

Request for Proposals for the Design Early Works Agreement

Fraser River Tunnel Project DEWA Stage

Issued: October 26, 2023



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Summary of Key Information

RFP Title	Fraser River Tunnel Project DEWA Stage Proponents should use this title on all correspondence.
Contact Person	Email: contact.frtf@gov.bc.ca Please direct all enquiries, by email, to the Contact Person.
Requests for Information	Proponents are encouraged to submit Requests for Information (“RFI”) at an early date and prior to 15:00 Pacific Time on the day that is 10 Business Days before the Proposal Deadline to permit consideration by the Province; the Province may, in its discretion, decide not to respond to any RFI.

The Interim Submissions are to be delivered at the times and location indicated below:

Submission Time for Key Individuals’ Nomination Submission	November 8, 2023, at 1600 Pacific Time
Submission Time for Target Cost Development Strategy Overview	December 18, 2023, at 1600 Pacific Time
Submission Time for Interim Consulting Agreement Submission	February 26, 2024, at 1600 Pacific Time
Submission Location for Interim Submissions	By email to the Contact Person: contact.frtf@gov.bc.ca

The Proposal is to be delivered at the time and location indicated below:

Proposal Deadline	April 4, 2024, at 1100 Pacific Time
Submission Location for Proposals	Fraser River Tunnel Project Suite 1100-401 West Georgia Street Vancouver, BC V6B 5A1 Attention: Contact Person



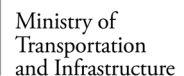
transportation
investment
corporation



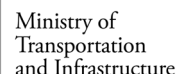
Ministry of
Transportation
and Infrastructure

Table of Contents

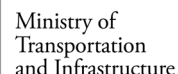
Table of Contents	2
1 Introduction	5
1.1. Purpose of this RFP	5
1.1 Eligibility to Participate in this RFP	5
1.2. RFP Structure	5
2 Overview of the DEWA and DEWA Activities	7
2.1 DEWA	7
2.2 Reconciliation	8
2.3 Gender-Based Analysis Plus (“GBA+”)	9
2.4 Respect in the Workplace	9
3 DEWA Contract Price and DBA Financial Submission	10
3.1 DEWA Contract Price	10
3.2 DBA Financial Submission	10
4 RFP Process	11
4.1 Communications and Requests for Information	11
4.1.1 Communications	11
4.1.2 No Communication with Media or the Public	12
4.1.3 Requests for Information	12
4.2 Interactive Process	13
4.2.1 Workshops	13
4.2.2 Topic Meetings	15
4.3 Procedures for Workshops and Topic Meetings	15
4.4 Finalization of the DEWA	17
4.5 Authorizations, Orders, and Approvals	18
4.6 Interim Submissions	18
4.6.1 Key Individuals’ Nomination Submission	18



4.6.2	Target Cost Development Strategy Overview	19
4.6.3	Interim Consulting Agreement Submission	20
4.6.4	Notice of Continued Status	20
4.7	Proposal Submission Requirements	21
4.7.1	Submission Deadlines and Submission Locations	21
4.7.2	Intellectual Property Rights	21
4.8	Evaluation Process	23
4.8.1	Interactive Process Assessment	23
4.8.2	Proposals	23
4.9	Debriefing	27
4.10	Closing Process	27
4.10.1	Design Early Works Agreement – Finalizing Terms	27
4.10.2	Execution of the Design Early Works Agreement	28
4.11	Fairness Reviewer	28
4.12	Anticipated Timeline	28
4.13	Releases and Waivers	29
5	General Information and Instructions	32
5.1	Background Investigations, Surveys, and Studies	32
5.2	Investigations, Surveys, and Studies by Proponents	32
5.3	RFP Data Room	32
6	General Matters	34
6.1	Amendment or Cancellation of Competitive Selection Process	34
6.2	No Contract	34
6.3	No Obligation to Proceed or Make any Selection	34
6.4	Participation in the Competitive Selection Process	36
6.5	Conflicts in Documents	37
6.6	Confidentiality and Freedom of Information and Protection of Privacy	38



6.7	No Communication or Collusion	38
6.8	No Lobbying	39
6.9	Disclosure	39
6.10	Changes to Proponent Team Members	40
6.11	Relationship Disclosure and Review Process	41
6.12	Relationships	42
6.12.1	Restricted Parties	42
6.12.2	Use or Inclusion of Restricted Parties	44
6.12.3	Shared Use Persons	45
6.12.4	Conflict of Interest Adjudicator	45
6.12.5	Proponent Requests for Advance Rulings	45
6.12.6	Province Requests for Advance Rulings	46
6.12.7	Decisions Final and Binding	46
6.12.8	Exclusivity	47
6.13	Legal Counsel	48
6.14	Delivery and Receipt	48
6.15	Proponent Team Members and Subcontractors	49
6.16	No Reliance	49
6.17	No Liability	51
6.18	Dispute Resolution	51
7	Interpretation	53
8	Definitions	54
8.1	Definitions	54
APPENDIX A RFP Response Guidelines		63
APPENDIX B Evaluation Criteria		78
APPENDIX C Request for Information Form		81
APPENDIX D Interim Submissions		82



1 Introduction

1.1 Purpose of this RFP

This Request for Proposals (“RFP”) is issued by His Majesty the King in right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure (the “Province”). The purpose of this RFP is to invite eligible Proponents to prepare and submit Proposals to undertake design and development activities for the Fraser River Tunnel Project (the “Project”) under a design early works agreement (the “Design Early Works Agreement” or “DEWA”).

Based on these Proposals, the Province intends to select, in accordance with the terms of this RFP, a Proponent with whom to finalize the DEWA (the “Preferred Proponent”). Upon execution of the DEWA, the successful Proponent will, as the Design-Builder, commence Project development activities, including design work. Concurrently with the term of the DEWA, the Province and the successful Proponent will finalize the Design-Build Agreement (“DBA”), in accordance with the DBA Request for Proposals (“DBA RFP”), for the completion of the Project.

1.1 Eligibility to Participate in this RFP

Through a Request for Qualifications (“RFQ”) issued June 14, 2023, by the Province, the following three Respondents were identified as eligible to receive this RFP and to be invited to participate further in the Competitive Selection Process as Proponents:

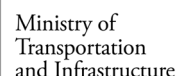
- ▶ Cross Fraser Partnership
- ▶ Daewoo GS Joint Venture
- ▶ Fraser River Tunnel Constructors

As a condition of participating in this RFP each Proponent must sign and deliver to the Contact Person a Proponent Agreement, substantially in the form set out in Appendix G of the RFQ, or otherwise acceptable to the Province, in its discretion. A Proponent will not be permitted to participate further in the Competitive Selection Process unless and until it has signed and delivered a Proponent Agreement as required by this section.

1.2 RFP Structure

This RFP contains the following four volumes:

- a) Volume 1 – Instructions to Proponents



- b) Volume 2 – Initial Draft Design Early Works Agreement
- c) Volume 3 – Initial Draft Design-Build Agreement
- d) Volume 4 – Forms



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

2 Overview of the DEWA and DEWA Activities

Any description or overview of the DEWA and/or the DBA in this RFP is provided for convenience only and does not replace, supersede, supplement or alter the Initial Draft DEWA, the Definitive DEWA, the Initial Draft DBA, or the Draft DBA as applicable.

2.1 DEWA

The intent of the DEWA is to engage the Design-Builder early in the design, costing, and development of the Project and to establish a collaborative approach to carrying out this work.

The Design-Builder will carry out the DEWA scope (“Design Early Works”) in accordance with the Draft DBA, which is incorporated by reference into the DEWA. The DEWA will set out the rights and obligations of the parties in respect of the Design Early Works and will contain, among other things, the scope of the services to be provided by the Design-Builder and commercial terms. The Design Early Works will take place concurrently with the Province and the successful Proponent finalizing the DBA in accordance with the DBA RFP.

Under the DEWA, the Design-Builder and the Province will work collaboratively on Project development activities, including:

- ▶ advancing design;
- ▶ identifying and seeking ways to mitigate or manage risks;
- ▶ engaging with Indigenous nations;
- ▶ undertaking consultation activities with stakeholders;
- ▶ providing early constructability input;
- ▶ identifying opportunities for innovation;
- ▶ developing the Target Cost and the construction schedule; and
- ▶ reaching agreement on final terms for execution of the DBA.

Once executed, the DBA will supersede the DEWA.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

The DEWA will be developed through a process, further detailed in this RFP, that includes:

- a) issuance of an Initial Draft DEWA as Volume 2 of this RFP;
- b) consideration of comments from Proponents on the Initial Draft DEWA, submitted in writing and as part of Workshops and Topic Meetings;
- c) incorporation of amendments by Addenda into the Initial Draft DEWA, which amendments may address any such Proponent comments; and
- d) issuance by Addendum of a Definitive DEWA as Volume 2 of this RFP.

The Design Early Works are anticipated to be carried out in accordance with the following five stages:

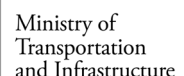
- ▶ Stage 1 – Design-Builder to establish a Base Cost Estimate for the Province’s Reference Concept Design
- ▶ Stage 2 – Design-Builder to develop its Preliminary Design
- ▶ Stage 3 – Design-Builder to develop its Functional Design
- ▶ Stage 4 – Design-Builder to develop its Detailed Design
- ▶ Stage 5 – Design-Builder to align its Design with the Project’s Environmental Assessment Certificate (“EAC”) requirements.

It is expected that the Design-Builder will progress without hold points to each subsequent DEWA stage as work is completed, unless otherwise directed by the Province.

2.2 Reconciliation

The Province’s commitment to reconciliation with Indigenous peoples will inform the development of the Project. The Design-Builder will be required to implement education and cultural awareness training for its workforce and consider and incorporate input from Indigenous nations in carrying out the Design Early Works under the DEWA and the Project work under the DBA.

More information about the Province’s commitment to reconciliation is available at: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>.



2.3 Gender-Based Analysis Plus (“GBA+”)

GBA+, an analytical tool used to assess how diverse groups of people may experience policies, programs, and initiatives, will inform development of the Project. The Design-Builder will be required to implement GBA+ in the development of the Project, including the Design Early Works under the DEWA and the Project work under the DBA. More information on GBA+ is available at: www.gov.bc.ca/gov/content/gender-equity.

2.4 Respect in the Workplace

An objective of the Province is to have a workplace that is free of racism and discrimination and is culturally safe and respectful. To support this objective, the Province requires a commitment by the Design-Builder to develop and implement appropriate policies and training which the Design-Builder will be required to implement in the development of the Project, including the Design Early Works under the DEWA. In addition, approval of suitable policies and a training plan will be a requirement of the DBA and a pre-requisite for construction to commence.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

3 DEWA Contract Price and DBA Financial Submission

3.1 DEWA Contract Price

Proponents are required to submit a not-to-exceed price proposal for the DEWA (the “DEWA Contract Price”) using “Form A1 – Breakdown of DEWA Contract Price” as provided in Appendix A to Volume 1 of this RFP. As part of Form A1 Proponents will provide a “DEWA Resource Forecast” and weighted hourly average rates for each month, which the Design-Builder is expected to maintain for the duration of the DEWA period.

3.2 DBA Financial Submission

Proponents are required to submit their proposed percentage of profit and overhead (the “Fixed Fee”), which will ultimately form a part of the DBA price proposal (the “Target Price”) under the DBA RFP, using “Form A2 – Table of Design-Builder’s Proposed Fixed Fee Mark-Up” as provided in Appendix A to Volume 1 of this RFP.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

4 RFP Process

4.1 Communications and Requests for Information

4.1.1 Communications

Proponents should only communicate with the Contact Person by email. The Province intends to communicate solely with the Proponent Representative or, if confirmed in writing to the Contact Person in advance, a delegate and may disregard communications from other persons on behalf of the Proponent during the Competitive Selection Process.

Although the Province may rely on the Proponent Representative's authority to bind the Proponent, the Proponent Representative is not required to execute documents. The Province may rely on any person or persons representing the Proponent having the authority to bind the Proponent.

The following provisions will apply to any email communications with the Contact Person, or the delivery of documents to the Contact Person by electronic means where such email communications or electronic deliveries are permitted by the terms of this RFP:

- a) the Province does not assume any risk, responsibility, or liability whatsoever and makes no guarantee, warranty or representation whatsoever to any Proponent:
 - i.) for ensuring that any electronic email system or computer system is in good working order, able to receive transmissions, or not engaged in receiving other transmissions such that a Proponent's transmission cannot be received; or
 - ii.) if a permitted email communication or electronic submission is not received, or received in less than its entirety, within any time limit specified by this RFP; and
- b) all permitted email communications with 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.

Information offered by sources other than the Contact Person with regard to this RFP is not official, may be inaccurate, and should not be relied on in any way, for any purpose.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

4.1.2 No Communication with Media or the Public

Proponents will not communicate, including by media releases or interviews, and will ensure that their Proponent Team Members, including their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, do not communicate, in respect of any part or parts of the Project or the Competitive Selection Process, with the media or the public without the prior written consent of the Province.

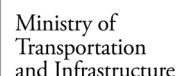
Each Proponent will notify the Province of requests for interviews or other requests from the media received by the Proponent or any of its Proponent Team Members, and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, in connection with the Project or the Competitive Selection Process.

4.1.3 Requests for Information

All requests for information regarding any aspect of this RFP should be directed to the Contact Person by email using the Request for Information Form found in Appendix C to Volume 1 of this RFP.

