



**BRITISH  
COLUMBIA**

Ministry of Transportation

**Port Mann/Highway 1 Project  
Request For Proposals  
Volume 1 – Instructions to Proponents  
August 7, 2007**

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## Summary of Key Information

This summary has been prepared as an overview summary only and is not intended to replace, supersede or supplement the requirements set out in the RFP. It is the responsibility of each Proponent to ensure that they have received and fully understood the complete RFP including all Addenda.

<b>RFP Title</b>	Port Mann/Highway 1 Project Use the above title on all correspondence
<b>Contact Person</b>	Laurie Blackwell Fax: 604-439-2389 E-mail: PMH1info@gatewayprogram.bc.ca
<b>Technical Submittal Deadline</b>  <b>See Section 3.3.1</b>	Deadline for Technical Submittals 2:00 p.m. local Vancouver time on February 29, 2008.
<b>Closing Time</b>  <b>See Section 3.3.1</b>	Closing Time for Proposals (Financial Submittals) 2:00 p.m. local Vancouver time on May 30, 2008
<b>Closing Location</b>  <b>See Section 3.3.1</b>	Port Mann/ Highway 1 Project Metrotower 2 Suite 2010 – 4720 Kingsway Burnaby, BC V5H 4N2
<b>Data Room</b>  <b>See Section 4.4</b>	(Authorized access only)

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# 1. Introduction

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The Gateway Program was established as part of a broader response by the Province of British Columbia to relieve congestion and improve mobility for all modes of transportation. Gateway Program improvements focus on key commuter and goods movement routes that are heavily congested in the Greater Vancouver area, and complement other regional road and transit improvements already planned or underway in the region. These improvements will help create a balanced, comprehensive, effective transportation network that supports improved movement of people, goods and transit; facilitates economic growth; increases transportation choices; and provides better connections to designated population growth areas. The Port Mann/Highway 1 Project (the "Project"), is a major component of the Gateway Program.

The Port Mann/Highway 1 corridor is a critical strategic transportation corridor to the region, Province, and nation. It is the most significant commuter and goods movement route in the Lower Mainland of British Columbia.

Congestion on the corridor has reached a critical level. Greater Vancouver has seen significant population and employment growth over the previous decades and the Port Mann/Highway 1 corridor has been failing to function efficiently as the major road artery in the region, both in terms of mobility and reliability. Volumes are projected to continue, thereby increasing congestion and increasing the need for improvements.

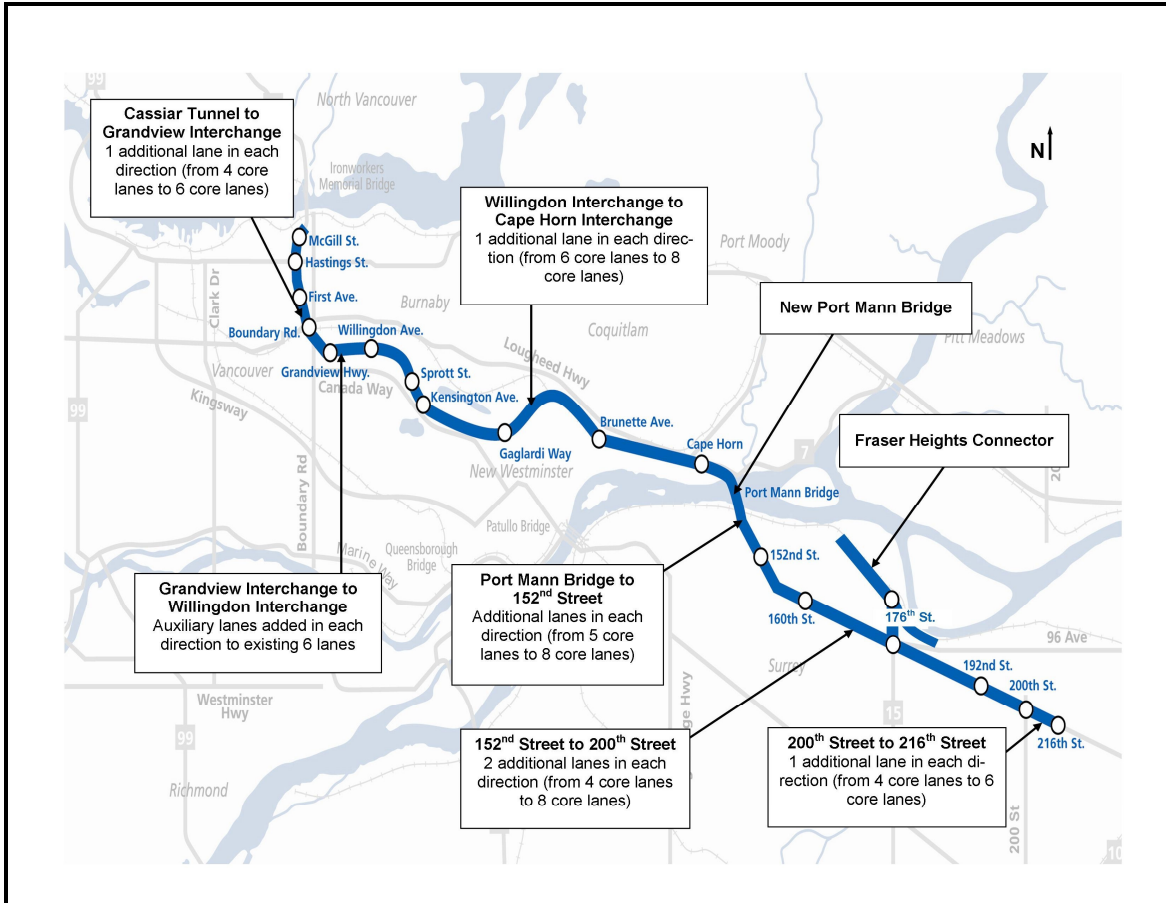
The Project will, among other things, reduce traffic congestion and travel times, and improve safety and accessibility for commuters and goods movers. The Project includes important congestion reduction measures such as facilities to accommodate expanded bus service, cycling, pedestrian and High Occupancy Vehicle (HOV) networks, and tolling, resulting in a sustainable transportation network capable of managing traffic growth and congestion through 2031 and beyond. The Province will define a toll rate structure in accordance with provincial tolling guidelines.

## 1.1 Project Scope Overview

The Project Work includes the design, construction, financing, operation, maintenance and rehabilitation of the Port Mann / Highway 1 corridor in the Lower Mainland of British Columbia between the McGill Street interchange in Vancouver and 216th Street in

Langley. The Project Work also includes the design, construction and financing of a new connector in the Fraser Heights area of Surrey. The physical scope of the Project is illustrated in Figure 1 below.

**Figure 1 - Project Physical Scope**



Two of the new lanes added at the Port Mann Crossing will be designed to accommodate potential future rapid transit. Until the introduction of future rapid transit, these two lanes could be used to better manage traffic traveling to Surrey and the Tri-Cities communities. As described in the Gateway Program Definition Report, the Project will add one lane in each direction west of the Port Mann Crossing and two new lanes in each direction east of the Port Mann Crossing. One lane in each direction will be a dedicated HOV Lane.

The Concessionaire will fund all Project costs over the Term from toll revenues in accordance with the Concession Agreement.

## **1.2 Short-listed Respondents**

Through the RFQ, the following three Respondents (the Short-Listed Respondents) were identified as eligible to receive this RFP and be invited to participate further in the Competitive Selection Process:

- ConnectBC Development Group
- Gateway Mobility Partners
- Highway 1 Transportation Group

## **1.3 Request for Proposals Stage**

The Province is issuing this RFP as part of the Competitive Selection Process for the Project. It is anticipated that through the Competitive Selection Process one of the Proponents will be identified as eligible to be selected as Preferred Proponent to be offered the opportunity to enter into a Concession Agreement for the delivery of the Project.

This RFP contains the following two volumes:

- Volume 1 – Instructions to Proponents; and
- Volume 2 – Draft CA.

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## 2. Overview of Project Work

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The Concession Agreement sets out the rights and obligations of the parties in respect of the Project.

The Concession Agreement will be further developed through processes, further detailed in this RFP and in the Proponent Agreement, that include:

- issuance of an initial Draft CA as Volume 2 of this RFP;
- consideration of comments, issues, and proposed amendments to the Draft CA from Proponents, in writing and as part of Workshops and Topic Meetings;
- incorporation by Addenda into the initial and any revised form of Draft CA of any such Proponent-proposed and additional and additional amendments;
- issuance of a Definitive CA.

The Draft CA, and the Definitive CA, contain, among other things: the technical specifications for the design, construction, operations, maintenance, rehabilitation and tolling components of the Project; the scope of the services to be provided by the Concessionaire; the end of term requirements; and proposed commercial terms.

