



MINISTRY OF JUSTICE

MINISTRY OF  
TECHNOLOGY,  
INNOVATION AND  
CITIZENS' SERVICES

## Request for Qualifications

### Abbotsford Law Courts Project

RFQ #8194

Issue Date: March 15, 2017  
Conformed (includes Addendum 1&2): May 4, 2017

**SUMMARY OF KEY INFORMATION**

<b>RFQ TITLE</b>	The title of this RFQ is: <b>RFQ – Abbotsford Law Courts Project</b> Please use this title on all correspondence.
<b>CONTACT PERSON</b>	The Contact Person for this RFQ is: Dawn Hart Email: dawn.hart@partnershipsbc.ca Please direct all Enquiries, by email, to the above named Contact Person. <u>No telephone Enquiries please.</u>
<b>ENQUIRIES</b>	Respondents are encouraged to submit Enquiries at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time to permit consideration by the Province; the Province may, in its discretion, decide not to respond to any Enquiry.
<b>RECEIPT CONFIRMATION FORM</b>	The Addenda and any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form.
<b>SUBMISSION TIME</b>	The Submission Time is: <b>11:00 Pacific Time on May 4, 2017</b>
<b>SUBMISSION LOCATION</b>	Responses are to be submitted to: <b>c/o Partnerships BC</b> <b>Suite 300 – 707 Fort Street</b> <b>Victoria, BC V8W 9W6</b> <b>Attention: Dawn Hart</b>

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## 1 INTRODUCTION

### 1.1 PURPOSE OF THIS RFQ

The purpose of this Request for Qualifications (“**RFQ**”) is to invite interested parties to submit Responses to this RFQ indicating their interest in, and qualifications for, the replacement and expansion of the Abbotsford Provincial Court (the “**Project**”). Based on these Responses, the Ministry of Technology, Innovation and Citizens’ Services (“**MTICS**”) and the Ministry of Justice (“**MoJ**”), (collectively, the “**Province**”) intend to select, in accordance with the terms of this RFQ, a shortlist of up to three Proponents to be invited to participate in the next stage of the Competitive Selection Process, the Request for Proposals (“**RFP**”) stage.

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

Under the Competitive Selection Process, the Province is seeking to enter into a contract (the “**Project Agreement**”) with a qualified entity (“**Project Co**”) to design, build, partially finance and maintain a new courthouse in Abbotsford (the “**Facility**”).

If a capitalized term used in this RFQ is not defined in Section 7.1 of this RFQ, it will be defined in the section of the RFQ in which it is first used.

### 1.2 ADMINISTRATION OF THIS RFQ

Partnerships British Columbia Inc. (“**Partnerships 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 PROJECT BRIEF

The Province has issued a separate document entitled the Project Brief for the purposes of providing an informal and convenient summary of aspects of the Project. The Project Brief is not included as part of the RFQ or RFP, and is not intended to be included with, or referred to in any way in interpreting the



requirements of, the RFQ, the RFP or the Project Agreement, or to in any way define or describe any party's rights with respect to the Project.

## 2 THE PROJECT

### 2.1 ABBOTSFORD LAW COURTS PROJECT

The Abbotsford Provincial Court, occupied by the Ministry of Justice, is presently operating in a leased facility of advanced age that is both functionally obsolete and economically inefficient for the administration and delivery of justice services. Constructed as a single room courthouse in 1967, the Abbotsford Provincial Court has been renovated over the years to its current configuration of five Provincial courtrooms and two initial appearance/conference rooms.

In February 2017, the Minister of Finance announced funding for the replacement and expansion of the Abbotsford Provincial Court. The Facility will accommodate anticipated demand through 2035, provide a high level of quality, increase the safety and security of courthouse users and staff, and provide the needed flexibility to keep up with demand and technological advances into the future.

The Province is planning the Project to include:

- (a) A 14 room courthouse (eight Provincial courtrooms, three Supreme courtrooms and three initial appearance/conference rooms) with flexibility for future expansion to 16 rooms that is in the range of 15,000 to 16,000 m<sup>2</sup> (building gross area), including the following spaces and users:
  - Courtrooms;
  - Judiciary;
  - Public Services;
  - Justice Access Centres;
  - Courthouse Library;
  - Community Corrections;
  - Secure Program Parking;
  - Court Administration;
  - Sheriff Services;
  - Accused Holding;
  - Counsel Services;
  - Crown Counsel;
  - Building Services; and
- (b) A separate 336 stall parkade.

The City of Abbotsford (“**City**”) and MTICS anticipate executing a lease agreement for the lands required for the Project in advance of the RFP.

The capital cost of the Project is estimated to be approximately \$140 million.

## 2.2 PROJECT OBJECTIVES

The purpose of the Project is to design, build, partially finance and maintain new law courts in Abbotsford that will satisfy the following Project objectives:

- (a) Provides necessary capacity to meet projected Abbotsford and broader Lower Fraser Valley Provincial and Supreme court demand through 2035;
- (b) Purpose built community oriented courthouse facility, satisfying provincial standards within a dignified and respectful environment;
- (c) Provides safe, appropriately sized space with distinct and secure circulation routes for all courthouse users;
- (d) Provides a robust, scalable and adaptable enterprise-wide technical solution, satisfying requirements of a modern courthouse; and
- (e) Efficient use of space that optimizes operational efficiencies and minimizes disruptions to court to promote timely access to justice.

The Project Agreement will require the successful Proponent to design, build, partially finance, and provide building maintenance and services, as well as life cycle maintenance and repair services, for the Facility for a Project period of 30 years commencing from the anticipated date of occupation of the Facility.

## 2.3 PROJECT TEAM

### 2.3.1 MTICS

MTICS is the shared services provider for the Government of British Columbia and manages its real estate assets and leases. MTICS also provides technology systems and equipment, from phones and printers to computers and networking, as well as procurement and supplies, and the over-arching policy frameworks for protecting supplies and IT security. The key objectives of MTICS are: to ensure that services meet the changing needs of its public sector clients, that public service employees have the workplace tools they need to do their jobs effectively, and that services are cost-effective, accessible and responsive.





Additional information about MTICS is available at:

<http://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/technology-innovation-and-citizens-services>.

### 2.3.2 Ministry of Justice

The MoJ administers justice, delivers public safety services and programs, and provides legal advice to government. The key program areas operating within the MoJ that have critical roles in the delivery of justice programs and services within a courthouse include Court Services Branch, Judiciary, Criminal Justice Branch, and Justice Access Centres. The Community Corrections Division also provides services that support MoJ in administering justice.

Additional information about MoJ is available at:

<http://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/justice>

### 2.3.3 Partnerships BC

Partnerships BC was established by the Government of British Columbia to structure and implement partnership delivery solutions for public infrastructure.

The Province has engaged Partnerships BC to manage the procurement of the Abbotsford Law Courts Project.

Additional information about Partnerships BC is available at: <http://www.partnershipsbc.ca>

## 2.4 ADVANCE WORK BY THE PROVINCE

The following sections provide an overview of the work undertaken on the Project to date, and work planned to be undertaken prior to Financial Close.

### 2.4.1 Approval

The Project has been approved to proceed to procurement and was announced on February 6, 2017.

### 2.4.2 Site Zoning

The Site for the development of the Project is a parcel of land measuring 2.97 acres located at the corner of Trethewey Avenue and Simon Avenue. The Site is part of the City's Civic Precinct<sup>1</sup>, and is located in

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<sup>1</sup><https://www.abbotsford.ca/Assets/2014+Abbotsford/Communications/Master+Plans+and+Strategies/2014+Civic+Precinct+Vision.pdf>

close proximity to the existing courthouse facility. The Site is currently a partially paved, partially gravel parking lot. The current zoning is “civic use” which permits the use of the property for courts of law. Refer to the proposed Site in Figure 1 below.

**Figure 1: Proposed Abbotsford Law Courts Site**



#### 2.4.3 Site Preparation

The Province has completed a phase 1 environmental site assessment and a geotechnical investigation for the Site.

The City’s Site servicing records are publicly available through the following link:

<http://maps.abbotsford.ca/Html5Viewer/>

#### 2.4.4 Programming

The Province is in the process of completing its programming and drafting of performance specifications (the “**Performance Specifications**”).

#### 2.4.5 LEED

The Province registered the Project for LEED® certification in the fall of 2016.

## 2.5 GENERAL SCOPE OF PROJECT CO'S RESPONSIBILITY

### 2.5.1 Project Agreement

The Project will be managed under one Project Agreement. The Province intends to attach an Initial Draft Project Agreement to the RFP, which will include:

- (a) Performance Specifications for:
  - (1) the design, construction and maintenance of the Facility; and
  - (2) the scope of services to be provided by the successful Proponent; and
- (b) Proposed commercial terms.

The Province will issue a Final Draft Project Agreement, which will be the basis upon which the Proposals will be prepared in response to the RFP.

### 2.5.2 General Scope of Responsibility

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

#### (a) Design

Project Co will be responsible for all aspects of the design for the Facility including the integration of the various building components and systems with each other. The final design will comply with the Performance Specifications that will be included in the Project Agreement, and all applicable laws, including City zoning.

#### (b) Construction

Project Co will be completely responsible for:

- (1) obtaining all permits and approvals necessary for construction of the Facility, excluding zoning approvals already in place;
- (2) provision of utilities and other site services required to support the Facility, including off-site works as required to connect the Facility to existing City infrastructure;
- (3) design and construction of the Facility; and
- (4) achieving service commencement of the Facility.

#### (c) Equipment

The relevant categories of equipment, and responsibilities for each, will be set out in the Project Agreement.

(d) Finance

It is anticipated that the Province will make progress payments during construction (the amount, timing and terms and conditions of which will be set out in the RFP, but which are anticipated to be in the range of 40 per cent of Project capital costs). Project Co will be required to provide all other required funding for design, construction, finance costs and maintenance, by way of equity and/or debt financing.

