

**SCHEDULE 33
LANDS**

PART A – DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

1.1 For the purposes of the Project Agreement, including but not limited to this Schedule 33, the following terms have the following meanings. Any capitalized term not defined in this Schedule 33 shall have the meaning given to such term in the Project Agreement.

- (a) **“Additional Property Interest”** includes any additional parcel of land not forming part of the Lands, the expansion or alteration of any boundary of any parcel of land forming part of the Lands, the extension of any term of use of any parcel of forming part of the Lands beyond the term specified in the column marked “Duration” in the Lands Table, and the inclusion of additional Permitted Uses for any parcel of land forming part of the Lands, all as requested by Project Co in accordance with Section 8 of this Schedule 33 unless and until such parcel, extension, extended term or additional Permitted Use becomes part of the Lands and is included in the grant of the non-exclusive license described in Section 14.1 of the Project Agreement in accordance with Section 14.6 of the Project Agreement;
- (b) **“City Road Allowance Lands”** means lands forming part of a municipal road having the status of a highway pursuant to Section 26 of the *Municipal Act, 2001* R.S.O. c.25. Within the Lands Table, property comprising City Road Allowance Lands are designated **“ROW”** in the column marked “Restrictions and Requirements”;
- (c) **“Commencement Date”** means, with respect to each parcel of property forming part of the Lands, either:
- (i) the date identified in the column marked “Commencement Date” in the Lands Table; or,
 - (ii) the first day of the month following the occurrence of the event described in the column marked “Commencement Date” in the Lands Table (for example, Financial Close); or,
 - (iii) for lands designated City Road Allowance Lands (ROW), the date(s) specified in required permits, approvals or authorizations as described in Section 5 of this Schedule 33 and in Schedule 32 – Permits, Licenses, Approvals and Agreements;

and is the date upon which any parcel of land identified in the Lands Table becomes part of the Lands and is included in the non-exclusive licence granted by the City to Project Co in accordance with Section 14.1 of the Project Agreement;

- (d) **“Confederation Line Lands”** means lands shown on Property Request Plans identified as **“Stage 1 PRPs”** and included in a folder titled “Stage 1 PRPs” located in the Data Room which are lands owned by the City, or lands in which the City has acquired an interest, and upon which assets and/or infrastructure comprising part of the Confederation Line are located and/or have been or will be designed, constructed, operated and/or maintained. Confederation Line Lands do not form part of the “Lands” except to the extent that they are also included in the Lands Table;

- (e) **“Construction Period Lands”** means property designated as “Construction Period” in the column marked "Construction Period or Project Term" in the Lands Table which property will only be included in the non-exclusive license, rights of use and access granted by the City to Project Co during the Construction Period, and which property is subject to any other limits on the term of the non-exclusive license and rights of use and access identified in this Schedule 33 and/or elsewhere in the Project Agreement;
- (f) **“Existing Corridor Lands Agreements”** means:
- (i) The Agreement of Purchase and Sale of Railway for Continued Railway Operations entered into by the City of Ottawa and Canadian Pacific Railway Company and St. Lawrence and Ottawa Railway Company dated March 21, 2005 a copy of which is located in file folder titled “Agreements” in the Data Room, and all of the agreements and Board Orders assigned to and assumed by the City pursuant to the said Agreement of Purchase and Sale and listed in Schedules “D” and “F” thereto;
 - (ii) The Agreement of Purchase and Sale entered into by the City of Ottawa and Canadian Pacific Railway Company and St. Lawrence and Ottawa Railway Company dated December 6, 2002 a copy of which is located in file folder titled “Agreements” in the Data Room and all of the agreements assigned to and assumed by the City pursuant to the said Agreement of Purchase and Sale and listed in Schedule “D” thereto;
 - (iii) The Elwood Interlocking and Diamond Operation and Maintenance Agreement between the City of Ottawa, operating as Capital Railway (“**Capital Railway**”) and VIA Rail Canada Inc. executed by the City a copy of which is located in file folder titled “Agreements” in the Data Room; and,
 - (iv) The Agreement between Canadian National Railway Company and St. Lawrence & Hudson Railway Company Limited (a wholly owned subsidiary of Canadian Pacific Railway Company) dated June 16th, 1999 as it relates to the control, operation and maintenance of the Walkley and Elwood Diamonds, a copy of which is located in file folder titled “Agreements” in the Data Room.
- (g) **“Lands”** means lands owned or to be acquired by the City or lands in respect of which the City has acquired or will acquire certain rights, all as set out in the Lands Table or otherwise deemed to be lands in accordance with this Schedule 33, and over which the City is granting to Project Co a non-exclusive license, right of use and access in accordance with Section 14.1 of the Project Agreement;
- (h) **“Lands Table”** means the table in Part B of this Schedule 33;
- (i) **“Permitted Use”** or **“Permitted Uses”** means the use(s) which may be put to each parcel forming part of the Lands as designated in the column marked “Permitted Use” in the Lands Table being one or more of the following:
- (i) **“New Municipal Infrastructure Lands”** means property forming part of the Lands and designated “NMI” in the column marked “Permitted Use” in the Lands Table representing the location where New Municipal Infrastructure is to be constructed or installed in accordance with Schedule 15- Output Specifications;

