among any or all of the Proponent and its Proponent Team members, then the Proponent must submit a written application to the Authority for approval, including supporting information that may assist the Authority in evaluating the change. The Authority, in its discretion, may grant or refuse an application under this Section, and in exercising its discretion the Authority will consider the objective of achieving a Competitive Selection Process that is not unfair to the other Proponents. For clarity:

- (a) the Authority may refuse to permit a change to the membership of a Proponent Team if the change would, in the Authority's judgement, result in a weaker team than was originally submitted in the Registration Form; or
- (b) the Authority may, in the exercise of its discretion, permit any changes to a Proponent Team, including changes as may be requested arising from changes in ownership or control of a Proponent or a Proponent Team member, or changes to the legal relationship among the Proponent and/or Proponent Team members, such as the creation of a new joint venture or other legal entity or relationship in place of the original Proponent Team.

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

## 6.12 VALIDITY OF PROPOSALS

By submitting a Proposal, each Proponent agrees that:

- (a) its Proposal, including all prices and input costs, will remain fixed and irrevocable from the Submission Time for Financial Submissions until midnight at the end of the 45<sup>th</sup> day following the Submission Time for Financial Submissions (the "**Proposal Validity Period**"); and
- (b) after the expiry of the Proposal Validity Period, all prices and input costs in its Proposal may not be adjusted unless the Proponent provides notice to the Authority of any proposed adjustment and demonstrates to the satisfaction of the Authority that the Proponent has used its best efforts to continue to maintain the prices and input costs firm and valid, but that despite such best efforts, the specified adjustments to the prices and input costs are required solely as a direct result of one or more events that:
  - (1) are external to the Proponent and the Proponent Team members;
  - (2) could not have been prevented by, and are beyond the control of, the Proponent and any of its Proponent Team members; and
  - (3) constitute a material adverse change to the conditions underlying the prices and input costs that are subject to the adjustment.

## 6.13 MATERIAL CHANGE AFTER SUBMISSION TIME FOR FINANCIAL SUBMISSIONS

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

## 6.14 ACCEPTABLE EQUIVALENTS

The Statement of Requirements is intended to generally be performance-based but includes in some instances specific requirements related to design and construction, such as room types and sizes, adjacencies, access requirements, products, materials, equipment, and technical systems (including structural, foundation, mechanical (HVAC), information technology and electrical) that the Authority considers are important to meet the Authority's objectives. However, the Authority wishes to provide some flexibility for Proponents to propose equivalent alternatives that when considered by the Authority, in its discretion, continue to meet the Authority's objectives.

A Proponent may submit an Enquiry marked “Commercial in Confidence – Acceptable Equivalent” that identifies the applicable section(s) in the Statement of Requirements that contain the requirement(s) and the Proponent’s proposed equivalent that it considers will be equal to or better than the specified requirement(s) and that will still meet the Authority’s objectives, along with supporting materials. The Authority may, in its discretion, request clarification, further information or additional supporting materials for the proposed equivalent.

The Authority may, in its discretion:

- (a) respond to indicate that the proposed equivalent is acceptable;
- (b) respond to indicate that the proposed equivalent is acceptable subject to the Proponent’s compliance with any conditions identified by the Authority;
- (c) respond to indicate that the Authority does not consider the proposed equivalent to be acceptable;
- (d) request clarification, further information or additional material;
- (e) not respond to the Enquiry; or
- (f) provide any other response in accordance with Section 6.5.

The provisions of Section 6.5 relating to “Commercial in Confidence” Enquiries will apply, including with respect to withdrawal of an Enquiry, Enquiries by more than one Proponent on the same or similar topics, or the Authority’s determination if there is a matter which should be brought to the attention of all Proponents.

If the Authority responds to a “Commercial in Confidence – Acceptable Equivalent” Enquiry or responds to any Enquiry that is not “Commercial in Confidence”, regarding a proposed equivalent to indicate that the proposed equivalent is acceptable, then a Proponent may make its Financial Submission on the basis of the response, the proposed equivalent will be considered an “**Acceptable Equivalent**”.

Unless the Authority responds to indicate that a proposed equivalent is acceptable, a Proponent is at risk that the use of a proposed equivalent will not substantially meet the requirements set out in the Design-Build Agreement.

The Authority will be under no obligation to provide the indication of acceptability of the proposed equivalent to the Proponent or to any other Proponent.

Despite any indication by the Authority of the acceptability of an equivalent, the Design-Builder remains responsible for fulfilling all obligations and responsibilities under the Design-Build Agreement.

Following selection of the Preferred Proponent, the Design-Build Agreement will, in accordance with Section 8.2, be amended to include all Acceptable Equivalents used by that Preferred Proponent, or negotiated by the Authority and the Preferred Proponent, whether or not proposed by any other Proponent.



## 7 EVALUATION

### 7.1 MANDATORY REQUIREMENT

The Authority has determined that the following is the Mandatory Requirement:

- (a) the Financial Submission must be received at the Submission Location before the Submission Time for Financial Submissions.

The Authority will reject a Financial Submission that fails to meet the Mandatory Requirement.

### 7.2 EVALUATION OF PROPOSALS

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

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

- (a) waive any such defect, ambiguity, alteration, qualification, omission, inaccuracy, misstatement or failure to satisfy, and any resulting ineligibility on the part of the Proponent, or any member of the Proponent Team;
- (b) independently consider, investigate, research, analyze, request or verify any information or documentation whether or not contained in any Proposal;
- (c) request interviews or presentations with any, all or none of the Proponents to clarify any questions or considerations based on the information included in Proposals during the evaluation process, with such interviews or presentations conducted at the discretion of the Authority, including the time, location, length and agenda for such interviews or presentations;
- (d) conduct reference checks relevant to the Project with any or all of the references cited in a Proposal and any other persons (including persons other than those listed by Proponents in any part of their Proposals) to verify any and all information regarding a Proponent, inclusive of its

directors/officers and Key Individuals, and to conduct any background investigations that it considers necessary in the course of the Competitive Selection Process, and rely on and consider any relevant information from such cited references in the evaluation of Proposals;

- (e) conduct credit, criminal record, litigation, bankruptcy, taxpayer information and other checks;
- (f) not proceed to review and evaluate, or discontinue the evaluation of any Proposals, including any Financial Submission, and disqualify the Proponent from this RFP; and
- (g) seek clarification or invite more complete, supplementary, replacement or additional information or documentation from any Proponent or in connection with any Proposal, including with any Financial Submission or any part of their component packages.