The following applies to any RFI:

- a) responses to an RFI will be in writing;
- b) all RFIs, and all responses to RFIs from the Contact Person, will be recorded by the Province;
- c) the Province is not required to provide a response to any RFI;
- d) a Proponent may request that a response to an RFI be kept confidential by clearly marking the RFI “Commercial in Confidence” if the Proponent considers that the RFI is commercially confidential to the Proponent;
- e) if the Province decides that an RFI marked “Commercial in Confidence”, or the Province’s response to such an RFI, must be distributed to all Proponents, then the Province will permit the Proponent to withdraw the RFI rather than receive a response. If the Proponent does not withdraw the RFI, then the Province may provide its response to all Proponents;
- f) notwithstanding d) and e) of this Section 4.1.3:



- i.) if one or more other Proponents submits an RFI on the same or similar topic to an RFI previously submitted by another Proponent as “Commercial in Confidence”, the Province may provide a response to such RFI to all Proponents; and
- ii.) if the Province determines there is any matter which should be brought to the attention of all Proponents, whether or not such matter was the subject of an RFI, including an RFI marked “Commercial in Confidence”, the Province may, in its discretion, distribute the RFI, response or information with respect to such matter to all Proponents.

4.2 Interactive Process

The Province will facilitate a highly collaborative and interactive process with each Proponent (the “Interactive Process”). The Interactive Process will include collaborative discussions relating to technical, management, and commercial matters through Workshops and Topic Meetings in accordance with the terms of the RFP. The Interactive Process is an integral part of the procurement and evaluation process as described in this RFP.

Each Proponent will submit its Proposal having had the benefit of the Interactive Process. The Province has engaged a collaborative and behavioural consultant to support, facilitate, and manage the evaluation of collaborative behaviours during the Interactive Process. The Province will provide details in advance of each meeting related to schedule, location, and attendees; attendance is mandatory for each Proponent. It is anticipated that these meetings will be held through a mix of virtual and/or in-person meetings in Vancouver, British Columbia.

4.2.1 Workshops

The Province anticipates the Interactive Process will include the following Workshops:

- a) Workshop 1 – A meeting with each Proponent to enable communication between the Province and the Proponents about commercial and legal matters. The intent is to provide a process to help Proponents to fully understand the Project by reviewing, together with the Province, comments and feedback on material issues, including provisions in the Initial Draft DEWA and Initial Draft DBA;
- b) Workshops 2 to 4: In-person sessions with each Proponent comprised of:



transportation
investment
corporation



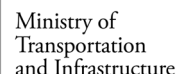
Ministry of
Transportation
and Infrastructure

- i.) Workshop 2 – An interview led by the Province with each Proponent, including Key Individuals and the Proponent’s project sponsor;
 - ii.) Workshop 3 – A workshop with each Proponent to present its Interim Reference Concept Design Critique of the Province’s Reference Concept Design. This session is intended to be interactive and should influence the submission of Package 4 of the Proposal as set out in Section 4 in Appendix A to Volume 1 of this RFP. The Province’s Reference Concept Design will be presented at a Topic Meeting, described in Section 4.2.2. b) of Volume 1 of this RFP. Associated reference materials are also available in the RFP Data Room.
 - iii.) Workshop 4 – An anticipated 1 to 1.5-day collaborative session with each Proponent together with the Province facilitated by the Province’s collaborative and behavioural consultant. The session will comprise a set of tasks and discussions where the Proponent’s representatives will interact and engage with the Province’s representatives. Proponents will receive details in advance of this session related to required attendees, process, and conduct.
- c) Workshop 5 – A follow-up meeting to Workshop 1 with each Proponent to enable communication between the Province and the Proponents about commercial and legal matters including provisions in the updated draft DEWA and draft DBA.

The evaluation criteria for the Interactive Process Workshops above is set out in Appendix B of Volume 1 of this RFP. The following will not be evaluated:

- d) The nature and quantity of the Proponent’s comments at Workshops 1 and 5 (the “Commercial Workshops”); and
- e) The nature and quantity of the Proponent’s comments at Workshop 3 – Interim Reference Concept Design Critique.

The anticipated schedule of activities for the Interactive Process is set out in Section 4.12 of Volume 1 of this RFP.



4.2.2 Topic Meetings

In addition to the Workshops, two Topic Meetings are planned consecutively on the same day, as indicated below and further referenced in Section 4.12 of Volume 1 of this RFP:

- a) A Topic Meeting in the form of an all-Proponent information meeting, immediately followed by;
- b) A Topic Meeting in the form of an all-Proponent technical briefing, including an overview of the Province's Reference Concept Design.

4.3 Procedures for Workshops and Topic Meetings

- a) Unless the Province notifies the Proponents that a Workshop is optional, the Proponent will attend each Workshop and may, subject to any restrictions established by the Province on prior written notice to the Proponent, determine the appropriate representative or representatives who will attend each Workshop on behalf of such Proponent provided that the Proponent acknowledges and agrees that the presence of the Key Individuals at Workshops is a key component of building the strong relationships that are important to the success of the Project.
- b) Each Proponent will attend all Workshops that are designated by the Province as optional, unless a Proponent provides written notice to the Province at least five Business Days before the scheduled Workshop date that such Proponent has declined the invitation to attend, provided that the Province may proceed with the applicable Workshop with the other Proponent(s) that have not declined attendance at any such additional optional Workshop.
- c) The Province may, in its sole discretion from time to time, by written notice to the Proponent, deliver to the Proponent written policies and procedures clarifying, supplementing, or otherwise modifying the terms of the Workshop and Topic Meeting procedures set out in this RFP, and on issuance of such written policies and procedures, the Workshop and Topic Meeting procedures will be amended, supplemented, or replaced as applicable.
- d) The Province may, in its discretion, including at the request of any Proponent(s), if the Province considers it desirable or necessary, schedule additional Workshops and/or Topic Meetings at the dates, times, and locations and for the duration that the Province considers appropriate, and hold such Workshops and/or Topic Meetings separately with each Proponent or together with all the Proponents.



transportation
investment
corporation



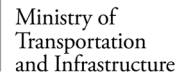
Ministry of
Transportation
and Infrastructure

e) Each Proponent Team Member will:

- i.) ensure that the Proponent participates in all Workshops where required in accordance with Section 4.2.1 of Volume 1 of this RFP;
- ii.) observe, abide by, and comply with the terms of this RFP and any additional policies and procedures provided by the Province in respect of the Workshops;
- iii.) execute and deliver a waiver and agreement in respect of the Workshops and Topic Meetings substantially in the form set out in Form 3 of Volume 4 of this RFP in advance of the first Workshop;
- iv.) ensure that each individual in attendance on behalf of such Proponent Team Member at the Workshops:
 - A. observes, abides by, and complies with the terms of this RFP and any additional policies and procedures provided by the Province in respect of Workshops; and
 - B. reviews, executes, and delivers to the Province before attendance, a waiver and agreement substantially in the form set out Form 3 of Volume 4 of this RFP in advance of the first Workshop they attend.

f) Workshop Agendas and Summaries

- i.) Prior to each scheduled Commercial Workshop (Workshops 1 and 5) and not later than the date specified by the Province in its written notice to the Proponents, each Proponent will deliver to the Contact Person a list of requested agenda items including any issues, comments, and requested amendments to the relevant documents to be discussed at such Workshop.
- ii.) Any issues, comments, and requested amendments to relevant documents should be submitted in table format, identifying the wording that is the subject of the issue, the comment or requested amendment highlighting the Proponent's priorities and setting out the corresponding summary of the issue or comments, and where applicable the requested substitute wording and accompanying memorandum summarizing the rationale for the requested amendment.



iii.) In the case of the Interim Reference Concept Design Critique Workshop (Workshop 3), each Proponent will deliver to the Contact Person an agenda and presentation summary not later than the date specified by the Province in its written notice to the Proponents.

g) Non-Binding Nature of Topic Meetings and Workshops

i.) In any Topic Meeting or Workshop a Proponent may seek information or comments from the Province and the Province in its sole discretion may, but in no event will be obligated to, determine whether to provide, and the timing and method for providing, any such information or comments, or any response at all.

ii.) If a Proponent wishes to have any matter confirmed, including any statement made by or on behalf of the Province at a Workshop or Topic Meeting, the Proponent will submit an RFI requesting that the Province confirm the matter by Response to Proponents and if the matter relates to a clarification or change to a term of this RFP, the Initial Draft DEWA, and/or the Initial Draft DBA, requesting that the Province confirm the matter by Addendum clarifying or amending, as the case may be, the applicable term of this RFP, the Initial Draft DEWA and the Initial Draft DBA.

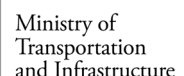
4.4 Finalization of the DEWA

The Province has issued the Initial Draft DEWA with this RFP. In addition to considering comments and issues discussed in the Workshops, the Province may from time to time invite Proponents to review and submit further comments in respect of the initial and any revised form of the DEWA.

Proponents may submit additional comments, requested amendments and issues following the Workshops discussions.

The Province will consider comments, issues and requested amendments to the Initial Draft DEWA received from the Proponents. Without limiting any other provision of this RFP, the Province may in its discretion and at any time, amend, restructure, or supplement the initial and any revised form of the DEWA.

Any information or documentation provided to, or which comes to the attention of, the Province in connection with any Workshops, including as a result of questions raised during any such meetings and any Proponent-requested amendments or information



relating to commercially sensitive matters, may be subject to disclosure to the other Proponents at the discretion of the Province.

The Province will issue the Definitive DEWA by Addendum to this RFP.

4.5 Authorizations, Orders, and Approvals

Without limiting any other term of this RFP, the execution of the DEWA is subject to the issuance of all necessary Province and governmental authorizations, orders, and approvals required in connection therewith, including the following:

- a) any approvals required under the Financial Administration Act (British Columbia);
- b) issuance by the Lieutenant Governor in Council of orders in council made under the *Transportation Act* (British Columbia); and
- c) any other regulatory or other approvals required under the laws of the Province of British Columbia or Canada.

Unless otherwise provided for in this RFP, required authorizations, orders and approvals may be obtained by the Preferred Proponent and the Province, as applicable, prior to execution of the DEWA.

4.6 Interim Submissions

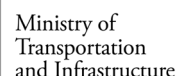
Each Proponent will submit to the Province the following Interim Submissions:

- a) Key Individuals' Nomination Submission;
- b) Target Cost Development Strategy Overview; and
- c) Interim Consulting Agreement Submission.

4.6.1 Key Individuals' Nomination Submission

Each Proponent will submit to the Province, by the Submission Time for the Key Individuals' Nomination Submission, the requested information to nominate the following Key Individuals:

- a) Design-Build Director (who will become the Design-Builder's Representative under the DEWA)
- b) Design Director



- c) Construction Director
- d) Commercial Director

The required qualifications for each of the Key Individuals is set out in Schedule 6 of the Initial Draft DEWA. Each Proponent should provide a resume with credentials of the Key Individual and a completed Form D-1 provided in Appendix D of Volume 1 of this RFP using up to three (3) reference projects for each nominated Key Individual.

The resume and experience cited for each Key Individual should describe relevant qualifications, including education and experience in the same or substantially similar roles on projects of equivalent complexity.

The Province may instruct a Proponent to provide additional information on one or more of the Key Individuals put forward in the Key Individuals' Nomination Submission. Each Proponent will provide to the Province such additional credentials and information as may be requested by the Province.

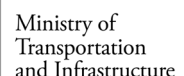
The credentials of the Key Individuals will be reviewed based on the demonstrated strength and relevance of their experience to undertake their respective obligations under the DEWA and DBA and are subject to acceptance by the Province, acting reasonably.

The Province anticipates providing each Proponent, within ten (10) Business Days, or such longer period as may be required by the Province, a confidential response accepting or rejecting the Key Individuals. Once the Province has accepted each Proponent's nominated Key Individuals any changes to the Proponent Team are subject to Section 6.10 of Volume 1 of this RFP).

4.6.2 Target Cost Development Strategy Overview

Each Proponent will submit to the Province, by the Submission Time for the Target Cost Development Strategy Overview, a Target Cost Development Strategy Overview. The submission will not be evaluated but will inform part of the Workshop 2 interview.

The Target Cost Development Strategy Overview should be no more than three (3) pages and provide an overview of the Proponent's strategy and approach to identifying and incorporating opportunities for design and construction innovations that will represent best value to the Province throughout the development of the Target Cost under the DEWA.



4.6.3 Interim Consulting Agreement Submission

Each Proponent will submit to the Province, by the Submission Time for the Interim Consulting Agreement Submission, the Interim Consulting Agreement Submission as described in a) below. The Province will review the Proponents' Consulting Agreements in anticipation of entering into the DEWA to ensure that the Proponents' Consulting Agreements are in a form acceptable to the Province per the requirements set out in Section 1.3 in Appendix A of Volume 1 of this RFP.

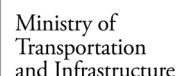
- a) each Proponent's Interim Consulting Agreement Submission should include:
 - i.) a list of all consultants and sub-consultants that will be involved in design; and
 - ii.) a draft of the form(s) of Consulting Agreement that the Proponent intends to enter into with each of the consultants and with each sub-consultant listed in a) i.) above, as applicable;
- b) the Province will review the Interim Consulting Agreement Submissions and will retain each of the Interim Consulting Agreement Submissions as strictly confidential;
- c) the Province may invite each Proponent to a Topic Meeting to discuss any aspect of its Interim Consulting Agreement Submission; and
- d) unless expressly referred to or included by reference in its Proposal, the Interim Consulting Agreement Submission will not be considered part of the Proposal.

4.6.4 Notice of Continued Status

The Province anticipates providing each Proponent within ten (10) Business Days, or such longer period as may be required by the Province, of receiving the Interim Consulting Agreement Submission, a confidential response indicating issues for discussion, if any, regarding the Interim Consulting Agreement Submission.

Once the Province is satisfied with and has accepted the Proponent's Interim Consulting Agreement Submission the Province will confirm a Proponent's continued status as Proponent (Notice of Continued Status).

