



transportation  
investment  
corporation

# Surrey Langley SkyTrain Project: Guideway Contract

## Request for Qualifications

August 2, 2022



Ministry of  
Transportation  
and Infrastructure



**Summary of Key Information**

RFQ Title	<p>The title of this RFQ is:</p> <p>RFQ – Surrey Langley SkyTrain Project: Guideway Contract</p> <p>Please use this title on all correspondence.</p>
Contact Person	<p>The Contact Person for this RFQ can be reached at:</p> <p>Email: <a href="mailto:Contact.SLSGuideway@gov.bc.ca">Contact.SLSGuideway@gov.bc.ca</a></p> <p>No telephone enquiries please.</p> <p>Please direct all enquiries, in writing, to the Contact Person.</p>
Receipt Confirmation Form	<p>Any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form (Appendix B).</p>
Submission Time	<p>The Submission Time is:</p> <p>11:00 AM (PDT), Tuesday November 1, 2022</p>
Submission Location	<p>Surrey Langley SkyTrain Project: Guideway Contract</p> <p>Suite 1100 - 401 W Georgia Street,        Vancouver, BC V6B 5A1</p> <p>ATTENTION: CONTACT PERSON</p>

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APPENDIX G Proponent Agreement

## 1 INTRODUCTION

### 1.1 Purpose

This Request for Qualifications (“RFQ”) is issued by the Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure (“the Province”). The purpose of this RFQ is to invite interested parties to indicate their interest in, and their qualifications for, the Guideway Contract (“the Project”), one of the three main contracts of the Surrey Langley SkyTrain Project (“SLS Project”). Through the process described in this RFQ, the Province anticipates identifying up to three Respondents to be invited to participate in the next phase of the Competitive Selection Process, the Request for Proposals (“RFP”) phase.

The purpose of the Competitive Selection Process is to identify a qualified entity (“Project Co”) with whom the Province may enter into a contract (the “Project Agreement”) to design, construct, and partially finance the Project.

This RFQ is not a tender or an offer or a Request for Proposal, and there is no intention by the Province to make an offer by issuing this RFQ.

If a capitalized term is not defined in Section 6 of this RFQ, it will be defined in the section of this RFQ in which it is first used.

### 1.2 Administration of this RFQ

Infrastructure BC Inc. (“Infrastructure BC”) is managing this RFQ and the Competitive Selection Process on behalf of the Province.

### 1.3 Eligibility

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

### 1.4 SLS Project Background

The SLS Project is a 16 km Advanced Light Rapid Transit (“ALRT”) extension to the existing Expo Line SkyTrain System. The SLS Project spans from the Expo Line SkyTrain’s existing

terminus at King George Station in the City of Surrey, through the Township of Langley, to a new terminus in the City of Langley (collectively, the “Three Municipalities”) at Langley City Centre. Transportation Investment Corporation (“TI Corp”) will be the delivery agency for the SLS Project which will be procured as a series of three individual contracts and is estimated to cost \$4.01 billion with the Surrey Langley SkyTrain in operation in late 2028.

**Figure 1: Proposed SLS Project Alignment**



**1.5 SLS Project Summary**

**1.5.1 SLS Project Procurement Structure**

The SLS Project will be procured as three individual contracts:

- Guideway Contract - including substructures, superstructures, roadworks and utilities, procured under a design-build-finance (DBF) model.
- Stations Contract - including eight passenger stations, nine propulsion power substations, and 250m of guideway construction at the terminus station, procured under a design-build (DB) model.

- Systems and Trackwork Contract - including trackwork, power rail and linear induction motor (“LIM”) rail system, communications, automated train control, and propulsion power equipment, procured as a Target Price contract model.

This RFQ is being issued for the Guideway Contract **only**.

## 1.6 RFQ Data Room and Further Information

A restricted access data website with background data relating to the Project (RFQ Data Room) is available. To receive access to the RFQ Data Room and any further information in connection with this RFQ, Respondents are required to have fully completed, signed, and returned the Receipt Confirmation Form, attached as Appendix B of this RFQ, to the Contact Person.

The same RFQ Data Room and contents therein will be made available to the Respondents of each of the SLS Project contracts.

Public information relating to the Project is available on the Project Website at:

<https://www2.gov.bc.ca/gov/content/transportation-projects/surrey-langley-skytrain>

## 1.7 Guideway Contract: General Scope of Project Co’s Responsibility

The purpose of this section is to outline the anticipated general scope of Project Co’s responsibilities. Project Co will enter into the Project Agreement with the Province and will serve as the single point of contact for the Province under the Project Agreement.

### 1.7.1 Project Agreement

The Draft Project Agreement will be included with the RFP and will, among other things, detail the technical specifications for the design and construction components of the Project, the scope of the services to be provided by Project Co, and commercial terms.

The Definitive Project Agreement, incorporating revisions and amendments to the Draft Project Agreement, will be the basis upon which Proposals will be prepared in response to the RFP.

### 1.7.2 Design and Construction

Project Co will be responsible for all aspects of design and construction in accordance with the requirements and specifications set out in the Project Agreement. The Province has completed a preliminary Reference Concept Design (“RCD”) for the purposes of property acquisition, environmental requirements, site preparation, utility impacts, and cost estimates. During the

RFP phase Proponents will be required to develop a concept for the Project that satisfies the terms of the Project Agreement.

A summary of significant components of the anticipated design and construction scope is set out in Table 1. This should not be considered an exhaustive list.

**Table 1 – Summary of Anticipated Design and Construction Scope**

Anticipated Design and Construction Scope
<ul style="list-style-type: none"> <li>▪ Obtain necessary permits, approvals and authorizations, including those required pursuant to applicable federal and provincial regulatory requirements and legislation.</li> <li>▪ Site preparation including, where applicable, demolition of existing buildings.</li> <li>▪ Design and construction of elevated guideway along the approximately 16 km long alignment (excluding the last approximate 250m of the guideway structure at the eastern terminus of the line. The last 250m of guideway structure will be in the scope of the Stations Contract).</li> <li>▪ Road and other civil works, such as bike paths, required to accommodate the Project.</li> <li>▪ Perform traffic management during construction, including maintenance of all pedestrian and vehicular access along the alignment.</li> <li>▪ Integrate the Project with the existing SkyTrain guideway and two other SLS Project contracts (Stations Contract and Systems and Trackwork Contract).</li> <li>▪ Coordination with the Province’s contractors carrying out advance works and concurrent works.</li> <li>▪ Protection and relocation of utilities required within the alignment.</li> <li>▪ Maintenance of designated infrastructure to specified standards during construction (including pavement, structures, drainage, etc.).</li> <li>▪ Meet quality, health and safety, communications, environmental, and archaeological requirements.</li> <li>▪ Achieve substantial completion of the Guideway Contract by summer 2027.</li> </ul>

Project Co will not be responsible for providing rail transit vehicles.

1.7.3 Financing

It is anticipated that Project Co will be responsible for arranging and delivering construction period financing of approximately 20 percent of the Guideway Contract capital cost.

#### 1.7.4 Performance Security

It is anticipated that Project Co will be required to provide performance security to a specified minimum amount. Performance security requirements will be set out in the RFP and may include performance and labour and material payment bonds, parental company guarantees, and irrevocable demand letters of credit or combinations thereof.

#### 1.7.5 Communications and Engagement with Stakeholders and the Public

The anticipated allocation of responsibilities between the Province and Project Co for traffic management communications, community relations, and media relations relating to the Project is as follows:

- Project Co will be responsible for developing and implementing traffic communications plans, and providing a comprehensive traffic communications program for the duration of the Project, which will provide the public, stakeholders, businesses, commuters, and traffic media with regular and timely traffic information; and
- Project Co will provide support for community relations activities, public and stakeholder information and media relations developed and implemented by the Province by providing construction and traffic management information and attending meetings as required.

#### 1.7.6 Indigenous Groups

As part of its work to create true and lasting reconciliation with Indigenous peoples in B.C., the Province is implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and adopting the Truth and Reconciliation Commission of Canada's Calls to Action.

Project Co should anticipate Indigenous engagement requirements will include obligations to engage Indigenous Groups in a manner that aligns with the Province's commitment to implementing UNDRIP.

Project Co will be responsible for providing training, employment, and contract opportunities to identified Indigenous groups. It is further anticipated that Project Co will be required to engage with identified Indigenous groups directly, and/or assist the Province in engaging with identified Indigenous groups regarding project plans, updates, and issues of interest to Indigenous groups.

#### 1.7.7 Third Party Interface

The Province will clarify the requirements of, and Project Co's obligations in respect of, certain third parties affected by or having jurisdiction in relation to Project activities during the RFP stage. Such third parties may include affiliates of the other SLS Project contracts (Stations Contract and

Systems and Trackwork Contract), systems suppliers, transit operators, utilities, railway companies, and the Three Municipalities.

#### 1.7.7.1 Integration at King George Station

The Project will extend the existing Expo Line guideway from the existing tail track east of King George Station and may involve some systems modifications in the station facilities. The Province and BCRTC are developing a process for design reviews and site access within the existing King George Station for station integration works. It is anticipated that information on this process will be included within the Draft Project Agreement distributed during the RFP phase. This work is not expected to impact the Guideway Contract scope of work.

It is anticipated that the extension of the guideway will not have any operational impact on the existing Expo Line service with the construction works area fenced off from the operating railway. Normal safety protocols will be required for performing construction works adjacent to an active railway. Coordination with the SkyTrain operator (BCRTC) will be required.

#### 1.7.7.2 Utilities

The Province has completed the development of utilities base-map drawings to identify the existing utilities within the expected Project footprint and utility conflicts with the RCD. The Province has initiated select utility relocation design and construction work as advance works including the relocation of the BC Hydro transmission lines at 138 St and 96 Avenue crossing, which is targeted to be completed by the end of 2022. Also included in the Province's advance works is the design and construction for transmission line adjustment at Production Way (at the Canadian Pacific Railway crossing) along the SLS Project alignment. This work is anticipated to be completed before the Guideway Contract award.

In addition, the Province is in the process of negotiating agreements with select utility owners to ensure the utility owners' requirements are addressed, and to confirm processes and responsibilities for design, design approvals, and construction.

Project Co's obligations in respect of certain third parties affected by or having jurisdiction in relation to Project activities will be clarified in the RFP. Such third parties may include systems suppliers, transit operators, utility owners, railway companies, and the Three Municipalities.

The Project Agreement will include requirements for Project Co to coordinate its activities with other parties performing other work on or near the Project site, including coordination with the other SLS Project contracts (Stations Contract, Systems and Trackwork Contract). This includes but is not limited to design and construction coordination between contracts.

### 1.7.8 Project Labour

The Community Benefits Agreement (“CBA”) between BC Infrastructure Benefits Inc. (“BCIB”) and the Allied Infrastructure and Related Construction Council of BC (“AIRCC”) will apply to this Project. The CBA is available at: <https://www.bcib.ca/home-2/resources/>.

Additional information about BCIB is available at: <https://www.bcib.ca/>.

The CBA is a project labour agreement which sets out the employment terms and conditions for the supply of workers to be utilized by Project Co and its contractors and subcontractors on this Project. It recognizes the inclusion of community benefits for training and apprenticeship opportunities, greater access for local residents, Indigenous peoples, and traditionally under-represented groups in the skilled workforce.

Pursuant to the CBA, and as authorized by the Province, BCIB will provide the labour force and manage labour relations for Project Co and its contractors and subcontractors working on the Project. Each of Project Co and its contractors and subcontractors will be required to enter into a contract with BCIB for these services.

### 1.7.9 Respect in the Workplace

An objective of the Province is to have a construction site that is free of racism and discrimination and is culturally safe and respectful. To support achieving this objective, the Province requires all Proponents to commit to developing and implementing appropriate policies and training. Approval of suitable policies and a training plan will be a requirement of the Project Agreement and a pre-requisite for construction to commence.

### 1.7.10 Gender-Based Analysis Plus

It is anticipated that Gender-Based Analysis Plus (“GBA+”) will inform all stages of the Project. The GBA+ is an analytical tool used to assess how diverse groups of people may experience policies, programs, and initiatives. More information on GBA+ is available at: [www.gov.bc.ca/gov/content/gender-equity](http://www.gov.bc.ca/gov/content/gender-equity)

## 1.8 Commercial Terms

Key commercial terms the Province anticipates will be included in the Project Agreement are summarized as follows:

- (a) **Term** - The term of the Project Agreement will commence at Financial Close and cover the design and construction period through to completion of testing and commissioning, subject to any warranty obligations.

- (b) **Payment** - It is anticipated that Project Co will receive payments during the design and construction period that will include partial payments until Project Co has financed the amount referenced in 1.7.3 Finance. Once the full amount of Project Co financing has been invested, full construction period payments will commence. The financed portion of the contract price will be payable upon completion of the Project in accordance with and subject to the terms and conditions of the Project Agreement. In addition, a performance incentive mechanism will be implemented to encourage Project Co to meet agreed performance requirements.
- (c) **Warranty** - The Province anticipates requiring Project Co to provide a two-year warranty.
- (d) **Lands** - It is anticipated that the Province will acquire the land rights necessary to accommodate the Project alignment to the extent that such land rights are not currently held by or on behalf of the Province. Project Co will be provided with access to the lands required for the Project for the purpose of performing its obligations under the Project Agreement. The ownership of the lands will not be transferred to Project Co.
- (e) **Interface Agreement** – The Province anticipates requiring Project Co to enter into an Interface Agreement with the Province and each of the contracting parties for Stations Contract and Systems and Trackwork Contract.

## 1.9 Advance Work by the Province

A package of advance works has been approved to mitigate the risk of certain key elements of the Project and to support the overall Project schedule. The advance works by the Province include major utility relocations, road widening, property acquisition, project site investigations, and public and stakeholder engagement. The status of each workstream is presented below:

### 1.9.1 Utilities

The Province has initiated discussions with BC Hydro, Metro Vancouver, and municipal and utilities agencies to identify potentially impacted utility assets and define the requirements for their relocation and accommodation where applicable.

BC Hydro has been commissioned to start the transmission crossing relocations and the distribution and associated telecom parallel and crossing relocations design and construction. Some other utilities' relocation and investigation advance works are being planned for completion prior to commencement of the Implementation of the SLS Project. Utility conflicts not relocated as advance works will form part of Project Co's scope of work.

## 1.9.2 Property

Engagement and negotiation with property owners and tenants has commenced for early property acquisitions. Engagement is being carried out based on prioritizing properties to best accommodate the Project schedule for the delivery of the required land to Project Co.

## 1.9.3 Site Investigations

### 1.9.3.3 Geotechnical

Several geotechnical investigations have been completed to characterize ground conditions along the alignment and to support reference design activities, including boreholes drilled in 2021 in the Agriculture Land Reserve (ALR) and at various locations east of the ALR to support the refinement of the Reference Concept Design (“RCD”). Geotechnical investigations indicate the ground conditions near the ALR and approaching the terminus in the City of Langley require more extensive substructures support. A geotechnical summary report will be available in the RFQ Data Room.

