Submission by the "Stakeholders Group" for the Yukon Hospital Corporation and Yukon College Pension Plans

(Board of Trustees of the Yukon Hospital Corporation
Board of Governors of the Yukon College
Yukon Employees' Union)

to the

Innovation, Science and Economic Development Canada consultation on Enhancing Retirement Security for Canadians

December 2018

Introduction and Background

The decision of the Federal Government to launch consultations on Enhancing Retirement Security for Canadians is a most welcome and timely opportunity to provide feedback on this most important issue. To effectively engage in this exercise a "Stakeholders Group" for the Yukon Hospital Corporation (YHC) and Yukon College (YC) Pension Plans was struck to jointly draft this submission. The participating stakeholders include the plan sponsors of the two Pension Plans (Board of Trustees of the YHC, Board of Governors of the YC) and the bargaining agent representing members of the two Pension Plans (Yukon Employees' Union (YEU).

There is unanimous agreement amongst the Stakeholders' Group that a Defined Benefit (DB) pension plan needs to be sustainable and can be a reliable and cost effective means of offering employees a stable and guaranteed retirement security and also serves as an important element of a compensation package which can assist public sector employers in the Yukon with the recruitment and retention of qualified and experienced staff. The foregoing features are critically important in an effort to provide quality health care and post-secondary education to the residents of the Yukon Territory.

However, in the years since the global economic downturn of 2008-2009, financial and economic developments have presented the YHC and the YC Pension Plans with significant funding challenges. Both the YHC and the YC Pension Plans are subject to the solvency funding requirements of the federal *Pension Benefits Standards Act, 1985 (PBSA).* It is important to note that, according to available information, the YHC and YC may be the only hospital and post-secondary institutions subject to federal pension regulations of the Private Pension Plans Division of the Office of the Superintendent of Financial Institutions of (OSFI).

Current Funding Issues with the YHC and YC Pension Plans

According to the most recent actuarial valuation as at December 31st, 2017, the YHC Pension Plan was funded at 131.5% on a going concern basis. The amount of actuarial surplus stood at $29.8 million. However, on a solvency basis, the YHC Pension Plan was only funded at 86.2% with a solvency deficiency of $24 million. Under the current provisions of the *PBSA*, the annual special payment required to fund this shortfall ($5.2 million) was financed by an increase to a standing Letter of Credit (LOC). At present, the balance of the existing LOC, which represents the sum of all historical solvency amortization payments not remitted to the pension fund is $18,905,000. In accordance with the *PBSA*, the maximum amount of the LOC cannot exceed $26,057,000 (15% of plan liabilities) as of June 30th, 2018.

In the case of the YC Pension Plan, the most recent actuarial valuation as of June 30th, 2018, indicated a funding level of 119.3% on a going-concern basis. The amount of actuarial surplus was calculated to be $16,395,300. On a solvency basis, the YC Pension Plan was only funded at 95.2% with a solvency deficiency of $9,644,900. Under the current provisions of the *PBSA,* the foregoing amount has been entirely funded through an increase to a standing LOC. At present, the balance of the existing LOC, which represents the sum of all historical solvency amortization payments not remitted to the pension fund is $16,039,900. In accordance with the

PBSA, the maximum amount of the LOC cannot exceed $19,550,400 (15% of plan liabilities) as of June 30th, 2018.

It should be noted that, in the case of the YHC Pension Plan, were it not for the solvency funding requirements, the actuarial surplus on a going concern basis would exceed the amount permitted under the *Income Tax Act* and would prohibit further pension contributions from the employer. As of 2017, a total of $22 million in direct cash payments has had to be paid to the YHC Pension Plan, above the LOC limits, to fund annual solvency deficiencies.
Even in the case of the YC Pension Plan, which, to date, has been able to avoid the requirement of annual solvency deficiency payments increases in a standing LOC, the administrative and financial costs of establishing and maintaining a LOC are significant for a single employer pension plan.