- (ii) “**System Infrastructure Lands**” means property forming part of the Lands and designated “**NSI**” in the column marked “Permitted Use” in the Lands Table representing the location where System Infrastructure is located or is to be constructed or installed in accordance with Schedule 15 – Output Specifications;
- (iii) “**Temporary Access Lands**” means property forming part of the Lands and designated “**TA**” in the column marked “Permitted Use” in the Lands Table which may be used temporarily for the sole purpose of providing non-exclusive pedestrian and/or vehicular access to other property forming part of the Lands;
- (iv) “**Temporary Mobilization Lands**” means property forming part of the Lands and designated “**TM**” in the column marked “Permitted Use” in the Lands Table which may be used as part of a mobilization site or staging area, being a designated area where personnel, equipment, supplies, site offices and other facilities required to undertake the Construction Activities are established and maintained in accordance with the provisions of Schedule 15 – Output Specifications relating to mobilization sites; and,
- (v) “**Temporary Construction Lands**” means property forming part of the Lands and designated “**TC**” in the column marked “Permitted Use” in the Lands Table which may be used temporarily in connection with the construction of System Infrastructure and New Municipal Infrastructure but which may not be used as part of a mobilization site or staging area other than for short term storage of mobile equipment and material required for construction in close proximity to the relevant parcel of Temporary Construction Lands;
- (j) “**Project Term Lands**” means property designated as “Project Term” in the column marked "Construction Period or Project Term" in the Lands Table which property will be included in the non-exclusive license, rights of use and access granted by the City to Project Co during the Project Term subject to limits on the term of the non-exclusive license and rights of use and access identified in this Schedule 33 and/or elsewhere in the Project Agreement;
- (k) “**Property Request Plan**” or “**PRP**” means a diagram defining the extent, limits and/or approximate boundaries of property; and,
- (l) “**Third Party Access Agreements**” means the agreements, including Standard Agreements, listed or described in Section 4.1 of this Schedule 33.

2. TERM

2.1 The term of the non-exclusive license, rights of use and access to any parcel forming part of the Lands granted to Project Co by the City in accordance with Section 14.1 of the Project Agreement shall, irrespective of whether the parcel has been identified as constituting Construction Term Lands or Project Term Lands, run from the Commencement Date identified in the Lands Table for such parcel until the earlier of:

- (a) the end of the period calculated by adding to the Commencement Date the number of months specified for each parcel in the column marked “Duration” in the Lands Table; and,

