

# REQUEST FOR QUALIFICATIONS

for

## Surrey Outpatient Facility Project

**Closing Time:** 3 p.m. (local time)  
on Thursday April 19, 2007

**Delivery Address:** Partnerships BC  
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Vancouver V6E 4M3

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## 1. INTRODUCTION

### 1.1 Purpose

The purpose of this RFQ is to invite interested parties to indicate their interest in and qualifications for the Project. Based on these Responses, the Authority intends to select, in accordance with the terms of this RFQ, a short-list of up to three Proponents to be invited to participate in the next stage of the Competitive Selection Process, the Request for Proposal (RFP) stage.

Under the Competitive Selection Process the Authority is seeking to enter into a contract (the “**Project Agreement**”) with a qualified entity (“**Project Co**”) to design, build, finance and maintain a new world-class Outpatient Facility (the “**Facility**”) that incorporates best practices in patient-centred, efficient health care delivery.

### 1.2 Administration of RFQ

Partnerships BC is managing this RFQ and the Competitive Selection Process on behalf of the Authority.

### 1.3 Eligibility

Any interested party, or parties, may submit a Response to this RFQ. Respondents may be individuals, corporations, joint ventures, partnerships, or any other legal entities.

### 1.4 Project Brief

The Authority has issued a “Project Brief” for the purpose of providing an informal and convenient summary of aspects of the Project. **The Project Brief is not included in any way as part of this RFQ, either expressly or by inference or by reference, and is not intended to be referred to in any way in interpreting this RFQ.**

## 2. THE PROJECT

### 2.1 Background

The purpose of the Project is to design, build, finance and maintain an outpatient facility (also known as an ambulatory care centre or diagnostic and treatment centre) located at the Surrey Green Timbers site in Surrey, British Columbia, and the Project Agreement will include building maintenance and repair services as well as life cycle repair and replacement for the new Facility for a concession period of 30 years commencing from the anticipated date of occupation. It is anticipated that the successful Proponent will finance 100% of the capital cost of the new Facility (excluding equipment).

### 2.2 Advance Work by the Authority

An overview of the work undertaken on the Project to date, and work planned to be undertaken prior to Financial Close, is set out below.

#### 2.2.1 Business Case Approval

The business case for the Project has been approved by the government of British Columbia.

### 2.2.2 Site Rezoning

The Authority has retained the architectural firm of IBI/HD to complete conceptual planning for the Project as necessary to make an application to the City of Surrey for zoning approvals for the Lands as required for the Project. Final zoning approval will also be required from the Greater Vancouver Regional District. The Authority will obtain such rezoning prior to the award of the Project Agreement.

The Authority wishes to permit and encourage innovative design solutions from Proponents that offer benefits to the Authority. Accordingly, the Authority intends to invite proposals at the RFP stage that comply with the requirements of the rezoning; alternate designs that do not comply but that offer additional net benefits to the Authority will also be considered during the evaluation. Development permits will be applied for on the basis of the successful Proponent's design.

## 2.3 **General Scope of Project Co's Responsibility**

### 2.3.1 Project Agreement

The Authority intends to attach a draft Project Agreement to the RFP, which will include:

- (a) output specifications for the design, construction and operation of the Facility;
- (b) the scope of services to be provided by the successful Proponent; and
- (c) proposed commercial terms;

and the draft Project Agreement will be the basis upon which proposals will be prepared in response to the RFP.

### 2.3.2 General Scope of Responsibility

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

#### (a) Design

Project Co will be responsible for all aspects of the design for the Facility. The final design must comply with the output specifications that will be included in the Project Agreement, and all applicable laws including the City of Surrey zoning. It is anticipated that the Facility will be approximately 150,000 gross square feet and will be complemented by parking and the potential for additional private medical offices and ancillary services. The Authority anticipates that the RFP will request proposals that include representative schematic designs.

#### (b) Construction

Project Co will be completely responsible for:

- (1) obtaining all permits and approvals necessary for construction of the Facility, excluding zoning approvals to be obtained by the Authority as described in Section 2.2.2;
- (2) provision of utilities and other site services required to support the Facility, including off-site works as required to connect the Facility to existing City infrastructure; and
- (3) construction of the Facility, to be completed by early 2010.

(c) Equipment

Project Co will be responsible to procure and install all equipment. Such equipment will be specified in the Project Agreement. Funding for the equipment will be by cash allowance.

(d) Finance

Project Co will be required to provide the required funding for design and construction, by way of equity and debt financing, which the Authority will repay over the term of the Project Agreement.

(e) Maintenance Services

During the term of the Project Agreement after occupation of the Facility by the Authority, Project Co will be required to provide maintenance services for the Facility.

Project Co will not be responsible for other services such as housekeeping, security or laundry.

(f) Life Cycle Maintenance

Project Co will be responsible for the life cycle maintenance the Facility and utilities to maintain the Facility to the agreed physical and performance standards during the term of the Project Agreement.

## 2.4 Commercial Terms

### 2.4.1 Committed Financing

It is anticipated that the RFP will require that a proposal identify the source of financing for the required equity and debt financing, and will specify that the Authority will prefer proposals in which financing sources confirm acceptance of the terms of the Final Draft Project Agreement with limited required amendments.

