

Invitational Tender for Consultant's Assignment

Project Name: Environmental Assessment
Consulting Services for the
Proposed Expansion at the
Lincolnville Layover Site

Request Number: IT-2017-EC-010



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1.0 Definitions

In this Tender Document,

- 1.1 **"Addenda"/"Addendum"** is the formal release of additions, deletions, revisions, clarifications to this Tender Document that form a part of the Contract as specified in Section 3.1.4 of Instructions to Proponents.
- 1.2 **"Business Day"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.
- 1.3 **"Closing"** means the deadline for Metrolinx to receive Submissions as specified in Section 3.1.1 (e).
- 1.4 **"Conflict of Interest"** means:
 - 1.4.1 in relation to this IT Process, the Proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of Metrolinx in the preparation of its Submission that is not available to other Proponents, (ii) communicating with any person with a view to influencing preferred treatment in this IT Process (including but not limited to the lobbying of decision makers involved in this IT Process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of this IT Process; or
 - 1.4.2 in relation to the performance of its contractual obligations contemplated in the Contract that is the subject of this procurement, the Proponent's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.
- 1.5 **"Consultant"** shall have the same meaning ascribed in Appendix "A" – Definitions of Appendix "A" – General Conditions.
- 1.6 **"Contract"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.
- 1.7 **"Contract Documents"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.
- 1.8 **"Corporate Firm"** means any one of the following: a) the Proponent, b) the Proponent and its Subconsultants, or c) the Joint Venture, responding to the Tender Document.
- 1.9 **"Deliverables"** shall have the same meaning ascribed in Schedule A – Definitions of the Appendix "A" – General Conditions.
- 1.10 **"EBS"** means Electronic Bid Submission.
- 1.11 **"E-Bid Authorized Signer"** is the designated individual in the Proponent's organization who has the authority to bind the Proponent to each and every term, condition, article and obligation of the Tender Document and any resultant Contract.

- 1.12 **"E-Bid Confirmation Number"** is the receipt received by a Proponent from MERX indicating that the Submission was uploaded successfully.
- 1.13 **"Evaluation Criteria"** means the criteria for scoring the Submission as stated in Section 5.0 Tender Evaluation and Selection Process herein.
- 1.14 **"FIPPA"** shall have the same meaning ascribed in Section 3.11 of Instructions to Proponents.
- 1.15 **"Invitational Tender"** means this **IT-2017-EC-010** Invitational Tender for Consultant's Assignment
- 1.16 **"IT"** means this **IT-2017-EC-010 Invitational Tender**.
- 1.17 **"Joint Venture"** means a Proponent that was proposed and prequalified through the Prequalification and eligible to make a Submission in response to this IT Process further described in Section 3.6 of Instructions to Proponents.
- 1.18 **"Key Personnel"** shall have the same meaning ascribed to it in Section 2.7(a) of the General Conditions.
- 1.19 **"Metrolinx"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.
- 1.20 **"Option"** means a component of the Services that is to be exercised at the sole discretion of Metrolinx.
- 1.21 **"Prequalification"** means Prequalification SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects.
- 1.22 **"Prequalified List"** means the list of consultants who successfully prequalified through the Prequalification, who are invited to bid on this IT.
- 1.23 **"Participant in Charge"** shall have the same meaning ascribed in Section 3.6.3 of the Instructions to Proponents.
- 1.24 **"Parties"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.
- 1.25 **"Procurement Office"** means the Metrolinx Procurement and Contract Services office located at 277 Front Street W., Toronto, Ontario, Canada, M5V 2X4.
- 1.26 **"Procurement Representative"** means the following individual in the Procurement and Contract Services Department:

Margaret Drozdiuk, Procurement Officer	
Telephone number	(416) 202-5622
Email	Margaret.Drozdiuk@metrolinx.com

- 1.27 **"Project Schedule"** shall have the same meaning ascribed in Schedule A – Definitions of Appendix "A" – General Conditions.

- 1.28 **"Proponent"** means the legal entity that was prequalified through SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects, that is invited to this IT Process and remits a Submission in response to this Tender Document and who, if selected for award shall execute the Contract with Metrolinx for provision of the Services.
- 1.29 **"Rates"** shall have the same meaning given in Section 1(a) of Schedule C – Financial Terms.
- 1.30 **"Tender Document"** means this Invitational Tender document comprised of sections listed in the Table of Contents, issued by Metrolinx for the Services to be provided, and any Addenda thereto.
- 1.31 **"Tender Document Forms"** means any sections of this Invitational Tender Document which requires completion and must be included with the Submission.
- 1.32 **"IT Process"** means the Invitational Tender procurement process set out in the Tender Document herein.
- 1.33 **"Scope of Services"** means the scope of work described in Appendix "B".
- 1.34 **"Services"** shall have the meaning ascribed in Section 2.2 (a) of the Appendix "A" – General Conditions.
- 1.35 **"Subconsultant"** are the subconsultants which were identified by the Proponent and submitted for prequalification as part of the Prequalification.
- 1.36 **"Submission"** means all documentation and other materials and information submitted by the Proponent in response to this Tender Document or in respect of this IT Process.
- 1.37 **"SQ"** means SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects.
- 1.38 **"Technical Submission"** means the Proponent's response to Section 4.3 - Submission Content of Tender Submission Requirements herein and any additional information requested by Metrolinx.
- 1.39 **"VPM"** shall have the meaning ascribed in Section 3.16.1 of Instructions to Proponents.
- 1.40 **"VPR"** shall have the meaning ascribed in Section 3.16.2 of Instructions to Proponents.

2.0 Introduction

2.1 General

- 2.1.1 Metrolinx is issuing this Invitational Tender to retain a Proponent to provide the goods and/or services described herein. Metrolinx shall only accept and consider Submissions from those Proponents who have successfully pre-qualified for this IT through SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects (the "Prequalification") and have been invited to make a Submission in response to this IT.
- 2.1.2 You are invited to submit your Submission for Environmental Assessment (EA) Consulting Services for Proposed Expansion at the Lincolnville Layover Site, as more particularly described in this Tender Document as required by Metrolinx, which Work relates to the completion of a feasibility study and various EA studies to support the Transit Project Assessment Process (TPAP). The Lincolnville layover facility is currently serving dual purpose as layover yard and a station. A number of competing needs and requirements have been identified by Station Operations and Rail Operations groups due to dual purpose of the site. The permanent solution includes redeveloping the existing layover with three (3) additional storage tracks and the potential relocation of the station site to a new location.

3.0 Instructions to Proponents

3.1 Submission Instructions

3.1.1 General

- (a) The Tender Documents shall be read as a whole. The Schedules, Appendices and Addenda, if any, constitute an integral part of this IT Process and are incorporated by reference. The documents included in this Tender Document (with the exception of any Addenda that may be issued subsequently) include all documents noted in the Table of Contents.
- (b) *****NOTE: ELECTRONIC BID SUBMISSION**

Your Submission for this opportunity must be made to Metrolinx through the use of **MERX EBS**. Proponents shall be solely responsible for the delivery of their Submission using MERX EBS by the Closing, in accordance with the Submission Instructions herein.
- (c) Your Submission is to be firm and irrevocable for one hundred and twenty (120) calendar days from the Closing.
- (d) Your Submission will be evaluated in accordance with the Tender Evaluation and Selection Process as outlined in this Tender Document.
- (e) IT Timetable

Milestone	Date
Issuance of Tender Documents	June 23, 2017
Deadline to Submit Questions	June 30, 2017
Last day for issuance of Addenda	July 5, 2017
Closing	July 14, 2017 @ 3:00 p.m. Toronto, ON Time
Estimated Start of Services	August 4, 2017

Metrolinx may, without liability, cost or penalty and in its sole discretion amend the IT Timetable.

3.1.2 Tender Enquiries

- (a) All written enquiries and other communications prior to full Contract execution are to be directed solely to the Procurement Representative.
- (b) Any questions concerning the Tender Documents, the contents herein, or the Services contemplated herein are to be directed, in writing, to Procurement Representative as specified in Section 1.26 prior to the deadline for submitting questions. No questions or requests for clarifications, changes or amendments of Tender Documents shall be entertained after this time regardless of the reason.

- (c) All questions/requests for clarification related to the Tender Documents are to be submitted via e-mail to the attention of the Procurement Representative using the Question and Answer Template which is a fillable file attached separately as:

Vendor Q and A Template_IT-2017-EC-010

In the above mentioned file, indicate for each question being submitted the page, drawing, section number (as applicable) and details of the specific question/clarification requested. For each set of questions submitted by the Proponent, a new copy of the above referenced Question and Answer Template should be submitted.

- (d) When necessary, revisions to, or clarifications of the Tender Documents will be incorporated into a written addendum issued by the person identified herein. Information regarding the Tender Documents or the Services, whether provided by the person identified herein, or from any other source, whether verbally or in writing, shall be considered informal and Metrolinx shall not be bound by, or liable for, any such information unless incorporated into a written addendum.

3.1.3 Mandatory Site / Information Meeting

Not applicable

3.1.4 Addenda / Changes to the Tender Documents

- (a) In the event that Metrolinx determines in its sole discretion, that clarifications of, or revisions to the Tender Documents are required, all Proponents who received copies of the Tender Documents shall be advised of such clarifications or revisions during the period by written addenda. Such addenda shall become part of the Tender Documents and the contents thereof shall be allowed for in the prices bid for the Services.
- (b) It is the Proponent's responsibility to ensure that they have received copies of all Addenda, and to ensure that the Addenda have been considered in their Submission. Addenda, if applicable, will be issued through MERX. Information concerning the number of Addenda issued and the date of issue of the most recent Addendum can be found at www.merx.com for this IT Process. Proponents are urged to select automatic notification of Addenda issuance when registering on MERX.
- (c) The Proponent, when ascertaining if copies of all Addenda issued have been received, shall be responsible for allowing sufficient time prior to the Closing to receive any missing Addenda and to review and allow for the contents thereof in the Submission.
- (d) The Proponent shall submit the Submission using the most current Tender Document Forms as issued via Addenda. Failure to use the most current pages of the Tender Document Forms may result in the Submission being found non-compliant and disqualified.

3.1.5 Tender Submission

- (a) Proponents remitting a Submission to Metrolinx shall exercise extreme care when completing and submitting all Tender Document Forms.

- (b) Proponents shall examine carefully the whole of the Tender Documents and any data referred to therein. They shall make the necessary investigations to inform themselves thoroughly as to the character and magnitude of the Services.
- (c) The Proponent shall not claim at any time after the Closing and/or after notification of award of the Contract that there was any misunderstanding or uncertainty in regard to the Tender Documents or any of the contents therein. No plea of ignorance of conditions which exist, or any conditions or difficulties that may be encountered, shall be accepted as a reason for failure to complete the Contract or as a basis for claims for additional compensation or extension of time.
- (d) Your Submission shall be completed fully in a clear and comprehensible manner.
- (e) Submissions shall be remitted electronically through MERX EBS only. Submissions sent in any other manner shall be deemed non responsive and automatically disqualified.
- (f) The Submission shall be submitted on the original Tender Document Forms as issued by Metrolinx through the MERX website and except for designated sections where the Proponent is to enter information, the Tender Document and Tender Document Forms shall not be altered in any way including, but not limited to, write-ins, strike-outs of the pre-printed provisions or any other conditional or qualifying statements.
- (g) Any Submission which contains such conditional and/or qualifying statements shall be deemed non-compliant and disqualified unless such conditional and/or qualifying statements are withdrawn in writing by the Proponent, upon request by Metrolinx.
- (h) If during the preparation of their Submission, the Proponent desires to make a change which requires correction, alteration or erasure to any information previously entered in a designated section of the Submission by the Proponent, documents that have been uploaded to MERX using EBS can be added, removed and/or re-submitted as often as required at any time, prior to Closing.

Any Submission documents that are attempted to be uploaded via MERX EBS after the Closing has occurred (as confirmed by the MERX Audit Report) shall be automatically rejected by Metrolinx, regardless of the reason for lateness.
- (i) All prices shall be firm and quoted in Canadian funds. The prices quoted in the Submission shall represent full payment for all such Services as is necessary for the proper completion of the Contract.
- (j) Submissions must be remitted on MERX by the Proponent's E-bid Authorized Signer.
 - (i) NOTE: The Proponent can have only one (1) E-Bid Authorized Signer which is to be used for any EBS submission process.
 - (ii) The E-Bid Authorized Signer does not have to be either the person placing the order for the Tender Document on MERX, nor do they have to be subscribed to MERX. Once an E-Bid Authorized Signer has been setup, a letter will be sent via email to the E-Bid Authorized Signer.

- (iii) For the purposes of a Joint Venture, the E-Bid Authorized Signer of the Participant-in-Charge shall remit the Submission.

- (k) Submission must be remitted electronically through the MERX EBS system. For assistance in using MERX EBS, please watch the online Electronic Bid Submission tutorial at: <http://www.youtube.com/watch?v=To0fgSccw3M> . Alternatively, you can contact MERX directly at 1-800-964-MERX (**6379**) or visit the MERX website at www.merx.com for further instruction or assistance regarding EBS and/or E-Bid Authorized Signer registrations.
 - (i) Please review the E-bid checklist on MERX as this will provide some general assistance regarding uploading of documents.
 - (ii) It is the Proponent's sole responsibility to ensure that all required information for their Submission is uploaded to MERX via EBS. Failure of the Proponent to include all required items may result in the Proponent's Submission being deemed non-responsive and disqualified.
 - (iii) The largest individual file size that can be submitted through MERX is 100MB, although there is no limit to the number of files that can be submitted. If any individual file size is over 100MB, the Proponent's submission can be split into multiple parts, and submitted as clearly labelled, multiple files once the submission has been broken up into files of 100MB or smaller.
 - (iv) MERX places no restriction on file format and does not convert or zip files during the upload process.
 - (v) In order to complete the Submission, the on-line authorization of the Proponent's E-Bid Authorized Signer will be required. It is the Proponent's sole responsibility to have an E-Bid Authorized Signer PIN number issued from Merx at least one (1) day prior to Closing. Visit tenders.merx.com/RequestEBSPin to request a PIN for the Proponent's E-bid Submission Authorized Signer.

- (l) Information contained in the most recent Submission remitted via MERX EBS and received prior to the Closing will take precedence over the information contained in previously received Submissions from the Proponent.

- (m) The Proponent may withdraw a Submission at any time prior to the Closing specified by Metrolinx by logging into MERX on the E-bid Submission screen locating the opportunity and clicking 'Delete' for the opportunity in question. Once deleted, an E-bid is given the status 'Not Submitted'

3.1.6 Submission Deadline

- (a) Submissions must be fully uploaded via MERX EBS by the Closing. Any Submission or portions thereof received after the Closing (as confirmed by MERX Audit Report) shall be deemed non-responsive and the entire Submission shall be disqualified regardless of the reason for lateness. The Proponent shall remit the Submission with sufficient time to ensure its arrival before the Closing.
 - (i) It is recommended by MERX to allow at least four (4) hours to remit the Submission via EBS, which shall provide the Proponent with the opportunity to upload all documents and resolve any potential issues

that may arise. If you have many large documents or you are not running on high speed internet access you may want to give yourself additional time. If the problem persists, call MERX directly at 1-800-964-MERX (6379). Metrolinx staff will be unable to assist with any EBS related issues.

- (ii) If the Proponent attempts to remit their Submission, or portions thereof, after the Closing, such documents shall not be accepted by the MERX system.
 - (iii) In the event that the MERX system allows late Submissions, this will not supersede any stipulations herein regarding late submissions.
- (b) Upon successful completion of the EBS process, the Proponent shall be provided with an E-bid Confirmation Number. All reports are kept on the Proponent's MERX account for seven (7) years after the Closing.
 - (c) Notwithstanding the above, Metrolinx reserves the right to postpone the Closing at which time all potential Proponents shall be advised of the new Closing by way of Addenda.
 - (d) After the Closing has occurred, all Submission received will be opened by Metrolinx staff. There shall be no public access to this opening. Upon execution of the final Contract, all Proponents that have remitted a Submission shall be notified in writing of the results of the award to the successful Proponent. Results of the award to the successful Proponent shall also be posted on the Metrolinx website at www.metrolinx.com/tenders under "Bid Award Results" (Invitational Tender) and/or the MERX website at www.merx.com/metrolinx (search "Metrolinx" or the Tender Number and select "Awards").
 - (e) All documentation received by Metrolinx with regards to this IT Process will be retained by Metrolinx and will not be returned to the Proponent.

3.1.7 Clarification of Submissions

- (a) Metrolinx reserves the right, within one hundred and twenty (120) calendar days following the Closing, to request that any Proponent clarify its Submission and such Proponents shall submit responses to such request within five (5) Business Days following receipt of such request or within such shorter time as Metrolinx may require. Metrolinx may, in its sole discretion, choose to meet with some or all of the Proponents to discuss aspects to their Submission. Metrolinx may require Proponents to submit information clarifying any matters contained in their Submission or Metrolinx may prepare a written interpretation of any aspect of a Submission and seek the respective Proponent's acknowledgement of that interpretation.
- (b) Such information accepted by Metrolinx, for purposes of clarification, and written interpretations which have been acknowledged by the relevant Proponent shall be considered to form part of the Submission of those Proponents.
- (c) After the Closing, only information specifically requested by Metrolinx for purposes of clarification shall be considered as additions to a Proponent's Submission.
- (d) Metrolinx is not obliged to seek clarification of any aspect of a Submission.

3.1.8 Proponent Qualifications

- (a) Metrolinx shall only accept and consider Submissions from Proponents who are on the Prequalified List resulting from Prequalification SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects and have been invited to respond to this IT Process.
- (b) Refer to Tender Submission Requirements for the required corporate qualifications and experience pertaining to this Tender Document.
- (c) Refer to Schedule B - Consultant Personnel of Appendix A - General Conditions for the required Key Personnel qualifications pertaining to this Tender Document.

3.1.9 Insurance

- (a) Workplace Safety and Insurance Clearance Certificate - The Proponent to whom this Contract is awarded must furnish a valid Workplace Safety and Insurance Clearance Certificate for the premium rate class, subclass or group as appropriate for the Services of this Contract, as issued by the Workplace Safety and Insurance Board, within five (5) Business Days, of notification of acceptance of its Submission by Metrolinx. Failure by the Proponent to comply with this requirement shall result in the Contract award being declared VOID.
- (b) Liability Insurance
 - (i) As a condition of award of this Contract, the Proponent shall provide to Metrolinx certificates for the following types of insurance in the amounts specified within five (5) Business Days of notification of acceptance of its Submission by Metrolinx:
 - 1) Commercial General Liability Insurance in an amount of not less than five million dollars (\$5,000,000.00) per occurrence;
 - 2) Errors and Omissions/Professional Liability Insurance in an amount of not less than two million dollars (\$2,000,000.00) per claim; and
 - 3) Automobile Liability Insurance for owned and non-owned vehicles in an amount of not less than two million dollars (\$2,000,000.00) per occurrence.
 - 4) The Certificate of Commercial General Liability Insurance shall reference the Contract name and number and include the following as additional insureds:
 - a) Metrolinx;
 - b) A&B Rail;
 - c) PNR;
 - d) Town of Whitchurch-Stouffville; and
 - e) Region of York.

- 5) All certificates of insurance shall include a provision requiring the insurer to give Metrolinx thirty (30) calendar days prior written notice of any changes to, or cancellation of the required insurance policies and confirmation that all policies with the exception of Errors and Omissions, include a waiver of subrogation against Metrolinx.
- 6) Failure by the Proponent to comply with these requirements shall result in the award of the Contract being declared VOID.

3.1.10 Parent Company Indemnity

If requested by Metrolinx, as a condition of award of Contract, a subsidiary company shall be required to submit a 'Guarantee' from its parent company, included and provided for in Appendix "D" – Documents, or in a form satisfactory to Metrolinx and agrees to provide all the necessary financial and technical support for the proper completion of the said Contract and shall guarantee the performance of the said Contract in accordance with the terms and conditions, including timely completion thereof, and agrees to guarantee the Services for the warranty period(s) stipulated therein.

3.2 Nature of Agreement

The General Conditions set out in Appendix "A" and the Consultant's Scope of Services set out in Appendix "B" attached hereto shall be included in and form part of the Contract. Remitting a Submission constitutes acknowledgement that the Proponent has read and agrees to be bound by such conditions.

3.3 Rights of Metrolinx

Metrolinx reserves the right, in its sole discretion:

- 3.3.1 to cancel this IT Process and/or any acceptance of a Submission prior to final execution of the Contract by Metrolinx, for any reason, without any obligation or any reimbursement to the Proponent;
- 3.3.2 to reject any or all Submissions. The Submission with the lowest price will not necessarily be accepted. Metrolinx' selection shall be based on which Proponent has provided a Submission which Metrolinx determines, to provide the greatest value based on the Evaluation Criteria contained in the Tender Document;
- 3.3.3 to disqualify any Submission which contains misrepresentations or any other inaccurate or misleading information;
- 3.3.4 to waive any requirement of the Tender Documents or request amendment where, in the sole opinion of Metrolinx, there is an irregularity or omission in the information provided, that is not material to the Submission unless a specific consequence has been identified herein for the commission of such an irregularity or omission;
- 3.3.5 to waive the requirement to check references;
- 3.3.6 to not respond to a Proponent's questions;
- 3.3.7 to use its own experiences, and the experiences of any other third party, with the Proponent in previous contracts in order to evaluate the Proponent's performance.

- 3.3.8 to award or not award based on submitted references and/or references independently obtained by Metrolinx;
- 3.3.9 to award or not award based on the Proponent's experiences with Metrolinx or other departments or agencies within the Ontario government, if the Proponent:
 - (a) was previously given a "Notification of Award" of contract by a department or agency within the Ontario government and defaulted in proceeding with the work of the contract;
 - (b) has submitted false or misleading information in this Submission;
 - (c) failed or refused to comply with any applicable federal, provincial or municipal law governing a bid or a prior contract with a department or agency within the Ontario government;
 - (d) had a previous contract with a department or agency within the Ontario government that was terminated for default in the past year; or
 - (e) is an affiliate of or successor to any corporation described in Sections 3.3.9(a) through (d) above, including any firm that is controlled within the meaning of the Ontario Business Corporations Act by the same person or group of persons who so controlled any corporation described in Sections 3.3.9(a) through (d) above
- 3.3.10 to request a listing of all projects, regardless of scope, complexity or estimated value, completed for or terminated by Metrolinx within the past three (3) years or currently active;
- 3.3.11 to distribute via Addenda, copies of any Proponent's questions received and responses provided by Metrolinx, to all Proponents who received the Tender Documents;
- 3.3.12 to postpone the Closing, at which time all Proponents who received Tender Documents shall be advised of the new Closing via written Addenda;
- 3.3.13 within one hundred and twenty (120) days following the Closing, to request that any Proponent clarify its Submission and such Proponents shall submit responses to such request within five (5) Business Days following receipt of such request or within such shorter time as Metrolinx may require;
- 3.3.14 to prepare a written interpretation of any aspect of a Submission and require the relevant Proponent's acknowledgement of the accuracy of that interpretation;
- 3.3.15 to request that a Proponent voluntarily withdraw its Submission without penalty where in the opinion of Metrolinx the Submission is substantially below internal budget estimates and therefore the Services would not be satisfactorily completed;
- 3.3.16 to correct arithmetical errors in any or all Submissions where such errors affect extended totals, the Estimated Contract Price, H.S.T. and/or Grand Total. Arithmetical corrections shall only be made based upon the unit prices submitted by the Proponent. Corrections to extension, sums, differences or other arithmetical operations based on the Estimated Contract Price submitted will be identified on the Tender Document Forms (submitted by the Proponent) by Metrolinx and acknowledged in each instance by the initials of the Proponent's and Metrolinx's authorized signatories. Such corrections will become part of the Proponent's Submission. Failure of the Proponent to acknowledge such corrections shall result in its Submission being deemed non-responsive and disqualified;

- 3.3.17 to, upon failure of the Proponent whose Submission was accepted to fulfill the conditions of Section 3.4.2 herein, cancel award of Contract and consistent with industry practice, notify another Proponent who was determined to be qualified in accordance with the Tender Evaluation Criteria and Selection Process stated herein and who submitted a responsive Submission; that its Submission has been accepted and, subsequent to the fulfillment of the conditions of Section 3.4.2 herein, that Proponent shall be deemed to be the successful Proponent and the Proponent to whom the Contract is awarded; and
- 3.3.18 to proceed with and to enter into a Contract with the Proponent for the provision of Services, as stated in Appendix "B" Consultant's Scope of Services, with the exception of Services listed as options to be exercised at the sole discretion of Metrolinx, including:
- (a) Phase 1- Project Planning (Feasibility Study) ; and
 - (b) Phase 2 - Environmental Assessment (TPAP).