The members of the Stakeholder Group certainly understand the need for regulations to direct additional financial resources to pension arrangements where there is a possible risk of insolvency/bankruptcy of the plan sponsor. However, both the Yukon Hospital Corporation and the Yukon College are statutory entities of the Government of Yukon and the requirement of pension plan funding on a solvency basis serves neither the interests of the plans members, the plans sponsors, the Government of Yukon or the taxpayers of the Yukon Territory. This concern is further accentuated by the fact that both the YHC and YC Pension Plans have been more than adequately funded on a going-concern basis for an extended period of time.

In the opinion of the members of the Stakeholder Group, the additional funds and expenses associated with the funding of pension solvency deficiencies while the YHC and YC Pension Plans are in a healthy going concern surplus position would have been much better directed to financing improved health care services and post-secondary education for Yukoners

Previous efforts by YHC and Yukon College to address Solvency Funding issue with the Federal Government

In 2015, following extensive research and legal consultation amongst the respective Pension Committees of the YHC and YG Pension Plans, correspondence was prepared by members of the Stakeholders Group and delivered on December 14th, 2015 to then Premier and Minister of Finance for the Government of Yukon, the Honourable Darrell Pasloski (see Appendix 1). The position advocated by the Stakeholders Group signatories was for Premier Pasloski to approach the appropriate officials of the Government of Canada with a request for relief from the federal pension funding solvency requirements for the YHC and YC Pension Plans.

Subsequently, Premier Pasloski wrote directly to the Federal Finance Minister, the Honourable Bill Morneau, on January 21st, 2016, outlining a number of possible options to address the pension solvency funding requirements of the federal *PBSA*.(see Appendix 2). Unfortunately, the September 2nd, 2016 reply of Minister Morneau (see Appendix 3) consisted primarily of a reiteration of the existing PBSA provisions which provided some degree of flexibility to meeting the solvency funding requirements of the legislation. There was no indication in Minister Morneau's response that there was any intention in reviewing this issue further.

However, it should be noted that in 2017, the Federal Government did adopt amended regulations revising the maximum amount of a letter of credit to fund a pension solvency deficiency from 15% of plan assets to 15% of solvency liabilities. This revision did prove beneficial to both the YHC and YC Pension Plans.

Recent Pension Solvency Funding Reforms in the Provinces of Quebec and Ontario

As indicated on page 4 of the *Consultation Document* a number of provinces (in particular Ontario and Quebec) have recently reformed their pension funding rules to ease employer solvency funding requirements for defined benefit pension plans under their respective jurisdictions.

Effective January 1st, 2016, the Province of Quebec, through amendments to the *Supplemental Pension Plans Act,* effectively exempted all defined benefit pension plans from solvency funding requirements. Pension funding is now determined on a going concern basis with the added requirement of a "stabilization provision". The amount of funding required for the "stabilization provision" will be calculated based on 1) market risk (i.e. percentage of pension fund invested in variable rate securities; and 2) interest rate risk (i.e. ratio of pension plan's investment duration to liability duration).

Effective May 1st, 2018, the Government of Ontario implemented new regulations under the *Pension Benefits Act (PBA)* which lowered the threshold for required solvency deficiency payments to 85% from 100%. Also, a new Provision for Adverse Deviation (PfaD) has now been added to going concern liabilities and normal cost. The actual amount of the PfaD is determined in accordance with a formula based on 1) whether a defined benefit pension plan is open or closed to new members; 2) asset mix of the pension fund and 3) comparison of a pension plan's going concern discount rate with a benchmark going concern discount rate.

Conclusion and Proposals

From the perspective of the stakeholders of the YHC and YC Pension Plans, any initiative which assists the sustainability and affordability of defined benefit pension plans is considered an enhancement to the Retirement Security of Canadians. In view of the foregoing, the undersigned members of the Stakeholders Group would propose that the Federal Government seriously consider replacing the existing solvency funding requirements of the *PBSA* with an "enhanced" going concern funding formula similar to what has been implemented in the provinces of Ontario and Quebec.

