

## **APPENDIX A - PROPOSAL FEE AND BREAK FEE CONDITIONS FOR GARDINER EXPRESSWAY REHABILITATION SECTION 4 (Part 1) PROCUREMENT**

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The following will be the conditions for Proposal Fees and Break Fees in the procurement of Design-Builders ("Suppliers") for Gardiner Expressway Rehabilitation Section 4 (Part 1)

- The quantum of the Proposal Fee or Break Fee will be determined based on the approach presented in Confidential Attachment 1.
- The payment of any Proposal Fee is subject to the following conditions:
  - The Supplier has been pre-qualified to submit a proposal in response to a Request for Proposal.
  - The Supplier submitted a full and proper proposal that meets or exceeds the technical score threshold of the Gardiner Expressway Rehabilitation Request for Proposal procurement.
  - The Supplier actively participated in the Gardiner Expressway Rehabilitation Request for Proposal procurement (including attendance at commercially confidential meetings and design presentation meetings, submission of Request for Information, etc.), as determined by the Chief Procurement Officer.
  - The Supplier has executed a waiver, in form and substance satisfactory to the City, on behalf of the Supplier, its sub-contractors and sub-consultants that waives any claims against the City in relation to the Gardiner Expressway Rehabilitation Request for Proposal procurement.
  - The Supplier was unsuccessful in the Gardiner Expressway Rehabilitation Request for Proposal procurement.
- The payment of any Break Fee is subject to the following conditions:
  - The Supplier has been pre-qualified to submit a proposal in response to a Request for Proposal.
  - The City has cancelled the Gardiner Expressway Rehabilitation Request for Proposal procurement prior to award of the contract.
  - The Supplier has actively participated in the Gardiner Expressway Rehabilitation Request for Proposal procurement up to the time of cancellation, as determined by the Chief Procurement Officer.

- The Supplier has executed a waiver, in form and substance satisfactory to the City, on behalf of the Supplier, its sub-contractors and sub-consultants that waives any claims against the City in relation to the Gardiner Expressway Rehabilitation Request for Proposal procurement.
- A Break Fee will be paid in a pro-rata manner based on the timing of the cancellation of the Gardiner Expressway Rehabilitation Request for Proposal procurement.
- A Supplier who withdraws from the Gardiner Expressway Rehabilitation Request for Proposal procurement process (whether prior to the deadline for submissions or following the submission deadline in contravention of submission or proposal irrevocability provisions in the applicable Solicitation document) will forfeit and not be entitled to a Proposal Fee or a Break Fee or any portion thereof.
- No Supplier shall be entitled to payment of both a Proposal Fee and a Break Fee.