Any description or overview of either the Draft CA or the Definitive CA in this Volume 1 is provided for convenience only and does not supersede, supplement or alter the Draft CA or the Definitive CA, as applicable. If there are any inconsistencies between the terms of either the Draft CA or the Definitive CA and the description of those terms set out in this Volume 1 of this RFP, the terms of the Draft CA or the Definitive CA, as applicable, will prevail.

### 2.1 Project Term and Parties

#### 2.1.1 Parties

The Concession Agreement will be between a government entity and the Concessionaire. A discussion regarding this government entity, including a description of



the proposed government entity will be made available to Proponents at Workshop A.

### **2.1.2 Term**

The Term of the Concession Agreement will commence on the Effective Date and continue for 40 years unless terminated earlier in accordance with the Concession Agreement.

## **2.2 Design & Construction**

The Concessionaire will be responsible for all aspects of design and construction in accordance with the Concession Agreement including the Design and Construction Requirements as set out in Schedule 4 of the Concession Agreement.

The Province has a Reference Concept that was the basis for the Environmental Assessment Application. The reference concept overview reports describe the Reference Concept and are available in the Data Room. Proposals that differ or vary from the Reference Concept and that comply with the requirements of the Concession Agreement, in accordance with Appendix B, are encouraged to promote innovation, including innovation in design, construction and approach to operations.

A summary of the design and construction scope is provided in Table 1 below. This summary should not be considered exhaustive in terms of design and construction responsibilities or complete in terms of the physical scope segments.

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

<b>DESCRIPTION</b>	<b>SUMMARY PHYSICAL SCOPE SEGMENT</b>	<b>SUMMARY DESIGN AND CONSTRUCTION</b>
<b>Concession Highway</b>	<b>The Port Mann/Highway 1 corridor from the McGill Street interchange in Vancouver to 216<sup>th</sup> Street in Langley (approximately 37 kilometres)</b>	<ul style="list-style-type: none"> <li>• Approximately 225 lane-kilometres of additional road construction</li> <li>• Construction and/or improvement of approximately 28 overpasses/underpasses (including approximately 17 interchanges)</li> <li>• Construction of a new bridge at the Port Mann Crossing</li> <li>• Refurbishment of the Existing Port Mann Bridge</li> <li>• Expansion of HOV Lanes</li> <li>• Expansion of the cycling network</li> <li>• Provision of transit and commercial vehicle priority access measures</li> <li>• Improvements to connections to adjacent municipal roads</li> </ul>
<b>Fraser Heights Connector</b>	<b>New connector in Fraser Heights area of Surrey</b>	<ul style="list-style-type: none"> <li>• Approximately 21 lane-kilometres of new road construction</li> <li>• Construction of 1 interchange</li> <li>• New bridge over environmentally sensitive wetlands</li> <li>• Improvements to connections to adjacent municipal roads</li> </ul>

**2.2.1 Port Mann Crossing**

The Concessionaire will provide additional lane capacity at the Port Mann Crossing of the Fraser River. Innovative solutions for providing the additional capacity are

encouraged and a wide range of structure types (e.g. cable stay, suspension, arch, girder structures) may be considered.

On the Tolling Commencement Date, the capacity of the Port Mann Crossing will be limited to four lanes of traffic in each direction. The median lane in each direction will be designated as an HOV Lane. The Port Mann Crossing will also have provisions for a cycling and pedestrian pathway.

Although the lane configuration will be restricted to a total of eight lanes on the Tolling Commencement Date, the Port Mann Crossing will be designed and constructed to have capacity for ten lanes. The additional two lanes will be designed to accommodate light rapid transit and may be used in the short-term to better manage traffic traveling to Surrey and the Tri-Cities Communities.

If traffic conditions as described in Schedule 1 of the Concession Agreement occur during the term, the Concessionaire will be permitted to change the lane configuration from that permitted on the Tolling Commencement Date. The change will permit the use of the two additional lanes to enhance the flow of traffic by directing vehicles that are exiting the highway at Surrey and the Tri-cities into dedicated lanes on their approach to the Port Mann Crossing. The Proponent should indicate in their Proposal if and when they expect such traffic conditions will occur.

Modifications to the Existing Port Mann Bridge to increase lane capacity beyond its current capacity are not permitted. The Existing Port Mann Bridge requires refurbishment in accordance with the requirements of the Concession Agreement, including Schedule 4.

## **2.2.2 Cyclist and Pedestrian Measures**

The Concessionaire will design and implement cycling and pedestrian facilities in accordance with the requirements set out in the Concession Agreement. The Concessionaire will be expected to accommodate pedestrians and cyclists on a number of new segments of the Upgraded Infrastructure including across the Fraser River, the Lougheed Highway, the Mary Hill By-Pass, Highway 15, all local roads and existing pedestrian/cyclist facilities crossing Highway 1.

### **2.2.3 High Occupancy Vehicle Lane Measures**

The Concessionaire will design and implement HOV Lanes in accordance with the requirements set out in the Concession Agreement. The requirements includes features such as; HOV-only direct ramp connections from the median HOV Lanes on a number of interchanges; extending the westbound HOV Lane so that it commences and terminates at the eastern terminus of the Project Site as specified in the Concession Agreement.

### **2.2.4 Transit and Commercial Vehicle Priority Access**

The Concessionaire will design and implement transit and commercial vehicle priority access ramps in accordance with the criteria set out in the Concession Agreement. The criteria include the following features: commercial vehicle ramps at certain interchanges to facilitate commercial vehicle movements between Highway 1 and industrial areas; and transit-only ramps to facilitate movement of transit.

### **2.2.5 Traffic Performance**

The Concessionaire's designs and interchange configurations for the Concession Highway are to meet the system-wide and interchange traffic performance criteria set out in the Concession Agreement, including in Part 2 of Schedule 4.

The Concessionaire will use Paramics micro-simulation software (version 5.2) to perform micro-simulation traffic modeling during the design process to evaluate and ensure compliance with the traffic performance requirements set out in the Concession Agreement.

### **2.2.6 Traffic Management**

During construction, the Concessionaire will comply with the traffic management requirements set out in the Concession Agreement.

The Province has set the following objectives for the traffic management of the Project:

- construction activity should not impact the operations of the highway during the peak periods;
- current capacity of the Port Mann / Highway 1 corridor and cross-streets should be maintained or improved during the peak periods;

- traffic disruptions should be minimized;
- construction work should be isolated from and have as little effect on traffic as possible;
- safe and efficient incident management is essential;
- safety of the traveling public and construction workers is of paramount importance; and
- adequate provision for pedestrians and cyclists is to be taken into account.

These objectives were used as the basis for the requirements set out in the Concession Agreement, including Schedule 4.

In accordance with the Concession Agreement, including Schedule 10, the Concessionaire will be required to make payments to the Province if the traffic management requirements set out in the Concession Agreement are not met.

### **2.2.7 Intelligent Transportation System Equipment**

The Concessionaire will be responsible for the design, installation, commissioning and maintenance of various pieces of intelligent transportation system equipment within the Concession Infrastructure. As described in Part 2 of Schedule 4 of the Concession Agreement, the integrated transportation equipment will be provided for the use of the Province.

The Province will allow the Concessionaire to use some of the integrated transportation system equipment to assist in the management of the Project. The conditions of use of the equipment are described in the Concession Agreement. The Concessionaire will be permitted to provide additional equipment if required for their own use.

### **2.2.8 Olympic Games**

British Columbia will host the 2010 Olympic and Paralympic Winter Games (the “Olympic Games”). The level of traffic disruption permitted between February 10<sup>th</sup> and March 1<sup>st</sup> of 2010 is described in Schedule 4 of the Concession Agreement.

## 2.3 Fraser Heights Connector

The Fraser Heights Connector is a new section of highway which connects Highway 1 to the Golden Ears Bridge Connector and to the South Fraser Perimeter Road. The Concessionaire will be responsible for all aspects of the design and construction and to provide financing for the Fraser Heights Connector in accordance with the Concession Agreement, including Schedule 24. Operations and maintenance of the Fraser Heights Connector will be the responsibility of the Province.

## 2.4 Operations, Maintenance and Rehabilitation

The Concessionaire is required to carry out Operations, Maintenance and Rehabilitation in respect of the Concession Highway in accordance with the Concession Agreement.

Operations, Maintenance and Rehabilitation specifications are set out in Schedule 5 of the Draft CA. The general scope of Operations, Maintenance and Rehabilitation includes all services associated with the planning, management and delivery of the operations, maintenance and asset preservation activities to ensure compliance with all performance measures. This generally includes:

- maintaining the Concession Highway to specified standards (including road pavement, structures, pavement markings, electrical systems, traffic counting devices and infrastructure that is integral to the provincial integrated traffic system);
- rehabilitating the road pavement and structures;
- managing the long-term structural integrity of the Concession Highway by considering good asset management practices during the design and construction phase of the Project;
- operating the Concession Highway to minimize traffic delay and closures;
- communications and reporting, including inventory and condition updates; and
- quality management on a self-auditing basis.