3.4 Contract to be Executed

- 3.4.1 Metrolinx shall notify the Proponent in writing of acceptance of its Submission by Metrolinx. Metrolinx will prepare the Articles of Agreement and bind it into the Contract Documents. Two (2) sets of Contract Documents will be forwarded to the Proponent for review and execution.
- 3.4.2 The Contract Documents shall be executed by the Proponent and returned to Metrolinx within five (5) Business days of notification to the Proponent that Metrolinx has accepted its Submission. Failure by the Proponent to execute and return the Contract Documents with the required Insurance Certificates and Workplace Safety and Insurance Clearance Certificate and any other documents as may be required within the specified time, shall result in the cancellation of the Contract award.
- 3.4.3 There shall be no binding contract for the supply of the Services unless and until Metrolinx and the Proponent, whose Submission has been accepted, have executed the written agreements contemplated in this Tender Document. The Proponent shall not start the Services before the Contract has been executed by the Proponent and Metrolinx and all documents required by this Tender Document, as a condition of award of the Contract, have been delivered to Metrolinx.

3.5 Conflict of Interest

- 3.5.1 The Conflict of Interest declaration included in the Form of Tender shall be completed and provided with the Submission.
- 3.5.2 Examples of Conflict of Interest include but are not limited to:
- (a) any director, officer or employee or advisor of Metrolinx has any connection or relationship with, or any pecuniary interest in the Proponent or any Subconsultant thereof;
 - (b) the Proponent or any Subconsultant thereof is in possession of confidential information relating to the Services; and
 - (c) any director, officer or employee or advisor of Metrolinx who has knowledge of the Services has assisted the Proponent in the preparation of its Submission.

- 3.5.3 If, at the determination of Metrolinx in its sole discretion, a Proponent is found to be in a Conflict of Interest that cannot be resolved or the Proponent fails to disclose any actual or potential Conflict of Interest, Metrolinx may, at its sole discretion, disqualify the Proponent from the IT Process or terminate any agreement entered into with the Proponent pursuant to this IT Process.

3.6 Joint Ventures

- 3.6.1 A Proponent, whose Joint Venture arrangements were approved as part of the Prequalification, shall not change its Joint Venture arrangement without the prior written approval of Metrolinx in its sole discretion in accordance with the process set out in Section 3.15.
- 3.6.2 The Joint Venture participant that was nominated as being in charge during the Prequalification shall continue to be the Participant in Charge. The Participant in Charge is authorized by the other joint venture participants to incur liabilities and receive instructions for and on behalf of any and all participants of the Joint Venture.
- 3.6.3 If required prior to award, each Joint Venture participant shall demonstrate its authorization of the Participant in Charge by submitting with their Submissions a power of attorney, or similar document, signed by a legally authorized representative of the Joint Venture participant.
- 3.6.4 All participants of the Joint Venture shall be legally liable, jointly and severally, during this IT Process and during the Contract for carrying out the obligations pursuant to the Contract.

3.7 Prohibited Contacts and Lobbying Prohibition

- 3.7.1 A Proponent, Proponent's team members and all of the Proponent's respective Subconsultants, advisors, employees and representatives are prohibited from engaging in any form of political or other lobbying, of any kind whatsoever, to influence the outcome of this IT Process.
- 3.7.2 Without limiting the generality of Section 3.7.1, neither Proponents or Proponent team members or any of their respective Subconsultants, advisors, employees or representatives shall contact or attempt to contact, either directly or indirectly, at any time during the IT Process, any directors, officers, employees and advisors of Metrolinx, other than the Procurement Representative.

3.8 Media Releases, Public Disclosures and Public Announcements

- 3.8.1 A Proponent shall not, and shall ensure that its advisors, employees, or representatives do not, issue or disseminate any media release, public announcement or public disclosure (whether for publication in the press on the radio, television, internet, or any other medium) that relates to this IT Process, this Submission or any matters related thereto, without the prior written consent of Metrolinx.
- 3.8.2 A Proponent, Proponent's team members and all of the Proponent's respective advisors, employees and representatives shall not make any public comment, respond to questions in a public forum, or carry out any activities to either criticize another Proponent or Submission or to publicly promote or advertise its own qualifications, interest in or participation in the IT Process without Metrolinx's prior written consent, which may be withheld in Metrolinx's sole discretion. Notwithstanding this item, the Proponent, Proponent's team members and all of the Proponent's respective advisors, employees

and representatives are permitted to state publicly that it/they are participating in the IT Process.

- 3.8.3 For greater clarity, this section does not prohibit disclosures necessary to permit the Proponent to discuss the Tender Document with prospective subconsultants' participation in this IT Process.

3.9 Restriction on Communications Between Proponents – No Collusion

A Proponent shall not discuss or communicate, directly or indirectly, with any other Proponent, any information whatsoever regarding the preparation of its own Submission or the Submissions of other Proponents. Proponents shall prepare and submit Submissions independently and without any connection, knowledge, comparison of information or arrangements, direct or indirect, with any other Proponent. This obligation extends to all team members of a Proponent and all of the Proponent's respective advisors, employees and representatives.

3.10 Disclosure of Information

3.10.1 The Proponent hereby agrees that any information provided in its Submission, even where it is identified as being supplied in confidence, may be disclosed by Metrolinx where required by law, order of a court, or tribunal.

3.10.2 The Proponent hereby consents to the disclosure, on a confidential basis, of its Submission by Metrolinx to Metrolinx's advisors retained for the purpose of evaluating or participating in the evaluation of the Submissions.

3.11 Freedom of Information and Protection of Privacy Act ("FIPPA")

Proponents are advised that Metrolinx may be required to disclose all, a part, or parts of a Proponent's Submission and a part or parts of any Submission pursuant to FIPPA.

Under Ontario's Open Data Directive, Metrolinx is required to publish certain procurement information. Accordingly, the Proponent acknowledges that, subject to any applicable FIPPA exemptions, Metrolinx may publish procurement data including but not limited to the names of the Proponents and the winning bid in accordance with Ontario's Open Data Directive. For more information, see: www.ontario.ca/page/ontarios-open-data-directive.

3.12 Submission to Be Retained by Metrolinx

Metrolinx shall not return a Submission or any accompanying documentation submitted by a Proponent.

3.13 Confidential Information of Metrolinx

All information provided by or obtained from Metrolinx in any form in connection with the Submission process;

3.13.1 is the sole property of Metrolinx and shall be treated as confidential;

3.13.2 shall not be used for any purpose other than replying to the Tender Document and the performance of any subsequent agreement; and

3.13.3 shall not be disclosed without prior written authorization from Metrolinx.

3.14 Proponents Shall Bear Their Own Costs

The Proponent shall bear all costs associated with or incurred in connection with its participation in this IT Process, including, but not limited to, preparation of its Submission and preparation for and participation in presentations and interviews.

3.15 Changes to Proponent, Proponent Key Personnel, Subconsultants or Joint Venture

3.15.1 The Proponent's Prequalification Submission for Prequalification SQ-2016-PMG-006 set out the names and titles of specific Key Personnel, Subconsultants as well as the corporate organization or Joint Venture arrangement of the Proponent that was accepted and prequalified. Metrolinx will not allow changes to any Key Personnel, Subconsultant, Proponent or Joint Venture arrangements, or material changes to the roles or scope of work to be performed by any Key Personnel, Subconsultant or Joint Venture participant, from what was submitted and accepted as part of the Prequalification, without Metrolinx's prior written consent, which may be unreasonably withheld.

3.15.2 If after Closing but prior to execution of the Contract, there is (i) any material change in the Proponent, Subconsultant or Joint Venture participant, or (ii) a change in control of any Proponent, Subconsultant or Joint Venture participant, or (iii) a change in Subconsultant, Key Personnel or Joint Venture arrangement, the Proponent shall notify the Procurement Representative as soon as possible and the notification shall identify the proposed change in Key Personnel, Subconsultant or Joint Venture and the proposed replacement, if applicable, and include sufficient documentation that the proposed replacement would have met or exceeded any applicable criteria applied during the Prequalification. Metrolinx may, in its sole discretion, disqualify the Proponent, reject such proposed changes, not accept the Submission and not execute the Contract. Metrolinx may, in its sole discretion, request that the Proponent propose a replacement or alternative arrangement acceptable to Metrolinx in its sole discretion.

3.15.3 Metrolinx may reject any Submission or not proceed with the execution of the Contract if there are changes of or in Key Personnel, Subconsultants or Joint Venture arrangement from the Prequalification Submission without prior authorization of Metrolinx.

3.15.4 Metrolinx may, in their discretion, require the Proponent to remove, replace or otherwise change any Subconsultant, Key Personnel or Joint Venture participant. Upon request of Metrolinx, the Proponent shall remove the Subconsultant, Key Personnel or Joint Venture participant, and/or propose a replacement Subconsultant, Key Personnel or Joint Venture participant. Any replacement Subconsultant, Key Personnel or Joint Venture participant proposed by the Proponent must be acceptable to Metrolinx in its sole discretion. If the proposed replacement Subconsultant, Key Personnel or Joint Venture participant is acceptable to Metrolinx, Metrolinx shall give written consent to the Proponent to make the replacement.

3.16 Vendor Performance Management Program

3.16.1 Vendor Performance Management ("VPM") Program means the Metrolinx policy for monitoring, evaluating and recording vendor performance, as same may be amended or replaced from time to time. The Vendor Performance Management Program establishes a standard methodology for the incorporation of a vendor's past performance as a criterion in assessing that vendor's bids or proposals for future work with Metrolinx.

3.16.2 Pursuant to Metrolinx's VPM Program, Metrolinx may consider Proponent's past performance under contracts with Metrolinx in evaluating Submissions received in response to this Tender Document. The Vendor Performance Rating ("VPR") is the

average of a vendor's performance evaluation scores (as assessed by or on behalf of Metrolinx) for a thirty-six (36) month period preceding the Closing. If a Proponent has not completed any work for Metrolinx in the three (3) years preceding the Closing, for the purpose of evaluating the Submission, the Proponent will be assigned a VPR which is the straight average of all the VPRs of all vendors who have performed services for Metrolinx during the prior fiscal year.

- 3.16.3 If the VPR is being applied as a component of the award evaluation for this IT Process, the legal name of the Proponent stated on the Form of Tender will be used. It is the responsibility of the Proponent to ensure that its proper legal name has been stated on the Form of Tender. Metrolinx will not accept any requests from the Proponent to change the legal name provided after the Closing.
- 3.16.4 In case of a Joint Venture where multiple parties will sign the Contract, the VPR of each participant will be added and the average will be applied.
- 3.16.5 For the purposes of this IT Process, the application of the VPR is set out in the Contract Performance Appraisal as listed in Appendix "D" Documents.

4.0 Tender Submission Requirements

4.1 Mandatory Requirements

- 4.1.1 Proponents must meet all mandatory requirements in order for their Submission to be considered further. Failure of a Proponent to meet all of the mandatory requirements listed below shall result in the Proponent's Submission to be deemed non-compliant and shall not be considered further.
- 4.1.2 The mandatory requirements for this Tender Document are as follows:
- (a) The Form of Tender must be submitted by the E-Bid Authorized Signer.
 - (b) Pricing information must be completed and submitted using Attachment #1 - Contract Prices.
 - (c) Proponents shall declare any conflicts of interest in Section 6.6 of Form of Tender. If Section 6.6 is left blank the provisions of Section 6.6.1 of Form of Tender shall apply.

4.2 Submission Format

Submissions must be submitted through MERX and should be in the following format:

- 4.2.1 Present information in Font Size 11 pt. on 8½ x 11 paper size.
- 4.2.2 Include a table of contents.
- 4.2.3 Organize information into sections which correspond to the Submission Content Requirements in the exact order described below.
- 4.2.4 The entire content of the Proponent's Submission shall be submitted in writing, and the content of web sites or other external documents referred to in the Proponent's Submission will not be considered for evaluation unless submitted in their entirety as part of the Submission.

4.3 Submission Content

The Proponent's Submission shall include: a Technical Submission and a Price Submission. The information required in each Submission as well as the prescribed format in which it should be submitted is outlined below.

- 4.3.1 Technical Submission - The Proponent's Technical Submission should be comprised of the following sections in the following order and should contain a Table of Contents.
- (a) **Technical Submission Section 1**
 - (i) Provide a completed Form of Tender. The Form of Tender shall not be retyped, and entries shall be made directly on the Tender Document Forms provided by Metrolinx.

- (ii) If there is a change in the Joint Venture arrangements pursuant to Section 3.1.5, attach a copy of the Joint Venture Agreement electing the Participant-in-Charge.

(b) **Technical Submission Section 2: Team**

- (i) Functional Organization
 - 1) Organizational Chart – Provide an organizational chart identifying the Subconsultant and/or Key Personnel assigned and dedicated solely to the project in their respective roles, for completion of the Services.
 - 2) Complete Schedule B providing the names of the Key Personnel that will perform the Services.
 - 3) In accordance with section 3.15 of Instructions to Proponents of this Tender Document, the Proponent must provide the Key Personnel that were prequalified as part of the Prequalification or were otherwise replaced with consent of Metrolinx under section 3.15 of Instructions to Proponents.

4.4 Price Submission

- 4.4.1 A Submission shall include a Pricing Submission. Pricing information must be completed and submitted using the Excel template provided, entitled Attachment #1 – Contract Prices. The pricing template must be submitted as a separate file preferably in Excel (.xlsx) format.

5.0 Tender Evaluation and Selection Process

5.1 Tender Evaluation Methodology

5.1.1 Submissions shall undergo several phases of evaluation based on the information provided using the criteria below.

5.1.2 Submissions shall be evaluated in two (2) phases, as follows:

- (a) Phase One: Administrative and Technical Evaluation (Compliant/Non-Compliant)

Submissions shall undergo an administrative and technical evaluation to determine compliance with the mandatory requirements and the Technical Submission Section 1 and 2 as stated in the Tender Submission Requirements. Only those Submissions determined in the sole opinion of Metrolinx, to have fulfilled all the requirements shall be deemed compliant and shall proceed to Phase Two of the evaluation process. Submissions that do not meet administrative and technical requirements shall be deemed non-responsive and shall be disqualified.

- (b) Phase Two: Pricing Evaluation

Attachment #1 – Contract Prices shall be evaluated for the Submissions which pass Phase One evaluation.

5.1.3 Selection of Submissions

- (a) Metrolinx' selection shall be based on which Proponent has provided a compliant Submission which Metrolinx determines in its sole discretion to provide the greatest value to Metrolinx.

6.0 Form of Tender

The following Form of Tender is to be included as the first section within the Proponent's Technical Submission. The Form of Tender must be remitted by the E-Bid Authorized Signer. The Form of Tender shall not be retyped, and entries shall be made directly on the form provided by Metrolinx.

Tender Number: IT-2017-EC-010

Tender Description: Environmental Assessment Consulting Services for the Proposed Expansion at the Lincolnville Layover Site

6.1 Proponent Submission Checklist

The following checklist provides the Proponent with a consolidated listing of the requirements for the Submission. Proponents should review the checklist prior to Submission to ensure compliance.

Requirement	Confirmation (left click with your mouse in the box to select)
The Submission has been remitted by the E-Bid Authorized Signer.	<input type="checkbox"/>
Contact information for the individual responsible for the Submission has been included in the Form of Tender.	<input type="checkbox"/>
The Proponent understands the requirements for Electronic Bid Submission and will comply with this Submission requirement.	<input type="checkbox"/>
The Proponent's Technical Submission has been prepared in accordance with the Instructions to Proponents (i.e. mandatory formats, templates and requirements) as outlined in the Tender Documents.	<input type="checkbox"/>
The Proponent provided the Key Personnel that were prequalified as part of the Prequalification or were otherwise replaced with consent of Metrolinx and completed Schedule B accordingly.	<input type="checkbox"/>
The Proponent's Price Submission has been completed in full and has been included as a separate attachment in the Submission.	<input type="checkbox"/>
The Proponent has read through all the Tender Documents including any Addenda that have been issued and these have all been considered in the Proponent's Submission.	<input type="checkbox"/>
The Proponent has reviewed the mandatory criteria and acknowledges that it meets all mandatory requirements in order for their Submission to be considered further.	<input type="checkbox"/>
The Proponent has reviewed the IT Timetable and understands all the dates and timelines associated with the IT Process.	<input type="checkbox"/>
The Proponent has not included any qualifying statements in its Submission.	<input type="checkbox"/>

Requirement	Confirmation (left click with your mouse in the box to select)
If a Joint Venture, attach a copy of the Joint Venture agreement electing the Participant-in-Charge. (Only required if there has been a change in the Joint Venture arrangements since the Prequalification as set out in Section 3.15 of Instructions to Proponents)	<input type="checkbox"/>

6.2 Contact Information

- 6.2.1 Proponent's registered legal business name (or individual) and any other name under which it carries on business:

[Click here to enter text.](#)

- (a) If a Joint Venture, enter the registered legal business name of the Participant-in-Charge:

[Click here to enter text.](#)

- (b) If a Joint Venture, enter the registered legal business name of the other Joint Venture members:

[Click here to enter text.](#)

- 6.2.2 Proponent's (if Joint Venture, insert Participant-in-Charge information) address, telephone and facsimile numbers:

[Click here to enter text.](#)

- 6.2.3 Name, title, address, telephone, e-mail and facsimile numbers of the contact person(s) for the Proponent (if a Joint Venture, insert Participant-in-Charge information)

[Click here to enter text.](#)

- 6.2.4 Name of the person who is primarily responsible for the Submission:

[Click here to enter text.](#)

6.3

Proponent Acknowledgments

- 6.3.1 In consideration of the mutual premises and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Proponent hereby offers to Metrolinx to furnish all necessary labour, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities necessary to perform the following services: Consulting Services for The Project Planning (Feasibility Study) and Environmental Assessment (TPAP) for The Lincolntonville

Layover Facility as set out in The Consultant's Scope Of Services, attached as APPENDIX "B".

- 6.3.2 The Proponent hereby undertakes to perform the Services in strict accordance with the full intent of the terms, conditions and requirements set forth in the following documents which form the Tender Documents:

ANY ADDENDA ISSUED HERETO
INSTRUCTIONS TO PROPONENTS
TENDER SUBMISSION REQUIREMENTS
TENDER EVALUATION AND SELECTION PROCESS
FORM OF TENDER
ATTACHMENT #1 – CONTRACT PRICES
APPENDIX "A" - GENERAL CONDITIONS
APPENDIX "B" - CONSULTANT'S SCOPE OF SERVICES
APPENDIX "C" - METROLINX'S SERVICES
APPENDIX "D" - DOCUMENTS

- 6.3.3 The Proponent acknowledges receipt of any and all Addenda issued hereto and that their Submission has been developed in consideration of the Addenda.
- 6.3.4 The Proponent's Submission is hereby submitted on the full understanding that it is an irrevocable offer by the Proponent for a period of one hundred and twenty (120) calendar days from the Closing. The Proponent hereby covenants that it shall perform and execute the Services, in accordance with the Contract Prices quoted herein if it is notified in writing by Metrolinx within the one hundred and twenty (120) calendar day period that it is the successful Proponent.
- 6.3.5 The Proponent acknowledges that it meets all mandatory requirements in order for their Submission to be considered further. Failure of a Proponent to meet all of the mandatory requirements shall result in the Proponent's Submission to be deemed non-compliant and shall not be considered further.
- 6.3.6 The Proponent acknowledges that their Submission should be in the correct format using the appropriate Tender Document Forms and instructions as provided herein. Failure to comply may result in the Proponent being found non-responsive and disqualified at the sole discretion of Metrolinx.
- 6.3.7 The Proponent acknowledges that by way of the E-Bid Authorized Signer remitting a Submission, the Proponent is agreeing to be bound to each and every term, condition, article and obligation of the Tender Document and any resultant Contract.
- 6.3.8 The Proponent acknowledges that consistent with Section 3.1.9 of Instructions to PropONENTS, failure by the Proponent, whose Submission was accepted by Metrolinx, to execute and deliver the Contract with the required Insurance Certificates and Workplace Safety and Insurance Clearance Certificate shall result in the cancellation of the Contract award.

6.4 Requirements

- 6.4.1 The Proponent shall provide labour, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities necessary to provide consulting services for the completion of Project Planning (Feasibility Study) and, Environmental Assessment (TPAP) onal) for the Lincolnville Layover

Facility in accordance with the Consultant’s Scope of Services, attached as APPENDIX “B” (the “Services”).

6.4.2 The Services are to be provided to the satisfaction of the Jason Ryan, Director, Environmental Programs and Assessments unless otherwise specified.

6.5 Consultant Personnel (Schedule B Template)

The Consultant Personnel roles shall be filled using Schedule B Template in accordance with the Contract Documents and in accordance with the requirements in respect of qualifications, experience and minimum years of experience as contained in Schedule B – Consultant Personnel of Appendix “A” - General Conditions.

6.6 Conflict of Interest

6.6.1 If the box below is left blank, the Proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its Submission; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the Tender Document.

Otherwise, if the statement below applies, check (“X”) the box.

- (a) The Proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its Submission, and/or the Proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the Tender Document.
- (b) If the Proponent declares an actual or potential Conflict of Interest by marking the box above, the Proponent must set out below details of the actual or potential Conflict of Interest:

6.6.2 The following individuals, as employees, advisers, or in any other capacity;

- (a) participated in the preparation of our Submission (whether as employees, advisers, or in any other capacity); and
- (b) were employees, advisors or consultants of Metrolinx at any time within the twelve (12) months prior to the Closing:

Name of Individual: Click here to enter text.
Job Classification: Click here to enter text.
Department: Click here to enter text.
Last Date of Employment with Metrolinx: Click here to enter text.
Name of Last Supervisor: Click here to enter text.
Brief Description of Individual’s Job Functions: Click here to enter text.

Brief Description of Nature of Individual's Participation in the Preparation of the Submission: [Click here to enter text.](#)

6.6.3 (Repeat above for each identified individual)

The Proponent agrees that, upon request, the Proponent shall provide Metrolinx with additional information from each individual identified above in the form prescribed by Metrolinx.

6.7 **Harmonized Sales Tax**

In accordance with Section 11.1(k) of Appendix "A" – General Conditions, the Consultant represents, warrants and covenants to Metrolinx that the Consultant is and shall remain duly registered for the purposes of Part IX of the Excise Tax Act and that the Consultant's registration number is: [Click here to enter text.](#)

A non-resident Proponent unable to provide a H.S.T. Registration Number at the time of Submission shall be required to provide a H.S.T. Registration Number within five (5) Business Days of acceptance of its Submission by Metrolinx. Failure to comply with this requirement may result in the Contract being declared VOID.

6.8 **Project Schedule**

Milestone	Date
a. Project Award	August 4, 2017
b. Phase One: Project Planning (Feasibility Study)	
i. Commencement of Feasibility Study	August 7, 2017
ii. Completion of Feasibility Study	September 29, 2017
c. Phase Two: Environmental Assessment (TPAP)	
i. Commencement of Project Planning	August 7, 2017
ii. Notice of Commencement & EPR 90% Completion	November 8, 2017
iii. Notice of Completion & Final EPR	February 9, 2018
iv. Statement of Completion	April 27, 2018

7.0 Attachment # 1 – Contract Prices

7.1 Contract Prices

- 7.1.1 The Contract Prices (“Rates”) are hereby submitted on the full understanding that they form part of the Consultant’s Submission and as such constitute an irrevocable offer by the Consultant for a period of one hundred and twenty (120) calendar days from the Closing and the Consultant hereby covenants that it shall perform and execute the Services in accordance with the Rates quoted herein if it is notified, in writing, by Metrolinx within one hundred and twenty (120) calendar days that it is the successful Consultant.
- 7.1.2 Payment for services rendered and goods supplied in accordance with the terms and conditions of the Contract shall be based on the following:
- (a) The Rates quoted shall be all inclusive costs associated with performance of the Services defined in the Consultant’s Scope of Services attached as Appendix “B”.
 - (b) Cash Allowances shall be used and expended solely for purposes specified and at the sole discretion of Metrolinx. The Consultant cannot proceed with any work to be paid for under Cash Allowance without the written approval of Metrolinx.
 - (c) The Rates quoted shall include all costs related to the Services including, but not limited to, Key Personnel, other technical positions, administrative positions, any Subconsultants and specialized service providers required to complete the Services, any and all disbursements, travel, mileage, supervision, equipment, tools, supplies, General Requirements (as per Appendix “B”) and Management of the Services (as per Appendix “B”) as required in this Tender Document.

7.2 Completion of Pricing Schedules

- 7.2.1 Proponents shall fully complete the Excel file entitled Attachment # 1 – Contract Prices and insert a Unit Price into each space provided under the Contract Unit Price column.
- 7.2.2 Attachment #1 – Contract Prices, must be returned as a separate file preferably in Excel format and may not be retyped or recreated. Failure to follow the submission instructions or format requirements may result in the Submission being found non-responsive and disqualified.
- 7.2.3 It is Metrolinx preference that Proponents submit the pricing using the appended Excel file format to facilitate the Metrolinx pricing evaluation process.
- 7.2.4 The Attachment #1 – Contract Prices is numbered, under the “Item No.” column to correspond with the following Stages Steps and Tasks of the Services:
- (a) Phase 1 – Project Planning (Feasibility Study)
 - (b) Phase 2 - Environmental Assessment (TPAP)

- 7.2.5 If a "0" is entered in any of the spaces where price information is to be provided, it shall be interpreted as meaning the Contractor shall provide the specified service to Metrolinx at no charge.
- 7.2.6 If any space is left blank or an entry of "N/C" or "N/A" or "—" is entered where price information should be entered then the Submission may be found non-responsive and disqualified consistent with the provisions of the Instructions to Proponents.

