

Appendix "A": Terms and Conditions

This Appendix "A" sets out the terms and conditions applicable to the Metrolinx General Partnership and Sponsorship Opportunity ("GPSO") Process (the "Terms and Conditions"), as outlined below.

1.1 Overview of the GPSO Process

The GPSO process will include the following steps:

A. GPSO Issued on MERX and Metrolinx.com Commercial Opportunities (<http://www.metrolinx.com/en/aboutus/commercialopportunities/default.aspx>)

The GPSO was originally posted on MERX and the Metrolinx website from May 7 to July 7, 2021. It is being reposted as of October 6, 2021.

B. Metrolinx may host a one to one meeting upon request regarding GPSO

Interested parties are invited to request one to one meeting to discuss developing a proposal for any category or part of a subcategory. Interested parties are encouraged to contact Metrolinx to schedule these meetings.

C. Submission of Proposals

Interested parties may submit a proposal at any time for any category, service, amenity, or product.

Metrolinx reserves the right to enter into a partnership or sponsorship agreement(s) with one or more interested parties for various categories, services, amenities, and or products. As such, such category, service, amenity, or product may be committed to a different proponent and unavailable for other proponents.

There is no deadline for meetings, or submission of a proposal. Each category, service, amenity, or product will remain open until advised by Metrolinx.

D. Assessment of Proposal, Letter of Intent, and Negotiations

Proposals will be assessed by Metrolinx based on the overall value to Metrolinx. All of Metrolinx's negotiations will be non-exclusive (including those relating to exclusivity) unless and until a letter of intent is signed to move to exclusive negotiations. After a letter of intent is signed with an interested party, Metrolinx will be in exclusive negotiations with such interested party unless and until such exclusive negotiations conclude with an executed agreement or conclude unsuccessfully. For greater certainty, an exclusive agreement may not be required in some circumstances.

1.2 Questions and Communications

All questions and communications of any sort with respect to this GPSO are to be in writing and directed only to the “**GPSO Contact**” identified below:

Rick Radovski	
E-mail:	rick.radovski@metrolinx.com

Information regarding the GPSO, whether provided by the GPSO Contact, 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 the information is incorporated into a written addendum to the GPSO.

1.3 Addenda

If Metrolinx determines, in its sole discretion, that clarifications of or revisions to the GPSO are required, all such clarifications or revisions shall be communicated by way of written addenda posted on MERX. Each addendum shall become part of the GPSO. Any such addenda may contain important information, including significant changes to the GPSO.

It is the interested party's responsibility to obtain all addenda issued. Information concerning the number of addenda issued and the date of issue of the most recent addendum can be obtained by contacting the GPSO Contact identified in Section 1.2 of these Terms and Conditions, through MERX, or Metrolinx.com Commercial Opportunities

(<http://www.metrolinx.com/en/aboutus/commercialopportunities/default.aspx>).

When ascertaining if copies of all addenda issued have been received, the interested party shall be responsible for allowing sufficient time to receive any missing addenda and to review and allow for the contents thereof to be submitted in the proposal, as the case may be.

PART 2: PROPOSALS

2.1 Preparation of Proposals

- (a) Proposals must include a fully-completed Conflict of Interest Declaration Form executed by an authorized signatory of the interested party.
- (b) The entire content of the interested party's proposal shall be submitted in writing, and the content of websites or other external documents referred to in the proposal will not be considered unless submitted in the submission package as an attachment to the proposal.

2.2 Instructions for Submission of Proposal

Proposals can be submitted at any time. Metrolinx will continue to accept proposals for a given opportunity until a letter of intent or an agreement is signed for such opportunity. There is no closing date for submissions.

PART 3: ASSESSMENT

3.1 Selection of Interested Party for Negotiation

Based on the proposals, Metrolinx may invite any or all interested parties to enter into negotiations with Metrolinx for any given opportunity. These negotiations will be non-exclusive.

Selection of an interested party(ies) to enter into negotiations will not constitute a legally binding offer to enter into a contract on the part of Metrolinx or the interested party(ies). There will be no legally binding relationship created with any interested party(ies) prior to the execution of a letter of intent or written agreement.

3.2 Exclusivity of Negotiation of Naming Rights Agreement

Metrolinx's negotiations will only be exclusive if a letter of intent has been signed with an interested party regarding exclusivity and only on the terms set out in such letter of intent. Metrolinx will only enter into a letter of intent regarding exclusivity if exclusivity is a part of the proposal or opportunity. Written notice will be provided to all parties interested in such exclusive opportunity that negotiations are now exclusive.