## **2.4.1 Asset Inventory and Condition Studies**

In 2007 the Province undertook comprehensive asset inventory and condition studies which are available in the Data Room.

## **2.4.2 Existing Road and Bridge Maintenance Contract**

There is an existing contract dated March 15, 2004 (Service Area 6 - Lower Mainland) under which operation and maintenance services, as described in that contract, for a number of provincial public highways, including the Original Concession Infrastructure, are provided by Mainroad Lower Mainland Contracting Ltd (the “Mainroad Contract”). The Mainroad Contract is scheduled to expire on March 14, 2014.

The Province is considering a number of options for the provision of operation and maintenance services for the Project, including options that would involve Mainroad Lower Mainland Contracting Ltd., being engaged by the Concessionaire to provide services to the scheduled end of term of the Mainroad Contract.

## **2.4.3 Existing Electrical Maintenance Contract**

There is an existing contract under which electrical maintenance services in respect of a number of provincial public highways, including the Original Concession Infrastructure, are provided by Cobra Electric (South Coast) Ltd. This contract is scheduled to expire on January 16, 2009. The Concessionaire will assume full responsibility for all electrical maintenance services, except the electrical maintenance services provided under that contract, as of the Effective Date. The Concessionaire will during the period leading to January 16, 2009, coordinate the transition of the electrical maintenance services.

## **2.4.4 Existing Pavement Marking Contract**

There is an existing contract under which pavement marking services in respect of a number of provincial public highways, including the Original Concession Infrastructure are provided by Mainroad Pavement Marking Ltd. This contract is scheduled to expire on December 15, 2008. The Concessionaire will assume full responsibility for pavement marking services, except the pavement marking services provided under that contract, as of the Effective Date. The Concessionaire will during the period leading to December 15, 2008, coordinate the transition of the pavement marking services.

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## 2.5 Environmental

The Concessionaire will be required to perform the Project Work in compliance with the Concessionaire's Environmental Obligations, including the Environmental Assessment Certificate and the commitments, responsibilities and information set out in the Table of Commitments and Assurances, as described in the Concession Agreement, including Schedule 6.

The Port Mann / Highway 1 Project Application for Environmental Assessment is anticipated to be submitted to the Environmental Assessment Office of British Columbia (BCEAO) under the harmonized federal-provincial review process. A project in harmonized review under the Canadian Environmental Assessment Act (Canada) and the Environmental Assessment Act (British Columbia) undergoes a 180-day mandatory review period.

## 2.6 Quality Management

The Concessionaire will be required to develop and implement a Quality Management System in accordance with the Concession Agreement. The Quality Management System will be certified by an accredited ISO 9001:2000 Standard certification agency acceptable to the Province and the certification will be retained throughout the Term. The Concessionaire will undertake internal and external quality audits of the Quality Management System throughout the Term as required under the Concession Agreement.

## 2.7 Lands

The Province will, subject to the terms of the Concession Agreement, acquire all permanent land reasonably required for construction of the Upgraded Infrastructure and has commenced discussions with a number of land owners.

The Designated Lands will be identified in this RFP stage by a process of selection described in section 2.7.1 and in Appendix B of this RFP. The Designated Lands will be set out in Appendices B and E of Schedule 8 of the Concession Agreement.

In accordance the Concession Agreement, including Schedule 8, the Concessionaire is



responsible for all costs and expenses of acquiring any additional lands, including Additional Concession Lands.

### **2.7.1 Designated Lands**

The Province has identified lands, including in some cases interests in land, along an alignment that is based on the Reference Concept as indicated in the drawings included in the Data Room and as listed in Appendix D of this RFP. Each Proponent will, in accordance with the requirements of this RFP, by listing the applicable lands and by specifying the corresponding proposed Acquisition Dates on Form B-2, in Appendix B of this RFP, select from the list in Appendix D of this RFP, the lands that conform to the Proponent's design and that are sufficient as to enable the Proponent, should it become the Concessionaire, to deliver the Project in accordance with the Concession Agreement (the "Designated Lands"). The Province will:

- review the Form B-2 list of proposed Designated Lands and corresponding proposed Acquisition Dates submitted by each Proponent on an individual basis and consider whether the list and the corresponding dates satisfy the requirements of this RFP; and,
- subject to the terms of this RFP, notify each Proponent, by letter referenced in section 3.4.3 of this RFP, of the Proponent-specific Quarterly Concession Fee Payments determined by the Province as applicable to that Proponent. The Proponent-specific Quarterly Concession Fee Payments will be based on the amounts listed in Schedule B-1 of Appendix B as the Initial Quarterly Concession Fee Payments, as adjusted by application of each Proponent's Form B-2 list of proposed Designated Lands and proposed Acquisition Dates. The Proponent's Form B-2 list and dates may be modified by the Proponent through clarifications, rectifications, more complete, supplementary, replacement or additional information in accordance with this RFP.

## **2.8 Communication and Consultation**

A public, community and stakeholder communications and consultation program was initiated in 2004. This program has provided, and will continue to provide, opportunities for stakeholders and members of the public to learn about the Gateway Program and

provide input.

Details on the results of the pre-design consultations can be found in the pre-design consultation reports that were included in the RFQ Data DVD.

In addition to the pre-design and ongoing consultation on Project scope refinements, the Province will continue to take the lead in consulting with the public and stakeholders through the preliminary and detailed design phases of the Project. The Concessionaire will have a support role in these activities.

The Gateway Program also has a proactive community relations program that provides information about the Project, and includes a public inquiry and response program to respond to email, phone and written inquiries.

The responsibilities regarding traffic communications, community relations, public consultation, media relations and public information about the tolling operation will be allocated between the Province and Concessionaire in accordance with Schedule 9 of the Concession Agreement.

## **2.9 Concession Fee Payments**

The Concessionaire will be required to make Concession Fee Payments to the Province from the Effective Date until the end of the Term in accordance with the Concession Agreement. There are two forms of Concession Fee Payments:

1. Quarterly Concession Fee Payments; and
2. Annual Concession Fee Payments.

### **2.9.1 Quarterly Concession Fee Payments**

The Concessionaire will pay Quarterly Concession Fee Payments on a quarterly basis from the Effective Date up to and including November 1, 2013. In accordance with this RFP, including Section 2.7.1, and the Definitive CA, the Province will determine the Quarterly Concession Fee Payments that are specific to each Proponent, on the basis of the amounts listed in Schedule B-1 of Appendix B as the Initial Quarterly Concession Fee Payments. The Initial Quarterly Concession Fee Payments will be adjusted in respect of each Proponent by applying each Proponent's Form B-2 list of proposed Designated Lands and proposed Acquisition Dates in accordance with this RFP.

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Schedule B-1 in Appendix B to this RFP sets out the Initial Quarterly Concession Fee Payments.

### **2.9.2 Annual Concession Fee Payments**

The Concessionaire will pay the Annual Concession Fee Payments on an annual basis from February 1, 2014 until the end of the Term in accordance with the Concession Agreement. The amounts proposed by the Proponent as the Annual Concession Fee Payments must be greater than or equal to the Minimum Annual Concession Fee Payment, as determined in accordance with Appendix B to this RFP.

## 2.10 Performance Mechanism

The Concessionaire will be subject to a performance mechanism, which will , require payments to be made to the Province, subject to the terms of the Concession Agreement, including Schedule 10..

### 2.10.1 Key Aspects of the Performance Mechanism

The performance mechanism contains provisions, as described in Schedule 10 of the Concession Agreement, that relate to:

- completing the Construction to Substantial Completion and Total Completion in accordance with the Concession Agreement;
- providing an appropriate overall level of service to the road users and the Province;
- designing, building and operating the Concession Highway with a view to minimizing periods of unavailability for users; and
- co-operating and being efficient and effective in dealing with the general public and other interested parties.

The components of the performance mechanism will trigger payments to the Province and include the following:

- revenue sharing mechanism;
- construction period traffic management mechanism;
- unavailability events mechanism;
- operations and maintenance mechanism;
- pre-Substantial Completion toll revenue mechanism; and
- pre-Total Completion toll revenue mechanism.

Payments to or from the Province that are subject to indexing will be indexed at CPI in accordance with the Concession Agreement.

## 2.10.2 End of Term Retentions

Five years before the scheduled Expiry Date, the Concessionaire and the Province will determine the End of Term Work Amount, in accordance with Schedule 5 of the Concession Agreement. The End of Term Work Amount will ensure that the Concession Highway meets the required End of Term Performance Measures set out in Appendix D of Schedule 5 of the Concession Agreement.

The Concessionaire will, subject to the terms of the Concession Agreement, be required to either establish a retention account or provide a letter of credit, guarantee or similar form of security in an amount equal to the End of Term Work Amount.