Appendix "A" – General Conditions

List of Contents

The following documents hereby form part of and are appended to this Tender Document as Appendix "A" – General Conditions.

Description	Respective Sections
Appendix "A" – General Conditions	Section 1 to Section 18.15
Schedule A – Definitions	"A" to "V"
Schedule B – Consultant Personnel	Section 1 to Section 2
Schedule C – Financial Terms	Section 1 to Section 17
Schedule D – Insurance	Section 1 to Section 1.8
Schedule E – Dispute Resolution	Section 1 to Section 6(k)

General Conditions

1. INTERPRETATION

1.1 Definitions

Capitalized terms used in this Contract shall have the respective meanings ascribed thereto in Schedule A – Definitions.

1.2 Time of the Essence

Time is of the essence in the performance of a Party's respective obligations under this Contract.

1.3 Currency

All prices and sums of money and all payments made under this Contract shall be in Canadian dollars.

1.4 Units of Measure

All dimensions, quantities, performance specifications, calibrations and other quantitative elements used in this Contract shall be expressed in the International System of Units (SI), except where otherwise indicated.

1.5 Language

All communication between Metrolinx and the Consultant and between the Consultant and each of the Subconsultants with regard to the Services shall be in the English language.

1.6 References

- (a) Each reference to a statute in this Contract is deemed to be a reference to that statute and to the regulations made under that statute, all as amended or re-enacted from time to time. Following any and all changes to Applicable Laws, the Consultant shall perform the Services in accordance with the terms of this Contract, including in compliance with Applicable Laws.
- (b) Each reference, whether express or implied, to a Standard of any technical organization or Governmental Authority is deemed to be a reference, to that Standard as amended, supplemented, restated, substituted or replaced.
- (c) Subject to any express definitions contained in this Contract, words and abbreviations which have well known technical or trade meanings are used in this Contract in accordance with such recognized meanings.
- (d) Where used in this Contract, "including" means including without limitation, and the terms "include", "includes", and "included" have similar meanings.
- (e) Each reference to an Article or Section within the Contract or Schedules shall refer to that Article or Section number in the Contract or the Schedule in which the reference occurs unless otherwise specified.

- (f) The division of this Contract into Articles and Sections, the insertion of headings, and the provision of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Contract.

1.7 Time

- (a) Unless otherwise specified, references to time of day or date mean the local time or date in Toronto, Ontario. When any period of time is referred to in this Contract by days between two dates, it will be calculated by excluding the first and including the last day of such period.
- (b) If, under this Contract, any payment or other event falls due on or as of a day that is not a Business Day, that payment or other event shall fall due instead on the next day that is a Business Day, unless expressly stated otherwise.
- (c) Unless otherwise specified, references to "day" shall mean calendar day.

1.8 Schedules

The following Schedules attached to this Contract shall constitute an integral part of this Contract and all expressions defined in this Contract shall have the same meanings in such Schedules:

Schedule A -	Definitions
Schedule B -	Consultant Personnel
Schedule C -	Financial Terms
Schedule D -	Insurance
Schedule E -	Dispute Resolution

2. PERFORMANCE

2.1 Term of the Contract

This Contract shall take effect on the Effective Date hereof and shall continue in full force and effect until the earlier of: (i) Contract Closeout; or (ii) the date that this Contract is terminated in accordance with its terms (the "Term").

2.2 Performance of the Services

- (a) The Consultant shall carry out and complete those services set forth in Appendix "B" – Consultant's Scope of Services (the "**Services**") to the satisfaction of Metrolinx in accordance with all the terms of this Contract.
- (b) The Consultant shall supply the Services diligently and continuously in accordance with the scheduling requirements set out in the Project Schedule. Without limiting the generality of the foregoing, the Consultant shall perform the Services so as to enable Metrolinx to meet any timelines imposed on it under any Third Party Contracts, provided that such timelines have been identified in the Project Schedule or otherwise expressly communicated to the Consultant.

- (c) The Consultant acknowledges and agrees that each of the Consultant's Personnel shall be available to perform the Services in accordance with the required duration specified in Schedule B – Consultant Personnel. The Consultant further acknowledges and agrees that Metrolinx may, acting in its sole discretion, change the schedule including in respect of the timing of the provision of the Services and availability and number of the Consultant's Personnel. Without limiting the generality of the foregoing, Metrolinx may from time to time, on prior written notice to the Consultant twenty (20) Business Days', unilaterally extend or reduce the required duration with respect to the availability of any of the Consultant's Personnel or direct the Consultant to increase the number of Consultant's Personnel available. Metrolinx and the Consultant shall meet on a quarterly basis to discuss the progress of the Services and the anticipated scheduling needs with respect to the Consultant's Personnel.
- (d) Metrolinx may, from time to time, in its sole discretion, but is not required to, direct the Consultant to cause specific Consultant Personnel to perform certain tasks or activities that form part of the Services in accordance with the scheduling requirements provided by Metrolinx. Any such instructions shall be provided by Metrolinx in writing to the Consultant no less than five (5) Business Days before the specified tasks or activities are required to be performed by the Consultant Personnel.
- (e) The Consultant shall provide, at the sole cost and expense of the Consultant, save as otherwise provided in this Contract, all necessary equipment, goods, materials, analysis, transportation, accommodation, labour, staff and technical assistance and incidentals required in performing the Services and to undertake, perform and complete its undertakings, obligations and responsibilities provided for in this Contract.
- (f) The Services shall be provided in a professional, timely and economical manner according to the Required Standard of Care. Without limitation, the Consultant shall ensure that the Services are conducted in a manner that will maintain good relations with the general public and property owners.
- (g) The Consultant shall comply with and conform to all Applicable Laws, applicable to the Services to be provided by, and the responsibilities and obligations of, the Consultant under this Contract.
- (h) The Consultant shall not alter any part of a Joint Venture except with the prior written consent of Metrolinx in its sole discretion.

2.3 Subconsultants

- (a) No subconsulting by the Consultant shall relieve the Consultant of any responsibility for the full performance of all obligations of the Consultant under this Contract. Notwithstanding the approval of any Subconsultants by Metrolinx, the Consultant shall be fully responsible for every Subconsultant's activities, works, services and acts or omissions.
- (b) The Consultant shall be solely responsible for the payment of any Subconsultants.
- (c) The Consultant shall co-ordinate the services of all Subconsultants employed, engaged or retained by the Consultant with Metrolinx and, without limiting the generality of any other provision of this Contract, the Consultant shall be liable to

Metrolinx for costs or damages arising from errors or omissions of such Subconsultants or any of them. It shall be the Consultant's responsibility to control and review the Services of its own forces and of all its Subconsultants and to ascertain that all Services are performed in accordance with this Contract, all governing regulations and the Required Standard of Care.

- (d) The Consultant warrants and represents that it and any of its permitted Subconsultants and the respective workforce of each are fully qualified to perform the Services and perform this Contract and hold all requisite licenses, rights and other authorizations required by Applicable Laws.
- (e) The Consultant shall only employ, for the purposes of this Contract, such persons as are careful, skilled and experienced in the duties required of them and have the required Domain Expertise, and must ensure that every such person is properly and sufficiently trained and instructed. The Consultant shall ensure that all workers and persons employed by them or under their control or employed by or under the control of its Subconsultants comply with the terms of this Contract and, in particular without limiting the foregoing, the responsibilities of the Consultant with respect to matters concerning safety, compliance with the Applicable Laws and the conduct of the Services.
- (f) The Consultant shall be an independent contractor with respect to the Services to be provided under this Contract and nothing contained in this Contract shall be construed as constituting a joint venture or partnership between the Consultant and Metrolinx. Neither the Consultant nor its Subconsultants shall be deemed to be employees, agents, servants or representatives of Metrolinx in the performance of the Services hereunder.
- (g) The Consultant shall not remove or change any Subconsultants, or materially reduce the responsibilities of any Subconsultants in relation to the provision of the Services except with the prior written consent of Metrolinx in its sole discretion. Metrolinx may, at any time, request the removal or or change in any Subconsultants, acting reasonably. The proposed replacement Subconsultant shall possess the requisite Domain Expertise and similar qualifications, experience and ability as the outgoing Subconsultant.

2.4 Consultant Personnel

- (a) The Consultant shall select and employ a sufficient number of suitably qualified and experienced Consultant Personnel to perform and provide the Services, as determined with reference to the requirements of the Services to be performed by each individual or otherwise as required pursuant to the Contract. All Consultant Personnel shall possess or, where permitted, shall be supervised by persons who possess, the professional accreditation required to complete the services.
- (b) The Consultant shall provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the Contract.
- (c) The Consultant shall ensure that the Consultant Personnel assigned to perform the Services shall:
 - (i) act in a proper and professional manner in accordance with the standards generally used recognized by the industry; and

- (ii) comply with all applicable Metrolinx policies and procedures, provided that Consultant has been made aware of same.

2.5 Third Party Work

- (a) The Consultant shall reasonably cooperate with Metrolinx and any Third Party and shall co-ordinate the Services with any and all Third Party Work. Without limiting the generality of the foregoing, the Consultant shall not alter, unreasonably interfere with or make it difficult to access any Third Party Work, except with the express written consent of Metrolinx.
- (b) The Consultant shall make best efforts to coordinate with Metrolinx and all applicable Third Parties in order to minimize:
 - (i) any delays to or interference with any Third Party Work within the rail corridors;
 - (ii) costs resulting from any delays to or interference with Third Party Work; and
 - (iii) impacts on the operations of, or use of the rail corridors by, Third Party Operators, including any delays to rail passenger or freight service on the rail corridors.
- (c) When and as directed by Metrolinx, the Consultant shall participate with Metrolinx employees and any applicable Third Parties in reviewing their respective schedules and cause designated Consultant Personnel to attend such meetings with Third Parties as may be reasonably requested by Metrolinx from time to time.
- (d) In the event that the proper performance of any part of the Services depends upon Third Party Work, the Consultant shall promptly inspect such Third Party Work and provide written notice to Metrolinx of any delays or defects in such Third Party Work that render such Third Party Work unavailable or unsuitable for integration with the Services.
- (e) Claims, disputes and other matters in question between the Consultant and Third Parties shall be dealt with in accordance with Schedule E – Dispute Resolution, provided that the Third Party has reciprocal obligations. The Consultant and Metrolinx shall be deemed to have consented to arbitration of any dispute with any Third Party whose contract with Metrolinx contains a similar dispute resolution provision that includes an agreement to submit to binding arbitration, provided that Metrolinx, at its sole and absolute discretion, shall be entitled to refuse to include any dispute with a Third Party from this Contract.

2.6 Non-Interference with Operations

- (a) The Consultant understands and agrees that:
 - (i) Metrolinx and Third Party Operators are in the business of moving large volumes of passengers and cargo through rail corridors safely, expeditiously and according to a fixed timetable;

- (ii) the success of the businesses of Metrolinx and Third Party Operators depends on meeting the above objectives on a daily basis;
 - (iii) Metrolinx has contractual and statutory obligations to ensure the safety of all persons on the rail corridors and the property and facilities adjacent thereto; and
 - (iv) Third Party Operators operating in and through the rail corridors and Third Party Contractors working in the rail corridors have similar restrictions and requirements.
- (b) Notwithstanding any other term or condition set out in this Contract, the safety and non-disruption of all Third Parties operating in the rail corridors is of paramount importance. Consequently, the Consultant acknowledges and agrees that the safety of all trains, passengers, operating and maintenance personnel, goods and other transported cargos, as well as the Consultant Personnel and the public in general will take precedence over all actions or non-actions of the Consultant, whether mandated or not by any other terms and conditions of this Contract.
- (c) The Consultant shall not disrupt the movement of any rail traffic in or through the rail corridors of either Metrolinx or the Third Party Operators except where it has obtained the prior written consent of Metrolinx to such disruption (which consent may be withheld in the sole discretion of Metrolinx).

2.7 Key Personnel

- (a) Schedule B – Consultant Personnel sets out the names and titles of the Consultant Personnel who will be involved in a material way in, and who are critical to, the performance of the Services (the “**Key Personnel**”). All Key Personnel will possess the requisite Domain Expertise.
- (b) The Consultant shall not, for the duration of the Term, require or request any Key Personnel to be involved in any other project on behalf of the Consultant or any Subconsultant if, in the opinion of Metrolinx acting reasonably, such involvement would have a material adverse effect on the Services. The Consultant will not remove any Key Personnel from the provision of the Services, or materially reduce the responsibilities of any Key Personnel in relation to the provision of the Services except with the prior written consent of Metrolinx (which consent shall not be unreasonably withheld).
- (c) Notwithstanding Section 2.7(a) but subject to Section 2.7(d), if at any time the Consultant, for reasons beyond its reasonable control, is unable to provide the services of any Key Personnel, the Consultant shall provide a replacement person who possesses similar qualifications, experience and ability and possesses the requisite Domain Expertise; provided, however, that the Consultant shall first provide written notice to Metrolinx of the requirement to replace or substitute that person. For the purposes of this clause, only the following reasons will be considered beyond the reasonable control of the Consultant; death; sickness; maternity and parental leave; compassionate care leave; retirement; resignation; dismissal for cause; or termination of an agreement for default. The notice shall identify: the person being replaced; their role and responsibility in the performance of the Services; the reason why it is necessary to replace that person; and the replacement person’s name, *curriculum vitae* in the form set out in Schedule B - Consultant Personnel; and

the replacement person's available start date. Metrolinx in its sole and absolute discretion may choose to interview the proposed replacement person in Toronto. The nominated replacement person must be acceptable to Metrolinx. If the replacement person is acceptable to Metrolinx, Metrolinx shall give the Consultant written permission to make the replacement or substitution. In the event the nominated person is not acceptable to Metrolinx, acting reasonably, Metrolinx shall inform the Consultant in writing why that person is not acceptable and the Consultant shall nominate an alternate person pursuant to the process identified in this Section 2.7(c).

- (d) If Metrolinx determines in its sole discretion that it is in the best interests of Metrolinx that any Key Personnel be replaced, either permanently or temporarily, Metrolinx shall notify the Consultant, and, within thirty (30) days of receipt by the Consultant of such notice, the Consultant shall provide Metrolinx with relevant information on the proposed replacement, including the replacement person's name, rates, and *curriculum vitae* in the form set out in Schedule B – Consultant Personnel and the replacement person's available start date. Metrolinx in its sole and absolute discretion may choose to interview the proposed replacement person in Toronto. If the replacement person is acceptable to Metrolinx, Metrolinx shall give the Consultant written permission to make the replacement or substitution. In the event the nominated person is not acceptable to Metrolinx, acting reasonably, Metrolinx shall inform the Consultant in writing why that person is not acceptable and the Consultant shall nominate an alternate person pursuant to the process identified in Section 2.7(d). The Rates for the proposed replacement shall not exceed the approved Rate of the person being replaced.

2.8 Consultant's Representative

The Consultant shall assign a Consultant's Representative who will direct the provision of the Services. During the Term, the Consultant's Representative will maintain ongoing contact with Metrolinx to ensure that issues are dealt with in an efficient, effective and timely manner. The Consultant's Representative shall be the primary point of contact for Metrolinx for significant issues including commercial issues and Disputes and shall have overall responsibility for coordinating the performance of the Consultant's obligations under this Contract.

2.9 Metrolinx Responsibilities

- (a) Metrolinx shall:
- (i) designate an individual to act as its representative (the "**Metrolinx Representative**") who will transmit instructions to, and receive information from the Consultant;
 - (ii) provide access to and where necessary, make available copies of existing plans, reports, studies, information and correspondence relevant to the Services;
 - (iii) use commercially reasonable efforts to ensure that all agreements between Metrolinx and external agencies relevant to the Consultant's provision of the Services are executed in a timely manner;

- (iv) provide the Consultant with contact names of the individual(s) who will be representing the railways, regions, municipalities, government agencies or other jurisdictional bodies; and
- (v) arrange for necessary services from the applicable railways such as design approvals, inspection and flagging. Notwithstanding the foregoing, the Consultant shall be responsible for any costs or cancellation fees associated with such flagging services, if such scheduled flagging services are canceled by the Consultant with less than 72 hours' notice ahead of the scheduled time.

2.10 French Language Services

- (a) Insofar as this Contract relates to the provision of services directly to the public on behalf of Metrolinx, the French Language Services Act shall be applicable to the performance of the Services. A service for the purposes of the French Language Services Act refers to any service or procedure provided to the public. Services being provided in French must be equivalent to those offered in English, and must be available within the same timeframe and of the same quality.
- (b) The Consultant shall provide and perform the Services in a manner so as to comply with the requirements set out in the French Language Services Act.
- (c) Without limitation, services and communications which must be provided in French in French Designated Areas may include:
 - (i) Consultations/Public Meetings: Presentation materials, displays, comments cards/feedback mechanism or other materials. Consultant must have at least one bilingual staff or interpreter on hand able to answer questions and discuss technical drawings/documents in French. As applicable, the Consultant shall compile and analyze the views of Francophones separately, as they may have different concerns.
 - (ii) Signage: Construction contracts may from time to time involve erecting temporary signage to redirect or warn the public of hazards. Such signage shall be bilingual.
 - (iii) Communications: Communication plans, customer impact documents, information bulletins, notices of service disruption and public relations information.

2.11 Task Release Process for Services

- (a) Upon request of the Metrolinx Representative, the Consultant shall prepare a work plan (the "**Task Plan**"), clearly defining the work required by a specified Service (the "**Task**"), and setting out the following:
 - (i) description of the work required by the Task, and Task deliverables;
 - (ii) projected milestones and schedule for completion of the Task;
 - (iii) resources required for the completion of the Task;
 - (iv) calculation of fees;

- (v) proposed list of consultant personnel for the Task; and
 - (vi) any other information or documents as required by the Metrolinx Representative.
- (b) The Consultant shall not proceed with the Task unless approved pursuant to Section 2.11(a) in the form of a "**Task Release**" and only to the upset limit or fixed price as indicated therein notwithstanding the total upset limit price established by the Contract.
 - (c) The Consultant shall proceed with the Task and the fee will be established for each Task as agreed upon by the Parties using the rates identified in the Articles of Agreement.
 - (d) The upset limit or fixed fee for each Task shall be in Canadian funds, not subject to adjustment unless agreed otherwise in writing, and shall be inclusive of all applicable costs.
 - (e) Prior to finalizing each Task Plan, Metrolinx and the Consultant will establish either an upset limit on the fee if the Task is to be completed on a Time and Expense basis or a Fixed Fee basis:
 - (i) Time and Expense: The fee shall be calculated on the basis of the work actually performed for a Task based on the rates provided by the Consultant for Consultant Personnel.
 - (ii) Fixed Price: The fee shall be calculated for the completion of a Task based on the rates provided by the Consultant for Consultant Personnel. The Consultant shall submit an itemized cost breakdown of the various parts of the Task with its work plan, which together shall aggregate the total price for that Task.
 - (f) Metrolinx reserves the right to withhold payment for any Services performed by the Consultant or its Subconsultants prior to the issuance of an authorized Task Release or outside the scope of a Task Plan approved by a Task Release.

2.12 Consultant Work Performance Rating

- (a) Metrolinx shall during the term of a Contract, maintain a record of the Consultant's performance pursuant to this Contract. This information shall be used to complete a "**Contract Performance Appraisal**" report, a copy of which will be forwarded to the Consultant upon Contract Closeout. Interim Contract Performance Appraisal reports may be issued, as deemed appropriate by the Metrolinx Representative, at any time during the term of the Contract.
- (b) The overall history of the Consultant in performing work for Metrolinx, including the Consultant's performance pursuant to this Contract, will be considered in the evaluation of future bids from the Consultant.
- (c) Metrolinx reserves the right in future bid requests to reject any bid submitted by a company with an unsatisfactory performance history with Metrolinx.
- (d) Non-compliance with Contract requirements will be identified to the Consultant.

- (e) The information contained in the Contract Performance Appraisal may be provided to other ministries and agencies and such performance reviews may be relied upon by other ministries and agencies to reject a company any bid submitted on any further requests.

3. HEALTH AND SAFETY

3.1 Occupational Health & Safety Act ("OHSA")

- (a) The Consultant shall comply with OHSA, and any obligations of the Consultant as an "employer" thereunder, and with all regulations made under the OHSA.
- (b) The Consultant shall report to Metrolinx any non-compliance by a Subconsultant in the performance of the Services with the regulations under the OHSA if and when brought to the attention of the Consultant.
- (c) The Consultant acknowledges that lack of compliance with applicable provincial or municipal health and safety requirements will be and are intended to be documented and kept on file, and that such lack of compliance may cause:
 - (i) the Consultant's performance of the Services to be suspended; or
 - (ii) this Contract to be cancelled by Metrolinx.
- (d) The Consultant will be under an obligation to cease the Services, or any part thereof, if an authorized representative of Metrolinx so requires orally or in writing on the grounds that there has been any violation of the OHSA or any of the regulations under it, and thereafter the Services or affected part thereof shall not resume until any such violation has been rectified.
- (e) The Consultant shall be responsible for any delay caused by the Consultant in the progress of the Services as a result of any violation of provincial or municipal health and safety requirements by the Consultant, it being understood that such delay shall be not be a Force Majeure for the purposes of extending the time for performance of the Services or entitling the Consultant to additional compensation, and the Consultant shall take all necessary steps to avoid delay in the final completion of the Services without additional cost to Metrolinx, which shall not be responsible for any additional expense or liability resulting from any such delay.
- (f) Nothing in this Section 3.1 shall be taken as making Metrolinx the "employer" (as described in Section 3.1(a)) of any workers employed or engaged by the Consultant for the Services, either instead of or jointly with the Consultant.

3.2 Safety Requirements

- (a) Safety of Persons at or near the Place of Work and the public is of paramount concern to Metrolinx. In the performance of the Services, the Consultant shall not in any manner endanger the safety of, or unlawfully interfere with, Persons on or off the Place of Work, including the public.
- (b) The Consultant specifically covenants and agrees that:

- (i) it shall comply with best industry practice respecting health and safety in a manner that recognizes and minimizes the risk to workers, other individuals, property and the operations of Metrolinx and any railways, to the extent that such practices are not inconsistent with an express instruction set out in this Contract or provided by Metrolinx;
- (ii) it shall comply, and shall ensure that all Consultant Personnel comply, in all regards with the requirements of OHSA and/or the *Canadian Labour Code*, Part II, as applicable;
- (iii) it shall comply, and shall ensure that all Consultant Personnel comply, in all regards with the safety requirements set out in the Contract Documents;
- (iv) it shall maintain, strictly enforce and comply, and ensure that all Consultant Personnel comply, in all regards with the Consultant's own health and safety program, to the extent not inconsistent with this Contract and Metrolinx' health and safety program;
- (v) it shall comply, and shall ensure that all Consultant Personnel comply, with any and all safety-related directives or instructions issued by Metrolinx;
- (vi) it shall take all steps reasonable in the circumstances to ensure the health and safety of all workers for which it has responsibility under OHSA; and
- (vii) it shall make available, at Metrolinx' request, such policies and procedures relating to its occupational health and safety matters as Metrolinx may from time to time request, and hereby covenants that all Consultant Personnel have been properly trained and are knowledgeable with respect to these policies and procedures.

3.3 Railway Safety

- (a) If applicable, the Consultant acknowledges and agrees that:
 - (i) access to the rail corridors by the Consultant and any Consultant Personnel, shall at all times be subject to the direction of Metrolinx and/or the Maintenance Provider as to rail safety matters and any applicable railway operating rules; and
 - (ii) any and all questions, matters or disputes which may arise affecting the safety of railway operations or the maintenance of the railways shall be referred to Metrolinx which shall in its discretion decide all such questions, matters and disputes.
- (b) The Consultant shall perform the Services, and shall ensure that all Consultant Personnel perform the Services, in accordance with the Canadian Rail Operating Rules from time to time approved by the Minister of Transport under the authority of the *Railway Safety Act* (Canada), the Standards, and all other applicable Transport Canada guidelines, railway standards, and practices.
- (c) In the event that the Services are the subject of an audit or inspection by any Governmental Authority, the Consultant shall at its own expense:

- (i) provide notice of such audit or inspection to Metrolinx;
- (ii) make available or cause to be made available such reasonable information and material as may be required and shall otherwise reasonably cooperate with Transport Canada officials;
- (iii) provide Metrolinx with a copy of any audit or inspection report or
- (iv) other results or recommendations issued by Transport Canada, as soon as practicable but in any event within five (5) Business Days of receipt thereof by the Consultant; and
- (v) take all steps necessary to rectify, in consultation with and as directed by Metrolinx, any issues identified by Transport Canada.

3.4 Workers' Rights

The Consultant shall at all times pay or cause to be paid any assessments or compensation required to be paid by the Consultant or its Subconsultants pursuant to any applicable workers' compensation legislation, and upon failure to do so, Metrolinx may pay such assessments or compensation to the Workplace Safety and Insurance Board and may deduct such assessments or compensation from monies due to the Consultant. The Consultant shall comply with all regulations and laws relating to workers' compensation.

4. FINANCIAL TERMS

4.1 Financial Terms

All financial and payment terms applicable to this Contract and the Services are set out in Schedule C – Financial Terms.