- (b) the Termination Date.
- 2.2 Unless otherwise stated in the Lands Table, the number of months identified in the column marked “Duration” in the Lands Table, represents a single term comprised of consecutive months commencing on the Commencement Date.
- 3. PERMITTED USES**
- 3.1 Project Co’s use of any parcel forming part of the Lands shall be limited to the Permitted Use(s) designated in the column marked “Permitted Use” in the Lands Table.
- 3.2 The installation or construction of New Municipal Infrastructure in or on any parcel of lands designated New Municipal Infrastructure Lands may be limited to the construction or installation of the type(s) of infrastructure specified in the “Restrictions and Requirements” column of the Lands Table and/or in the Third Party Access Agreement(s) applicable to such parcel.
- 3.3 The installation of temporary excavation supports such as soldier piles, secant piles, rock dowels, rock bolts or tie backs any part of which will be left in place following completion of construction is only permitted in accordance with Section 3.4 within System Infrastructure Lands or within Temporary Construction Lands if such Temporary Construction Lands have been expressly identified as being available for temporary excavation support.
- 3.4 Except as provided in this Section 3.4 or as expressly provided elsewhere in the Project Agreement, all Works shall take place exclusively within the boundaries of the Lands.
- (i) Subject to the requirements of Section 5 of this Schedule 33 and Schedule 32 with respect to the use of City Road Allowance Lands, Project Co. may:
- (A) construct or install New Municipal Infrastructure within City Road Allowance Lands; and/or,
 - (B) install temporary excavation supports such as soldier piles, secant piles, rock dowels, rock bolts or tie backs within City Road Allowance Lands;
 - (C) use or access City Road Allowance Lands for the purposes of providing Maintenance and Rehabilitation Services in accordance with Schedule 15-3; and/or,
 - (D) use City Road Allowance Lands for the purposes of managing traffic in accordance with a Traffic Management Plan,
- irrespective of whether the City Road Allowance Lands required for the purposes listed above are described in the Lands Table or in the PRPs.
- (ii) In addition to subsection 3.4(i)(B), which permits the installation of temporary excavation supports such as soldier piles, secant piles, rock dowels, rock bolts or tie backs within City Road Allowance Lands, such supports may also be installed in accordance with a licence acquired by Project Co. on its own behalf in accordance with Section 14.6(c) of the Project Agreement or by the City in accordance with Section 8 of this Schedule 33.

- (iii) The Lands Table and PRPs do not describe property required to accommodate Utility Works. Without limiting the provisions of the Project Agreement, including Section 8, Part 2, Schedule 15-2, which govern Utility Works, and subject to the requirements of Section 5 of this Schedule 33 and Schedule 32 with respect to the use of City Road Allowance Lands, Project Co. may undertake Utility Works within System Infrastructure Lands, City Road Allowance Lands or in accordance with the terms of an existing easement in favour of the relevant Utility Company.
- (iv) Utility Works will not be permitted on property other than City Road Allowance Lands, System Infrastructure Lands or within the boundaries of and in accordance with the terms of an existing easement in favour of the relevant Utility Company unless and until a new easement over such property in favour of the relevant Utility Company, and satisfactory to the relevant Utility Company, is acquired by Project Co. or by the City.
- (v) New easements for Utility Works contemplated in subsection 3.4(iv) above shall be acquired by Project Co. in accordance with Section 14.6(c) of the Project Agreement or by the City as Additional Property Interests in accordance with Section 8 of this Schedule 33, the costs of which acquisitions are to remain to Project Co's sole account not to be recovered through any Cash Allowance.
- (vi) Notwithstanding subsection 3.4(v) above, the following exceptions to the provisions of Section 8 of this Schedule 33 shall apply to requests for Additional Property Interests made by Project Co. with respect to new easements for Utility Company Self-Performed Work which are required solely as a result of Utility Agreements for Utility Company Self-Performed Work approved by the City in accordance with Section 20.13 of the Project Agreement:
 - (A) Section 8.1 (a) shall not apply and a request may be made at any time during the Project Term;
 - (B) Sections 8.1(c), 8.1(d), 8.1(e), 8.1(f) and 8.1(g) shall not apply with the exception that, within fifteen (15) Business Days of the delivery by Project Co. to the City of the materials described in Section 8.1(b), the City shall provide to Project Co. an approximate estimate of the time which the City anticipates will be required to secure the required easement;
 - (C) Sections 8.2(b), 8.2(c), 8.2 (e) and 8.2(f) shall not apply and the City shall use all reasonable efforts to complete the acquisition of the new easement with all due dispatch.

- 3.5 To the extent that Project Co undertakes, in accordance with subsections 3.4(i), 3.4(ii), 3.4(iii), and/or 3.4(iv) above, any Works, Utility Company Self-Performed Work or traffic management on lands comprising City Road Allowance Lands, or in accordance with the terms of a licence or easement acquired by Project Co. pursuant to Section 14.6(c) of the Project Agreement or existing easements in favour of relevant Utility Companies, which lands are not identified in the Lands Table and PRPs, all of Project Co.'s obligations and liabilities in respect of the Lands and Site under the Project Agreement shall apply with equal effect to all activities of Project Co and Project Co Parties on such lands.
- 3.6 The property identified as Parcel 43 on PRP 15f is an area which is used by federal agencies for the purposes of conducting ongoing research (the “**Porcine Cemetery**”). The Porcine Cemetery, which is not included in the Lands Table and does not form part of the Lands, shall not be used or accessed by Project Co. for any purpose whatsoever and Project Co. shall implement such measures as may be required from time to time to ensure that the Porcine Cemetery is not disturbed or impacted by the Project Operations in any way.