In the case of the retention account, the Concessionaire will pay the Province 25 per cent of the toll income, on a monthly basis, until the retention account contains an amount equal to the End of Term Work Amount.. Funds deposited will, subject to the Concession Agreement, either be returned when the End of Term Performance Measures have been met or will be applied to make the Concession Highway meet the End of Term Performance Measures.

## 2.11 Work by Others

The Province has undertaken extensive planning and engineering activities and is consulting with local governments, stakeholders and the public to identify and address stakeholder interests throughout the planning and development stages. The Province will continue to work with these groups throughout the Competitive Selection Process.

In advance of the Effective Date, the Province may undertake some minor construction activities on the Concession Infrastructure which may include advanced preload treatment of areas with compressible soils or other similar type works. These activities will be communicated to the Proponents during the consultations described in section 3.1 of this RFP, and are anticipated to be further described in documents posted in the Data Room.

## 2.12 Tolling

The Concessionaire will be responsible for the development, implementation and

operation of the toll system, including the collection of tolls at the Port Mann Crossing. The Concession Agreement provides the tolling framework, including toll rates and escalation parameters.

### **2.12.1 Toll Rate Structure**

The maximum toll rate structure is established by the Province and includes the following features:

- maximum toll rate levels including rates for different categories of vehicles;
- maximum toll rate levels including rates for registered and unregistered toll vehicles;
- maximum annual escalation that can be applied to toll rates as determined by the applicable annual inflation index for the relevant Contract Year;
- potential for variable rate tolling based on the time of day; and
- sharing of toll revenues with the Province if the revenues exceed stipulated levels.

The Concessionaire is not obligated to charge the maximum toll rate and may create subclasses of toll rates provided they do not exceed the maximum toll rate for the appropriate category of vehicle.

The Concession Agreement allows commencement of tolling on the “Tolling Commencement Date” prior to Substantial Completion and describes the amount of work in the area of the Port Mann Crossing and adjacent interchanges that is required prior to the Tolling Commencement Date. This scope of work is detailed in Schedule 4 of the Concession Agreement.

### **2.12.2 Customer Service for Tolling**

The customer service aspects of the tolling operation, including the quality of customer service provided by the Concessionaire, are important aspects of the Project. As set out in Schedule 5 of the Concession Agreement, the Proponent is expected to build and sustain a positive relationship with toll facility users and other stakeholders and meet specified requirements for the customer service aspects of the tolling operation.

## 3. Overview of RFP Process

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The purpose of this RFP stage of the Competitive Selection Process is to invite the Proponents to submit Proposals for the Project. It is anticipated that, subject to the terms of this RFP, an eligible Proponent will be selected as Preferred Proponent and be offered the opportunity to enter into a Concession Agreement for the delivery of the Project.

Eligibility to continue in the Competitive Selection Process and participate in this RFP to the extent and only to the extent expressly provided for in this RFP, is conditional on the Proponent being identified as a Short-Listed Respondent pursuant to the RFQ and, thereafter, on the Proponent observing and ensuring that its Proponent Team Members observe the terms of this RFP, including observing and satisfying, and ensuring that its Proponent Team Members observe and satisfy, the terms and conditions that may be required or otherwise established by the Province in respect of any waiver or permission to be issued by the Province under this RFP, the Proponent complying with and ensuring that its Proponent Team Members observe and comply with the terms of the Proponent Agreement, and the Proponent submitting a Proposal that substantially satisfies the requirements of this RFP. Any failure or failures on the part of the Proponent or on the part of any Proponent Team Member to observe, satisfy, or comply with such requirements, terms and conditions may result in the Proponent being disqualified from the Competitive Selection Process and being ineligible to continue further in the Competitive Selection Process or to receive any further invitations or information.

### 3.1 Consultation Process

The Province will facilitate a consultation process with the Proponents which will include exchanges of information, discussions and clarification of issues through Workshops and Topic Meetings, and the submission and consideration of comments on and proposed amendments to the Draft CA.

The terms, procedures, rules and protocols for the Workshops and Topic Meetings are set out in the Proponent Agreement, including in the Workshops and Topic Meetings Schedule of the Proponent Agreement. The Province may in its sole discretion, from time to time, amend, supplement or replace the Workshops and Topic Meetings Schedule by delivery to the Proponent of written policies and procedures clarifying,

supplementing, or otherwise modifying the terms of the Workshops and Topic Meetings Schedule.

### **3.1.1 Workshops and Topic Meetings**

The Province may schedule and conduct Workshops and Topic Meetings to enable communication between the Province and the Proponents as to issues relating to this RFP, the Project, and the Draft CA, including by providing a forum for Proponents to give information and comments regarding Proponent submissions, and comments and proposed changes to the Draft CA to the Province.

A Topic Meeting in the form of an all-Proponent information meeting will be held as indicated in Table 2 in Section 3.7

The Workshops are anticipated to include the following:

- Workshop A – One-on-one risk allocation and Draft CA meetings; and
- Workshop B – One-on-one revised Draft CA meetings.

Attendance by Proponents at the all-Proponent information meeting and at Workshops A and B is not optional.

The Province may, on request of the Proponent or any of the Proponents, schedule additional Workshops if the Province considers it desirable or necessary in its discretion.

The Province may, on request of the Proponents or any Proponent, schedule Topic Meetings on topics identified in the request, if the Province considers it desirable or necessary in its discretion.

### **3.1.2 Development of Concession Agreement**

The Province will issue an initial Draft CA as Volume 2 of this RFP. In addition to considering comments and issues discussed in the Workshops and Topic Meetings, the Province will invite Proponents to review and submit comments in respect of the Draft CA. Following review and consideration of the Proponents' initial comments, separate Workshops and Topic Meetings are anticipated to be scheduled with each Proponent to allow for separate discussions as to any comments, issues and changes, including to the risk allocation, this RFP, the Project, and the Draft CA, that the Proponent requests be



considered.

Any information or documentation provided to or which comes to the attention of the Province at or in connection with any Workshops or Topic Meetings, including in or as a result of questions raised during any such meetings, and further 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.

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

The Province currently anticipates that the sequencing of submission and review of comments, issues and requested amendments and scheduling of Workshops will follow in the order outlined in Table 2. The Province may in its discretion extend, accelerate and modify the sequencing at any time and from time to time. Additional separate Workshops and Topic Meetings may, in the discretion of the Province, be scheduled and carried out.

Proposed amendments to the Draft CA should be submitted in table format, identifying the Draft CA wording that is the subject of the issue, comment or requested amendment, 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.

The Province will consider comments, issues and requested amendments received from the Proponents and, without limiting any other term of this RFP, including Section 5.1, may at any time and from time to time, in its discretion, by Addenda amend, restructure, or supplement the initial and any revised form of Draft CA, including by incorporating any such Proponent-requested and any additional changes.

### **3.2 Authorizations, Orders and Approvals**

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

- any approvals required under the *Financial Administration Act* (British Columbia);

- issuance by the Lieutenant Governor in Council of orders in council made under the *Transportation Investment Act* (British Columbia) and the *Transportation Act* (British Columbia); and
- 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 Financial Close.

### 3.3 Proposal Submittal Requirements

This section provides an overview of the Proposal submittal requirements which are set out in further detail in Appendix B to this RFP Volume 1, and include formatting, packaging and content requirements relating to the Proposals.

Proposals are to be delivered in the following two submittals, , as further described in Appendix B of this RFP Volume1:

1. Technical Submittal which, except as otherwise expressly required in Appendix B, is to include no pricing information; and
2. Financial Submittal.

Proponents are to prepare their Proposals on the basis of the Definitive CA without amendment.

It is the intention of the Province that any issues with respect to the Draft CA must be finalized prior to the Technical Submittal Deadline so that the Definitive CA, once issued, will not be further modified and is to be executed by the Preferred Proponent without further negotiation or amendment, except for changes, modifications and additions:

- relating to the determination by the Province regarding which parts, if any, of the Proposal are to be incorporated by reference or otherwise, into the Concession Agreement or otherwise pursuant to express provisions of the Concession Agreement, and changes and additions as a consequence of or in connection with such incorporations;

- to those provisions or parts of the Definitive CA which are indicated as being subject to completion or finalization or which the Province determines require completion or finalization, including provisions which require:
  - the modification or the insertion or addition of information relating to the Proponent's corporate and funding structure; and
  - the modification or the insertion or addition of information in order to reflect accurately the nature of the Proponent's relationships with its principal subcontractors (including each of the Principal Contractors)
- required in order to complete, based on the Proposal, any provision of the Definitive CA, including changes, modifications and additions contemplated in or required under the terms of the Definitive CA;
- that are necessary to create a legally complete and binding agreement; and
- that are necessary solely to enhance clarity in legal drafting.