Until receipt of a Notice of Continued Status, the Proponent may change the form of Consulting Agreement and, if making changes, the Proponent will provide a blackline



highlighting the changes to the form of Consulting Agreement for the Province's review and approval. After receipt of the Notice of Continued Status, any changes to the form of Consulting Agreement require advanced approval from the Province.

Receipt of a Notice of Continued Status is a condition of the Proponents' continued status as a Proponent.

4.7 Proposal Submission Requirements

Proposal submission requirements are set out in detail in Appendix A of Volume 1 of this RFP, and include formatting, packaging and content requirements relating to the Proposals.

4.7.1 Submission Deadlines and Submission Locations

The Interim Submissions are to be received at the Submission Location for Interim Submissions and should be emailed and addressed to the Contact Person.

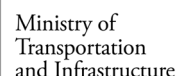
The Proposals are to be received at the Proposal Submission Location for Proposals and should be addressed to the Contact Person.

The calendar and clock designated as the official calendar and clock by the Province at the submission locations above, whether accurate or not, will be determinative with respect to whether a Proposal or the Interim Submissions have been received before the Proposal Deadline or the submission times for each of the Interim Submissions identified in the Summary of Key Information. The Province may at any time and from time to time, by Addendum sent to the Proponents (whether or not actually received by the Proponents), amend, including by extension, the Proposal Deadline or any other submission times included in the RFP.

4.7.2 Intellectual Property Rights

The Province and the Proponent, and each Proponent Team Member, acknowledge and agree that the Work Product has been or will be prepared under the direction and/or control of the Province and the Province will exclusively own, automatically upon its generation or creation, all rights, including intellectual property rights, in and to the Work Product, not including any Incorporated Material.

The Proponent, and each Proponent Team Member, represents and warrants that the Work Product, other than any Incorporated Material, is original and does not and will not infringe the intellectual property or other proprietary rights or interests of any third party.



Upon any Incorporated Material being embedded or incorporated in the Work Product and to the extent that it remains so embedded or incorporated, the Proponent grants to the Province:

- a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to exercise, in respect of that Incorporated Material, the rights set out in the Copyright Act (Canada), including the right to use, reproduce, modify, publish and distribute that Incorporated Material; and
- b) the right to sublicense or assign to third parties any or all of the rights granted to the Province under this Section 4.7.2 of Volume 1 of this RFP. At the time the Proponent delivers the Work Product to the Contact Person, the Proponent must provide to the Province, at no additional cost, documents satisfactory to the Province that irrevocably waive in the Province's favour (and in favour of its licensees and assignees) any moral rights which the Proponent (or employees of the Proponent, including Proponent Team Members) or a Subcontractor (or employees of a Subcontractor) may have in the Work Product and that confirm the vesting in the Province of the copyright in the Work Product, other than any Incorporated Material.

In the event that the Proponent is unable to provide any licenses or waivers as required to be provided under this Section 4.7.2 of Volume 1 of this RFP, the Proponent will replace the portion of the Work Product, including any Incorporated Material, for which the license or waiver, as the case may be, cannot be provided, with alternative material that meets the Province's requirements and for which a license or waiver can be obtained, at no additional cost to the Province.

In the event that the Proponent is not chosen as the Preferred Proponent, the Province hereby grants to the Proponent, effective as of date of execution of the DEWA by the Design-Builder on behalf of the Proponent selected as the Preferred Proponent, the exclusive, perpetual, irrevocable, royalty-free, worldwide license to exercise, in respect of the Work Product, other than any Incorporated Material, the rights set out in the *Copyright Act* (Canada), including the right to use, reproduce, modify, publish and distribute the Work Product, and the right to sublicense or assign to third-parties any or all such rights.

The Proponent acknowledges and agrees that any Work Product licensed to the Proponent is provided by the Province "as is" without warranty of any kind whether express or implied including, without limitation, implied warranties of accuracy, completeness, merchantability or fitness for a particular purpose or non-infringement of



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

third party rights, and that any use of the Work Product by the Proponent or any third party will be at the Proponent's sole risk.

Without limiting any other Section of this RFP, each Proponent Team Member of each Proponent will indemnify and hold harmless the Province and each of the other Releasees from and against any and all Claims in any way, and at any time, arising out of or in connection with:

- c) the disclosure or provision to, or use by, the Province of the Work Product, including any Incorporated Material;
- d) allegations or findings of infringement of intellectual property or other proprietary rights, breach of confidence or unauthorized use by any of the Releasees or any third party of the Work Product, including any Incorporated Material, or failure to obtain copyright licenses or waivers of moral rights; or
- e) any representation or warranty of the Proponent under this Section 4.7.2 being or becoming untrue.

4.8 Evaluation Process

The Province will evaluate and score each Proposal and each Proponent's participation in the Interactive Process against the criteria described in Appendix B of Volume 1 of this RFP. The Province may, in its discretion, also consider any or all additional information received through the steps described in Section 4.8.1 below.

Appendix B describes the evaluation criteria, how each of the criteria will be evaluated and indicates the weightings for each criterion. Scores will be awarded for how effectively the Proponent's Proposal and participation in the Interactive Process respond to the requirements set out in Appendix B, in a manner consistent with the evaluation criteria described in Table 9 in Appendix B of Volume 1 of this RFP.

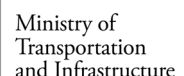
4.8.1 Interactive Process Assessment

Throughout the Interactive Process, the Province will evaluate the collaborative behaviours of each Proponent by applying the criteria set out in Evaluation Criterion 3 in Table 9 in Appendix B of Volume 1 of this RFP.

4.8.2 Proposals

4.8.2.1 Validity of Proposals

By submitting a Proposal, each Proponent agrees that:



- a) its Proposal, including all prices and input costs, will remain fixed and irrevocable from the Proposal Deadline until midnight at the end of the 120th day following the Proposal Deadline (the “Proposal Validity Period”); and
- b) after the expiry of the Proposal Validity Period, all prices and input costs in its Proposal may not be adjusted unless the Proponent provides notice to the Province of any proposed adjustment and demonstrates to the satisfaction of the Province that the Proponent has used its best efforts to continue to maintain the prices and input costs, but that despite such best efforts, the specified adjustments to the prices and input costs are required solely as a direct result of one or more events that:
 - i.) are external to the Proponent and the Proponent Team Members;
 - ii.) could not have been prevented by, and are beyond the control of, the Proponent and any of its Proponent Team Members; and
 - iii.) constitute a material adverse change to the conditions underlying the prices and input costs that are subject to the adjustment.

A Proponent may indicate in its Proposal a Proposal Validity Period that exceeds 120 days, which shall be the Proposal Validity Period for such Proponent in accordance with this RFP.

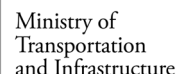
4.8.2.2 Evaluation of Proposals

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

The Province will evaluate Proposals in the manner set out in Appendix B of Volume 1 of this RFP.

The Province may in its discretion establish its own methods and procedures for the review, evaluation and ranking of Proposals and the selection of a Preferred Proponent, if any.

The Province may in its discretion take any one or more of the following steps in connection with the review and evaluation, including ranking, of any aspect of a

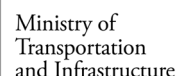


Proposal, including if the Province considers that any Proposal or any part of a Proposal requires clarification or more complete information, contains defects, alterations, qualifications, omissions, inaccuracies or misstatements, or does not for any reason whatsoever satisfy any requirements of this RFP at any time, or for any other reason the Province in its discretion deems appropriate and in the interests of the Province and the Competitive Selection Process, or either of them:

- a) waive any such defect, ambiguity, alteration, qualification, omission, inaccuracy, misstatement, or failure to satisfy, and any resulting ineligibility on the part of the Proponent, or any member of the Proponent Team;
- b) independently consider, investigate, research, analyze, request, or verify any information or documentation whether or not contained in any Proposal;
- c) conduct credit, reference, criminal record, litigation, bankruptcy, taxpayer information and other checks and obtain references from persons, including persons other than those listed by Proponents in any part of their Proposals;
- d) not proceed to review and evaluate or discontinue the evaluation of any Proposal and disqualify the Proponent from this RFP and the Competitive Selection Process;
- e) seek clarification, rectification or more complete, supplementary, replacement or additional information or documentation from any Proponent or in connection with any Proposal.

Without limiting the foregoing or Appendix B of Volume 1 of this RFP, the Province may in its discretion (and without further consultation with the Proponents), decline to review, evaluate or rank, or may reject outright any Proposal which in the opinion of the Province:

- f) is materially incomplete or irregular;
- g) contains omissions, exceptions or variations not acceptable to or material to the Province;
- h) contains a false or misleading statement, claim or information; or
- i) for which background investigations reveal any false statements, criminal affiliations or activities by a Proponent or Proponent Team Member and their respective contractors, subcontractors, directors, officers, employees,



consultants, advisors, representatives or agents, or any other persons associated with any of them.

To enable the Province to take any one or more of the above-listed steps, the Province may enter into separate and confidential communications of any kind whatsoever, including by meetings or interviews, with any person, including any Proponent and any Key Individual. The Province has no obligation whatsoever to take the same steps or to enter into the same or any communications in respect of all Proponents and Proposals, or in respect of any Proponent, including the Proponent whose Proposal is the subject of the review or evaluation, as the case may be.

The review and evaluation, including the ranking, of any Proposal may rely on, take into account and include any information and documentation, including any clarification, more complete, supplementary, and additional or replacement information or documentation, including information and documentation provided in the Response or obtained through any of the above-listed investigations, research, analyses, checks, and verifications.

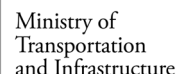
Proponents will not submit any clarifications, rectifications, information, or documentation in respect of the Proposal after the Proposal Deadline without the prior approval of the Province or at the invitation or request of the Province.

If any information, including information as to experience or capacity, contained in a Proposal is not verified to the Province's satisfaction through such checks, the Province may, in its discretion, not consider such cited experience, capacity or other information.

The Province is not bound by industry custom or practice in taking any of the steps listed above, in exercising any of its discretions, in formulating its opinions and considerations, exercising its discretions in making any decisions and determinations, or in discharging its functions under or in connection with this RFP, or in connection with any Proponent or any Proposal.

The Province's decision in its discretion as to whether or not a Proposal substantially meets the requirements of this RFP will be final, and the Province need not consult with any Proponent in making its decision.

The Province has no obligation or duty, in any way, whether in contract, tort or otherwise, to accept the Proposal that receives the highest ranking in accordance with the evaluation criteria set out in this RFP, or any Proposal.



4.9 Debriefing

The Province may, at its discretion and upon written request, conduct a debriefing for Proponents if the debriefing is requested within 30 days after the execution of the DEWA or termination of the Competitive Selection Process. The debriefing may include discussing the strengths and weaknesses, score, and ranking of that Proponent's Proposal. Subject to the terms of this RFP, the Province will not disclose or discuss any confidential information of another Proponent during a debriefing.

4.10 Closing Process

4.10.1 Design Early Works Agreement – Finalizing Terms

It is the intention of the Province that the draft DEWA will be finalized prior to the Proposal Deadline so that the Definitive DEWA, once issued, will not be further modified and will be executed by the Preferred Proponent without further negotiation or amendment, except for changes, modifications, and additions:

- a) necessary to give effect to the Province's determination in its discretion regarding which parts, if any, of the Proposal are to be incorporated by reference or otherwise into the DEWA;
- b) to those provisions or parts of the Definitive DEWA which are indicated as being subject to completion or finalization or which the Province determines in its discretion require completion or finalization, including provisions which require:
 - i.) the modification or the insertion or addition of information relating to the Proponent's formation (corporate, partnership or other); and
 - ii.) the modification or the insertion or addition of information in order to reflect accurately the nature of the Proponent's relationships with its consultants and sub-consultants;
- c) required by the Province in its discretion to complete, based on the Proposal, any provision of the Definitive DEWA, including changes, modifications and additions contemplated in or required under the terms of the Definitive DEWA;
- d) that the Province, in its discretion, considers are necessary to create or provide for a duly authorized and legally complete, enforceable, and binding agreement; and
- e) that the Province, in its discretion, considers are necessary solely to enhance clarity in legal drafting.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

4.10.2 Execution of the Design Early Works Agreement

The finalization and execution of the DEWA involves several steps that will take effect at the same time and will be guided by a closing protocol. In addition to the DEWA, the closing protocol will include an assignment of contracts with respect to the Consulting Agreements in favour of the Province, an acknowledgement of such assignment from any consultants who enter into the Consulting Agreements, and priority from any lender or other persons with security registered against the Proponent's interests in the Consulting Agreements.

A draft closing protocol may be provided in the RFP Data Room.

4.11 Fairness Reviewer

Jane Shackell, KC, has been appointed as the Fairness Reviewer by the Province with responsibility, as an independent observer, to review the development and implementation of the Competitive Selection Process up to the selection of a Preferred Proponent from a fairness perspective. The Fairness Reviewer will provide a written report in respect of the Proposal evaluation process which will be made public by the Province.

The Fairness Reviewer will be:

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

Proponents may contact the Fairness Reviewer directly with regards to questions about the fairness of the Competitive Selection Process. The reports, commentary, and opinions of the Fairness Reviewer on any issue of fairness with respect to the Competitive Selection Process, are final determinations of any issues of fairness with respect to the Competitive Selection Process.