### 2.4.2 Key Commercial Terms

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

- (a) Term: The term of the Project Agreement will commence on Financial Close and continue for 30 years from the anticipated occupation date. It is anticipated that construction will commence by early 2008 and be completed by early 2010;
- (b) Payment: The Authority will pay service payments to Project Co commencing on the date when the Facility is available for use by the Authority in accordance with a move-in schedule to be established under the Project Agreement. The Authority anticipates making payments on a 28 day payment cycle;
- (c) Payment Deductions: The Project Agreement will permit the Authority to make deductions from the service payments if Project Co fails to make the functional areas available for use as required by the Project Agreement, or fails to meet the defined performance standards; and
- (d) Risk Allocation: The Project Agreement will allocate risks.

#### 2.4.3 Mandatory Commercial Terms

The Authority anticipates that the following Project Agreement commercial terms will be defined as mandatory under the RFP, and may not be varied in a compliant Proposal:

- (a) Title to the Lands and Facility: Title to the Facility will at all times be held by the Authority. The Project Agreement will set out all of Project Co's rights with respect to the Facility.
- (b) Change of Control: The Project Agreement will preclude any change in control of Project Co for one year following the commencement of operating payments, other than:
  - (1) an exercise of rights by Project Co's lenders pursuant to a lenders remedies agreement to be entered into between the lenders and the Authority at Financial Close; or
  - (2) otherwise, with the consent of the Authority, which may be given or withheld in its absolute discretion.

The Authority will expect to give such consent only in exceptional circumstances. Thereafter a change in control of Project Co will be permitted only with the prior consent of the Authority, not to be unreasonably withheld.

### 3. **PROCUREMENT PROCESS**

#### 3.1 **Overview of Two-Stage Procurement Process**

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

### 3.2 Project Agreement Discussions and Negotiations

#### 3.2.1 Collaborative Discussions

The Authority anticipates that the RFP will describe a collaborative process to provide the opportunity for the short-listed Proponents to have input into the draft Project Agreement as follows:

- (a) the Authority will invite each short-listed Proponent to review the draft Project Agreement as attached to the RFP and then to meet confidentially and separately with the Authority to discuss any amendments that the Proponent would like to have made to the draft Project Agreement, including design and construction, and facilities management matters; and
- (b) the Authority will consider all comments and requested amendments received from the short-listed Proponents and amend the draft Project Agreement as the Authority may decide, and then by addendum issue a revised Project Agreement (the “**Final Draft Project Agreement**”) as the common basis for the preparation of all proposals from the short-listed Proponents.

The Authority anticipates that the RFP will describe how final negotiations may occur after the selection of the Preferred Proponent to achieve a settled and final Project Agreement.

### 3.3 Procurement Timeline

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

Activity	Timeline
Introductory Meeting	<b>April 4, 2007</b>
RFQ Closing Time	<b>April 19, 2007</b>
Respondent Interviews/Presentations (optional)	<b>Week of April 30, 2007</b>
Announce Short-Listed Proponents	<b>May 1, 2007</b>
Issue RFP and draft Project Agreement to Short-Listed Proponents	<b>Mid-July, 2007</b>
Project Agreement Discussions	<b>July-October 2007</b>
Issue Final Project Agreement	<b>October 2007</b>
Closing date for Proposals	<b>Mid-November, 2007</b>
Selection of Preferred Proponent	<b>Late December, 2007</b>
Financial Close	<b>Mid-February, 2008</b>

Activity	Timeline
Construction commences	<b>Spring 2008</b>
Construction completed by	<b>Spring 2010</b>
Commission	<b>Spring 2010</b>

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

### **3.4 Introductory Project Meeting**

The Authority intends to hold an introductory meeting to introduce the Project to which all interested parties will be invited. Attendance will not be mandatory. Minutes will not be prepared or circulated. Any issues that arise that require distribution will be included in this RFQ by way of addendum. It is anticipated the meeting will include a tour of the proposed site. The time and location of the meeting will be published generally, and sent to all parties who complete and submit a Receipt Confirmation Form.

### **3.5 Compensation for Participation in Competitive Selection Process**

The Authority:

3.5.1 will not provide any compensation to Respondents for participating in the RFQ stage of the Competitive Selection Process; and

3.5.2 intends to offer an honorarium of \$250,000 to unsuccessful Proponents who participate in the RFP stage of the Competitive Selection Process and who submit a *bona fide* compliant Proposal.

## **4. SUBMISSION INSTRUCTIONS**

### **4.1 Closing Time and Delivery Address**

4.1.1 Responses to this RFQ must be received at the Delivery Address before the Closing Time as stated on the cover of this RFQ.

4.1.2 Respondents should submit copies of the Response as described in Section 1.1 of Appendix A to this RFQ.

4.1.3 Responses submitted by fax or email will NOT be accepted.

4.1.4 Responses received after the Closing Time will not be considered and will be returned unopened.

### **4.2 Language of Responses**

Responses must be in English.

### **4.3 Response Form and Content**

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

#### **4.4 Receipt of Complete RFQ**

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

#### **4.5 Receipt Confirmation Form**

Respondents are advised to complete and return the Receipt Confirmation Form attached as Appendix B to the address set out in Receipt Confirmation Form in order to be sent further information in connection with this RFQ.

#### **4.6 Enquiries**

4.6.1 All enquiries regarding any aspect of this RFQ must be directed to the Contact Person by email and the following will apply to any enquiry:

- (a) the Contact Person will respond in writing;
- (b) enquiries to and responses from the Contact Person will be recorded;
- (c) a Respondent may request that a response to an enquiry be kept confidential if the Respondent considers the enquiry to be commercially sensitive, and if the Contact Person decides that an enquiry must be distributed to all Respondents, then the Contact Person will permit the enquirer to withdraw the enquiry rather than receive a response; and
- (d) subject to Section 4.6.1(c) any enquiry and response may, in the Contact Person's discretion, be distributed to all Respondents, or the Contact Person may keep either or both the enquiry and response confidential if in the judgment of the Contact Person it is fair or appropriate to do so.