### **3.3.1 Closing Time and Closing Location for Proposals**

Proposals are to be received at the Closing Location, addressed to the Contact Person:

- in the case of the Technical Submittal, before the Technical Submittal Deadline; and
- in the case of the Financial Submittal, before the Closing Time.

Faxed, telephone or electronically submitted Proposals, or Revisions, will not be accepted.

The calendar and clock designated as the official calendar and clock by the Province at the Closing Location, whether accurate or not, will be determinative with respect to whether a Technical Submittal, including any part of a Technical Submittal, has been received before the Technical Submittal Deadline, and whether a Financial Submittal, including any part of a Financial Submittal, has been received before the Closing Time.

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

extending the Technical Submittal Deadline and the Closing Time, or either of them.

Revisions to the Technical Submittal received on or after the Technical Submittal Deadline or Revisions to the Financial Submittal received on or after the Closing Time will not be considered and will be returned unopened.

## **3.4 Evaluation Process**

### **3.4.1 Technical Submittal Package Review**

This is a review for substantial completeness of the Technical Submittal in accordance with this RFP, including Appendix B of this RFP, and the Definitive CA.

### **3.4.2 Technical Submittal Evaluation**

The Technical Submittal evaluation will be in accordance with the evaluation criteria set out in Appendix C of this RFP.

### **3.4.3 Invitation to Submit Financial Submittal**

The Province will, subject to the terms of this RFP, invite each Proponent that has delivered a Technical Submittal that substantially satisfies the requirements of this RFP, and that otherwise is considered, in accordance with this RFP, to be eligible to receive such an invitation, to submit a Financial Submittal.

Proponents are to prepare their Financial Submittal on the basis of the Definitive CA, without amendment, and on the basis of their Technical Submittal, including any clarifications, rectifications, and any further more complete, supplementary, replacement and additional information and documentation delivered in accordance with this RFP.

### **3.4.4 Financial Submittal Package Review**

This is a review for substantial completeness of the Financial Submittal in accordance with this RFP, including Appendix B of this RFP, and the Definitive CA.

### **3.4.5 Financial Submittal Evaluation**

The evaluation of the Financial Submittal will be in accordance with the evaluation criteria set out in Appendix C of this RFP.

### **3.4.6 Invitation to Deliver Preferred Proponent Security Deposit**

The Province will, subject to the terms of this RFP, invite the Proponent that has delivered a Proposal, including a Financial Submittal, that substantially satisfies the requirements of this RFP and the Definitive CA and that receives the highest ranking in accordance with the evaluation criteria set out in Appendix C of this RFP, and that otherwise is considered, in accordance with this RFP, to be eligible to be selected to receive such an invitation, to deliver the Preferred Proponent Security Deposit.

The Proponent's eligibility to be considered for selection as the Preferred Proponent is, subject to the terms of this RFP, conditioned on the Proponent delivering the Preferred Proponent Security Deposit in accordance with the invitation on or before the date and time specified in such invitation.

### **3.4.7 Preferred Proponent**

The Province will, subject to the terms of this RFP, select as the Preferred Proponent, the Proponent that has delivered the Preferred Proponent Security Deposit and a Proposal that substantially satisfies the requirements of this RFP and the Definitive CA, and that receives the highest ranking in accordance with the evaluation criteria set out in Appendix C of this RFP, and that otherwise is considered eligible in accordance with this RFP, to be so selected.

## **3.5 Debriefing**

Following Financial Close, representatives of the Province will, upon request, meet with unsuccessful Proponents and provide them with a debriefing. During such debriefing, the relative strengths and weaknesses of that Proponent's Proposal will be disclosed and discussed.

## **3.6 Fairness Reviewer**

A Fairness Reviewer has been appointed by the Province with responsibility to review the development and implementation of the Competitive Selection Process from a fairness perspective, including by participating in any or all aspects of the Workshops and the Topic Meetings. This includes, but is not limited to, monitoring the evaluation, including the ranking, of the Proposals and the selection, if any, of the Preferred Proponent. The Fairness Reviewer will report only to the Province and will provide, on

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an ongoing basis, an objective opinion as to the fairness of the Competitive Selection Process. In particular, the Fairness Reviewer will provide a written report in respect of the Proposal evaluation process which will be made public at the time of selection of the Preferred Proponent.

### 3.7 Timetable

The anticipated timetable for the Competitive Selection Process and Financial Close is set out in Table 2.

**Table 2 - Anticipated Timetable for the Competitive Selection Process**

<b>Activity</b>	<b>Date</b>
RFP Issued	August 7 2007
Draft CA Issued	August 17, 2007
Topic Meeting – All - Proponents Information Meeting	August 22, 2007
Proponents submit matrix with initial comments on Draft CA	September 13, 2007
Workshop A – One-on-one risk allocation and Draft CA meeting	September 20 and 21, 2007
Revised Draft CA may be issued	October 20, 2007
Proponents submit comments on Workshop A - proposed amendments to the Draft CA	November 4, 2007
Workshop B – One-on-one revised Draft CA meeting	November 20 and 21, 2007
Definitive CA issued	December 21, 2007
Final date for submitting Requests For Information	January 23, 2008
Final date for responses to RFIs	January 30, 2008
Final conformed copy of the RFP issued	February 6, 2008
Closing date for Data Room	February 6, 2008
Technical Submittal Deadline	February 29, 2008
Closing Time	May 30, 2008
Announcement of Preferred Proponent	Spring 2008
Execution of Concession Agreement/Financial Close	Summer 2008

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## **4. General Information and Instructions**

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### **4.1 Background Investigations, Surveys and Studies**

Numerous investigations, surveys, and studies have been and are anticipated to continue to be undertaken with respect to the Port Mann/Highway 1 Project. Reports and other material relating to these activities are included in and continue to be added to the Data Room.

### **4.2 Investigations, Surveys and Studies by Proponents**

Each Proponent is responsible to conduct its own independent due diligence and to satisfy itself as to all aspects of the Project, including assessments, investigations, examinations, surveys, and studies which they consider necessary, desirable, beneficial, or appropriate at their own cost.

Proponents are responsible to make their own arrangements in respect of access to lands that are not owned or administered by the Province.

Proponents will coordinate any field work or any access to any non-public part or parts of the Project Site and adjacent areas, including to any part of the lands owned, operated, or administered by a Railway, through the Province by submission of a request to the Contact Person, to ensure that inconvenience to land owners, 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 48 hours in advance of the time for any proposed access, and should include the requested access or field work date(s), time(s), location(s), and proposed field work or activities.

The Province will provide no insurance or workers compensation coverage for any matter whatsoever to any Proponents, Proponent Team Members, or any of their respective directors, officers, employees, consultants, advisors or agents. Access to the Project Site 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 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. Without limiting the foregoing, access to any part of the lands owned, operated, or administered by a Railway may be conditional on satisfaction of any additional requirements of a Railway, as the case may be.

Proponents are responsible for obtaining and holding any and all rights, permits, licences, consents, approvals and authorities required by any governmental agency or authority or other person to carry out any of such field work, assessments, investigations, and surveys.

### **4.3 Geotechnical Investigations by the Owner During Proposal Period**

The Province anticipates retaining a company to provide additional geotechnical investigation services and testing work during the Competitive Selection Process.

It is currently anticipated that a Topic Meeting will be held with Proponents regarding the geotechnical investigations. Each Proponent will be asked to provide a representative to attend this meeting to become acquainted with the geotechnical investigation workplan and to identify additional investigations or modifications to the workplan that may be beneficial. Results of such investigations will be documented in reports which will be added to the Data Room. The Proponents may, subject to the terms of this RFP, accept the accuracy of the raw factual data resulting from these geotechnical investigations as posted to the Data Room. Without limiting any other term of this RFP, including sections 4.2, 5.18 and 5.19, Proponents assume all risks for the sufficiency, adequacy, analysis, relevance, completeness, conclusions, and interpretation of geotechnical investigations.

### **4.4 Data Room**

An electronic data room at a secure internet address (the "Data Room") has been established.

The Province may in its discretion, supplement, replace, modify, and update information in the Data Room at any time and from time to time. Proponents are solely responsible for checking the Data Room frequently and on an ongoing basis, including for any such

supplements, replacements, modifications, and updates. Proponents are solely responsible for ensuring that they have software, which allows them access to, and use of, any information in the Data Room.

All information in the Data Room is subject to the Confidentiality Agreement.

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

If a Proponent has previously provided any document, including any report to the Province with respect to the Concession Highway or the Project or any part or parts of either, which is not already included in the Data Room, the Proponent will immediately notify the Province, and provide a copy of the document to the Province, or in the event that the document is not available to the Proponent, provide sufficient information to the Province as to enable the Province to identify the subject document, for its own purposes and to third parties, including other Proponents, and to consider and understand the content of the subject document and the implications of any failure to post the document.