4.12 Anticipated Timeline

The following is the Province's anticipated timeline for this RFP:



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

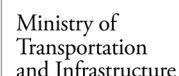
TABLE 1: DEWA RFP ANTICIPATED TIMELINE

Activity	Timeline
Issue RFP	October 26, 2023
All-Proponents information meeting and Reference Concept Design overview	November 6, 2023
Submission Time for Key Individuals' Nomination Submission	November 8, 2023
Submit agenda for Workshop 1	November 28, 2023
Workshop 1	December 4-6, 2023
Submission Time for Target Cost Development Strategy Overview	December 18, 2023
Submit agenda for Workshop 3	January 11, 2024
Issue updated draft DEWA and draft DBA	January 12, 2024
Workshops 2, 3, and 4	January 15-26, 2024
Submit agenda for Workshop 5	February 1, 2024
Workshop 5	February 12-16, 2024
Submission Time for Interim Consulting Agreement Submission	February 26, 2024
Issue Definitive DEWA	March 11, 2024
Proposal Deadline	April 4, 2024
Selection of Preferred Proponent	May 2024
Execution of the DEWA	May 2024
Issue DBA RFP	May 2024

This estimated timeline is subject to change at the discretion of the Province.

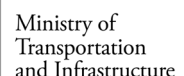
4.13 Releases and Waivers

- a) Each Proponent and each of its respective Proponent Team Members:



- i.) agrees that the Releasees and each of them will not under any circumstances be responsible or liable for or in respect of any Claims by any person (including such Proponent or any of its Proponent Team Members, including any person claiming through any of them, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors or agents);
 - ii.) releases, acquits and forever discharges the Releasees and each of them from any and all Claims; and
 - iii.) agrees that it will not bring and, by participating in the Competitive Selection Process, waives any Claims against the Releasees and each of them in excess of the amount equivalent to the reasonable direct costs incurred by the Proponent in preparing its Proposal;
 - iv.) for any matter whatsoever arising out of, in connection with or relating in any way to the Competitive Selection Process or any one or more part of the Competitive Selection Process, including matters or issues contemplated or considered in the reports, opinions or commentary of the Fairness Reviewer, the decisions and rulings of the COI Adjudicator, or any of them.
- b) Each Proponent will indemnify, and where a Proponent is a partnership (general or limited), a consortium or joint venture, each partner in the partnership and each of the entities comprising the consortium or joint venture will jointly and severally indemnify and hold harmless, the Province and each of the other Releasees from and against any and all Claims brought by or on behalf of:
- i.) any of its present, former or prospective Proponent Team Members against the Province or any other Releasee or Releasees, or;
 - ii.) any person as a result of any act or omission of such Proponent or any of its Proponent Team Members;

arising out of, in connection with or relating in any way to the Competitive Selection Process or any one or more part of the Competitive Selection Process, including matters or issues contemplated or considered in the reports, opinions or commentary of the Fairness Reviewer, the decisions and rulings of the COI Adjudicator, or any of them, including in connection with the performance of the obligations of each of the Proponent Team Members of such Proponent under this RFP.



- c) Each of the Proponent Team Members of each Proponent accepts and agrees to be bound by the waivers, disclaimers, limitations of liability and indemnities delivered, or which will be delivered, by each of the Proponent Team Members of such Proponent, as the case may be, in connection with the Competitive Selection Process or any one or more parts of the Competitive Selection Process, including the Workshops and Topic Meetings and other consultative or facilitative or facilitated processes in the Competitive Selection Process.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

5 General Information and Instructions

5.1 Background Investigations, Surveys, and Studies

Investigations, surveys, and studies have been and are anticipated to continue to be undertaken with respect to the Project. Reports and other material relating to these activities are included in and will continue to be added to the RFP Data Room.

5.2 Investigations, Surveys, and Studies by Proponents

Each Proponent is responsible for conducting its own independent due diligence and for satisfying itself as to all aspects of the Project, including site investigations, if applicable.

Proponents will coordinate access to any non-public part or parts of the Project Lands and adjacent areas through the Province by submission of a request to the Contact Person, to ensure that inconvenience to landowners, tenants, road users, and other contractors is kept to a minimum, and to ensure that environmental, safety and time constraints are taken into account. The request for access should be submitted as early as possible, and in any event at least 96 hours in advance of the time for any proposed access and should include the requested access date(s), time(s), location(s), and the proposed activities.

Access to the Project Lands and adjacent areas, or to any other facilities or premises, may be conditioned upon Proponents providing evidence acceptable to the Province that insurance and indemnities, acceptable to the Province, are in place and granted as the case may be; that the Proponent and its Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them are registered with the Workers' Compensation Board of British Columbia in accordance with applicable Laws, or have employer's liability insurance in amounts and on terms and conditions acceptable to the Province; and that a representative of the Province be present during the Proponent's works and activities at the access locations.

5.3 RFP Data Room

The Province has established an RFP Data Room for the Project and the Competitive Selection Process.

At any time and from time to time during the Competitive Selection Process, the Province may, in its discretion and without any notification, update information in the RFP Data Room, including by adding, supplementing, replacing, or modifying information. Proponents are solely responsible for checking the RFP Data Room



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

frequently and on an ongoing basis to inform themselves of any such updates. Proponents are solely responsible for ensuring that they have software that allows them access to, and use of, any information in the RFP Data Room.

In the event of conflict or inconsistency between material downloaded from the RFP Data Room and the applicable material as posted in the RFP Data Room, the posted contents of the RFP Data Room will govern and take precedence.

All information in the RFP Data Room is subject to the terms of the Proponent Agreement, the RFP Data Room Terms of Access, and any other confidentiality terms applicable to information in the RFP Data Room.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

6 General Matters

6.1 Amendment or Cancellation of Competitive Selection Process

This RFP may be amended only by Addenda issued by the Province.

The Province may in its discretion at any time, and from time to time, by Addendum, amend, supplement or otherwise modify, any part or all of this RFP, including the Initial Draft DEWA, the Definitive DEWA, the Initial Draft DBA, and the draft DBA including by extending or accelerating any schedules, timetables, or dates, including any timetables or schedules for the Competitive Selection Process or the Project, the Proposal Deadline or any of them, by adding to, reducing or otherwise modifying the evaluation process, including the ranking, for Proposals, or the scope or any other part of the Project, or by suspending, postponing, canceling or re-issuing, all or any part of this RFP.

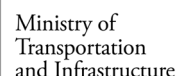
6.2 No Contract

Other than to the extent provided for in the Proponent Agreement, this RFP is not a contract between the Province and any Proponent, nor is this RFP an offer or an agreement to purchase work, goods or services. No contract of any kind for work, goods or services whatsoever is formed under, or arises from this RFP, or as a result of, or in connection with, the submission of a Proposal, unless the Province and the Preferred Proponent execute and deliver the DEWA, and then only to the extent expressly set out in the DEWA.

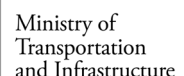
6.3 No Obligation to Proceed or Make any Selection

Each of the Proponents and their respective Proponent Team Members acknowledges and agrees that, notwithstanding any term of this RFP, the Province is not in any way whatsoever obligated to continue with or complete any phase or stage of the Competitive Selection Process and may in its sole discretion do any one or more of the following:

- a) at any time, from time to time, for any reason whatsoever, including for reasons that the Province in its sole discretion considers to be in the interests of or advantageous to the Province, or to reflect the terms of applicable trade agreements, modify, including by limiting, expanding, replacing, substituting, extending, suspending, postponing or cancelling, any stage of the Competitive Selection Process or the whole or any part or parts, including the scope, of the Project;



- b) at any time, for any reason whatsoever, including for reasons that the Province in its sole discretion considers to be in the interests of or advantageous to the Province, terminate the Competitive Selection Process, including if the Province elects in its sole discretion not to continue negotiations with the Preferred Proponent to settle the DEWA or elects in its sole discretion not to execute and deliver the settled form of DEWA;
- c) not accept, review, or evaluate any one or all of the Proposals;
- d) not select a Preferred Proponent;
- e) not offer any of the Proponents the opportunity to enter into or award the DEWA to any Proponent or at all;
- f) implement or issue any other procurement or other process for, or proceed in any other manner whatsoever, including using the Province's own forces, contractors, or authorities, with the whole or any part or parts of the Project; and
- g) proceed 6.3 with all or any part of the design, construction, or other activities in respect of the whole or any part or parts of the lands and infrastructure comprising or anticipated to comprise the Project through any other procurement or other process of any kind whatsoever, including negotiation, or prosecution of works using the Province's own forces, contractors or authorities.
- h) Without limiting any other term of this RFP, if the Province fails to select a Preferred Proponent within 180 days after the Proposal Deadline or terminates the Competitive Selection Process or cancels any part of the Competitive Selection Process, including this RFP, at any time and subsequently proceeds with any one or more of the activities, processes or works described in subsections 6.3 f) and g) above, the Province may in its sole discretion:
 - i.) contract directly with any person for any or all matters related directly or indirectly to all or any part of the design and construction of all or any part or parts of the lands and infrastructure comprising or anticipated to comprise the Project; and
 - ii.) contract directly with any one or more of any of the Proponent Team Members of any of the Proponents, or with any one or more of the



contractors, sub-contractors, consultants, advisors or other persons engaged by or through any of them, and no Proponent Team Member of any Proponent will take any step or action that might prevent or impede the Province from so doing.

6.4 Participation in the Competitive Selection Process

If:

- a) a Proponent fails to observe any term of this RFP or to comply with any term of the Proponent Agreement;
- b) fails to ensure that its Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them observe the terms of this RFP or of the Proponent Agreement; or
- c) the Province becomes aware through investigations or checks, or otherwise (including any information provided to the Province in a Proposal, of any:
 - i.) convictions or charges by a public body relating to the Proponent, Proponent Team Member or any of their respective Affiliated Persons related to inappropriate bidding practices or unethical behaviour in relation to a public procurement or broader public competitive selection process in any jurisdiction that:
 - A.) are related to the Project;
 - B.) may compromise the reputation or integrity of the Province or the British Columbia Government so as to affect public confidence in the Project;
 - C.) would contravene any applicable Laws; or
 - D.) could have a material adverse effect on the Proponent or a Proponent Team Member in a way which could impair the Proponent's or the Proponent Team Member's ability to perform any obligations of the Design-Builder under the Design-Build Agreement; or
 - ii.) false statements, criminal affiliations or activities by a Proponent or any Proponent Team Member or any of their respective contractors,



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, as the case may be,

the Province may, in its discretion at any time and from time to time, including during the review and evaluation, including ranking, of any Proposal:

- d) determine that the Proponent is ineligible to continue to participate in the Competitive Selection Process;
- e) decline to or cease to review, evaluate or rank, or reject outright the Proponent's Proposal;
- f) decline to consider a Proponent for selection as a Preferred Proponent, regardless of whether or not the Proponent receives the highest ranking in accordance with the evaluation criteria set out in this RFP;
- g) decline to continue with a Preferred Proponent if one has been selected and designated;
- h) disqualify the Proponent from the Competitive Selection Process; or
- i) waive the failure or failures on such terms and conditions as the Province may in its discretion require to satisfy the Province's consideration of the interests of the Province, including the public interest, or of any other matter that in the Province's discretion is appropriate in respect of the Competitive Selection Process.

6.5 Conflicts in Documents

If a Proponent considers any term of this RFP or the Definitive DEWA to be in conflict with any other part of this RFP or the Definitive DEWA, then the Proponent will notify the Contact Person in writing in accordance with Section 4.1 of Volume 1 of this RFP, giving the details of such apparent conflict and seeking clarification. If any such conflict exists but notice is not given by a Proponent during the Competitive Selection Process, the provision which, in the sole opinion of the Province, will provide the higher overall value or benefit to the Province, will govern and take precedence.

Subject to the foregoing, in the event of any conflict or inconsistency, the DEWA, including all schedules to the DEWA, will govern and take precedence over this RFP.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

6.6 Confidentiality and Freedom of Information and Protection of Privacy

All documents and other records in the custody of or under the control of any of the Province, BCTFA, TI Corp, and Infrastructure BC are subject to the British Columbia *Freedom of Information and Protection of Privacy Act* (“FOIPPA”) and other applicable legislation.

Subject to the terms of the FOIPPA, the confidentiality conditions of the Proponent Agreement and Section 6.9 of Volume 1 of this RFP, all Proposals and other documents and records submitted by a Proponent in connection with this RFP will be considered confidential.

The Province will, subject to all applicable Laws, including the FOIPPA, and except as may be otherwise required or necessary to enable the review and evaluation of Proposals and the administration of this RFP stage and any other part of the Competitive Selection Process, use reasonable efforts to maintain the confidentiality of Proposals.

By submitting a Proposal, the Proponent represents and warrants to the Province that the Proponent has complied with applicable Laws, including by obtaining from each person or entity 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 Proposal for the purposes of this RFP and the Competitive Selection Process.

6.7 No Communication or Collusion

Proponents and Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them will not discuss or communicate, directly or indirectly, with any other Proponent or Proponent Team Member or contractor, subcontractor, director, officer, employee, consultant, advisor, representative or agent, or any other persons associated with any of them of such other Proponent, regarding the preparation, content or representation of their Proposals or any other aspect of the Competitive Selection Process. Each Proponent is to ensure that its Proposal has been prepared and submitted without collusion or fraud and in fair competition with other Proponents and Proponent Teams. Proposals will be submitted without any connection, including a connection arising solely through shareholdings or other equity interests in or of a Proponent or Proponent Team Member, knowledge, comparison of information, or arrangement, with any other Proponent or any director, officer, employee, consultant, advisor, agent, or representative of any other Proponent, including any Proponent Team Member of such other Proponent.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

6.8 No Lobbying

Proponents are to ensure that they and their respective Proponent Team Members, and their respective contractors, subconsultants, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, will not in relation to the Project, including the Competitive Selection Process, engage in any form of political or other lobbying whatsoever, and will not except as expressly contemplated by this RFP attempt to communicate in relation to any of these matters, directly or indirectly, with any representative of the Province, including any minister or deputy minister of the Province, any member of the Executive Council of the B.C. Government, any members of the Legislative Assembly, any Restricted Parties, or any director, officer, employee, consultant, advisor, representative or agent of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of:

- a) commenting on or attempting to influence views on the merits of the Proponent's Proposal, or in relation to Proposals of other Proponents;
- b) influencing, or attempting to influence, the outcome of this RFP stage, or of the Competitive Selection Process, including the review, evaluation, and ranking of Proposals, the selection of the Preferred Proponent, or any negotiations with the Preferred Proponent;
- c) promoting the Proponent or its interests in the Project, including in preference to that of other Proponents;
- d) commenting on or criticizing aspects of this RFP, the Competitive Selection Process, the Project, the DEWA, including in a manner which may give the Proponent a competitive or other advantage over other Proponents; and
- e) criticizing the Proposals of other Proponents.