The Province will pay Project Co annual service payments over the term of the Project in accordance with the Project Agreement. The annual service payments are subject to deductions if performance requirements are not met. Details will be available in the RFP. It is anticipated that there will be an Affordability Ceiling in the RFP stipulating a maximum net present cost of the annual service payments over the term of the Project Agreement.

(e) Maintenance Services

During the term of the Project Agreement after occupation of the Facility by the Province, Project Co will be required to provide facility maintenance services, which may include:

- (1) general management services
- (2) plant services
- (3) environmental services
- (4) grounds maintenance and landscaping services
- (5) help desk services
- (6) utility management services
- (7) waste management and recycling services
- (8) pest control services
- (9) parkade maintenance and security
- (10) IT and security systems

(f) Life Cycle Maintenance

Project Co will be responsible for the life cycle maintenance of the Facility. In addition, Project Co will be required to maintain the Facility to the agreed physical and performance standards during

the term of the Project Agreement, and to return the Facility to the Province in the specified condition at the end of the term.

(g) Wood First

As contemplated by the Wood First Act (British Columbia), Project Co will be required to use wood in a manner that is consistent with Wood First legislation.

(h) Leadership in Energy and Environmental Design (“LEED®”)

Project Co will be required to build the Facility to achieve LEED® Gold certification.

(i) Communication and Consultation

The Province and Project Co will work together on all aspects of public communication and consultation as set out in the Project Agreement.

(j) Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines

Respondents are referred to the “Apprentices on Public Projects in British Columbia Policy and Procedures Guidelines”. The Guidelines address use of registered apprentices and reporting on registered apprentices and trainees.

The Guidelines are available at: <http://www2.gov.bc.ca/gov/content/industry/construction-industry/apprentices>.

## **2.6 THE PROJECT AGREEMENT INCLUDES A REQUIREMENT FOR PROJECT CO TO COMPLY WITH THE POLICY, PROCEDURE AND GUIDELINES.COMMERCIAL TERMS**

### 2.6.1 Key Commercial Terms

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

- (a) Term: the term of the Project Agreement will commence on signing, and a 30-year maintenance term will commence from the anticipated substantial completion of the Facility. It is anticipated that construction will commence in June 2018 and the Facility will be substantially complete and available for use in October 2020.
- (b) Payment: the Province will make progress payments during construction. The Province will pay service payments to Project Co commencing on the month when the Facility is available for use by the Province in accordance with a move-in schedule to be established under the Project Agreement. At this time the Province does not anticipate starting service payments earlier than the

date the Facility is scheduled to be completed. The Province anticipates making service payments on a monthly payment cycle.

- (c) Payment Deductions: the Project Agreement will permit the Province to make deductions from the service payments. In order to achieve full payment Project Co will be required to make all functional areas available for use and meet the defined performance standards.
- (d) End of Term: the Project Agreement will describe the hand-back requirements for the Facility at the end of the term and describe the provisions to enforce those requirements.

#### 2.6.2 Key Individuals

In regards to all Key Individuals, Respondents should anticipate that the Province will include certain deductions to Project Co, and/or payments to the Province, in the Project Agreement to address the availability of Key Individuals. In certain instances, where a Key Individual resigns or is otherwise unavailable to perform the duties, and no replacement satisfactory to the Province has been retained within the specified timelines, certain deductions and payments may be required in recognition of the resulting costs and/or losses or damages incurred by the Province. Any proposed replacement should possess expertise and experience that is similar to, if not better than, that of the unavailable Key Individual, and any such replacement is subject to approval of the Province.



### 3 COMPETITIVE SELECTION PROCESS

This section describes the process that the Province expects to use in the selection of a Preferred Proponent and the execution of the Project Agreement. The anticipated Competitive Selection Process includes two stages: (a) the RFQ stage and (b) the RFP stage, which includes Financial Close.

#### 3.1 RFQ STAGE

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

#### 3.2 RFP STAGE

The Province's objective at the RFP stage is to select the Preferred Proponent with whom it may enter into the Project Agreement. The RFP stage is expected to include:

##### 3.2.1 Collaborative Meetings

The RFP stage will include collaborative discussions (the "**Collaborative Meetings**") relating to technical and commercial matters through workshops and topic meetings in accordance with the terms of the RFP, to allow Proponents to provide comments on Project-specific issues raised through the process. Attendance at Collaborative Meetings will be in person.

The Province anticipates that the RFP stage will allow Proponents to provide input on the Initial Draft Project Agreement as follows:

- (a) the Province will invite each Proponent to review the Initial Draft Project Agreement as attached to the RFP and then meet confidentially and separately with the Province to discuss any comments or amendments that the Proponent requests to be considered;
- (b) the Province will consider all comments and requested amendments received from the Proponents and may, in its discretion, amend the Initial Draft Project Agreement, and by one or more Addenda issue a revised Initial Draft Project Agreement; and
- (c) ultimately the Province will issue a Final Draft Project Agreement as the common basis for the preparation of Proposals by the Proponents.

##### 3.2.2 RFP Submission

The form of the RFP submission will be described in the RFP and will address both technical and financial aspects of the Project. It is anticipated that the Project will include an interim financial

submission, details to be provided in the RFP documents. It is anticipated that a technical submission addressing the technical aspects of the RFP will be submitted in advance of the financial submission.

The technical submission will not require pricing, but is anticipated to be well-developed and to include the following:

- (a) a conceptual design identifying key elements of the Proponent’s technical submission, which demonstrates an understanding of the Project; and
- (b) plans outlining the Proponent’s approach to items such as quality assurance, construction management, facility maintenance, communications and environmental management.

It is anticipated that the financial submission during the RFP stage will occur after the technical submission. The financial submission is expected to include the following:

- (a) fully committed financing, including confirmation from the Proponent’s funding sources confirming acceptance of the terms of the Project Agreement;
- (b) a commitment to enter into the Project Agreement by Project Co; and
- (c) committed pricing for the Project, inclusive of all taxes except GST.

### 3.3 COMPENSATION FOR PARTICIPATION IN THE COMPETITIVE SELECTION PROCESS

The Province will not provide any compensation to Respondents for participating in the RFQ stage of the Competitive Selection Process.

If the Competitive Selection Process continues into the RFP stage, the Province intends to make provision for partial compensation in the amount of \$300,000 being payable to each unsuccessful Proponent in accordance with the terms of the RFP.

### 3.4 PROJECT SCHEDULE

The following includes the Province’s estimated timeline for the Competitive Selection Process and the Project:

Activity	Timeline
RFQ issue date	March 15, 2017
Introductory Project Meeting	March 22, 2017
RFQ Submission Time	May 4, 2017
Respondent interviews (optional)	Week of May 30





Activity	Timeline
Announce Shortlisted Respondents	June 2017
Issue RFP and Initial Draft Project Agreement to Proponents	July 2017
Collaborative Meetings	August to October 2017
Interim Financial Submissions	October 2017
Issue Final Draft Project Agreement	November 2017
Submission Time for Technical Submissions	November 2017
Submission Time for Financial Submissions	January 2018
Selection of Preferred Proponent	March 2018
Financial Close	May 2018
Construction commences	June 2018
Service Commencement	Fall 2020

### 3.5 INTRODUCTORY PROJECT MEETING

The Province intends to hold an introductory meeting, in person, in Vancouver, B.C., to introduce the Project to which all interested parties will be invited. The date of this meeting will be March 22, 2017. All parties who wish to attend should complete and submit a Receipt Confirmation Form for further details. Participation will not be mandatory.

A list of those attendees that have registered through the Contact Person will be made available to those who have submitted a Receipt Confirmation Form. The PowerPoint presentation will be made available after the presentation to interested parties who have submitted a Receipt Confirmation Form. Minutes will not be prepared or circulated. No information from the meeting may be relied upon unless set out in an Addendum or a response to an Enquiry under Section 4.7.

## **4 SUBMISSION AND PROCESS INSTRUCTIONS**

### **4.1 MANDATORY REQUIREMENTS**

Responses to this RFQ must be received at the Submission Location before the Submission Time as stated in the Summary of Key Information. Responses received after the Submission Time will not be considered and will be returned unopened. All times will be determined with reference to the clock used by the Contact Person for that purpose.

### **4.2 RESPONSE FORM AND CONTENT**

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

### **4.3 LANGUAGE OF RESPONSES AND ENQUIRIES**

Responses and Enquiries should be in English. Any portion of a Response not in English may not be evaluated, and any Enquiry not in English may not be considered.

### **4.4 NO FAX OR EMAIL SUBMISSION**

Responses submitted by fax or email will **not** be accepted.

### **4.5 RECEIPT OF COMPLETE RFQ**

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

### **4.6 RECEIPT CONFIRMATION FORM**

Any further information relating to this RFQ will be directed only to parties who have completed and returned the Receipt Confirmation Form (Appendix B). This form will be completed, executed and delivered to the Contact Person via email.

### **4.7 ENQUIRIES**

Respondents are encouraged to submit Enquiries using the Enquiry Form (Appendix G) at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Submission Time to permit consideration by the Province; the Province may, in its discretion, decide not to respond to any Enquiry.

All Enquiries regarding any aspect of this RFQ should be directed to the Contact Person by email, and the following will apply to any Enquiry:

- (a) any responses will be in writing;
- (b) Enquiries to, and responses from, the Contact Person will be recorded;
- (c) a Respondent may request that an Enquiry and the response to an Enquiry be kept confidential if the Respondent considers the Enquiry to be commercially sensitive, and if the Province decides that an Enquiry or the response or both should be distributed to all Respondents, then subject to Section 4.7 (d), the Province will permit the enquirer to withdraw the Enquiry rather than receive a response;
- (d) subject to Section 4.7 (c), any Enquiry 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 Enquiry and response confidential if in the judgment of the Province it is fair or appropriate to do so; and
- (e) the Province may, in its discretion, decline to respond to an Enquiry.