5. CONSTRUCTION LIEN ACT

5.1 Not Applicable.

6. RIGHT OF OWNERSHIP AND USE

6.1 Ownership of Metrolinx IP

- (a) Unless otherwise expressly agreed, Metrolinx is and will be the exclusive owner of, and shall retain all right, title and interest (including Intellectual Property Rights) in and to all of the following Intellectual Property (collectively, the "**Metrolinx IP**"):
 - (i) all Metrolinx Materials;
 - (ii) all Deliverables;
 - (iii) all reports and other information created, generated, output or displayed by the Deliverables or as a result of the performance of receipt of the Services; and

- (iv) all modifications or enhancements made to the items listed in Sections 6.1(a)(i) to (iii) hereof.
- (b) All right, title and interest, including all Intellectual Property Rights, in Metrolinx IP will vest in Metrolinx, following creation.
- (c) The Consultant will acquire no rights to any Metrolinx IP other than the licence rights expressly granted in Section 6.3.
- (d) The Consultant:
 - (i) hereby assigns and transfers to Metrolinx; and
 - (ii) agrees (to the extent required in the future) to assign and transfer to Metrolinx, as and when created, all right, title and interest, including Intellectual Property Rights, throughout the world in and to all Metrolinx IP (to the extent any right, title, interest or Intellectual Property Right in Metrolinx IP does not automatically and immediately vest in Metrolinx).
- (e) The Consultant shall cause all Consultant Personnel to waive for the benefit of Metrolinx and its respective successors, assigns, licensees and contractors, their respective moral rights (and any similar rights to the extent that such rights exist and may be waived in each and any jurisdiction throughout the world) in and to the Metrolinx IP.

6.2 Ownership of Consultant Background IP

- (a) The Consultant is and will be the exclusive owner of, and shall retain all right, title and interest (including Intellectual Property Rights) in and to all Consultant Background IP.
- (b) Metrolinx will acquire no rights to the Consultant Background IP other than the licence rights expressly granted in Section 6.4, or otherwise under or in respect of this Contract.

6.3 Grant of Licences by Metrolinx to Consultant

- (a) Metrolinx grants to the Consultant, during the Term, a non-exclusive, non-transferable, royalty-free right and licence to:
 - (i) access, use, copy, support, maintain and, to the extent reasonably necessary to provide the Services, modify, the Metrolinx IP solely for the purposes of fulfilling the Consultant's obligations under this Contract;
 - (ii) sublicense the Metrolinx IP to Subconsultants solely to the extent necessary to enable such Subconsultants to fulfill the Consultant's obligations under this Contract.
- (b) Any exercise by the Consultant of the rights granted pursuant to Section 6.3(a) shall be subject to the terms and conditions of this Contract, including always the Consultant's obligations with respect to Confidential Information set out in Article 10.
- (c) If the Consultant desires to use the Metrolinx IP other than as permitted under clause (a) hereof, such use must be set out in a separate license agreement

(such licence to require the approval of Metrolinx, which may be withheld at Metrolinx' discretion).

6.4 Grant of Licences by the Consultant to Metrolinx

- (a) The Consultant grants to Metrolinx a perpetual, irrevocable, fully paid-up, royalty-free, worldwide, non-exclusive right and licence to access, use, copy, support, maintain, modify, sublicense, assign, distribute or otherwise exploit any Consultant Background IP that is integrated with, embedded in, forms part of or is otherwise required to access, use, copy, support, maintain, modify, sublicense, assign, distribute or otherwise exploit any Metrolinx IP; provided, however, that the foregoing licence does not permit Metrolinx to use the Consultant Background IP in its standalone form or for any purpose other than as part of or in conjunction with the Metrolinx IP it is associated with.
- (b) If the Consultant integrates with or embeds in any Deliverables any Intellectual Property provided by a third party vendor, subcontractor, independent contractor, Subconsultant or other person, the Consultant shall obtain for Metrolinx the same license rights for Metrolinx in respect of such Third Party IP as set forth in Section 6.4(a) hereof.

7. INSURANCE

7.1 Insurance Requirements

- (a) The Consultant agrees to purchase and maintain in force, at its own expense and for the duration of this Contract, the policies of insurance set forth in Schedule D – Insurance, which policies will be in a form and with an insurer or insurers acceptable to Metrolinx. A certificate of these policies originally signed by the insurer or an authorized agent of the insurer and copies of the policies must be delivered to Metrolinx prior to the commencement of the Services.

8. CHANGES AND CASH ALLOWANCES

8.1 Changes Requested by Metrolinx

Metrolinx may, in writing, request changes or alterations to the Services, or request additional services from the Consultant (any of the foregoing, "Changes"). Subject to this Article 8, the Consultant shall comply with and implement all reasonable Metrolinx Change requests, and the performance of such requests shall be in accordance with this Contract.

8.2 Changes Recommended by the Consultant

The Consultant shall promptly notify Metrolinx in writing if the Consultant considers that any notice, direction, requirement, request, correspondence, or other fact, event, or circumstance comprises, requires, or results in a Change, and seek instructions as to whether or not to proceed to implement such Change.

8.3 Change Management Process

- (a) Where a Change request is initiated by Metrolinx pursuant to Section 8.1, Metrolinx shall set out, in the Change request:

- (i) the proposed prices for the contemplated changes;
 - (ii) the timing requirements for the implementation of the Change; and
 - (iii) any other information which may reasonably be required.
- (b) The Consultant shall respond to Metrolinx' Change request in writing within ten (10) Business Days.
- (c) Where a Change is initiated by the Consultant pursuant to Section 8.2, the Consultant shall set out in the Change request, conforming to Section 8.3(a):
- (i) a description of the proposed Change;
 - (ii) the estimated cost of the proposed Change;
 - (iii) any proposals, designs or other details or information which may be reasonably required; and
 - (iv) the reasons for the proposed Change, including the benefits of the proposed Change and any consequences of not proceeding with the Change.
- (d) No Changes shall be implemented and no Change request shall become effective until an amendment or change order documenting the Change has been executed by both Parties, and such executed instrument shall be the final determination of any adjustments to the Contract price, the Project Schedule, or the terms and conditions of the Contract, as applicable, with respect to the Change set out therein.
- (e) Where Metrolinx and the Consultant cannot agree as to whether or not a particular notice, direction, requirement, request, correspondence, or other fact, event, or circumstance comprises, requires, or results in a change to the scope of the Services, then either Party may refer the issue to dispute resolution in accordance with Article 16.

8.4 Cash Allowance Items and Cash Allowance Release Process

- (a) The Consultant shall include all Cash Allowance Items in the Project Schedule and perform all Services related thereto within the Project Schedule. Where applicable, the Project Schedule shall take into account the time required to facilitate the Cash Allowance Release Process described in this Section, including the time required to obtain Quotations pursuant to Section 14 of Schedule C – Financial Terms.
- (b) Cash Allowance Items shall be administered and authorized as follows (the "Cash Allowance Release Process"):
- (i) The Metrolinx Representative shall submit to the Consultant a request to proceed with a Cash Allowance Item.
 - (ii) Upon receipt of such request from Metrolinx, the Consultant shall, in respect of the identified Cash Allowance Item, provide to Metrolinx a response setting out:

- a. the estimated hours of Services, milestones and expected completion date;
 - b. subject to Section 8.5, the Consultant Personnel including Key Personnel, suppliers, Subconsultants or specialized services providers which the Consultant proposes to perform the Services;
 - c. any requirements for testing and reporting.
- (iii) As and if required, the Parties shall meet to review the requirements for the Cash Allowance Item.
- (c) Subsequent to the review meeting, and based on the results of the review meeting, the Consultant shall make its own determination of the Consultant's work effort and fee cost, using the applicable Rates for Key Personnel, to provide the Consultant's scope of services for the Cash Allowance Item. Metrolinx may require the Consultant to provide certain Key Personnel for the performance of a Cash Allowance Item. No amounts shall be payable in respect of any Cash Allowance Items unless and until Metrolinx has approved such expenditure in writing in a Cash Allowance Release, and shall be subject to Schedule C – Financial Terms.
- (d) Upon approval by Metrolinx of any Cash Allowance Item through a Cash Allowance Release, the Consultant shall be responsible for the completion thereof in accordance with the terms and conditions set out in this Contract. For greater certainty, the Consultant's responsibility for Cash Allowance Items approved by Metrolinx pursuant to this Section are the same as for all other Services.

8.5 Performance of Changes and Cash Allowance Items

- (a) Metrolinx shall determine by whom and for what amounts the items included in each Change or Cash Allowance Item will be performed.
- (b) Metrolinx shall have the right, exercisable at its sole discretion, to require the Consultant to use a third party to perform or provide any Cash Allowance Items or any Services related to a Change. Metrolinx may exercise this right generally, by requiring the Consultant to provide the Services through a third party selected by the Consultant, or by requiring the Consultant to utilize a third party identified by Metrolinx.
- (c) The Consultant shall obtain prior approval of Metrolinx before entering into a subcontract, amending an existing subcontract or performing own forces work included in a Change or Cash Allowance.

9. ADDITIONAL RESOURCES

9.1 Additional Resources

- (a) In addition to, or in connection with, a request for additional or altered services pursuant to Article 8, at any time during the Term, Metrolinx shall have the right in its discretion to require the Consultant to increase the number of Consultant Personnel upon twenty (20) days' notice.

- (b) Unless otherwise agreed to in writing by Metrolinx, such additional Consultant Personnel shall be available to report for work any Place of Work designated by Metrolinx within twenty (20) days of receipt of a written request from Metrolinx pursuant to Section 9.1(a).
- (c) The hourly rate payable in respect of additional Consultant Personnel shall be as set out in the Articles of Agreement.

10. CONFIDENTIAL INFORMATION AND FIPPA

10.1 Restrictions on Use of Confidential Information

The Consultant shall keep all Metrolinx Confidential Information confidential. Without limiting the generality of the foregoing, the Consultant shall:

- (a) not disclose, reveal, publish, or disseminate any Metrolinx Confidential Information to anyone, except as permitted pursuant to this Contract;
- (b) shall use Metrolinx Confidential Information only in connection with this Contract and the performance of the Services;
- (c) shall take all reasonable steps required to prevent any unauthorized reproduction, use, disclosure, publication, or dissemination of the Metrolinx Confidential Information;
- (d) shall not copy, reproduce in any form or store the Metrolinx Confidential Information in a retrieval system or database, without the prior written consent of Metrolinx; and
- (e) shall immediately notify Metrolinx in the event that it becomes aware of any unauthorized disclosure of Metrolinx Confidential Information.

10.2 Permitted Disclosure

Notwithstanding the obligations set out in Section 10.1, the Consultant may disclose Metrolinx' Confidential Information to those of its Subconsultants and Consultant's Personnel who need to know such Confidential Information in connection with this Contract, provided that such Subconsultant or Consultant's Personnel, as applicable, is subject to obligations of confidentiality substantially similar to those contained in this Article 10.

10.3 Exceptions

- (a) The obligations of confidentiality set out in Section 10.1 shall not apply to Metrolinx Confidential Information which:
 - (i) becomes generally available to the public through no fault of the Consultant;
 - (ii) prior to receipt from Metrolinx, was known to the Consultant on a non-confidential basis and is not subject to another obligation of secrecy and non-use, as documented by written records possessed by the Consultant;

- (iii) was independently developed by the Consultant prior to receipt from Metrolinx, as documented by written records possessed by the Consultant; or
 - (iv) becomes available to the Consultant on a non-confidential basis from a source other than Metrolinx that is not under other obligations of confidence.
- (b) If the Consultant becomes compelled to disclose any Metrolinx Confidential Information pursuant to Applicable Law, the Consultant shall provide Metrolinx with prompt written notice of any such requirement and shall cooperate with Metrolinx in seeking to obtain any protective order or other arrangement pursuant to which the confidentiality of the relevant Confidential Information is preserved. If such an order or arrangement is not obtained, the Consultant shall disclose only that portion of the Confidential Information as is required pursuant to Applicable Law. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this Article 10.
- (c) Without limiting the generality of Section 10.3(a) and notwithstanding Section 10.3(b), the Parties acknowledge and agree that the treatment and disclosure of Confidential Information shall in all cases be subject to the requirements of FIPPA.

10.4 Damages

The Consultant acknowledges and agrees that any breach or threatened breach of this Article 10 or the obligations set out herein shall cause immediate and irreparable harm to Metrolinx for which damages alone are not an adequate remedy. The Consultant hereby acknowledges and agrees that Metrolinx shall be entitled to seek, in addition to any other legal remedies which may be available to it, such equitable relief as may be necessary and available to protect Metrolinx against such breach or threatened breach. No failure or delay by Metrolinx in exercising any right hereunder shall operate as a waiver hereof, or shall estop Metrolinx from obtaining permanent injunctive relief.

10.5 Return or Destruction of Confidential Information

- (a) At the request of Metrolinx and subject to Section 10.5(b) and Section 10.6, the Consultant agrees to:
 - (i) promptly return all Metrolinx Confidential Information to Metrolinx; or
 - (ii) promptly destroy the Metrolinx Confidential Information and all copies thereof in any form whatsoever under its power or control and provide Metrolinx with a destruction certificate signed by an appropriate officer of the Consultant certifying such destruction.
- (b) Notwithstanding the foregoing, the Consultant shall have no obligation to return or destroy:
 - (i) Metrolinx Confidential Information that is captured and retained within the Consultant's routine computer systems backup processes, provided that (a) no specific effort is made to retrieve such archived Confidential Information for purposes that would violate the confidentiality obligations under this Contract and (b) the confidentiality obligations of

under this Contract shall continue to apply to such archived Confidential Information for so long as such information is retained; and

- (ii) working papers or other documentation which it is required to retain pursuant to Applicable Law or any rules of professional conduct applicable to the Consultant or the Consultant Personnel.

10.6 FIPPA and Freedom of Information

The Consultant acknowledges that Metrolinx is a provincial crown agency subject to FIPPA, and acknowledges and agrees as follows:

- (a) All FIPPA Records (as defined below) are subject to, and the collection, use, storage and treatment thereof is governed by FIPPA. The Consultant agrees to keep all FIPPA Records secure and available, in accordance with the requirements of FIPPA.
- (b) Section 10.5 shall apply to all FIPPA Records, which shall be returned and/or destroyed in accordance with that section.
- (c) In the event of a conflict between the requirements of this Contract and the requirements of FIPPA, the requirements of FIPPA shall take precedence.
- (d) In the event that a request is made under FIPPA for the disclosure of any FIPPA Records, Metrolinx shall provide prompt written notice thereof to the Consultant and the Consultant shall provide any and all relevant FIPPA Records to Metrolinx on demand for the purposes of responding to an access request under FIPPA. In these circumstances, the Consultant shall provide all FIPPA Records requested to Metrolinx's Freedom of Information Coordinator (or equivalent) within seven (7) business days of receipt of the request from Metrolinx. Notwithstanding anything to the contrary in this Agreement and subject to the Consultant's rights of appeal pursuant to Section 28(9) of FIPPA, Metrolinx shall determine what FIPPA Records will be disclosed in connection with any such request, in accordance with the requirements of FIPPA (including, without limitation, the requirements with respect to affected persons set out in Section 28 thereof).
- (e) For the purposes of this section, "FIPPA Records" means all information, data, records and materials, however recorded, in the custody or control of Metrolinx, including Confidential Information and Personal Information (as defined in FIPPA). For the purposes of this definition, documents held by the Consultant in connection with this Contract are considered to be in the control of Metrolinx.

10.7 Consultant Compliance

- (a) The Consultant shall advise its representatives and all Subconsultants of the requirements of this Article 10, and associated requirements set out elsewhere in this Contract, and take appropriate action to ensure compliance by such representatives with the terms of this Article 10. In addition to any other liabilities of the Consultant pursuant to this Contract or otherwise at law or in equity, the Consultant shall be liable for all claims arising from any non-compliance with this Article 10 by the Consultant, Consultant Personnel, Subconsultant and their respective personnel.
- (b) The Consultant warrants that each representative or Subconsultant provided or engaged by the Consultant to provide the services pursuant to this Contract is

under a written obligation to the Consultant requiring such person to comply with the terms of this Article 10.

10.8 Publicity

Neither Party may make any disclosure to any other person or any public announcement or press release regarding this Contract or any relationship between the Consultant and Metrolinx, without the other Party's prior written consent.

11. REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 Representations, Warranties and Covenants of the Consultant

The Consultant covenants and agrees with and represents and warrants to Metrolinx, and acknowledges and confirms that Metrolinx is relying on such covenants, agreements, representations and warranties, as follows:

- (a) the Consultant is validly existing under the laws of the location of its head office and the Consultant has all necessary power, authority and capacity to enter into this Contract and to perform its obligations hereunder;
- (b) the entering into of this Contract by the Consultant and the performance of its obligations hereunder has been authorized by all necessary corporate action;
- (c) the execution and delivery of this Contract, the consummation of the transactions contemplated herein and compliance with and performance of the provisions of this Contract does not and shall not:
 - (i) result in a breach of or constitute a default under, or create a state of fact, which after notice or lapse of time or both, or otherwise, would constitute a default under any term or provision of the constating documents of the Consultant, the by-laws or resolutions of the Consultant or any agreement or instrument to which the Consultant is a party or by which it is bound, or
 - (ii) require the Consultant to obtain any Approval or action of any other Persons and, if required, any such Approvals have already been obtained as of the date of this Contract;
- (d) this Contract constitutes a legally valid and binding obligation of the Consultant enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency and other similar laws affecting the enforceability of the rights of creditors generally, the principles of equity and that equitable remedies such as specific performance and injunction are available only in the discretion of a court of competent jurisdiction;
- (e) the Consultant has carefully reviewed the whole of this Contract, including all of the Contract Documents, and all other documents made available to the Consultant by Metrolinx, and, to the Consultant's knowledge, nothing contained herein or therein inhibits or prevents the Consultant from performing the Services in accordance with the Required Standard of Care so as to achieve and satisfy the requirements of this Contract;

- (f) the Consultant has engaged and shall engage only Subconsultants and Consultant Personnel that are qualified and competent to perform the portions of the Services they are responsible for and possess the requisite Domain Expertise;
- (g) the Consultant has available the resources and personnel to complete all of its obligations under this Contract in a timely, efficient and professional manner in accordance with the Required Standard of Care;
- (h) the Consultant is not aware of any legal action instituted, threatened or pending against the Consultant that could have a material adverse effect on its ability to perform its obligations under this Contract;
- (i) the Consultant is registered as an employer pursuant to the *Workplace Safety and Insurance Act* (Ontario) and has completed all filings and paid all assessments as required pursuant to that *Act* and the regulations thereunder;
- (j) the Consultant is familiar with the obligations imposed on an "employer" as defined in OHSA, and that it has in place a health and safety program to ensure that it takes all steps reasonable in the circumstances to ensure the health and safety of all workers for which it has responsibility under that *Act*; and
- (k) the Consultant represents, warrants and covenants to Metrolinx that the Consultant is and shall remain duly registered for the purposes of Part IX of the Excise Tax Act and that the Consultant's registration number is:
_____.

11.2 Continuing Effect of Representations, Warranties and Covenants

The Consultant hereto agrees that its covenants, representations and warranties contained in this Article 11 are continuing covenants, representations and warranties and shall apply and be true and correct at all times during the Term.

12. INDEMNITY

12.1 Indemnification

- (a) The Consultant shall at all times indemnify and save harmless Metrolinx, its officers, directors, employees, members, agents, representatives, successors and assigns (hereinafter the "**Indemnified Parties**"), from and against any and all Losses resulting from:
 - (i) any breach, violation or non-performance by or on behalf of the Consultant of any covenant, obligation or agreement of the Consultant contained in this Contract, including any warranty (express or implied);
 - (ii) any negligent acts, errors or omissions or wilful misconduct by or on behalf of the Consultant relating to the Services to be provided under this Contract;
 - (iii) any acts performed or omitted to be performed by or on behalf of the Consultant beyond the authority of the Consultant hereby conferred;
 - (iv) any inaccuracy in or breach of any of the representations or warranties of the Consultant contained in this Contract;

- (v) any breach of the terms and conditions set out in Article 3 or arising as a result of any illness, injury or death of any employee of the Consultant or any Subconsultant, including:
 - (A) any resulting expenses incurred by Metrolinx as a result of stoppage of the Services on account of failure by the Consultant to meet its obligations under and/or with respect to the OHSAA; and
 - (B) any resulting fine(s) levied against Metrolinx as a result of any breach of the responsibilities of the employer for the work, to the extent attributable to the Consultant's failure to fulfil its obligations as described in Section 3.1; and/or
 - (vi) any infringement or alleged infringement of any patent, trade secret, service mark, trade name, copyright, official mark, moral right, trademark, industrial design or other proprietary rights conferred by contract, common law, statute or otherwise in respect to the Services or any matter provided to Metrolinx or performed by the Consultant, or anyone else for whom at law it is responsible.
- (b) The Consultant shall pay all reasonable costs, expenses and legal fees that may be incurred or paid by the Indemnified Parties in connection with any demand, claim, execution, action, suit or proceeding with respect to a matter for which the Consultant is obligated to indemnify the Indemnified Parties pursuant to this Article 12, provided that the indemnity obligations of the Consultant under this Article 12 shall not extend to Loss attributable to the negligence or willful misconduct of any Indemnified Parties to the extent that such Indemnified Parties' negligence or willful misconduct caused the Loss.
- (c) In the event any Loss is asserted in respect to which an Indemnified Party is entitled to indemnification under this Article 12, and without prejudice to any other right or remedy Metrolinx may have, Metrolinx shall be entitled to deduct or withhold a reasonable sum on account of such claim, action, suit, execution or demand, including legal costs, from monies owed or payable by Metrolinx to the Consultant under this Contract pending the final determination or settlement of such claim, action, suit, execution or demand. In the event,
 - (i) the Consultant is, becomes, or is deemed to be bankrupt or an insolvent person pursuant to the *Bankruptcy and Insolvency Act* (Canada);
 - (ii) the Consultant makes a general assignment for the benefit of creditors; or
 - (iii) a receiver or interim-receiver is appointed with respect to some or all of the Consultant's business, assets, or property,

then Metrolinx shall be entitled, without prejudice to any other right or remedy Metrolinx may have, to further deduct or withhold a reasonable sum on account of such Loss, from any monies owed or payable by Metrolinx to the Consultant under any other agreement or account. The provisions of this Section 12.1(c) shall not apply in the event that such Loss is otherwise provided for under any insurance provided by the Consultant to or for the benefit of Metrolinx.

13. LIMITATION OF LIABILITY

13.1 General Intent

It is the intent of the Parties that each Party shall be liable to the other Party for any actual damages incurred by the non-breaching Party as a result of the breaching Party's failure to perform its obligations in the manner required by the Contract.

13.2 Limitations on Liability

- (a) Subject to Section 12.1(c), in no event shall either Party be liable for indirect, consequential, exemplary, punitive or special damages relating to the Contract even if such Party has been advised in advance of the possibility of such damages.
- (b) Subject to Section 12.1(c), each Party's aggregate liability to the other under the Contract for direct damages for all events giving rise to liability hereunder shall be limited to an amount equal to two times the Estimated Contract Price.
- (c) The limitations of liability set forth in Sections 13.2(a) and 13.2(b) shall not apply with respect to Losses:
 - (i) that are the subject of indemnification pursuant to Articles 12.1(a)(ii), (iii), (v), (vi) or (vii); or
 - (ii) occasioned by a breach of Article 10.
- (d) Metrolinx shall have a duty to mitigate damages for which the Consultant is responsible.

14. TERMINATION

14.1 Termination for Cause by Metrolinx

Metrolinx may, by ten (10) days' written notice to the Consultant, suspend or terminate the whole or any part of the provision of the Services or this Contract for cause in the event that the Consultant is in breach of any of its obligations under this Contract, and thereupon:

- (a) Metrolinx may appoint officials of Metrolinx or any other person or persons in the place and stead of the Consultant to perform the Services or any portion thereof;
- (b) the Consultant shall immediately discontinue the Services on the date and to the extent specified in the notice and place no further orders for materials or services for the terminated portion of the Services;
- (c) nothing contained herein shall limit the rights of Metrolinx to recover damages from the Consultant arising from the failure of the Consultant to perform the Services satisfactorily in accordance with the terms of this Contract.

14.2 Termination for Convenience by Metrolinx

Metrolinx may, by thirty (30) days' written notice to the Consultant, terminate this Contract for convenience, and thereupon Metrolinx shall be liable for payment to the Consultant for those monies attributable to the part of the Services performed to the satisfaction of Metrolinx to the date of termination stipulated in such notice. Metrolinx shall also be liable for any reasonable demobilization costs and the reasonable cost of cancellation of any contracts, but in no event will Metrolinx be liable for any loss of profits, loss of revenue or other consequential damages.