6.9 Disclosure

The following information has been or will be publicly disclosed at <https://engage.gov.bc.ca/masseytunnel/documents/> and/or at <https://www.infrastructurebc.com/>:

- a) the Request for Qualifications;
- b) the names of the shortlisted Respondents; and



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

- c) the Relationship Review Process Description.

Additional information that may be publicly disclosed, subject to government policy and FOIPPA, by posting it at <https://engage.gov.bc.ca/masseytunnel/documents/> and/or at <https://www.infrastructurebc.com/> includes:

- d) Volume 1 of this RFP; and
- e) the name of a Preferred Proponent.

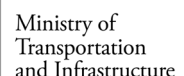
6.10 Changes to Proponent Team Members

If for any reason a Proponent wishes to add, remove or otherwise change a Proponent Team or a Proponent Team Member, or there is a material change in ownership or control (which includes the ability to direct or cause the direction of management actions or policies of a member) of a Proponent Team Member, or there is a change to the legal relationship among any or all of the Proponent and its Proponent Team Members, then the Proponent will submit a written request to the Province for approval of the change.

The Proponent will include in such written request the reason for the proposed change, a comprehensive description of the proposed change, the full legal name(s) of the person(s) affected by or involved with the proposed change, together with a clear and concise description of the legal nature and status of such person(s), sufficient to correctly and fully legally describe the persons affected by or involved with the proposed change, and sufficient information and documentation, including as to suitability, knowledge, skills, resources, experience, qualifications and abilities of the individuals or entities involved in the proposed change to demonstrate that the proposed change, if permitted, would result in the Proponent and the Proponent Team Members, considered as a whole and considered separately, meeting or exceeding, in the sole opinion of the Province, the suitability, qualifications, experience, and abilities of the Proponent, and the Proponent Team Members considered as a whole before the proposed change.

The Proponent will provide such further information and documentation as the Province may request in the Province's discretion for the purpose of considering any such request, and any such additional information and documentation, including the request for a proposed change, may in the discretion of the Province be included in the evaluation of the Proponent's Proposal.

The Province may, in its discretion, by written notice refuse or permit the proposed change. Any permission of the Province may be on such terms and conditions as the Province may consider appropriate in its sole discretion. Any change that results in any additional person or entity becoming a Proponent Team Member, that person or entity



will be required to execute and deliver to the Province an agreement, in form and content satisfactory to the Province in its sole discretion, to be bound by the terms of the Proponent Agreement in the same manner and with the same effect as if such person had been an original signatory to the Proponent Agreement.

The Proponent will immediately notify the Province if, after submission of any component of the Proposal a material change in circumstances occurs which may adversely affect a Proponent's ability to enter into or perform the DEWA or the DBA including any aspects of the Project work.

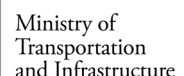
Such a change may not automatically render a Proponent ineligible so as to be disqualified from the Competitive Selection Process. The Province's decision in its discretion as to whether or not to disqualify a Proponent as a result of such a change will be final and binding.

6.11 Relationship Disclosure and Review Process

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

Each Proponent will, by written notice addressed to the Contact Person, promptly after becoming aware of any such relationship, whether before or after delivery of the Proposal, fully disclose all relationships that the Proponent or any of its Proponent Team Members has or may have, with the Province, or any agency, authority, board, tribunal, commission or department of the Province, BCTFA, TI Corp, Infrastructure BC, any Restricted Party or any other person providing advice or services to the Province with respect to the Project and all relationships of which it or any of its Proponent Team Members is aware between any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them with the Province, the Province or any agency, authority, board, tribunal, commission or department of the Province, BCTFA, TI Corp, Infrastructure BC, any Restricted Party or any other person providing advice or services to the Province with respect to the Project that constitutes an actual or perceived conflict of interest or unfair advantage or has the potential for creating an actual or perceived conflict of interest or unfair advantage.

At the time of disclosure of such relationship, the Proponent will include sufficient information and documentation to demonstrate that appropriate measures have been or



will be implemented to mitigate, minimize or eliminate any actual, potential or perceived conflict of interest or unfair advantage, as applicable. The Proponent will provide such additional information and documentation and may be required to implement such additional measures as the Province may require in its discretion in connection with the Province's consideration of the disclosed relationship and proposed measures.

The Relationship Review Process Description is posted on the Project website at <https://engage.gov.bc.ca/masseytunnel/documents/> and at <https://www.infrastructurebc.com/>.

6.12 Relationships

6.12.1 Restricted Parties

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

- ▶ 1127801 B.C. Ltd
- ▶ AMTG Consulting Ltd.
- ▶ Anthony Steadman and Associates Inc.
- ▶ BASIS Engineering Ltd.
- ▶ Bennett Jones LLP
- ▶ BlueSphere Services
- ▶ Boughton Law Corporation
- ▶ BTTC Canada Incorporated
- ▶ Charter Project Delivery Inc.
- ▶ Clark Wilson LLP
- ▶ COWI North America Ltd.
- ▶ DLA Piper (Canada) LLP
- ▶ DM Fourchalk Property Consultants Inc.
- ▶ EcoFish Research Ltd.

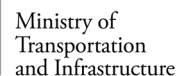


transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

- ▶ Ernst & Young Orenda Corporate Finance Inc
- ▶ Farris LLP
- ▶ Gilmour Infrastructure Consulting
- ▶ Golder Associates Ltd.
- ▶ Iterum Law Corporation
- ▶ Jasco Applied Services Ltd.
- ▶ Kirk & Co Environmental Services
- ▶ Klohn Crippen Berger Ltd.
- ▶ KPMG LLP
- ▶ Lucent Quay Consulting Inc.
- ▶ McTavish Resource Management Consultants Ltd.
- ▶ Michael Mooney Consulting LLC
- ▶ Mike Furey Consulting
- ▶ Miller Thomson LLP
- ▶ MP2 Enterprises Inc.
- ▶ Northwest Hydraulic Consultants Ltd.
- ▶ One-Eighty Consulting Group Inc.
- ▶ PBX Engineering Ltd.
- ▶ R.F. Binnie Associates Ltd.
- ▶ RAM Engineering Ltd.
- ▶ Steer Group Ltd.
- ▶ Stratice Consulting Inc.



- ▶ Turner & Townsend Canada Inc.
- ▶ Typlan Consulting Ltd.
- ▶ Westmar Advisors Inc.
- ▶ WMG Construction Management Services
- ▶ WSP Canada Inc., (previously Golder Associates Ltd.)
- ▶ The Province, BCTFA, TI Corp, and Infrastructure BC, including their former and current employees who fall within the definition of Restricted Party.

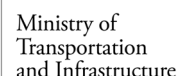
This is not an exhaustive list of Restricted Parties. The Province may identify additional Restricted Parties, including by Addendum, to the list during the Competitive Selection Process.

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

6.12.2 Use or Inclusion of Restricted Parties

The Province may, at its discretion, disqualify any Proponent, or may permit a Proponent 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 Proponent, any of its Proponent Team Members, or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and any other persons associated with any of them is a Restricted Party or if the Proponent, any of its Proponent Team Members or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives and agents, and any other persons associated with any of them uses, directly or indirectly, a Restricted Party:

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



Each Proponent is responsible to ensure that, in connection with the Proponent's participation in the Competitive Selection Process, neither it nor any of its Proponent Team Members nor any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them is or includes or uses, consults or seeks advice, directly or indirectly, from any Restricted Party or includes any Restricted Party in the Proponent Team.

6.12.3 Shared Use Persons

Shared Use Persons may enter into arrangements with any and all Proponents but may not enter into exclusive arrangements with any Proponent and a Proponent may not enter into exclusive arrangements with any Shared Use Person. Shared Use Persons include persons who have unique or specialized information or skills such that the Province considers, in its discretion, their availability to all Proponents to be desirable in the interests of the Competitive Selection Process.

No Shared Use Persons have been identified. The Province may from time to time identify and add other persons to the list of Shared Use Persons.

6.12.4 Conflict of Interest Adjudicator

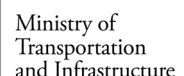
Doug H. Hopkins of Boughton Law Corporation has been appointed as the conflict of interest adjudicator (the "Conflict of Interest Adjudicator" or "COI Adjudicator") to provide rulings on conflicts of interest, unfair advantage, or exclusivity issues, including whether any person is a Restricted Party. The Province may, at its discretion, refer matters to the COI Adjudicator.

6.12.5 Proponent Requests for Advance Rulings

A Proponent, current or prospective Proponent Team Member or a current or prospective advisor or consultant to a Proponent or Proponent Team Member who has any concerns regarding whether it or any of its current or prospective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives, or agents, is or may be a Restricted Party or has a concern about a conflict of interest or unfair advantage it may have, is encouraged to request an advance ruling.

To request an advance ruling, the person seeking the ruling should submit to the Contact Person by email, all relevant information and documentation, including, the following information:

- a) the names and contact information of the Proponent and the person in respect of whom the advance ruling is requested;



- b) a detailed description of the relationship that may constitute or give rise to an actual, potential, or perceived conflict of interest or unfair advantage;
- c) a description of the steps taken to date and future steps proposed to be taken to eliminate or mitigate the conflict of interest or unfair advantage; and
- d) copies of any relevant documentation.

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

If a Proponent or current or prospective Proponent Team Member or advisor or consultant is identified as a Restricted Party, it may be listed in an Addendum to this RFP or in subsequent Competitive Selection Process documents as a Restricted Party.

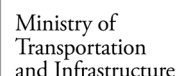
6.12.6 Province Requests for Advance Rulings

The Province may also independently make advance rulings or may seek advance rulings from the COI Adjudicator, where the Province identifies a potential or perceived conflicts of interest, unfair advantage or a person who may be a Restricted Party. The Province will, if it seeks an advance ruling from the COI Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Province seeks an advance ruling from the COI Adjudicator, the Province will give notice to the Proponent, and may give notice to the possible Restricted Party so that it may make its own submission to the COI Adjudicator.

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 Proponents, Proponent Team Members, and the Province. The Province or the COI Adjudicator, as applicable, has the discretion to establish the relevant processes from time to time, including any circumstances in which a decision may be amended or supplemented.

The Province may provide any decision by the Province or the COI Adjudicator regarding conflicts of interest to all Proponents if the Province, in its discretion, determines that the decision is of general application.



6.12.8 Exclusivity

Unless permitted by the Province, in its discretion, or permitted as a Shared Use Person, each Proponent will ensure that no Proponent Team or Proponent Team Member, or any Affiliated Person of any member of its Proponent Team, participates as a member of any other Proponent Team.

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

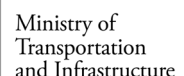
A Proponent or a prospective Proponent Team Member who has any concerns regarding whether participation does, or will, contravene the foregoing is encouraged to request an advance ruling. To request an advance ruling on matters related to exclusivity, the Proponent or prospective Proponent Team member should submit to the Contact Person, the following information:

- a) names and contact information of the Proponent or prospective Proponent Team member making the disclosure;
- b) a detailed description of the relationship that raises the possibility of non-exclusivity;
- c) a detailed description of the steps taken to date, and future steps proposed to be taken, to mitigate any material adverse or potential material adverse effect of the non-exclusivity on the competitiveness or integrity of the Competitive Selection Process; and
- 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.

6.12.8.1 Exclusivity – The Province May Request Advance Rulings

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 ruling from the COI



Adjudicator, provide the COI Adjudicator with relevant information in its possession. If the Province seeks an advance ruling from the COI Adjudicator, the Province will give notice to the Proponent so that it may make its own response to the COI Adjudicator.

The onus is on the Proponent to clear any matter related to exclusivity or to establish any conditions for continued participation, and the Province may require that the Proponent make an application under Section 6.12.8.

6.12.8.2 Exclusivity - Rulings 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 Proponent, Proponent Team and Proponent Team Members and the Province, as applicable. 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.

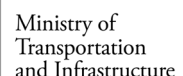
The Province may provide any decision by the Province or the COI Adjudicator regarding matters related to exclusivity to all Proponent if the Province, in its discretion, determines that the decision is of general application.

6.13 Legal Counsel

DLA Piper (Canada) LLP is a Restricted Party. By submitting a Response, the Proponent and the Proponent on behalf of each Proponent Team Member expressly consents to DLA Piper (Canada) LLP continuing to represent the Province for all matters in relation to this RFP and the Project, including any matter that is adverse to the Proponent, or any Proponent Team Member or any of their respective related parties, despite any information of the Proponent or any Proponent Team Member or any of their respective related parties and any solicitor-client relationship that the Proponent or any Proponent Team Member or any of their respective related parties, may have had, or may have, with DLA Piper (Canada) LLP in relation to matters other than this RFP and the Project. This Section is not intended to waive any of the Proponent's or relevant Proponent Team Member's, rights of confidentiality or solicitor-client privilege.

6.14 Delivery and Receipt

Proponents are solely responsible for ensuring that they have received the complete RFP. By submitting a Proposal, each Proponent represents that the Proponent has verified receipt of the complete RFP, has understood the complete RFP, and delivers the Proposal on the basis of the complete RFP, including all Addenda.