#### **4.8 UNOFFICIAL INFORMATION**

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

#### **4.9 DELIVERY AND RECEIPT OF FAX AND EMAIL COMMUNICATIONS**

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

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

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

- (a) for ensuring that any electronic email system being operated for the Province or Partnerships BC is in good working order, able to receive emails, or not engaged in receiving other emails such that a Respondent's email cannot be received; and/or

- (b) if a permitted email communication or delivery is not received by the Contact Person, or received in less than its entirety, within any time limit specified by this RFQ.

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

#### **4.10 ADDENDA**

The Province may, in its absolute discretion through the Contact Person, amend or clarify the terms or contents of this RFQ at any time before the Submission Time by issuing a written Addendum. Written Addenda are the only means of amending or clarifying this RFQ, and no other form of communication, whether written or oral, including written responses to Enquiries as provided by Section 4.7, will be included in, or will in any way amend or clarify this RFQ. Only the Contact Person is authorized to amend or clarify this RFQ by issuing an Addendum. No other employee or agent of the Province is authorized to amend or clarify this RFQ. The Province will send a notification of any Addendum to all parties who have delivered a completed Receipt Confirmation Form.

#### **4.11 DEFINITIVE RECORD**

If there is any 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.

#### **4.12 REVISIONS 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 prior to the Submission Time.

#### **4.13 RESPONSE DECLARATION FORM**

Respondents are required to complete the Response Declaration Form, substantially in the form attached as Appendix D or as otherwise acceptable to the Province in the Province's discretion, and should include the completed form as part of its Response. The Response Declaration Form will be executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent Representative.

#### 4.14 RELATIONSHIP DISCLOSURE FORM

Respondents are required to complete the Relationship Disclosure Form, substantially in the form attached as Appendix E, or as otherwise acceptable to the Province in the Province's discretion, and should include the completed form as part of their Response. The Relationship Disclosure Form will be executed by a signatory with authority to bind each member of the Respondent Team, and for clarity such signatory may be different than the Respondent Representative.

## **5 EVALUATION**

### **5.1 EVALUATION**

The evaluation of Responses will be carried out by the Province with assistance from other persons as the Province may decide it requires, including technical, financial, legal and other advisors or employees of the Province or Partnerships BC.

### **5.2 EVALUATION CRITERIA**

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

### **5.3 EVALUATION AND SELECTION PROCEDURES**

The Province will evaluate Responses based on the information described in Table 3 of Appendix A and may in its discretion also consider any or all additional information received from the steps described in (a)-(e) below.

To assist in the evaluation of the Responses, the Province may, in its discretion, but is not required to:

- (a) conduct reference checks relevant to the Project with any or all of the references cited in a Response to verify any and all information regarding a Respondent, inclusive of its directors/officers and Key Individuals;
- (b) conduct any additional investigations and/or seek any additional information that it considers necessary in the course of the Competitive Selection Process, including with respect to Nominated Projects, Financing Nominated Projects and projects in which a Respondent Team member has been involved in the last five years but which are not Nominated Projects or Financing Nominated Projects;
- (c) seek clarification of a Response or supplementary information from any or all Respondents;
- (d) request interviews with any, some, or all Respondents to clarify any questions or considerations based on the information included in Responses or seek any supplementary information; and
- (e) rely on and consider in the evaluation of Responses any information obtained as a result of such reference checks, investigations, requests for clarification or supplementary information, interviews, and/or any additional information that it receives during the evaluation process.

The Province is not obligated to complete a detailed evaluation of all Responses and may, in its discretion, after completing a preliminary review of all the Responses, discontinue detailed evaluation of

any Respondent who, when compared to the other Respondents, the Province judges is not in contention to be shortlisted.

The Province will notify Respondents of the RFQ results by sending a written notice to the Respondent Representative.

The Province will conduct a debriefing, upon request, for any Respondent if the debriefing is requested within 90 days after a shortlist has been announced. In a debriefing the Province will discuss the relative strengths and weaknesses of that Respondent's Response, but the Province will not disclose or discuss any confidential information of another Respondent.

#### **5.4 INTERVIEWS**

Respondents may be required by the Province to participate in interviews regarding their Response during the evaluation process at the request of the Province. The interviews should be specific to the Project and may not contain any marketing information of the Respondent or any member of the Respondent Team.

#### **5.5 CHANGES TO RESPONDENT TEAMS**

The Province intends to issue the RFP only to Respondents that have been shortlisted under this RFQ as Proponents for the RFP process. If for any reason after the Submission Time a Respondent wishes or requires to add, remove or otherwise change a member of its Respondent Team, or there is a material change in ownership or control (which includes the ability to direct or cause the direction of the management actions or policies of the relevant member) of a member of the Respondent Team, or there is a change to the legal relationship among any or all of the Respondent and its Respondent Team members, then the Respondent must submit a written application to the Province for approval, including supporting information that may assist the Province in evaluating the change. The Province, in its discretion, may grant or refuse an application under this Section, and in exercising its discretion the Province will consider the objective of achieving a Competitive Selection Process that is not unfair to the other Respondents. For clarity:

- (a) if the application is made after the Proponents have been determined, the Province may refuse to permit a change to the membership of a Respondent Team if the change would, in the Province's judgment, result in a weaker team than was originally shortlisted; or
- (b) the Province may, in the exercise of its discretion, permit any changes to a Respondent Team, including changes as may be requested arising from changes in ownership or control of a Respondent or a Respondent Team member, or changes to the legal relationship among the

Respondent Team members, such as the creation of a new joint venture or other legal entity or relationship in place of the Respondent Team.

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

This Section 5.5 will apply until issuance of the RFP.



## 6 RFQ TERMS AND CONDITIONS

### 6.1 NO OBLIGATION TO PROCEED

This RFQ does not commit the Province in any way to proceed to an RFP stage 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.

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

All documents and other records in the custody of, or under the control of, the 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 applicable laws, including by obtaining from each individual any required consents and authorizations to the collection of information relating to such individual and to the submission of such information to the Province as part of the Response for the purposes of this RFQ and the Competitive Selection Process.

### 6.3 CONFIDENTIALITY OF PROVINCE INFORMATION

All non-public information pertaining to, or provided by or on behalf of, Partnerships BC or the Province obtained by a Respondent as a result of participation in this RFQ is confidential and will not be disclosed without written authorization from Partnerships BC or the Province (as applicable). Except as expressly stated in this RFQ and subject to the FOIPPA or other applicable legislation, all documents and other records submitted in response to this RFQ will be considered confidential; however, such information or parts thereof may be released pursuant to requests under FOIPPA or other applicable legislation.

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

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

The Province has engaged Partnerships BC. Partnerships BC has been and continues to be involved in other projects, and the Province may receive information in respect of other projects which may be relevant to the Project. Subject to the terms of the Request for Qualifications including limitations on

“Commercial in Confidence” information under Section 3.2.1 (Collaborative Meetings) and Section 4.7 (Enquiries) the Province may in its discretion disclose information that is available from this Project to Partnerships BC and other projects and may obtain information from other projects.

#### **6.4 COST OF PREPARING THE RESPONSE**

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

#### **6.5 NO REPRESENTATION OR WARRANTY**

Each Respondent acknowledges by its submission of a Response that it has investigated and satisfied itself of every condition that affects the Project. Each Respondent further acknowledges and represents that its investigations have been based on its own examination, knowledge, information and judgment, and not upon any statement, representation or information made or given by the Province, Partnerships BC, the Contact Person or any advisor to the Province, other than the information contained in this RFQ. Submission of a Response is deemed to be conclusive evidence that the Respondent has made such investigations and that the Respondent is willing to assume, and does assume, all risks affecting the Project, except as otherwise specifically stated in this RFQ. The Province accepts no responsibility for any Respondent lacking any information.

#### **6.6 RESERVATION OF RIGHTS**

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

- (a) amend the scope of the Project, modify, cancel or suspend the RFQ process or any or all stages of the Competitive Selection Process, at any time for any reason;
- (b) accept or reject any Response based on the Evaluation Criteria as evaluated by the Province;
- (c) disqualify a Response that fails to meet the Mandatory Requirements set out in Section 4.1 of this RFQ, or for any of the reasons set out in Part 2 of Appendix A, or any other reason the Province determines appropriate;
- (d) waive a defect, irregularity, non-conformity or non-compliance in or with respect to a Response or failure to comply with the requirements of this RFQ, except for Mandatory Requirements, and accept that Response even if such a defect, irregularity, non-conformity or non-compliance or failure to comply with the requirements of this RFQ would otherwise render the Response null and void;

- (e) not accept any or all Responses;
- (f) reject or disqualify any or all Response(s) for any reason without any obligation, compensation or reimbursement to any Respondent or any of its team members;
- (g) re-advertise for new Responses, call for quotes, proposals or tenders, or enter into negotiations for this Project or for work of a similar nature;
- (h) make any changes to the terms of the business opportunity described in this RFQ; and
- (i) amend, from time to time, any date, any time period or deadline provided in this RFQ, upon written notice to all Respondents who submitted a Receipt Confirmation Form.

## **6.7 LIMITATION OF DAMAGES**

Each Respondent, by submitting a Response, agrees that in no event will the Province or Partnerships BC, or any of their employees, advisors or representatives, be liable, under any circumstances, for any Claim, or to reimburse or compensate the Respondent in any manner whatsoever, including but not limited to costs of preparation of the Response, loss of anticipated profits, loss of opportunity, or for any other matter. Without in any way limiting the above, each Respondent specifically agrees that it will have absolutely no Claim against the Province or any of its employees, advisors or representatives if the Province for any reason whatsoever:

- (a) does not select a shortlist of Respondents;
- (b) suspends, cancels or in any way modifies the Project or the Competitive Selection Process (including modification of the scope of the Project or modification of this RFQ or both);
- (c) accepts any compliant or non-compliant Response or selects a shortlist of one or more Respondent(s);
- (d) under the terms of this RFQ, permits or does not permit a Restricted Party to advise, assist or participate as part of a Respondent Team; or
- (e) for any breach or fundamental breach of contract or legal duty of the Province, whether express or implied.