4. RESTRICTIONS AND REQUIREMENTS

- 4.1 In addition to any other restriction or requirement contained in the Project Agreement, including this Schedule 33, Schedule 15 – Output Specifications and Schedule 16 – Encumbrances, Project Co's access to and use of the Lands for the purposes of the Project Operations is subject to the terms of the Third Party Access Agreements and other restrictions, qualifications and requirements contained in the Lands Table including as set out in the column marked “Restrictions and Requirements” including as described below:
- (a) “**Carleton University Terms**” designates property the use of which is subject to the terms and conditions of a Third Party Access Agreement, being the Memorandum of Agreement between the City and Carleton University, including all ancillary agreements incorporated as schedules to the Memorandum of Agreement, copies of which are located in file folder titled “Agreements” and located in the Data Room;
 - (b) “**CN Terms & Conditions**” designates property the use of which is subject to the terms and conditions of a Third Party Access Agreement dated June 16th, 1999 between the Canadian National Railway Company and the St. Lawrence & Hudson Railway Company Limited (a wholly owned subsidiary of the Canadian Pacific Railway Company) as it relates to the control, operation and maintenance of the Walkley Diamond, a copy of which is located in file folder titled “Agreements” in the Data Room, as may be amended by an agreement between the City and the Canadian National Railway Company;
 - (c) “**Corridor Lands Constraints**” designates property which, until the commencement of the Shut Down Period, will continue to be used as an active rail service line operated by Capital Railway. The use of lands designated Corridor Lands Constraints will be prohibited, until the commencement of the Shut Down Period, except to the extent that the City and Capital Railway determine in their sole and absolute discretion that a limited use, proposed by Project Co., of all or part of property designated Corridor Lands Constraints will not interrupt, impact, constrain or otherwise limit the operation of the active service line in any way. In addition to the foregoing, to the extent authorized by the City and Capital Railway, the use of property designated Corridor

- Lands Constraints prior to the commencement of the Shut Down Period will be subject to any additional conditions, restrictions or constraints as may be imposed by Capital Railway or the City from time to time;
- (d) **“Confederation Line Lands Constraints”** designates property which includes, abuts or is in close proximity to Confederation Line Lands where coordination with the contractors responsible for constructing the first stage of the City’s Confederation Line light rail transit project may be required in accordance with the terms of the Project Agreement;
 - (e) **“Dow’s Lake Terms”** designates property the use of which is subject to the terms and conditions of various Board Orders, licence agreements and easements relating to the construction, use and maintenance of the existing tunnel under Dow’s lake copies of which are located in file folder titled “Agreements” and located in the Data Room;
 - (f) **“MNR Terms”** designates property, the use of which is subject to:
 - (i) the terms and conditions of permits issued by the Ontario Ministry of Natural Resources, including work permits, permits for works within a waterbody and permits for work on shorelands;
 - (ii) a Licence of Occupation on terms similar to Licence of Occupation No. 9561 issued to the Regional Municipal of Ottawa-Carleton for a transit way crossing and located in file folder titled “Agreements” and located in the Data Room; and,
 - (iii) Board Orders relating to the Rideau River Bridge structure, copies of which are located in file folder titled “Agreements” in the Data Room.
 - (g) **“NCC Terms & Conditions”** designates property, the use of which is subject to the terms and conditions of Third Party Access Agreements between the City and the National Capital Commission, copies of which are located in file folder titled “Agreements” in the Data Room as well as the conditions of the Approvals in Principle issued by the National Capital Commission and any Federal Land Use Design and Transaction Approvals granted by the National Capital Commission with respect to the Project or any part thereof;
 - (h) **“NRC Terms & Conditions”** designates property, the use of which is subject to the terms and conditions of a Rail Car Transfer Agreement between the City and the National Research Council of Canada, a copy of which is located in file folder titled “Agreements” in the Data Room, as well as the provisions of Schedule 15 – Output Specifications;
 - (i) **“OMCIAA Terms”** designates property, the use of which is subject to the terms and conditions of a sublease entered into between the City of Ottawa and the Airport Authority, a copy of which is located in file folder titled “Agreements” in the Data Room;
 - (j) **“PWGSC Terms”** designates property, the use of which is subject to the terms and conditions of the Third Party Access Agreement between the City and Her Majesty the Queen as represented by Public Works and Government Services Canada a copy of which is located in file folder titled “Agreements” in the Data Room;