3.3 Timeframe for Negotiations

Metrolinx intends to conclude negotiations with the selected interested party(ies) quickly. An interested party invited to enter into negotiations should therefore be prepared to provide requested information in a timely fashion and to conduct its negotiations expeditiously.

3.4 Failure to Enter Into Agreement

With a view to expediting contract negotiations, if the parties are discussing an exclusive opportunity, have executed a letter of intent, and have not executed an agreement related to the opportunity within ninety (90) days of the date of the letter of intent, Metrolinx may discontinue further negotiations with such interested party and/or invite other interested party(s) to enter into concurrent or replacement negotiations.

3.5 Selection of Interested Party and Proposal for Executed Agreement

Metrolinx reserves the right to enter into a partnership or sponsorship agreement(s) with one or more interested parties for various categories, services, amenities, and or products. Should Metrolinx receive multiple proposals for a specific category, service, amenity, or product, that include a request for exclusivity from one or more potential partners, each proposal will be evaluated based on the overall value to Metrolinx (net revenue, customer experience, marketing benefits, and brand alignment).

Metrolinx reserves the right to engage a third party to assist in the valuation of submitted proposal(s).

PART 4 - GPSO PROCESS TERMS AND CONDITIONS

4.1 Opportunity Documents

All references to the "GPSO" means this General Partnership and Sponsorship Opportunity comprised of all Parts, Schedules and Appendices, and any Addenda thereto.

4.2 Metrolinx's Information in GPSO Only an Estimate

Metrolinx and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in the GPSO or issued by way of addenda. Any quantities shown or data contained in the GPSO or provided by way of addenda are estimates only and are for the sole purpose of indicating to interested parties the general nature of the opportunity. It is the interested party's responsibility to avail itself of all the necessary information to prepare a proposal in response to the GPSO.

4.3 Investigation By Interested Parties

The interested parties shall examine carefully all documents comprising the GPSO and shall make investigations necessary to inform themselves thoroughly as to the character and magnitude of the services.

It is the sole responsibility of each interested party to seek clarification from the GPSO Contact on any matter it considers to be unclear. Metrolinx shall not be responsible for any misunderstanding on the part of any interested party concerning the GPSO or its process.

4.4 Interested Parties Shall Bear Their Own Costs

Each interested party shall bear all costs associated with or incurred in connection with its participation in the GPSO process, including, but not limited to, preparation and submission of its proposal and preparation for and participation in presentations, interviews, and negotiations.

4.5 Procurement Process Non-binding - No Contract A and No Claims

The GPSO process is not intended to create and shall not create a formal legally binding bidding process. For greater certainty and without limitation: (a) the GPSO shall not give rise to any Contract A-based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and (b) neither the interested party nor Metrolinx shall have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract or failure to honour a response to the GPSO.

4.6 No Contract until Execution of Written Agreement

The GPSO process is intended to identify a prospective interested party for the purposes of negotiating a potential partnership or sponsorship agreement. No legal relationship or obligation regarding the potential partnership or sponsorship shall be created between the interested party and Metrolinx by the GPSO process until the successful negotiation and execution of a written agreement regarding such opportunity (except for any obligations explicitly set out in any executed letter of intent).

4.7 Rights of Metrolinx

Metrolinx may, in its sole discretion and without liability:

- (a) accept or reject any or all proposals received, in whole or in part;
- (b) not proceed with all or any part of the GPSO;
- (c) cancel or amend the GPSO process at any time for any reason and, at its option, issue a new GPSO for the same or similar services;
- (d) cancel any acceptance of a proposal or selection of an interested party prior to the final execution of a written partnership or sponsorship agreement by Metrolinx;
- (e) waive any requirement of the GPSO;
- (f) check or not check or only check certain of the client references provided by the interested party with its proposal; and
- (g) select more than one interested party through the GPSO process.

4.8 Illegal or Unethical Conduct

Interested parties shall not engage in any illegal bidding practices, including such activities as bid-rigging, price-fixing, bribery, fraud, or collusion. Interested parties shall not engage in any unethical conduct, including lobbying or other inappropriate communications, offers of gifts to Metrolinx employees, officers or board members, deceitfulness, submitting bids containing misrepresentations or other misleading or

inaccurate information, or any other conduct that compromises or may be seen to compromise the competitive process.

Metrolinx may disqualify the interested party from this GPSO process and/or prohibit the interested party from participating in any future Metrolinx GPSO or procurement process based on illegal or unethical conduct in this GPSO process or any prior GPSO or procurement process conducted by Metrolinx.