Without limiting the foregoing or Appendix A, the Authority may, in its discretion (and without further consultation with the Proponent), reject any Proposal which in the opinion of the Authority: (i) is materially incomplete or irregular; (ii) contains omissions, exceptions or variations (including any modifications, changes or additions to the Final Draft Design-Build Agreement, other than as provided for in Sections 8.2, not acceptable to, or material to, the Authority; (iii) contains any false or misleading statement, claims or information; or (iv) contains any false statements, criminal affiliations or activities by a Proponent or Proponent Team member.

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

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

Proponents may not submit any clarifications, information or documentation in respect of the Financial Submission after the Submission Time for Financial Submissions, without the prior written approval of the Authority, or without an invitation or request by the Authority.

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

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

## 8 SELECTION OF PREFERRED PROPONENT AND AWARD

### 8.1 SELECTION AND AWARD

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

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

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

Any final approvals required by the Authority, such as from the Provincial Government, will be conditions precedent to the final execution of the Design-Build Agreement.

### 8.2 FINAL DRAFT DESIGN-BUILD AGREEMENT

It is the intention of the Authority that:

- (a) any issues with respect to the Initial Draft Design-Build Agreement will be discussed during the Collaborative Meetings and fully considered prior to issuance of the Final Draft Design-Build Agreement; and
- (b) once issued, the Final Draft Design-Build Agreement will not be further substantively modified and will be executed by the Preferred Proponent without further substantive amendment, except for changes, modifications and additions:
  - (1) relating to the determination by the Authority, in its discretion, of which:

- i. parts, if any, of the Proposal are to be incorporated by reference or otherwise, into the Design-Build Agreement or otherwise pursuant to express provisions of the Design-Build Agreement.
- (2) to those provisions or parts of the Final Draft Design-Build Agreement that are indicated as being subject to completion or finalization, or which the Authority determines in its discretion require completion or finalization, including provisions that require:
  - i. modification or the insertion or addition of information relating to the Design-Builder's formation (e.g., corporate, partnership or trust structure); and
  - ii. modification or the insertion or addition of information in order to reflect accurately the nature of the Design-Builder's relationships with its principal subcontractors (including each of the project contractors);
- (3) required by the Authority to complete, based on the Proposal, any provision of the Final Draft Design-Build Agreement, including changes, modifications and additions contemplated in or required under the terms of the Final Draft Design-Build Agreement;
- (4) that are necessary to create or provide for a legally complete, enforceable and binding agreement;
- (5) that enhance clarity in legal drafting; or
- (6) that reflect Acceptable Equivalents in accordance with Section 6.14.

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

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

### 8.3 PREFERRED PROPONENT SECURITY DEPOSIT

Subject to the terms of this RFP:

- (a) the Authority will invite the Preferred Proponent to deliver the Preferred Proponent Security Deposit on or before the date and time specified by the Authority, such date not to be earlier than five Business Days after notification of the appointment of the Preferred Proponent; and

- (b) the Preferred Proponent's eligibility to remain the Preferred Proponent is conditional upon the Preferred Proponent delivering the Preferred Proponent Security Deposit to the Authority on or before the date and time specified by the Authority.

#### 8.4 RETURN OF SECURITY DEPOSIT

Subject to Section 8.5, the Authority will return the Preferred Proponent Security Deposit to the Preferred Proponent:

- (a) within 10 Business Days after receipt by the Authority of notice of demand from the Preferred Proponent, if:
- (1) the Proponent withdraws from the Competitive Selection Process in accordance with Section 8.1;
  - (2) the Authority exercises its right under Section 10.1 to terminate this RFP prior to entering into the Design-Build Agreement for reasons unrelated to the Preferred Proponent or any member of the Preferred Proponent's Proponent Team; or
  - (3) the Authority fails, within the Proposal Validity Period, to execute and deliver an agreement substantially in the form of the Final Draft Design-Build Agreement finalized by the Authority in accordance with Section 8.2, provided that such failure is not the result of:
    - i. the failure of the Preferred Proponent to satisfy any conditions set out in the Final Draft Design-Build Agreement; or
    - ii. any extensions to the Proposal Validity Period arising from any agreement by the Authority to negotiate changes to the Final Draft Design-Build Agreement pursuant to Section 8.2; or
- (b) within 10 Business Days after Contract Execution with such Preferred Proponent.

#### 8.5 RETENTION OF SECURITY DEPOSIT

Notwithstanding any receipt by the Authority of the notice described in Section 8.4, the Authority may, in its discretion, draw on, retain, and apply the proceeds of the Preferred Proponent Security Deposit for the Authority's own use as liquidated damages, if:

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

- (1) the Preferred Proponent fails to execute and deliver an agreement substantially in the form of the Final Draft Design-Build Agreement finalized by the Authority in accordance with Section 8.2; or
- (2) Contract Execution fails to occur within 30 days (or such longer period as the parties may agree) of receipt of such notice from the Authority,

unless:

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

## 8.6 PARTIAL COMPENSATION FOR PARTICIPATION IN THIS RFP

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

- (a) complied with the Mandatory Requirement;
- (b) has not withdrawn from the Competitive Selection Process (including under Section 8.1) or been disqualified by the Authority in accordance with the terms of this RFP; and
- (c) provides to the Authority written acknowledgment of:
  - (1) the disclaimers, limitations and waivers of liability and claims contained in this RFP, including Section 10.13; and
  - (2) the grant of Intellectual Property Rights to the Authority and waiver of moral rights pursuant to Section 6.8.

The Authority reserves the right to require a Proponent to substantiate the out-of-pocket costs reasonably incurred by the Proponent in preparing its Proposal and to reduce the above payment to the substantiated amount.