15. FORCE MAJEURE

15.1 Force Majeure

- (a) Neither Party shall be liable for Losses caused by a delay or failure to perform its obligations under this Contract where such delay or failure is caused by an event beyond its reasonable control (a "**Force Majeure Event**"). The Parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as the provisions of this Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event.
- (b) Without limiting the generality of the foregoing, the Parties agree that Force Majeure Events may include acts of God, natural disasters, acts of war, war-like operations, civil war, acts of foreign enemy, plagues, epidemics, insurrection and terrorism (provided that the conditions of Section 15.1(a) are met) but shall in no event include:
 - (i) shortages or delays relating to supplies or services; or
 - (ii) on the part of the Consultant, lack of financing or inability to perform because of the financial condition of the Consultant.
- (c) A failure by Metrolinx to furnish instructions is not a Force Majeure Event until fourteen (14) days after a demand for such instructions has been made in writing by the Consultant and not then unless such claim is reasonable and justified to Metrolinx.

15.2 Process

- (a) If a Party seeks to excuse itself from its obligations under this Contract due to a Force Majeure Event:
 - (i) that Party shall immediately notify the other Party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period thereof; and
 - (ii) the Party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for the period of time directly attributable to such Force Majeure Event.

- (b) This Section shall not apply or be available to a Party in respect of any event, or resulting delay or failure to perform, occurring more than fourteen (14) days before notice is given to Metrolinx pursuant to Section 15.2(a).
- (c) In the case of a continuing Force Majeure Event, only one notice shall be necessary.

15.3 Metrolinx Rights

Without limiting any other rights available to Metrolinx under this Contract, Metrolinx reserves the right to contract any Services from a third party during any period of Force Majeure claimed by the Consultant.

16. DISPUTE RESOLUTION

All Disputes shall be resolved in accordance with, and the Parties shall comply with, Schedule E – Dispute Resolution.

17. SET OFF

Metrolinx shall have the right to satisfy any amount from time to time owing by it to the Consultant under the Contract by way of a set-off against any amount from time to time owing by the Consultant to Metrolinx, including but not limited to any amount owing to Metrolinx pursuant to the Consultant's indemnification of Metrolinx in this Contract.

18. GENERAL

18.1 Entire Agreement

This Contract constitutes the entire agreement between the Parties regarding the Services and supersedes any prior understandings, negotiations, representations or agreements, whether written or verbal.

18.2 Governing Law and Jurisdiction

This Contract shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws applicable therein, without regard to principles of conflicts of law that would impose the law of another jurisdiction. The Parties hereby irrevocably and unconditionally attorn and submit to the non-exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

18.3 Survival

The obligations set out in Articles 1, 2, 3, 7, 8, 10, 11 and 12 and this Article 18 of this Contract shall continue to bind the Consultant notwithstanding expiration or termination of this Contract for any reason whatsoever or completion of the Services as contemplated hereunder.

18.4 Enurement

This Contract shall enure to the benefit of, and be binding upon the Parties and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

18.5 Assignment

The Consultant shall not be entitled to assign this Contract in whole or in part without the prior written consent of Metrolinx, which consent shall not be unreasonably withheld or delayed.

18.6 Independent Parties

- (a) This Contract does not create and is not intended to create an agency or employment relationship, partnership, joint venture or other similar association between the Parties. The relationship between the Parties is to be considered at all times as that of a purchaser and an independent contractor. Neither Party shall have the right to bind the other to any agreement with any third party or to incur any obligation or liability on behalf of the other Party. Except as expressly provided for in this Contract, neither Party shall represent, directly or indirectly by conduct, to any third party that it is an agent, employee, partner or joint venturer of the other.
- (b) The Consultant Personnel and all other personnel providing the Services are solely the employees of the Consultant and applicable Subconsultants (and not Metrolinx') for all purposes under this Contract, including for all purposes under any Applicable Laws. Accordingly, none of the foregoing personnel is entitled to any benefits respecting any pension or other benefit plan, program or policy of Metrolinx.

18.7 Third Party Beneficiaries

- (a) This Contract is made solely for the benefit of the Parties and, to the extent expressly and specifically stated, any other Parties made beneficiaries of this Contract. No terms of this Contract shall be deemed to confer upon any other third parties any claim, remedy, reimbursement or other right.
- (b) The Consultant represents and warrants to Metrolinx that the Consultant is entering into this Contract solely on the Consultant's own behalf and not as an agent for any other Person.

18.8 Joint and Several Liability

Where the Consultant comprises two or more Persons, each of them shall be jointly and severally liable for the obligations of the Consultant under this Contract.

18.9 Notice

- (a) Unless expressly provided elsewhere in the Contract Documents, every notice required or permitted under this Contract must be in writing and may be delivered in person, by courier or by fax to the applicable party at the address or fax number in the Articles of Agreement or to any other address, fax number or individual that a party subsequently designates by notice.
- (b) Any notice under this Contract, if delivered personally or by courier on a Business Day will be deemed to have been given when actually received, if delivered by fax before 3:00 p.m. on a Business Day will be deemed to have been delivered on that Business Day and if delivered by fax after 3:00 p.m. on a Business Day

or on a day that is not a Business Day will be deemed to be delivered on the next Business Day. For greater clarity, notice shall not be given by email.

18.10 Amendments

Except as expressly provided in this Contract, no amendment, supplement or restatement of any provision of this Contract is binding unless it is in writing and signed by both Parties.

18.11 No Waiver

No provision of this Contract shall be deemed waived, amended or modified by either Party unless such waiver, amendment or modification is in writing and signed by the Party against whom it is sought to enforce the waiver, amendment or modification. The failure by a Party to exercise any of its rights, powers or remedies hereunder or its delay to do so does not constitute a waiver of those rights, powers or remedies. No waiver made with respect to any instance involving the exercise of any such right is to be deemed to be a waiver with respect to any other instance involving the exercise of the right or with respect to any other such right.

18.12 Severability

If any term or condition of this Contract, or the application thereof to the Parties or circumstances, is to any extent invalid or unenforceable in whole or in part, the remainder of this Contract shall continue in full force and effect, and the application of such term or condition to the Parties or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

18.13 Further Assurances

Each Party agrees that it shall at any time and from time to time, at its own expense, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request for the purpose of giving effect to this Contract or carrying out the intention or facilitating the performance of the terms of this Contract.

18.14 Conflict of Interest Acknowledgement and Agreement

- (a) For the purposes of this Contract, a “**Conflict of Interest**” includes any situation or circumstances where, in relation to the performance of its contractual obligations in this Contract, the Consultant’s other commitments, relationships or financial interests:
 - (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or
 - (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations.
- (b) The Consultant acknowledges that participation (directly or indirectly) in any procurement process arising from or related to this Contract (the “Prohibited Procurements”) would constitute a Conflict of Interest with this Contract, and the Consultant agrees that it shall not, and shall take reasonable steps (including obtaining covenants substantially similar to those set out in this section) to

ensure that its Subconsultants do not participate in or be involved with such Prohibited Procurements either directly or indirectly, including as a bidder or as a subcontractor or advisor to any bidder.

- (c) The Consultant shall:
 - (i) avoid all Conflict of Interest in the performance of its contractual obligations;
 - (ii) disclose to Metrolinx without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and
 - (iii) comply with any requirements prescribed by Metrolinx to resolve any Conflict of Interest.
- (d) In addition to all other contractual rights or rights available at law or in equity, Metrolinx shall have the right to immediately terminate this Contract, by giving notice in writing to the Consultant, where:
 - (i) the Consultant fails to disclose an actual or potential Conflict of Interest;
 - (ii) the Consultant fails to comply with any requirements prescribed by Metrolinx to resolve a Conflict of Interest; or
 - (iii) the Consultant's Conflict of Interest cannot be resolved.
- (e) This section shall survive any termination or expiry of this Contract.

18.15 Counterparts

This Contract may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all Parties shall constitute a full, original and binding agreement for all purposes. Counterparts may be executed either in original or electronic form, provided that the Party providing its signature in electronic form shall promptly forward to the other Party an original signed copy of this Contract which was so sent electronically.

[End of General Conditions]

Schedule A – Definitions

“Acceptance” or **“Acceptable”** or **“Accepted”** means the act of formal notification by Metrolinx of no further objections regarding content, construction or compliance.

“Applicable Laws” means all applicable laws, statutes, regulations, orders, by-laws, treaties, judgements, decrees and ordinances applicable from time to time and, whether or not having the force of law, all applicable Approvals, Standards, codes, requirements, requests, directives, rules, guidelines, instructions, circulars, manuals, and policies of any Governmental Authority having or purporting to have jurisdiction or authority over a Party, property, transaction or event, including laws relating to workplace safety and insurance, occupational health and safety and employment standards.

“Approvals” means any permits, licences, consents, approvals, clearances, orders, ordinances, registrations, filings or other authorizations respecting the work undertaken as part of the Services as may be required from any applicable Governmental Authority or otherwise by the Consultant’s contract documents.

“Business Day” means any day other than: (a) a Saturday or Sunday and (b) any other day on which Metrolinx is not open for business. Each Business Day will end at 4:00 p.m. on that day.

“Cash Allowance” means a sum included in the Estimated Contract Price by Metrolinx as a predetermined allowance to cover the items identified in the Articles of Agreement.

“Cash Allowance Items” means those items, work and/or services identified in the Articles of Agreement as items to be paid for using the designated Cash Allowance.

“Changes” has the meaning ascribed to it in Section 8.1 of the General Conditions.

“Confidential Information” means all information of a confidential nature (as determined with reference to its treatment by Metrolinx) which is provided, disclosed or made available (orally, electronically or in writing or by any other media) by Metrolinx (or its representatives) to the Consultant (including to employees, contractors, or other representatives thereof). For greater certainty, all Metrolinx Materials, construction documents, personal information (as defined in FIPPA), and anything else specifically marked or identified by Metrolinx as confidential or proprietary are deemed to be “Confidential Information” for the purposes of this Contract.

“Conflict of Interest” has the meaning ascribed to it in Section 18.14 of the General Conditions.

“Consultant” has the meaning ascribed to it in the Articles of Agreement.

“Consultant Background IP” means any methodologies, patterns, plans, procedures, Software, algorithms, computer code, documentation, tools, business processes, scripts, interfaces, commands, technical information, know-how, techniques, specifications, technologies and/or other Intellectual Property that is proprietary to the Consultant or which Consultant has the right and licence to use and make available to Metrolinx, in each case that

was either: (a) created prior to the Effective Date; or (b) created, developed or produced independently of this Contract and/or the performance of the Services.

“Consultant Personnel” or “Consultant’s Personnel” means (a) with respect to the Consultant, all of the Consultant’s personnel, employees and independent consultants (including the Key Personnel and the Consultant’s Representative) engaged in the performance of the Services; and (b) with respect to each Subconsultant, all of that Subconsultant’s personnel, employees and independent consultants engaged in the performance of the Services.

“Consultant Policies” has the meaning ascribed to it in Schedule D – Insurance of Appendix “A” General Conditions.

“Consultant’s Representative” means the person identified by the Consultant, and Accepted by Metrolinx, as the Consultant’s authorized representative pursuant to Section 2.8 of the General Conditions.

“Contract” means this contract between the Consultant and Metrolinx pursuant to **Invitational Tender No. IT-2017-EC-010** including the Articles of Agreement, the General Conditions and the Schedules thereto and the Contract Documents.

“Contract Documents” means the Contract and those documents listed in Appendix “B” – Consultant’s Scope of Services and any written amendments thereto as agreed to by the Parties.

“Contract Performance Appraisal” has the meaning given in Section 2.12(a) of the General Conditions.

“Deliverables” means the work product created by the Consultant and/or the Consultant Personal in connection with or as a requirement of the Services, including all reports, drawings, plans, designs, processes, tools, standards, registers, logs, updates, files, databases, Software, and documentation.

“Dispute” means all disputes, controversies, or claims arising out of or relating to: (a) this Contract; (b) the alleged wrongful exercise or failure to exercise by a Party of a discretion or power given to that Party under this Contract; and/or (c) the interpretation, enforceability, performance, application, or administration, breach, termination, or validity of this Contract or any failure to agree where agreement between the Parties is called for.

“Dispute Notice” has the meaning given in Schedule E – Dispute Resolution.

“Domain Expertise” means the required level of depth and breadth of qualifications and experience in respect of the tasks to be performed in connection with the Services, gained through a practical application of the knowledge underlying the tasks in an environment substantially similar to that of the Services.

“Effective Date” means the final date of execution of this Contract by both Parties.

“Encumbrance” means any mortgage, charge, pledge, hypothecation, Lien, security interest, hypothec, easement, right-of-way, right-of-first refusal, option, encroachment, building or use restriction, conditional sales agreement, personal property lease, licence, restrictive covenant, adverse claim, promissory right or other encumbrance of any nature however arising, or any

other security agreement or arrangement creating in favour of any creditor a right in respect of any property that is prior to the right of any other creditor in respect of such property.

“Estimated Contract Price” means the amount identified as such in the Articles of Agreement.

“FIPPA” means the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter F.31.

“FIPPA Records” has the meaning ascribed to it in Section 10.6 of the General Conditions.

“French Designated Area” means an area designated as such in the Schedule to the French Language Services Act. A map and complete listing of French Designated Areas is available at <http://www.ofa.gov.on.ca/en/flsa-mapdesig.html>.

“French Language Services Act” means the *French Language Services Act*, R.S.O. 1990, c.F.32.

“Governmental Authority” means any domestic government, including any federal, provincial, territorial, municipal, regional or other local government, and any government established court, agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions respecting government; provided, however, **“Governmental Authority”** does not include Metrolinx.

“Indemnified Parties” has the meaning ascribed to it in Section 12.1 of the General Conditions.

“Intellectual Property” means all intellectual and industrial property, including all Software, patents, patent application rights, rights to file patents, inventions, trade-marks (whether registered or not), trade-mark applications, rights to file trade-marks, trade names, copyrights (whether registered or not), design registrations, trade secrets, confidential information, industrial and similar designs, rights to file for industrial and similar designs, processes, methodologies, techniques and know-how, and all Intellectual Property Rights therein.

“Intellectual Property Rights” means any right to Intellectual Property recognized by law, including any Intellectual Property right protected by legislation or arising from protection of information as a trade secret or as confidential information.

“Joint Venture” is the business arrangement of two or more parties proposed as identified in the Proponent’s Submission.

“Key Personnel” has the meaning ascribed to it in Section 2.7(a) of the General Conditions.

“Key Responsibilities” means the main responsibilities and tasks to be performed by each category of Consultant Personnel, as identified in Schedule B – Consultant Personnel.

“Losses” means claims, actions, suits, executions, and demands and all loss, liability, judgments, costs, charges, damages, liens and expenses of any nature whatsoever and howsoever caused.

“Metrolinx” means Metrolinx, a provincial crown agency continued under the *Metrolinx Act*, S.O. 2006, Chapter 16, and its successors and assigns.

“Metrolinx IP” has the meaning ascribed to it in Section 6.1 of the General Conditions.

“Metrolinx Materials” means: (a) all materials, images, reports, Software, audio or video recordings, specifications, performance requirements, software development tools, technologies, content, data (including all information whether or not contained in or on any database or electronic information storage system or media owned by or in the custody or control of Metrolinx), technical information, and any other recorded information, in any form and on any media, that are proprietary to, or controlled or licensed by, Metrolinx and provided to the Consultant; (b) all procurement documents issued by Metrolinx; (c) all documentation or source materials (including source code) related to any of the foregoing; and (d) all copies, translations, improvements, modifications, enhancements, adaptations, or derivations made to the Metrolinx Materials by Metrolinx or any third party not performing work under this Contract.

“Metrolinx Representative” or **“Metrolinx’s Representative”** has the meaning ascribed to it in Section 2.9 of the General Conditions.

“OHSA” means the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“Parties” means both of Metrolinx and the Consultant and a **“Party”** means either one of them.

“Person” means any individual, sole proprietorship, partnership, limited partnership, corporation or company (with or without share capital), trust, foundation, joint venture, Governmental Authority or any other incorporated or unincorporated entity or association of any nature.

“Place of Work” is the designated site or location of the Services.

“Product” means any goods, machinery, equipment, fixtures and Software (including any components of any of the foregoing) forming part of the Deliverables, but does not include machinery and equipment used solely to perform the Services.

“Professional Engineer” means an engineer licensed to practice engineering in the Province of Ontario.

“Project Schedule” means the scheduling requirements identified in Section 8 of the Form of Tender or otherwise provided by Metrolinx to the Consultant from time to time.

“Quotation” has the meaning given in Section 15 of Schedule C – Financial Terms.

“Rates” has the meaning given in Section 1(a) of Schedule C – Financial Terms.

“Required Standard of Care” means: (a) using the Standards, practices, methods and procedures to the highest commercial standards of practice and professionalism as understood in the Province of Ontario; (b) confirming to Applicable Laws and all rules of professional conduct applicable to the Consultant or the Consultant Personnel; (c) exercising that degree of skill and care, diligence, prudence and foresight which would be expected from a leading Person or professional performing work similar to those called for under this Contract; and (d)

using only proper materials and methods as are suited to the function and performance intended.

“Services” has the meaning ascribed to it in Section 2.2(a) of the General Conditions.

“Software” means any set of machine-readable instructions that directs the performance of specific operations, including computer programs, computer code, software programs (whether executable or not executable), system software, application software, embedded software, databases, data, middleware, GUI’s, objects, firmware, components and modules and related documentation.

“Standards” means, at a given time, those standards, specifications, manuals, codes, practices, methods and procedures applicable to the Required Standard of Care.

“Statutory Holdback” has the meaning ascribed to it in Section 7 of Schedule C – Financial Terms.

“Subconsultant” means an individual, firm, partnership, corporation or design professional having a direct contract with the Consultant or another Subconsultant to perform a part or parts of the Services as identified in the Submission.

“Submission” means all documentation and other materials and information submitted by the Proponent in response to Invitational Tender No. **IT-2017-EC-010**.

“Task” has the meaning ascribed to it in Section 2.11(a) of the General Conditions.

“Task Assignment Process” has the meaning ascribed to it in Section 8.4(b) of the General Conditions.

“Task Release” has the meaning ascribed to it in Section 2.11(b) of the General Conditions.

“Taxes” means all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, premiums, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority (including, income, capital (including large corporations), gross receipts, consumption, sales, use, transfer, goods and services or other Value Added Taxes, excise, customs or other import, anti-dumping, countervail, net worth, alternative or add-on minimum, windfall profits, stamp, registration, franchise, payroll, employment insurance, Canada Pension Plan, worker’s compensation, health, education, school, business, property, local improvement, environmental, development and occupation taxes, surtaxes, duties, levies, imposts, rates, fees, premiums, assessments, withholdings, dues and charges) together with all fines, interest and penalties in respect thereof or in lieu of or for non-collection thereof.

“Term” has the meaning ascribed to it in Section 2.1 of the General Conditions.

“Third Party” or **“Third Parties”** means any Third Party Contractors or Third Party Operators.

“Third Party Contract” means a contract between Metrolinx and any other Person which is in any way related to, impacts or is impacted by the Services and/or the Consultant’s acts or omissions, whether expressly identified to the Consultant or not.

“Third Party Contractors” means contractors, suppliers, service providers, utility owners or any other third party (excluding the Consultant and any Subconsultants and Consultant Personnel) performing work and/or providing products and services in, or in respect of, the rail corridors, where such work, products or services (a) are on behalf and for the benefit of Metrolinx or (b) are being undertaken to enable work, products or services on behalf of and for the benefit of Metrolinx.

“Third Party Operators” means (a) any third party providing products and/or services in the rail corridors on their own behalf, pursuant to rights granted by Metrolinx, including VIA Rail Canada Limited, Canadian Pacific Railway Company and Canadian National Railway Company; and (b) any third party who otherwise has a right to occupy, access, or use property or facilities on or adjacent to the rail corridors.

“Third Party Work” means work and services conducted or provided by Third Parties.

“Value Added Taxes” means such sum as shall be levied upon amounts payable to the Consultant under this Contract by any Governmental Authority that is computed as a percentage of the amounts payable to the Consultant (including all other Taxes but excluding Value Added Taxes), and includes the HST, and any similar tax, the payment or collection of which, by the legislation imposing such tax, is an obligation of the Consultant.

END OF SCHEDULE A

Schedule B – Consultant Personnel

1. Key Personnel

The following Key Personnel roles shall be filled, and they shall perform the following key responsibilities as well as any other responsibilities as requested by Metrolinx, in accordance with the Contract Documents and in accordance with the following requirements in respect of qualifications, experience and minimum years of experience.

Role	Key Responsibilities	Required Duration	Name of Individual
Project Manager	Ensure overall quality of the deliverables as set out in the Consultant's Scope of Services, attached as Appendix B. Ensure budgets and timelines are met.	Entire Term of the Contract	Click here to enter text.
EA Project Lead	Lead the EA process including review, development, and quality assurance of all deliverables. Prepare reports. Act as a primary liaison with Metrolinx staff Attend internal and external meetings, as required. Ensure all requirements of the EA Addendum are met.	Entire Term of the Contract	Click here to enter text.
Engineer	Review and analyze existing documentation. Provide input into analysis of impacts, as required. Attend internal and external meetings, as required.	As required	Click here to enter text.
Transportation or Traffic Planner/Engineer	Review and analyze existing documentation. Describe additional traffic studies needed. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.
Heritage Specialist	Review and analyze existing documentation. Describe additional heritage studies needed. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.
Air Quality Specialist / Engineer	Review and analyze existing documentation. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.
Noise and Vibration Specialist / Engineer	Review and analyze existing documentation. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.
Professional Archaeologist	Review and analyze existing documentation. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.
Certified Arborist	Review and analyze existing documentation. Describe additional studies needed.	As required	Click here to enter text.

Role	Key Responsibilities	Required Duration	Name of Individual
	Undertake tree inventory plan and arborist report. Attend internal and external meetings, as required.		text.
Ecologist	Review and analyze existing documentation. Describe additional natural heritage studies needed. Provide input to report(s) Attend internal and external meetings, as required.	As required	Click here to enter text.

Schedule C – Financial Terms

1. Payment

- (a) Metrolinx will pay the Consultant for the Services performed by the Consultant pursuant to this Contract, in the amounts and manner, at the rates set out in the Articles of Agreement (the “Rates”) and at the times, set forth in the Articles of Agreement and this Schedule C – Financial Terms.
- (b) The Consultant shall perform all of the Services notwithstanding that the value of the time spent by the Consultant in performance thereof may exceed the maximum amount payable to the Consultant pursuant to Section 3 of this Schedule C – Financial Terms.

2. Limitation of Expenditure

- (a) It is understood that the Contract is based on reimbursement for actual Services requested by Metrolinx and performed by the Consultant, to the satisfaction of Metrolinx.
- (b) Metrolinx does not guarantee any minimum or maximum of work.

3. Estimated Contract Price

- (a) Subject to Sections 8.1, 8.2 and Article 9 – Additional Resources of the General Conditions, Metrolinx and the Consultant acknowledge and agree that Estimated Contract Price set out in the Articles of Agreement is the maximum amount payable in respect the provision of the Services; provided, however, that the foregoing is not an entitlement to, nor a guarantee that the Consultant will be paid the full amount of, the Estimated Contract Price.
- (b) The Estimated Contract Price includes all Cash Allowances identified in this Contract.

4. Rates for Services

- (a) The Consultant acknowledges and agrees that the Rates are inclusive of all labour and materials, insurance costs, disbursements and all other overhead including any fees or other charges required under Applicable Laws. Without limiting the generality of the foregoing, the Rates include costs for the coordination, administration of the provision and management of the Services necessary to achieve compliance with external agencies and Governmental Authorities as required to obtain any Approvals, provided, however, that the specific costs associated with application and permit fees in respect of the Approvals shall be paid directly by Metrolinx.
- (b) Metrolinx shall not reimburse the Consultant for any hospitality, food or incidental expenses incurred. Subject to the prior consent of Metrolinx, Metrolinx shall reimburse the Consultant for reasonable traveling expenses incurred in connection with the performance of the Services, such reimbursement to be made in accordance with the Government of Ontario’s Travel, Meal, and Hospitality Expenses Directive.

- (c) As part of the Services, the Consultant shall also be responsible for obtaining and registering all of the Software licenses and long term support agreements, as and if applicable, on behalf of Metrolinx, and any costs incurred by the Consultant in connection thereto shall be included in the Rates set out in the Articles of Agreement.

5. Taxes

- (a) The Estimated Contract Price and all amounts payable under the Contract shall be inclusive of all Taxes (except for HST) in effect as at the date of this Contract. Unless otherwise expressly specified in this Contract or otherwise required by Applicable Law, the Consultant shall be responsible for remittance of any and all Taxes due and payable in respect of the Services.
- (b) Any amount to be levied against Metrolinx in respect of the HST or any similar successor tax levied under the *Excise Tax Act* and applicable to the Services, is to be shown separately on all invoices for Services performed by the Consultant. The Consultant shall remit any HST paid or due to Revenue Canada Customs & Excise in accordance with Applicable Laws, and shall, at the request of Metrolinx, provide evidence of payment of same.
- (c) In the event that Metrolinx is entitled to a rebate under the *Retail Sales Tax Act* (Ontario) or the *Excise Tax Act* in whole or in part, for Value Added Taxes paid under this Contract, the Consultant shall show on each invoice, and in the manner directed by Metrolinx, either the actual Value Added Taxes paid by the Consultant by category or the portion of the Consultant's fees eligible under Applicable Law for the rebate.
- (d) Certain payments to non-resident corporations or individuals may be subject to withholding taxes, under the Income Tax Act. Non-residents can apply in advance to Revenue Canada, Taxation, for a waiver or reduction of the withholding tax requirement. Unless Metrolinx is provided with a copy of the written information as a result of the waiver application to the Tax Services Office of Canada Customs and Revenue Agency, taxes will be withheld as determined under the Income Tax Act. The Consultant shall be responsible for investigating whether they are subject to the withholding of taxes under the Income Tax Act and obtaining the necessary waiver or reduction as needed.