#### **4.5 Contact Person and Questions and Answers Protocol**

Except as expressly provided for in this RFP, Proponents will direct all communications in relation to this RFP or any part of the Competitive Selection Process, the Project, the Draft CA, the Definitive CA, the Concession Agreement, or the preparation of any Proposal, including questions, inquiries, comments, requests for information, requests for clarification, and requests for Topic Meetings or Workshops to the Contact Person in writing by fax or email to the following address:

Port Mann/ Highway 1 Project

**Attention: Laurie Blackwell**

Metrotower 2

Suite 2010 – 4720 Kingsway

Burnaby, BC

V5H 4N2

**Fax: 604-439-2389**

**E-mail: [PMH1info@gatewayprogram.bc.ca](mailto:PMH1info@gatewayprogram.bc.ca)**

Information or documentation obtained from any source other than the Contact Person is

not official, will not be binding on the Province, and may not be relied on or otherwise used in any way for any purpose whatsoever. The Province in its discretion may but will not be obligated in any way whatsoever to respond to any RFI or any other communication or enquiry.

## 4.6 Proponent Communications

Proponents will communicate with the Province or any of its representatives in relation to this RFP, any part of the Competitive Selection Process, the Project, the Draft CA, the Definitive CA, the Concession Agreement, or the preparation of their Proposals, only

- (a) in writing using a Request for Information in accordance with the Requests for Information and Distribution of Information protocol set out in Schedule 3 to the Proponent Agreement;
- (b) in Workshops and Topic Meetings, and any additional meetings subject to the terms of this RFP;
- (c) as may be otherwise expressly invited in writing by the Province, and
- (d) as may be expressly permitted by this RFP, including in accordance with the Proposal submittal requirements set out in Appendix B of this RFP.

The Province may in its discretion distribute any communication, information or enquiry, including any RFI or Response to Proponents to all the Proponents. If the Province in its discretion considers an RFI or the corresponding Response to Proponents to be of a minor or administrative nature and to relate only to the Proponent or to any other of the Proponents who submitted the RFI, the Province may issue a Response to Proponents only to the Proponent or any other of the Proponents who submitted the RFI.

Despite any other term of this RFP and any RFI or other communication being identified as “Commercial in Confidence”, if the Province in its discretion, considers the matter to be a matter of substance or a matter that should be brought to the attention of the Proponents for purposes of fairness in or maintaining the integrity of the Competitive Selection Process, the Province may deliver an Addendum or a Response to Proponents relating to the matter to all the Proponents.

Without limiting the foregoing, if the Province considers, in its discretion including for

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purposes of fairness in the Competitive Selection Process, that the Province should not respond to an RFI that is marked “Commercial in Confidence” on a confidential basis, the Province will notify the Proponent and specify the time period within which the Proponent may withdraw its RFI in writing. If the Proponent does not withdraw the RFI within the time specified by the Province, then the Province in its discretion may provide to all Proponents the Province’s response to the RFI.

Proponents will not communicate, including by media releases or interviews, and will ensure that its Proponent Team Members, including their respective directors, officers, employees, consultants, advisors, representatives and agents 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.

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## **5. General Matters**

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### **5.1 Amendment or Cancellation of RFP**

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 Draft CA and the Definitive CA, including by extending or accelerating any schedules, timetables, or dates, including any timetables or schedules for the Competitive Selection Process or the Project, the Technical Submittal Deadline and the Closing Time, or either 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.

### **5.2 No Contract**

This RFP is neither an offer nor an agreement to purchase goods or services. No contract of any kind whatsoever is formed under or arises from this RFP, or as a result of or in connection with the submission of a Proposal, including as a result of or in connection with the submission of a Technical Submittal and a Financial Submittal, or either of them.

### **5.3 No Obligation to Proceed or Make any Selection**

The Province has no obligation or duty, in any way, whether in contract, tort or otherwise, even if the Province receives only one Proposal that substantially satisfies the requirements of this RFP and the Definitive CA, or only one Proponent remains to be considered for selection as the Preferred Proponent, or if the Province selects a Preferred Proponent, to complete this RFP stage or proceed with or to any part of the Competitive Selection Process, to enter into the Concession Agreement, or any agreement with respect to all or any part of the Project, with any Proponent, the Preferred Proponent if one is selected and offered the opportunity, or any Person, to accept, review or evaluate any one or all Proposals, including any one or all Technical Submittals or Financial Submittals, to extend any invitations, to consider any Proponent for selection as a Preferred Proponent, or to select a Preferred Proponent, to continue with a Preferred Proponent, or to accept the Proposal with the highest Annual

Concession Fee Payment, or any Proposal, and may in its discretion accept, reject, or disqualify any or all Technical Submittals, Financial Submittals or Proposals, including any that does not satisfy all requirements set out in this RFP or for which necessary orders, authorizations, and approvals, including governmental authorizations, orders and approvals, have not been obtained.

Without limiting any other term of this RFP, the Province may in its discretion for any reason including if the Province does not select a Preferred Proponent, at any time or within six months of the Closing Time, if the Province elects not to continue with a Preferred Proponent, if selected, or if the Province elects not to enter into the Concession Agreement, or at any time during this RFP stage, for any other reason that the Province in its discretion considers to be in the interests of or advantageous to the Province, terminate the Competitive Selection Process, including this RFP, and may take any steps that the Province in its discretion considers to be in the interests of or advantageous to the Province, including implement or issue any other procurement or other process including a negotiation process for, or to proceed in any other manner whatsoever, at any time and from time to time, with any part or parts of the Project or Project Work, including any part or parts of the design, construction, operation, maintenance, rehabilitation, financing, or tolling of any part or parts of the lands and infrastructure comprising or anticipated to comprise the Project. In so doing, the Province may at any time, and from time to time, contract directly with any Person, including any one or more Proponent Team Members or any contractors, advisers or other person engaged by or through any Proponent. A negotiation process referenced in this section 5.3 may proceed with the Proponent who submitted the Proposal which the Province considers, in its discretion, to be most advantageous to the Province, and attempt to finalize an agreement, including a Concession Agreement, as applicable, with that Proponent on terms, conditions, and scope acceptable to the Province, or with any Person whom the Province considers, in its discretion, to be capable of completing the Project, or any parts thereof, for a price and on terms and conditions acceptable to the Province, and to be otherwise appropriate.

## 5.4 Proposal Review and Evaluation

In administering and carrying out its functions under this RFP or in any aspect of the Competitive Selection Process, including in reviewing and evaluating, including ranking, Proposals, the Province may, in its discretion and in confidence utilize, be assisted by, consult with, obtain and rely upon input, advice and direction from technical, financial, managerial and legal advisors and consultants in any way that the Province considers in its discretion will be of assistance to the Province. Such advisors and consultants may be representatives and employees of the Province, of government agencies and of private sector firms.

Review and evaluation, including ranking, of Proposals will be conducted by evaluators comprised of employees and representatives of the Province, of government agencies and of private sector firms.

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

The Province may in its discretion take any one or more of the following steps, at any time and from time to time in connection with the review and evaluation, including ranking, of any aspect of a Proposal, including if the Province considers that any Proposal, including either of the Technical Submittal or the Financial Submittal, 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:

- 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;
- independently consider, investigate, research, analyze, request or verify any information or documentation whether or not contained in any Proposal;
- conduct credit, reference, criminal record, litigation, bankruptcy, tax payer

- information and other checks and obtain references from Persons, including Persons other than those listed by Proponents in any part of their Proposals;
- not proceed to review and evaluate or discontinue the evaluation of any Proposal or part thereof, including any Technical Submittal or Financial Submittal, and disqualify the Proponent from this RFP and the Competitive Selection Process;
  - seek clarification, rectification or more complete, supplementary, replacement or additional information or documentation from any Proponent or in connection with any Proposal, including with any Technical Submittal or Financial Submittal or any part of their component packages.

Without limiting the foregoing, the Province may in its discretion, decline to review, evaluate or rank, or may reject outright any Proposal which in the opinion of the Province is materially incomplete or irregular, which contains omissions, exceptions or variations not acceptable to or material to the Province, which contains a false or misleading statement, claim or information, or for which background investigations reveal any false statements, criminal affiliations or activities by a Proponent or Proponent Team Member.

To enable the Province to take any one or more of the above-listed steps, the Province may enter into separate and confidential communications with any Person, including any Proponent. The Province has no obligation whatsoever to take the same steps 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 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 Technical Submittal after the Technical Submittal Deadline and in respect of the Financial Submittal after the Closing Time, without the prior approval 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, in making any decisions and determinations, and in discharging its functions under or in connection with this RFP, or in connection with any Proponent, Proposal, or any part of any Proposal, including any Technical Submittal or Financial Submittal.

The Province's decision on whether or not a Proposal substantially satisfies the requirements of this RFP and the Definitive CA will be final and the Province need not consult with the Proponent in making its decision.