If the Authority exercises its right under Section 10.1 to terminate the RFP process prior to entering into the Design-Build Agreement with a Proponent, the Authority will pay to each Proponent that satisfies the requirements (to the extent applicable) set out in (a) – (c) above, the lesser of:

- (d) \$200,000 (inclusive of any taxes payable); and

(e) the substantiated out-of-pocket costs reasonably incurred by the Proponent in preparing its Proposal,

provided that if the Authority exercises such rights after the selection of a Preferred Proponent, the Preferred Proponent must have delivered the Preferred Proponent Security Deposit in accordance with Section 8.3 to be entitled to receive any such payment.

In determining whether to make available the partial compensation described in this Section 8.6, the Authority will consider the potential value of obtaining the licence to the Authority of rights to the Intellectual Property Rights and the waiver of moral rights pursuant to Section 6.8. Accordingly, the Authority may, in its discretion, offer to pay up to \$200,000 (inclusive of any taxes payable) to a Proponent that is not otherwise entitled to payment under this Section 8.6 on conditions established by the Authority, in its discretion. The conditions may include the Authority reviewing the Intellectual Property Rights (such as for a Proposal that was returned) and being satisfied with the value of such rights and the Proponent entering into an agreement with the Authority granting licence rights to the Authority. Such offer and resulting arrangements will not be governed by this RFP.

## 8.7 DEBRIEFS

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



## 9 CONFLICT OF INTEREST AND RELATIONSHIP DISCLOSURE

### 9.1 RESERVATION OF RIGHTS TO DISQUALIFY

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

### 9.2 RELATIONSHIP DISCLOSURE

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

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

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

### 9.3 USE OR INCLUSION OF RESTRICTED PARTIES

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

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

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

#### 9.4 CURRENT RESTRICTED PARTIES

At this RFP stage, and without limiting the definition of Restricted Parties, the Authority has identified the following persons as Restricted Parties, including their former and current employees who fall within the definition of Restricted Party:

- (a) Boughton Law Corporation: COI Adjudicator;
- (b) Bennett Jones LLP: Legal Advisor;
- (c) Miller Thomson LLP: Fairness Reviewer;
- (d) BTY Consultancy Group Inc.;
- (e) Burnstad Consulting Ltd.;
- (f) Canadian Turner Construction Company, Ltd. and its Affiliated Persons;
- (g) Clark Builders Inc. and its Affiliated Persons;
- (h) Colliers Project Leaders;
- (i) GUNN Consultants;
- (j) Stantec Architecture Ltd.;
- (k) Stantec Consulting Ltd.;
- (l) Stantec Land Surveying Ltd.;
- (m) SSA Quantity Surveyors Ltd.; and
- (n) The Authority, Provincial Health Services Authority and Infrastructure BC.

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

#### 9.5 CONFLICT OF INTEREST ADJUDICATOR

The Authority has appointed Boughton Law Corporation as the COI Adjudicator to provide decisions on conflicts of interest, unfair advantage, or exclusivity issues, including whether any person is a Restricted Party. The Authority may, at its discretion, refer matters to the COI Adjudicator.

## 9.6 REQUEST FOR ADVANCE DECISION

A Proponent or a prospective member or advisor of a Proponent who has any concerns regarding whether a current or prospective employee, advisor or member of that Proponent is, or may be, a Restricted Party, or has a concern about any conflict or unfair advantage it may have, is encouraged to request an advance decision by submitting to the Contact Person, not less than 10 Business Days prior to the Submission Time for Financial Submissions, by email, the following information:

- (a) names and contact information of the Proponent and the person for which the advance opinion is requested;
- (b) a description of the relationship that raises the possibility or perception of a conflict of interest or unfair advantage;
- (c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate the conflict of interest or unfair advantage, including the effect of confidential information; and
- (d) copies of any relevant documentation.

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

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

## 9.7 THE AUTHORITY MAY REQUEST ADVANCE DECISIONS

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

The onus is on the Proponent to clear any potential conflict, unfair advantage, or Restricted Party, or to establish any conditions for continued participation, and the Authority may require that the Proponent make an application under Section 9.6.

## 9.8 DECISIONS FINAL AND BINDING

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

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

## 9.9 SHARED USE

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

The following Shared Use Persons have been identified:

- HDR and the following list of its subconsultants:
  - Bush, Bohlman & Partners;
  - Crossey Engineering Ltd.;
  - L&M Engineering Ltd.;
  - RDH Building Science Inc.;
  - Lazzarin Svisdashl Landscape Architects;
  - GHL Consultants Ltd.;
  - Cygnus Design Group;
  - BKL Architecture;
  - Kaizen Foodservices Planning & Design Inc.;
  - RWDI Inc.; and
  - 3Si Risk Strategies Inc.

- GeoNorth Engineering Ltd.

The Authority has structured an organized process for Enquiries relating to the Shared Use Persons during the Competitive Selection Process. All such Enquiries are to be submitted to the Contact Person through the Enquiry process outlined in Section 6.5, except for the commercial discussions described in Section 3.

## 9.10 EXCLUSIVITY

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

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

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

- (a) to request an advance decision on matters related to exclusivity, the Proponent or prospective Proponent Team member should submit to the Contact Person, not less than 10 Business Days prior to the Submission Time for Financial Submissions by email, the following information:
  - (1) names and contact information of the Proponent or prospective Proponent Team member making the disclosure;
  - (2) a description of the relationship that raises the possibility of non-exclusivity;
  - (3) a description of the steps taken to date, and future steps proposed to be taken, to mitigate any material adverse or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
  - (4) copies of any relevant documentation.

The Authority may require additional information or documentation to demonstrate to the satisfaction of the Authority in its discretion that no such non-exclusivity exists or, if it does, that measures satisfactory to

the Authority in its discretion have been or will be implemented to eliminate or mitigate any risk to the competitiveness or integrity of the Competitive Selection Process.

#### 9.10.1 Exclusivity – the Authority May Request Advance Decisions

The Authority may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Authority identifies a matter related to exclusivity. The Authority will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Authority seeks an advance decision from the COI Adjudicator, the Authority will give notice to the Proponent so that it may make its own response to the COI Adjudicator.