The Respondent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not shortlisted in the Competitive Selection Process or for any other reason whatsoever.

## **6.8 OWNERSHIP OF RESPONSES**

All Responses submitted to the Province become the property of the Province.

## **6.9 DISCLOSURE AND TRANSPARENCY**

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

The Province expects to disclose the following information during this stage of the Competitive Selection Process: this RFQ document, the number of Respondents, and the names of Proponents.

To ensure that all public information generated about the Project is fair and accurate and will not inadvertently or otherwise influence the outcome of the Competitive Selection Process, the disclosure of any public information generated in relation to the Project, including communications with the media and the public, will be coordinated with, and is subject to prior approval of, the Province.

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

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

## **6.10 NO COMMUNICATION OR COLLUSION**

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

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

## 6.11 NO LOBBYING

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

In the event of any lobbying or communication in contravention of this Section by any Respondent, Respondent Team members, or their respective directors, officers, employees, consultants, agents, advisors or representatives, the Province in its discretion may at any time, but will not be required to, reject any and all Responses submitted by that Respondent without further consideration.

## 6.12 RELATIONSHIP DISCLOSURE AND REVIEW PROCESS

The Province reserves the right to disqualify any Respondent that in the Province's opinion has a conflict of interest or an unfair advantage, whether it is existing now or is likely to arise in the future, or may permit the Respondent to continue and impose such conditions as the Province may consider to be in the public interest or otherwise required by the Province.

Respondents will submit the form attached as Appendix E and disclose all conflicts of interest or unfair advantage.

Respondents, including all firms, corporations or individual member of a Respondent Team, will promptly disclose to the Contact Person any potential conflict of interest and existing business relationships they may have with the Province, Partnerships BC others providing advice or services to the Province with respect to the Project, or any other matter that gives rise, or might give rise, to an unfair advantage. At the time of such disclosure, the Respondent will advise the Contact Person how the Respondent proposes to mitigate, minimize or eliminate the situation.

For the purposes of this RFQ, references to unfair advantage include references to confidential information that is not, or would not reasonably be expected to be, available to all Respondents.



The Province and the Conflict of Interest Adjudicator (the “**COI Adjudicator**”) may, in their discretion, consider actual, perceived or potential conflicts of interest and unfair advantage.

#### 6.12.1 Use or Inclusion of Restricted Parties

The Province may, in its discretion, disqualify a Respondent, or may 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 is a Restricted Party, or if the Respondent uses a Restricted Party:

- (a) to advise or otherwise assist the Respondent respecting the Respondent’s 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, and bears the onus, to ensure that neither the Respondent nor any Respondent Team member uses or seeks advice or assistance from any Restricted Party or includes any Restricted Party in the Respondent Team except as permitted by this Section 6.12.

#### 6.12.2 Current Restricted Parties

At this RFQ stage, and without limiting the definition of Restricted Parties, the Province has identified the following persons as Restricted Parties.

- Andrew Clark, Willowtree Consulting Inc. (IT Consultant);
- Boughton Law Corporation (COI Adjudicator);
- Deloitte LLP and their sub-consultants;
- DLA Piper (Canada) LLP (Legal Counsel);
- HDR | CEI Architecture Associates Inc. and their sub-consultants, including:
  - AES Engineering Ltd.;
  - AME Consulting Group;
  - Bogdonov Pao Associates Ltd.;
  - Connect Landscape Architecture;
  - Kerr Wood Leidal Associates Ltd.; and
  - RWDI Consulting Engineers.
- Jane Shackell, QC – Miller Thomson LLP (Fairness Advisor);

- SSA Quantity Surveyors Ltd.; and
- The Province and Partnerships BC, including their former and current employees who fall within the definition of Restricted Party.

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

#### 6.12.3 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. As of the date of this RFQ, no Shared Use Persons have been identified.

#### 6.12.4 Conflict of Interest Adjudicator

The Province has appointed a COI Adjudicator to provide decisions on conflicts of interest or unfair advantage issues, including whether any person is a Restricted Party.

The COI Adjudicator and the Province may make decisions or exercise rights under this Section 6.12 and this RFQ for conflicts of interest, unfair advantage whether addressed in advance or otherwise, and all provisions of this Section 6.12 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.

#### 6.12.5 Request for Advance Decision

A Respondent or a prospective member or advisor of a Respondent Team who has any concerns regarding whether a current or prospective employee, advisor or member of that Respondent Team is or may be a Restricted Party or has a concern about any conflict or unfair advantage it may have, is encouraged to request an advance decision in accordance with this section.

To request an advance decision on whether a person is a Restricted Party, a Respondent or prospective team member or advisor of that Respondent Team should submit to the Contact Person, not less than 10 Business Days prior to the Submission Time by email, the following information:

- (a) names and contact information of the Respondent and the person for which the advance opinion is requested;

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

The Province may make an advance decision or may refer the request for an advance decision to the COI Adjudicator. If the Province refers the request to the COI Adjudicator, the Province may provide input regarding the issues raised to the COI Adjudicator.

Subject to Section 6.2, all requests for advance decisions will be treated in confidence. If a Respondent or prospective team member or advisor becomes a Restricted Party, it may be listed in an Addendum or in subsequent Competitive Selection Process documents as a Restricted Party.

#### 6.12.6 The Province May Request Advance Decision

The Province may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Province identifies a potential conflict, unfair advantage or a person who may be a Restricted Party. The Province will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Province seeks an advance decision from the COI Adjudicator, the Province will give notice to the possible Respondent and may give notice to the possible Restricted Party so that they may provide input regarding 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 6.12.5.

#### 6.12.7 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 circumstance in which a decision may be amended or supplemented.

#### 6.12.8 Exclusivity

Unless permitted by the Province in its discretion or permitted as a Shared Use Person, each Respondent will ensure that no member of its Respondent Team, 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, each member of its Respondent Team, 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 decision. To request an advance decision 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;
- (b) a description of the relationship that raises the possibility of non-exclusivity;
- (c) a description of the steps taken to date, and future steps proposed to be taken, to mitigate any material adverse effect or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
- (d) 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.

#### 6.12.9 Exclusivity – the Province May Request Advance Decisions

The Province may also independently make advance decisions, or may seek an advance decision from the COI Adjudicator, where the Province identifies a matter related to exclusivity. The Province will, if it seeks an advance decision from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Province seeks an advance decision 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 6.12.8.

#### 6.12.10 Exclusivity – 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 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.

### 6.13 LEGAL COUNSEL

DLA Piper (Canada) LLP is a Restricted Party. By submitting a Response, the Respondent and the Respondent on behalf of each Respondent Team member expressly consents to DLA Piper (Canada) LLP continuing to represent the Province for all matters in relation to this RFQ and the Project, including any matter that is adverse to the Respondent, despite any information of the Respondent and any solicitor-client relationship that the Respondent or any Respondent Team member may have had, or may have, with DLA Piper (Canada) LLP in relation to matters other than this RFQ and the Project. This Section is not intended to waive any of the Respondent's rights of confidentiality or solicitor-client privilege. The Province reserves the right at any time to waive any provision of this Section.

### 6.14 FAIRNESS ADVISOR

The Province has appointed Jane Shackell, QC with Miller Thomson LLP as the Fairness Advisor to monitor the Competitive Selection Process. The Fairness Advisor will act as an independent observer of the fairness of the implementation of the Competitive Selection Process, up to the selection of a Preferred Proponent. The Fairness Advisor will provide a written report to the Province that the Province will make public.

The Fairness Advisor will be:

- (a) provided full access to all documents, meetings and information related to the process under this RFQ which the Fairness Advisor, in 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 Advisor directly with regard to concerns about the fairness of the Competitive Selection Process.



## 7 DEFINITIONS AND INTERPRETATION

### 7.1 DEFINITIONS

Unless otherwise defined in this RFQ, in this RFQ capitalized terms have the following meanings:

**“Addenda”** or **“Addendum”** means each amendment to this RFQ issued by the Contact Person as described in Section 4.10.

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

- (a) a corporation and
  - (1) a person by whom the corporation is controlled,
  - (2) each member of an affiliated group of persons by which the corporation is controlled, and
  - (3) a spouse or common-law partner of a person described in subparagraph (1) or (2) 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 Ceiling**” has the meaning set out in Section 2.5.2.

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

“**City**” means City of Abbotsford.

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

“**Collaborative Meetings**” has the meaning set out in Section 3.2.1.

“**Conflict of Interest Adjudicator**” or “**COI Adjudicator**” has the meaning set out in Section 6.12.4.

“**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 set out in Appendix C.

“**Confidentiality Agreement**” means the agreement referred to in Appendix C to this RFQ.

“**Contact Person**” means the person identified as such in the Summary of Key Information, or such other person as may be appointed by the Province for that purpose.

“**Design-Builder**” of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have the direct responsibility to design and build the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Builder Construction Lead”** means the individual responsible for leading the Design-Builder during construction of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design-Builder Project Lead”** means the individual responsible for leading the Design-Builder during the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Firm”** means the firm engaged by the Design-Builder to design the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Design Lead”** means the individual employed or engaged by the Design Firm who is responsible for leading the design of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Enquiry”** has the meaning set out in Section 4.7.

**“Equity Provider”** of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have an ownership or equity interest in the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Evaluation Criteria”** means the criteria referred to in Section 2.2 of Appendix A to this RFQ.

**“Facility”** means the new courthouse replacing the existing Abbotsford Provincial Court.

**“Fairness Advisor”** has the meaning set out in Section 6.14.

**“Final Draft Project Agreement”** has the meaning set out in Section 3.2.1 (c).

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

**“Financing Nominated Projects”** has the meaning set out in Section 1 of the Evaluation Criteria in Appendix A of this RFQ, and as requested in Form A-3 Financing Nominated Project Details of Appendix A.