- (k) “**South Keys Terms and Conditions**” designates property, the use of which is subject to the terms and conditions of the Third Party Access Agreement between the City, [REDACTED] and [REDACTED] a copy of which is located in file folder titled “Agreements” in the Data Room;
- (l) “**Stratified Parcel**” designates property having both horizontal and vertical boundaries;
- (m) “**Telecom License Parcel**” designates property subject to the terms and conditions of certain license agreements between Canadian Pacific Limited, as licensor, and various telecommunications providers, as licensees, with respect to the installation and maintenance of telecommunications cable and associated equipment within segments of the Lands, which license agreements are located in file folder titled “Agreements” in the Data Room, and includes the terms and conditions of any future telecommunications license granted by Canadian Pacific Limited in accordance with the terms of the “network right of way” reserved by Canadian Pacific Limited pursuant to items (i) and (ii) in the definition of Existing Corridor Lands Agreements;
- (n) “**Utility Coordination**” designates property which may also be required to support the construction, installation, use or maintenance of hydro-electric, gas or telecommunications infrastructure and, as a result, use of the parcel may require coordination with the utility provider. Refer to Schedule 15 – Output Specifications and utility plans contained in the Background Information;
- (o) “**VIA Terms and Conditions**” designates property the use of which is subject to the terms and conditions of the following Third Party Access Agreements:
 - (i) An agreement June 16th, 1999 between the Canadian National Railway Company and the St. Lawrence & Hudson Railway Company Limited (a wholly owned subsidiary of the Canadian Pacific Railway Company) as it relates to the control, operation and maintenance of the Elwood Diamond, as amended by the Elwood Interlocking and Diamond Operation and Maintenance Agreement copies of which are located in file folder titled “Agreements” in the Data Room; and,
 - (ii) An agreement on terms similar to the terms of the Agreement entered into on May 16, 2014 between the City and VIA Rail Canada Inc. with respect to the construction and long term maintenance and operation of a heavy and light rail grade separation crossing including but not limited to the VIA Right of Entry Authorization Form appended thereto, provided that in the event of any inconsistency between said agreement and the provisions of Schedule 15 relating to the construction and/or maintenance of a grade separated crossing of the Ellwood subdivision, the provisions of Schedule 15 shall prevail.

The forgoing does not constitute an exhaustive list of the restrictions and requirements which may be listed in the column designated “Restrictions and Requirements” in the Lands Table or which may apply to any property forming part of the Lands.

- 4.2** Segments of the Lands form part of existing rail corridors acquired by the City pursuant to the Existing Corridor Lands Agreements. These segments of the Lands are subject to the terms and conditions of various agreements, including railway crossing agreements, assigned to and assumed by the City at the time of the purchase of the railway corridors and described in the Existing Corridor Lands Agreements.

- 4.3 All of the agreements referred to in Sections 4.1 and 4.2 above, including any Crossing Agreements or Board Orders referenced in the Existing Corridor Lands Agreements which are included in the Data Room, together with all Standard Agreements, shall be treated, for the purposes of Section 15 of the Project Agreement and for the purpose of Schedule 16 - Encumbrances, as Encumbrances of which Project Co had knowledge prior to Financial Close. While the City has made efforts to incorporate significant construction, maintenance and other obligations flowing from the Third Party Access Agreements and the Existing Corridor Lands Agreements into the Project Agreement, Project Co. shall be deemed to have reviewed each of the Third Party Access Agreements and the Existing Corridor Lands Agreements, and any Crossing Agreements or Board Orders referenced in the Existing Corridor Lands Agreements which are included in the Data Room, and shall perform all obligations and observe and comply with all restrictions contained therein which are relevant to the use of any part of the Lands and/or the performance of the Project Operations.
- 4.4 Notwithstanding Section 4.3 above, to the extent that any of the agreements listed in Section 4.1 provide for the payment of a purchase price, license fee, rent, or other consideration in exchange for the transfer from a third party property owner to the City of property, an interest in property or a contractual right to use property forming part of the Lands, such purchase price, license fee, rent, or other consideration shall be paid by the City and not by Project Co, except to the extent that such purchase price, license fee, rent, or other consideration is paid with respect to an Additional Property Interest other than an Additional Property Interest acquired subject to the exception described in Section 3.4(vi) of this Schedule 33.