Neither the Province, nor any of the Releasees, will be in any way responsible or liable for or make any guarantee, warranty or representation whatsoever as to:

- a) the timely, complete, effective, condition (including security) upon delivery or receipt of any communication, enquiry, response, information or other documentation, including this RFP, or any and all Addenda, any part of a Proposal, or any amendments to any part of a Proposal, from or by any person, including a Proponent or the Province, whether by email, by courier, or by hand; or
- b) the working order, functioning with or without errors, interruptions or malfunctioning, or capacity of any electronic email or information system, including the RFP Data Room or any notices in respect of the RFP Data Room.

All permitted email communications or delivery of documents relating to this RFP will be deemed to have been received by the Province on the dates and times indicated on the Province's electronic equipment.

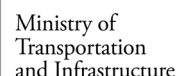
Each part of this RFP, any and all Addenda and any other communications, responses or other documentation delivered by or on behalf of the Province will be deemed validly delivered to and received by the intended recipient, including any Proponent, at the time that this RFP, such Addenda, communications,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

6.15 Proponent Team Members and Subcontractors

Proponents are responsible for ensuring that their Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them observe the terms of this RFP.

6.16 No Reliance

Neither the Province nor any of the Representatives, obligation or responsibility whatsoever in contract, tort or otherwise, with respect to the scope, quality, timeliness, accuracy, reliability, appropriateness, sufficiency, relevance or completeness of any Information or any statements, representations, assurances, commitments, or agreements which Proponents believe they may have received or reached with any stakeholders, interested parties, or other persons.

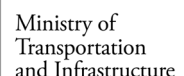


Without limiting the foregoing, any borehole logs, or test pit logs provided by or on behalf of the Province, reflect only the observations which were made at the specific locations described and at the specific times recorded, and may not be representative or indicative of anticipated or actual conditions encountered either at specific locations or immediately adjacent thereto or, with respect to groundwater and other anticipated or actual conditions, at any other times.

No actions or omissions, communications or responses, including Information, statements, opinions, comments, consents, waivers, acceptance or approvals made or raised by or on behalf of the Province or any of the Releasees, any Proponent or its respective Proponent Team Members or their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, or any other person, whether positive or negative, including if set out in any document or information provided by any Proponent or its respective Proponent Team Members or their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, in relation to any matter, including the Competitive Selection Process or the Project, at any time or times during the Competitive Selection Process, including during this RFP stage or during or before any Workshop or Topic Meeting, will:

- a) be binding on the Province or be relied upon in any way by the Proponent, or the Proponent Team Members or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them for any purpose whatsoever;
- b) be deemed or considered to be an indication of a preference by the Province or any of the Releasees even if adopted by the Proponent or another of the Proponents; or
- c) will amend or waive any term of this RFP in any way for any purpose whatsoever, unless and only to the extent expressly incorporated by Addendum, or expressly set out in a Response to Proponents issued by the Province to the Proponents.

By submitting a Proposal, each Proponent represents and warrants to the Province that its Proposal has been prepared, relies and has been submitted solely on investigations, examinations, knowledge, analyses, interpretation, information, opinions, conclusions, judgments, and assessments independently undertaken, formulated, obtained, and verified by the Proponent, its Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors,



representatives or agents, and any other persons associated with any of them, and not in any way upon any action or omission, the scope, timeliness, accuracy, completeness, relevance, or suitability of any Information.

Nothing in this RFP or otherwise relieves Proponents from undertaking their own investigations and examinations, including as they consider necessary, desirable, beneficial, or appropriate, and developing their own analysis, interpretations, opinions and conclusions, including in respect of any bore hole logs and test pit logs provided by or on behalf of the Province, with respect to the preparation and delivery of their Proposals, and with respect to this RFP, the DEWA, the DBA, the Project Requirements and the Project.

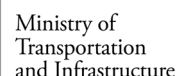
Any and all use of or reliance upon, in any way whatsoever, any Information, including as described in this Section 6.16 or any statements, representations, assurances, commitments or agreements which Proponents believe they may have received or reached with any stakeholders, interested parties, or other persons will be at their sole risk and without recourse of any kind whatsoever against the Province or any of the Releasees.

6.17 No Liability

Notwithstanding any other provision of this RFP neither the Province nor the Representatives, will have any responsibility, obligation or liability whatsoever whether in contract, tort or otherwise, for or in respect of any Claims by any person, including any Proponent, Proponent Team Member, prospective member of a Proponent Team or any of their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, or any other persons associated with any of them, for any matter whatsoever arising out of, in connection with, or relating in any way to the Competitive Selection Process, or any part of the Competitive Selection Process, including this RFP, matters or issues contemplated or considered in the opinion of the Fairness Reviewer, any Proponent or Proponents, the Proposal or any Proposal, any Shared Use Person or arrangements involving a Shared Use Person, any use of or reliance on the Restricted Parties list, any identification of or failure to identify, in a timely manner or at all, any person as a Restricted Party, any ruling or advice of or failure to provide a ruling or advice, in a timely manner or at all, of the COI Adjudicator.

6.18 Dispute Resolution

The Proponent's Representative will, within fourteen (14) days of any dispute arising in any way in connection with this RFP, submit written notice to the Contact Person of such dispute.



All such disputes for which proper notice has been given to the Contact Person, that are not resolved through negotiation between the Province and the Proponent within 60 days of the date of the written notice of the dispute, may by mutual agreement be referred to and finally resolved by binding arbitration in accordance with the *Arbitration Act*. This RFP stage and the Competitive Selection Process will continue despite any such ongoing dispute resolution.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

7 Interpretation

In this RFP:

- a) any action, decision, determination, consent, approval or any other thing to be performed, made, or exercised by or on behalf of the Province, including the exercise of “discretion” or words of like effect, unless the context requires it, is at the sole, absolute and unfettered, including, unfettered by any implied or express duties of good faith or of fairness, discretion, opinion or exercise, as the case may be, of the Province;
- b) the use of headings is for convenience only and headings are not to be used in the interpretation of this RFP;
- c) a reference to a Section or Appendix, unless otherwise indicated, is a reference to a Section of, or Appendix to, this RFP;
- d) words, including “they”, “them” and “their”, which may import the plural include the singular and vice versa;
- e) words which may import gender are interpreted as gender neutral;
- f) the word “including” when used in this RFP is not to be read as limiting;
- g) all dollar values are Canadian dollars unless otherwise indicated;
- h) 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;
- i) all time references are to the 24-hour time clock system unless otherwise indicated; and
- j) each Appendix attached to this RFP is an integral part of this RFP as if set out at length in the body of this RFP.

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



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

8 Definitions

8.1 Definitions

Capitalized terms in this RFP that are not defined in this Section have the meaning given in the DEWA or the Draft DBA.

In this RFP:

“**Addenda**” or “**Addendum**” means a written document specifically identified as an “Addendum” and issued by the Province to amend this RFP.

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

- a) a corporation and
 - i.) a person by whom the corporation is controlled,
 - ii.) each member of an affiliated group of persons by which the corporation is controlled, and
 - iii.) a spouse or common-law partner of a person described in subparagraph (1) or (2);
- b) two corporations, if
 - i.) 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,
 - ii.) 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
 - iii.) 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



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

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
 - i.) the same person is a majority-interest partner of both partnerships,
 - ii.) a majority-interest partner of one partnership is affiliated with each member of a majority-interest group of partners of the other partnership, or
 - iii.) 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
 - i.) is a majority-interest beneficiary of the trust, or
 - ii.) 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
 - i.) a majority-interest beneficiary of one of the trusts is affiliated with a majority-interest beneficiary of the other trust,
 - ii.) 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
 - iii.) 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.

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



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

“Claims” means claims, actions, proceedings, causes of action, suits, debts, dues, accounts, bonds, warranties, claims over, indemnities, covenants, contracts, losses (including direct and consequential losses), damages, remuneration, compensation, costs, expenses, grievances, executions, judgments, obligations, liabilities (including those relating to or arising out of loss of opportunity or loss of anticipated profit), rights and demands whatsoever, whether actual, pending, contingent or potential, whether express or implied, whether present or future and whether known or unknown, and all related costs and expenses, including legal fees on a full indemnity basis, howsoever arising, including pursuant to law, equity, contract, tort, statutory or common law duty, or to any actual or implied duty of good faith or actual or implied duty of fairness, or otherwise.

“Commercial Workshop” means Workshops 1 and 5 set out in Section 4.2.

“Competitive Selection Process” means the overall process for the selection, under this RFP, of a Preferred Proponent for the DEWA including, but not limited to, this RFP.

“Conflict of Interest Adjudicator” or **“COI Adjudicator”** means the person described in Section 6.12.4.

“Construction Director” means the individual who will be responsible for management and coordination of all Project construction planning and activities, as described in the Proponent’s Proposal.

“Consulting Agreements” 4.6.2 has the meaning given in the Initial Draft DEWA.

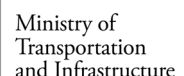
“Contact Person” means the person identified as such in the Summary of Key Information.

“DBA RFP” has the meaning set out in Section 1.1.

“Definitive DEWA” means the final draft form of the Initial Draft DEWA, as revised and amended from time to time by subsequent Addenda issued in accordance with this RFP.

“Design-Build Agreement or DBA” means the legal agreement between the Design-Builder and the Province to design and construct the Project.

“Design-Build Director” means the individual proposed by the Proponent to be responsible for leading the Design-Builder to enter into the DEWA with the Province and



through the term of the Design-Build Agreement, as described in the Proponent's Proposal.

"Design-Builder" means the entity that enters into the DEWA with the Province and that may enter into the DBA, in which case it will have direct responsibility to Design and construct the Project, as identified in the Proponent's Response and as may have been changed pursuant to the RFQ, or as may be changed pursuant to this RFP.

"Design Director" means the individual proposed by the Proponent to be responsible for management and coordination of all Project design.

"Design Early Works" means the scope of work set out in the DEWA.

"Design Early Works Agreement" or **"DEWA"** means the legal agreement between the Preferred Proponent and the Province to undertake the Design Early Works.

"DEWA Contract Price" means the not-to-exceed amount proposed by Proponents to complete the Design Early Works, in accordance with the requirements of the Definitive DEWA.

"Design Firm(s)" means the firm(s) engaged by the Design-Builder to design the Project, as described in the Proponent's Response and as may be changed pursuant to this RFP.

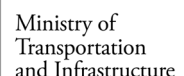
"Fairness Reviewer" has the meaning set out in Section 4.11.

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

"GST" means Goods and Services Tax.

"Guarantor" means an entity providing financial and/or performance support to the Design-Builder by way of a guarantee or a commitment to provide a parent company guarantee or other proposed credit support in relation to the Project, as identified in the Proponent's Response and as may have been changed pursuant to the RFQ or as may be changed pursuant to this RFP.

"Incorporated Material" means any material in existence prior to the release of the RFQ or developed independently of the Competitive Selection Process, and that is incorporated or embedded in the Work Product by or on behalf of the Proponent, including by any Proponent Team Member of a Proponent;



“Information” means any and all information including facts, records, plans, designs, calculations, figures, models, documents, drawings, descriptions of soils, site, geotechnical, geological or subsurface conditions, dewatering, opinions or interpretations based on existing or assumed information, previous studies or optimization, layouts, the Reference Concept Design, projections, traffic information, volume counts, classification counts, data, including origin, destination and vehicle jurisdiction data, speed and travel time information, statements or estimates of quantities of any works, assumptions or descriptions as to means or methods, availability and quality of materials, photographs, maps, specifications, reports, studies, correspondence, working papers, drafts, notes, requirements of stakeholders or interested parties, investigations, statements, representations, opinions, interpretations, analyses, and conclusions in electronic, digital, hard copy or any other form whatsoever, which is given or made available, directly or indirectly, to Proponents and to Proponent Team Members and their respective contractors, subcontractors, directors, officers, employees, consultants, advisors, representatives or agents, and other Persons associated with any of them, or any of them, by posting in the RFP Data Room, or during or before any Workshop or Topic Meeting, whether before or after issuance of this RFP, by or on behalf of the Province or any of the Releasees and related in any way to the Project or the Competitive Selection Process, or any part of any of them.

“Infrastructure BC” means Infrastructure BC Inc.

“Initial Draft DBA” means the draft DBA labeled “Initial Draft DBA” included as Volume 3 of this RFP.

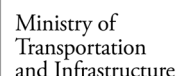
“Initial Draft DEWA” means the draft DEWA labeled “Initial Draft DEWA” included as Volume 2 of this RFP.

“Interactive Process” has the meaning set out in Section 4.2.

“Interim Reference Concept Design Critique” means a Proponent’s presentation to the Province during Workshop 3 as described in Section 4.2.1.

“Interim Consulting Agreement Submission” means the Interim Submission described in Section 4.6.3.

“Interim Submissions” means the submissions set out in Section 4.6.



“Key Individuals” means the individuals identified in Section 4.6.1. 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.

“Key Individuals’ Nomination Submission” means the Interim Submission described in Section 4.6.1.

“Notice of Continued Status” has the meaning set out in Section 4.6.4.

“Preferred Proponent” means the Proponent selected by the Province pursuant to this RFP to finalize the DEWA.

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

“Proponent” means one of the entities identified in Section 1.1.

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

“Proponent Representative” means, for a Proponent, the person who under the RFQ for such Proponent was the “Respondent Representative” (as such term is used in the RFQ), as such person may be changed from time to time by the Proponent by written notice to the Province, and who is fully authorized to represent the Proponent in any and all matters related to this RFP.