### 1.9.3.4 Archaeological

Archaeological assessments for the Project began in 2019 and consist of:

- an Archaeological Overview Assessment (AOA), comprised of a desktop review and preliminary field reconnaissance; and
- a series of field programs to inform an Archaeological Impact Assessment (AIA).

The AOA identified 31 areas of archaeological interest. The AIA field programs were conducted within areas of archaeological interest on publicly accessible land where Project related ground disturbance may occur, or where the landowner permitted access. The field programs involved shovel testing and monitoring of geotechnical investigations and daylighting for utility locates.

Between August 2020 and August 2021, subsurface tests took place in the City of Surrey between King George Station and 166 Street, and in December 2021 additional shovel tests took place within three areas of archaeological interest between 166 Street and 203 Street. Of the areas investigated to date, one identified archaeological site near Green Timbers, which consists of a low-density lithic scatter (stone tool waste flakes), was recorded.

Additional archaeological assessments will commence in Summer 2022 and are anticipated to be completed before RFP release.

### 1.9.3.5 Environmental Requirements

The Project is not subject to a federal Environmental Assessment (“EA”), as confirmed by the Impact Assessment Agency of Canada in June 2022. With respect to the provincial EA process, administered by the BC EAO, confirmation has previously been received that the Project is not subject to a provincial EA. Recently, the Project has triggered a notification requirement under the recently updated reviewable projects regulations. The Province submitted a project notification to BC EAO in June 2022; Indigenous group and public consultation was open from July 5-25, 2022. A determination by BC EAO is expected in late August 2022, at which time the decision letter will be uploaded to the RFQ Data Room. It is expected that this project notification will not change the previous determination that the Project is not subject to a provincial EA.

The Province has initiated an Environmental Screening Review (“ESR”) of the Project. The ESR is a clear and transparent process for identifying and protecting environmental values in the Project area and includes opportunities for input from the public, Indigenous groups, stakeholders, and government agencies.

The ESR process resulted in the ESR report that documents existing environmental values, potential Project-related effects, as well as mitigation measures to avoid or minimize potential effects on environmental values associated with the Project.

A summary of the ESR process can be found in the RFQ Data Room.

## 1.10 Advance Work by Others

The City of Surrey is widening the Fraser Highway from two lanes to four lanes between George Junction and 148 Street. The section of the Fraser Highway widening between George Junction and 96th Avenue has commenced with a target completion of May 2023. The widening of the section of Fraser Highway between 96th Avenue and 148 Street was completed in 2021.

Additional work by others, including fibre optic cabling from OMC1 to King George Station and Pattison Digital Ad Sign are also underway for completion prior to construction commencement.

## 1.11 Engagement with Indigenous Groups

The Province has a duty to consult with Indigenous groups where it proposes to take actions that could impact asserted interests of Indigenous groups. To uphold the Province of British Columbia’s commitment to reconcile with Indigenous groups, the SLS Project has developed its Indigenous engagement approach based on meaningful actions.

## 2 COMPETITIVE SELECTION PROCESS

This section describes the Competitive Selection Process that the Province expects to implement in selecting a Preferred Proponent. The anticipated Competitive Selection Process includes an RFQ phase and an RFP phase.

### 2.1 Request for Qualifications Phase

The Province anticipates that it will select, in its discretion, a shortlist of up to three Respondents to be Proponents. The shortlist is intended to include those Respondents who have successfully demonstrated to the satisfaction of the Province, at its discretion, that they are the best qualified Respondents based on the criteria described in this RFQ. Shortlisted Respondents will be required to deliver an executed Proponent Agreement, Appendix G of this RFQ, in order to proceed to the RFP phase. The Province anticipates that it will issue an RFP to that shortlist only, from which a Preferred Proponent may be selected in accordance with the terms of the RFP.

### 2.2 Request for Proposals Phase

The Province's objective at the RFP phase is to select, in accordance with the terms of the RFP, a Preferred Proponent with whom it may enter into the Project Agreement.

#### 2.2.1 Project Agreement

The Province recognizes current market challenges arising from the impacts of pricing volatility – in Canada and overseas - on a variety of construction inputs. The Province currently anticipates that the Project Agreement will contain provisions to help mitigate the current market dynamics. Further, the Province is considering whether revisions to the typical risk allocations are required in recognition of the dynamism of current market realities. Further detail will be provided during the RFP phase and in the Draft Project Agreement.

#### 2.2.2 Consultative Processes

The Province intends to include in the RFP phase, consultations with Proponents relating to technical and commercial matters through workshops and topic meetings in accordance with the terms of the RFP. This process is intended to allow Proponents to provide comments on Project-specific issues raised through the process.

These processes are anticipated to involve each of the Proponents and other relevant parties and may include exchanges of information, discussions, clarification of issues and review of documents and specifications through workshops and topic meetings, and to provide for the

submission and consideration of comments on and proposed amendments to the Draft Project Agreement leading to the development of the Definitive Project Agreement. The consultative processes are intended to focus on items that are Project-specific in nature.

### 2.2.3 Technical Submission

The Province anticipates that the technical submission under the RFP will include the following:

- (a) a preliminary design in sufficient detail to demonstrate that the specifications and requirements set out in the RFP can be substantially satisfied; and
- (b) the Proponent's management approach to items such as quality, construction, key risks, traffic management, environment, Indigenous engagement, and communications.

### 2.2.4 Financial Submission

The Province anticipates that the financial submission under the RFP will occur after the technical submission and include the following:

- (a) fully committed financing, including confirmation from the Proponent's funding sources of acceptance of the terms of the Definitive Project Agreement;
- (b) a commitment to enter into the Definitive Project Agreement by the Proponent; and
- (c) committed pricing for the Project inclusive of all taxes except GST, subject to an interest rate benchmarking process that will be described in the RFP.

### 2.2.5 RFP Weighted Scoring Submission

The Province anticipates that the RFP weighted scoring submissions under the RFP will include the following:

- (a) Technical proposal – Schedule and Construction;
- (b) Indigenous participation proposal; and
- (c) Price proposal.

The technical and indigenous participation proposals will be included with the technical submission and price proposal will occur with the financial submission.

More information will be provided at the introductory Project introductory meeting described in Section 2.5 of this RFQ.

## 2.3 Compensation for Participation in Competitive Selection Process

No compensation will be available to Respondents for participating in the RFQ phase of the Competitive Selection Process.

If the Competitive Selection Process is completed, and a Project Agreement is executed and delivered, it is anticipated that a stipend in the amount of \$5,000,000 will be available to each Proponent, participating in the RFP phase, that is not selected as the Preferred Proponent, on the terms and subject to the conditions, including as to eligibility for payment, as set out in the RFP.

If the Competitive Selection Process continues to the RFP phase and is terminated for reasons described in the RFP, it is anticipated that a termination fee in an amount equal to the out-of-pocket costs incurred by a Proponent to prepare its Proposal, subject to a maximum amount of up to \$10,000,000 depending on when the termination occurs, will be available to each Proponent on the terms and subject to the conditions, including as to eligibility for payment, as set out in the RFP.

The conditions for payment of the above referenced stipend and termination fee include, among other things, transfer of intellectual property rights and execution and delivery of a full and final release of Claims and a waiver of liability.

## 2.4 Competitive Selection Process Timeline

The current anticipated timeline for Competitive Selection Process milestones is as set out in Table 2.

**Table 2 – Anticipated Timeline**

Activity	Timeline
Issue RFQ	August 2, 2022
Introductory Project Meeting	August 17, 2022
RFQ Response Due	November 1, 2022
Announce Shortlisted Respondents	December 16, 2022
Issue RFP and Draft Project Agreement	January 3, 2023
Technical Submission	June 2, 2023
Financial Submission	August 11, 2023
Announce Preferred Proponent	September 1, 2023

Activity	Timeline
Contract Execution	October 24, 2023

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

**2.5 Introductory Project Meeting**

The Province intends to hold an in person event to provide an introduction and overview of the Project shortly after issuance of the RFQ. Respondents wishing to attend should complete and submit a Receipt Confirmation Form for further details. Participation is not mandatory. Minutes will not be prepared or circulated; however, the Province anticipates sharing presentation materials with Respondents. No information from the meeting, including presentation materials, may be relied upon unless set out in an Addendum or a response to an enquiry under Section 3.6 of this RFQ.

**2.6 BUSINESS TO BUSINESS NETWORKING EVENT I**

During the RFP stage, the Province intends to coordinate a session with Proponent teams and local contractors, suppliers, and businesses to provide an opportunity for:

- local contractors, suppliers and businesses to meet with the Proponents; and
- Proponents to enhance their knowledge, understanding, and awareness of local materials, equipment and labour, and to build relationships with local contractors, suppliers, and businesses.

**2.7 INDIGENOUS GROUPS BUSINESS TO BUSINESS NETWORKING EVENT**

The Province intends to coordinate a session with Proponent teams (to be defined in the RFP) and Indigenous groups and their associated businesses to provide an opportunity for:

- those businesses who might be interested in working with, or providing products and services to, the Preferred Proponent to meet the Proponent teams; and
- Proponent teams to enhance their knowledge, understanding and awareness of local goods and services and to build relationships with Indigenous groups and their associated businesses.

## **3 SUBMISSION INSTRUCTIONS**

### **3.1 Submission Time and Delivery Address**

Responses are to be addressed to the attention of the Contact Person and must be received at the Submission Location before the Submission Time as stated in the Summary of Key Information.

### **3.2 Language of Responses and Enquiries**

Responses and all enquiries are to be written in English. Any portion of a Response not in English may not be evaluated, and any enquiry not in English may not be considered.

### **3.3 Response Form and Content**

Responses should be in the form and follow the outline described in Appendix A of this RFQ.

The content of the Response should include information in respect of each of the matters to be considered and addressed, as described in the content requirements column of Table 3 of Appendix A that is sufficiently comprehensive and responsive to enable the Province to apply the Evaluation Criteria.

### **3.4 Complete RFQ**

Respondents are solely responsible to ensure they have received and clearly understood the complete RFQ, including all Addenda, and have delivered their Responses on that basis.

### **3.5 Receipt Confirmation**

Other than Addenda which will be posted to BC Bid, any further information relating to this RFQ and access to the RFQ Data Room will be directed only to parties who have completed and returned the Receipt Confirmation Form (Appendix B). This form is to be completed, executed, and delivered to the Contact Person.

### **3.6 Communications and Enquiries**

The Province intends to communicate solely with the Respondent Representative and may disregard communications from other persons on behalf of the Respondent during the Competitive Selection Process.

All communications and enquiries regarding any aspect of this RFQ, including any request for information (“Request for Information” or “RFI”), should be directed to the Contact Person by email and clearly marked “SLS Project: Guideway Contract RFQ Enquiry.” Respondents are encouraged to submit RFIs using the Request for Information Form (Appendix F).

The following will apply to any RFI:

- (a) any Response to Respondents (“RTR”) will be in writing;
- (b) RFIs to, and responses from, the Contact Person will be recorded;
- (c) a Respondent may request that a response to an RFI be kept confidential if the Respondent considers the RFI to be commercially sensitive and clearly marks the RFI as “Commercial in Confidence”. If the Province decides that such an RFI should be distributed to all Respondents, then the Province will permit the enquirer to withdraw the RFI rather than receive a response;
- (d) notwithstanding Section 3.6(c) of this RFQ, any RFI and response may, in the Province’s discretion, be distributed to all Respondents, if the Province in its discretion considers the matter to be a matter of substance or a matter that should be brought to the attention of all Respondents for purposes of fairness in, or maintaining the integrity of, the Competitive Selection Process. The Province may keep either or both the RFI and its response confidential if in the judgment of the Province it is fair or appropriate to do so; and
- (e) the Province is not required to provide a response to any RFI.

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.

### **3.7 No Communication with Media or the Public**

Respondents are not to communicate, including by media releases, interviews or web or social media postings and are to ensure their Respondent Team Members, including their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and all other persons associated with any of the Respondent Team Members, do not communicate, in respect of any part or parts of the Project, SLS Project, or the Competitive Selection Process with the media or the public unless the prior written consent of the Province is obtained.

Respondents are to promptly notify the Province of any requests for interviews or other requests from media in connection with the Project received by the Respondent, any of its Respondent Team Members, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, or any other persons associated with any of them.

Respondents are to ensure that all of their respective Respondent Team Members including their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives, and agents involved in the Project, and all other persons associated with any of them in connection with the Project, are informed of and observe the provisions of this RFQ.

### **3.8 Delivery and Receipt of Communications, Addenda, and Other Documents**

The Province does not assume any risk, responsibility, or liability whatsoever and makes no guarantee, warranty or representation whatsoever including as to:

- (a) the timeliness, completeness, effectiveness or condition upon delivery or receipt of any communication, enquiry, response, information, or other documentation, including this RFQ, any and all Addenda, any RFI or RTR and any Responses or Revisions, from, to or by any person including any Respondent or the Province, whether delivered by email, hand, or courier; and
- (b) the working order, functioning or malfunctioning or capacity of any electronic email or information system or medium, including the Project Website.

All email communications or delivery of documents relating to this RFQ will be considered for all purposes to have been received by the Province on the dates and at the times indicated on the Province's electronic equipment.

Each part of this RFQ, any and all Addenda and any other communications, responses or other documentation delivered by or on behalf of the Province will be considered validly delivered to and received by the intended recipient, including any Respondent, at the time that the RFQ, such Addenda or such other communication, response or other documentation, as the case may be, is issued by email to the email address designated by the Respondent as the email address for receipt of information in connection with this RFQ.

### **3.9 Addenda to RFQ**

The Province may, at its discretion through the Contact Person, amend or clarify the terms or contents of this RFQ, including the Submission Time, at any time by Addendum issued through

the Contact Person and on BC Bid. Addenda are the only means of amending this RFQ, and no other form of communication, whether written or oral, including written responses to enquiries and RTRs, are included in or form part of or in any way amend this RFQ.

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

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

### **3.11 Revisions to Responses Prior to the Submission Time**

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

## **4 EVALUATION**

### **4.1 Evaluation**

The evaluation of Responses will be conducted by the Province with the assistance of other persons as the Province may decide it requires, including technical, financial, legal, and other advisors or employees and representatives of the Province, Infrastructure BC, TI Corp, and other government agencies and private sector advisors and consultants.