The onus is on the Proponent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Authority may require that the Proponent make an application under Section 9.10.

#### 9.10.2 Exclusivity – Decisions Final and Binding

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

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

## 10 RFP TERMS AND CONDITIONS

### 10.1 NO OBLIGATION TO PROCEED

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

### 10.2 NO CONTRACT

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

### 10.3 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

All documents and other records in the custody of, or under the control of, the Authority are subject to the *Freedom of Information and Protection of Privacy Act* (“**FOIPPA**”) (British Columbia) and other applicable legislation.

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

### 10.4 COST OF PREPARING THE PROPOSAL

Subject to Section 8.6, each Proponent is solely responsible for all costs it incurs in the preparation of its Proposal, including all costs of providing information requested by the Authority, attending meetings, and conducting due diligence.

## 10.5 CONFIDENTIALITY OF INFORMATION

Subject to the confidentiality conditions in Schedule 1 of the Participation Agreement, all information pertaining to the Project received by any Proponent or Proponent Team member through participation in this RFP is confidential and may not be disclosed without written authorization from the Contact Person, and in no event will a Proponent discuss the Project with any member of the public or the media without the prior written approval of the Authority. Except as expressly stated in this RFP, and subject to FOIPPA or other applicable legislation, all documents and other records submitted in response to this RFP will be considered confidential; however, such information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

The Authority has engaged Infrastructure BC. Infrastructure BC has been, and continues to be, involved in other projects, and the Authority may receive information in respect of other projects which may be relevant to the Project. Subject to the terms of this RFP, including limitations on “Commercial in Confidence” information under Sections 2.2 and 6.5, the Authority may, in its discretion, disclose information that is available from the Project to Infrastructure BC and other projects, and may obtain information from other projects.

## 10.6 GENERAL RESERVATION OF RIGHTS

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

- (a) amend the scope of the Project and/or modify, cancel or suspend the Competitive Selection Process at any time for any reason;
- (b) accept or reject any Proposal based on the Authority’s evaluation of the Proposals in accordance with Appendix A, and in particular the Authority is not obliged to select the Proposal with the lowest Nominal Cost of the Proposal;
- (c) waive a defect, irregularity, non-conformity or non-compliance in or with respect to a Proposal or failure to comply with the requirements of this RFP except for the Mandatory Requirement, and accept that Proposal even if such a defect, irregularity, non-conformity or non-compliance or failure to comply with the requirements of this RFP would otherwise render the Proposal null and void;
- (d) reject, disqualify or not accept any or all Proposals without any obligation, compensation, or reimbursement to any Proponent or any of its team members subject to any payment required pursuant to Section 8.6;
- (e) re-advertise for new Proposals to this or a modified RFP, call for quotes, proposals or tenders, or enter into negotiations for this Project or for work of a similar nature;



- (f) make any changes to the terms of the business opportunity described in this RFP;
- (g) negotiate any aspects of a Preferred Proponent's Proposal; and
- (h) amend, from time to time, any date, time period or deadline provided in this RFP, upon written notice to all Proponents.

## 10.7 NO COLLUSION

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

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

## 10.8 NO LOBBYING

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

In the event of any lobbying or communication in contravention of this Section, the Authority in its discretion may at any time, but will not be required to, reject any and all Proposals submitted by that Proponent without further consideration and the Proponent will not be eligible for, or receive, the partial compensation as set out in Section 8.6.

## 10.9 OWNERSHIP OF PROPOSALS

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

## 10.10 DISCLOSURE AND TRANSPARENCY

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

The Authority expects to publicly disclose the RFP during this stage of the Competitive Selection Process.

Following Contract Execution, the Authority expects to publicly disclose:

- (a) the number of Proponents;
- (b) the Fairness Reviewer's report;
- (c) a Project Report; and
- (d) the final Design-Build Agreement excluding those portions that may be redacted pursuant to the application of FOIPPA.

Each Proponent agrees that:

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

## 10.11 FAIRNESS REVIEWER

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

The Fairness Reviewer will be:

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

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

## 10.12 LEGAL ADVISOR

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

## 10.13 LIMITATION OF DAMAGES

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

- (a) agrees not to bring any Claim against the Authority or any of its employees, advisors, or representatives for damages in excess of the amount equivalent to the reasonable costs incurred by the Proponent in preparing its Proposal for any matter in respect of this RFP or Competitive Selection Process, including:
  - (1) if the Authority accepts a non-compliant proposal or otherwise breaches, or fundamentally breaches, the terms of this RFP or the Competitive Selection Process; or
  - (2) if the Project or Competitive Selection Process is modified, suspended or cancelled for any reason (including modification of the scope of the Project or modification of this RFP or both) or the Authority exercises any rights under this RFP; and

- (b) waives any and all Claims against the Authority or any of its employees, advisors or representatives for loss of anticipated profits or loss of opportunity if no agreement is made between the Authority and the Proponent for any reason, including:
- (1) if the Authority accepts a non-compliant proposal or otherwise breaches or fundamentally breaches the terms of this RFP or the Competitive Selection Process; or
  - (2) if the Project or Competitive Selection Process is modified, suspended or cancelled for any reason (including modification of the scope of the Project or modification of this RFP or both) or the Authority exercises any rights under this RFP.

This Section does not limit the Authority's obligation to make payment under Section 8.6, but in no event will the Authority's liability exceed the amount calculated pursuant to Section 8.6.

## 11 DEFINITIONS AND INTERPRETATION

### 11.1 DEFINITIONS

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

In this RFP:

“**Acceptable Equivalent**” has the meaning set out in Section 6.14.

“**Addenda**” or “**Addendum**” means an addendum to this RFP issued by the Contact Person as described in Section 6.7.

“**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);
- (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.

“**Apprentices Guidelines**” has the meaning set out in Section 3.8.

“**Authority**” means Northern Health Authority.

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

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

“**City**” means the City of Dawson Creek, B.C.

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

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

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

“**Conflict of Interest Adjudicator**” or “**COI Adjudicator**” means the person described in Section 9.5.