“Proponent Team” means, in the case of each Proponent, that Proponent and the Proponent’s Key Individuals, Design-Builder and Design Firm(s) as identified in the Proponent’s Response as may have been changed pursuant to the RFQ or as may be changed pursuant to this RFP.

“Proponent Team Member” means a member of a Proponent Team as may be changed pursuant to this RFP.

“Proposal” means a proposal submitted in response to this RFP.

“Proposal Deadline” means the date and time identified as such in the Summary of Key Information.

“Proposal Validity Period” has the meaning set out in Section 4.8.2.1.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

“Province” means His Majesty the King in Right of the Government of British Columbia, as represented by the Minister of Transportation and Infrastructure.

“Qualifying Bank” means any of the following, provided it is not a Restricted Party, and provided none of its Affiliated Persons is a Restricted Party:

- a) a bank listed in Schedule I, II or III of the Bank Act (Canada);
- b) a Canadian trust company, insurance company, investment company, pension fund or other institution which, in any such case, manages at least \$500 million in securities, including entities wholly owned by any of the foregoing;
- c) a bank regulated by the Board of Governors of the Federal Reserve System of the United States, U.S. bank, saving and loan institution, insurance company, investment company, employee benefit plan or other institution that, in any such case, manages at least \$500 million in securities and would be a “qualified institutional buyer” under U.S. securities legislation, including entities wholly owned by any of the foregoing;
- d) an institution which is recognized or permitted under the law of any member state of the European Economic Area (in this definition, the “EEA”) to carry on the business of a credit institution pursuant to Council Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions or is otherwise permitted to accept deposits in the United Kingdom or any other EEA member state and which manages at least \$500 million in securities, or has assets of at least \$500 million, including entities wholly owned by any such institution;
- e) an institution which is recognized or permitted under the law of any member state of the Organization for Economic Cooperation and Development (in this definition, the “OECD”) to carry on within the OECD member states the business of a credit institution, insurance company, investment company or pension fund and which manages at least \$500 million in securities, or has assets of at least \$500 million, including entities wholly owned by any such institution; or
- f) any other institution consented to in writing by the Province as a “Qualifying Bank”.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

“Reference Concept Design” means the reference design labeled “Reference Concept Design” posted in the RFP Data Room.

“Releasees” means and includes each of the Province, BCTFA, TI Corp, Infrastructure BC, the Fairness Reviewer, the Conflict of Interest Adjudicator, and each of their respective directors, officers, representatives, any of their elected officials, including members of the Executive Council, managers, employees, consultants, contractors, advisors and agents and successors and assigns.

“Request for Proposals” or **“RFP”** means this request for proposals including all appendices, as may be amended by Addenda.

“Request for Qualifications” or **“RFQ”** has the meaning set out in Section 1.1.

“Response” means a Proponent’s formal response to the RFQ.

“Restricted Party” means those persons (including their former and current employees) who had, or currently have, participation or involvement in the Competitive Selection Process or the design, planning or implementation of the Project, and who may provide a material unfair advantage or confidential information to any Proponent that is not, or would not reasonably be expected to be, available to other Proponents.

“RFP Data Room” has the meaning set out in Section 5.3.

“Shared Use Person” has the meaning set out in Section 6.12.3.

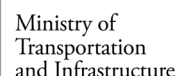
“Submission Location for Interim Submissions” means the submission location identified as such in the Summary of Key Information.

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

“Submission Time for Key Individuals’ Nomination Submission” means the date and time identified as such in the Summary of Key Information.

“Submission Time for Interim Consulting Agreement Submission” means the date and time identified as such in the Summary of Key Information.

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



“Submission Time for Target Cost Development Strategy Overview” means the date and time identified as such in the Summary of Key Information.

“Target Cost” has the meaning given in the Draft DBA.

“Target Price Development Strategy Overview” means the Interim Submission described in Section 4.6.2.

“TI Corp” means Transportation Investment Corporation.

“Topic Meetings” means the meetings described in Section 4.2.

“Work Product” means, collectively, the Proposal and any documents or other materials or information that forms a part of the Proposal or is submitted in support of the Proposal by or on behalf of the Proponent.

“Workshops” means the workshops described in Section 4.2.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

APPENDIX A RFP Response Guidelines

Response Guidelines Overview

This Appendix A and attachments describe the specific documentation that a Proponent is required to submit to satisfy the Proposal submission requirements, and to demonstrate that they are capable of performing the responsibilities and obligations of the Design-Builder under the DEWA. The Proponent's Proposal documents are to comprehensively address the requirements set out in this Appendix A and the Definitive DEWA.

Proposal Submission Requirements

Proposals are to follow the delivery, format, and content requirements described in this section, to facilitate consistency in Proposal review and evaluation and to facilitate consideration of each Proposal.

a) Language

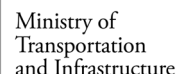
Proposals are to be in English. Any portion of a Proposal not in English may not be evaluated.

b) Delivery

The packages comprising the Proposal must be received at the Proposal Submission Location before the Proposal Deadline.

c) Containers and Labeling

- i.) Proposals are to be delivered in one or more containers clearly labeled with the "RFP Title", "Contact Person", and "Submission Location" all as shown on the RFP Summary of Key Information and with the Proponent's name and mailing address.
- ii.) Each container is to be clearly labeled to identify the number of containers containing the Proposal, as "Number X of Y", and to identify the package name and number contained therein.
- iii.) The Proponent is solely responsible for ensuring that all containers containing its Proposal are securely sealed and clearly labeled in accordance with this Appendix A.



d) Packages

i.) Submit one complete electronic copy on USB flash drive(s) of the Proposal in the format described in Table 2 below, in the following file and directory structure:

- ▶ Package 1: Proposal Transmittal Package
- ▶ Package 2: Design Builder Project Approach and Process
- ▶ Package 3: Implementation of Design
- ▶ Package 4: Reference Concept Design Critique
- ▶ Package 5: DEWA Contract Price
- ▶ Package 6: DBA Financial

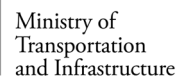
Each USB flash drive is to be clearly labeled with the RFP Title, the name of the Proponent, and, if more than one USB flash drive is provided, the applicable Package name and number.

e) Format

- i.) Text and tables should be on double sided 8.5” x 11” paper. Where practical, text should be 1.5 spaced and not smaller than 11-point typeface. Drawings submitted with the Technical Submittal should be in format no larger than 11” x 17” paper.
- ii.) Electronic files should be in the form set out in Table 2.

TABLE 2: ELECTRONIC FILE FORMATS

File Type	Software Package
Text based document	Adobe PDF format (unprotected and searchable)
Spreadsheet based documents	Microsoft Excel (unprotected)
Graphic files	Adobe PDF format
Schedule files	Oracle Primavera P6



Proposal Requirements

Without limiting the terms of this RFP, this section summarizes the information and documentation that Proponents are to submit in their Proposals.

Proposals will be evaluated in accordance with the evaluation process described in Appendix B of Volume 1 of this RFP.

Proposals are to be prepared on the basis of the version of the Definitive DEWA most recently issued prior to the Proposal Deadline.

Proponents are to arrange the content of their Proposals using the section numbers and corresponding titles shown in the following tables.

Proposals are to provide information and documentation in accordance with the following tables.



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Table 3 - Package 1: Proposal Transmittal Package

Section 1.1 Name and Contact Details for the Proponent Representative

The Proponent Representative will be the only person to receive communications from the Contact Person regarding this RFP. Please provide:

- a) name;
 - b) employer;
 - c) mailing/courier addresses;
 - d) telephone number; and
 - e) email address.
-

Section 1.2 Company/Firm Names and Names of Key Individuals

Confirmation of the company/firm names and Key Individuals, including the company/firm name and position of each Key Individual in table format. If there have been any changes to Key Individuals from those specified in the Proponent's Key Individuals' Nomination Submission, then any such changes should be approved by the Province in accordance with Section 6.10 of this RFP.

Section 1.3 Confirmation and Attachments

Confirm the Proposal substantially meets the provisions of this RFP, including the requirements set out in this Appendix A and the Definitive DEWA;

- a) One fully executed copy of Form 1 – Proposal Declaration Form of Volume 4 of this RFP;
 - b) One fully executed copy of Form 2 – Confirmation and Waiver of Volume 4 of this RFP;
 - c) Overview table of contents for all parts of the Proposal; and
 - d) The Proponent's proposed Consulting Agreements that meet the following requirements:
 - i.) In a form acceptable to the Province which includes, but is not limited to:
 - A.) an option for the Design-Builder (and by assignment the Province) to terminate the subcontract at its discretion, similar to the option set out in the DEWA;
-

Table 3 - Package 1: Proposal Transmittal Package

- B.) in the event the subcontract is terminated, the Design-Builder or the Province shall only be required to pay for work which has been completed up to the termination date; and
- C.) the assignment to the Province should align with the DEWA and the Assignment of Contracts.
 - ii.) Upon termination of the Consulting Agreements, the liability to the Design Firm and other consultants is limited to payment for work completed with no additional amount or profit; and
 - iii.) Grants the Province the assignment rights as set out in the DEWA including schedules.
- e) Confirmation that the Proponent intends that the Consulting Agreements, submitted under Section 1.3 d) of this Appendix A, will be executed between the Design-Builder and its consultants and that each consultant intends to execute the agreement between the consultants and their sub-consultants, as applicable;
- f) If changed from the Interim Consulting Agreement Submission, include a blackline that compares the Consulting Agreements submitted under Section 1.3 d) of this Appendix A with the Consulting Agreements submitted as the Interim Consulting Agreement Submission (Section 4.6.3 of Volume 1 of this RFP).

Section 1.4 Confirmation of RFQ Response

The Proponent is to confirm that, other than changes permitted by the Province, there have been no changes to information provided in its RFQ Response regarding the Design-Builder and the Design Firm(s) listed as part of the Respondent Team.

If changes are proposed since the RFQ Response, the Proponent should clearly identify each proposed change, include a written request for the Province's permission, and provide additional information and documentation as required by this RFP, including Section 6.10 of Volume 1 of this RFP.

Table 4 – Package 2: Design Builder Project Approach and Process

Section 2 Design Builder Project Approach and Process

Section 2.1 Organizational Structure and Relationships between the Proponent Team Members

- a) Provide an organization chart(s), at the corporate level, showing the relationships between Proponent Team Members and major sub-contracts, and reporting relationships anticipated.
- b) Describe the business relationships between the Proponent Team Members (e.g., corporation, joint venture, partnership, subcontractor agreement, or consultant service agreement).

Section 2.2 DEWA Implementation Plan

Provide a workplan that addresses the requirements outlined in the Definitive DEWA, and includes the following:

- a) a schedule, developed using Oracle Primavera P6 which includes, at a minimum, the following information:
 - i.) critical path and major milestones and deliverables including, but not limited to, the DEWA Stages as set out in Schedule 3 of the DEWA “Scope of DEWA Works”
 - ii.) mobilization of Design-Builder’s team including the Design Firm and firms and/or personnel to be procured.
- b) the proposed governance structure and approach to collaborating with the Province, including:
 - i.) an organization chart, at the project-level, showing anticipated positions and reporting relationships;
 - ii.) brief descriptions of the roles and responsibilities of key personnel involved in decision-making; and
 - iii.) a description of how the Design-Builder plans to approach collaboration and decision-making (including managing communications and input from the Province) while maintaining a productive relationship with the Province throughout the Project.
- c) the proposed project controls to be implemented, including:

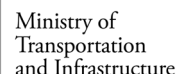


Table 4 – Package 2: Design Builder Project Approach and Process

- i.) an organization chart, at the discipline-level, showing anticipated positions and reporting relationships;
 - ii.) brief descriptions of the roles and responsibilities of key personnel involved in project controls including scheduling, estimating, cost control, reporting, and risk management; and
 - iii.) a description of how the Design-Builder plans to monitor the design development and other DEWA processes including cost control processes and constructability/value engineering reviews.
- d) the proposed approach to meeting the environmental requirements, including:
- i.) an organization chart, at the discipline-level, showing anticipated positions and reporting relationships;
 - ii.) brief descriptions of the roles and responsibilities of key personnel involved in supporting the Province in obtaining the EAC and proactively preparing for permits; and
 - iii.) a description of how the Design-Builder plans to integrate feedback received during the regulatory review process into the Project's technical design and plans.
- e) the proposed approach to meeting the Indigenous requirements, including:
- i.) an organization chart, at the discipline-level, showing anticipated positions and reporting relationships;
 - ii.) brief descriptions of the roles and responsibilities of key personnel involved in supporting the Province with engagement and consultation with Indigenous nations; and
 - iii.) a description of how the Design-Builder plans to manage and integrate feedback received from Indigenous nations during engagement with the Province into the Project's technical design and plans.
- f) the proposed approach to meeting the communications and stakeholder engagement requirements, including:
- i.) an organization chart, at the discipline-level, showing anticipated positions and reporting relationships;

Table 4 – Package 2: Design Builder Project Approach and Process

- ii.) brief descriptions of the roles and responsibilities of key personnel involved in supporting the Province with communications and engagement with external stakeholders; and
 - iii.) a description (including timelines) of how the Design-Builder plans to solicit input from stakeholders and interested parties to inform design development, as well as communicate back to stakeholders and interested parties how their feedback informed design.
- g) a draft Target Cost Development Strategy, including:
- i.) an organization chart, at the discipline level showing anticipated positions and reporting relationships;
 - ii.) strategy for identifying opportunities to maximize value for the Province throughout the development of a Target Cost under the DEWA including incorporating opportunities for design and construction innovations that will represent best value to the Province;
 - iii.) approach to open book estimation method to be implemented including the Basis of Estimate development;
 - iv.) schedule of Cost Estimate Workshops;
 - v.) brief descriptions of the roles and responsibilities of key personnel involved in developing Cost Estimates, Work Schedules and procurement;
 - vi.) draft form of Procurement Plan and a brief description of procurement methodology; and
 - vii.) draft form of Risk Register and a brief description of risk management methodology.
-

Table 5 – Package 3: Implementation of Design

Section 3 Implementation of Design

Section 3.1 Design Organization

Provide an organization chart, at the discipline-level, showing anticipated positions, number of resources and reporting relationships anticipated for design development.