6. Invoicing and Payment Process

- (a) The Consultant shall submit an invoice for payment for Services completed no less than ten (10) Business Days following the end of the month in respect of which the related Services were rendered. The invoice shall be in form and substance satisfactory to Metrolinx acting reasonably and shall set out with sufficient particularity the Services performed in the previous month and the total time spent by each category of Consultant Personnel multiplied by the applicable Rate.
- (b) The aggregate amount invoiced by the Consultant shall not exceed the Estimated Contract Price, unless such additional amount is agreed by the Parties pursuant to the change management process set out in Article 8 of the General Conditions.
- (c) Unless there is a Dispute with respect to the content of an invoice and subject to the other provisions of this Schedule C, Metrolinx shall make payment to the

Consultant no later than thirty (30) Business Days following receipt of the invoice for payment from the Consultant, unless otherwise provided or permitted in the Contract.

7. Statutory Holdback

Not Applicable.

8. Withholding of Payment

Notwithstanding any other term in the Contract Documents, Metrolinx shall not be obligated to make payment to the Consultant if at the time such payment was otherwise due:

- (a) there is a Lien or other Encumbrance arising from the performance of the Services, whether valid or not and whether preserved or perfected, in relation to, or otherwise affecting, the Services or the Place of Work; or
- (b) written notice of a Lien arising from the performance of the Services has been given to Metrolinx or an owner, mortgagee or other entity with an interest in the Services or a claim for Lien arising from the performance of the Services and otherwise affects the Services.

9. Substantial Performance

Not Applicable.

10. Release of Statutory Holdback Upon Substantial Performance

Not Applicable.

11. No Progressive Release of Holdback

Not Applicable.

12. Final Payment Certificate

- (a) Metrolinx shall review the record of the Services performed to verify the validity, or otherwise, of the application after the receipt of the Consultant's application for final payment. Metrolinx shall review the record of Services performed within ten (10) Business Days of receipt of the Consultant's application and shall issue, no later than seven (7) Business Days after reviewing the record of Services, a final payment certificate in the amount applied for or a regular certificate for payment in such other amount as Metrolinx determines to be properly due. If Metrolinx amends the application, Metrolinx shall promptly notify the Consultant in writing giving reasons for the amendment.

13. Cost of Changes

- (a) Changes shall be implemented by the Consultant without any additional charge, unless Consultant is able to demonstrate (with supporting documentation) that the Change causes the Consultant to incur additional costs.
- (b) The Consultant shall implement all Changes for a reasonable price in accordance with the same pricing principles and price levels as originally agreed in the

Articles of Agreement. Where Rates apply to Consultant Personnel, those same Rates shall apply with reference to the applicable level of experience and/or expertise.

- (c) With respect to any Changes that (in whole or in part) require the services of a third party, Metrolinx (at its sole discretion) shall have the right to require the Consultant to provide three (3) quotes to Metrolinx in respect of such third party services, in accordance with Section 14 of this Schedule C – Financial Terms.
- (d) Metrolinx shall have the right to request such documentation and other supporting information as it reasonably requires to confirm and substantiate the costs associated with any Change request, and the Consultant shall provide same to Metrolinx within five (5) Business Days of the request therefor.

14. Expenditure of Cash Allowance

- (a) Where the expenditure of a Cash Allowance has been approved by Metrolinx, the value of completed or delivered Cash Allowance Items may be claimed as part of the Consultant's monthly application for payment, in accordance with Section 6 of this Schedule C – Financial Terms. Cash Allowance expenditures must not exceed the Estimated Contract Price.
- (b) The Consultant is not entitled to any extra payment on account of a specified Cash Allowance Item and is not entitled to any unexpended Cash Allowance amounts.
- (c) A Cash Allowance is in no way a guarantee of monies and shall only be expended for the portion of the Cash Allowance Items specified in the Articles of Agreement and authorized by Metrolinx pursuant to Section 8.4 of the General Conditions.
 - (i) The Cash Allowance shall cover the net cost of performing all Cash Allowance Items, excluding Consultant's overhead and profit which shall be included in the Rates, exclusive of the Cash Allowance. Should the cost of performing the Cash Allowance Items be less than the identified amount of the Cash Allowance, the Consultant shall only be compensated for the actual cost of performing the Services.
 - (ii) In the event that the Consultant reasonably anticipates that the cost of performing the Services under the Cash Allowance will exceed the amount of the Cash Allowance, the Consultant shall immediately notify Metrolinx and the matter shall be addressed pursuant to the change management process set out in Article 8 of the General Conditions. The Consultant shall not be compensated for any amount exceeding the Cash Allowance unless and until same has been authorized in writing in accordance with Article 8 of the General Conditions.
 - (iii) All expenditures by the Consultant under the Cash Allowance must be substantiated with appropriate documentation clearly documenting the amount of the expenditure and the goods and/or services to which it relates. The Consultant shall only be compensated for expenditures under the Cash Allowance that are substantiated.

15. Quotations - Changes and Cash Allowance Items

- (i) With respect to any Changes or Cash Allowance Items (or any part thereof), the Consultant shall, upon request by Metrolinx (at its sole discretion), submit up to three (3) quotes detailing the estimated cost of the applicable Change or Cash Allowance Item (each a "**Quotation**"). Where Metrolinx has not provided the names of third parties from which quotations should be obtained, the Consultant shall have the right to choose which third parties shall provide quotations. Subject to any instruction to the contrary issued by Metrolinx pursuant to Section 8.5 of the General Conditions, where a Cash Allowance Item includes work that the Consultant proposes would be most efficiently performed by the Consultant's own workforces, the Consultant shall include as one of the three (3) quotes the price proposal for having its own workforce perform the work. Any work being performed by Key Personnel shall be quoted at the applicable Rates for such Key Personnel.
- (ii) Any and all costs incurred by the Consultant for providing a Quotation or obtaining quotations from third parties, shall be borne by the Consultant.
- (iii) All Quotations shall be prepared on the Consultant's letterhead and in a format agreed to by Metrolinx and the Consultant. The Quotation shall at a minimum contain the following information:
 - a. a description of the work required by the Services;
 - b. Curriculum Vitae for each required position and two (2) references for each individual;
 - c. estimated hours of work for each identified key role;
 - d. any requirement for additional positions other than those listed in Schedule B of Appendix "A";
 - e. required Subconsultants; and specialized service providers;
 - f. any requirements for testing and/or reporting;
 - g. detailed breakdown of costs;
 - h. detailed work schedule which complies with completion date provided by Metrolinx (as required by Metrolinx); and
 - i. any other requirements/instructions.
- (iv) The Consultant shall, upon request, disclose to Metrolinx the originals of all bids, quotations and other price related information received from suppliers or Subconsultants.
- (v) Metrolinx reserves the right to accept or reject a Quotation, in whole or in part.

16. Metrolinx Property

All tangible property purchased and charged to Metrolinx' account is and shall be deemed and shall remain the property of Metrolinx.

17. Records and Audit

- (a) The Consultant agrees to keep and maintain full and complete records and accounts of all costs in accordance with Metrolinx' requirements. All such records, including timesheets, correspondence, receipts and memoranda pertaining to the Services shall be available for inspection by any authorized employee or agent of Metrolinx at all reasonable times for the purpose of auditing the Consultant' reasonable costs and the Consultant shall provide every reasonable assistance for that purpose including, but not limited to, making the records available for inspection at the Consultant's office during normal business hours and acting reasonable to observations made by Metrolinx or its auditors. The results of the audit will be maintained as confidential to be used for the purposes of and as contemplated by this Contract or as otherwise required by Applicable Laws. Such records shall be kept for a period of seven (7) years after termination of this Contract.

- (b) During the Term and for a period of seven (7) years thereafter, Metrolinx or any other Person acting on behalf of Metrolinx, shall have the right, upon no less than 24 hours' notice in writing during the Term, and on no less than five (5) Business Days' notice in writing during the seven (7) year period following the Term, to the Consultant and during normal office hours, to inspect and audit, and to have access to, all relevant premises, sites, books, records, payrolls, accounts and documentation of the Consultant relating to this Contract, and to take extracts therefrom. The Consultant shall make available or cause to be made available such reasonable information and material as may be required and shall otherwise reasonably cooperate with Metrolinx and any other Person acting on Metrolinx' behalf. Without limiting the generality of the foregoing, the rights set out in this Section shall extend to any Governmental Authority exercising its right to audit pursuant to Applicable Law or any contract with Metrolinx.

END OF SCHEDULE C

Schedule D – Insurance

1. Consultant Insurance Requirements

The Consultant shall, at its own expense, obtain and maintain for the entire Term minimum insurance coverage as follows:

1.1 Commercial General Liability

The policy shall provide a policy limit of not less than five million dollars (\$5,000,000) per occurrence for all claims arising out of bodily injury (including death), personal injury, damage to property of others. Such policy shall not contain any exclusions that conflict with the Services required to be performed under this Contract. The Consultant shall cause the interest of Metrolinx, and such other Person as Metrolinx may determine at its sole and absolute discretion, to be noted on the Consultant Policies hereof as “Additional Insured”. The policy shall contain a waiver of subrogation, cross liability and severability of interest.

1.2 Automobile Liability Insurance

The policy shall provide coverage for liability arising out of the use of owned, non-owned, leased or hired automobiles in connection with the performance of the Services. Coverage shall consist of a combined single limit of not less than two million dollars (\$2,000,000) per occurrence. Alternatively, for Services that do not require the use of owned, non-owned, leased or hired automobile, the Consultant shall provide a written confirmation within five (5) business days of contract award, stating same, in place of the insurance coverage.

1.3 Errors and Omissions Insurance

The policy shall provide errors and omissions insurance including coverage for privacy, infringement of trademark and copyright covering the Services rendered by the Consultant, any Subconsultants or any Consultant Personnel, including personnel on loan to the Consultant who perform normal services of the Consultant under this Contract. The policy shall have a limit of liability of not less than two million dollars (\$2,000,000) per occurrence and in the policy aggregate. The policy shall be maintained throughout the Term, plus thirty-six (36) months after the termination or expiration of this Contract..

Any other valid or collectible insurance available to Metrolinx shall not apply to any loss until the coverage and limits available under the insurance policies maintained by the Consultant in accordance with this Contract have been exhausted.

1.4 Additional Coverage

- (a) Without prejudice to any other provisions of this Contract (including Section 1.1 of this Schedule D – Insurance), the Consultant shall, at all relevant times and at its own expense, obtain and maintain, or cause to be obtained and maintained (during the Term plus coverage for an extended reporting period of not less than thirty-six (36) months):
- (b) those insurances that are reasonable for the performance of the type and scope of Services set out by this Contract (including, as applicable, insurance as would typically be required by prudent designers or consultants); and/or

- (c) those insurances that the Consultant is required to obtain and maintain, or cause to be obtained or maintained, by Applicable Law.

1.5 Requirements for Insurance

- (a) All of Consultant's policies of insurance, as required under this Contract (the "**Consultant Policies**"), shall be taken out with insurance companies licensed to transact business in the Province of Ontario with an AM Best rating of no less than A.
- (b) Any deductible or self-insured retention amounts are the responsibility of the Consultant. Notwithstanding the foregoing, such deductibles or self-insured retention must be consistent with standard commercial practice and acceptable to Metrolinx, acting reasonably.
- (c) All Consultant Policies shall be kept in full force and effect during the Term, including any requirements for the period following Contract Closeout.
- (d) In the event that the Consultant fails to obtain and/or maintain in full force and effect any such insurance as aforementioned, then Metrolinx shall have the right as the Consultant's true and lawful attorney to do all things necessary for this purpose. The Consultant shall be responsible, and shall reimburse Metrolinx, all amounts paid by Metrolinx for insurance premiums and any and all costs incurred by Metrolinx in connection with this Contract. Without limitation, any premiums due on any insurance policy under this Schedule D – Insurance, but not paid by the Consultant may be paid directly to the insurer(s) or broker(s) by Metrolinx, which shall be entitled to deduct the amount of same along with its reasonable costs in so doing from any monies otherwise due to the Consultant by Metrolinx either under this Contract or otherwise.
- (e) All Consultant Policies shall be endorsed to provide Metrolinx with not less than thirty (30) days' advance written notice of cancellation.
- (f) Irrespective of the insurance requirements above, the insolvency, bankruptcy, or failure of any such insurance company providing insurance for the Consultant, or the failure of any such insurance company to pay claims that occur will not be held to waive any of the provisions hereof.

1.6 Proof of Insurance

- (a) The Consultant shall, prior to the commencement of the Services and thereafter upon request, provide to Metrolinx original signed certificates of insurance for the Contractor Policies, confirming that the required coverage has been placed and maintained. In addition, at least fifteen (15) days prior to the expiry date of any policy, the Consultant shall provide original signed certificates evidencing renewals or replacements of such policy to Metrolinx, without notice or request by Metrolinx.
- (b) The Consultant shall, upon request, provide evidence to Metrolinx that the premiums associated with the Consultant Policies have been paid; however, receipt by Metrolinx of the above information will in no way constitute confirmation by Metrolinx that the insurance complies with the requirements of this Contract. Responsibility for ensuring that the insurance coverage outlined in this Contract is in place rests solely with the Consultant.

- (c) The Consultant also agrees to provide Metrolinx with proof of errors and omissions insurance maintained by any Subconsultant, where such Subconsultant is under a professional obligation to maintain the same, and with proof of such insurance to be provided to Metrolinx no later than the execution of this Contract by the Consultant and to be in a form and with an insurer acceptable to Metrolinx.

1.7 Consultant's Liability Preserved

The provisions of this Contract as they relate to insurance do not diminish, limit or otherwise affect the liability of the Consultant to Metrolinx under or in relation to any other provisions of this Contract.

1.8 Workplace Safety & Insurance Board Protection

- (a) With respect to the WSIB coverage as required under the *Workplace Safety and Insurance Act* (Ontario), the Consultant unconditionally guarantees to Metrolinx full compliance with the conditions, regulations and laws relating to workplace safety insurance by itself and by all Subconsultants.
- (b) Without restricting the indemnity obligations of the Consultant in Article 12 of the General Conditions, the Consultant shall produce, at the commencement of this Contract, from time to time as may be required by Metrolinx and prior to issuance of the Final Payment Certificate, a valid Workplace Safety and Insurance Clearance Certificate, issued by the WSIB, for the premium rate class, subclass or group appropriate to the Services.

END OF SCHEDULE D

Schedule E – Dispute Resolution

1. Bona fide efforts to resolve

The Parties shall at all times during the Term make bona fide efforts to resolve any and all Disputes arising between them by amicable negotiations and to have all Disputes resolved at the lowest level of management before engaging the dispute resolution processes described in the balance of this Schedule E – Dispute Resolution.

2. Continuance of the Services During Dispute

Unless expressly directed otherwise by Metrolinx, the Consultant shall not stop or delay the performance of the Services, in whole or in part, on account of a Dispute between the Consultant and Metrolinx or between the Consultant and any other Person. Without limiting the generality of the foregoing, at all times during the course of a Dispute, the Consultant shall:

- (a) continue with the Services in a diligent manner and without delay;
- (b) conform to Metrolinx' decisions and directions; and
- (c) be governed by all applicable provisions of this Contract.

The Parties acknowledge and agree that the Consultant's compliance with this Section 2 shall not operate to waive any claim or contention that the Consultant may have in relation to any Dispute.

3. Tiered-Dispute Resolution

The Parties agree that any Dispute which cannot be resolved to the satisfaction of both Parties by direct discussions between staff members of the Parties, may be referred for negotiation between senior management of both Parties by delivery from one Party to the other Party of notice in writing requesting dispute resolution, which notice shall set out the Dispute in reasonably sufficient detail (a "**Dispute Notice**").

4. Negotiation

- (a) In the event a Party issues a Dispute Notice to the other Party, the Vice President, GO Capital Infrastructure at Metrolinx (or if that position no longer exists at the time the Dispute Notice is issued, the person performing an equivalent function) and an authorized representative of the Consultant, of equivalent seniority and duly appointed to represent the Consultant in this regard, shall meet and make a good faith effort, on a without prejudice basis, to resolve the Dispute as set out in the Dispute Notice in a prompt manner and, for the purpose of same, each Party shall provide its representative with full and timely disclosure of all relevant facts information and documents as may be reasonably required or may be reasonably requested by the other Party, on a without prejudice basis, to facilitate such negotiation.
- (b) Negotiations under this Section 4 shall be commenced within ten (10) Business Days of delivery of a Dispute Notice and shall, unless otherwise agreed by the Parties, be concluded within fifteen (15) Business Days of their commencement. In the event that a resolution satisfactory to all Parties is achieved through such negotiations, the Parties shall issue a joint statement detailing the manner in which the Dispute has been resolved.

5. Mediation

- (a) If a Dispute has not been resolved through high-level negotiation as contemplated in Section 4, either Party may refer the Dispute to be resolved through mediation.
- (b) The Parties shall mutually agree to the appointment of the mediator within thirty (30) Business Days, or within such other time as the Parties may agree, of any Party issuing a supplementary Dispute Notice requesting mediation.
- (c) If the Parties cannot agree on the appointment of a mediator, the appointment of a mediator shall be determined by the Ontario Superior Court of Justice following an application by either Party.
- (d) The mediator shall be independent of and at arm's length to the Parties and shall be a person who by training and experience has the qualifications and the mediation skills to mediate a Dispute.
- (e) Unless the Parties otherwise agree, the mediation shall proceed in accordance with the following procedures:
 - (i) Each Party shall prepare a summary of the issues in dispute, with the Party's position with respect to those issues. The summary shall be delivered to the mediator and the other Parties, at least seven (7) Business Days before the first mediation conference.
 - (ii) The goal of the mediation is to reach an agreed upon settlement and, therefore, all individuals with the appropriate authority to agree to the settlement terms and conditions shall be present at the mediation.
 - (iii) A Party may be represented at the mediation by counsel or another representative at the sole cost of such Party.
 - (iv) The mediator, the Parties and their counsel or representatives shall keep confidential all matters relating to the mediation, except where disclosure of a settlement agreement is necessary to implement or enforce that agreement and except as otherwise required by Applicable Law.
 - (v) In all respects, the mediation is deemed to be a "without prejudice" proceeding.
 - (f) The costs of the mediator shall be apportioned equally between the Parties unless otherwise agreed under any settlement reached under this Section 5.
 - (g) If the Parties achieve a resolution of the Dispute, the mediator shall confirm the resolution in writing, which will be signed by the Parties. If the Parties do not resolve the Dispute, the mediator shall provide a written confirmation that the Parties were unable to resolve the Dispute.
 - (h) Both Parties acknowledge and agree that they may not refer a Dispute for resolution by arbitration under Section 6 prior to attempting to resolve such Dispute through mediation pursuant to this Section 5.

6. Arbitration

- (a) Any Party may, within ten (10) Business Days of the delivery of the mediator's confirmation that the Parties were unable to resolve their Dispute, issue a supplementary Dispute Notice requesting arbitration. Subject to Applicable Law, if such a supplementary Dispute Notice is issued, the Parties shall proceed to arbitration in the manner described below.
- (b) If the Parties agree on the arbitrator, the Parties shall jointly appoint the arbitrator as soon as possible and in any event within ten (10) Business Days of the submission of a Dispute to arbitration under this Section 6. If the Parties are unable to agree on an arbitrator, each Party shall appoint an arbitrator, and the two arbitrators so chosen shall select a third arbitrator acceptable to both of them within ten (10) Business Days of their selection.
- (c) The arbitrator(s) shall be independent of and at arm's length to the Parties and shall be a person who by training and experience has the qualifications and arbitration skills to arbitrate a Dispute.
- (d) The arbitration shall be conducted in accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17, except to the extent they are modified by the express provisions of this Schedule E – Dispute Resolution or unless the Parties otherwise agree.
- (e) If the issue in dispute is particularly time sensitive, the Parties shall, in good faith, take such reasonable steps as may be required to expedite the arbitration process in order that an award may be rendered as soon as practicable by the arbitrator(s), given the nature of the Dispute.
- (f) The arbitrator(s) has the jurisdiction to deal with all matters relating to a Dispute.
- (g) Unless otherwise agreed, the arbitration shall be conducted in the City of Toronto, Province of Ontario at the location determined from time to time by the arbitrators, but the arbitrators may meet in any other place the arbitrators considers necessary for consultation, to hear witnesses, experts or other parties, or for the inspection of documents, goods or other property.
- (h) In addition to the examination of the Parties by each other, the arbitrator(s) may examine, in the ordinary course, the Parties or either of them and the witnesses in the matter referred to the arbitrator(s), and the Parties and witnesses, if examined, shall be examined on oath or affirmation.
- (i) The language of the arbitration shall be English.
- (j) The arbitrator(s) shall, after full consideration of the issues in dispute, the relevant facts and Applicable Law, render a decision as soon as possible and, in any event, shall use all reasonable efforts to render a decision no later than thirty (30) Business Days after argument of the issue to the arbitrator(s), which decision shall be final and binding on the Parties and not subject to appeal or challenge, except such limited relief provided under Section 45(1) (appeal on a question of law, with leave) or Section 46 (setting aside award) of the *Arbitration Act, 1991* (Ontario).

- (k) The costs of the arbitration are in the discretion of the arbitrator(s) who, in addition to any jurisdiction and authority under Applicable Law to award costs, has the jurisdiction and authority to make an order for costs on such basis as the arbitrator(s) consider appropriate in the circumstances. The submission to the arbitrator(s), and any award made in pursuance of it, may, at the instance of either of the Parties and without notice to the other of them, be made an Order of the Ontario Court (General Division), pursuant to the *Arbitration Act, 1991* (Ontario) and the *Courts of Justice Act* (Ontario).

END OF SCHEDULE E

Appendix “B” – Consultant’s Scope of Services

List of Contents

The following documents hereby form part of and are appended to this Request Document as the Appendix “B” – Consultant’s Scope of Services

ITEM NO.	DOCUMENT TITLE
1.	Abbreviations and Definitions
2.	Project Overview
3.	General Requirements
4.	Management of the Services
5.	Scope of Services

1. Abbreviations and Definitions

In this Appendix “B”:

“Acceptance into Service” means the act of Metrolinx allowing Products and/or Work, subject to Commissioning, to enter operational service,

“APEC” means Areas of Potential Environmental Concern,

“Applicable Laws” means all applicable laws, statutes, regulations, orders, by-laws, treaties, judgments, decrees and ordinances applicable from time to time and, whether or not having the force of law, Standards, codes, requirements, requests, directives, rules, guidelines, instructions, circulars, manuals, and policies of any Consultant having or purporting to have jurisdiction or authority over a Party, property, transaction or event, including laws relating to workplace safety and insurance, occupational health and safety and employment standards,

“Approval(s)” means any permits, licences, concepts, approvals clearances, orders, ordinances, registrations, filings or other authorizations respecting the Work as may be requested from any applicable Government Authority or otherwise by the Contract Documents,

“Best Industry Practice” means using Standards, practices, methods and procedures to the highest commercial international standard, conforming to Applicable Laws and exercising that degree of skill and care, diligence, prudence and foresight which would be expected from a leading Person performing similar work in the railway industry, including work related to design and construction of signalling systems,

“CaGBC” means Canadian Green Building Council,

“CAHP” means Canadian Association of Heritage Professionals,

“Cash Allowance Items” means those items, work and/or services identified in the Articles of Agreement as items to be paid for using the designated Cash Allowance,

“Cash Allowance” means a sum included in the Estimated Contract Price by Metrolinx as a predetermined allowance to cover the items identified in the Articles of Agreement Cash Allowance Items,

“CAD” means Computer Aided Design,

“CCDC” means Canadian Construction Committee Document,

“Change” means any contractual or operational change, including requested changes to the Work or requests for additional Work,

“CHER” means Cultural Heritage Evaluation Report,

“CHSR” means Cultural Heritage Screening Report,

“CCTV” means Closed Circuit Television,

“CMO” means Construction Management Office,

“CMP” means Compliance Monitoring Program,

“CN” means Canadian National Railway Company,

“Consultant” means the legal entity that was prequalified through SQ-2016-PMG-006 Request to be Prequalified for Consulting Services for Environmental Assessments Projects, that is invited to this IT Process and remits a Submission in response to this Tender Document and who, if selected for award shall execute the Contract with Metrolinx for provision of the Services.