**“Freedom of Information and Protection of Privacy Act” or “FOIPPA”** has the meaning set out in Section 6.2.

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

**“Guarantor”** means an entity providing financial and/or performance support to a Respondent or Equity Provider by way of a guarantee or a commitment to provide equity or dedicated credit facilities to support the participation by the Respondent or Equity Provider in the Competitive Selection Process and the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“IMIT Lead”** means the individual employed or engaged by the Design Firm or the Design Builder who is responsible for leading the information management information technology design of the Project including security, communications, audio visual and information technology systems, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Initial Draft Project Agreement”** means the draft form of Project Agreement issued under the RFP, as amended pursuant to the terms of the RFP.

**“Key Individuals”** of a Respondent Team means the specific individuals, exclusive to the Respondent, filling the following roles (or equivalent), as described in the Respondent’s Response and as may be changed pursuant to this RFQ:

- Project Co Lead;
- Design-Builder Construction Lead;
- Design-Builder Project Lead;
- Design Lead;
- IMIT Lead; and
- Service Provider Lead.

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

**“Mandatory Requirements”** means the submission requirements set out in Section 4.1.

**“Minimum Requirements”** has the meaning set out in Appendix A of this RFQ.

**“Nominated Projects”** has the meaning set out in Section 1 of the Evaluation Criteria in Appendix A of this RFQ, and as requested in Form A-2 Nominated Project Details of Appendix A.

**“Participation Agreement”** means the form substantially as attached as Appendix F to this RFQ.

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



**“Performance Specifications”** means the specifications for the design, construction and maintenance of the Facility as set out in the Project Agreement, including Schedule 3 [Design and Construction Specifications] and Schedule 4 [Services Protocols and Specifications].

**“Preferred Proponent”** means the Proponent selected by the Province pursuant to the RFP to finalize the Project Agreement.

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

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

**“Project Brief”** has the meaning set out in Section 1.4.

**“Project Co”** means the entity proposed by the Respondent to enter into the Project Agreement with the Province and leading the Project team through the term of the Project Agreement.

**“Project Co Lead”** means the individual proposed by the Respondent to be responsible for leading Project Co to enter into the Project Agreement with the Province and through the term of the Project Agreement, as described in the Respondent’s Response and as may be changed pursuant to 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.

**“Proposal”** means the submission prepared by a Proponent in response to the Request for Proposals.

**“Province”** means collectively Her Majesty the Queen in Right of the Government of British Columbia as represented by the Ministry of Technology, Innovation and Citizens’ Services and the Ministry of Justice.

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

**“Relationship Disclosure Form”** means the form substantially as attached as Appendix E to this RFQ.

**“Respondent”** means:

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

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





**“Respondent Team”** means a Respondent Team Lead and its Design-Builder, its Service Provider, its Equity Provider(s), its Guarantor(s) (if any), and its Key Individuals, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Respondent Team Lead”** means the entity responsible for leading the Respondent Team throughout:

- the Competitive Selection Process for the Project;
- entering into the Project Agreement with the Province; and
- the implementation of the Project Agreement,

as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

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

**“Response Declaration Form”** means the form substantially as attached as Appendix D to this RFQ.

**“Restricted Party”** means 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 or the design, planning or implementation of the Project, and who 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.

**“RFP”** means the Request for Proposals, which may be issued by the Province as a stage of the Competitive Selection Process.

**“RFQ”** means this Request for Qualifications, including the Appendices, issued by the Province as the first stage of the Competitive Selection Process.

**“Service Provider”** of a Respondent means an individual, corporation, joint venture, partnership or other legal entity who will have direct responsibility to provide maintenance and/or life cycle services to the Project during the operating term of the Project Agreement, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Service Provider Lead”** means the individual responsible for leading the service provider team during the design and construction phase of the Project, as described in the Respondent’s Response and as may be changed pursuant to this RFQ.

**“Shared Use Person”** means those persons, if any, who are specifically named in Section 6.12.3.

**“Site”** means the site upon which the Project is to be constructed.

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

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

## 7.2 INTERPRETATION

In this RFQ:

- (a) when an action, decision, consent, 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;
- (b) the use of headings is for convenience only and headings are not to be used in the interpretation of this RFQ;
- (c) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFQ;
- (d) words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa;
- (e) the word “including” when used in this RFQ is not to be read as limiting;
- (f) all dollar values are Canadian dollars unless otherwise indicated;
- (g) a reference to a “person” includes a reference to an individual, legal personal representative, corporation, body corporate, firm, partnership, trust, trustee, syndicate, joint venture, limited liability company, association, unincorporated organization, union or government authority; and
- (h) 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.

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

## APPENDIX A RESPONSE GUIDELINES AND EVALUATION CRITERIA

### **Table of Contents – Appendix A**

#### **Part 1. Response Guidelines**

#### **Part 2. Evaluation**

#### **Part 3. Response Format**

#### **Attached Sample Forms:**

**Form A-1: Nominated Projects Summary Matrix**

**Form A-2: Nominated Project Details**

**Form A-3: Financing Nominated Project Details**

## Part 1. Response Guidelines

### Responses should:

- (a) be clearly marked with the words “**Response to RFQ – Abbotsford Law Courts Project**” and addressed to the Submission Location;
- (b) include all of the information requested in this Appendix A. Materials that are not requested in this Appendix A will not be evaluated;
- (c) be limited to 75 double-sided sheets (150 pages) including the Key Individuals resumes but excluding the following:
  - (1) Package 1;
  - (2) Package 3 (Financial Information);
  - (3) Nominated Projects Binder; and
  - (4) any appendices which may include the performance monitoring report examples.

Material submitted which exceeds the page limit may not be evaluated, at the discretion of the Province;

- (d) not include in the Appendices items not requested in this Appendix A;
- (e) be on 8.5” x 11” paper size with a minimum font size of 11 point; and
- (f) be submitted as follows:

Package	Contents	Number of Copies
Package 1	1) Transmittal Letter; 2) Response Declaration Form (see Appendix D of this RFQ) signed by the Respondent; 3) A table containing the individual names and company names of the Key Individuals; and 4) Relationship Disclosure Form (see Appendix E of this RFQ) signed by the Respondent.	One hard copy.
Package 2	Response (see Part 3 of this Appendix A – Sections 1 through 4)	Four bound copies, including one marked “Master”
Package 3	Response (see Part 3 of this Appendix A – Section 5)	Four bound copies, including one marked “Master”

Package	Contents	Number of Copies
Nominated Projects Binder	1) Nominated Projects Summary Matrix (Form A-1) 2) Nominated Project Details (Form A-2) 3) Financing Nominated Project Details (Form A-3)	Four bound copies, including one marked "Master"
<b>Electronic Copy:</b> One electronic copy in PDF format included on a USB Flash Drive. The electronic copy should be organized and submitted as follows: <ol style="list-style-type: none"> <li>1) A consolidated file containing the entire Response;</li> <li>2) An individual file for each of Packages 1, 2 and 3; and</li> <li>3) Individual files within Packages 2 and 3 for each major section described in Part 3 of the Appendix A.</li> </ol>		

## Part 2. Evaluation

### 2.1 Minimum Requirements

The Province will evaluate Responses and determine in its discretion if the Respondent Team adequately meets the Minimum Requirements stated in Table 1. Should any Respondent Team fail to adequately meet the Minimum Requirements, the Province may, in its discretion, discontinue the evaluation of that Respondent Team's Response in accordance with Section 5.3 and Section 6.6 of this RFQ.

**Table 1: Minimum Requirements**

Financial Capacity and Project Financing Experience
<p>A) Financial Capacity</p> <p>Sufficient financial capacity of each of the following Respondent Team members to undertake their respective obligations to the Project:</p> <ul style="list-style-type: none"> <li>• Equity Provider(s)</li> <li>• Design-Builder</li> <li>• Service Provider</li> <li>• Guarantor(s) (if applicable)</li> </ul> <p>as demonstrated by the Respondent's response to the content requirements set out in Section 5 of Response format (Part 3 of Appendix A).</p> <p>B) Project Financing Experience</p> <p>Demonstrate adequate project financing experience as demonstrated by the Respondent's response to the content requirements set out in Section 5 of Response format (Part 3 of Appendix A).</p>

## 2.2 Evaluation Criteria

Subject to Section 4.1 of this RFQ, for those Respondent Teams that adequately meet the Minimum Requirements, the Province will evaluate Responses by applying the following Evaluation Criteria and weighting in Table 2.

**Table 2: Evaluation Criteria and Weighting**

Section	Evaluation Criteria	Weighting
<b>Section 2 Respondent Team Lead</b>	Strength and relevance of demonstrated experience and capability of the Respondent Team Lead to undertake the Project with respect to the following: 2.1 Project Development and Management Experience 2.2 Key Individual: Project Co Lead 2.3 Key Project Considerations	25 points
<b>Section 3 Design Firm Design-Builder</b>	With reference to the response content requirements in Part 3, Section 3, strength and relevance of demonstrated experience and capability of the <b>Design Firm</b> to undertake the management of the Project's design with respect to the following: 3.1 Design Firm Experience and Capability 3.2 Design Firm Key Individuals	25 points
	With reference to the response content requirements in Part 3, Section 3, strength and relevance of demonstrated experience and capability of the <b>Design-Builder</b> to undertake the management of the Project's design and construction phase with respect to the following: 3.3 Design-Builder's Construction Qualifications and Experience 3.4 Design-Builder's Key Individuals	25 points
<b>Section 4 Service Provider</b>	Strength and relevance of demonstrated experience and capability of the <b>Service Provider</b> to undertake the facility management (including life cycle requirements) of the completed Facility with respect to the following: 4.1 Service Provider Experience and Capability 4.2 Service Provider's Key Individual	25 points
<b>Total</b>		<b>100 points</b>

## 2.3 Disqualification of Responses

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

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

The Respondent and any member of the Respondent Team may be required to undertake a criminal records check in order to participate in the Project.

### Part 3. Response Format

Respondents should use the section numbers and titles provided in the tables below in preparing their Responses.