4.5 STANDARD AGREEMENTS

- (a) For certain parts of the Lands, the City will enter into easement, license, or similar agreement(s) after Financial Close. The City intends to enter into such agreement(s) on substantively the same terms and conditions as an existing easement, license or similar agreement that has been entered into by the City and that is provided as Background Information prior to Financial Close or are currently contemplated in the “Restrictions and Requirements” column of Part B (the “**Standard Agreements**”), copies of which are included in the folder titled “Agreements” in the Data Room. If, after Financial Close,
- (i) the City enters into one or more easement, license or similar agreement(s) in respect of any part of the Lands; or
 - (ii) the City acquires any interest in or right to use any part of the Lands subject to any easement, license or similar agreement(s),

and such agreement(s) have substantively the same terms and conditions as the Standard Agreements, such agreement(s) shall be treated, for the purposes of Section 15 of the Project Agreement and for the purpose of Schedule 16 – Encumbrances, as though Project Co had knowledge of such agreements prior to Financial Close. This Section 4.5 shall not apply in circumstances where the City enters into an easement, license, or similar agreement after Financial Close on terms and conditions materially different from the Standard Agreement if such material differences cause a delay to Project Co in performing the Construction Activities, create additional material obligations or liabilities for Project Co, or cause a material increase in cost to Project Co, except to the extent that such easement, license or agreement relates to an Additional Property Interest, in which case the provisions of Section 8 of this Schedule 33 shall apply unless

the Additional Property Interest is acquired subject to the exception described in Section 3.4(vi) of this Schedule 33.

5. USE OF CITY ROAD ALLOWANCE LANDS

The use of City Road Allowance Lands or any part thereof by Project Co, including but not limited to the term of such use and the date upon which Project Co may commence any Construction Activities on City Road Allowance Lands or any part thereof is subject to the terms of required permits and approvals, including Road Cut Permits and Temporary Construction-Related Encroachment Permits, to be obtained by Project Co in accordance with Schedule 32 – City Permits, Licenses, Approvals and Authorizations.

6. REPORT CARD PROCEDURE – TEMPORARY USE LANDS

Without altering Project Co’s obligations to landscape, restore, remediate and/or reinstate the Lands or adjacent lands in accordance with the Project Agreement, including in accordance with Section 16.2 of the Project Agreement, Schedule 15 – Output Specifications and Schedule 17 – Environmental Obligations, for all parcels forming part of the Lands which are designated in the “Restrictions and Requirements” column of the Lands Table as a “**Report Card Parcel**”, Project Co shall comply with the protocol described in this Section 6.

6.1 Report Card

Following the completion by Project Co of all Construction Activities on any Report Card Parcel, and at least thirty (30) days prior to the end of the term of use of such Report Card Parcel as specified in the Lands Table, Project Co shall submit to the City, as part of the Monthly Environmental Report required pursuant to Section 3.10(b) of Schedule 17 – Environmental Obligations, a summary report card in the form attached in Part C of this Schedule 33 together with the attachments set out therein for each Report Card Parcel (a “**Report Card**”).

6.2 City Review of Report Card

Within Twenty Five (25) days of receipt of a Report Card, the City shall notify Project Co if the City has an objection to the information contained in, or the steps taken by Project Co as set out in the Report Card, or requires additional environmental investigations in accordance with Section 16. 2 of the Project Agreement and/or Schedule 17 – Environmental Obligations.

6.3 Remediation and Reinstatement During Term

The remediation of any Contamination and/or the reinstatement of any property which Project Co is required to undertake in accordance with Section 16.2 of the Project Agreement, Schedule 15– Output Specifications and/or Schedule 17– Environmental Obligations shall be completed prior to the expiry of the term of use for such property as specified in the Lands Table failing which, in addition to any other obligations of Project Co contained in the Project Agreement, Project Co shall be responsible for indemnifying and/or reimbursing the City with respect to all costs, claims and/or damages incurred by the City as a result of any failure to return possession of the property to the owner of the property prior to the end of the term of use described in the Lands Table.