Furthermore, the Stakeholders Group would suggest that the proposal of some form of territorial government guarantee as presented in former Yukon Premier Darrell Pasloski's correspondence of January 21st, 2016 also be given consideration in addressing the issue of the federal solvency funding requirement for the YHC and YG Pension Plans.

In addition to the feedback provided in this submission, representatives of the Stakeholders' Group are available to meet with officers of Innovation, Science and Economic Development Canada, Finance Canada, and/or the Office of the Superintendent of Financial Institutions for further discussion on the concerns raised in this submission, as well as to assist with any further analysis and research on the issue of the solvency funding requirements of the *PBSA*.

Once again, the Stakeholders Group is thankful for this opportunity to address this issue. Should there be any further information or details, please do not hesitate to contact any of the following at your convenience.

Sincerely,

Brian Gillen
Chair
Board of Trustees
Yukon Hospital Corporation

Karen Barnes
President
Yukon College

Steve Geick
President
Yukon Employees Union

December 14, 2015

The Honourable Darrell Pasloski
Premier and Minister of Finance
Government of Yukon
Box 2703
Whitehorse, YT Y1A 2C6

Dear Premier Pasloski:

Re: Yukon Hospital Corporation and Yukon College Pension Plan Solvency Funding

We are writing to you as the governing bodies and union representatives of the Yukon Hospital Corporation and Yukon College Defined Benefit Pension Plans.

As you are aware, the Yukon Hospital Corporation and Yukon College Plans have been operating in solvency deficiency positions for a considerable time. Despite having an affordable normal cost of benefits and surpluses when measured on a going concern basis the Plans will continue to require, under the funding rules of the *Pension Benefits Standards Act,* additional funds each year to cover the solvency deficiencies.

In your letter dated July 27, 2015 you acknowledged the significant contribution that has been provided by the Yukon Government to support the Yukon Hospital Corporation and Yukon College Pension Plans and also indicated your desire to work together to find a way to remove the requirement for funding on a solvency basis, while respecting the defined benefit provisions of the current plans.

Yukon Hospital Corporation and Yukon College Pension Committees and Board representatives recently held a joint meeting to review high level options for potential solvency relief. It was agreed at this meeting to request a meeting with yourself and the Department of Finance early in the new-year to introduce these high level options with the goal of determining government's interest in possible next steps.

In conjunction with the work that our two organizations are doing relating to solvency relief, we feel that the recent change in government at a Federal level presents an opportunity to bring concerns surrounding solvency obligations for public sector plans to the forefront of upcoming discussions. It is our understanding that Finance Minister William Morneau announced on December 8, 2015 that Canada's Finance Ministers will be meeting in Ottawa on December 20-21, 2015 to collaboratively advance their shared priorities and deliver positive progress on issues that matter to Canadians.

Yukon Hospital Corporation and Yukon College Pension Plans are not unique in the struggle relating to solvency as highlighted in paragraph 5 of the attached letter that has been forwarded to the Honourable William Morneau from the Canadian Labour Congress. We see the upcoming Minister of Finance meetings as an opportunity to begin the discussion at a federal level as to the potential to pursue permanent solvency relief for the federal public-sector plans such as ours and would respectfully request that an effort be made to have this issue raised in some context during the course of this meeting.

We are very interested in working together to remove the requirement for funding on a solvency basis and would be interested to learn what the federal government's intentions may be on this subject.

While a change in legislation at the Federal level to eliminate the need for solvency funding for Public Institutions would be the easiest solution for us collectively, it would be prudent to investigate other options. We look forward to meeting with you to align on where we should invest our efforts in researching these options.