### **4.2 Evaluation Criteria**

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

### **4.3 Evaluation and Competitive Selection Process**

As part of the evaluation and the Competitive Selection Process, the Province at its discretion may:

- (a) conduct reference, credit, or other checks with any or all of the references and other sources cited in a Response;
- (b) in confidence, obtain and rely upon technical, financial, legal, and other input, advice and direction from government and private sector advisors and consultants provided in carrying out any Response evaluations and related activities, enquiries, reviews, and checks;

- (c) independently verify any information regarding a Respondent or Respondent Team Member, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives, or agents, whether or not contained in any Response;
- (d) conduct any background investigations it considers necessary or desirable in the course of the Competitive Selection Process;
- (e) seek clarification, rectification or more complete, supplementary or additional information or documentation from any Respondent, including in connection with any Response, any Respondent, any Respondent Team composition or any Respondent Team Member, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents. ;
- (f) rely upon, consider, or disregard any irrelevant or relevant information and documentation, including any clarification, rectification or more complete, supplementary, or additional information or documentation, as the case may be, contemplated in Sections 4.3(a) to (e) or otherwise obtained from any other source the Province at its discretion considers appropriate; and
- (g) include in the evaluation of any Response consideration of any supplementary or additional documents and information submitted pursuant to this RFQ and advice and input from the Province's internal and external government and private sector advisors and consultants.

Without limiting any other provision of this RFQ, the Province at its discretion may at any time decline to evaluate or cease evaluation of any Response for any reason considered appropriate by the Province, including:

- (a) the Province considers the Response is incomplete;
- (b) after reviewing the information submitted in the Response relating to the requirements set out in Table 3 of Appendix A, the Province considers that the information submitted is insufficient to demonstrate to the satisfaction of the Province, that the Respondent and each Respondent Team Member (other than Key Individuals) has the financial capacity to fulfill its obligations in respect of the Project; or
- (c) the Province considers the Respondent or Response, as compared to all the Respondents and Responses, is not in contention to be shortlisted.

The Province at its discretion may disregard any experience, capacity or other information contained in any Response that is not verifiable to the satisfaction of the Province, or that otherwise is not responsive to any provision of this RFQ.

#### 4.4 Interviews/Presentations

The Province at its discretion may request all or any Respondents to participate in interviews with or present their Responses to the Province during the evaluation process. Such interviews or presentations should be specific to the Project and should not contain any marketing information of the Respondent, Respondent Team, or Respondent Team Members.

#### 4.5 Debriefing

The Province may, at its discretion and upon written request, conduct a debriefing for any Respondent if the debriefing is requested within 30 days after the announcement of the shortlisted Respondents. The debriefing may include discussing the strengths and weaknesses, score, and ranking of that Respondent's Response. The Province will not disclose or discuss any confidential information of another Respondent.

## 5 OTHER PROVISIONS

### 5.1 No Obligation to Proceed

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

### 5.2 Freedom of Information and Protection of Privacy Act and Confidentiality

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

By submitting a Response, the Respondent represents and warrants to the Province that the Respondent has complied with all applicable laws, including by obtaining from each person any required consents and authorizations to the collection of information relating to such person and to the submission of such information to the Province for the purposes of or in connection with this RFQ and the Competitive Selection Process.

Except as expressly stated in this RFQ and subject to FOIPPA and other applicable legislation, all documents and other records submitted in response to this RFQ will be considered confidential.

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

Proponents will also be required to sign a Proponent Agreement as a condition of participating in the RFP, and such agreement will include confidentiality and other provisions. The Province expects the form of the Proponent Agreement will be substantially as set out in Appendix G.

### 5.3 Cost of Preparing the Response

Each Respondent is solely responsible for all costs and expenses incurred in preparing its Response, including without limitation all costs of providing information requested by the Province, attending meetings, and conducting due diligence.

### 5.4 Actions by the Province/Reservation of Rights

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

- (a) modify, replace, substitute, postpone, extend, cancel, or suspend, temporarily or otherwise, the RFQ process or any or all phases of the Competitive Selection Process;
- (d) re-issue this RFQ or any request for qualifications, or issue or implement any other selection process for or take any steps or actions to procure the delivery of the same or similar Project or any part or parts of the works comprising the Project, including entering into negotiations with any person;
- (e) amend any part of this RFQ, including the scope or any other part of the Project, the dates, schedules, timelines, Submission Location, Submission Time, Competitive Selection Process or any other provision or provisions of this RFQ;
- (f) consider, evaluate, accept, not accept, not consider, not evaluate, or discontinue evaluation of any Response;
- (g) notify any Respondent, any Respondent Team, any Respondent Team Member, or any prospective Respondent Team Member that it is or has become ineligible to participate in or continue participating in the RFQ phase or any other part of the Competitive Selection Process;
- (h) disregard any defect, deficiency, or irregularity, including any alteration, qualification, omission, error, inaccuracy, misstatement, non-compliance, or non-conformity including as to form, content, timeliness of submission or other defect, deficiency, or irregularity in a Response, and consider and evaluate that Response, including any more complete, supplementary, and additional information or documentation received from the Respondent; and
- (i) not consider or evaluate any or all Responses;

at any time and for any reason or reasons the Province, at its discretion, considers appropriate and to be solely in the best interests of the Province or the Competitive Selection Process.

Without limiting any other provision of this RFQ, none of the Province, Infrastructure BC, British Columbia Transportation Financing Authority (“BCTFA”), TI Corp, the Fairness Reviewer, the Conflict of Interest Adjudicator (“COI Adjudicator”) or any of their respective elected officials, directors, officers, employees, servants, representatives, agents, consultants and advisors have any responsibility, obligation or liability whatsoever, in contract, tort or otherwise, for Claims, reimbursement, costs, expenses, damages or losses, including loss of profits or loss of opportunity, incurred or suffered in any way by any Respondent, Respondent Team, or Respondent Team Member, or by any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, or by any prospective Respondent, Respondent Team or

Respondent Team Member or any other person in connection with, relating to or arising from any or all Responses, any use of or reliance on any information provided on the Project Website, RFQ Data Room, the Restricted Parties list (as described in Section 5.11.2 of this RFQ), any identification of or failure to identify (in a timely manner or at all) any person as a Restricted Party, any ruling or advice of or failure to provide a ruling or advice (in a timely manner or at all) of the COI Adjudicator, any RFI, response to enquiries or RTR or failure to provide any response to enquiries or RTR (in a timely manner or at all), this RFQ including any of the matters described in Section 4.3 and this Section 5.4 of this RFQ, the Competitive Selection Process or any departure (fundamental or otherwise) from the provisions of this RFQ or the Competitive Selection Process.

### **5.5 Ownership of Response**

All Responses submitted to the Province will become the property of the Province and, subject to FOIPPA and the terms of this RFQ, will be held in confidence by the Province.

### **5.6 Disclosure and Transparency**

The Province expects to publicly disclose the following information during the RFQ phase of the Competitive Selection Process: this RFQ, the number of Respondents and their Respondent Team Members, and the name of the Proponents.

The disclosure to the public of any information generated in relation to the Project or the Competitive Selection Process, including through communications with the media and the public, is to be coordinated with and is subject to the prior approval of the Province.

### **5.7 No Communication or Collusion**

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

Each Respondent is to ensure that its Response has been prepared and submitted without collusion or fraud and in fair competition with other Respondents and Respondent Teams and prospective Respondents and Respondent Teams.

## 5.8 No Lobbying

Respondents are to ensure that they and their respective Respondent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and any other persons associated with any of them, do not communicate or attempt to communicate directly or indirectly with the Province (including any elected official), Infrastructure BC, BCTFA, TI Corp, TransLink, BCIB, British Columbia Rapid Transit Company (“BCRTC”), the City of Surrey, the Township of Langley, the City of Langley, any Restricted Party, or any directors, officers, employees, consultants, advisors, representatives or agents of any of them, in relation to the Project, this RFQ, or the Competitive Selection Process, except as expressly directed or permitted by the Province.

## 5.9 Changes

### 5.9.1 Changes to Respondents and Respondent Teams

The Province intends to issue the RFP only to Respondents that have been shortlisted under this RFQ as Proponents. If for any reason, after the Submission Time, a Respondent wishes or requires to add, remove or otherwise change its Respondent Team or any of its Respondent Team Members, or there is a material change in ownership or control (which includes the ability to direct or cause the direction of management actions or policies of a member) of a Respondent Team Member, or there is a change to the legal relationship among any or all of the Respondent and its Respondent Team Members, then the Respondent will submit a written application to the Province for approval.

The Respondent will include in such written request a comprehensive description of the change, the reason for the change and sufficient information and documentation, including as to suitability, knowledge, skills, resources, experience, qualifications and abilities of the persons involved in the change, to enable the Province to consider at its discretion whether the change, if consented to by the Province, will result in the Respondent and its Respondent Team, considered separately and as a whole, meeting or exceeding the suitability, knowledge, skills, resources, experience, qualifications and abilities of the Respondent and its Respondent Team, considered separately and as a whole, before the change. The Respondent will provide such further information and documentation as the Province may request.

The Province at its discretion may, by written notice, consent or decline to consent to any change. Any consent of the Province may be on and subject to such terms and conditions as the Province at its discretion may consider appropriate.

## 5.9.2 Changes to Proponents and Proponent Teams

The RFP will include a process consistent with that set out in Section 5.9.1 of this RFQ requiring that changes to a Proponent or any of the members of its team in connection with the Proposal (which team will be defined in the RFP and will include, without limitation, the Respondent Team Members) may only be made with the express written consent of the Province and that the Province, at its discretion, may consent or decline to consent to any such change, subject to such terms and conditions as the Province at its discretion may consider appropriate.

## 5.10 Relationship Disclosure and Review Process

### 5.10.1 General Relationship Disclosure

The Province reserves the right to disqualify, at its discretion, any Respondent, that in the Province's opinion, has an actual or perceived conflict of interest or unfair advantage or has a relationship that has the potential for creating an actual or perceived conflict of interest or unfair advantage, or may permit the Respondent to continue and impose such conditions as the Province may consider to be in the public interest or otherwise, as required by the Province.

Each Respondent is to fully disclose all relationships that it or any of its Respondent Team Members may have with the Province, or any subsidiary agency, authority, board, tribunal, commission or department of the Province, Infrastructure BC, TI Corp, any Restricted Party, or any other person providing advice or services to the Province with respect to the Project and the SLS Project:

- (a) by submission of a completed and executed Relationship Disclosure Form with the Respondent's Response; and
- (b) thereafter during the Competitive Selection Process, by written notice addressed to the Contact Person promptly after becoming aware of any such relationship.

In addition, each Respondent is to fully disclose in the Relationship Disclosure Form or thereafter by written notice all relationships of which it or any of its Respondent Team Members is aware between any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, or any other persons associated with any of them, with the Province, or any subsidiary agency, authority, board, tribunal, commission or department of the Province, Infrastructure BC, TI Corp, any Restricted Party or any other person providing advice or services to the Province with respect to the Project, that constitutes an actual or perceived conflict of interest or unfair advantage or has the potential for creating an actual or perceived conflict of interest or unfair advantage.

### 5.10.2 SLS Project Relationship Disclosure

For each separate competitive selection process for the SLS Project, the Province also considers that it is necessary, in order to protect the integrity of that competitive selection process and address any potential or perceived resulting conflicts of interest or unfair advantage, to ensure that appropriate measures are also put in place to separate individuals and organizations participating in the competitive selection process for each separate SLS Project procurement, given that the Province considers that such individuals and organizations could potentially have access, through their participation in one competitive selection process for the SLS Project, to confidential information or knowledge that could materially improve, or reasonably be perceived to materially improve, the relative competitive position of a participant in another competitive selection process for the SLS Project.

Any Respondent Team Member intending to participate in the competitive selection process for any other SLS Project must therefore comply with the terms of this RFQ, including implementing ethical barriers that have been approved pursuant to the process set out in the “Relationship Review Process Description”, to separate:

- (i) any members of such Respondent Team Member participating in the Competitive Selection Process for the Project; and
- (ii) any members of the same entity (each, a “Subsequent SLS Procurement Participant”) participating in a competitive selection process for a subsequent SLS Project (each, a “Subsequent SLS Procurement”).

Accordingly, in order to participate in any Subsequent SLS Procurement, and in advance of participating in such Subsequent SLS Procurement, a Respondent Team Member must provide notice of such intention and such relationship to the Relationship Review Committee, together with such other information as the Relationship Review Committee may require, and confirm, to the satisfaction of the Province, the establishment of ethical barriers between the Respondent Team Member and the Subsequent SLS Procurement Participant consistent with the general guidelines established by the Province in the “Relationship Review Process Description”.

Confirmation of compliance with the requirements of this Section 5.10.2 and with any such measures, as so implemented, will be required in the Response. The Province may, at its discretion, disqualify any Respondent or permit a Respondent to continue and impose such conditions as the Province may consider to be in the public interest or otherwise required by the Province, if any Respondent Team Member does not comply with the requirements of this Section 5.10.2.

### 5.10.3 Relationship Disclosure and Review Process

At the time of any disclosure under Section 5.10.1 or notice under Section 5.10.2 of this RFQ, the Respondent is to include sufficient information and documentation to demonstrate that appropriate measures have been or will be implemented to mitigate, minimize, or eliminate the actual, potential, or perceived conflict of interest or unfair advantage, as applicable. The Respondent is to provide such additional information and documentation and may be required to implement such additional measures as the Province at its discretion may require in connection with the Province's consideration of the disclosed relationship and proposed measures.

The Province and the COI Adjudicator may, in their discretion, consider actual, potential or perceived conflicts of interest and unfair advantage.

A description of the "Relationship Review Process Description" is posted in the RFQ Data Room.

## 5.11 Relationships

### 5.11.1 Use or Inclusion of Restricted Parties

The Province may, at its discretion, disqualify any Respondent or permit a Respondent to continue and impose such conditions as the Province may consider to be in the public interest or otherwise required by the Province, if the Respondent, any of its Respondent Team Members, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and any other persons associated with any of them is a Restricted Party or if the Respondent, any of its Respondent Team Members or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and any other persons associated with any of them uses, directly or indirectly, a Restricted Party:

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

Each Respondent is responsible to ensure that, in connection with the Respondent's participation in the Competitive Selection Process, neither it nor any of its Respondent Team Members nor any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of

them is or includes or uses, consults or seeks advice, directly or indirectly, from any Restricted Party except as permitted by this Section 5.11.

#### 5.11.2 Restricted Parties

The Province has identified the following as Restricted Parties, including their former and current employees who fall within the definition of Restricted Party:

- AMTG Consulting Ltd.
- Anthony Steadman and Associates Inc.
- Ausenco Sustainability Inc.
- Boughton Law Corporation
- Charter Project Delivery Inc.
- Clark Wilson LLP
- Colliers International
- COWI North America Ltd.
- David Weatherby
- Deloitte Touche Tohmatsu Limited
- DIALOG Ltd.
- Diamond Land Consultants Inc.
- DM Fourchalk Property Consultants Inc.
- Enderli Consulting
- Essential Acquisition Services Ltd.
- Farris LLP
- Fred Cummings Ltd.
- Gateway Land Services Ltd
- GCP Property Consultant
- Golder Associates Ltd.
- Hatch Ltd.
- Infra-Link Consulting Ltd.
- Iridium Consulting Ltd.
- J. Buckle Consulting Ltd.
- Lucas Solutions Ltd.
- Maison Blanche Consulting Inc.
- McTavish Resource & Management Consultants Ltd.