“CP” means Canadian Pacific Railway Company,

“CPTED” means Crime Prevention through Environmental Design,

“Commissioning” or “Commission” is the execution of final tests, completion of which permit Acceptance into Service, necessary to confirm that Work is safe, fit-for-purpose, and compliant with the Contract Documents and all Standards and Approvals,

“Construction Documents” means the drawings and operational, technical, functional, and performance specifications that are prepared by the Consultant based upon and in accordance with the Contract Documents, which are signed by the Consultant and reviewed and Accepted by Metrolinx at any time after execution of the Articles of Agreement,

“Constructor” means the role defined in the OHSA,

“Contract” means the undertaking by the Parties to perform their respective duties, responsibilities and obligations as prescribed in the Contract Documents and represents the entire agreement between Parties,

“Contractor” means a company awarded a construction contract for the Project,

“CROR” means Canadian Rail Operating Rules,

“CSMP” means Construction Safety Management Plan,

“DMU” means Diesel Multiple Unit,

“Decommissioning” means activities required to safely facilitate physical removal of track and/or related signals, temporarily or permanently,

“DRM” means Metrolinx’s Design Requirements Manual,

“EA” means Environmental Assessment,

“EMMP” means Environmental Mitigation and Monitoring Plan,

“EPR” means Environmental Project Report,

“ESA” means Environmental Site Assessment,

“ESIR” means Environmental Site Inspection Report,

“GO Transit” means GO Transit, a division of Metrolinx,

“HVAC” means Heating, Ventilation and Air Conditioning,

“IFC” means Issued for Construction,

“IT” means Metrolinx’s Information Technology department,

“LEED” means Leadership in Energy and Environmental Design,

“LID” means Low Impact Development,

“Maintenance Provider” means the entity or entities responsible for the provision of maintenance services for all signalling, electrical, communications tracks systems within a defined area,

“MNRF” means Ministry of Natural Resources and Forestry,

“MOECC” means Ministry of the Environment and Climate Change,

“MTCS” means Ontario Ministry of Tourism, Culture and Sport,

“MTO” means Ministry of Transportation of Ontario,

“NFPA” means National Fire Protection Association,

“NPC” means Noise Pollution Control,

“NTP” means Notice to Proceed,

“OBC” means Ontario Building Code,

“OEM” means Original Equipment Manufacturer,

“OHSA” means the Ontario *Occupational Health and Safety Act*,

“OGS” means Oil and Grit Separators,

“OLS” means Ontario Legal Surveyors,

“OPSD” means Ontario Provincial Standard Drawings,

“OPSS” means Ontario Provincial Standard Specifications,

“Owner” means Metrolinx,

“POP” means Point of Purchase,

“Parties” means both of Metrolinx and the Consultant,

“Party” means Metrolinx or the Consultant,

“PCA” means Potentially Contaminating Activity,

“Person” means any individual, sole proprietorship, partnership, corporation or company (with or without share capital), trust, foundation, joint venture, Consultant or any other incorporated or unincorporated entity or association of any nature,

“PIN” means Property Identification Number,

“Project” means the Contract for Engineering Services and Environmental Assessment for XX,

“Project Manager” means Project Coordinator for Metrolinx,

“PA System” means Public Address System,

“RGC” means Registered Graphic Consultant,

“Re-commissioning” means activities required to put track and/or related signals back in service,

“RER” means Regional Express Rail,

“RFI” means Request for Information,

“ROW” means Right Of Way,

“SCD” means Snow Clearing Device,

“SCP” means Strategic Conservation Plan,

“Subsystem” means a combination of Products that work together to perform a specific function or functions,

“System” means group of interacting Subsystems or Products,

“TA” means Technical Advisor,

“Tester in Charge” means the competent person in charge of the Testing and Commissioning of a new or altered signalling system,

“Testing and Commissioning” means the end-to-end process of Verifying and Validating the operation of the Products, the Subsystems, the Systems through a structured approach consistent with the System hierarchy,

“TPAP” means Transit Project Assessment Process,

“TRCA” means Toronto and Region Conservation Authority,

“TSSA” means Technical Safety Standards Association,

“Track” or “Railway track” or “Railroad track” means the structure consisting of the rails, fasteners, railroad ties and ballast, plus the underlying subgrade,

“TTR” is Toronto Terminals Railway Company,

“TVM” means Ticket Vending Machine,

“UPS” means Uninterrupted Power Supply,

“Work” means all services, in whole or in part, required by the Contract Documents herein.

2. Project Overview

(a) Introduction

Metrolinx has committed to the Regional Express Rail on the Stouffville corridor. Included is all day, bi-directional service every 15 minutes to Unionville GO Station and every hour to Mount Joy GO Station. As a result, additional trains are being introduced into the existing GO service on the Stouffville corridor. Existing infrastructure and consistent storage capacity at the existing Lincolnville Layover Facility is currently not adequate to support the proposed growth, as such Metrolinx is undertaking an expansion project to accommodate this growth.

Six (6) layover storage tracks are already in use at this facility. Two (2) six-car trains are stored on one of the tracks with an additional two (2) more trains anticipated to be stored on the mainline track with service starting June 24, 2017 at Lincolnville GO. The permanent facility design development will meet future needs of nine (9) layover storage tracks at this facility, ready in Spring 2019.

The permanent layover expansion work includes adding three (3) storage tracks west of the existing six (6) storage tracks and all auxiliary infrastructure and systems to support additional trains:

- Wayside power
- Substation upgrades
- Generator upgrades
- Wayside cabinets, water and air
- Compress airline modifications/extension
- CCTV
- Roadways and walkways
- New electrical bunker
- Tracks and switches
- Switch heaters
- Drip trays and environmental protection systems
- Services and utilities
- Lighting
- Civil work
- Protection for future tracks
- Provisions for electrification
- Relocation of the PNR yard

In order for the additional layover tracks to be available by Spring 2019, Metrolinx is planning to commence construction of the proposed layover expansion works in May of 2018.

In addition, the existing Lincolnville GO station services, situated within the layover facility at MP 38.9 are to be upgraded. to include all amenities, and facilitate a safe and comfortable experience for GO customers and accommodate future ridership growth. Consequently, relocation of the station experience may be required at a new location. The need and location of the new station will be determined through the development of the Feasibility Study, and addressed through an Addendum to the TPAP for the layover expansion.

Stantec Consulting has been retained by Metrolinx to undertake the environmental investigations and reporting, detailed design, tender support, construction engineering services, and post-construction services. The environmental investigations and reporting, and design concept development for the layover expansion are underway and have determined the need for an environmental assessment process to be undertaken. The successful consultant will work with Stantec Consulting throughout the duration of the contract to ensure a smooth and integrated process and deliverables.

(b) Project Scope

(i) Major Components of the Project include, but are not limited to:

(A) **Phase One:** Feasibility Study Services

(B) **Phase Two:** Environmental Assessment (TPAP)

(1) The EA will be completed as per Ontario Regulation 231/08 – Transit Projects and Metrolinx Undertakings and the Transit Project Assessment Process (TPAP) and will include all required environmental studies in order to issue Statement of Completion.

3. Consultant's General Requirements for the Work

The Consultant shall consider the following general requirements when preparing their quotation for the Consultants Scope of Services, as identified in Section 2:

(a) Project Organization and Approach

The project will be managed by the Environmental Programs & Assessment Group (i.e., the Project Team). In addition to the Project Team, support and direction for the project will be provided by the following:

(i) Technical Advisory Committee (TAC)

The TAC will be the primary staff-level group reviewing content and providing day-to-day direction on the project. The TAC will ensure coordination between parallel studies, provide technical input at key milestones, and help to identify potential issues. The TAC will include representatives from Toronto and Region Conservation Authority, Region of York and Town of Whitchurch-Stouffville and others if needed, as well as other internal Metrolinx groups.

It is anticipated that at a minimum three (3) TAC meetings will be held.

(ii) Metrolinx Senior Management and Board of Directors

Metrolinx Senior Management and Board of Directors will provide high level input to the project. They will also be involved at key milestones, or Stage Gates, and provide approval for moving forward with the proposed process and deliverables.

(i) Public Meetings and a Project Website

Will allow for input on the process, alternatives considered and recommendations.

(a) Sustainability and Performance Oriented Design

(i) Background

(A) It is Metrolinx's intention to continually reduce operating and maintenance costs associated with its stations and facilities through energy efficient design and low maintenance building materials.

(B) Metrolinx also wants to ensure that we are embedding sustainability into our culture, processes, policies and decision-making process. The Metrolinx Sustainability Strategy (2015-2020) focuses on how Metrolinx can plan, build and operate to achieve meaningful progress towards sustainability in areas that are not addressed in existing Metrolinx strategies and plans.

(ii) Requirements

(A) For all elements of this Project, the Consultant shall consider performance orientated design principles aimed at reducing the energy and maintenance resources required to operate the station or facility.

(B) Performance oriented design principles may include, but not be limited to:

- 1) Passive solar lighting and/or solar power generation;
- 2) Energy efficient appliances and light fixtures;
- 3) Reduced lighting cycles;
- 4) Electrification requirements;
- 5) Low maintenance building materials; and,
- 6) Lighting design shall be completed in a manner which minimizes glare and light trespass to adjacent lands.

(C) The Consultant will design all GO station buildings and facilities to achieve LEED Gold as per practice of the CaGBC, where practically and economically responsible.

(D) Where the design scope does not meet LEED Minimum Program Requirements (MPR), the Consultant will implement LEED principles and

initiatives where practically and economically possible. Measures to implement LEED principles shall be documented and discussed with the Metrolinx Project Manager for final approval.

- (E) The Consultant shall ensure consistency of the project with the Sustainability Strategy (http://www.metrolinx.com/en/aboutus/sustainability/Sustainability_Strategy_2015-2020_EN.pdf) through the integration of sustainability considerations into EA mitigation measures and project design. The EPR will include sections describing the Sustainability Strategy and assessing the project's consistency with it.

(b) Design Excellence

Design excellence refers to the successful interplay between functionality, durability, beauty and value. The Metrolinx Design Excellence Process recommends a multi-pronged approach to integrating design excellence into Metrolinx capital investments, building on existing work and focus on areas of architecture, landscape architecture, and urban design.

- (i) Design excellence should be integrated into the capital project development process at key milestones, starting from project scoping and procurement to detailed design.

(c) Project Deliverables

- (i) The Consultant shall prepare all presentation materials using an approved Metrolinx template, where applicable. Where no template is available, Metrolinx branding (logo, standard font, etc.) will be used for all Project related deliverables.
- (ii) Electronic Presentations shall be prepared using Microsoft PowerPoint, and using a Metrolinx template.
- (iii) Hard copy documents shall be forwarded in an appropriate size format and with black text on white background, such that they readily reproduce a clear, sharp and readable image on standard recycled photocopy stock using standard photocopy equipment.
- (iv) Electronic format deliverables shall be in a format that enables Metrolinx and/or external stakeholders and agencies to provide comments (e.g., Microsoft Word, unlocked Adobe pdf)
- (v) Digital Deliverable requirements:
 - (A) Operating System: Windows 7 or above
 - (B) Software Program: Microsoft Office
 - (C) Font: Avenir Next LT Pro, 12pt
 - (D) Storage Media: USB Flash Drive

- (E) Digital Transfer: File Transfer Protocol (FTP) site to Metrolinx project team, which will allow for the transfer of documentation for the duration of the Project.

- (vi) Information presented on Maps and Diagrams shall be clearly labeled directly on the document or in the legend. Map scale and paper size must be appropriate to the information being conveyed. Basic information on maps and diagrams will include, but not be limited to:
 - (A) Scale
 - (B) "North" orientation arrow
 - (C) municipal boundaries and parcel identifiers
 - (D) important geographic or topographic features (e.g., water bodies, water courses, roads, rail lines, etc.)
 - (E) important geopolitical locations and boundaries (e.g., cities, towns, Municipal Districts and Counties, parks, etc.)

- (d) Public Consultation/Engagement Roles and Responsibilities
 - (i) All communications and consultations shall be completed in accordance with the Metrolinx Communications and Public Engagement Protocol provided for in Appendix "D". Where there are inconsistencies with language in this document and the Protocol, the General Requirements and Consultant's Scope of Services as described in this IT document will take precedence.

 - (ii) The Consultant shall be responsible for providing support, as required, for all public consultation related to the Environmental Assessment process including, but not limited to:
 - (A) Technical Advisory Committee (TAC) Meetings – the Consultant shall attend meetings with Metrolinx, other Consultants, and stakeholders to discuss the Project, as required.

 - (B) Public Meetings - The Consultant shall be responsible for providing support for Public Meetings at two (2) points in the Project, related to the TPAP.
 - (1) It is anticipated that each meeting will be held at one (1) location.
 - (2) All public meetings will be held within the Project Study Area.
 - (3) The Consultant shall submit venue options for each Public Meeting, from which a final location will be determined by Metrolinx.
 - (4) Overall, the Consultant should budget for two (2) public meetings.

- (C) Roles and Responsibilities - The consultant shall undertake the following tasks related to the organization and facilitation of Public and TAC Meetings, including but not limited to:
 - (1) Identify and book Meeting location(s) if outside of a Metrolinx office location;
 - (2) Advertise/promote Public Meetings;
 - (3) Undertake all logistics including, but not limited to: venue set-up, A/V equipment, onsite signage, flip charts, markers, etc;
 - (4) Develop approach and agenda;
 - (5) Prepare presentation materials including, but not limited to: PowerPoint presentation, display boards and any other AV/presentation materials, as required;
 - (6) Develop questions to be used in panel discussions, if relevant;
 - (7) Develop speaking notes and discussion questions/prompts, if relevant;
 - (8) Participate in and lead a pre-meeting briefing session to review the approach and agenda, discussion questions, roles, etc., if relevant;
 - (9) Prepare and circulate meetings minutes for all TAC meetings;
 - (10) Facilitate Public Meetings, which will likely be during the evening for a two (2) or three (3) hour duration;
 - (11) Take notes at the Public Meetings and write a concise "key themes" summary of the Public Meeting; and,
- (iii) Deliverables - The consultant should assume that materials prepared for consultation purposes will likely require multiple drafts and approvals within Metrolinx and that Metrolinx will have final sign-off.
- (iv) Website and Social Media – The consultant shall be responsible for supporting Metrolinx in developing content for the project website and social media updates, as required. The project website will be hosted by Metrolinx.

4. Consultant's Management of Services

- (a) The Consultant shall be responsible for the management of services under the following general terms, including but not limited to:
 - (i) maintaining ongoing contact with the Metrolinx Project Manager to ensure that issues arising during the terms of the Contract are dealt with in an efficient, effective, and timely manner;
 - (ii) coordinating the preliminary design for EA purposes with Metrolinx, external agencies and Governmental Authorities including local utilities;

- (iii) coordinating and interfacing with other disciplines it retains to perform the Work under the Project;
- (iv) coordinating the preliminary design for EA purposes with Metrolinx, external agencies and Governmental Authorities, including local utilities;
- (v) arranging, coordinating and chairing meetings with Metrolinx and/or external authorities in connection with the Project, as required;
- (vi) arranging, coordinating and chairing meetings and liaising with subconsultants and support services, as required; and,
- (vii) interfacing with other consultants and stakeholders throughout the duration of the project as needed to ensure the timely, efficient and smooth delivery of the Project. Interaction may include, but not be limited to:
 - (A) providing preliminary design comments to the detailed design engineer in an organized format for easy review, response, and incorporation into design revisions.
 - (B) working with the detailed design engineer to determine any potential environmental impacts of the project and addressing any requirements for the mitigation measures in the preliminary design phase.
- (viii) ensuring that all reports name Metrolinx and provide Metrolinx with full reliance on the report, including the individual Environmental Studies forming part of the Environmental Project Report. The Consultant must also provide full reliance to other third parties as requested by Metrolinx, including but not limited to vendors, purchasers, financiers, etc. associated with a specific transaction or task.
 - (A) Any reliance to third parties shall:
 - (1) apply only to the subject property as it existed at the time of the Consultant's investigations;
 - (2) apply only to the data in the reports, at the specific location noted in the report;
 - (3) not be construed as being sufficient for the purposes of the third party;
 - (4) apply to factual data only and not the opinion or extrapolated data;
 - (5) be subject to the same limitation pertaining to the accuracy of information provided by other parties, as identified in the report e.g. interview information, historical records; and,
 - (6) be based on the entire report and no excerpts may be taken to be representative of the findings.
- (b) Progress Reports and Minutes of Meetings

- (i) The Consultant shall be responsible for chairing weekly progress meetings and recording, preparing and distributing meeting minutes within three (3) working days of the meeting date (for all meetings associated with the Project).
 - (ii) The Consultant shall prepare and submit, to Metrolinx, a monthly Status report within seven (7) working days after the reported month. The report shall include:
 - (A) a summary of project progress, identification of unresolved issues, preliminary design inputs for EA purposes by others, information required, schedule and cost status; and,
 - (B) appropriate cost/budget control information for all activities associated with the contract, including overall cash flow requirements.
- (c) Services and Costs Related to External Agencies and Authorities
- (i) Services and Costs Related to External Agencies and Authorities
 - (A) The Consultant shall be responsible for tasks associated with external agencies and authorities including, but not limited to:
 - (1) Coordinating, administering, and providing Services necessary to achieve compliance with external agencies and Governmental Authorities as required to obtain approvals for the Project; and,
 - (2) Identifying, defining and permit and approval requirements, in coordination with other Consultants, to ensure that the Project can be delivered based on the requirements developed during the Project.
 - (3) Acquiring all necessary permits and approvals for the Project.
 - (ii) Project Meetings
 - (A) The Consultant shall be responsible for the costs associated with attendance at meetings.
 - (B) The Consultant shall be responsible for the costs associated with hall rental fees, attendance at Public Meetings, support to provide consultation materials for posting on the Metrolinx Project website and translation services.
- (d) Permits and Approvals
- (i) The consultant shall arrange and attend meetings with appropriate regulators and authorities as necessary and assist Metrolinx with permit application and approvals, and all necessary supporting studies and reports related to the Project.
 - (ii) Metrolinx, as a Provincial Crown Agency, is not subject to the Ontario Municipal Act, the Planning Act or the Development Charges Act. The services and infrastructure of Metrolinx are developed, however, in partnership with local municipalities and Governmental Agencies. When developing plans for new or expanded infrastructure, Metrolinx will keep the affected municipality and/or Governmental Agency informed of progress and cooperate with staff to ensure

infrastructure is constructed to meet requirements to the greatest extent possible.

- (iii) Submissions relating to building permits and site plan approvals for Metrolinx projects are made in the spirit of co-operation and to provide the municipality and Governmental Agency with an opportunity to comment. Metrolinx will compensate the municipality for any direct cost of their review of the submissions for approval.

5.0 Scope of Services

The Consultant shall provide the Scope of Services as herein defined for the Project. The Consultant's Scope of Services is summarized as follows:

(a) Phase 1: Project Planning (Feasibility Study)

The objective of this phase is to build a business case for the development of the project, and recommend a conceptual design that will address the expansion of the existing layover facility at the current site, and the needs of a new station site at the existing or a new location.

(i) Summary of Tasks:

- (A) Task A: Relevant Studies and Baseline Reports
- (B) Task B: Recommendations and Final Feasibility Report

(ii) Scope of Services:

- (A) Task A: Relevant Studies and Baseline Reports
 - (1) Before commencement of the Feasibility Study, the Consultant shall attend an in-person meeting with Metrolinx to discuss the approach and requirements for the Feasibility Study.
 - (2) Before commencement of the Feasibility Study, the Consultant shall review and confirm the accuracy of supporting studies and data supplementing the layover expansion and potential new station including, but not limited to:
 - (i) Metrolinx Business Case Development Manual
 - (ii) Metrolinx Business Case Development Guide
 - (iii) The Big Move Update (Metrolinx, 2013)
 - (iv) Draft Stage 1 Archaeological Assessment (Stantec, 2017)
 - (v) Soils Preliminary Assessment Report (Stantec, 2017)
 - (vi) Hydrogeological Preliminary Assessment Report (Stantec, 2017)
 - (vii) Draft Fisheries Habitat Assessment (Stantec, 2017)

- (viii) Cultural Heritage Screening Report (Stantec, 2017)
 - (ix) Draft Air Quality Evaluation Report (Stantec, 2017)
 - (x) Noise and Vibration – Preliminary Assessment Report (Stantec, 2017)
 - (xi) Land Use Planning Preliminary Assessment Report (Stantec, 2017)
 - (xii) Draft Terrestrial Ecosystems Preliminary Assessment Report (Stantec, 2017)
 - (xiii) Proposed Track Alignment General Layouts Conceptual Options (Stantec, 2017)
- (3) The Consultant shall identify and report any gaps or discrepancies to Metrolinx, and Metrolinx will provide further information and direction necessary to resolve reported gaps or discrepancies.
 - (4) The Consultant shall become familiar with the existing site conditions and undertake a site inspection, if required.
 - (5) The Consultant shall meet with Metrolinx and incorporate their requirements into the Study.
 - (6) The Consultant shall evaluate the feasibility for layover expansion and proposed new station at Lincolnville based on existing site conditions, Metrolinx Business Case requirements, and any other initiatives currently underway.
 - (7) The Consultant shall identify potential property requirements within the Project area to complete the undertaking.
- (B) Task B: Recommendations and Final Feasibility Report
 - (1) The Consultant shall undertake an analysis of the alternative design concepts prepared by the detailed design engineer, for the layover expansion and proposed new station.
 - (2) The Consultant shall identify a preferred design option and develop recommendations for the project.
 - (3) The Consultant shall meet with Metrolinx and present the recommendations for Metrolinx review and approval.
 - (4) The Consultant shall summarize the review, analysis, and recommendations in a Feasibility Study which will be provided to Metrolinx for review and approval.
- (iii) Deliverables:
 - (A) Task A: Relevant Studies and Baseline Reports

(1) Existing Conditions Report

- (i) The Existing Conditions Report shall include, but not be limited to:
 - a) existing infrastructure within the Study Area. The information collected should be of sufficient detail, and include, but not be limited to:
 - (i) current and future track configurations;
 - (ii) switch and signal locations, both existing and proposed;
 - (iii) bridges and road / rail grade separations;
 - (iv) structures and culverts; and,
 - (v) existing utility crossings.
 - b) adjacent land uses and land use plans along the Study Area with potential to impact the project;
 - c) summary of desktop review and supplemental report review of the environmental conditions at the current and any proposed new sites; and,
 - d) constraints to infrastructure improvements, as well as provide guidance for the future EA.
- (ii) The Draft Existing Conditions Report shall be provided to Metrolinx in an electronic format for review and comment prior to finalizing.

(B) Task B: Recommendations and Final Feasibility Report

(1) Recommendations Report

- (i) The Recommendations Report shall include but not be limited to:
 - a) recommendations for layover expansion and potential new station;
 - b) impacts and property requirements for the undertaking;
 - c) potential risks and challenges to implement the recommendations; and,
 - d) evaluation of all conceptual design for the layover expansion and new station, as proposed by the detailed design engineer (Stantec).

(ii) The Draft Recommendations Report shall be provided to Metrolinx in an electronic format for review and comment prior to finalizing.

(2) Final Feasibility Report

(i) The Final Feasibility Report shall include but not be limited to:

- a) the Existing Conditions Report;
- b) the Recommendations Report;
- c) all of the information developed in the existing conditions and recommendations deliverables, building on each to develop the final report;
- d) all comments provided by the Metrolinx review team and any other external stakeholders; and,
- e) drawings, maps, and photos that best represent the proposed project.

(ii) The Draft Final Feasibility Study shall be provided to Metrolinx in electronic format for review and comment prior to finalizing.

(iii) The Final Feasibility Study shall be provided to Metrolinx in electronic format and three (3) hard copies.

(b) Phase 2: Environmental Assessment (Ontario Regulation 231/08, TPAP)

The TPAP will be completed as per *Ontario Regulation 231/08 – Transit Projects and Metrolinx: Undertakings and the Transit Project Assessment Process (TPAP)*, and will build from the Feasibility Study and environmental reports prepared for the Lincolnville GO Station Improvements in order to obtain Notice to Proceed from the Ontario Minister of the Environment and Climate Change (MOECC) Environmental Assessment and Approvals Branch.

(i) Summary of Tasks:

- (A) Task A: Review of Existing Environmental Reports
- (B) Task B: Detailed Project Schedule and EA Project Methodology
- (C) Task C: Consultation and Consultation Record
- (D) Task D: Environmental Project Report
- (E) Task E: Permits and Approvals
- (F) Task F: Environmental Investigation Studies

(ii) Scope of Services:

- (A) Task A – Review Existing Environmental Reports for the Lincolnville GO Station Improvements
- (1) Before commencement of the EA, the Consultant shall review and confirm the accuracy of the supporting studies, reports and data supplementing the layover expansion, including but not limited to:
 - (i) Draft Stage 1 Archaeological Assessment (Stantec, 2017)
 - (ii) Soils Preliminary Assessment Report (Stantec, 2017)
 - (iii) Hydrogeological Preliminary Assessment Report (Stantec, 2017)
 - (iv) Draft Fisheries Habitat Assessment (Stantec, 2017)
 - (v) Cultural Heritage Screening Report (Stantec, 2017)
 - (vi) Draft Air Quality Evaluation Report (Stantec, 2017)
 - (vii) Noise and Vibration – Preliminary Assessment Report (Stantec, 2017)
 - (viii) Land Use Planning Preliminary Assessment Report (Stantec, 2017)
 - (ix) Draft Terrestrial Ecosystems Preliminary Assessment Report (Stantec, 2017)
 - (x) Proposed Track Alignment General Layouts Conceptual Options (Stantec, 2017)
 - (2) The Consultant shall identify and report any gaps or discrepancies to Metrolinx, and Metrolinx will provide further information and direction necessary to resolve reported gaps or discrepancies.
 - (3) The Consultant shall orient themselves with the existing site conditions, and confirm surveys and geotechnical information, as necessary.
 - (4) The Consultant shall coordinate with other Metrolinx Consultants, as required for information gathering and verification purposes.
- (B) Task B – Detailed Project Schedule and EA Project Methodology
- (1) The Consultant shall prepare and submit for Metrolinx approval, a detailed project work plan for EPR completion.
 - (2) The Consultant shall prepare a detailed schedule and methodology for the Project, and submit to Metrolinx for review and approval.