**Table 3: Response Content Requirements**

Section	Title	Response Content Requirements
<b>1.</b>	<b>Introduction and Nominated Projects</b>	
<b>1.1</b>	<b>Proposed Respondent Team and Organization</b>	<p>a) Provide the legal name of the entity for each of the following members of the Respondent Team:</p> <ul style="list-style-type: none"> <li>i. Respondent Team Lead</li> <li>ii. Equity Provider(s)</li> <li>iii. Design Firm</li> <li>iv. Design-Builder</li> <li>v. Service Provider</li> </ul> <p>b) If the Respondent Team Lead is comprised of more than one entity, indicate how these entities will be organized. Describe the management structure within the Respondent Team, how the Design-Builder, Design Team, and Service Provider will be integrated under general management of Project Co. Reference should also be made to the two stages identified in c) below.</p> <p>c) Provide organization chart(s), at the corporate level, showing the relationships between Respondent Team members for each of the following stages, indicating the changes contemplated between stages:</p> <ul style="list-style-type: none"> <li>i. Design and Construction stage: from preliminary design through to commencement of operating payments; and</li> <li>ii. Operations stage: from commencement of operating payments through to end of the Term.</li> </ul> <p>For all of the charts, include a reference to the reporting relationship with the Province.</p> <p>d) Provide a project organization chart, at the Key Individual level, showing reporting relationships between, and authority of, the Key Individuals and other individuals that will report into them to indicate the proposed approach/management structure for the Project. The Respondent Team should submit an organization chart for each of the two stages listed above, with references in each to the</p>



Section	Title	Response Content Requirements
		<p>reporting relationship with the Province. Note: Names are required only for Key Individuals at this time.</p> <p>e) Provide a short description of the Respondent Team excluding individuals (for publication of the teams shortlisted for the RFP stage).</p>
1.2	<b>Contact Information</b>	<p>a) Provide the name and contact details for the Respondent Representative. The Respondent Representative will be the only person to receive communication from the Contact Person regarding this RFQ.</p> <p>i. Name;</p> <p>ii. Employer;</p> <p>iii. Mailing/courier addresses;</p> <p>iv. Telephone number;</p> <p>v. Email address; and</p> <p>vi. Website address.</p>
1.3	<b>Nominated Projects</b>	<p>a) Submit a maximum of 12 Nominated Projects using Form A-2 of this Appendix A. Note that more current Nominated Projects (that reached Service Commencement within the last 10 years) may be considered to have greater relevance than older ones.</p> <p>b) Confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Province. References should be current employees of the project owner.</p>
1.4	<b>Financing Nominated Projects</b>	<p>a) Submit a maximum of two (2) Financing Nominated Projects using Form A-3 of this Appendix A.</p> <p>b) Confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Province. References should be limited to Financing Nominated Projects that reached Financial Close within the last five (5) years.</p>
2.	<b>Respondent Team Lead</b>	
2.1	<b>Project Development and Management Experience</b>	<p>Using two (2) Nominated Projects relevant to each sub-section below, describe the strength of the Respondent Team Lead's experience and capability for each of the following:</p> <p>a) Developing, managing and delivering projects similar in scope, schedule, size and complexity to the Project. (examples of relevant projects may include but are not limited to: courthouses, correctional</p>

Section	Title	Response Content Requirements
		<p>centres, police or RCMP detachments, casinos, airports. Respondents are to clearly establish relevance of their Nominated Projects).</p> <p>b) Managing PPP arrangements including:</p> <ol style="list-style-type: none"> <li>i. Managing project risks over the life of the Nominated Project including examples of risks that materialized and how they were managed;</li> <li>ii. Balancing the long-term building performance and needs of the service provider against the short-term needs during design and construction to optimize facility performance and cost over time;</li> <li>iii. Managing the performance and quality of contractors in the delivery of complex design-build and facility management contracts.</li> </ol> <p>c) Coordinating and integrating ongoing quality management and quality control in all phases of the project, including a description of the Respondent Team Lead's quality management program;</p> <p>d) Managing the transition, commissioning, user acceptance, correction of deficiencies and handover of the project to the client.</p> <p>Note for Respondents: if the Respondent Team Lead is comprised of more than one entity, Nominated Projects in this section will be evaluated in the context of the response to Section 1.1.</p>
2.2	<p><b>Key Individual:</b></p> <ul style="list-style-type: none"> <li>• Project Co Lead</li> </ul>	<p>a) Describe the role and responsibilities of the Project Co Lead for the Project.</p> <p>b) Provide a resume for the Project Co Lead, as defined in this RFQ and identified in the Project organization chart(s). At a minimum, the following information is required:</p> <ol style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s), and a summary of education; and</li> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to their proposed role on at least two (2) relevant projects worked on in the last five (5) years. Respondents are to confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Province. References should be current employees of the project owner.</li> <li>iii. Provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, providing a brief description of the role and responsibility of each. Demonstrate how this experience supports the capability of the Key Individual for the proposed role in the Project.</li> </ol> <p>c) Describe the percentage of availability of the Key Individual(s) to undertake the Project (i.e., procurement, design and construction, commissioning and operations) in relation to current and</p>

Section	Title	Response Content Requirements
		anticipated commitments to other projects that will proceed at the same time as the Project, and identify those other projects.
2.3	<b>Key Project Considerations</b>	In a maximum of four (4) double-sided pages (8 pages), describe: <ol style="list-style-type: none"> <li>Key considerations for the Project under the headings of challenges, risks, and opportunities that the Respondent deems important to the success of the Project;</li> <li>The Respondent's approach to proposing and designing flexible IMIT systems to accommodate future technology changes, while limiting long term building impacts within a secure environment; and</li> <li>With reference to the organization charts provided in section 1.1, describe how the integrated team is uniquely suited to address the considerations identified above, including how each Respondent Team member will contribute.</li> </ol>
<b>3.</b>	<b>Design and Construction</b>	
3.1	<b>Design Firm Experience and Capability</b>	Using up to three (3) of the Nominated Projects relevant to each sub-section below, describe the strength of the Design Firm's design experience and capability for each of the following: <ol style="list-style-type: none"> <li>Designing large, complex projects, similar to the Project; (examples of relevant projects may include but are not limited to: courthouses, correctional centres, police or RCMP detachments, casinos, airports. Respondents are to clearly establish relevance of their Nominated Projects.);</li> <li>Coordinating and integrating ongoing quality management and control in design;</li> <li>Planning and executing a collaborative design development process with multiple user groups under a design-build or PPP contract, including: <ol style="list-style-type: none"> <li>A description of the consultative tools and procedures; and</li> <li>How the tools and procedures were utilized to affect a desired outcome.</li> </ol> </li> <li>Designing complex, multi-network IMIT and security systems for projects of similar complexity.</li> </ol>
3.2	<b>Design Firm's Key Individuals:</b> <ul style="list-style-type: none"> <li>• Design Lead</li> <li>• IMIT Lead</li> </ul>	<ol style="list-style-type: none"> <li>Describe the role and responsibility of each of the Design Firm Key Individuals for the Project, including how they will interact within the team and with the Province;</li> <li>Provide comprehensive resumes for the Design Firm's Key Individuals, including, at a minimum, the following information: <ol style="list-style-type: none"> <li>Name, professional qualifications / designation(s) and a summary of education; and</li> </ol> </li> </ol>

Section	Title	Response Content Requirements
		<ul style="list-style-type: none"> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) for their role on at least two (2) projects within the past three (3) years. Confirm that the reference is aware their name is being included and is willing to provide a reference to the Province. References should be current employees of the project owner.</li> <li>iii. Provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, providing a brief description of the role and responsibility of each. Demonstrate how this experience supports the capability of the Key Individual for the proposed role in the Project.</li> </ul> <p>c) Describe the percentage of availability at each phase of the Project for the Design Team's Key Individual(s) to undertake the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project, and identify those other projects.</p>
3.3	<b>Design-Builder's Construction Qualifications and Experience</b>	<p>Using up to three (3) of the Nominated Projects relevant to each sub-section below, describe the strength of the Design-Builder's construction experience and capability with the following:</p> <ul style="list-style-type: none"> <li>a) Constructing large, complex projects, similar to the Project, delivered through a design-build or PPP contract;</li> <li>b) Coordinating and integrating ongoing quality management and control in construction, including an example of the design-builder's quality management program;</li> <li>c) Implementing complex, multiple network IMIT and security systems for similar projects; and</li> <li>d) Integrating design and facility maintenance with construction, including working effectively with the design team, facility maintenance provider and owner.</li> </ul> <p>If any of the Nominated Projects referenced involved a joint venture, identify the joint venture partner(s) and discuss the breakdown of responsibility between the parties.</p>
3.4	<b>Design-Builder's Key Individuals:</b> <ul style="list-style-type: none"> <li>• Design-Builder Project Lead</li> <li>• Design-Builder Construction Lead</li> </ul>	<ul style="list-style-type: none"> <li>a) Describe the role and responsibility for the Design-Builder's Key Individual(s).</li> <li>b) Provide comprehensive resumes for the Design-Builder's Key Individual(s) including at a minimum, the following:           <ul style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s) and a summary of education; and</li> <li>ii. References (with contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to at least two (2) relevant projects within the past five (5) years. Respondents are to confirm that each reference contact is</li> </ul> </li> </ul>