Sincerely

Craig Tuton
Chair, Board of Trustees
Yukon Hospital Corporation

P. Flaherty

Paul Flaherty
Chair, Board of Governors
Yukon College

Steve Geick
President
Yukon Employees' Union (PSAC)

Shannon Bittman
Vice-President
PIPSC

Office of the Minister
Box 2703, Whitehorse, Yukon Y1A 2C6

January 21, 2016

The Honourable William Francis Morneau
Minister of Finance
Department of Finance Canada
90 Elgin Street
Ottawa, Ontario K1A 0G5

Re: Proposal for pension solvency relief/exemption.

Bill
Dear Minist~~er M~~orneau,

The Government of Yukon would like to propose certain changes to the regulations of the Pension Benefits Standard Act, which governs pensions in the Yukon.

The Government of Yukon indirectly is answerable for both the Yukon College and Yukon Hospital Corporation pension plans. As of the 2014 valuation dates, the Yukon College and the Yukon Hospital Corporation pension plans had going concern funded ratios of 111% and 119% respectively. Despite both plans being in surplus on a going concern basis for many years; as of the 2014 valuation dates, the Yukon College pension plan had a solvency ratio of 92% and the Yukon Hospital Corporation had a solvency ratio of 77%. The combined solvency deficit in 2014 was in excess of $39 million. The Yukon College pension plan is expected to reach the maximum allowed letters of credit funding limit of 15% of plan assets in the near future. The Yukon Hospital Corporation pension plan has reached the maximum allowed letters of credit funding limit of 15% of plan assets.

The Government of Yukon recognizes the role of the solvency test is to protect plan members in the event a plan terminates.

However, the available funding remedies are onerous and do not necessarily serve the public good. Contributing significant amounts of public money to plans that are in surplus on a going concern basis that would otherwise be used for service delivery is arguably not the best use of taxpayer's money. This view was supported by the Canadian Institute of Actuaries stated in their March 2009 submission to the Department of Finance (Canada):

"We acknowledge that solvency funding may not be appropriate for all plans, and would support an exemption for plans exhibiting certain characteristics, such as public plans of a "permanent" nature, or plans for which the benefits have a government guarantee."

The Yukon Government requests that amendments be made to the proposed regulations to adequately address the inherent differences between private and publicly funded pension plans. Possible remedies to address this issue could include:

1) Exemption from the solvency test for post-secondary institutions and hospitals, or
2) Provisions to allow a letter of credit in an amount greater than 15% of plan assets apply for publicly funded pensions, or
3) Accepting a guarantee from the territorial government as solvency funding, or
4) Providing territorial statutory or regulatory safeguards acceptable to Finance Canada with the combined intent of protecting plan members and retirees as well as ensuring appropriate use of public funds.

Thank you for your consideration to this important matter.

Sincerely,

Darrell Pasloski
Minister of Finance

Minister of Finance — Ministre des Finances

Ottawa, Canada K1A 0G5

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The Honourable Darrell Pasloski
Minister of Finance
Government of Yukon
Box 2703
Whitehorse, Yukon Y1A 2C6

Dear Minister Pasloski:

Thank you for your correspondence of January 21, 2016, in which you express concerns regarding the Yukon College Employees' Pension Plan and the Yukon Hospital Corporation Employees' Pension Plan. I apologize for the delay in responding.

One of the main objectives of federal pension regulation is to set out standards of funding so that pension plan assets are sufficient to meet pension plan obligations, which serves to protect the rights and interests of pension plan members, retirees and other beneficiaries. This includes while a plan is operating, as well as in case of plan termination. These standards apply to all pension plans subject to the *Pension Benefits Standards Act, 1985* (PBSA).

A number of flexibilities are built into the PBSA as a result of the challenges faced by plan sponsors to fund deficiencies due to changing market conditions. These measures include: requiring that solvency deficit payments be based on the three-year average solvency ratio as opposed to the current solvency ratio; and allowing plans to obtain a letter of credit from a financial institution to reduce their solvency deficit, or in case of agent Crown corporations, permitting the reduction of solvency payments by up to 15 per cent of the value of plan assets.

Canada

[redacted]

Yours sincerely,

The Honourable Bill Morneau, P.C., M.P.