7. ENVIRONMENTAL INVESTIGATION REPORTS

Information regarding the environmental condition of parts of the Lands, including information about Contamination on, in, under or migrating from parts of the Lands, is contained in the Background Information. In some instances, additional site specific environmental investigation reports have been included in the Background Information, in which case the City has made efforts to provide references to the relevant Property Request Plans in Schedule 17 – Environmental Obligations; however, the inclusion of Property Request Plan references in Schedule 17 – Environmental Obligations shall in no way limit Project Co’s obligations pursuant to Section 16.2 of the Project Agreement.

8. ADDITIONAL PROPERTY INTERESTS

8.1 Requests for Additional Property Interests

The following provisions shall be in addition to Section 14.6 of the Project Agreement governing requests for Additional Property Interests by Project Co.

- (a) The City will only consider requests for Additional Property Interests:
 - (i) During the sixty (60) day period commencing nine (9) months following Financial Close (the “**First Additional Property Interests Request Period**”); and,
 - (ii) During the sixty (60) day period commencing eighteen (18) months following Financial Close (the “**Final Additional Property Interests Request Period**”).
- (b) Every request for Additional Property Interests submitted by Project Co shall:
 - (i) include a Property Request Plan prepared by Project Co at Project Co’s cost describing the Additional Property Interest, including stratification if appropriate;
 - (ii) state the proposed Commencement Date and duration for the Additional Property Interest;
 - (iii) detail Project Co’s reasons for requesting the Additional Property Interest and provide a drawing or sketch describing the horizontal and vertical dimensions of any New Municipal Infrastructure, System Infrastructure, New Utility Company Infrastructure and/or other infrastructure to be installed and/or constructed by Project Co within the boundaries of the Additional Property Interest; and
 - (iv) indicate all reasonably foreseeable implications of acquiring the Additional Property Interest, including whether the acquisition of the Additional Property Interest is expected to result in cost savings for the City from a design, engineering or construction perspective.
- (c) Project Co shall pay to the City, in respect of any request for an Additional Property Interest, an administration fee calculated as follows:
 - (i) For each Additional Property Interest requested during the First Additional Property Interests Request Period, a fee of [REDACTED] Dollars, (\$[REDACTED]); and,

- (ii) For each Additional Property Interest requested during the Final Additional Property Interests Request Period, a fee of [REDACTED] Dollars, (\$[REDACTED]).
- (d) As soon as practicable and in any event within 15 Business Days after receipt of a request for Additional Property Interests, the City shall decide whether or not it is prepared to consider the request and shall either advise Project Co that it has elected not to consider the request or shall deliver to Project Co an approximate estimate of:
 - (i) the time which the City anticipates will be required to secure the Additional Property Interest; and,
 - (ii) the anticipated cost of acquiring the Additional Property Interest

The foregoing approximate estimates shall be in no way binding upon the City and shall not limit Project Co's obligations in Section 8.2(c).

- (e) Project Co acknowledges and agrees that any decision of the City pursuant to Section 8.1(d) above shall be final and binding on the Parties and in the event that the City elects not to consider the acquisition of any Additional Property Interest, Project Co acknowledges and agrees that the City's decision shall not be subject to resolution pursuant to Schedule 27 – Dispute Resolution Procedure.
- (f) If the City, in its sole discretion, elects to consider a request for an Additional Property Interest, the City shall be entitled to retain the administration fee payable in respect of such request for such Additional Property Interest in accordance with Section 8.1(c) above. Such fees are in addition to the costs payable by Project Co in accordance with Section 8.2(c) below and the City shall have no obligation to refund any part of such administrative fee whether or not the request for Additional Property Interests is withdrawn by Project Co as contemplated in 8.1(g)(i) below or whether or not the Additional Property Interest is acquired or accepted as part of the Lands for any reason whatsoever.
- (g) As soon as practicable, and in any event within 15 Business Days after the later of the date the estimate described in Section 8.1(d) above was delivered, Project Co shall either:
 - (i) withdraw its request for the Additional Property Interest by written notice to the City; or
 - (ii) issue a written confirmation directing the City to proceed with the acquisition of the Additional Property Interest.