## **5.5 Participation in the Competitive Selection Process**

If a Proponent fails to observe any term of this RFP or to comply with any term of the Proponent Agreement, or fails to ensure that its Proponent Team Members observe the terms of this RFP or of the Proponent Agreement, or the Province becomes aware through investigations or checks, or otherwise, of false statements, criminal affiliations or activities by a Proponent or any Proponent Team Member, 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,

- acknowledge the Proponent's ineligibility to continue to participate in the Competitive Selection Process,
- decline to or cease to review, evaluate or rank, or reject outright the Proponent's Proposal, including the Technical Submittal or Financial Submittal, as the case may be,
- not extend an invitation to the Proponent to submit a Financial Submittal, regardless of whether or not the Proponent has delivered a Technical Submittal that substantially satisfies the requirements of this RFP and the Definitive CA,
- 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,

- decline to continue with a Preferred Proponent, if one has been selected and designated, and
- disqualify the Proponent from the Competitive Selection Process;

or

- 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.

## 5.6 Conflicts in Documents

If a Proponent considers any term of this RFP or the Definitive CA to be in conflict with any other part of this RFP or the Definitive CA, the Proponent will notify the Contact Person in writing in accordance with Section 4.5, giving the details of such apparent conflict and seeking clarification. If any such conflict exists but notice is not given by a Proponent, the provision which, in the sole opinion of the Province, will provide the higher overall value to the Province, will govern and take precedence.

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

In the event of a conflict or inconsistency between the paper form as issued to Proponents of the Definitive CA, the Concession Agreement or the RFP and, either, the same document as issued to Proponents in digital, electronic or other computer readable form, or the same document as posted in the Data Room, the paper form of the applicable document as issued to Proponents will govern and take precedence.

## **5.7 Confidentiality and Freedom of Information and Protection of Privacy**

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

Subject to the terms of the FOIPPA, the Proponent Agreement and section 5.10 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 and regulations, including by obtaining from each individual any required consents and authorizations to the collection of information relating to such individual and to the submission of such information to the Province as part of the Proposal for the purposes of this RFP and the Competitive Selection Process.

## **5.8 No Collusion**

Proponents and Proponent Team Members will not discuss or communicate, directly or indirectly, 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 regarding the preparation, content or representation of their Proposals. 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.

## 5.9 No Lobbying

Proponents and Proponent Team Members, and their respective directors, officers, employees, consultants, agents, advisors and representatives will not in relation to the Project, this RFP, the Draft CA, the Definitive CA, the Concession Agreement, or 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 Partnerships BC or the Province, including any Minister or Deputy Minister of the Province, any member of the Executive Council, any Members of the Legislative Assembly, any Restricted Parties, or any director, officer, employee, agent, advisor, staff member, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of:

- commenting on or attempting to influence views on the merits of the Proponent's Proposal, or in relation to Proposals of other Proponents;
- 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;
- promoting the Proponent or its interests in the Project, including in preference to that of other Proponents;
- commenting on or criticizing aspects of this RFP, the Competitive Selection Process, the Project, or the Concession Agreement, including in a manner which may give the Proponent a competitive or other advantage over other Proponents; and
- criticizing the Proposals of other Proponents.

## 5.10 Disclosure

The following information has been publicly disclosed by posting it at [www.gatewayprogram.bc.ca](http://www.gatewayprogram.bc.ca) and/or at [www.partnershipsbc.ca](http://www.partnershipsbc.ca):

- the Request for Qualifications,

- the names of the Short-Listed Respondents, and
- the Relationship Review Process Description.

Additional information that may be publicly disclosed, subject to government policy and FOIPPA, by posting it at [www.gatewayprogram.bc.ca](http://www.gatewayprogram.bc.ca) and/or at [www.partnershipsbc.ca](http://www.partnershipsbc.ca) includes:

- Volume 1 of this RFP,
- the name of a Preferred Proponent, and
- the value for money assessment to be published shortly after Financial Close.

The Draft CA is confidential and is not intended to be made publicly available unless otherwise required by government policy or Law. The Concession Agreement, excluding those portions that may be severed pursuant to the FOIPPA, will be disclosed publicly following Financial Close.

## **5.11 Transportation Investment Act**

The *Transportation Investment Act* authorizes the Minister of Transportation to enter into concession agreements with third parties to design, build, operate, maintain, and charge tolls for the use of highways. Without limiting any other term of this RFP, Proponents should ensure they familiarize themselves with the *Transportation Investment Act* and other relevant Laws.

## **5.12 Changes to Proponents and Proponent Team Members**

Subject to the terms of this RFP, Changes to the Proponent, or any Proponent Team Member either before or after delivery of the Proposal, including the Technical Submittal or the Financial Submittal, may only be made with the permission of the Province. If for any reason a Proponent wishes to make or requires that a Change be made, the Proponent will deliver a written request to the Province for permission to make the proposed Change.

The Proponent will include in such written request the reason for the proposed Change, a comprehensive description of 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, 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.

The Proponent will immediately notify the Province if, after submission of the Proposal or either of the Technical Submittal or Financial Submittal a material change in circumstances, including a Change, occurs which may adversely affect a Proponent's ability to perform the Concession Agreement. Such a change may not automatically render a Proponent ineligible so as to be disqualified from the Competitive Selection Process. The Province's decision as to whether or not to disqualify a Proponent as a result of such a change will be final and binding.

## **5.13 Restricted Parties**

The Persons listed in this section and their affiliates have been identified as Restricted Parties:

- DA Aberdeen & Associates Ltd
- Banjar Management Inc.
- Beringer Group
- CH2M Hill Canada Limited

- CMS Focus Construction Management Services Ltd
- Coast River Environmental Services Ltd
- Delcan Corporation
- E. Wolski Consulting Inc.
- Farris, Vaughan, Wills & Murphy LLP
- Freshfields Bruckhaus Deringer
- Opus International Consultants (Canada) Limited
- Golder Associates Ltd
- Hemmera
- Intertoll Europe ZRT
- Kirk & Co Consulting Ltd
- KPMG LLP
- Lucent Strategies Inc.
- Miller Thomson LLP
- PricewaterhouseCoopers LLP
- Steer Davies Gleave

This is not an exhaustive list of Restricted Parties. Additional Persons may be identified as Restricted Parties, including by being added to the list during the Competitive Selection Process.

Restricted Parties, their respective directors, officers, partners, employees, and affiliates are not eligible to participate as a Proponent or as a Proponent Team Member, or advise any Proponent or Proponent Team Member, directly or indirectly, or participate in any way as an employee, advisor, consultant, Prime Member, Equity Member, Key Individual

or otherwise in connection with any Proponent.

Each Proponent will ensure that neither the Proponent nor any Proponent Team Member uses, consults, includes, or seeks advice from any Restricted Party.

## **5.14 Shared Use**

Shared Use Persons may enter into arrangements with any and all Proponents, but may not enter into exclusive arrangements with any Proponent. 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. The following Persons have been identified as Shared Use Persons:

- BKL Consultants Ltd.
- Wakefield Acoustics Ltd.
- Northwest Hydraulic Consultants Inc.
- Kittelson and Associates, Inc.
- Bunt and Associates Engineering Ltd.

## **5.15 Conflicts of Interest / Relationship Review Process**

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 Technical Submittal or the Financial Submittal, fully disclose all relationships that the Proponent or any of its Proponent Team members has, or had, with the Province, Partnerships BC, any Restricted Party or any other Person providing advice or services to the Province with respect to the Project.

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 manage, mitigate, minimize or eliminate any actual or potential conflict of interest or unfair advantage, as applicable, to the greatest extent practicable.



The Proponent will provide such additional information and documentation and 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.

A description of the relationship review process is posted on the Gateway Program website ([www.gatewayprogram.bc.ca](http://www.gatewayprogram.bc.ca)).

The Province may in its discretion waive any and all potential or actual conflicts, or the impacts of any existing relationships. Any waiver may be upon such terms and conditions as the Province in its discretion may require to satisfy itself that the conflict, actual or potential, or impact or consequence of the relationship, as the case may be, has been appropriately managed, mitigated, minimized, or eliminated, including requiring the Proponent and any Proponent Team Member and affected persons or entities to put into place such policies, procedures, measures and other safeguards as may be required by and are acceptable to the Province, in its discretion, and to ensure that any and all Confidential Information the Proponent or any Proponent Team Member may have continues to be kept confidential and not disclosed or used except as expressly permitted by the Province. Without limiting the generality of the foregoing, the Province may, in its discretion, require the Proponent or Proponent Team Member to substitute a new person or entity for the person or entity giving rise to the potential or actual conflict of interest or unfair advantage, or who has the existing relationship.