#### **4.7 Unofficial Information**

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

#### **4.8 Fax and Email communication**

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

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

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

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

4.8.2 All permitted email communications with or delivery of documents to the Contact Person will be deemed as having been received by the Contact Person on the dates and times indicated on the Contact Person's electronic equipment.

#### **4.9 Addenda**

The Authority may, in its absolute discretion through the Contact Person, amend or clarify the terms or contents of this RFQ at any time before the Closing Time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFQ, and no other form of communication whether written or oral, including written responses to enquiries as provided by Section 4.6, will be included in or in any way amend this RFQ. Only the Contact Person is authorized to amend or clarify this RFQ by issuing an Addendum. No other employee or agent of the Authority is authorized to amend or clarify this RFQ. The Authority will send a copy of any Addendum to all parties who have delivered a completed Receipt Confirmation Form.

#### **4.10 Inconsistency between Paper and Electronic Form**

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

#### **4.11 Revisions Prior to the Closing Time**

A Respondent may amend or withdraw its Response at any time prior to the Closing Time by delivering written notice to the Delivery Address prior to the Closing Time.

#### **4.12 Response Declaration Form**

Respondents are required to complete the Response Declaration Form attached as Appendix C and include the completed form as part of its Response. The Response Declaration Form must be executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent's Representative.

#### **4.13 Relationship Disclosure Form**

A Respondent and the Respondent's Key Individuals are required to complete and execute the Relationship Disclosure Form attached as Appendix D.

## **5. EVALUATION**

### **5.1 Evaluation Committee**

The evaluation of Responses will be carried out by a committee appointed by the Authority (the "**Evaluation Committee**"). The Evaluation Committee may be assisted by other persons as the Evaluation Committee may decide it requires, including technical, financial, legal and other advisors or employees of the Authority.

### **5.2 Evaluation Criteria**

The Evaluation Committee will evaluate Responses by application of the Evaluation Criteria as outlined in Appendix A. The Evaluation Committee will apply the Evaluation Criteria to select the Responses that the Evaluation Committee judges to be the most advantageous to the Authority.

### **5.3 Evaluation and Selection Process**

5.3.1 To assist in evaluation of the Responses, the Evaluation Committee may, in its sole and absolute discretion, but is not required to:

- (a) conduct reference checks relevant to the Project with any or all of the references cited in a Response to verify any and all information regarding a Respondent, inclusive of its directors/officers and Key Individuals, 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 Responses;
- (b) seek clarification of a Response from any or all Respondents and consider such supplementary information in the evaluation of Responses; and
- (c) request interviews/presentations with any, some or all Respondents to clarify any questions or considerations based on the information included in Responses, and consider any supplementary information from interviews/presentations in the evaluation of Responses.

5.3.2 The Evaluation Committee is not obligated to complete a detailed evaluation of all Responses and may in its discretion after completing a preliminary review of all the Responses identify and drop from the detailed evaluation any Respondent who, when compared to the other Respondents, the Evaluation Committee judges is not in contention to be short-listed.

5.3.3 The Evaluation Committee will recommend the short-list to the Authority.

5.3.4 The Authority will notify Respondents that have been short-listed by sending a written notice to the Respondent's Representative.

5.3.5 The Authority will conduct a debriefing, upon request, for any Respondent. In a debriefing, the Authority will discuss the relative strengths and weaknesses of that Respondent's Response, but the Authority will not disclose or discuss any confidential information of another Respondent. Requests for debriefing may be made after a short-list has been announced.

#### **5.4 Short-Listed Proponents and Changes to Proponent Teams**

The Authority intends to issue the RFP only to the entities that have been short-listed under this RFQ. If for any reason a short-listed Proponent wishes or requires to make a change to its list of team members as listed in the Proponent's Response to this RFQ (either by adding new members, deleting listed members or substituting new member for listed members), then the Proponent must submit a written application to the Authority for approval. The Authority may, in its absolute discretion, grant or refuse to grant permission for a change to a short-listed Proponent's team list, considering the Authority's objective of achieving a competitive procurement process that is not unfair to other short-listed Proponents, and without limiting the above:

5.4.1 the Authority may refuse to permit a change to the membership of a short-listed Proponent's team if:

- (a) the change would in the Authority's judgment result in a weaker team than the Proponent's team as listed in its Response to this RFQ; or
- (b) the evaluation of the new team, using the evaluation criteria described in Appendix A, would rank the Respondent with its changed team lower than another Respondent that had not been short-listed;

5.4.2 the Authority discretion to give approval for changes to a short listed Proponent's team membership includes discretion to approve requests for changes to facilitate or permit changes in ownership or control of a Proponent or a team member; and discretion to approve changes to the legal relationship between team members such as the creation of a new joint venture or other legal entity that will take the place of the short-listed Proponent.

### **6. RFQ TERMS AND CONDITIONS**

#### **6.1 No Obligation to Proceed**

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

#### **6.2 Freedom of Information and Protection of Privacy Act**

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

information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

### **6.3 Cost of Preparing the Response**

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

### **6.4 Confidentiality of Information**

Information pertaining to Partnerships BC or the Authority obtained by the Respondent as a result of participation in this RFQ is confidential and must not be disclosed without written authorization from Partnerships BC or the Authority (as applicable). By submitting a Response a Respondent will be deemed to have agreed to all the terms of the Confidentiality Agreement attached as Appendix E to this RFQ.