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

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

**“Data Room”** has the meaning set out in Section 2.4.

**“Design-Build Agreement”** has the meaning set out in Section 1.1.

**“Design-Build Construction Manager”** means the individual responsible for leading the construction of the Project, as identified in the Registration Form, and as may be changed pursuant to this RFP.

**“Design-Build Design Manager”** means the Design-Builder’s representative in charge of oversight of the Design-Builder’s design team, as identified in the Registration Form, and as may be changed pursuant to this RFP.

**“Design-Build Director”** means the individual who represents the Design-Builder and has overall responsibility to design and build the Project, as identified in the Registration Form, and as may be changed pursuant to this RFP.

**“Design-Builder”** means the entity that enters into the Design-Build Agreement with the Authority and who has direct responsibility to design and build the Project, as identified in the Registration Form, and as may be changed pursuant to this RFP.

**“Eligibility Documents”** has the meaning set out in Section 1.2.

**“Enquiry”** has the meaning set out in Section 6.5.

**“Facility”** has the meaning set out in the Design-Build Agreement.

**“Fairness Reviewer”** has the meaning set out in Section 10.11.

**“Final Draft Design-Build Agreement”** has the meaning set out in Section 2.3.

**“Financial Submission”** has the meaning set out in Appendix B.

**“Form A1 - Breakdown of Contract Price”** refers to the file named as such in the Data Room.

**“FOIPPA”** means the *Freedom of Information and Protection of Privacy Act* (British Columbia).

**“GST”** means Goods and Services Tax.

**“HDR”** means HDR Architecture Associates, Inc.

**“Infrastructure BC”** means Infrastructure BC Inc.

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

**“Intellectual Property Rights”** has the meaning set out in Section 6.8.

**“Key Individuals”** of a Proponent means the specific individuals, exclusive to the Proponent, filling the following roles (or equivalent), as identified in Section 1.2 and as may be changed pursuant to this RFP.

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

**“Mandatory Requirement”** means the requirement described in Section 7.1.

**“Nominal Cost of the Proposal”** means the nominal sum of the values identified as such in Form A1 - Breakdown of Contract Price.

**“Participation Agreement”** means a form substantially as set out in Appendix F or as otherwise acceptable to the Authority.

**“Preferred Proponent”** means the Proponent selected by the Authority pursuant to this RFP to finalize the Design-Build Agreement.

**“Preferred Proponent Security Deposit”** means an irrevocable letter of credit in the amount of \$250,000 in the form set out in Appendix G or in such other form acceptable to the Authority in its discretion.

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

**“Proponent”** has the meaning set out in Section 1.2.

**“Proponent Team”** means a Design-Builder and its Key Individuals, as identified in the Registration Form and as may be changed pursuant to this RFP.

**“Proponent’s Contact Representative”** means, for a Proponent, the person identified in the Registration Form as the “Proponent’s Contact Representative”, as such person may be changed from time to time by the Proponent by written notice to the Authority, and who is fully authorized to represent the Proponent in any and all matters related to this RFP.

**“Proposal”** means a Financial Submission submitted in response to this RFP.

**“Proposal Requirements”** means the requirements described in Appendix B.

**“Proposal Validity Period”** has the meaning set out in Section 6.12.



**“Registration Form”** means a form substantially as set out in Appendix E or as otherwise acceptable to the Authority.

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

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

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

**“Shared Use Person”** has the meaning set out in Section 9.9.

**“Statement of Requirements”** refers to Schedule 1 [Statement of Requirements] of the Design-Build Agreement.

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

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

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

**“Summary of Key Information”** refers to the Section titled as such.

**“Third Party Intellectual Property Rights”** means all Intellectual Property Rights of any person which is not a member of, or a related party to, a member of the Proponent Team.

## 11.2 INTERPRETATION

In this RFP, except to the extent the context or the express provisions of this RFP otherwise require:

- (a) any action, decision, determination, consent, approval or any other thing to be performed, made, or exercised by or on behalf of the Authority, including the exercise of “discretion” or words of like effect, is at the sole, absolute and unfettered discretion of the Authority;

- (b) the use of headings is for convenience only and headings are not to be used in the interpretation of this RFP;
- (c) a reference to a Section or Appendix is a reference to a Section of, or Appendix to, this RFP;
- (d) words, including “they”, “them” and “their”, which may impute the plural include the singular and vice versa;
- (e) words which may impute gender are interpreted as gender neutral;
- (f) the word “including” when used in this RFP is not to be read as limiting;
- (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;
- (h) all time references are to the 24-hour time clock system unless otherwise indicated;
- (i) all dollar values are Canadian dollars unless otherwise indicated; and
- (j) each Appendix attached to this RFP is an integral part of this RFP as if set out at length in the body of this RFP.

This RFP may be subject to the terms of one or more trade agreements.

## APPENDIX A EVALUATION OF PROPOSALS

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

Subject to the terms of this RFP including Section 7.1 and Section 7.2, the Authority will evaluate each Financial Submission to determine whether the Authority is satisfied that the Financial Submission substantially meets the following requirements:

- (a) the Proponent has the financial capacity to meet the obligations of the Project;
- (b) the Proponent has confirmation of a bonding undertaking for a performance bond and a labour and materials payment bond, each in the amount of 50 per cent of the Nominal Cost of the Proposal; and
- (c) the provisions of this RFP, including the requirements set out in:
  - (1) Appendix B of this RFP; and
  - (2) the Final Draft Design-Build Agreement.

**If the Authority is not satisfied that the Financial Submission substantially meets the above requirements, the Authority may reject the Proposal and not evaluate it further.**

### 3. RANKING PROCESS

Proposals that have not been rejected will be ranked according to the following process:

#### **Lowest Nominal Cost**

The Proposal which has the lowest Nominal Cost of the Proposal, as determined by the Authority, will receive the highest ranking and be designated the highest-ranked Proposal.

**APPENDIX B PROPOSAL REQUIREMENTS**

The Financial Submission will consist of a single package with the following requirements described in the table below. For ease of reference, Proposals should be written using the section numbers and titles as indicated with variations, if any, clearly identified. Any deviation in a Proposal from the requirements of the RFP or the Final Draft Design-Build Agreement should be clearly noted. Where the Proponent believes there is a redundant request in the requirements of the RFP, the Proponent can prepare information in one location and clearly refer to this location as applicable.