Section	Title	Response Content Requirements
		<p>aware their name is being included and is willing to provide a reference to the Province. References should be current employees of the project owner.</p> <p>iii. Provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, providing a brief description of the role and responsibility for each. Demonstrate how this experience supports the capability of the Key Individual for the proposed role in the Project.</p> <p>c) Describe the percentage availability at each phase of the Project for the Key Individuals to undertake the Project in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project and identify those other projects.</p>
<b>4.</b>	<b>Service Provider</b>	
<b>4.1</b>	<b>Service Provider Experience and Capability</b>	<p>Using two (2) Nominated Projects that are relevant to each sub-section below, describe the strength of the Service Provider's experience and capability for each of the following (Respondents are to clearly establish relevance of their Nominated Projects):</p> <p>a) Planning, developing and implementing:</p> <ul style="list-style-type: none"> <li>i. Facility management services; and</li> <li>ii. Operating and service plans.</li> </ul> <p>b) Developing and managing quality management plans and systems;</p> <p>c) Working with Environmental Management Systems similar to the Province's ISO 14001 certification;</p> <p>d) Performance monitoring and management, including:</p> <ul style="list-style-type: none"> <li>i. Development and implementation of performance monitoring programs; and</li> <li>ii. Examples of recent performance monitoring reports from Nominated Projects. If the Nominated Projects are Province or Partnerships BC projects, the Province may review past performance monitoring reports to assess performance.</li> </ul> <p>e) Managing demand maintenance to minimize operational disruptions; and</p> <p>f) Maintaining complex, multiple network IMIT and security systems for projects of similar complexity.</p>

Section	Title	Response Content Requirements
4.2	<b>Service Provider's Key Individual:</b> <ul style="list-style-type: none"> <li>• Service Provider Lead</li> </ul>	a) Describe the role and responsibility for the Service Provider' Key Individual(s). b) Provide a comprehensive resume for the Service Provider's Key Individual, including at a minimum, the following information: <ol style="list-style-type: none"> <li>i. Name, professional qualifications/designation(s) and summary of education; and</li> <li>ii. References (with up-to-date contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence) related to their proposed role on at least two (2) relevant projects worked on in the last three (3) years. Respondents are to confirm that each reference contact is aware their name is being included and is willing to provide a reference to the Province. References should be current employees of the project owner.</li> <li>iii. Provide a list of relevant projects and positions held within the past ten (10) years, in chronological order, providing a brief description of the role and responsibility of each. Demonstrate how this experience supports the capability of the Key Individual for the proposed role in the Project.</li> </ol> c) Describe the percentage of availability of the Key Individual(s) to undertake the Project (i.e., procurement, design and construction, commissioning and operations) in relation to current and anticipated commitments to other projects that will proceed at the same time as the Project, and identify those other projects.
5.	<b>Financial Capacity</b>	
5.1	<b>Financial Capacity</b>	To address the Minimum Requirements stated in Table 1 of Appendix A: <ol style="list-style-type: none"> <li>a) Provide the following information for each of the Equity Provider(s), the Design-Builder, the Service Provider, and the Guarantor(s) (if applicable)               <ol style="list-style-type: none"> <li>i. Copies of annual audited financial statements 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 statement for each quarter since the last fiscal year for which audited statements are provided;</li> <li>iii. Details of any material off-balance sheet financing arrangements currently in place;</li> </ol> </li> </ol>

Section	Title	Response Content Requirements
		<ul style="list-style-type: none"> <li>iv. Details of any material events that may affect the entity's financial standing since the last annual or interim financial statements provided;</li> <li>v. Details of any credit rating, including any downgrades of credit rating in last five years;</li> <li>vi. Details of any bankruptcy, insolvency, company creditor arrangement or other insolvency proceedings in the last three fiscal years, and any litigation or other material adverse proceedings (arbitration or regulatory investigations or proceedings) that are still outstanding that may affect the Respondent Team's ability to perform its obligations in relation to the Project; and</li> <li>vii. For entities where financial statements are provided for a parent company, rather than the entity listed in a) provide evidence of the parent company's willingness to provide a guarantee in respect of the entity listed in this section a).</li> </ul> <p>b) With reference to the information provided in this section a), briefly describe in the context of the entity's proposed role and project obligations:</p> <ul style="list-style-type: none"> <li>i. Each Equity Provider's capacity to fund the Project (e.g. discuss credit rating, net assets, liquid assets, letters of commitment);</li> <li>ii. The Design-Builder's capacity to undertake its project obligations (e.g. discuss net and total asset size relative to Project scope, financial viability and ability to provide performance security, and describe support of the Design-Builder, including by a Guarantor (as applicable)); and</li> <li>iii. The Service Provider's capacity to undertake its project obligations (e.g. discuss credit rating, financial viability and describe support of the Service Provider, including by a Guarantor (as applicable)).</li> </ul> <p>c) Using two (2) relevant Financing Nominated Projects that reached Financial Close within the last five (5) years, describe the Respondent Team Lead's and/or Equity Provider(s)' experience and ability to structure and raise long-term financing. If Financing Nominated Projects from outside Canada are put forward, indicate how that experience is relevant to financing in the Canadian market.</p>

**Form A-1 Nominated Projects Summary Matrix**

See separate excel file.

**Form A-2 Nominated Project Details**

Identify Respondent, Respondent Team member, and number projects sequentially 1 through 12. Maximum 3 pages in length per project.

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, address, site or project extent.</i>
<b>Owner</b>	<i>Organization name.</i>
<b>Reference contact details</b>	<i>Current information for 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, construction management.</i>
<b>Contract period (term)</b>	<i>Contract commencement date, start/end of construction dates, start of operations date and contract end date.</i>
<b>Description of project</b>	<i>Capital value, scope and complexity, including purpose of facility.</i>
<b>Relevance</b>	<i>Establish the relevance of the Nominated Project (e.g. procurement approach, asset class, building size, building systems, jurisdiction, delivery schedule) to the Project.</i>
<b>Time period of involvement</b>	<i>Commencement date and duration. (e.g. length of respondent team's involvement)</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events. (e.g. construction, service commencement, operations)</i>
<b>Role(s) on project</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team members (e.g. Owner's team, proponent, Project Co).</i>





Item	Notes to Respondents
<b>Joint Venture</b>	<i>If the project involved a joint venture, identify the joint venture partner(s) and discuss the breakdown of responsibility between the parties.</i>
<b>Performance</b>	<i>Describe the performance in meeting obligations related to the contract. If there were any issues during the design and construction phase (i.e. interpretation issues), describe how they were resolved.</i>
<b>Other information</b>	<i>Any information the Respondent considers relevant to the Evaluation Criteria.</i>

### Form A-3 Financing Nominated Project Details

Identify Respondent, Respondent Team member, and number projects sequentially 1 and 2. Maximum 3 pages in length per project.

Item	Notes to Respondents
<b>Name of project</b>	<i>Details including official project name and contract number.</i>
<b>Type of project</b>	<i>Asset class. (e.g. justice facility, airport, other)</i>
<b>Project Owner</b>	<i>Owner name.</i>
<b>Description of project</b>	<i>Capital value, purpose, scope and complexity of facility.</i>
<b>Location of project</b>	<i>Country, province/state, address, site or project extent.</i>
<b>Current status of project</b>	<i>Describe the current status of the project relative to key milestone events. (e.g. procurement, preferred proponent, financial close, construction, operations)</i>
<b>Reference contact details</b>	<i>Current information for 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, end of construction date, start of operations date and contract end date.</i>
<b>Contract structure</b>	<i>Contract structure. (i.e. DBFM, availability payment).</i>
<b>Relevance</b>	<i>Describe the relevance of the Financing Nominated Project to the Project. (e.g. size, scope, type of project)</i>

Item	Notes to Respondents
<b>Role(s) and responsibilities with respect to financing</b>	<i>Specific role, duties and responsibilities of applicable Respondent Team members.</i>
<b>Amount of long-term financing</b>	<i>Transactions must be \$50 million in debt or greater.</i>
<b>Type of financing</b>	<i>Recourse or non-recourse. (e.g. amortizing bond, bullet bond, corporate bond, mini perms, real return bond)</i>
<b>Term of financing</b>	<i>Commencement date and duration of financing (construction period only financing is not sufficient).</i>
<b>Funding source</b>	<i>Examples: private placement, corporate, third-party equity, widely marketed public offering, bank loan.</i>
<b>Other information</b>	<i>Any information the Respondent considers relevant to the Evaluation Criteria.</i>

**APPENDIX B RECEIPT CONFIRMATION FORM**

(To be submitted by the Respondent Representative on receipt of this RFQ)

Request for Qualifications

**Abbotsford Law Courts Project**

To receive any further distributed information  
 about this **Request for Qualifications**,  
 please execute and email both pages of this

Receipt Confirmation Form as soon as possible to:

**Dawn Hart at Partnerships BC**

Email: [dawn.hart@partnershipsbc.ca](mailto:dawn.hart@partnershipsbc.ca)

**Respondent Contact Information**

Name of Respondent:			
Street Address:			
City:		Postal/Zip Code:	
Province/State:		Country:	
Mailing Address, if different: _____			
Email Address:		Telephone:	
Contact Person:			



**ACKNOWLEDGMENT OF TERMS OF RFQ AND CONFIDENTIALITY**

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

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

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

Respondent Representative or other interested party:

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Authorized Signature

---

Name of the Authorized Signatory

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Title

---

Date



## APPENDIX C CONFIDENTIALITY AGREEMENT

### 1. Interpretation

In this Agreement:

- (a) Agreement means this Appendix C, which is subject to the RFP,
- (b) Confidential Information means all documents, knowledge and information provided by the Province or any of its Representatives (the Disclosing Party) to, or otherwise obtained by, the Recipient or any of its Representatives (the Receiving Party), whether before or after the date of this Agreement, and whether orally, in writing or other visual or electronic form in connection with or relevant to the Project, this 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 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;
  - (2) is subsequently communicated to the Receiving Party by an independent third party, other than a third party introduced to the Receiving Party by the Disclosing Party or connected with the Project, without breach of this Agreement and which party did not receive such information directly or indirectly under obligations of confidentiality;
  - (3) 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;
  - (4) was developed independently by the Receiving Party without the use of any Confidential Information; or
  - (5) is required to be disclosed pursuant to any judicial, regulatory or governmental order validly issued under applicable law.
- (c) Permitted Purposes means evaluating the Project, preparing a Response, and any other use permitted by this Agreement.