- (3) The Consultant shall present the Detailed Project Schedule within seven (7) days following the project kick-off meeting. Any contemplated revisions to this Schedule will be made in collaboration with and approved by Metrolinx.
 - (4) The Consultant shall submit monthly schedule updates to Metrolinx to reflect any changes related to the completion of key deliverables and milestones, and will be provided in digital (Microsoft Project) format.
- (C) Task C – Consultation and Consultation Record
- (1) The Consultant shall develop a Communications and Stakeholder Consultation Plan, as per Section(iii)(c).
 - (2) Shall provide for a comment period following each public meeting or point of contact with public where input is requested.
 - (3) The Consultant shall keep written documentation of all consultation activities in a Communication Log. A template shall be provided to Metrolinx for review and approval. The Consultation log shall be submitted to Metrolinx monthly for review and comment.
 - (4) The Consultant shall produce and maintain a Comment Tracking Table and Mailing List to track all comments received throughout the TPAP from all stakeholders, and the response provided. Additional headings may be added as required.
 - (5) The Consultant shall issue all formal Notices for the EA process. All individual environmental studies for the EPR as well as an overall EPR will be in 90% Draft form before the Notice of Commencement is issued.
 - (6) The Consultant shall submit the 90% Draft EPR and supporting environmental studies for review, and incorporate comments, to the MOECC and other key stakeholder (e.g., regulatory agencies, local municipalities, conservation authorities, etc.) prior to issuance of the Notice of Commencement.
 - (7) The Consultant shall prepare display boards and other materials required for all presentations that reflect the design for EA purposes such that they are of an appropriate level of detail for the public, and in cooperation with the detailed design engineer.
 - (8) The Consultant shall provide renderings for the design, such that they are available for use for public consultation including Public Meetings, stakeholder meetings, and other communications. Updates to the renderings shall be made as the EA design progresses, where applicable.
 - (9) The Consultant shall arrange and chair and/or coordinate a minimum of three (3) Technical Advisory Committee (TAC) meetings with all necessary stakeholders in order to obtain

MOECC notice to proceed, develop design drawings, and identify all relevant permits and approvals.

- (10) The Consultant shall arrange and chair and/or coordinate a minimum of three (3) Stakeholder Meetings, if required, with all necessary stakeholders in order to issue MOECC statement of completion, develop design drawings, and identify all relevant permits and approvals. Any recommendations or comments brought forth through liaising with stakeholders will be incorporated into the EPR and forwarded to the detailed design engineer for incorporation into the design. Consultation with stakeholders will include, but not be limited to:
- (i) Conservation Authorities;
 - (ii) Community organizations (i.e., consumer groups, resident associations, and interest groups);
 - (iii) Local communities, landowners, businesses and the general public;
 - (iv) Local municipality affiliates;
 - (v) relevant federal and provincial government entities;
 - (vi) Utility companies;
 - (vii) other consultants engaged by Metrolinx; and,
 - (viii) other stakeholders to be identified by Metrolinx and the Consultant.
- (11) If required, and at the discretion of Metrolinx, the Consultant will carry out additional public and stakeholder consultation work. This will be paid through Cash Allowance.

(D) Task D – Environmental Project Report (EPR)

- (1) The Consultant shall provide EPR submissions at various stages as outlined in Appendix B - Section 5.0(iii)(d), for Metrolinx review. The submissions will address all comments provided by the Metrolinx review team and other external stakeholders.
- (2) The Consultant shall provide the EPR Drafts in electronic format as well as hard copies as required and, as outlined in Appendix B - Section 5.0(iii)(d).
- (3) Impact Assessment, Mitigation, Monitoring and Future Commitments
 - (i) Based on the findings of the environmental studies, the Consultant shall determine the potential effects (positive and negative) of the project. The EPR shall contain an assessment and evaluation of the impacts of the preferred method of carrying out the transit project, and

any other methods considered, might have on the environment, and the criteria for the assessment and evaluation of those impacts. Documentation will be on the impacts affecting stakeholder interests, provincial interest related to the natural environment or to cultural heritage value or interest, or on constitutionally protected Aboriginal or treaty rights.

- (ii) The Consultant shall include in the EPR a description of any proposed measures for mitigating any negative impacts that the transit project might have on the social, economic or natural environment or archaeological or cultural heritage resources.
 - (iii) If mitigation measures are proposed, the Consultant shall include in the EPR, a description of the proposed monitoring or verifying the effectiveness of the mitigation measures.
 - (iv) The Consultant shall develop a CMP to provide direction so that the project is implemented in a manner that does not result in negative impacts on matters of provincial interest. The commitments that form the basis of the CMP will be transcribed directly from the EPR.
 - (v) With submission of the Final EPR, the Consultant shall create and submit an EMMP for Metrolinx approval, and the EMMP shall be submitted at 60% and 90% detailed design.
 - (vi) The Consultant shall update the EMMP to include any additional mitigation measures or requirements once permits and approvals are received for the Project, or findings from additional environmental studies are received. Any new monitoring or reporting requirements should also be reflected in the EMMP.
 - (vii) If reporting to regulatory agencies is required, the Consultant shall include Metrolinx Project Manager in the review, and approval must be sought prior to submission to the governing agencies.
 - (viii) The Consultant shall notify the Metrolinx Project Manager in advance of any activities that may result in environmental impacts and possible complaints.
- (4) Environmental Project Report (EPR)
- (i) The Consultant shall provide, within the EPR:
 - a) the purpose of the transit project. The description will include a clear statement of the purpose of the transit project that will be used in all public and stakeholder correspondence;

- b) a description of the preferred design method and provide a description of the other alternative design methods that were considered;
- c) all studies carried out, including a summary of data collected or reviewed, a summary of all results and conclusions, and the preliminary design;
- d) a description of existing local environmental conditions within the Study Area. They shall be used as the basis for identifying environmental impacts of the project;
- e) an assessment of the potential environmental effects (positive and negative) that may arise as a result of the Project shall be conducted; and,
- f) the mitigative measures provided for mitigating any negative effects that may arise as a result of the Project.

(5) EA (TPAP) Construction Considerations

- (i) The Consultant shall address, within the EPR and public consultation material, issues related to the construction of the Project, which will include, but not be limited to:
 - (i) the types of construction that will be undertaken and schedule including but not limited to night vs. day construction activities;
 - (ii) duration and time periods that construction will be undertaken;
 - (iii) construction mitigation measures; and,
 - (iv) where construction will occur, including staging areas and access points.

(E) Task E: Permits and Approvals

- (1) The Consultant shall investigate all relevant codes, regulations and bylaws applicable to the Project to form part of the EPR.
- (2) The Consultant shall obtain all required permits and approvals on behalf of Metrolinx.
- (3) The Consultant shall prepare a table outlining any municipal, provincial, federal, government authority and/or other approvals or permits that may be required. The table shall become part of the EPR.

- (4) The Consultant shall submit a draft document outlining all required permits and approvals for Metrolinx review, prior to obtaining permits and approvals.
- (F) Task F: Environmental Investigation Studies
 - (1) Tree Inventory Plan and Arborist Report
 - (i) The Consultant shall develop a Tree Inventory Plan and Arborist Report to identify and determine the impacts on trees and vegetation in relation to the proposed Works.
 - (ii) The Consultant shall ensure that the Tree Inventory Plan will be of sufficient detail to help establish compensation.
 - (iii) The Consultant shall ensure that the location of all existing trees and vegetation is based on a survey with sufficient accuracy to provide UTM coordinates relevant to the project design.
 - (iv) The Tree Inventory Plan and Arborist Report shall be developed by a Certified Arborist, based on guidelines, requirements and feedback provided by the Metrolinx, the Toronto and Region Conservation Authority, Region of York, and Town of Whitchurch- Stouffville schedule.
 - (v) The Consultant shall submit a draft of the Tree Inventory Plan and Arborist Report to Metrolinx for review and comment prior to finalizing the report.
 - (2) Heritage Impact Assessments (if required)
 - (i) The Consultant shall conduct a Heritage Impact Assessment (HIA), as directed by Metrolinx, that will be impacted as part of this Project, and as identified in the CHSR/CHER as applicable.
 - (ii) The Consultant shall ensure that the HIA meets the requirements of the EA (TPAP) as outlined and in accordance with the Standards & Guidelines for Conservation of Provincial Heritage Properties (MTCS, July 2010) issued under the Ontario Heritage Act, and the Metrolinx Interim Cultural Heritage Management Process (2013).
 - (iii) The heritage specialist will work with the design engineers to develop a solution to salvage components of heritage structures, as required.
 - (3) Transportation and Traffic Impact Assessment (if required)
 - (i) The Consultant shall include the services required to undertake a transportation and traffic impact study as

required and shall coordinate efforts between the region, municipality, and Metrolinx.

- (ii) The Transportation and Traffic Impact Assessment shall meet all requirements needed for MOECC approval throughout planning, design, and construction.
- (iii) The Consultant shall review available transit operations and traffic information and determine its sufficiency for design purposes.
- (iv) The Consultant shall establish and demarcate all locations of construction ingress and egress ("construction haul routes") on the drawings.
- (v) The Consultant shall identify all construction laydown areas and identify how these areas will impact the flow of traffic around the sites.

(4) Environmental Investigation

- (i) As required, and at the discretion of Metrolinx, the Consultant will carry out additional environmental investigations to comply with detailed design, and permitting and approval requirements. This will be paid through Cash Allowance.

(iii) Deliverables:

(A) Task A: Review of Existing Environmental Reports

(1) Summary Report

- (i) The Summary Report shall identify gaps, discrepancies and additional information required for the project.
- (ii) The Summary Report shall be submitted to Metrolinx in an electronic format for review and comment.

(B) Task B: Detailed Project Schedule and EA Project Methodology

(1) Detailed Project Schedule

- (i) The Detailed Project Schedule shall be consistent with Ontario Regulation 231/08 requirements including key deliverables and milestones (progress meetings, public and stakeholder consultation, draft(s) and Final EPR).
- (ii) The Detailed Project Schedule shall include:
 - a) tasks;
 - b) study process and milestones;
 - c) critical path; and,

- d) resources (person hours) necessary for the completion of each task and deliverable.
 - (iii) The Project Schedule shall be provided in electronic format using Microsoft Project and Adobe PDF.
 - (iv) If any changes related to the completion of key deliverables occur, the Consultant shall resubmit an updated schedule to Metrolinx.
 - (2) Project Methodology
 - (i) The Project Methodology shall provide a clear, concise, well-organized narrative responding to Metrolinx's project requirements that includes:
 - (I) a narrative demonstrating a comprehensive understanding of the assignment scope, including strategic context, stakeholder context, and analytic needs of the study;
 - (II) a detailed work plan for completion of the EA;
 - (III) project team;
 - (IV) risk management;
 - (V) quality management;
 - (VI) document control; and,
 - (VII) a description of how the Consultant will ensure a seamless progression from planning to the EA (TPAP).
 - (ii) The Project Methodology shall be submitted to Metrolinx in an electronic format for review and comment prior to commencement of project work.
- (C) Task C: Consultation and Consultation Record
 - (1) Communications and Stakeholder Consultation Plan
 - (i) The Communications and Stakeholder Consultation Plan shall be developed in cooperation with the Metrolinx Communications Group, and in accordance with Metrolinx Communications and Public Engagement Protocol (provided in Appendix "D").
 - (ii) The Communications and Stakeholder Consultation Plan shall include, but not be limited to:
 - (I) a comprehensive list of stakeholders (e.g., review agencies, local municipalities, etc.) to be engaged and consulted as per Government

- Review Team list (to be provided by Metrolinx), including every property owner within a thirty (30) metre radius of the Project;
 - (II) strategy for receiving input and communication of findings and recommendations to Technical Advisory Committee (TAC), including number of TAC meetings and proposed topics;
 - (III) engagement and communication approaches and tactics;
 - (IV) draft/templates of all notices, and agency and stakeholder notifications;
 - (V) identification of other elements deemed critical for stakeholder interaction; and,
 - (VI) a mailing list for all all stakeholders, and a mailing distribution map.
 - (ii) The Communications and Stakeholder Consultation Plan shall be submitted to Metrolinx in an electronic format for review and comment.
 - (2) Public Notices
 - (i) Public Notices shall be created and submitted in an electronic format for approval by Metrolinx Communications Group.
 - (3) Technical Advisory Committee (TAC) Meetings
 - (i) Three (3) TAC meetings may be held as part of the Project.
 - (ii) Requirements for the TAC meetings are set-out in Appendix B – Section 3.0 and 5.0.
 - (4) Public Meetings
 - (i) Two (2) Public meeting may be held as part of the Project.
 - (ii) Requirements for the Public Meetings are set-out in Appendix B – Section 3.0 and 5.0.
 - (iii) All presentation materials shall be submitted for approval by Metrolinx four (4) weekly prior to any and all Public Meetings.
 - (5) Stakeholder Meetings
 - (i) Three (3) stakeholder meetings may be held as part of the Project.

- (ii) Requirements for stakeholder meetings are set-out in Appendix B – Section 3.0 and 5.0.
- (6) Presentation Materials
 - (i) Presentation Materials shall be prepared throughout the project and include all board displays, slideshows, external agency presentation, and other materials as necessary.
- (7) Consultation Log
 - (i) A Consultation Log shall provide written documentation of all consultation activities.
 - (ii) The Consultant shall provide a template to Metrolinx upon award of the contract, for review and approval.
 - (iii) The Consultation Log shall be submitted monthly to Metrolinx for review and comment.
- (8) Comment Tracking Table
 - (i) A Comment Tracking Table shall be used to track all comments received and responses provided throughout the EA process.
 - (ii) The Consultant shall provide a template to Metrolinx upon award of the contract, for review and approval.
 - (iii) The Comment Tracking Table shall be submitted monthly to Metrolinx for review and comment.
- (D) Task D: Environmental Project Report
 - (1) Draft EPR (25%)
 - (i) The Draft EPR (25%) shall include, but not be limited to:
 - a) table of contents;
 - b) list of figures, tables and appendices; and,
 - c) project introduction/description (i.e., purpose, scope, area, related studies, background, context, etc.).
 - (ii) The Draft EPR shall be provided to Metrolinx in electronic format for review and comment.
 - (2) Draft EPR (50%)
 - (i) The Draft EPR (50%) shall include, but not be limited to:

- a) Report/document/drawings in draft form which exemplifies what the document/report may look like on final delivery;
 - b) Existing conditions chapter from environmental studies provided;
 - c) Draft consultation chapter; and,
 - d) Draft of any related conceptual plans, drawings, figures, tables, charts and appendices embedded/required within or attached to the report/document.
- (ii) The Draft EPR shall be provided to Metrolinx in electronic format for review and comment.
- (3) Draft EPR (75%)
- (i) The Draft EPR (75%) shall include, but not be limited to:
- a) Report/document/drawings addressing all comments provided by Metrolinx and other agencies, as provided;
 - b) EPR impact assessment, mitigation and monitoring including direct and indirect impacts to heritage properties, permits and approvals requirements, consultation reporting, and future commitments chapters; and,
 - c) Revised draft of related conceptual preliminary plans, drawings, figures, tables, charts and appendices, as required or provided by the detailed design engineer.
- (ii) The Draft EPR shall be provided to Metrolinx in electronic format for review and comment.
- (4) Final Draft EPR (90%)
- (i) The Final Draft EPR shall include, but not be limited to:
- a) Report/document/drawings addressing all comments provided by Metrolinx, and other external stakeholders and agencies;
 - b) Final Draft EPR body/content, drawings, figures, and appendices for submission first to Metrolinx for acceptance, and then to MOECC and other regulatory agencies or stakeholders for review and approval. To be provided in electronic and bound hard copies; and,

- c) Once reviewed, inclusion of all comments provided by MOECC and other applicable regulatory agencies and stakeholders into the 90% Draft EPR.
 - (ii) The Final Draft EPR shall be provided to Metrolinx for review and comment in electronic format and 10 hard copies, and include all drawings, renderings and appendices that best represent the proposed Project.
 - (iii) The Final Draft EPR shall be reviewed and approved by Metrolinx, review by MOECC, and for TPAP Consultation.
- (5) Final EPR (100%)
 - (i) The Final EPR shall include, but not be limited to:
 - a) all comments provided through consultation activities and from other external stakeholders on the EPR Final Draft.
 - (ii) The Final EPR shall be provided to Metrolinx for review and comment in electronic format and 10 hard copies, and include all drawings, renderings and appendices that best represent the proposed Project.
 - (iii) The Final EPR shall meet all TPAP requirements and be submitted for public and MOECC review.
- (6) Compliance Monitoring Plan (CMP)
 - (i) The CMP shall provide a summary of all commitments made in the EPR include:
 - a) mitigation measures to minimize environmental effects;
 - b) monitoring and reporting activities to confirm effectiveness of the mitigation measures;
 - c) commitments to future actions; and,
 - d) additional studies and work to be carried out.
- (7) Environmental Mitigation and Monitoring Plan (EMMP)
 - (i) The EMMP shall be submitted to Metrolinx in an electronic format and include:
 - a) commitments of the CMP and any other potential environmental impacts or approval requirements that arise during detailed design and during additional environmental studies, as required;

- b) a list of required permits and approval for the project; and,
- c) procedures for preventative and corrective action in the event of findings of non-compliance during environmental monitoring, as well as follow-up and reporting procedures.

(E) Task E: Permits and Approvals

(1) Permits and Approvals Table

- (i) The Permits and Approvals table shall identify all necessary permits and approvals requirements.
- (ii) The Consultant shall submit one electronic copy of the draft table to Metrolinx for review prior to obtaining permits and approvals.
- (iii) The Consultant shall submit the Final Permits and Approvals Table as part of the EPR document.

(2) Permits and Approvals

- (i) The Consultant shall provide Metrolinx with all documentation related to acquiring the permits and approvals, including but not limited to:
 - a) permit documents;
 - b) approval documents;
 - c) correspondence and communications; and,
 - d) any other relevant information.

(F) Task F: Environmental Investigation Studies

(1) Tree Inventory Plan, Arborist Report and Compensation/Preservation Plan compensation and shall include, but not be limited to:

- a) Field mapping;
- b) property lines;
- c) an inventory of the location, size, species, condition, and category of all existing trees and vegetation with the potential to be impacted by the proposed development;
- d) identification of any shared/boundary trees present in the Project study area as defined by the Ontario Forestry Act, as applicable and their associated property identification (PIN);

- e) drawings at a scale and paper size appropriate to the information being conveyed, depicting the findings of the Tree Inventory Plan (i.e., tree location, property lines, encroachment trees, shared/boundary trees, etc.);
 - f) recommendations for tree/vegetation protection and preservation measures for all trees/vegetation that are to be retained and removal measures for all trees/vegetation to be removed; and,
 - g) areas for suitable restoration/compensation that will identify site-specific impacts, mitigation and replacement measures to offset vegetation losses and to achieve a net gain in vegetation area to accurately reflect any potential loss, and in alignment with Metrolinx Sustainability objectives.
- (ii) The draft reports shall be submitted to Metrolinx in an electronic format for review and comment.
 - (iii) The final reports shall be submitted to Metrolinx in an electronic format and three (3) hard copies for its information and records.
- (2) Heritage Impact Assessments (if required)
- (i) The Consultant shall submit to Metrolinx, for review and approval, a Table of Contents for any required HIA's at the outset of the work.
 - (ii) The draft reports shall be submitted to Metrolinx in an electronic format for review and comment.
 - (iii) The final reports shall be submitted to Metrolinx in an electronic format and three (3) hard copies for its information and records.
- (3) Transportation and Traffic Impact Assessments (if required)
- (i) The Transportation and Traffic Impact Assessment will include, but not be limited to:
 - a) Summary of any existing relevant documents;
 - b) all locations of construction ingress and egress ("construction haul routes") on the drawings;
 - c) all construction laydown areas and identify how these areas will impact the flow of traffic around the sites;

- d) analysis for road closures and impact to existing transit operations (i.e., GO Transit, etc.), which must be based on established transportation planning and traffic engineering principles and supplemented by any available local survey data or experience; and,
 - e) demonstration of good planning principles cognizant of the appropriate municipal Official Plan and Secondary Plan policies and objectives.
- (ii) The draft reports shall be submitted to Metrolinx in an electronic format for review and comment.
 - (iii) The final reports shall be submitted to Metrolinx in an electronic format and three (3) hard copies for its information and records.

Appendix “C” – Metrolinx Services

Metrolinx shall:

- (a) provide the Consultant with general direction in the provision of the Services;
- (b) designate an individual to act as its Representative, who shall transmit instructions to, and receive information from the Consultant. The designated Metrolinx Representative will be accountable for all project expenditures relative to design, procurement and construction activities; and
- (c) provide access to and where necessary, make available copies of existing plans, reports, studies, information and correspondence relevant to the Project.

Appendix "D" – Documents

The following Documents form part of, and are appended to this Tender Document.

ITEM NO.	DOCUMENT TITLE
1.	Metrolinx Public Consultation and Communications Protocol
2.	Metrolinx Business Case Development Manual
3.	Metrolinx Business Case Development Guide
4.	The Big Move Update (Metrolinx, 2013)
5.	Draft Stage 1 Archaeological Assessment (Stantec, 2017)
6.	Soils Preliminary Assessment Report (Stantec, 2017)
7.	Hydrogeological Preliminary Assessment Report (Stantec, 2017)
8.	Draft Fisheries Habitat Assessment (Stantec, 2017)
9.	Cultural Heritage Screening Report (Stantec, 2017)
10.	Draft Air Quality Evaluation Report (Stantec, 2017)
11.	Noise and Vibration – Preliminary Assessment Report (Stantec, 2017)
12.	Land Use Planning Preliminary Assessment Report (Stantec, 2017)
13.	Draft Terrestrial Ecosystems Preliminary Assessment Report (Stantec, 2017)
14.	Proposed Track Alignment General Layouts Conceptual Options (Stantec, 2017)
15.	Contract Performance Appraisal
16.	Q and A Form
17.	Sample Articles of Agreement
18.	Parental Guarantee

SAMPLE ARTICLES OF AGREEMENT

These Articles of Agreement are made as of the ● day of ●, 20●

B E T W E E N

METROLINX, a corporation established pursuant to the Metrolinx Act, 2006

- and -

●
(hereinafter the "Consultant")

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Metrolinx and the Consultant agree as follows:

1. **Contract**

- (a) The following documents and any amendments relating thereto form the contract between Metrolinx and the Proponent (the "Contract"):
- (i) these Articles of Agreement;
 - (ii) any Addenda issued hereto;
 - (iii) the Form of Tender;
 - (iv) Attachment #1 – Contract Prices;
 - (v) the document attached hereto as Appendix "A" and entitled "General Conditions";
 - (vi) the document attached hereto as Appendix "B" and entitled "Consultant's Scope of Services";
 - (vii) the document attached hereto as Appendix "C" and entitled "Metrolinx Services"; and
 - (viii) the document attached hereto as Appendix "D" and entitled "Documents".
- (b) In the event of discrepancies, inconsistencies or ambiguities of the wording of these documents, the wording of the document that first appears on the above list shall prevail over the wording of a document subsequently appearing on the list.

SAMPLE – DO NOT COMPLETE

2. Date of Completion of Work and Description of Work

The Consultant shall, between the date of these Articles of Agreement and the ● day of ●, perform and complete with care, skill, diligence and efficiency the work that is further described as follows:

- (a) The Consultant shall provide labour, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities necessary to carry out ●, in accordance with the Consultant's Scope of Services, attached as APPENDIX "B" (the "Work").
- (b) The Work is to be provided to the satisfaction of the ●, unless otherwise specified.

3. Contract Price

- (c) ●

SAMPLE – DO NOT COMPLETE

Subject to the terms and conditions of the Contract and in consideration for the Work, Metrolinx shall pay to the Proponent:

If the Consultant is a corporation:

●(Company's Full Legal Name)

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have authority to bind the Corporation

If the Consultant is a partnership:

(Partnership's Full Legal Name)

by its General
Partner,

(Name of General Partner)

Per: _____

Name:

Title:

Per: _____

Name:

Title:

SAMPLE – DO NOT COMPLETE

If the Consultant is a Joint Venture or a Consortium:

Joint Venture/Consortium
Participant-in-Charge

(Company's Full Legal Name)

Per: _____

Name:
Title:

Joint Venture/Consortium Member

(Company's Full Legal Name)

Per: _____

Name:
Title:

Joint Venture/Consortium Member

(Company's Full Legal Name)

Per: _____

Name:
Title:

If the Consultant is an individual:

)

)

)

)

Witness

)

Name:

In witness whereof, the above signed has executed this agreement, this ____ day
of _____, 20____.

SAMPLE – DO NOT COMPLETE