Defined terms have the meaning set out in the RFP or the Final Draft Design-Build Agreement as the context may require.

**Table 1: Financial Submission Requirements**

Package 1: Financial Submission	
<b>Section 1.1</b>	<b>Transmittal Information</b>
	<ul style="list-style-type: none"> <li>a) Confirm the Proposal substantially meets the provisions of this RFP, including the requirements set out in this appendix of this RFP and the Final Draft Design-Build Agreement.</li> <li>b) One fully executed copy of Appendix C – Proposal Declaration Form.</li> <li>c) One fully executed copy of Appendix D – Relationship Disclosure Form(s).</li> </ul>
<b>Section 1.2</b>	<b>Proposal Authorization</b>
	<ul style="list-style-type: none"> <li>a) Certified copies of board resolutions or other legally binding evidence, where applicable, from the Design-Builder approving the Proposal and authorizing submission of the Proposal in response to this RFP.</li> </ul>
<b>Section 1.3</b>	<b>Insurance and Bonding</b>
	<ul style="list-style-type: none"> <li>a) Demonstrate the insurability of the Proponent Team by providing the following:               <ul style="list-style-type: none"> <li>i. Written confirmation, generally in the form of the Insurance Undertakings contained in Appendix L, from an insurance company that the coverages described in the appendix will be available for the Project if the Proponent is awarded a contract.</li> </ul> </li> <li>b) Include a completed “Construction Insurance Underwriting Questionnaire” in the form attached as Appendix H, together with all supporting documents.</li> <li>c) Demonstrate the bondability of the Design-Builder by providing written confirmation, generally in the form of the bonding undertaking contained in Appendix J, from a surety company acceptable to the Authority and authorized to transact the business of suretyship in British Columbia.</li> </ul>

**Package 1: Financial Submission**

- i. The Proponent may alternatively provide the surety’s standard form Consent of Surety or Agreement to Bond in respect of a commitment to provide the performance bond and labour and material payment bond required to be provided.

**Section 1.4**

**Financial Capacity**

- a) Demonstrate the financial capacity of the Design-Builder by providing a description of the company that will manage the cash flow and working capital including:
  - i. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency litigation in the last three fiscal years; and
  - ii. Details of any credit rating(s).
- b) Provide written authorization to permit the Authority to perform a credit check.

**Section 1.5**

**Design and Construction Schedule**

- a) Provide a draft design and construction schedule prepared in accordance with the Final Draft Design-Build Agreement which includes the following:
  - i. The critical path;
  - ii. The development of required plans during the design and construction phase, including but not limited to:
    - 1) Project Management Plan
    - 2) Health and Safety Plan
    - 3) Quality Management Plan
  - iii. Construction activities:
    - 1) Site establishment and mobilization;
    - 2) Permitting and other required approvals;
    - 3) Major construction stages;
    - 4) Utility connections; and
    - 5) Other on and off-site services as required.
  - iv. Target Substantial Completion Date for the Project.
  - v. Total Completion Date for the Project.
- b) Explain how construction will be implemented to achieve the milestone dates identified in the draft design and construction schedule

**Section 1.6**

**Price Validity, Data Outlet and Electrical Receptacle Priced Options**

- a) Confirm all prices listed in the Proposal will remain valid for the period of at least 45 days after the Submission Time for the Financial Submissions.

**Package 1: Financial Submission**

b) Provide a per item price for each additional or each deleted data outlet. The Authority will be able to revise the 5,500 total included in the Statement of Requirements, up until the Authority has completed its review of the 100% Design Submittal, utilizing this pricing.

c) Provide a per item price for each additional or each deleted duplex electrical receptacle. The Authority will be able to use this option up until the Authority has completed its review of the 100% Design Submittal, utilizing this pricing.

**Section 1.7**

**Form A1 – Breakdown of Contract Price**

- a) The form will include:
  - i. The breakdown of the contract price adding up to the Nominal Cost of the Proposal;
  - ii. Estimated monthly progress payments reflecting the following:
    - 1) Estimated monthly payments must coincide with work completed based on the design and construction schedule; and
    - 2) Any general requirements related to construction.
- b) The form should be consistent with the following:
  - i. produced using the template supplied by the Authority with no changes or entries other than as indicated in the form;
  - ii. produced in Microsoft Excel version 2010 or newer;
  - iii. except where otherwise expressly indicated, include all taxes other than GST;
  - iv. GST separated out in a different line item;
  - v. be expressed in Canadian dollars; and
  - vi. not include any hidden or password-protected cells or sheets.

## APPENDIX C PROPOSAL DECLARATION FORM

By executing this Proposal Declaration, the Proponent agrees to the provisions of the RFP and this Proposal Declaration. Capitalized terms are defined in Section 11.1 of this RFP.

### [RFP Proponent's Letterhead]

To: Northern Health Authority  
c/o Infrastructure BC  
Suite 1220, 800 West Pender Street  
Vancouver, BC V6C 2V6

Attention: Ramona Daly

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

### 1. Proposal

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

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

- (a) the Proponent and each Proponent Team member has received, read, examined and understood the entire RFP including all of the terms and conditions, all documents listed in the RFP Table of Contents, and any and all Addenda;
- (b) the Proponent and each Proponent Team member agrees to be bound by the entire RFP including all of the terms and conditions, all documents listed in the RFP Table of Contents, and any and all Addenda;
- (c) the Proponent’s representative identified below is fully authorized to represent the Proponent and each Proponent Team member in any and all matters related to its Proposal, including but not limited to providing clarifications and additional information that may be requested in association with the RFP;
- (d) the Proponent has disclosed all relevant relationships of the Proponent and each Proponent Team member, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (e) the Final Draft Design-Build Agreement is in a form acceptable to the Proponent and the Proponent will comply with the requirements of the Final Draft Design-Build Agreement, including by rectifying any non-compliances (material or otherwise) in its Proposal.