### **6.5 Reservation of Rights**

The Authority reserves the right, in its sole and absolute discretion, to:

- 6.5.1 amend the scope of the Project, modify, cancel or suspend the RFQ process or any or all stages of the Competitive Selection Process, at any time for any reason;
- 6.5.2 accept or reject any Response based on the Evaluation Criteria as evaluated by the Evaluation Committee;
- 6.5.3 disqualify a Response for any of the reasons set out in Section 2.2 of Appendix A;
- 6.5.4 waive a defect or irregularity in a Response or any non-conformity in form or content of a Response and accept that Response;
- 6.5.5 not accept any or all Responses;
- 6.5.6 reject or disqualify any or all Response(s) for any reason without any obligation, compensation or reimbursement to any Respondent or any of its team members;
- 6.5.7 re-advertise for new responses, call for tenders, or enter into negotiations for this Project or for work of a similar nature;
- 6.5.8 make any changes to the terms of the business opportunity described in this RFQ; and
- 6.5.9 extend, from time to time, any date, time period or deadline provided in this RFQ, upon written notice to all Respondents who submitted a Receipt Confirmation Form.

## **6.6 Limitation of Damages**

Each Respondent, by submitting a Response, agrees that in no event will the Authority nor any of its employees, advisors or representatives be liable, under any circumstances, for any Claim, or to reimburse or compensate the Respondent in any manner whatsoever, including but not limited to costs of preparation of the Response, loss of anticipated profits, loss of opportunity or for any other matter. Without in any way limiting the above, each Respondent specifically agrees that it will have absolutely no Claim against the Authority or any of its employees, advisors or representatives if the Authority for any reason whatsoever:

- (a) does not select a short-list of Respondents;
- (b) suspends, cancels, or in any way modifies the Project or the Competitive Selection Process (including modification of the scope of the Project or modification of the RFQ or both); or
- (c) accepts any compliant or non-compliant Response or selects a short-list of one or more Respondent(s);

or for any breach or fundamental breach of contract by the Authority. The Respondent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not short-listed in the Competitive Selection Process for any reason whatsoever.

## **6.7 Ownership of Response**

6.7.1 All Responses submitted to the Authority become the property of the Authority. They will be received and held in confidence by the Authority, subject to the provisions of FOIPPA and this RFQ.

## **6.8 Disclosure and Transparency**

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

6.8.2 The Authority expects to disclose the following information during this stage of the Competitive Selection Process: the RFQ document, the number of Respondents, the name of Respondents, and the name of short-listed proponents.

6.8.3 To ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence the outcome of the project Competitive Selection 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 approval of the Authority.

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

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

### **6.9 No Collusion**

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

### **6.10 No Lobbying**

A Respondent, and any firms, corporations or individual member of a Respondent, or any of their respective representatives, will not attempt to communicate directly or indirectly with any representative of the Authority, Partnerships BC, the Fairness Auditor or any member of the Evaluation Committee, at any stage of this RFQ process, including during the evaluation process, except as expressly directed or permitted by the Authority. The Authority reserves the right to disqualify a Respondent that contravenes this Section 6.10.

### **6.11 Relationship Disclosure and Review Process**

The Authority reserves the right to disqualify any Respondent that in the Authority's opinion has a conflict of interest, whether such conflict exists now or is likely to arise in the future.

Respondents must submit the form attached as Appendix D with their Response.

Respondents, including all firm, corporation or individual members of a Respondent, will promptly disclose to the Contact Person any potential conflict of interest and existing business relationships they may have with the Authority, Partnerships BC or any members of the Evaluation Committee or others providing advice or services to the Authority with respect to the Project. At the time of such disclosure, the Respondent will advise the Contact Person how the Respondent proposes to remedy the situation.

#### **6.11.1 Use or Inclusion of Restricted Parties**

The Authority may, in its sole and absolute discretion, disqualify a Respondent that uses a Restricted Party:

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

#### **6.11.2 Current Restricted Parties**

At this RFQ Stage, the Authority has identified the following persons, firms or organizations as Restricted Parties.

- a) Bull, Housser & Tupper LLP
- b) Ernst & Young Orenda Corporate Finance Inc
- c) IBI/HDR Architects
- d) Mr. Leslie R. Peterson, QC
- e) Partnerships BC
- f) Sterling Planning Alliance

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

#### 6.11.3 Conflict of Interest Adjudicator

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

#### 6.11.4 Request for Advance Opinions

A Respondent or a prospective member or advisor of a Respondent who has any concerns regarding whether a current or prospective employee, advisor or member of that Respondent is or may be a Restricted Party, is encouraged to request an advance opinion in accordance with this Section through the following process:

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

Subject to Section 6.2 all requests for advance opinions will be treated in confidence. If a Respondent or prospective team member or advisor becomes a Restricted Party, it may be listed

in an Addendum or in subsequent Competitive Selection Process documents as a Restricted Party.

#### 6.11.5 The Authority May Request Advance Opinions

The Authority may also independently ask for advance opinions where it identifies persons who may be Restricted Parties. The Authority will, if it seeks an advance opinion, provide the COI Adjudicator with relevant information in its possession about the participation of the person in the Project or other circumstances that may render such person a Restricted Party. The Authority will give notice to the possible Restricted Party so that it can make its own response to the COI Adjudicator.

#### 6.11.6 Exclusivity

A Key Individual or an Equity Provider may only participate as a member of one Respondent Team.

### **6.12 Fairness Auditor**

The Authority has appointed a fairness auditor (the “**Fairness Auditor**”) to monitor the evaluation process undertaken by the Evaluation Committee. The Fairness Auditor will provide a written report to the Authority, and the Authority will make any such report available to interested parties.