Without limiting any other term of this RFP, the Province may in its discretion disqualify any Proponent that in the Province's opinion has or permits or suffers an actual conflict of interest or unfair advantage involving itself or any of its Proponent Team Members, to continue, or has a relationship or permits or suffers a relationship involving any Proponent Team Member that has the potential to give rise to a conflict of interest or unfair advantage.

### **5.15.1 Conflict of Interest Adjudicator and Rulings**

The Province has appointed a Conflict of Interest Adjudicator to make decisions on conflicts of interest and unfair advantage, including whether any Person is a Restricted Party. The decisions or rulings of the Conflict of Interest Adjudicator on any conflict of interest or unfair advantage issue, including whether any Person is a Restricted Party, whether in response to a request for ruling or a request by the Province at any stage of

the Competitive Selection Process, is final and binding on the Person requesting the ruling, and on all other Persons, including all Proponents, their Proponent Team Members, and the Province.

A Proponent, Proponent Team Member, prospective Proponent Team Member or an advisor who has any concerns regarding whether a Person is or may be a Restricted Party or becomes aware of circumstances that may constitute an actual or potential conflict of interest or give rise to unfair advantage should seek a ruling from the Conflict of Interest Adjudicator.

In order to request a ruling, a Proponent, Proponent Team Member, prospective Proponent Team Member or advisor should submit to the Contact Person, not less than 10 business days prior to either the Technical Submittal Deadline or the Closing Time by hand, courier, email delivery or facsimile, all relevant information and documentation, including, the following information:

- the names and contact information of the Proponent and Proponent Team Members and the person or firm in respect of which the ruling is requested;
- a description of the relationship that is the subject of the request for a ruling ;
- a description of the steps taken to date and future steps proposed to be taken to mitigate, manage, minimize or eliminate any actual or potential conflict of interest or unfair advantage, as applicable, to the greatest extent practicable; and
- copies of any relevant documentation.

Subject to the terms of this RFP, all requests for rulings will be treated in confidence. If a Proponent, a Proponent Team Member, a prospective Proponent Team Member or advisor is identified as a Restricted Party, it may be listed in an Addendum, posted on the Project website or otherwise communicated to Proponents as a Restricted Party, including in any subsequent Competitive Selection Process documents.

The Province may on its own initiative, at any time and from time to time, including during any part of the evaluation of any Proposal, ask for rulings from the Conflict of Interest Adjudicator if Persons who may be Restricted Parties or if actual or potential conflicts of interest or unfair advantage are brought to or otherwise come to the attention of or are identified by the Province. The Province will, if it seeks an advance ruling,

provide the Conflict of Interest Adjudicator with relevant information, including relevant information in its possession about the participation of the Person in the Project or other circumstances relevant to the relationship that is the subject of the request for ruling. The Province will give notice to the subject Persons so that such Persons may make their own submissions and provide relevant information to the Conflict of Interest Adjudicator.

## **5.16 Delivery and Receipt**

Proponents are solely responsible to ensure that they have received the complete RFP. By submitting a Proposal each Proponent represents that the Proponent has verified receipt of a 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 its employees, servants, agents, or representatives will be in any way responsible or liable or makes any guarantee, warranty or representation whatsoever as to:

- the timely, complete, effective, condition (including security) upon delivery, or receipt of any, communication, enquiry, response, information or other documentation, including the RFP, or any and all Addenda, any Proposal any part of a Proposal, including the Technical Submittal or the Financial Submittal, 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, by hand, or by facsimile; and
- the working order, functioning with or without errors or interruptions, or malfunctioning, or capacity of any facsimile transmission equipment or electronic email or information system, including the Data Room and any notices in respect of the Data Room.

All permitted fax or email communications or delivery of documents relating to this RFP will be deemed as having been received by the Province on the dates and times indicated on the Province's facsimile transmission equipment or 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 the RFP, such Addenda, communications, responses or other documentation, as the case may be, is issued by facsimile transmission to the facsimile number designated by the Proponent as the sole facsimile number for receipt of information in connection with the RFP, or by electronic email to the email address designated by the Proponent as the email address for receipt of information in connection with the RFP.

## **5.17 Proponent Team Members and Subcontractors**

Proponents are responsible to ensure that their Proponent Team Members, including subcontractors, suppliers, manufacturers, advisors, consultants and subconsultants, and everyone associated with or related to the foregoing, observe the terms of this RFP.

## **5.18 No Reliance**

Neither the Province nor any of the Representatives makes any representation, warranty, guarantee or endorsement, or has any liability, 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, the raw factual data described in section 4.3 of this RFP, including any borehole logs or test pit logs provided by or on behalf of the Province with any geotechnical information, record 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 locations 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 Representatives, the Proponent, the Proponent Team Members, any of the Proponents or their Proponent Team Members, or any Person, whether positive or negative, including if set out in any document or information provided by the Proponent or its Proponent Team Members, any of the Proponents or any their Proponent Team Members, in relation to any matter, including the Competitive Selection Process, this RFP, the Draft CA, the Definitive CA, the Concession Agreement,

Specifications, 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 be binding on the Province or be relied upon in any way by the Proponent, or the Proponent Team Members for any purpose whatsoever; be deemed or considered to be an indication of a preference by the Province or any Representative even if adopted by the Proponent or another of the Proponents, or 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 and its Proponent Team Members 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 raw factual data described in section 4.3 of this RFP, 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 Draft CA, the Definitive CA, the Concession Agreement, Specifications and the Project.

Any and all use of or reliance upon, in any way whatsoever, any Information, including as described in this Section 5.18 of this RFP 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 Representatives.

## **5.19 No Liability**

Except as expressly set out and only to the extent expressly set out in the Proponent

Agreement, neither the Province nor the Representatives, will have any responsibility, obligation or liability whatsoever 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, sub-contractors, directors, officers, employees, consultants, advisors or agents, 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, the Derivative Activities, or one or more Derivative Activity, or any of them, any Proponent or Proponents, the Proposal, the Technical Submittal or Financial Submittal, 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 Conflict of Interest Adjudicator.

## **5.20 Dispute Resolution**

The Authorized Representative for the Proponent identified in their Proposal will, within 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 Contract Person, that are not resolved through negotiation between the Province and the Proponent within sixty (60) days of the date of the written notice of the dispute, may be mutual agreement be referred to and finally resolved by binding arbitration in accordance with the *Commercial Arbitration Act* (British Columbia). This RFP stage and the Competitive Selection Process will continue despite any such ongoing dispute resolution.

## 6. Interpretation

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References to this RFP or the Concession Agreement, or to the documents which make up the appendices or schedules to this RFP or the Concession Agreement, or to any part of those documents, refer to the most current version of those documents, including all modifications, amendments and Addenda thereto made and issued by the Province to Proponents.

Headings or captions in this RFP are inserted for convenience of reference only and will not constitute a part of the document in which they are contained, and in no way define, limit, alter, or enlarge or otherwise affect the scope or meaning or interpretation of this RFP.

As used in this RFP, gender is used as a reference term only and applies with the same effect whether the parties are masculine, feminine, corporate or other form and unless the context otherwise indicates to the contrary, the singular includes the plural and the plural includes the singular.

All monetary amounts herein refer to lawful currency of Canada.

References to "herein", "hereunder", "hereof" and similar terms, unless otherwise expressly provided, refer to this RFP as a whole and not to any article, section, subsection or other subdivision of this RFP.

References to a section, article or a paragraph in this RFP is a reference to the whole of the section, article or paragraph in this RFP, and references to a section, article, paragraph or other part by number is a reference to the section, article, paragraph or other part, as applicable.

References to a schedule, an appendix or volume by number in this RFP or in an appendix or volume to this RFP refers to an appendix or volume, as applicable, of this RFP unless the context otherwise expressly indicates.

Each schedule, appendix and volume attached to this RFP is an integral part of this RFP as if set out at length in the body of this RFP.

References in this RFP to a statute whether or not that statute is defined, means a

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statute of the Province of British Columbia, unless otherwise stated.

References in this RFP to any statute, statutory provision, regulation, bylaws or code include any statute, statutory provision, regulation, bylaw, or code which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and include any orders, regulations, by-laws, ordinances, codes of practice, instruments or other subordinate legislation made under the relevant statute or regulation.

In this RFP, the terms “include”, “includes”, “including” and others of like import will not be deemed limited by any specific enumeration of items but will be deemed to be without limitation, interpreted as if the term was “including without limitation” and as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.

References in this RFP to “in the opinion of the Province”, “at the discretion of”, “in its discretion”, “in the discretion of the Province”, “in the Province’s discretion”, “in the sole opinion of the Province”, “the exercise by the Province of any right, power or remedy” when used in respect of the Province will be interpreted to mean the sole, absolute and unfettered, including unfettered by any implied or express duties of good faith or of fairness, discretion or opinion, as the case may be, of the Province.



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## 7. Definitions

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Definitions that apply to the RFP will be released with the Draft Concession Agreement.