Section 3.2 Design Approach

Provide a workplan that sets out the proposed approach to developing the design and that addresses the requirements outlined in the Definitive DEWA, and includes the following items:

- a) a description of how the Design Firm plans to approach managing the design works;
 - b) a description of how the Design Firm plans to develop the Design, including:
 - i.) how constructability considerations will be included in the design process;
 - ii.) how site and location specific conditions will be included in the design process;
 - iii.) how feedback from Indigenous nations and stakeholders will be included in the design process;
 - iv.) a description of the anticipated site investigations required during Stage 1 of the DEWA;
 - v.) a description of key design considerations, and the Proponent's strategy to manage them, and;
 - vi.) a detailed summary of the Proponent's proposed approach to quality management for design that addresses the requirements outlined in the Definitive DEWA.
-

Table 6 – Package 4: Reference Concept Design Critique

Section 4 Reference Concept Design Critique

In ten (10) pages or less, provide a critique of the Province’s Reference Concept Design that discusses constructability, and schedule considerations for design and construction, as well as other considerations that may impact the success of the Project.

Table 7 – Package 5: DEWA Contract Price

Section 5 DEWA Contract Price

Section 5.1 Insurance

Demonstrate the insurability of the Proponent by providing written undertakings in the forms of Form 4 and Form 5 of Volume 4 of this RFP, from insurers licensed in British Columbia or Canada to provide the insurance coverage required by the Definitive DEWA, should the Proponent be awarded the DEWA.

Section 5.2 DEWA Contract Price Proposal

Provide the following:

- a) a completed Form A1. Refer to the Excel document titled “Form A1-Breakdown of DEWA Contract Price.xlsx,” in the form provided in the RFP Data Room, including a completed DEWA Resource Forecast sheet, in the form provided in the RFP Data Room;
- b) confirmation that the DEWA Contract Price proposal, including all rates contained within, will remain valid for the period of at least 120 days after the Proposal Deadline; and
- c) in two (2) pages or less, a rationale for the DEWA Contract Price proposal. This rationale should address the proposed hours, hourly rates, reimbursables, disbursements and any other information the Proponent considers relevant.

Table 8 – Package 6: Design-Build Agreement Financial

Section 6 DBA Financial

Section 6.1 Insurance and Performance Security

- a) Confirmation that the Insurance Undertakings provided with the Response to the RFQ are still valid.
- b) A proposed draft form of parental company guarantee.
- c) Confirmation of the intent to provide performance security consistent with the requirements of the Draft DBA, and the type of performance security anticipated.
- d) Evidence of the ability to obtain bonding from a surety, or sureties, authorized to conduct business in Canada, or alternatives having been deemed acceptable to the Province.

Section 6.2 Financial Capacity

6.2.1 Design-Builder and Design-Builder Guarantors

The following information in respect of the Design-Build Contractor and Design-Build Contractor Guarantor, if any, and if the Design-Build Contractor or a Design-Build Contractor Guarantor is a consortium, joint venture, or special purpose vehicle, then the following information is to be provided in respect of each entity comprising each consortium, joint venture or special purpose vehicle as the case may be.

Where the Design-Build Contractor is guaranteed by a Design-Build Contractor Guarantor, provide all of the following information in respect of such Design-Build Contractor Guarantor and provide only the information items in a), b) and h) of this Section 6.2.1 in respect of the Design-Build Contractor.

- a) full legal name(s);
- b) confirmation of no material changes to the Proponent's Design-Build Contractor or Design-Build Contractor Guarantors (if any) since the Response to the RFQ other than as consented to by the Province in accordance with Section 6.10 of Volume 1 of this RFP;
- c) if not provided at the RFQ stage, copies of annual audited financial statements, the audit letters and the notes to the financial statements, or other similar financial information, for each of the last three fiscal

Table 8 – Package 6: Design-Build Agreement Financial

years (entire annual reports should not be provided) or, if no new annual audited financial statements are available since the RFQ stage, a confirmation as such;

- d) if not provided at the RFQ stage and if available, copies of the interim financial statements for the last quarter or, if produced only semi-annually, the last half year since the last annual audited financial statement provided in c) or, if not available, an explanation as to why;
- e) details of any material off-balance sheet financing arrangement currently in place or, if none, a confirmation as such;
- f) details of any material events that may affect the entity's financial standing since the last annual financial or interim statements provided or, if none, confirmation as such;
- g) details of any credit rating(s) including any updates since the RFQ stage or, if none, a confirmation as such;
- h) details of any bankruptcy, insolvency, company creditor arrangement or other insolvency proceedings in the last three years, and any litigation or other material adverse proceedings (arbitration or regulatory investigations or proceedings) that are still outstanding that may affect the Design-Build Contractor's or the Design-Build Contractor Guarantor's (if any) ability to perform its obligations in relation to the Project or, if none, a confirmation as such; and
- i) details of any change in good standing with the Qualifying Bank since the RFQ stage or, if none, a confirmation as such.

Section 6.3 Value Proposition

6.3.1 Proposed Fixed Fee Percentage

- a) Provide a proposed Fixed Fee Percentage for the Design-Builder. The Fixed Fee Percentage must cover all costs other than Allowed Costs. The Fixed Fee Percentage will apply to Allowed Costs incurred in accordance with the DBA, including Schedule 10, with no changes.
 - b) Provide a breakdown of the Fixed Fee Percentage between corporate overhead and profit using Form A2. Refer to the Excel document titled "Form A2 – Table of Design-Builder's Proposed Fixed Fee Mark-Up.xlsx," in the form provided in the RFP Data Room.
-



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Table 8 – Package 6: Design-Build Agreement Financial

- c) Provide an approximate percentage of self-performed and subcontracted works.

6.3.2 Proposed Fixed Fee Percentage Rationale

In two (2) pages or less, provide a rationale for the Fixed Fee percentage for the Design-Builder. This rationale should address the range of results achieved on specific projects, the terms of Draft DBA relative to the risk profile of other projects, market conditions, the specific circumstances of this Project, and any other information the Proponent considers relevant.

In the event that the Proponent is comprised of multiple Proponent Team Members, the Proponent may describe fixed fee expectations of each Proponent Team Member for the DBA contract value in order to rationalize the Proponent's proposed Fixed Fee percentage.

Form A1 – Breakdown of DEWA Contract Price

Refer to the Excel spreadsheet in the RFP Data Room entitled “DEWA RFP Pricing Form.”



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Form A2 – Table of Design-Builder’s Proposed Fixed Fee Mark-Up

Refer to the Excel spreadsheet in the RFP Data Room entitled “DEWA RFP Pricing Form.”



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

APPENDIX B Evaluation Criteria

1. Evaluation Process

Subject to the terms of this RFP, evaluation and scoring of the Proposals and the interactive processes will be based on the level of achievement of the criteria in this Appendix B.

The Proponent with the highest-scored Proposal will be invited by the Province to become the Preferred Proponent, finalize the DEWA, and proceed to the DBA RFP.

2. Proposal Evaluation Criteria

Subject to Section 4.8.2.2 of Volume 1 of this RFP, the Province will evaluate the Proposals by applying the evaluation criteria and weighting below.

TABLE 9: EVALUATION CRITERIA AND WEIGHTING

Evaluation Criteria	Points Available	RFP Component Evaluated	
		Proposal	Interactive Process
<p>1. Design-Builder Project Approach and Process</p> <p>This includes demonstration that the Proponent Team has a good understanding of the Project and has the capability to undertake the obligations of the Design-Builder under the DEWA and DBA.</p>	20	✓	
<p>2. Implementation of Design</p> <p>This includes demonstration that the Proponent Team:</p> <ul style="list-style-type: none"> a) has a good understanding of the design requirements and the obligations of the Design-Builder under the DEWA; and 	20	✓	

Evaluation Criteria	Points Available	RFP Component Evaluated	
		Proposal	Interactive Process
b) understands how to manage quality during design development.			
<p>3. Interactive Process Assessment</p> <p>This includes Workshops and Topic Meetings that will be used to evaluate the following:</p> <ul style="list-style-type: none"> a) Experience and capabilities of the Key Individuals; b) Fair and reasonable behaviour and approach to commercial and risk discussions demonstrated by Key Individuals and project sponsor; c) Demonstrated leadership and management capabilities of the Key Individuals and project sponsor; and d) Overall evidence of capacity to be a high-performance team, including a balance of practical and behavioural attributes that support collaboration. 	25		✓
<p>4. The DEWA Contract Price Proposal</p> <p>The Province will assess the extent to which the Proponent demonstrates that the DEWA Contract Price Proposal, including the proposed weighted average hourly rates, estimated hours, and expenses by stage and discipline, are fair and reasonable.</p>	10	✓	
<p>5. Value Proposition for DBA phase</p> <p>The evaluation of the value proposition will take into account the following when determining a score:</p>	25	✓	



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Evaluation Criteria	Points Available	RFP Component Evaluated	
		Proposal	Interactive Process
<p>a) Fixed Fee Percentage for Design-Builder: The lowest Fixed Fee Percentage (“X”) will receive the maximum available score under this item. A Fixed Fee Percentage (“Y”) which is higher than X will be scored as follows:</p> $\left(1 - 2 \times \left(\frac{Y - X}{Y}\right)\right) \times \text{points for Fixed Fee \% for Design - Builder}$ <p>In the event that the result is negative, the score received will instead be zero.</p> <p>b) Rationale for Fixed Fee Percentage: The Province will assess the extent to which the Proponent demonstrates that the proposed parameters are fair and reasonable, having regard to Proponent norms, terms of the DBA relative to the Proponent’s business-as-usual risk profile, market conditions, specific circumstances of the Project, and any other relevant information provided by the Proponent.</p>			
Total	100		



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

APPENDIX C Request for Information Form

Fraser River Tunnel Project Request for Information/Clarification/Meeting

Request Number (Proponent name and sequential number)	
Contact Name	
Date Raised	
Response Date Request	
Type of Request	<input type="checkbox"/> Information <input type="checkbox"/> Clarification <input type="checkbox"/> Meeting
Source of Query (reference document section and date, if applicable)	
Query (One query/request per sheet)	
Request Query to be Commercial in Confidence?	<input type="checkbox"/> YES <input type="checkbox"/> NO



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

APPENDIX D Interim Submissions

Form D-1 – Summary of Key Individuals' Nomination Submission

(Each Form D-1 should not exceed three (3) pages)

Proponent _____ Key Individual Title _____

Key Individual's Name _____

Item	Notes to Proponents
Reference project #1 overview	<i>Include project title, a brief description of the project including location, scope of work, start and completion date, total or capital budget, project owner, delivery model (e.g., Progressive Design-Build, Alliance, ECI) and key project challenges.</i>
Role	<i>Include the Key Individual's roles / titles on the cited project, a brief summary of the person's specific roles and responsibilities, reporting relationships, and the estimated total time spent in each role on that project, and any additional information that demonstrates their relevant experience and ability.</i>
Relevance	<i>Describe how the Key Individual's experience on the cited project is relevant to the anticipated role and responsibility of the Key Individual on the Fraser River Tunnel Project</i>
Reference contact details	<i>The information provided for the references should include contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. Confirm that each reference contact is aware their name is being provided and is willing to provide a reference to the Province.</i>
Reference project #2 overview	<i>Include project title, a brief description of the project including location, scope of work, start and completion date, total or capital budget, project owner, delivery model (e.g., Progressive Design-Build, Alliance, ECI) and key project challenges.</i>
Role	<i>Include the Key Individual's roles / titles on the cited project, a brief summary of the person's specific roles and responsibilities, reporting relationships, and the estimated total time spent in each role on that project, and any additional information that demonstrates their relevant experience and ability.</i>
Relevance	<i>Describe how the Key Individual's experience on the cited project is relevant to the anticipated role and responsibility of the Key Individual on the Fraser River Tunnel Project</i>
Reference contact details	<i>The information provided for the references should include contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. Confirm that each reference contact is aware their name is being provided and is willing to provide a reference to the Province.</i>



transportation
investment
corporation



Ministry of
Transportation
and Infrastructure

Item	Notes to Proponents
Reference project #3 overview	<i>Include project title, a brief description of the project including location, scope of work, start and completion date, total or capital budget, project owner, delivery model (e.g., Progressive Design-Build, Alliance, ECI) and key project challenges.</i>
Role	<i>Include the Key Individual's roles / titles on the cited project, a brief summary of the person's specific roles and responsibilities, reporting relationships, and the estimated total time spent in each role on that project, and any additional information that demonstrates their relevant experience and ability.</i>
Relevance	<i>Describe how the Key Individual's experience on the cited project is relevant to the anticipated role and responsibility of the Key Individual on the Fraser River Tunnel Project</i>
Reference contact details	<i>The information provided for the references should include contact details including name, title, role, telephone numbers, email addresses, mailing address and preferred language of correspondence. Confirm that each reference contact is aware their name is being provided and is willing to provide a reference to the Province.</i>
Availability	<p><i>Describe the availability of the nominated Key Individual as follows:</i></p> <ul style="list-style-type: none"> <i>a) Percentage of time the Key Individual will dedicate to the Project at each major phase (i.e., procurement, design development under the DEWA, construction, and commissioning), 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 (including percentage of time committed to those projects).</i> <i>b) Describe any foreseeable time constraints that will impact the Key Individual's ability to perform according to the Project schedule.</i>