The Fairness Auditor will be:

6.12.1 provided full access to all documents and information related to the evaluation processes under this RFQ which the Fairness Auditor decides is required; and

6.12.2 kept fully informed by the Authority of all documents and activities associated with this RFQ.

## **7. DEFINITIONS**

### **7.1 Definitions**

In this RFQ:

**Addenda** or **Addendum** means each an amendment to this RFQ issued by the Contact Person as described in Section 4.9.

**Authority** means Fraser Health Authority.

**Claim** means any claim, demand, liability, damage, loss, suit, action, or cause of action and all costs and expenses relating thereto.

**Closing Time** means the time and date indicated as such on the RFQ cover page.

**COI Adjudicator** has the meaning set out in Section 6.11.3.

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

**Contact Person** means the person identified as such on the RFQ cover page.

**Delivery Address** means the delivery address identified as such on the RFQ cover page.

**Equity Provider** means an entity providing equity for the Project pursuant to the Project Agreement.

**Evaluation Committee** means the committee established by the Authority to evaluate the Responses.

**Evaluation Criteria** means the criteria referred to in Section 2.1 of Appendix A to this RFQ.

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

**Fairness Auditor** has the meaning set out in Section 6.12.

**Final Draft Project Agreement** has the meaning set out in Section 3.2.

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

**FOIPPA** has the meaning set out in Section 6.1.

**Key Individuals** means the Project Director and the key individuals on the Respondent's design team, the construction team and facilities management team.

**Lands** means the site upon which the Project is to be constructed.

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

**Preferred Proponent** means the company, firm, consortium or other legal entity selected by the Authority during the RFP process to negotiate the Project Agreement.

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

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

**Project Co** means the entity proposed by the Respondent to enter into the Project Agreement with the Authority.

**Proponent** means a person that submits a proposal in response to the RFP.

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

**Relationship Disclosure Form** means the form attached as Appendix D to this RFQ.

**Respondent** means any company, firm, consortium or other legal entity that intends to submit a Response.

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

**Respondent Team** means the entire team as described in the Respondent's Response that will prepare the Respondent's proposal under the RFP and will perform the obligations of Project Co under the Project Agreement. For clarity, the Respondent Team includes both firms and individuals.

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

**Response Declaration Form** means the form attached as Appendix C to this RFQ.

**Restricted Party** means those persons or firms (including their former and current employees) who had, or currently have, participation or involvement in the Competitive Selection Process or the design, planning or implementation of the Project, and who may provide a material unfair advantage or confidential information to any Respondent that is not, or would not reasonably be expected to be, available to other Respondents. Restricted Parties for this RFQ are identified in Section 6.11.2.

**RFP** means the request for proposals which may be issued by the Authority as a stage of the Competitive Selection Process.

**RFQ** means this request for qualifications including the Appendices issued by the Authority as the first stage of the Competitive Selection Process.

## APPENDIX A - RESPONSE GUIDELINES AND EVALUATION CRITERIA

<b>Table of Contents – Appendix A</b>		
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1.3	Number of Copies and Packaging Requirements	3
<b>2.</b>	<b>Evaluation</b>	<b>5</b>
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<b><u>Attached Sample Forms</u></b>		
	Table B-1: Project Experience	
	Table B-2: Project Finance Experience	

## 1. Response Guidelines

### 1.1 Overview of Response

Responses should:

- (a) include all of the information requested in this Appendix A;
- (b) be submitted in three packages as follows, each clearly labeled:

<u>Package</u>	<u>Contents</u>	<u>Number Copies</u>
Package 1	1. Transmittal Letter 2. Response Declaration Form (see Appendix C of the RFQ) signed by the Respondent; and 3. Relationship Disclosure Form (see Appendix D of the RFQ) signed by the Respondent and all members of the Respondent Team.	One One One
Package 2	Response (See Section 3 of this Appendix A excluding the Financial Information provided in Package 3)	One unbound copy marked "Master" and 9 bound copies
Package 3	Financial Information (See ss 1.6, 2.5 and 3.4 of Section 3 of this Appendix A)	One unbound copy marked "Master" and 4 bound copies

- (c) be delivered in an envelope/box, clearly marked with the words, "**Surrey Outpatient Facility Project, Response to Request for Qualifications**", to the Delivery Address.

## 2. Evaluation

### 2.1 Evaluation Criteria

The Evaluation Committee will evaluate Responses by applying the following Evaluation Criteria and weighting to the information received as requested in Section 3 (Response Format) of this Appendix A:

**TABLE B1.2**

<b>Expertise</b>	<b>Evaluation Criteria</b>	<b>Weighting</b>
Consortium Lead/ Respondent	1. The strength and demonstrated ability to undertake the complete Project including: <ul style="list-style-type: none"> <li>(a) the experience and capacity to assemble and manage a consortium team that will integrate required expertise for the overall benefit of the Project and the Authority;</li> <li>(b) experience and capacity of the Key Individuals;</li> <li>(c) the sourcing and delivery of required financing; and</li> <li>(d) the maximization of commercial opportunities associated with the Project for the benefit of the Project and the Authority;</li> </ul> (See s.1 of the Response Format)	35
Design & Construction	2. The strength and demonstrated ability to undertake the design and construction including: <ul style="list-style-type: none"> <li>(a) the experience and capacity to assemble and manage a design team with applicable experience and expertise, and an approach to the design that will achieve optimal efficiency and integrated workflow in an ambulatory (outpatient) care setting;</li> <li>(b) experience and capacity to assemble and manage a construction team with applicable experience and expertise; and</li> <li>(c) experience and capacity of the Key Individuals on the design and construction teams.</li> </ul> (See s.2 of the Response Format)	45
Facilities Management	3. The strength and demonstrated ability to undertake the Facilities Management of the completed Facility including: <ul style="list-style-type: none"> <li>(a) the experience and capacity to assemble and manage the Facilities Management team that will provide services over the term of the Project Agreement; and</li> <li>(b) the experience of the identified Key Individual for Facilities Management.</li> </ul> (See s.3 of the Response Format)	20