- Miller Thomson LLP
- MP2 Enterprises Inc.
- Norton Rose Fulbright Canada LLP
- Pacific Land Services Inc.
- Pacific Veritas Consulting Ltd.
- Perkins Eastman
- Senez Consulting Ltd.
- Simmons Property Services Inc.
- Spur Communication Inc.
- Steer Davies Gleave North America Inc.
- Target Land Surveying (Surlang) Ltd.
- The Elliott Consulting Group
- Underhill Geomatic Ltd.
- Wardley Consulting Group Inc.
- Westco Consulting Inc.
- WMG Construction Management Services
- Zenith Appraisal Land Consulting Ltd.
- The Province, BCTFA, BCIB, BCRTC, TI Corp, TransLink or Infrastructure BC Inc.

This is not an exhaustive list of Restricted Parties. The Province may identify additional Restricted Parties, including by being added by Addendum to the list during the Competitive Selection Process.

There may be organizations not included in the above list that employ individual Restricted Parties where the organization and relevant individuals are subject to ethical protocols and safeguards to address potential conflict of interest or unfair advantage issues. The RFQ Data Room contains a non-exhaustive list of individual Restricted Parties. Respondents are responsible for making appropriate enquiries with any organization or individual they intend to involve in the preparation of a Response.

### 5.11.3 Shared Use

A Shared Use Person is a person identified by the Province as eligible to enter into arrangements with any and all Respondents but may not enter into exclusive arrangements with any Respondent. Shared Use Persons include persons who have unique or specialized information or skills such that the Province considers at its discretion their availability to all Respondents to be desirable in the interests of the Competitive Selection Process.

No Shared Use Persons have been identified for the Project; however, the Province may from time to time identify one or more persons as a Shared Use Person.

#### 5.11.4 Conflict of Interest Adjudicator

Boughton Law Corporation acting, principally, through the services of Doug Hopkins has been appointed as COI Adjudicator to make decisions on conflicts of interest and unfair advantage and other relationships, including whether any person is a Restricted Party and any matters referenced in Section 5.10.2 of this RFQ.

The COI Adjudicator and the Province may make decisions or exercise rights under this Section 5.11.4 and this RFQ for conflicts of interest, unfair advantage whether addressed in advance or otherwise, and all provisions of this Section 5.11.4 will apply with such modifications as the Province or the COI Adjudicator may consider necessary.

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

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

##### 5.11.4.1 Request for Advance Rulings

A Respondent or a current or prospective Respondent Team Member or a current or prospective advisor or consultant to a Respondent or Respondent Team Member who has any concerns regarding whether it or any of its current or prospective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents is or may be a Restricted Party, any matters referenced in Section 5.10.2 of this RFQ, or has a concern about a conflict of interest or unfair advantage it may have, is encouraged to request an advance ruling in accordance with this Section 5.11.4.1

To request an advance ruling, a Respondent or a current or prospective Respondent Team Member or a current or prospective advisor or consultant to a Respondent or Respondent Team Member should submit to the Contact Person by email, not less than 10 days prior to the Submission Time, all relevant information and documentation, including:

- (a) names and contact information of the Respondent and the person in respect of which the advance ruling is requested;
- (b) a detailed description of the relationship that may constitute or give rise to an actual, potential, or perceived conflict of interest or unfair advantage;

(c) a detailed description of the steps taken to date and future steps proposed to be taken to eliminate or mitigate the conflict of interest or unfair advantage; and

(d) copies of any relevant documentation.

The Province may make an advance ruling or may refer the request for an advance ruling to the COI Adjudicator. If the Province refers the request to the COI Adjudicator, the Province may make its own submissions regarding the issues raised to the COI Adjudicator.

Subject to Section 5.2 of this RFQ, all requests for advance rulings will be treated in confidence. If any person, including any Respondent or current or prospective Respondent Team Member or advisor or consultant, becomes a Restricted Party, it may be listed in an Addendum to this RFQ or in subsequent Competitive Selection Process documents as a Restricted Party.

#### 5.11.4.2 The Province May Request Advance Rulings

The Province may also independently make advance rulings or may seek an advance ruling from the COI Adjudicator, where the Province identifies a potential conflict, unfair advantage or a person who may be a Restricted Party, or any matters referenced in Section 5.10.2 of this RFQ. The Province will, if it seeks an advance ruling from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Province seeks an advance ruling from the COI Adjudicator, the Province will give notice to the Respondent and may give notice to the possible Restricted Party so that it may make its own submissions into the issues raised to the COI Adjudicator.

The onus is on the Respondent to clear any potential conflict, unfair advantage, or Restricted Party, or to establish any conditions for continued participation, and the Province may require that the Respondent make an application under Section 5.11.4.1

#### 5.11.4.3 Decisions Final and Binding

The decision of the Province or the COI Adjudicator, as applicable, is final and binding on the persons requesting the ruling and all other parties including Respondents, Respondent Team Members, and the Province. The Province 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.

#### 5.11.5 Exclusivity

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

Team, or any firm or employer of any of its Key Individuals, participates as a member of any other Respondent Team.

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

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

- (a) names and contact information of the Respondent or prospective Respondent Team member making the disclosure;
- (a) a detailed description of the relationship that raises the possibility of non-exclusivity;
- (b) a detailed 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
- (c) copies of any relevant documentation.

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

#### 5.11.5.1 Exclusivity - The Province May Request Advance Rulings

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

The onus is on the Respondent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Province may require that the Respondent make an application under Section 5.11.5 of this RFQ.

#### 5.11.5.2 Exclusivity - Rulings Final and Binding

The decision of the Province or the COI Interest Adjudicator, as applicable, is final and binding on the persons requesting the ruling and all other parties including Respondents, Respondent Team and Respondent Team Members and the Province. The Province or the COI Adjudicator, as applicable, has discretion to establish the relevant processes from time to time, including any circumstance in which a decision may be amended or supplemented.

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

### 5.12 Fairness Reviewer

The Province has appointed Jane Shackell, QC as 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. The Fairness Reviewer will provide a written report at the end of the RFQ phase.

The Fairness Reviewer will be:

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

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

### 5.13 No Representation for Accuracy of Information

None of the Province, BCTFA, TI Corp, Infrastructure BC or any of their respective representatives, agents, consultants or advisors makes any representation or warranty, or has any liability or responsibility whatsoever, with respect to the accuracy, reliability, sufficiency, relevance or completeness of any of the information set out in this RFQ or its appendices (as amended from time to time), the Project Website, the Data Room, or in any other background or

reference information or documents made available to Respondents pursuant to or in connection with this RFQ.

Responses are to be prepared and submitted solely based on information independently obtained and verified by each Respondent, and on the basis of the Respondent's independent investigations, examinations, knowledge, analysis, interpretation, information, and judgment, rather than in reliance on information provided in, pursuant to or in connection with this RFQ or on the Respondent's analysis or interpretation of any such information.

Nothing in this RFQ or otherwise relieves Respondents from responsibility for undertaking their own investigations and examinations and developing their own analysis, interpretations, opinions, and conclusions with respect to the matters set out or referred to in this RFQ and the preparation and delivery of their Responses.

## 6 DEFINITIONS

In this RFQ the following terms have the meanings set out as corresponding to those terms:

**“Addenda”** or **“Addendum”** means each amendment to this RFQ issued by the Contact Person as described in Section 3.9 of this RFQ.

**“Affiliated Persons”** or affiliated person, or persons affiliated with each other, are:

- (a) a corporation and
  - (1) a person by whom the corporation is controlled,
  - (2) each member of an affiliated group of persons by which the corporation is controlled, and
  - (3) a spouse or common-law partner of a person described in subparagraph (1) or (2) or (b);
- (b) two corporations, if
  - (1) each corporation is controlled by a person, and the person by whom one corporation is controlled is affiliated with the person by whom the other corporation is controlled,
  - (2) one corporation is controlled by a person, the other corporation is controlled by a group of persons, and each member of that group is affiliated with that person, or
  - (3) each corporation is controlled by a group of persons, and each member of each group is affiliated with at least one member of the other group;
- (c) a corporation and a partnership, if the corporation is controlled by a particular group of persons, each member of which is affiliated with at least one member of a majority interest group of partners of the partnership, and each member of that majority interest group is affiliated with at least one member of the particular group;
- (d) a partnership and a majority interest partner of the partnership;
- (e) two partnerships, if
  - (1) the same person is a majority interest partner of both partnerships,
  - (2) a majority interest partner of one partnership is affiliated with each member of a majority interest group of partners of the other partnership, or
  - (3) each member of a majority interest group of partners of each partnership is affiliated with at least one member of a majority interest group of partners of the other partnership;

- (f) a person and a trust, if the person
  - (1) is a majority interest beneficiary of the trust, or
  - (2) would, if this subsection were read without reference to this paragraph, be affiliated with a majority interest beneficiary of the trust; and
- (g) two trusts, if a contributor to one of the trusts is affiliated with a contributor to the other trust and
  - (1) a majority interest beneficiary of one of the trusts is affiliated with a majority interest beneficiary of the other trust,
  - (2) a majority interest beneficiary of one of the trusts is affiliated with each member of a majority interest group of beneficiaries of the other trust, or
  - (3) each member of a majority interest group of beneficiaries of each of the trusts is affiliated with at least one member of a majority interest group of beneficiaries of the other trust.

**“Affordability Requirement”** means the need to not exceed the contract price for the Project as set out in the RFP.

**“AIRCC”** means Allied Infrastructure and Related Construction Council of BC.

**“BCEAO”** means the British Columbia Environmental Assessment Office.

**“BC Infrastructure Benefits Inc”** or **“BCIB”** means the entity that will provide required Project labour force required and manage labour relations for Project Co.

**“BCRTC”** means British Columbia Rapid Transit Company which operates and maintains the SkyTrain System on behalf of TransLink.

**“BCTFA”** means the British Columbia Transportation Financing Authority, a corporation continued under the *Transportation Act* (British Columbia)

**“CBA”** means Community Benefits Agreement which has the meaning described in Section 1.7.8 of this RFQ.

**“Claims”** includes any claims, actions, proceedings, causes of action, suits, debts, dues, accounts, bonds, warranties, claims over, indemnities, covenants, contracts, losses (including indirect and consequential losses), damages, remuneration, compensation, costs, expenses, grievances, executions, judgments, obligations, liabilities (including those relating to or arising out of loss of opportunity or loss of anticipated profit), rights and demands whatsoever, whether

actual, pending, contingent or potential, whether express or implied, whether present or future and whether known or unknown, and all related costs and expenses, including legal fees on a full indemnity basis, howsoever arising, including pursuant to law, equity, contract, tort, statutory or common law duty, or to any actual or implied duty of good faith or actual or implied duty of fairness, or otherwise.

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

**“Confidential Information”** has the meaning given to it in the Confidentiality Agreement.

**“Confidentiality Agreement”** means the form substantially as attached as Appendix C.

**“Conflict of Interest Adjudicator”** or COI Adjudicator means the Conflict of Interest Adjudicator described in Section 5.11.4 of this RFQ.

**“Consolidated Approach”** means constructing the SLS Project in one phase using SkyTrain technology with an advance works package to mitigate risk.

**“Construction Lead”** means the individual who will be responsible for management and coordination of all Project construction issues and activities as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Contact Person”** means the Contact Person as set out in the Summary of Key Information.

**“Contract Execution”** means the date on which the Project Agreement is entered into between the Province and Project Co.

**“Definitive Project Agreement”** means the documentation forming part of the RFP and comprising the Draft Project Agreement as revised and amended by Addenda and delivered to the Proponents in accordance with the RFP.

**“Design-Build Contractor”** means an entity or entities exclusive to one Respondent Team identified by a Respondent in its Response to have primary responsibility for carrying out the Design and Construction of the Project.

**“Design-Build Contractor Director”** means the individual proposed by the Respondent to be responsible for directing the Design-Build Contractor, as identified in the Respondent’s Response and who, the Province anticipates, will have the authority to represent Project Co as the main point of contact for the Province through the term of the Project Agreement.

**“Design Contractor”** means an entity or entities exclusive to one Respondent Team identified by a Respondent in its Response to have primary responsibility for carrying out the design of the Project.

**“Design Lead”** means the individual proposed by the Respondent to be responsible for leading the design of the Project as identified in the Respondent’s Response.

**“Draft Project Agreement”** means the form of Project Agreement entitled “Draft SLS Guideway Contract Project Agreement” issued as part of the RFP.

**“EA”** means Environmental Assessment.

**“EAC”** means an Environmental Assessment Certificate.

**“ESR”** means Environmental Screening Review.

**“Evaluation Criteria”** means the Evaluation Criteria described in Appendix A.

**“Fairness Reviewer”** means the Fairness Reviewer described in Section 5.12 of this RFQ.

**“Financial Close”** means the date on which the Project Agreement is entered into between the Province and Project Co and the financing arrangements contemplated by the Project Agreement are completed and all conditions precedent to the drawdown of funds under such arrangements are satisfied and such funds are available to be drawn down.

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

**“Gender-Based Analysis Plus”** or **“GBA+”** has the meaning described in Section 1.7.10 of this RFQ.

**“Guideway Contract”** or **“Project”** means the design, construction, and partial financing of the specified infrastructure and related ancillary work as described in this RFQ.

**“Indigenous Participation Nominated Projects”** means those projects that a Respondent includes in its Response to demonstrate the strength and relevance of its Respondent Team Members’ experience and capabilities with Indigenous involvement in project delivery as related to the Evaluation Criteria.

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

**“Key Individual”** means an individual exclusive to one Respondent Team identified by a Respondent in its Response to hold a Key Position in the event that the Respondent becomes Project Co. At the time the Project Agreement is entered into, a Key Individual may be an

employee, subcontractor or consultant of Project Co, the Design-Build Contractor, Design Contractor. The Key Individuals identified include the following positions:

- (a) Design-Build Contractor Director;
- (b) Construction Lead;
- (c) Design Lead;

and such other positions as may be specified as being Key Individuals in subsequent phases of the Competitive Selection Process, including the RFP phase.

**“Metro Vancouver”** means a federation of 21 municipalities, one Electoral Area and one Treaty First Nation (Tsawwassen First Nation) that collaboratively plans for and delivers regional-scale services. Its core services are drinking water, wastewater treatment and solid waste management. Metro Vancouver also regulates air quality, plans for urban growth, manages a regional parks system and provides affordable housing. The regional district is governed by a Board of Directors of elected officials from each local authority. <http://www.metrovancouver.org/>

**“Preferred Proponent”** means the Proponent, if any, selected by the Province as part of the Competitive Selection Process to enter into the Project Agreement.

**“Project”** or **“Guideway Contract”** means the design, construction, and partial financing of the specified infrastructure and related ancillary work as described in this RFQ.

**“Project Agreement”** means the agreement or agreements, if any, entered into by the Province and Project Co for the delivery of the Project.