4.9 Conflict of Interest

For the purposes of this Section, "Conflict of Interest" shall have the meaning ascribed to it in the Conflict of Interest Form, to be provided in advance of the interested party's first meeting with Metrolinx.

The interested parties shall carry out such assessments and make such inquiries as they may deem necessary to satisfy themselves that they do not have an actual or potential Conflict of Interest.

The interested parties shall not engage in any Conflict of Interest communications.

If, at the sole determination of Metrolinx, an interested party is found to be in a Conflict of Interest that cannot be resolved or the interested party fails to disclose any actual or potential Conflict of Interest, Metrolinx may, at its sole discretion, disqualify the interested party from the GPSO Process or unilaterally terminate any agreement entered into with the interested party pursuant to this GPSO process.

4.10 Disqualification for Misrepresentation

Metrolinx may disqualify the interested party or rescind a contract subsequently entered into if the interested party's response contains misrepresentations or any other inaccurate, misleading, or incomplete information.

4.11 References and Past Performance

Metrolinx's assessment may include information provided by the interested party's references and may also consider the interested party's past performance on previous contracts with Metrolinx.

4.12 Notification of Outcome

All interested parties that have submitted a proposal for a given exclusive opportunity shall be notified in writing of the outcome of the selection process for such opportunity after the execution of the final Agreement with the successful interested party for such opportunity.

4.13 Public Disclosure and Lobbying

Each interested party responding to this GPSO shall avoid making any public comment, responding to questions in a public forum or carrying out activities to publicly promote or advertise their qualifications or interest in the opportunity, except with the prior written consent of Metrolinx in each instance. All interested parties must comply with all applicable federal and provincial legislation regarding lobbying.

4.14 Disclosure of Information

Interested parties should clearly identify any information in their proposals supplied in confidence, for which confidentiality is to be maintained by Metrolinx and is advised to consult with their own legal advisors regarding the appropriate way to identify such information. Confidential information does not include information that: (i) is or becomes generally available to the public through no fault of Metrolinx, (ii) prior to receipt from the interested party, was known to Metrolinx on a non-confidential basis, as documented by records possessed by Metrolinx, (iii) was, or is, independently developed by Metrolinx without reference to the confidential information disclosed by the interested party, as documented by records possessed by Metrolinx, or (iv) is available to Metrolinx on a non-confidential basis from a source other than the interested party. Metrolinx will make reasonable efforts to safeguard the interested party's confidential information, subject to its disclosure requirements under the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 ("**FIPPA**") or any disclosure requirements imposed by law or by order of a court or tribunal. Interested parties are advised that their proposals may be disclosed, on a confidential basis, to the Government of Ontario, the Ministry of Transportation, or to advisers retained by Metrolinx to advise or assist with the opportunity, including the valuation of proposals. By submitting a proposal, the interested party consents to: (i) the disclosure of such proposal, on a confidential basis, by Metrolinx to the Government of Ontario, the Ministry of Transportation, or the advisers that it has retained to advise or assist with such opportunity and (ii) the disclosure of such proposal in accordance with FIPPA or otherwise as may be required by law or by a court or tribunal. Metrolinx reserves the right to disclose the identity of any and all interested parties responding to this GPSO and to disclose the identity of the successful interested party for such opportunity.

4.15 Proposal to Be Retained by Metrolinx

Metrolinx will not return the proposal, or any accompanying documentation submitted by an interested party.

4.16 Confidential Information of Metrolinx

All information provided by or obtained from Metrolinx in any form in connection with the GPSO process:

- (a) is the sole property of Metrolinx and must be treated as confidential;

(b) is not to be used for any purpose other than replying to the GPSO and the performance of any subsequent agreement; and

(c) must not be disclosed without prior written authorization from Metrolinx.

4.17 Exclusion of Liability

By submitting a proposal, the interested party agrees that it will not assert any right of action or make any claim whatsoever against Metrolinx, whether arising under contract, tort (including, but not limited to negligence), breach of contract, unconscionability or any theory of liability at law or in equity, which relates in any way to the interested party's proposal, the process by which Metrolinx selects or rejects any proposal or enters into a written agreement with any interested party for a given opportunity, and expressly waives and releases all such rights of action and claims.

4.18 Governing Law

The terms and conditions in this GPSO Process Terms and Conditions (a) are included for greater certainty and are intended to be interpreted broadly and separately (with no particular provision intended to limit the scope of any other provision); (b) are non-exhaustive (and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations); and (c) are to be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.