**TABLE B1.2**

<b>Expertise</b>	<b>Evaluation Criteria</b>	<b>Weighting</b>
Total		100

## **2.2 Disqualification of Responses**

Without limitation, the Authority may, in its sole discretion, disqualify a Response if:

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

### 3. Response Format

For Responses, Respondents should use the section numbers and titles provided in the table below.

Section No.	Title	Contents
<b>1.</b>	<b>Respondent Team and Consortium Lead</b>	
1.1	Identification of the Respondent Team	<p>Provide the Company/Firm name for each of the following:</p> <ol style="list-style-type: none"> <li>1. Consortium/Lead</li> <li>2. Equity Providers</li> <li>3. Design Team</li> <li>4. Construction Team</li> <li>5. Facility Management Team</li> <li>6. Financial Advisor</li> <li>7. Legal Advisor</li> <li>8. Other(s) (please specify)</li> </ol> <p>Provide a short description of the Respondent and significant team members (for publication purposes).</p>
1.2	Contact Information	<p>Provide the name and contact details for the Respondent's Representative.</p> <p><b>Please note:</b> The Respondent's Representative will be the <u>only</u> contact person to receive communication from the Contract Person regarding the RFQ.</p> <p>Respondent's Representative:</p> <ol style="list-style-type: none"> <li>1. Name</li> <li>2. Employer</li> <li>3. Mailing/Courier Address</li> <li>4. Telephone No.</li> <li>5. Facsimile No.</li> <li>6. E-mail address</li> <li>7. Website address</li> </ol>
1.3	Respondent Team	a) Describe the Respondent's Team including

Section No.	Title	Contents
	Organization Charts	<ol style="list-style-type: none"> <li>1. Management structure</li> <li>2. Equity Providers</li> <li>3. Entity responsible for design</li> <li>4. Entity responsible for construction</li> <li>5. Entity responsible for Facilities Management over the Term</li> <li>6. Identify settled or proposed contractual relationship between team members</li> <li>7. Identify overall organizational/management structure</li> </ol> <p>b) Provide organization charts, at the corporate level, showing the relationship between Key Members, for each of the following phases, indicating the changes contemplated between phases:</p> <ol style="list-style-type: none"> <li>1. RFP Stage: from short-listing under RFQ to selection as Preferred Proponent under the RFP;</li> <li>2. Project Agreement Stage: from selection of Preferred Proponent to Financial Close;</li> <li>3. Design and Construction Stage: from preliminary design through to commencement of operating payments;</li> <li>4. Operations Stage: from commencement of operating payments through to end of the Term.</li> </ol>
1.4	Project Director's Experience	<p>Provide a résumé for the Project Director including, at a minimum, the following information:</p> <ol style="list-style-type: none"> <li>1. Name</li> <li>2. Professional qualification/designation</li> <li>3. Role and responsibility for the Project</li> <li>4. Summary of education/qualifications</li> <li>5. Relevant healthcare and other experience</li> </ol>
1.5	Project Organization Chart	<p>Provide a project organization chart, at the Key Individual level, showing the reporting relationships between, and authority of, the Key Individuals and other individuals that will report into them to indicate the proposed approach/management structure for the Project. The Respondent Team should submit an organization chart for each of the 4 phases listed in Section 1.3 above.</p> <p><b>Please note:</b> Names are only required for Key Individuals at this time</p>
1.6	Respondent Financial Capacity	<p>Provide the following information for each of the Respondent and all Equity Providers:</p> <ol style="list-style-type: none"> <li>1. Copies of annual audited financial statements and annual reports or other similar financial information for each of the last three fiscal years;</li> <li>2. If available, copies of the interim financial statement for each quarter since the last fiscal</li> </ol>

Section No.	Title	Contents
		<p>year for which audited statements are provided;</p> <ol style="list-style-type: none"> <li>3. Details of any material off-balance sheet financing arrangements currently in place;</li> <li>4. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided;</li> <li>5. Details of any credit rating;</li> <li>6. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency litigation in the last three fiscal years.</li> </ol>
1.7	Project Experience of Consortium/Lead	<p>Provide a completed <i>Table B-1 Sample Form – Project Experience</i> with details of projects you consider most relevant to this project, which may include:</p> <ol style="list-style-type: none"> <li>1. Canadian and global healthcare projects, (and in particular ambulatory care projects) including both PPP and traditional structures</li> <li>2. Other long-term partnership arrangements</li> <li>3. Other public infrastructure projects, both Canadian and non-Canadian</li> </ol> <p>Respondents should provide separate tables for the Consortium/Lead and Financial Advisor and each must contain a maximum of ten projects.</p>
1.8	Prior Working Relationships	Describe any prior working relationships among members of the Respondent Team.
1.9	Experience Finance Raising or Providing	Either complete <i>Table B-2 Sample Form – Project Finance Experience</i> (attached at end of this appendix), or provide the information identified in the table in an alternative format, to indicate the experience that any member of the Respondent Team has in raising and/or providing finance for public private partnerships projects or other major infrastructure projects.
1.10	Approach to Partnership	Describe the Respondent's experience with public private partnership arrangements that demonstrates a successful approach to the delivery of projects through partnerships including healthcare projects in partnership with healthcare organizations.
1.11	Commercial/Retail Opportunities	Describe Respondent's previous experience in retail and commercial development, as well as demonstrated experience in partnering with government or non-government agencies to achieve joint or shared public-private objectives.
1.12	Availability	Describe the availability and capacity of the Respondent and Key Individuals to undertake Project in