**“Project Co”** means the entity or entities that enter into the Project Agreement for the delivery of the Project and have ultimate responsibility for acting as the prime contractor and for meeting the obligations of the Project Agreement as well as primary responsibility for the quality, environmental and communications management aspects of the Project.

**“Project Experience Nominated Projects”** means those projects that a Respondent includes in its Response to demonstrate the strength and relevance of its Respondent Team experience and capabilities as related to the Evaluation Criteria.

**“Project Website”** means the publicly available website established by the Province for the Project, as described in Section 1.6 of this RFQ.

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

**“Proponent Agreement”** means an agreement substantially in the form set out in Appendix G to this RFQ.

**“Proposal”** means a submission prepared by a Proponent in response to the RFP.

**“Province”** means Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure.

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

**“Response Declaration Form”** means the form substantially as attached as Appendix E.

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

**“Relationship Disclosure Form”** means the form substantially as attached as Appendix D.

**“Request for Information” or “RFI”** means a request for information as described in Section 3.6 of this RFQ.

**“Request for Information Form”** means the form set out in Appendix F of this RFQ.

**“Request for Proposals” or “RFP”** means the request for proposals which may be issued by the Province as a phase of the Competitive Selection Process.

**“Request for Qualifications” or “RFQ”** means this request for qualifications issued by the Province as the first phase of the Competitive Selection Process.

**“Respondent”** means:

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

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

**“Respondent Team”** means a Respondent’s proposed Project Co, Design-Build Contractor, Design Contractor and Key Individuals as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Respondent Team Member”** means a member of a Respondent Team as may be changed pursuant to this RFQ.

**“Responses to Respondents” or “RTRs”** means the documents entitled “Response to Respondents” and issued by the Province through the Contact Person to respond to enquiries or RFIs or otherwise to provide any information, communication, or clarification to Respondents or any of them, and **“Response to Respondents” or “RTR”** means any one of such documents.

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

**“Revisions”** means changes made by a Respondent to its Response, including a withdrawal of its Response, in accordance with this RFQ, and **“Revision”** means any one of such Revisions.

**“RFQ Data Room”** means a restricted access data website with background data relating to the Project.

**“Shared Use Persons”** means those persons, if any, who are specifically named in Section 5.11.3 of this RFQ.

**“SkyTrain System”** means the SkyTrain advanced light rapid transit system presently operated by TransLink on its Millennium Line and Expo Line into which the Project, upon completion, is to be fully integrated.

**“SLS Project” or “Surrey Langley SkyTrain Project”** means the activities, objectives and improvements described in Section 1 of this RFQ.

**“Stations Contract”** means the design and construction of eight stations and nine propulsion power substations in relation to the SLS Project.

**“Stipend”** means the sum described as the stipend in Section 2.3 of this RFQ.

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

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

**“Summary of Key Information”** means the page or pages having the same name and forming a part of this RFQ.

**“Systems and Trackwork Contract”** means the design and construction of trackwork, power rail and LIM rail systems, communications, automated train control, propulsion power equipment in relation to the SLS Project.

**“Termination Fee”** means the sum described as the termination fee in Section 2.3 of this RFQ.

**“Three Municipalities”** means collectively the City of Surrey, Township of Langley, and the City of Langley.

**“TI Corp”** means the Transportation Investment Corporation.

**“UNDRIP”** means the United Nations Declaration on the Rights of Indigenous Peoples.

## 7 INTERPRETATION

In this RFQ:

- (a) the headings, captions, and formatting are inserted for convenience only and are not to be used in the interpretation of this RFQ.
- (b) when an action, decision, consent or approval or any other thing is said to be in the Province’s “discretion” or words of like effect, unless the context otherwise requires, it means the sole, absolute, and unfettered discretion of the Province.
- (c) words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa.
- (d) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of or Appendix to, this RFQ.
- (e) each Appendix attached to this RFQ is an integral part of this RFQ as if set out at length in the body of this RFQ.
- (f) All dollar values are Canadian dollars unless otherwise indicated.
- (g) A reference to a “person” includes a reference to an individual, legal person representative, corporation, body corporate, firm, partnership, trust, trustee, syndicate, joint venture, limited liability company, association, unincorporated organization, union, or government authority.

(h) the words "including" and "includes" are not meant to be limiting.

This RFQ may be subject to one or more trade agreements.

## APPENDIX A: RESPONSE GUIDELINES AND EVALUATION CRITERIA

### Surrey Langley SkyTrain Project: Guideway Contract

#### Table of Contents – Appendix A

Part 1. Response Guidelines

Part 2. Evaluation

2.1 Evaluation Criteria

2.2 Response Content Requirements

#### Attached Sample Forms:

Form A-1: Project Experience Nominated Projects Details

Form A-2: Project Experience Nominated Projects Summary

Form A-3: Indigenous Participation Nominated Project Details

Form A-4: Financing Nominated Project Details

Form A-5: Key Individual Experience

**PART 1. RESPONSE GUIDELINES**

**Responses should:**

- a) Be clearly marked with the words “**Response to RFQ – Surrey Langley SkyTrain Project: Guideway Contract**” and addressed to the Submission Location;
- b) Include all of the information requested in this Appendix A;
- c) Be on 8.5” x 11” paper size pages (charts and tables can be on larger paper size, max. 11” x 17”);
- d) Have minimum 2 cm margins, 11-point font, and 1.5-line spacing;
- e) Follow the submission structure provided in Table A-1 of this Appendix A; Material submitted which exceeds the page limit may not be evaluated, at the discretion of the Province;
- f) Within the packages, follow the response structure and content requirements outlined in Table A-3 of this Appendix A;
- g) Be limited to 100 double-sided sheets (200 pages), including the Key Individuals’ resumes but excluding Packages 1, 6, and 7 (see Table A-1); (Responses which exceeds the page limit may not be evaluated, at the discretion of the Province);
- h) Be enclosed within one or more sealed containers labeled ‘x of y’ and clearly labelled with the following: “Response to RFQ – Surrey Langley SkyTrain Project: Guideway Contract” and Respondent name and return address per contact information provided in Table A-3.
- i) Be also submitted as an electronic copy in a single, searchable, PDF file format on one USB flash drive.

**Table A-1: Submission Structure**

Type	Contents	Number of Copies
<b>Package 1 Introduction</b>	<ul style="list-style-type: none"> <li>a) Transmittal Letter;</li> <li>b) Section 1.1 and 1.2 of Table A-3 of this Appendix A;</li> <li>c) Relationship Disclosure Form (Appendix D of this RFQ) signed by the Respondent;</li> <li>d) Response Declaration Form (Appendix E of this RFQ) signed by the Respondent; and</li> <li>e) A table listing all the individuals and companies named in Packages 1-7 of the Response.</li> </ul>	Two numbered and bound copies and one unbound printed copy marked “Master”

Type	Contents	Number of Copies
<b>Package 2 Project Co</b>	Project Co information (Section 1 and section 2.1 of Table A-3 of this Appendix A)	Three numbered and bound copies and one unbound printed copy marked "Master"
<b>Package 3 Design-Build Contractor</b>	Design-Build Contractor information (section 3.1, 3.2, 3.3 of Table A-3 of this Appendix A)	Three numbered and bound copies and one unbound printed copy marked "Master"
	Design-Build Contractor Director and Construction Lead resumes to be included as an appendix to Package 3 (section 3.4 and section 3.5 of Table A-3 of this Appendix A).	
<b>Package 4 Design Contractor</b>	Design Contractor information (section 4.1 of Table A-3 of this Appendix A)	Three numbered and bound copies and one unbound printed copy marked "Master"
	Design Lead resume to be included as an appendix to Package 4 (section 4.2 of Table A-3 of this Appendix A).	
<b>Package 5 Indigenous Contracting Opportunities, Apprenticeships, Training, and Development</b>	Indigenous Participation and Apprenticeships, Training and Development (section 5.1 and 5.2 of Table A-3 of this Appendix A)	Three numbered and bound copies and one unbound printed copy marked "Master"
<b>Package 6 Financial</b>	Financial information (section 6.1, 6.2, and 6.3 of Table A-3 of this Appendix A).	Two numbered and bound copies and one unbound printed copy marked "Master"
<b>Package 7 Nominated Projects</b>	Project Experience Nominated Projects information (section 7.1 of Table A-3 of this Appendix A).	Six numbered and bound copies and one unbound printed copy marked "Master"
	Indigenous Participation Nominated Projects information (section 7.2 of Table A-3 of this Appendix A).	
<b>Consolidated file</b>	In addition to packages outlined above, include the entire submission as one consolidated file	One bound copy marked "Master"

**PART 2. EVALUATION**

**2.1 Evaluation Criteria**

The Province will evaluate Responses by applying the Evaluation Criteria and weighting outlined in Table A-2 of this Appendix A, in accordance with each section of the Response content requirements outlined in Table A-3 of this Appendix A.

Without limiting in any way the Province’s rights and discretions, including in Section 5.4 of this RFQ, in respect of any of the requirements referenced in Table A-3 of this Appendix A, the Province may in its discretion, after reviewing the contents of the Response in accordance with section 6.3 of Table A-3 of this Appendix A, discontinue the evaluation of any Response in accordance with the provisions of Section 4.3 of this RFQ.

**Table A-2: Evaluation Framework and Criteria**

Section	Evaluation Criteria	Weighting
<b>Section 1 Introduction</b>	Information relating to: 1.1 Respondent Team; and 1.2 Contact Information	-
<b>Section 2 Project Co</b>	Strength and relevance of demonstrated experience and capability relating to: 2.1 Infrastructure Development and Project Management.	25 points
<b>Section 3 Design-Build Contractor</b>	Strength and relevance of demonstrated experience and capability relating to: 3.1 Design Management; 3.2 Construction; 3.3 Traffic Management; 3.4 The “Design-Build Contractor Director”; and 3.5 The “Construction Lead”.	35 points
<b>Section 4 Design Contractor</b>	Strength and relevance of demonstrated experience and capability relating to: 4.1 Design; and 4.2 The “Design Lead”.	30 points
<b>Section 5 Indigenous Contracting Opportunities, Apprenticeships, Training, and Development</b>	Strength and relevance of demonstrated experience and capability relating to: 5.1 Indigenous Relationships; and 5.2 Indigenous Contract Opportunities, Apprenticeships, Training and Development.	10 points

Section	Evaluation Criteria	Weighting
<b>Section 6 Financial</b>	6.1 Financing Nominated Projects Sufficiency and relevance of demonstrated experience and capability relating to: 6.2 Project Financing Experience; and 6.3 Financial Capacity.	See section 4.3 of the RFQ
<b>Section 7 Nominated Projects</b>	7.1 Project Experience Nominated Projects Details and Project Experience Nominated Projects Summary 7.2 Indigenous Participation Nominated Projects	-
<b>Total</b>		<b>100 Points</b>

## 2.2 Response Content Requirements

Responses should include the section numbers and titles provided in Table A-3 of this Appendix A and should indicate how the information provided by the Respondent relates to the specified content requirements in Table A-3 of this Appendix A.

**Table A-3: Response Structure and Content Requirements**

Package	Section	Title	Response Content Requirements
<b>1</b>	<b>1.</b>	<b>Introduction</b>	
	<b>1.1</b>	<b>Respondent Team</b>	<ul style="list-style-type: none"> <li>a) Provide the legal name of the entity or entities comprising each of the following:               <ul style="list-style-type: none"> <li>i. Respondent Team Members</li> <li>ii. Design-Build Contractor</li> <li>iii. Design Contractor(s); and</li> <li>iv. Design-Build Contractor guarantor(s) (as applicable).</li> </ul> </li> <li>b) Provide organization chart(s) describing all of the proposed major contractual and partnership relationships among the Respondent Team Members and the entities comprising each;</li> <li>c) Provide project organization chart(s) showing the proposed reporting relationships of the following:               <ul style="list-style-type: none"> <li>i. senior project management (including Key Individuals);</li> <li>ii. management committee(s); and</li> <li>iii. Project Co board(s) (or their organizational equivalents).</li> </ul> </li> <li>d) Provide a short description of the Respondent and each Respondent Team Member excluding individuals (for publication of the team who become the shortlisted Respondents); and</li> <li>e) For each Respondent Team Member, provide evidence of their ability to obtain bonding in North America for this Project.</li> </ul>
	<b>1.2</b>	<b>Contact Information</b>	Provide the name and contact details for the Respondent Representative. <ul style="list-style-type: none"> <li>a) Name;</li> </ul>

Package	Section	Title	Response Content Requirements
			b) Employer; c) Mailing/courier addresses; d) Telephone number; and e) Email address.  <b>Please note:</b> The Respondent Representative will be the <u>only</u> person to receive communication from the Contact Person regarding this RFQ.
<b>2</b>	<b>2.</b>	<b>Project Co</b>	
	<b>2.1</b>	<b>Infrastructure Development and Project Management</b>	For each of the letter items below, select up to three (3) of the Project Experience Nominated Projects and describe, including relevance to the Project, the Respondent's role, strength, experience, and capability with the following activities: a) Developing, managing, and delivering projects similar in scope and size to the Project; in particular: i. Large, schedule- and cost-sensitive, multi-disciplinary projects, with complex interrelationships among project team members, and particularly design-build or public private partnership projects; ii. Rail rapid transit projects in urban areas; iii. Large projects with complex traffic management requirements b) Successfully developing and implementing: i. Quality management systems on large multidisciplinary infrastructure projects including design, construction, and fabrication; ii. Health and safety programs on long linear urban development projects with multiple active sites; and iii. Environmental and archaeological management programs in urban areas. c) Interface management i. Interface management with other prime contractors working on, or adjacent to the project; and ii. Integration and configuration of rail rapid transit project components and/or contracts.