**3. Consent of Proponent Team**

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

**4. The Proponent Team consists of:**

Name (individuals and companies)	Address	Role of Proponent Team Member (e.g., Design-Builder, Key Individual)



**PROPONENT'S REPRESENTATIVE**

_____	_____
Name	Name of Employer
_____	_____
Address	Email Address
_____	_____
Name of Authorized Signatory	Telephone
_____	
Signature	

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

**APPENDIX D RELATIONSHIP DISCLOSURE FORM**

By executing this Relationship Disclosure Form, the Proponent is making the disclosure on its own behalf and on the behalf of each member of the Proponent Team.

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

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

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

(Each Proponent Team Member 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).

**NAME OF PROPONENT:**

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Name of Firm – Proponent:

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Address:

---

Email Address:

---

Telephone:

---

Name of Authorized Signatory for Proponent:

---

Signature:

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

**APPENDIX E REGISTRATION FORM**

Provide the following information:

**Table 1: Proponent’s Contact Representative**

Proponent’s Contact Representative	
Name	Name of Employer
Address	Email Address
Name of Authorized Signatory	Telephone

The proposed Proponent consists of:

**Table 2: Firm Name(s)**

Name of Firm	Address	Role on Team

**Reference Construction Projects**

In the following table, briefly describe a maximum number of five major vertical construction projects (e.g. healthcare) completed in the last ten years with a capital value of at least \$200 million.

**Table 3: Reference Construction Projects**

Project Name	Brief Project Details (Role, owner, contract term, substantial completion date, capital cost, location, procurement model)
1.	
2.	
3.	
4.	

5.	
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**Evidence of Bonding Capacity**

Provide written evidence that the firm has the bonding capacity for a performance bond and a labour and materials payment bond, each for a minimum of \$200 million. The evidence can come from an authorized representative of the firm and does not need to come from a surety company authorized to transact the business of suretyship in B.C.

**Key Individuals: Design-Build Director, Design-Build Design Manager and Design-Build Construction Manager**

Provide a brief resume (maximum 5 pages) for each of the Key Individuals. At a minimum, the following information is required:

- i. Name, professional qualifications/designation(s), and a summary of education;
- ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to at least two (2) relevant projects within the past three (3) years.
- iii. Provide a list of relevant projects and positions held by each of the above Key Individuals within the past ten (10) years, in chronological order, providing a brief description of the role and responsibility.

## APPENDIX F PARTICIPATION AGREEMENT

[Insert Month, Day Year]

Northern Health Authority  
c/o Infrastructure BC  
Suite 1220, 800 West Pender Street  
Vancouver, BC V6C 2V6

Attention: Ramona Daly, Contact Person

Dear Sirs/Mesdames:

Re: Dawson Creek and District Hospital Replacement Project – Participation Agreement in respect of the Request for Proposals issued by (the Authority) on January 18, 2023, as amended or otherwise clarified from time to time, including by all Addenda (the “RFP”)

This letter agreement sets out the terms and conditions of the Participation Agreement between “[Insert Name of potential Proponent]” (the “Proponent”) and the Authority, pursuant to which the Proponent agrees with the Authority as follows:

- (a) **Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP
- (b) **Participation.** The Proponent agrees that as a condition of being designated by the Authority as a “Proponent” under Section 1.2 of the RFP and participating in the RFP, including the Competitive Selection Process, Collaborative Meetings and access to the Data Room, the Proponent will comply with the terms of this Participation Agreement and the terms of the RFP. References to the Proponent as the “Proponent” are, until designation by the Authority as a “Proponent” under Section 1.2 of the RFP are for convenience of reference only and do not confer “Proponent” status. If the Proponent is not so designated as a “Proponent”, this Participation Agreement will automatically terminate by February 17, 2023.
- (c) **Confidentiality.** The Proponent will comply with and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with, the confidentiality conditions attached as Schedule 1 to this Participation Agreement, all of which conditions are expressly included as part of this Participation Agreement.
- (d) **Terms of RFP.** The Proponent will comply with and be bound by, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with and are

bound by, the provisions of the RFP, all of which are incorporated into this Participation Agreement by reference. Without limiting the foregoing the Proponent agrees:

- (1) that the terms of this Participation Agreement do not limit the Proponent's obligations and requirements under the RFP, any Data Room agreement, or any other document or requirement of the Authority;
- (2) to be bound by the disclaimers, limitations and waivers of liability and claims and any indemnities contained in the RFP, including Section [10.13] (Limitation of Damages) of the RFP. In no event will the liability of the Authority exceed the amount calculated pursuant to Section [8.6] (Partial Compensation for Participation in the RFP) of the RFP;
- (3) 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 [8.6] (Partial Compensation for Participation in the RFP) of the RFP; and
- (4) 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.

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

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

(f) **General.**

- (1) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:
  - i. it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;
  - 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.
- (2) *Survival following cancellation of the RFP.* Notwithstanding anything else in this Participation Agreement, if the Authority, for any reason, cancels the Competitive Selection Process or the

RFP, the Proponent agrees that it continues to be bound by, and will continue to comply with, Section (c) of this Participation Agreement.

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

Yours truly,

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(Name of Proponent)

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Authorized Signatory

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Name of Authorized Signatory  
(please print)



## SCHEDULE 1 – Confidentiality Conditions

(a) Definitions. In these confidentiality conditions:

- (1) **Confidential Information** means all documents, knowledge and information provided by the Disclosing Party to, or otherwise obtained by, the Receiving Party, whether before or after the date of the RFP, whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, the RFP, or the Competitive Selection Process, including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information which:
- i. is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
  - ii. is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Schedule 1 and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - iii. was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of the RFP and did not originate, directly or indirectly, from the Disclosing Party;
  - iv. was developed independently by the Receiving Party without the use of any Confidential Information; or
  - v. is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
- (2) **Disclosing Party** means the Authority or any of its Representatives;
- (3) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Participation Agreement;
- (4) **Receiving Party** means a Proponent or any of its Representatives;
- (5) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Key Individual, Project team members or any other person contributing to or involved with the preparation or evaluation of Proposals or proposals, as the