Section No.	Title	Contents
		relation to current and anticipated commitments to other projects that will proceed at the same time as the Project.
<b>2.</b>	<b>Design and Construction Team Members</b>	
2.1	Key Individuals' Experience	Provide résumés for the lead design individual and the lead construction individual including, at a minimum, the following information: <ol style="list-style-type: none"> <li>1. Name</li> <li>2. Professional qualification/designation</li> <li>2. Role and responsibility for the Project</li> <li>3. Summary of education/qualifications</li> <li>4. Relevant healthcare and other experience</li> </ol>
2.2	Local Design Consultant and Contractors	Provide information on past experience working with contractors and sub-contractors on comparable projects that were undertaken in market in which the Project is located. Explain the management arrangements that were used to coordinate the work of the various specialists to achieve integration between designers and contractors, in accordance with the project schedule.
2.3	Project Experience	Provide a completed <i>Table B-1 Sample Form – Project Experience</i> with details of projects you consider most relevant to this project, which may include: <ol style="list-style-type: none"> <li>1. Canadian and global healthcare projects (and in particular ambulatory care projects), including both PPP and traditional structures</li> <li>2. Other long-term partnership arrangements</li> <li>3. Other public infrastructure projects, both Canadian and non-Canadian</li> </ol> Respondents should provide separate tables for design and construction, and each must contain a maximum of ten projects.
2.4	Design and Construction Integration	Describe previous experience developing designs in consultation with a healthcare user/client and in integrating design with construction and facilities management over a long-term relationship. Include experience, if any, in introducing “best practices” concepts into the design to deal with issues such as integration of process improvement concepts (such as workflow re-design, process efficiency tools, etc.) into facility design, with specific reference to ambulatory care environments.

Section No.	Title	Contents
2.5	Financial Strength	<p>Provide the following information for the lead construction firm:</p> <ol style="list-style-type: none"> <li>1. Copies of annual audited financial statements and annual reports or other similar financial information for each of the last three fiscal years;</li> <li>2. If available, copies of the interim financial statement for each quarter since the last fiscal year for which audited statements are provided;</li> <li>3. Details of any material off-balance sheet financing arrangements currently in place;</li> <li>4. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided;</li> <li>5. Details of any credit rating;</li> <li>6. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency litigation in the last three fiscal years.</li> </ol>
<b>3.</b>	<b>Facilities Management Team Members</b>	
3.1	Key Individuals' Experience	<p>Provide a résumé including, at a minimum, the following information for the Manager of Facilities Management:</p> <ol style="list-style-type: none"> <li>1. Name</li> <li>2. Professional qualification/designation</li> <li>3. Role and responsibility for the Project</li> <li>4. Summary of education/qualifications</li> <li>5. Relevant healthcare and other experience</li> </ol>
3.2	Project Experience	<p>Provide a completed <i>Table B-1 Sample Form – Project Experience</i> with details of projects you consider most relevant to this project, which may include:</p> <ol style="list-style-type: none"> <li>1. Canadian and global ambulatory care projects including both PPP and traditional structures</li> <li>2. Canadian and global healthcare projects, including both PPP and traditional structures</li> <li>3. Other long-term partnership arrangements</li> <li>4. Other public infrastructure projects, both Canadian and non-Canadian</li> </ol> <p>The table must contain a maximum of ten projects.</p>
3.3	Design and Construction Integration	<p>Describe previous experience participating in the development of designs in consultation with a healthcare user/client and in integrating FM considerations into design and construction considerations over a long-term relationship. Include experience, if any, of introducing best practice</p>

Section No.	Title	Contents
		concepts in facility management and integrating these concepts with design and construction in order to provide an optimal long-term solution.
3.4	Financial Strength	<p>Provide the following information for the lead facilities management firm:</p> <ol style="list-style-type: none"> <li>1. Copies of annual audited financial statements and annual reports or other similar financial information for each of the last three fiscal years;</li> <li>2. If available, copies of the interim financial statement for each quarter since the last fiscal year for which audited statements are provided;</li> <li>3. Details of any material off-balance sheet financing arrangements currently in place;</li> <li>4. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided;</li> <li>5. Details of any credit rating;</li> <li>6. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency litigation in the last three fiscal years.</li> </ol>

**TABLE B1- PROJECT EXPERIENCE**

Project Name	Project Description/Sector	Location (Province/Country)	Current status of this project	Approximate capital value Cdn \$ MM	Approximate services value Cdn \$ MM	Respondent's role in project	Stage Respondent reached in this procurement process	Reference - Name, email address and telephone number	Parties to the project						
									Sponsor	Funder	Constructor	FM operator	Design	Legal advice	Financial advice

**Notes on completion of table**

- Project description    Transportation/Accommodation/Health/Other (please specify)
- Respondent's role    Specify extent of involvement of major parties to the project
- Project status        Bid phase/Construction phase/Operations phase
- Stage respondent reached    Not short-listed/Short-listed bidder/preferred bidder
- Reference             Provide name and contact details of someone who can attest to your role in this project
- Parties to the project    List names and key contact person for each category listed