Package	Section	Title	Response Content Requirements
			<p>d) Working with the owner and stakeholders (including the public, local authorities, municipalities, and regulatory agencies) to develop and implement comprehensive communications programs, including:</p> <ul style="list-style-type: none"> <li>i. Communications in relation to construction activities, including traffic management (road, and rail); and</li> <li>ii. Support to the Province, municipalities, or Province’s community and stakeholder engagement programs, including businesses.</li> </ul>
<b>3</b>	<b>3.</b>	<b>Design-Build Contractor</b>	
	<b>3.1</b>	<b>Design Management</b>	<p>For each of the letter items below, select up to three (3) of the Project Experience Nominated Projects and describe, including relevance to the Project, the Design-Build Contractor’s role, strength, experience, and capability with managing the design of the following:</p> <ul style="list-style-type: none"> <li>a) Large, multi-disciplinary projects, particularly under design-build or public private partnership project delivery models;</li> <li>b) Elevated rail rapid transit structures in urban corridors; and</li> <li>c) Design integration and collaboration in relation to the stations and systems and trackwork requirements..</li> </ul>
	<b>3.2</b>	<b>Construction</b>	<p>For each of the letter items below, select up to three (3) of the Project Experience Nominated Projects and describe, including relevance to the Project, the Design-Build Contractor’s role, strength, experience, and capability with the following:</p> <ul style="list-style-type: none"> <li>a) Managing and constructing large, schedule-sensitive, multi-disciplinary projects involving construction of rail rapid transit through urban areas, particularly design-build or public private partnership projects.</li> <li>b) Managing and constructing projects with multiple interfaces including system suppliers, transit operators, utilities, and municipalities.</li> <li>c) Sequencing, scheduling, and logistics of rail rapid transit construction projects;</li> <li>d) Elevated guideway construction including:             <ul style="list-style-type: none"> <li>i. Innovative solutions to construction activities through a confined right-of way;</li> <li>ii. Interface management</li> </ul> </li> </ul>

Package	Section	Title	Response Content Requirements
			<p>iii. Projects involving direct fixation trackwork In particular, casting direct fixation fastener inserts into the structural concrete of the precast segments forming the elevated guideway so the track fasteners can be placed on the structural deck of the segmental beam to tight tolerances both horizontally and vertically; and</p> <p>e) Working collaboratively with owners, operators and regulatory authorities.</p>
	3.3	<b>Traffic Management</b>	<p>For each of the letter items below, select up to three (3) of the Project Experience Nominated Projects and describe, including relevance to the Project, the Design-Build Contractor's role, strength, experience, and capability with:</p> <p>a) Maintaining traffic and transit operations for projects involving long linear alignments through urban areas and in closed proximity to highways; and</p> <p>b) Mitigating construction impacts such as noise, dust, vibration, and business impact, including innovative approaches to preserve access to and visibility of residences and businesses.</p>
	3.4	<b>Key Individual – Design-Build Contractor Director</b>	<p>Provide a resume and up to three (3) relevant project experiences using Form A-5 of this Appendix A for this Key Individual as identified in the project organization chart(s).</p> <p>The resume and experience cited for this Key Individual should describe relevant qualifications, including education and experience in the same or substantially similar roles on projects of equivalent complexity.</p> <p>The resume for the Design-Build Contractor Director should describe the degree and duration of involvement with managing, day to day, the design and construction of large, complex, elevated rail rapid transit design-build projects through urban corridors, including systems integration.</p> <p>The experience described for a Key Individual may include projects that are not Project Experience Nominated Projects.</p> <p>Describe the availability of the Design-Build Contractor Director as follows:</p> <p>a) Percentage of time the individual will dedicate to each phase of the Project for the following two phases: RFP, design &amp; construction.</p> <p>b) Describe any foreseeable time constraints that will impact the Key Individual's ability to perform according to the Project schedule.</p>

Package	Section	Title	Response Content Requirements
	3.5	<b>Key Individual – Construction Lead</b>	<p>Provide a resume and up to three (3) relevant project experiences using Form A-5 of this Appendix A for this Key Individual as identified in the project organization chart(s).</p> <p>The resume and experience cited for this Key Individual should describe relevant qualifications, including education and experience in the same or substantially similar roles on projects of equivalent complexity.</p> <p>The resume for the Construction Lead should describe the degree and duration of involvement with managing the construction of large, complex, elevated rail rapid transit design-build projects through urban corridors.</p> <p>The experience described for a Key Individual may include projects that are not Project Experience Nominated Projects.</p> <p>Describe the availability of the Construction Lead as follows:</p> <ol style="list-style-type: none"> <li>a) Percentage of time the individual will dedicate to each phase of the Project for the following two phases: RFP, design &amp; construction.</li> <li>b) Describe any foreseeable time constraints that will impact the Key Individual's ability to perform according to the Project schedule.</li> </ol>
<b>4</b>	<b>4.</b>	<b>Design Contractor</b>	
	4.1	<b>Design</b>	<p>For each of the letter items below, select up to three (3) of the Project Experience Nominated Projects and describe, including relevance to the Project, the Design Contractor's role, strength, experience, and capability for each of the following:</p> <ol style="list-style-type: none"> <li>a) Design of rail rapid transit elevated guideways; and</li> <li>b) Urban integration of rail rapid transit projects.</li> </ol>
	4.2	<b>Key Individual – Design Lead</b>	<p>Provide a resume and up to three (3) relevant project experiences using Form A-5 for this Key Individual as identified in the project organization chart(s).</p> <p>The resume and experience cited for this Key Individual should describe relevant qualifications, including education and experience in the same or substantially similar roles on projects of equivalent complexity.</p>

Package	Section	Title	Response Content Requirements
			<p>The resume for the Design Lead should describe the degree and duration of involvement with managing the design of large, complex, rail rapid transit projects, including elevated guideway, particularly design-build projects.</p> <p>The experience described for a Key Individual may include projects that are not Project Experience Nominated Projects.</p> <p>Describe the availability of the Design Lead as follows:</p> <ul style="list-style-type: none"> <li>a) Percentage of time the individual will dedicate to each phase of the Project for the following two phases: RFP, design &amp; construction.</li> <li>b) Describe any foreseeable time constraints that will impact the Key Individual's ability to perform according to the Project schedule.</li> </ul>
<b>5</b>	<b>5</b>	<b>Indigenous Participation and Apprenticeships, Training and Development</b>	
	<b>5.1</b>	<b>Indigenous Relationships</b>	<p>Based only on the Indigenous Participation Nominated Projects, describe, including relevance to the Project, the Respondent Team Members' experience and capability building relationships with Indigenous groups in support of project delivery with reference to:</p> <ul style="list-style-type: none"> <li>a) Corporate values</li> <li>b) Collaborating with the owner; and</li> <li>c) Indigenous cultural recognition and education</li> </ul> <p>Responses should indicate:</p> <ul style="list-style-type: none"> <li>▪ Corporate policies, practices, or programs,</li> <li>▪ Successes, challenges, and strategies implemented to overcome challenges, and</li> <li>▪ Evidence relevant to relationship building with Indigenous groups.</li> </ul>
	<b>5.2</b>	<b>Indigenous Contracting Opportunities, Apprenticeships, Training, and Development</b>	<p>Based only on the Indigenous Participation Nominated Projects, describe, including relevance to the Project, the Respondent Team Members' experience, including the Project Co's's experience, and capability with Indigenous involvement in project delivery, including developing and implementing any or all of the following:</p> <ul style="list-style-type: none"> <li>a) Working with Indigenous-owned or affiliated businesses in partnerships or joint ventures or as subcontractors;</li> </ul>

Package	Section	Title	Response Content Requirements
			b) Employment of Indigenous peoples; and c) Training, mentorship and/or other development opportunities for Indigenous peoples. Responses should indicate: <ul style="list-style-type: none"> <li>▪ The nature and extent of any contractual obligations to the owner in relation to employment of each Indigenous group, including contract value and person-hours as well as nature of the work;</li> <li>▪ Accountability and performance related the to the contractual obligations including metrics for Indigenous employment and types of work; and</li> <li>▪ Any challenges and mitigation strategies implemented.</li> </ul>
<b>6</b>	<b>6</b>	<b>Financial</b>	
	<b>6.1</b>	<b>Financing Nominated Projects</b>	Submit a maximum of three (3) Financing Nominated Projects using Form A-4 of this Appendix A. Financing Nominated Projects are Projects in which Respondent Members secured construction or other similar financing and are demonstrated to be relevant to the Project. References should be limited to Financing Nominated Projects which achieved financial close since January 1, 2012.
	<b>6.2</b>	<b>Project Financing Experience</b>	Based only on the Financing Nominated Projects, describe, including relevance to the Project, the Respondent Members' experience and capability structuring and raising project financing.
	<b>6.3</b>	<b>Financial Capacity</b>	Demonstrate the financial capacity of the Design-Build Contractor and the guarantors (if any) by providing the items below, assuming an order of magnitude scope value of \$1,200,000,000: <ol style="list-style-type: none"> <li>a) If the Design-Build Contractor is a joint venture;               <ol style="list-style-type: none"> <li>i. The estimated value of the scope of work for each member of the Design-Build Contractor, and</li> <li>ii. Confirmation of whether there are joint and several guarantees.</li> </ol> </li> <li>b) For each Design-Build contractor that is not proposed to be guaranteed by a Design-Build Contractor Guarantor:               <ol style="list-style-type: none"> <li>i. Copies of annual audited financial statements, the audit letters, and the notes to the financial statements, or other similar financial information, for each of the last three fiscal years (entire annual reports should not be provided);</li> <li>ii. If available, copies of the interim financial statements for the last quarter or, if produced semi-annually the last half year, since the last annual audited financial statement provided in i) or, if not available, an explanation as to why;</li> </ol> </li> </ol>

Package	Section	Title	Response Content Requirements
			<ul style="list-style-type: none"> <li>iii. Details of any material off-balance sheet financing arrangements currently in place or, if none, a confirmation as such;</li> <li>iv. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided or, if none, a confirmation as such;</li> <li>v. Details of any credit rating, including any downgrades of credit rating in the last 36 months, or if none, a confirmation as such; and</li> <li>vi. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency proceedings in the last 36 months, and any litigation or other material adverse proceedings (arbitration or regulatory investigations or proceedings) that are still outstanding that may affect the Design-Build Contractor's or the Design-Build Contractor guarantor's (if any) ability to perform its obligations in relation to the Project or, if none, a confirmation as such.</li> </ul> <p>c) For each member of the Design-Build Contractor whose performance is proposed to be guaranteed by a Design-Build Contractor Guarantor:</p> <ul style="list-style-type: none"> <li>i. Evidence, in the form of a signed letter from a senior officer of the Design-Build Contractor Guarantor, of the Design-Build Contractor Guarantor's willingness to act as a Design-Build Contractor Guarantor; and a description of such guarantee; and</li> <li>ii. Items b)(i) to b)(vi) above for the Design-Build Contractor Guarantor.</li> </ul> <p>d) With reference to the information provided in relation to a) and b) above, briefly describe the context of the entity's proposed role and project obligations:</p> <ul style="list-style-type: none"> <li>i. The Design-Build Contractor's capacity to undertake its project obligations (e.g., discuss relevant financial metrics relative to Project scope, financial viability, ability to provide performance security, support and/or guarantees from any other parties, other projects with similar obligations, etc.); and</li> <li>ii. (If any) the Design-Build Contractor Guarantor ability to undertake its obligations (e.g., discuss net and total asset size relative to Project scope, financial capacity, financial viability, etc.).</li> </ul>
7	7	<b>Nominated Projects</b>	
	7.1	<b>Project Experience Nominated Projects</b>	Submit a maximum of nine (9) Project Experience Nominated Projects using Form A-1 of this Appendix A. Project Experience Nominated Projects are projects in which Respondent Team

Package	Section	Title	Response Content Requirements
			<p>Members performed project management, design, construction or other roles and are demonstrated to be relevant to the Project.</p> <p>Submit a completed Form A-2 of this Appendix A.</p>
	<b>7.2</b>	<b>Indigenous Participation Nominated Projects</b>	<p>Submit a maximum of three (3) Indigenous Participation Nominated Projects using Form A-3 of this Appendix A. Indigenous Participation Nominated Projects are projects in which Respondent Team Members' demonstrated experience and capability with Indigenous involvement in project delivery and are demonstrated to be relevant to the Project.</p>

ATTACHED SAMPLE FORMS

**Form A-1 Project Experience Nominated Projects Details**

(Maximum 3 pages in length per project.)

Respondent \_\_\_\_\_, Project Number \_\_\_\_\_ (sequentially numbered 1 to 9), and

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

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name and contract number.</i>
<b>Location of project</b>	<i>Country, province/state, highway/road/facility, site or project extent.</i>
<b>Project Owner</b>	<i>Organization name.</i>
<b>Reference contact details</b>	<i>Key client contacts (individuals), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. By providing this information you are authorizing the Province or the Province’s representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Contract model</b>	<i>Contract structure i.e., public private partnership, design-build, progressive design-build, design-build-finance, design-build-finance-operate, stipulated sum, alliance.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, end of construction date, start of operations date and contract end date.</i>
<b>Time period of involvement</b>	<i>Commencement date and duration of the Respondent Team Member’s involvement.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity. Relevant metrics such as total length of elevated, at-grade, or tunnel; number of stations elevated, at-grade, or underground, complexity of traffic management etc.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Traffic and ridership volumes (if applicable)</b>	<i>Total average daily traffic across corridor (actual or estimated) for primary routes and/or average annual daily ridership (actual or estimated).</i>
<b>Role(s) on project</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team Members, including leadership in the areas of quality, safety and environment. Specify what major activities, especially those used in the Response to demonstrate relevance, were self-performed by the Respondent Team Member. Additionally, specify what major activities were subcontracted by the Respondent Team Member.</i>



Item	Notes to Respondents
	<p><i>If the project involved a joint venture, identify the joint venture partners and discuss the breakdown of roles, responsibilities, and contract value of each partner. Specify roles in relation to specific activities such as systems, guideway, and station construction.</i></p>

**Form A-2 Project Experience Nominated Projects Summary**

Reference Projects	Project Details										RFQ Section
Project Name and Nominated Project #	Project Location	Nature of Project	Key Individuals (where applicable)	Length (km)	Elevated Guideway (if yes, length in km)	No. of Elevated Stations	Contract Value (CAD\$)	Contract Model	Contract Construction Term (Years)	Construction Complete (Year)	Sections and Letters
Nominated Project e.g. 1	City, Province/State, Country	ALRT		8km	Yes 4km	4	\$1,250,000,000	DBFOM	3	2008	3.1a, 4.1a, 5.1f
Nominated Project e.g. 2	City, Province/State, Country	LRT		12km	No	0	\$2,100,000,000	DBFOM	5	2013	3.1a, 4.1a, 5.1a
Nominated Project 1											
Nominated Project 2											
Nominated Project 3											
Nominated Project 4											
Nominated Project 5											

Reference Projects	Project Details										RFQ Section
Nominated Project 6											
Nominated Project 7											
Nominated Project 8											
Nominated Project 9											

**Form A-3 Indigenous Participation Nominated Project Details**

(Maximum 3 pages in length per project)