- (d) Recipient means a Respondent or any other interested party who completes a Receipt Confirmation Form.
- (e) Representative means a director, officer, employee, agent, accountant, lawyer, consultant, financial advisor, subcontractor, Equity Provider, Key Individual, or other member of a Respondent Team or any other person contributing to or involved with the preparation or evaluation of Responses or proposals, as the case may be, or otherwise retained by the Recipient, the Province or Partnerships BC in connection with the Project.
- (f) all capitalized terms not otherwise defined in this Agreement have the respective meanings ascribed to them in Section 7.1 of this RFQ.

## **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 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 owns all right, title and interest in the Confidential Information and, subject to any disclosure requirements under applicable law, and except as permitted by this Agreement, the Recipient will keep all Confidential Information that the Recipient receives, has access to, or otherwise obtains strictly confidential for a period of three years after the date of this Agreement, and will not, without the prior express written consent of an authorized representative of the 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 Response or proposal as applicable and on the condition that all such Confidential Information be retained by each of those Representatives as strictly confidential. The Recipient will notify Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.



## **5. Destruction on Demand**

On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC; (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 Partnerships BC may be irreparably harmed if any provision of this Agreement were not performed by the Recipient or any party to whom the Recipient provides Confidential Information in accordance with its terms, and that any such harm could not be compensated reasonably or adequately in damages. The Recipient further acknowledges and agrees that the Province 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 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 will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

## **8. Severability**

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

## **9. Enurement**

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



## APPENDIX D RESPONSE DECLARATION FORM

By executing this Response Declaration Form, the Respondent agrees to the provisions of this RFQ and this Response Declaration Form. Capitalized terms in this Response Declaration Form are defined in Section 7.1 of this RFQ.

### [RFQ Respondent's Letterhead]

To: Ministry of Technology, Innovation and Citizens' Services and Ministry of Justice  
c/o Partnerships BC, 300 – 707 Fort Street, Victoria, BC V8W 9W6

Attention: Dawn Hart

Re: Request for Qualifications entitled Abbotsford Law Courts Project

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### [Insert Respondent Name] Response

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

(a) Response

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

(b) Acknowledgements with Respect to this RFQ

- (1) the Respondent has received, read, examined and understood the entire RFQ including all of the terms and conditions, all documents listed in this RFQ's Table of Contents, and any and all Addenda;





- (2) the Respondent agrees to be bound by the entire RFQ including all of the terms and conditions, including without limitation Section 6.7, all documents listed in this RFQ's Table of Contents, and any and all Addenda;
- (3) the Respondent's representative identified below is fully authorized to represent the Respondent in any and all matters related to its Response, including but not limited to providing clarifications and additional information that may be requested in association with this RFQ;
- (4) the Respondent has disclosed all relevant relationships, in accordance with the instructions and format outlined in the Relationship Disclosure Form; and
- (5) the Respondent has had sufficient time to consider, and has satisfied itself as to the applicability of the material in this RFQ and any and all conditions that may in any way affect its Response.

(c) Evaluation of Responses

- (1) this RFQ is not an offer, a tender or a request for proposals; it is a Request for Qualifications and the responsibility of the Province is limited to consider Responses in accordance with this RFQ.

(d) Consent of Respondent Team

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

(e) The Respondent Team consists of:

Name of Respondent Team Member - Firm	Address	Role on Team	Key Individual (Y/N)

Any individual mentioned in the Response should be included in the table above.



Name of Respondent Team Member - Individual	Address	Role on Team	Key Individual (Y/N)

**RESPONDENT**

**RESPONDENT REPRESENTATIVE**

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Name of Firm

---

Address

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Address

---

Name of Authorized Signatory

---

Signature

---

Name

---

Email Address

---

Telephone

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If the Respondent is a joint venture, consortium or special purpose entity – by each of its joint venture or consortium members, as applicable.



## APPENDIX E RELATIONSHIP DISCLOSURE FORM

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

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

- (a) this declaration is made to the best of the knowledge of the Respondent and, with respect to relationships of each member of the Respondent Team, to the best of the knowledge of that member.
- (b) the Respondent and the members of the Respondent Team have reviewed the definition of Restricted Parties and the non-exhaustive list of Restricted Parties in Section 6.12.2.
- (c) the following is a full disclosure of all known relationships that the Respondent and each member of the Respondent Team has, or has had, with:
  - (1) the Province;
  - (2) any listed Restricted Party;
  - (3) any current shareholders, directors or officers, as applicable, of the Province or any listed Restricted Party;
  - (4) any former shareholders, directors or officers, as applicable, of the Province or any listed Restricted Party, who ceased to hold such position within two calendar years prior to the Submission Time; and/or
  - (5) any other person who, on behalf of the Province or a listed Restricted Party, has been involved in the Competitive Selection Process or the design, planning or implementation of the Project has confidential information about the Project or the Competitive Selection Process.

Name of Respondent Team member	Name of Party with Relationship (e.g., list Province, Restricted Party, etc.)	Details of the Nature of the Relationship with the Listed Restricted Party/Person (e.g., Respondent Team member was an advisor to the Restricted Party from _____ to _____ )
<i>e.g. Firm Name Ltd.</i>	<i>Partnerships BC</i>	<i>Firm Name Ltd. is working with Partnerships BC on Project X.</i>
<i>e.g. John Smith</i>	<i>The Province</i>	<i>Employee from 19XX – 20XX</i>

(Each Respondent Team to submit one Relationship Disclosure Form. Add additional pages as required).

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**NAME OF RESPONDENT**

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Address

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Email Address

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Telephone

---

Name of Authorized Signatory for Respondent

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Signature



## APPENDIX F PARTICIPATION AGREEMENT

[Insert Date]

Ministry of Technology, Innovation and Citizens' Services and Ministry of Justice  
c/o Partnerships BC, 300 – 707 Fort Street, Victoria, BC V8W 9W6  
Attention: Dawn Hart, Contact Person

Dear Sirs/Mesdames:

Re: Abbotsford Law Courts Project – Participation Agreement in respect of the Request for Proposals issued by the Ministry of Technology, Innovation and Citizens' Services and Ministry of Justice 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 Participation Agreement between [Insert Proponent Name] (the "Proponent") and the Province, pursuant to which the Proponent agrees with the Province as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined in this Participation Agreement have the meanings given to them in the RFP.
2. **Participation.** The Proponent agrees that as a condition of participating in the RFP, including the Competitive Selection Process, Collaborative Meetings and access to the Data Room, the Proponent and each of its Equity Providers will comply with the terms of this Participation Agreement and the terms of the RFP.
3. **Confidentiality.** The Proponent will comply with, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with, the Confidentiality Conditions attached as Schedule 1 to this Participation Agreement, all of which conditions are expressly included as part of this Participation Agreement.
4. **Terms of RFP.** The Proponent will comply with and be bound by, and will ensure that all of the Proponent Team members and others associated with the Proponent also comply with and are bound by, the provisions of the RFP all of which are incorporated into this Participation Agreement by reference. Without limiting the foregoing, the Proponent agrees:
  - (a) that the terms of this Participation Agreement do not limit the Proponent's obligations and requirements under the RFP, any Data Room agreement, or any other document or requirement of the Province;



- (b) to be bound by the disclaimers, limitations and waivers of liability and Claims and any indemnities contained in the RFP, including Section 6.7 (Limitation of Damages) of the RFP. In no event will the liability of the Province exceed the amount calculated pursuant to Section 8.10 (Partial Compensation for Participation in the RFP) of the RFP;
- (c) that the Province's and the Proponent's obligations in respect of payments of partial compensation or other similar payment are as set out in Section 8.10 (Partial Compensation for Participation in the RFP) of the RFP; and
- (d) that the Province's and the Proponent's obligations in respect of the Preferred Proponent Security Deposit are as set out in Sections 8.3, 8.4 and 8.5 of the RFP.

**5. Amendments.** The Proponent acknowledges and agrees 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 accepts, and agrees to comply with, all such amendments and, if the Proponent does not agree to any such amendment, the Proponent's sole recourse is not to submit a Proposal.

**6. General.**

(a) *Capacity to Enter Agreement.* The Proponent hereby represents and warrants that:

(1) it has the requisite power, authority and capacity to execute and deliver this Participation Agreement;

- i. this Participation Agreement has been duly and validly executed by it, or on its behalf by the Proponent's duly authorized representatives; and
- ii. this Participation Agreement constitutes a legal, valid and binding agreement enforceable against it in accordance with its terms.

(b) *Survival following cancellation of the RFP.* Notwithstanding anything else in this Participation Agreement, if the Province, for any reason, cancels the Competitive Selection Process or the RFP, the Proponent agrees that it continues to be bound by, and will continue to comply with, Section 3 of this Participation Agreement.

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

(d) *Enurement.* This Participation Agreement enures to the benefit of the Province and binds the Proponent and its successors.

- (e) *Applicable Law.* This Participation Agreement is deemed to be made pursuant to the laws of the Province of British Columbia and the laws of Canada applicable therein and will be governed by and construed in accordance with such laws.
- (f) *Headings.* The use of headings is for convenience only and headings are not to be used in the interpretation of this Participation Agreement.
- (g) *Gender and Number.* In this Participation Agreement, words imputing any gender include all genders, as the context requires, and words in the singular include the plural and vice versa.
- (h) *Including.* The word “including” when used in this Participation Agreement is not to be read as limiting.

Yours truly,

---

Name of Proponent

---

Name of Equity Provider

---

Authorized Signatory

---

Authorized Signatory

---

Name of Equity Provider

---

Authorized Signatory



## SCHEDULE 1

### 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 RFP, this RFQ 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 Participation 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, Equity Provider, 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 or Partnerships 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 Partnerships BC, on request, of the identity of each Representative to whom any Confidential Information has been delivered or disclosed.
5. **Destruction on Demand.** On written request, the Recipient will promptly deliver to Partnerships BC or destroy all documents and copies thereof in its possession or control constituting or based on the Confidential Information and the Recipient will confirm that delivery or destruction to Partnerships BC in writing, all in accordance with the instructions of Partnerships BC (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 Partnerships 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.