## APPENDIX B - RECEIPT CONFIRMATION FORM

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

### Request for Qualifications

#### Submission Date:

To receive any further distributed information  
about this Request for Qualifications,  
please return both pages of this form as soon as possible to:

#### Partnerships British Columbia

Fax:

E-Mail:

#### RESPONDENT CONTACT INFORMATION

NAME OF RESPONDENT: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY \_\_\_\_\_ POSTAL/ZIP CODE: \_\_\_\_\_

PROVINCE/STATE: \_\_\_\_\_ COUNTRY: \_\_\_\_\_

MAILING ADDRESS, IF DIFFERENT: \_\_\_\_\_

FAX: (\_\_\_\_\_) \_\_\_\_\_ TELEPHONE: (\_\_\_\_\_) \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

Unless it can be sent by fax or e-mail, please send us any further correspondence about this RFQ by:

**COURIER COLLECT** COURIER Name and Account No.: \_\_\_\_\_

**MAIL** (default if neither box checked)

**ACKNOWLEDGMENT OF TERMS OF RFQ AND CONFIDENTIALITY**

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

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

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

Respondent Representative or other interested party:

\_\_\_\_\_  
Authorized Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## APPENDIX C - RESPONSE DECLARATION FORM

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

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

To: **[Insert client submission location]**

Attention: **[Insert contact person]**

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

### **1. Response**

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

### **2. Acknowledgements with Respect to the RFQ**

- a. the Respondent has received, read, examined and understood the entire RFQ including all of the terms and conditions, all documents listed in the RFQ "Table of Contents", and any and all Addenda;
- b. the Respondent agrees to be bound by the entire RFQ including all of the terms and conditions, including without limitation Section 6.6, all documents listed in the RFQ "Table of Contents", and any and all Addenda;

- c. the Respondent's representative identified below is fully authorized to represent the Respondent in any and all matters related to its Response, including but not limited to providing clarifications and additional information that may be requested in association with the RFQ;
- d. the Respondent has disclosed all relevant relationships, in accordance with the instructions and format outlined in the Relationship Disclosure Form;
- e. the Respondent has had sufficient time to consider, and has satisfied itself as to the applicability of the material in the RFQ and any and all conditions that may in any way affect its Response;

**3. Evaluation of Responses**

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

**4. Consent of Respondent Team**

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

**5. The Respondent Team consists of:**

Name	Address	Key Individual or Equity Provider

**RESPONDENT**

**RESPONDENT'S REPRESENTATIVE**

---

Name of Firm

Name

---

Address

E-mail Address

---

Name of Authorized Signatory

Telephone

---

Signature

Fax Number

**APPENDIX D - RELATIONSHIP DISCLOSURE FORM**

***This Form should be completed by the Respondent and by each of the Respondent's Key Individuals as identified in the Respondent's completed Response, Appendix A, section 3.***

The Respondent/Key Individual (as the case may be) declares that:

1. The Respondent/Key Individual has reviewed the list of Restricted Parties.
2. The following is a full disclosure of all relationships that the Respondent/Key Individual has with:
  - a. any Restricted Party or their current or former employees, shareholders, directors or officers; or
  - b. employees (both current or former) of the Authority or individuals of firms who have been involved in the Competitive Selection Process or the design, planning or implementation of the Project, that could constitute a conflict of interest or unfair advantage.

Name of Restricted Party / Person	Details of the Nature of the Respondent's/Key Individual's relationship with the listed Restricted Party/Person <i>(e.g. Respondent/Key Individual was an advisor to the Restricted Party from 1999-2000)</i>

(add additional pages as may be required)

**NAME OF RESPONDENT:**

Name of Firm – Respondent/Key Individual:

Address:

E-mail Address:

Telephone:

Fax:

Name of Authorized Signatory for Respondent/Key Individual:

Signature:

## APPENDIX E - CONFIDENTIALITY AGREEMENT

### 1. Interpretation

In this Agreement:

- (a) "Confidential Information" means all documents, knowledge and information provided by the Authority or any of its Representatives (the "Disclosing Party") to, or otherwise obtained by, the Recipient or any of its Representatives (the "Receiving Party"), whether before or after the date of this Agreement, on the [REDACTED] or otherwise either orally, or in writing or other visual or electronic form in connection with or relevant to the Project, 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 of this Agreement by the Receiving Party or through a breach of a confidentiality agreement which another person has entered into concerning the Confidential Information;
  - (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 Agreement 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 this Agreement 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.
- (b) "Permitted Purposes" means evaluating the [REDACTED] Project, preparing a Response, and any other use permitted by this Agreement.
- (c) "Recipient" means a Respondent or any other interested party who completes a Receipt

Confirmation Form.

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

## ***2. Confidentiality***

The Recipient will keep all Confidential Information strictly confidential and will not without the prior written consent of the Authority, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Recipient will make all reasonable, necessary, and appropriate efforts to safeguard the Confidential Information from disclosure to any other person, firm, corporation, or other entity except as permitted in this Agreement, and will ensure that each of its Representatives agrees to keep such information confidential and to be bound by the terms contained herein.

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

The Authority owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Agreement, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of this Agreement, and will not, without the prior express written consent of an authorized representative of the Authority, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person, firm, corporation or other entity for any purpose whatsoever.

## ***4. Limited Disclosure***

The Recipient may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Response or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.

## ***5. Destruction on Demand***

On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and

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

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

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

## ***7. Waiver***

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

## ***8. Severability***

If any portion of this Agreement is found to be invalid or unenforceable by law by a court of competent jurisdiction then that portion will be severed and the remaining portion will remain in full force and effect.

## ***9. Enurement***

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