- case may be, or otherwise retained by the Receiving Party, the Authority or Infrastructure BC in connection with the Project.
- (b) **Confidentiality.** The Receiving Party will keep all Confidential Information strictly confidential and will not without the prior written consent of the Authority, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Receiving Party will make all reasonable, necessary, and appropriate efforts to safeguard the Confidential Information from disclosure to any other person except as permitted in this Schedule 1, and will ensure that each of its Representatives agrees to keep such information confidential and to act in accordance with the terms contained herein.
- (c) **Ownership of Confidential Information.** The Authority owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Schedule 1, the Receiving Party will keep all Confidential Information that the Receiving Party receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of the RFP, and will not, without the prior express written consent of an authorized representative of the Authority, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person for any purpose whatsoever.
- (d) **Limited Disclosure.** The Receiving Party may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Proposal or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Receiving Party will notify Infrastructure BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
- (e) **Destruction on Demand.** On written request, the Receiving Party will promptly deliver to Infrastructure BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Receiving Party will confirm that delivery or destruction to Infrastructure BC in writing, all in accordance with the instructions of Infrastructure BC (for this purpose information stored electronically will be deemed destroyed upon removal from all storage systems and devices); provided, however, that the Receiving Party may retain one copy of any Confidential Information which it may be required to retain or furnish to a court or regulatory authority pursuant to applicable law.

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

## APPENDIX G PREFERRED PROPONENT SECURITY DEPOSIT

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

TO: Northern Health Authority  
c/o Infrastructure BC Inc.  
Suite 1220, 800 West Pender Street  
Vancouver, BC V6C 2V6

(the "Beneficiary")

RE PREFERRED PROPONENT SECURITY DEPOSIT

IRREVOCABLE LETTER OF CREDIT NO: \_\_

Dear Sirs:

At the request of our client, \_\_\_\_\_ (the Customer), we hereby issue in your favour our irrevocable letter of credit No. \_\_\_\_\_ (Letter of Credit) for a sum not exceeding in the aggregate two hundred fifty thousand (CDN \$250,000) effective immediately.

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

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

Partial drawings are permitted.

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

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

- (a) the person signing the certificate is an authorized signatory of the Beneficiary; and
- (b) the Beneficiary is entitled to draw upon this Letter of Credit.

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

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

All banking charges are for the account of the Customer.

This Letter of Credit will remain in full force and effect and, unless renewed, will expire at the close of business on **[Insert Date]**.

Notice of non-renewal will be provided to the Beneficiary in writing by registered mail by not later than 20 Business Days before the expiry date.

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Authorized Signatory

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Authorized Signatory

**APPENDIX H CONSTRUCTION INSURANCE UNDERWRITING QUESTIONNAIRE**

Posted in the Data Room.

**APPENDIX I INITIAL DRAFT DESIGN-BUILD AGREEMENT**

Posted in the Data Room.

**APPENDIX J BONDING UNDERTAKING**

*Note: Letters of Undertaking must be on Broker letterhead.*

**Date:** [Insert Month, Day Year] **No.** \_\_\_\_\_

**To:** Northern Health Authority

**Re:** Request for Proposals

**Dawson Creek and District Hospital Replacement Project**

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

Our client wishes to submit a Proposal for the captioned Project, which we understand will require a Performance Bond of 50% of the Nominal Cost of the Proposal and a Labour and Materials Payment Bond of 50% of the Nominal Cost of the Proposal. Based on the information available at this time, and subject to our assessment of the Dawson Creek and District Hospital Replacement Project, and our client's work program at the time of submission of its Proposal, we do not anticipate a problem in supporting the captioned Project and supplying the requisite bonds if asked to do so. However, the execution of any bonds will be subject to an assessment of the final contract terms, conditions, financing and bond forms by our client and us.

If we can provide any further assurances or assistance, please don't hesitate to call upon us.

(Name of Surety)

\_\_\_\_\_ (Seal)

\_\_\_\_\_

Attorney-In-Fact



**APPENDIX K NOT USED**

Not used.

**APPENDIX L INSURANCE UNDERTAKING – PROFESSIONAL LIABILITY**

*PRINT ON LETTERHEAD OF DULY AUTHORIZED REPRESENTATIVE OF AGENT/BROKER/  
INSURANCE COMPANY*

**UNDERTAKING OF PROFESSIONAL LIABILITY INSURANCE**

Name of Proponent submitting a Proposal in response to the Request for Proposals for the Dawson  
Creek and District Hospital Replacement Project:

\_\_\_\_\_

We, the undersigned, as authorized representatives on behalf of [Insert name of Insurance Company\*] do  
hereby undertake and agree to provide Project Specific Professional Liability (errors and omissions)  
insurance in the amount of not less than TEN MILLION DOLLARS (\$10,000,000.00) inclusive of any one  
claim and with a limit of not less than TEN MILLION DOLLARS (\$10,000,000.00) aggregate for the  
Dawson Creek and District Hospital Replacement Project, subject to underwriting.

If such a policy is written, a certified copy of the policy will be provided to the Northern Health Authority.

Dated at \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

SIGNED:

\_\_\_\_\_  
Name and Title of Duly Authorized Agent/Broker/Insurance Company Representative  
(Please Print)

\_\_\_\_\_  
Signature of Duly Authorized Agent/Broker/Insurance Company Representative

\_\_\_\_\_  
Name of Firm (Name of Agency/Brokerage/Insurance Company)  
(Please Print)

\*Insurance Company refers to an Insurer that is federally or provincially regulated and authorized to provide the specified classes  
of insurance. Listings are available at the following links:

1. OSFI federal listing of Canadian Property and Casualty Insurance Companies:  
<https://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/wwr-er.aspx?sc=2&gc=3&ic=1#WWRLink231>
2. OSFI federal listing of Foreign Property and Casualty Insurance Companies:

- <https://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/wwr-er.aspx?sc=2&gc=3&ic=2#WWRLink232>  
3. BC Financial Services Authority [https://www.bcfsa.ca/web\\_listings/AuthorizedInsuranceCompanies.aspx](https://www.bcfsa.ca/web_listings/AuthorizedInsuranceCompanies.aspx)