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

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

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name (as applicable).</i>
<b>Location of project</b>	<i>Country, province/state, site or project extent, urban/rural.</i>
<b>Project owner</b>	<i>Organization name.</i>
<b>Reference contact details</b>	<i>Key client contacts and key Indigenous group contact(s) (individual(s)), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence.</i>  <i>By providing this information you are authorizing the Province or the Province's representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, end of construction date, start of operations date and contract end date.</i>
<b>Time period of involvement</b>	<i>Commencement date and duration.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Contract model</b>	<i>Contract structure i.e., public private partnership, design-build, progressive design-build, design-build-finance, design-build-finance-operate, stipulated sum, alliance.</i>
<b>Involved Indigenous group(s) and role(s) on project</b>	<i>Name(s) of community / partnership / joint venture / sub-contractor.</i>



transportation  
investment  
corporation



Ministry of  
Transportation  
and Infrastructure

Item	Notes to Respondents
<b>Contract obligations (if any)</b>	<i>Contractual obligation in relation to each Indigenous group, including contract value, person-hours, and nature of work.</i>
<b>Impacted Indigenous group(s)</b>	<i>Those identified by an owner, through an environmental assessment or other process, as being impacted.</i>
<b>Role(s) on project</b>	<p><i>Specific role, duties, responsibilities, and contractual obligations of applicable Respondent Team Members, including the Design-Build Contractor and Respondent Team Member, with respect to Indigenous participation.</i></p> <p><i>A brief summary of approach of Respondent Team Members in meeting obligations, including entering into joint ventures or partnerships with Indigenous groups, using Indigenous-owned businesses as subcontractors, employing Indigenous workers, and providing training, mentorship and / or other development opportunities to Indigenous people.</i></p> <p><i>If the project involved multiple Indigenous groups, please describe the duties and responsibilities of the Respondent Team Members with respect to each Indigenous group</i></p>

**Form A-4 Financing Nominated Project Details**

(Maximum 3 pages in length per project)

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

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

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name (as applicable).</i>
<b>Location of project</b>	<i>Country, province/state, site or project extent, urban/rural.</i>
<b>Project owner</b>	<i>Organization name.</i>
<b>Type of project</b>	<i>Examples: bridge, highway, energy facility, hospital, prison, transit line, etc.</i>
<b>Reference contact details</b>	<i>Key client contacts (individuals), including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. By providing this information you are authorizing the Province or the Province’s representatives to contact these individuals for all purposes, including gathering information and documentation, in connection with this RFQ.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, financial close date (financial close since January 1, 2012), end of construction date, start of operations date and contract end date.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events.</i>
<b>Contract model</b>	<i>Contract model. Describe the contractor model, e.g. design-build-finance, etc.</i>
<b>Role(s) and responsibilities with respect to financing</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team Members, in relation to arranging/securing financing, including providing details related to the use of financial advisors, if applicable.</i>
<b>Amount of financing</b>	<i>Value of debt, presented in Canadian Dollars.</i>

Item	Notes to Respondents
<b>Type of financing</b>	<i>Recourse or non-recourse.</i>
<b>Term of financing</b>	<i>Financial close date and duration of financing.</i>
<b>Funding source</b>	<i>Examples: private placement, bank loan.</i>
<b>Performance Security Package</b>	<i>Use of letter of credits, performance bonding, parent company guarantees, and any other types of security to support financing.</i>
<b>Credit Rating</b>	<i>Details of credit rating, if applicable.</i>

**Form A-5 Key Individual Experience**

(Each Form A-5 should not exceed 2 pages)

Respondent \_\_\_\_\_ Key Individual's Title \_\_\_\_\_

Key Individual's Name \_\_\_\_\_

Item	Notes to Respondents
<b>Name of project</b>	<i>Project title</i>
<b>Description of project</b>	<i>A brief description of the project including procurement model, location, scope of work, start and completion date, total or capital budget, project owner, and key project challenges.</i>
<b>Role</b>	<i>The Key Individual's roles / titles on the cited project, a brief summary of the person's specific roles and responsibilities, reporting relationships, and the estimated total time spent in each role on that project, and any additional information that demonstrates their relevant experience and ability</i>
<b>Relevance</b>	<i>Describe how the Key Individual's experience on the cited project is relevant to the anticipated role and responsibility of the Key Individual on the SLS Project</i>
<b>Reference contact details</b>	<i>The information provided for the references should include contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. Confirm that each reference contact is aware their name is being provided and is willing to provide a reference to the Province.</i>

**APPENDIX B – RECEIPT CONFIRMATION FORM**

**Surrey Langley SkyTrain Project:**

**Guideway Contract**

**Request for Qualifications**

To receive any further distributed information about or in connection with this Request for Qualifications, please execute and deliver this Receipt Confirmation Form to the attention of the Contact Person at:

Email: [Contact.SLSGuideway@gov.bc.ca](mailto:Contact.SLSGuideway@gov.bc.ca)

**RESPONDENT CONTACT INFORMATION**

**NAME OF RESPONDENT (THE "RESPONDENT"):** \_\_\_\_\_

\_\_\_\_\_

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

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

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

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

**TELEPHONE:**(\_\_\_\_) \_\_\_\_\_

**RESPONDENT REPRESENTATIVE:** \_\_\_\_\_

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

**BCEID (IF AVAILABLE):** \_\_\_\_\_

Unless it can be sent by email, please send us any further correspondence about this Request for Qualifications by:

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

\_\_\_\_\_

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

## ACKNOWLEDGEMENT OF TERMS OF RFQ AND CONFIDENTIALITY

The undersigned is a duly authorized representative of the Respondent and has full power and authority to represent and act on behalf of the Respondent in any and all matters related to the RFQ, including but not limited to providing clarifications and additional information pursuant to the RFQ.

The Respondent hereby acknowledges receipt and review of this RFQ, including, without limitation, all Appendices attached thereto and agrees to comply with all the terms and conditions set out in this RFQ.

For greater certainty, the Respondent agrees that, in executing this Receipt Confirmation Form, it will comply with, and will cause each of its Respondent Team Members to comply with, the terms of the Confidentiality Agreement provisions set out in Appendix C to this RFQ.

Unless otherwise expressly defined, the capitalized terms used in this Receipt Confirmation Form have the meanings given to them in the RFQ.

This Receipt Confirmation Form is executed the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

<NAME OF RESPONDENT>

Per: \_\_\_\_\_

### Authorized Signatory

Name:  
Title:

### Execution Instructions

**This Receipt Confirmation Form is to be duly executed by the “Respondent” in accordance with the definition of that term in section 6 of the RFQ. It is the responsibility of the Respondent to ensure that it has been properly identified by its legal name in this Receipt Confirmation Form and has duly executed this Receipt Confirmation Form, and the Province may in its discretion request an opinion from the Respondent’s legal counsel to that effect.**

**Upon execution, the yellow highlighting as well as these execution instructions should be removed.**

## APPENDIX C – CONFIDENTIALITY AGREEMENT

### Surrey Langley SkyTrain Project: Guideway Contract

#### Confidentiality Agreement

#### 1. Interpretation

In this Agreement, the following terms have the following meanings:

“**Agreement**” means this Appendix C, which is subject to the RFQ.

“**Confidential Information**” means all documents, knowledge and information provided by the Province, a Province Party, or any of their Representatives (in each case, the "Disclosing Party") to, or otherwise prepared or obtained by, a Recipient or any of its Representatives (the "Receiving Party"), whether before or after the date of this Agreement and whether orally, in writing or other visual or electronic form, in connection with or relevant to the Project, the RFQ, the RFP or the Competitive Selection Process including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information which:

- (a) 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;
- (b) 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 third party did not receive such information directly or indirectly under obligations of confidentiality;
- (c) 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 (the onus of establishing which shall be on the Receiving Party);
- (d) was developed independently by the Receiving Party without the use of any Confidential Information (the onus of establishing which shall be on the Receiving Party); or
- (e) is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law.

**“Permitted Purposes”** means evaluating the Project, preparing a Response and any other use permitted by this Agreement.

**“Province Parties”** means BC Transportation Financing Authority, Transportation Investment Corporation and Infrastructure BC.

**“Recipient”** means the Respondent or any other interested party who completes a Receipt Confirmation Form.

**“Representative”** means, a director, officer, employee, agent, accountant, lawyer, consultant, financial adviser or subcontractor, or other Respondent Team Member or any other person contributing to or involved with the preparation or evaluation of a Response or proposal, as the case may be, or otherwise retained by a Recipient, the Province or a Province Party in connection with the Project.

All capitalized terms not otherwise defined in this Agreement have the respected meanings ascribed to them in Section 6 of the RFQ.

## **2. Confidentiality**

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

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

The Province or the applicable Province Party 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, each 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 Province, 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 for Permitted Purposes 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 and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify the Province 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 of the Province or the Province Parties, the Recipient will promptly deliver to the Province or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and confirm that delivery or destruction to the Province in writing, all in accordance with the instructions of the Province or the Province Parties; provided, however, that the Receiving Party may retain one copy of any Confidential Information that it may be required to retain or furnish to a court or regulatory authority pursuant to applicable law.

#### **6. Acknowledgement of Irreparable Harm**

The Recipient acknowledges and agrees that the Confidential Information is proprietary and confidential and that the Province and/or a Province Party may be irreparably harmed if any provision of this Agreement were not performed, observed or complied with by the Recipient or any person or party to whom the Recipient provides or discloses 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 Province and/or the Province Parties 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 Province and/or the Province Parties 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 Province and/or a Province Party 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. Further Assurances**

On written request, the Recipient will execute and deliver or cause to be executed and delivered to the Province all such further documents, do or cause to be done all such further acts and things and give all such further assurances as in the opinion of the Province are necessary or advisable to give full effect to

the provisions and intent of this Agreement. In addition, if requested by the Province, the Recipient will provide such written assurances as the Province or a Province Party, may request to confirm.

**9. 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.

**10. Enurement**

This Agreement enures to the benefit of the Province, the Province Parties and their respective assigns and binds each Recipient and its successors.

**APPENDIX D – RELATIONSHIP DISCLOSURE FORM**

**Surrey Langley SkyTrain Project:  
Guideway Contract**

**Relationship Disclosure Form**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the “Province”)**

**Re: Guideway Contract (the “Project”)**

**Request for Qualifications entitled “Surrey Langley Skytrain Project: Guideway Contract Request for Qualifications”, as amended in accordance with its terms (the “RFQ”) for the Project**

**<insert Respondent name> Response**

The Respondent declares on its own behalf and on behalf of each of its Respondent Team Members:

1. this declaration is made to the best of the knowledge of the Respondent and each of the Respondent Team Members;
2. the Respondent and each of the Respondent Team Members have reviewed the definition of Restricted Party and the non-exhaustive list of Restricted Parties set out in the RFQ.
3. Exhibit 1 to this Relationship Disclosure Form is a full disclosure of all former and current relationships that the Respondent and each Respondent Team Member has or has had with:
  - (i) any former or current officials, employees, representatives, or elected officials of the Province, TransLink, BCRTC, BCTFA, TI Corp or Infrastructure BC; or
  - (ii) any former or current officers, directors, employees or representatives of any individual, corporation, partnership or other entity, or the entity itself,  
  
that have been involved in the Competitive Selection Process, or the design, planning or implementation of the Project or that has confidential information about the Project or the Competitive Selection Process, or
  - (iii) any Restricted Party or any current or former employee, shareholder, director or officer of any Restricted Party,

(collectively, the “**Project Parties**”); or

- (b) any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, or any other persons associated with any of them, with any of the Project Parties that constitutes an actual or perceived conflict of interest or unfair advantage or has the potential for creating an actual or perceived conflict of interest or unfair advantage.

The Respondent makes the declarations set out in this Relationship Disclosure Form with the knowledge and intention that the Province will rely upon and, despite any prior or subsequent investigation by the Province, will be deemed to have relied upon these declarations in connection with the Response, including any consideration and evaluation of the Response, pursuant to the RFQ.

Unless otherwise expressly defined, the capitalized terms used in this Relationship Disclosure Form have the meanings given to them in the RFQ.

**THIS DECLARATION** is dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**<NAME OF RESPONDENT>**

**Per:** \_\_\_\_\_  
**Authorized Signatory**

**Name:**  
**Title:**

### **Execution Instructions**

This Relationship Disclosure Form is to be duly executed by the “Respondent”. It is the responsibility of the Respondent to ensure that it has been properly identified by its legal name in this Relationship Disclosure Form and has duly executed this Relationship Disclosure Form, and the Province may in its discretion request an opinion from the Respondent’s legal counsel to that effect.

Upon execution, the yellow highlighting as well as these execution instructions should be removed.



**APPENDIX E – RESPONSE DECLARATION FORM**

**Surrey Langley SkyTrain Project:  
Guideway Contract**

**Response Declaration Form**

**To: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA (the  
“Province”)**

**Re: Guideway Contract (the “Project”)**

**Request for Qualifications entitled “Surrey Langley SkyTrain Project: Guideway Contract  
– Request for Qualifications”, as amended in accordance with its terms (the “RFQ”) for  
the Project**

**<insert Respondent name> Response**

I, **<insert name>**, in my capacity as **<insert title>** of **<insert name of Respondent>**, on behalf of the Respondent and each of the Respondent Team Members, hereby declare that:

1. Response

- (a) I am duly authorized to execute and deliver this Declaration on behalf of the Respondent and each of the Respondent Team Members;
- (b) The Respondent and each of the Respondent Team Members are bound by all statements and representations made in the Response;
- (c) the Respondent and each of the Respondent Team Members have received, reviewed, read and understood the RFQ and this Declaration and authorized and consented to the delivery of the Response and the execution and delivery of this Declaration;
- (d) in preparing and delivering the Response the Respondent has complied with all applicable laws and regulations, including by obtaining from each person any required consents and authorizations to the collection of information relating to such person and to the submission of such information to the Province as part of the Response for the purposes of the Response, the RFQ and the Competitive Selection Process, or any of them;

- (e) the Respondent and each of the Respondent Team Members have had sufficient time to consider, and have satisfied themselves as to the applicability of the material in the RFQ and any and all conditions that may affect the Response;
- (f) the members of the Respondent Team are the entities listed in Exhibit 1 to this Declaration;
- (g) the Respondent has disclosed all relevant relationships in accordance with the instructions and format outlined in the Relationship Disclosure Form
- (h) none of the Respondent nor any of the Respondent Team Members has had access to or has availed itself directly or indirectly of any confidential information of the Province, other than confidential information disclosed by the Province to all respondents, in connection with the preparation and delivery of the Response, and, if any Respondent Team Member has participated or intends to participate in any other competitive selection process for the SLS Project, notice has been provided by such Respondent Team Member as required in accordance with the RFQ, ethical barriers acceptable to the Province have been established between the participants in such other competitive selection process and such Respondent Team Member, and such Respondent Team Member is in full compliance with such ethical barriers; and
- (i) none of the Respondent nor any of the Respondent Team Members nor, to the knowledge of the applicable Respondent Team Member (after due and reasonable inquiry), any of their respective 'affiliates' (as defined in the *Business Corporations Act* (British Columbia)) is a Restricted Person as that term is defined in Exhibit 2.

## 2. Acknowledgements

- (a) The Respondent and the Respondent Team Members acknowledge that the Province reserves the right to verify information in the Respondent's Response and conduct background investigations including reference, credit and other checks, independent verifications, criminal record investigations, credit enquiries, litigation searches, bankruptcy registrations and taxpayer information investigations, on all or any of the Respondent and the Respondent Team Members (collectively, the "Investigations"), and by submitting a Response the Respondent agrees that they consent to and authorize the Province and the authorized representatives of the Province to undertake any and all such Investigations; and
- (b) the Respondent and the Respondent Team Members acknowledge that the Response, upon submission to the Province, becomes the property of the Province.

All information and content set out in this Declaration is true and is made with the knowledge and intention that the Province will rely on it in accepting and evaluating the Response.

Unless otherwise expressly defined, the capitalized terms used in this Declaration have the meanings given to them in the RFQ.

**THIS DECLARATION** is dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**<NAME OF RESPONDENT>**

**Per:** \_\_\_\_\_  
**Authorized Signatory**

**Name:**  
**Title:**

### **Execution Instructions**

**This Declaration is to be duly executed by the “Respondent”. It is the responsibility of the Respondent to ensure that it has been properly identified by its legal name in this Declaration and has duly executed this Declaration, and the Province may in its discretion request an opinion from the Respondent’s legal counsel to that effect.**

**Upon execution, the yellow highlighting as well as these execution instructions should be removed.**

**Exhibit 1 to Appendix E Respondent Team**

<b>Name</b>	<b>Address</b>	<b>Respondent Team Member Role</b>

Note: The Respondent and each Respondent Team Member should be identified by its correct and complete legal name.

## Exhibit 2 to Appendix E Restricted Person

For the purposes of this Appendix E – Declaration Form, “Restricted Person” means any person who, or any member of a group of persons acting together, any one of which:

- (a) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada for reasons other than its trade or economic policies;
- (b) has as any part of its business the illegal manufacture, sale, distribution or promotion of narcotics substances or arms, or is or has been involved in the promotion, support or carrying out of terrorism;
- (c) in the case of an individual, he or she (or, in the case of a legal entity, any of the members of its board of directors or its senior executive) has been sentenced to imprisonment or otherwise given a custodial sentence, other than a suspended sentence, for any criminal offence, other than minor traffic offences, less than five years prior to the date at which the determination of whether the individual falls within this definition is being made;
- (d) has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;
- (e) is subject to a claim of any governmental authority having jurisdiction in any way over or in respect of any aspect of the Project under any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the determination of whether the person falls within this definition is being made and which (in respect of any such pending claim, if it were to be successful) would, in the view of the Province, in either case, be reasonably likely to materially affect the performance by the Project Co of its obligations under the Project Agreement; or
- (f) has been convicted of an offence under the *Competition Act* (Canada), the *Corruption of Foreign Public Officials Act* (Canada), the *Financial Administration Act* (Canada) or the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), or has been convicted of the commission of a money laundering offence or a terrorist activity financing offence or a fraud or similar offence under the *Criminal Code* (Canada).

**APPENDIX F – REQUEST FOR INFORMATION FORM**

**Surrey Langley SkyTrain Project:  
Guideway Contract**

**Request for Information / Clarification**

**Request Number:** (Respondent name and sequential number)

**Raised By:** (contact name)

**Date Raised:**

**Date by Which Response Requested:**

**Type of Request:**  Information  Clarification

(please indicate with tick boxes)

**Source of Query:** (reference document section and date, if applicable)

**REQUEST / QUERY** (One query / request per sheet)

**Do you request this query to be “Commercial in Confidence”?**  YES  No

## APPENDIX G – PROPONENT AGREEMENT

### Surrey Langley SkyTrain Project: Guideway Contract

#### Proponent Agreement

#### Note:

This Proponent Agreement is to be duly executed by the Proponent and each of the Proponent Team Members in accordance with the definitions of those terms in the RFP. It is the responsibility of the Proponent to ensure that each such party and, where applicable, each entity included in each such party has been properly identified by its legal name in this Proponent Agreement and has duly executed this Proponent Agreement, and the Province may in its discretion request an opinion from the relevant party's legal counsel to that effect.

**THIS PROPONENT AGREEMENT** made as of \_\_\_\_\_ **[INSERT DATE]**

Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure

Attention: **[Insert Name]**, Contact Person

Dear Sirs/Mesdames:

Re: Surrey Langley SkyTrain Project: Guideway Contract – Proponent Agreement in respect of the Request for Proposals issued by the Province on **[Insert Date]**, 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 Proponent Agreement between **[Insert Proponent Name]** (the “**Proponent**”), **[Insert name of each Proponent Team Member]**, and any other parties who may become Proponent Team Members from time to time in accordance with the terms of the RFP, and the Province, pursuant to which the Proponent agrees with the Province as follows:

#### 1.0 DEFINITIONS AND INTERPRETATION

1.1 Capitalized terms not otherwise defined in this Proponent Agreement have the meaning given to them in the RFP.

#### 2.0 PARTICIPATION

2.1 The Proponent and each of the Proponent Team Members agree that as a condition of participating in the RFP, including the Competitive Selection Process, Workshops and Collaborative Meetings, and receiving access to the Data Room, the Proponent and the Proponent Team Members will comply with the terms of this Proponent Agreement and the terms of the RFP.

### **3.0 CONFIDENTIALITY**

3.1 The Proponent and the Proponent Team Members will comply with, and will ensure that all others associated with the Proponent and the Proponent Team members also comply with, the Confidentiality Conditions attached as Schedule 1 to this Proponent Agreement, all of which conditions are expressly included as part of this Proponent Agreement.

### **4.0 TERMS OF RFP**

4.1 The Proponent and each of the Proponent Team Members will comply with and be bound by, and will ensure that all others associated with the Proponent and the Proponent Team Members also comply with and are bound by, the provisions of the RFP all of which are incorporated into this Proponent Agreement by reference. Without limiting the foregoing, the Proponent and the Proponent Team Members agree:

- (a) that the terms of the Proponent Agreement do not limit the obligations and requirements of the Proponent and the Proponent Team Members under the RFP, any Data Room agreement, or any other document or requirement of the Province;
- (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and indemnities contained in the RFP, including Section 3.16 (Releases and Waivers) of the RFP. In no event will the liability of the Province exceed the amount calculated pursuant to Section 3.14 (Stipend) or Section 3.15 (Termination Fee) of the RFP; and
- (c) that the Province's and the Proponent's obligations in respect of the Preferred Proponent Security Deposit are as set out in Sections 3.9.8, 3.9.10 and 3.9.11 of the RFP

### **5.0 AMENDMENTS**

5.1 The Proponent and the Proponent Team Members acknowledge and agree that:

- (a) the Province may in its discretion amend the RFP at any time and from time to time; and;
- (b) by submitting a Proposal the Proponent and the Proponent Team Members accept, and agree to comply with, all such amendments and, if the Proponent or the Proponent or the Proponent Team Members do not agree to any such amendment, the sole recourse of the Proponent and the Proponent Team Members is not to submit a Proposal.

### **6.0 GENERAL**

6.1 Notwithstanding anything else in this Proponent Agreement, if the Province, for any reason, cancels the Competitive Selection Process or the RFP, the Proponent and the Proponent Team Members agree that they continue to be bound by, and will continue to comply with, Section 3 of this Proponent Agreement.

6.2 The Province may in its sole discretion, on prior written notice to the Proponent and the Proponent Team Members, transfer or assign this Proponent Agreement to a permitted assignee of the Province's rights under the Design Build Agreement.

- 6.3 This Agreement will enure to the benefit of and be binding upon the Province and its assigns and upon each of the Proponent Team Members and their respective successors and permitted assigns. For greater certainty, this Proponent Agreement will continue to be binding on each of the Proponent Team Members notwithstanding that it may subsequently cease to be a Proponent Team Member.
- 6.4 Each provision of this Proponent Agreement will be valid and enforceable to the fullest extent permitted by law. If any provision of this Proponent Agreement is held to be unenforceable or invalid in respect of any Person or circumstance, then such provision may be severed and such unenforceability or invalidity will not affect any other provision of this Proponent Agreement, and this Proponent Agreement will be construed and enforced as if such invalid or unenforceable provision had never been contained herein and such unenforceability or invalidity will not affect or impair the application of such provision to any other Person or circumstance but such provision will be valid and enforceable to the extent permitted by law.
- 6.5 This Proponent Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and cancel and supersede all prior proposals, agreements, understandings, representations, conditions, warranties, negotiations, discussions and communications, whether oral or written, statutory or otherwise, and whether express or implied, between the parties with respect to the subject matter of this Proponent Agreement.
- 6.6 This Proponent Agreement and the obligations of the parties hereunder will be interpreted, construed and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and each party to this Proponent Agreement irrevocably attorns to the jurisdiction of the courts of British Columbia.
- 6.7 If the Proponent or any Proponent Team Member is a partnership (general or limited) or a consortium or joint venture:
- (a) each partner (general or limited) in the partnership and each of the entities comprising the consortium or joint venture, as the case may be, shall have executed this Proponent Agreement by its duly authorized representatives, both on behalf of the partnership, consortium or joint venture, as the case may be, and in its own behalf, in the same manner as if such partner or entity, as the case may be, was the sole party executing this Proponent Agreement; and
  - (b) if any partner or entity, as the case may be, has not executed this Proponent Agreement as required by subsection 7.7(a), this Proponent Agreement will be valid and binding on the partners and entities, as the case may be, who have executed this Proponent Agreement, each of whom by execution of this Proponent Agreement expressly agrees to be jointly and severally liable to the Province for the obligations that would have been assumed hereunder by the partner or entity, as the case may be, that has not executed this Proponent Agreement had it executed this Proponent Agreement.
- 6.8 By executing this Proponent Agreement, the Proponent and Proponent Team Members, and each entity comprised in the Proponent or Proponent Team Member hereby represents, warrants and agrees that:

- (a) it is jointly and severally liable with each of the other entities comprised in the Proponent, the Proponent Team Members, or other entities comprised in the Proponent Team Member, as the case may be, Proponent Members, or other entities comprised in the Proponent Team Member, to the Province for all covenants, obligations and liabilities of the Proponent, or Proponent Team Member, as the case may be, set forth in this Proponent Agreement; and
  - (b) the signatories to this Proponent Agreement include all of the entities comprised in the Proponent and the Proponent Team Members.
- 6.9 Each of the Proponent Team Members will from time to time and upon the reasonable request of the Province make, do, execute, and deliver or cause to be made, done, executed and delivered all such further assurances, acts, instruments and documents as may be requested for the purpose of giving full force and effect to this Proponent Agreement.
- 6.10 The rights, powers and remedies conferred on the Province under this Proponent Agreement are not intended to be exclusive and each will be cumulative and in addition to and not in substitution for every other right, power and remedy existing or available to the Province under this Proponent Agreement, under the Competitive Selection Process or any part thereof, at law or in equity or under statute, and the exercise by the Province in its discretion of any right, power or remedy will not preclude the later exercise of that same right, power or remedy or the simultaneous or later exercise by the Province of any other right, power or remedy.
- 6.11 The Proponent and each Proponent Team Member hereby represents and warrants, on its own behalf, that:
- (a) it has the requisite power, authority and capacity to execute and deliver this Proponent Agreement;
  - (b) this Proponent Agreement has been duly and validly executed and delivered by it or on its behalf by its duly authorized representatives; and
  - (c) this Proponent Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.
- 6.12 The Province may in its sole discretion request any party executing this Proponent Agreement to provide, and on such request such party will deliver to the Province, proof, in a form and content satisfactory to the Province in its sole discretion, that any signatory to this Proponent Agreement on behalf of such party had the requisite authority to execute this Proponent Agreement on behalf of and to bind such party and that this Proponent Agreement has been duly and validly executed and delivered by or on behalf of such party and constitutes a legal, valid and binding agreement enforceable against such party in accordance with its terms.
- 6.13 This Proponent Agreement may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all of the parties to this Proponent Agreement will constitute a full, original and binding agreement for all purposes. Counterparts may be executed in original, or electronic scanned or PDF file type (Adobe Acrobat Portable Document Format) form. This Proponent Agreement may be delivered by hand, or electronic mail, provided that if delivered by electronic mail, then in electronic scanned or PDF file type.

Yours truly,

---

Authorized Signatory

---

Full Name and Title

**<> [insert legal name(s) and appropriate signature block(s) for the Proponent and each Proponent Team Members]**

## SCHEDULE 1 TO PROPONENT AGREEMENT CONFIDENTIALITY CONDITIONS

1. **Definitions.** In these confidentiality conditions:
- (a) **Confidential Information** means all documents, knowledge and information provided by the Disclosing Party to, or otherwise obtained by, the Receiving Party, whether before or after the date of the RFP, whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, the RFQ, the RFP or the Competitive Selection Process, including, without limitation, all design, operational and financial information, together with all analyses, compilations, data, studies, photographs, specifications, manuals, memoranda, notes, reports, maps, documents, computer records or other information in hard copy, electronic or other form obtained from the Disclosing Party or prepared by the Receiving Party containing or based upon any such information. Notwithstanding the foregoing, Confidential Information does not include information that:
    - (1) is or subsequently becomes available to the public, other than through a breach by the Receiving Party of the terms of this Schedule 1;
      - i. is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Schedule 1 and which party did not receive such information directly or indirectly under obligations of confidentiality;
      - ii. was rightfully in the possession of the Receiving Party or was known to the Receiving Party before the date of the RFP and did not originate, directly or indirectly, from the Disclosing Party;
      - iii. was developed independently by the Receiving Party without the use of any Confidential Information; or
      - iv. is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law;
  - (b) **Disclosing Party** means the Province or any of its Representatives;
  - (c) **Permitted Purposes** means evaluating the Project, preparing a Proposal, and any other use permitted by the RFP or this Proponent Agreement;
  - (d) **Receiving Party** means the Recipient or any of its Representatives;
  - (e) **Recipient** means a Proponent or any other interested party who completes a Receipt Confirmation Form; and

- (f) **Representative** means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Key Individual, or any other person contributing to or involved with the preparation or evaluation of Proposals or proposals, as the case may be, or otherwise retained by the Recipient, the Province, TI Corp, or Infrastructure BC in connection with the Project.
2. **Confidentiality.** The Recipient will keep all Confidential Information strictly confidential and will not without the prior written consent of the Province, which may be unreasonably withheld, disclose, or allow any of its Representatives to disclose, in any manner whatsoever, in whole or in part, or use, or allow any of its Representatives to use, directly or indirectly, the Confidential Information for any purpose other than the Permitted Purposes. The Recipient will make all reasonable, necessary, and appropriate efforts to safeguard the Confidential Information from disclosure to any other person except as permitted in this Schedule 1, and will ensure that each of its Representatives agrees to keep such information confidential and to act in accordance with the terms contained herein.
3. **Ownership of Confidential Information.** The Province owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Schedule 1, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of the RFP, and will not, without the prior express written consent of an authorized representative of the Province, which may be unreasonably withheld, use, divulge, give, release or permit or suffer to be used, divulged, given or released, any portion of the Confidential Information to any other person for any purpose whatsoever.
4. **Limited Disclosure.** The Recipient may disclose Confidential Information only to those of its Representatives who need to know the Confidential Information for the purpose of evaluating the Project and preparing its Proposal or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Infrastructure 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 Infrastructure 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 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 that it may be required to retain or furnish to a court or regulatory authority, pursuant to applicable law.

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