If Project Co does not issue the confirmation described in Section 8.1(g) within such 15 Business Days, then, the request for Additional Property Interests shall be deemed to have been withdrawn. If Project Co does issue the confirmation described in Section 8.1(g) within such 15 Business Days, the City shall, subject to the provisions of Section 8.2 below, proceed with the acquisition of the Additional Property Interest.

8.2 Acquisition of Additional Property Interests

- (a) Notwithstanding anything to the contrary in the Project Agreement, the City's failure to acquire any Additional Property Interest, or its failure to acquire any Additional Property Interest on or

- prior to the Commencement Date proposed by Project Co, shall not constitute a Delay Event, a Compensation Event, a Relief Event or a City Event of Default under the Project Agreement.
- (b) The City shall be entitled to abandon the acquisition of any Additional Property Interest at any time, for any reason and in its sole and absolute discretion, in which case the Additional Property Interest will not form part of the Lands and will not be included in the license to be granted to Project Co in accordance with Section 14.1 of the Project Agreement.
 - (c) Project Co shall be responsible for all costs and expenses incurred by the City in connection with the acquisition of any Additional Property Interest, irrespective of whether the acquisition of the Additional Property Interest is completed and irrespective of whether the Additional Property Interest is acquired by negotiation or expropriation, including but not limited to all consideration paid to the owner, legal costs, including legal costs incurred by the City and third party legal costs, land surveying and appraisal costs, including third party land surveying and appraisal costs, administrative costs, the market value of the Additional Property Interest, disturbance damages, injurious affection and any and all compensation payable under the *Expropriations Act*, R.S.O. 1990, c. E. 26, if applicable, and the City shall be entitled, in accordance with Section 32.12 of the Project Agreement, to set off any such costs and expenses against any amounts otherwise due to Project Co pursuant to the terms of this Project Agreement.
 - (d) Notwithstanding any provision of the Project Agreement to the contrary, including but not limited to Section 16.2, 16.3 and 16.4 of the Project Agreement, Project Co shall be responsible for any Contamination on, in or under, or migrating to or from any new parcel of land or any addition to any parcel forming part of the Lands acquired by the City as an Additional Property Interest and for any Species-at-Risk, fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, including human remains and burial sites which may be found on or at any new parcel of land or any addition to any parcel forming part of the Lands acquired by the City as an Additional Property Interest. Project Co may request the opportunity to undertake additional investigations with respect any Additional Property Interest and, if such additional investigations are undertaken, Project Co shall provide the results of such investigations to the City before the City completes the acquisition of the Additional Property Interest. In the event that the City is unable to obtain the consent of the relevant property owner with respect to any additional investigation requested by Project Co pursuant to this Section 8.2(d), the City shall notify Project Co that it is unable to obtain the required consent, in which case Project Co may, subject to its obligations in Section 8.2(c), direct the City to abandon the acquisition of the relevant Additional Property Interest. Subject to this Section 8.2(d), the City shall have no obligation to conduct any investigation in connection with the acquisition of an Additional Property Interest.
 - (e) The terms of any agreement, or amendment to an existing agreement, negotiated by the City with respect to the acquisition of any Additional Property Interest shall be treated, for the purposes of Section 15 of the Project Agreement and for the purpose of Schedule 16 – Encumbrances, as Encumbrances of which Project Co had knowledge prior to Financial Close provided, however, that if such an agreement or amendment is not a Standard Agreement, the City shall provide a copy of any such agreement or amendment to Project Co prior to concluding the agreement or amending agreement. Within ten (10) business days of delivery by the City of a copy of any agreement or amendment to Project Co, Project Co may, subject to its obligations in Section 8.2(c), direct the City to abandon the acquisition of the relevant Additional Property Interest, failing which Project Co shall be deemed to have accepted the terms of the agreement or amending agreement.

- (f) Project Co may, from time to time request and the City shall provide an accounting of the costs incurred in respect of any acquisition of any Additional Property Interest by the City.

9. PROPERTY REQUEST PLANS

9.1 Conflict

In the event of any conflict between information contained on the face of a Property Request Plan and the Lands Table, the provisions contained in the Lands Table shall prevail.

9.2 Building Overlays

Building overlays included in Property Request Plans suggest the approximate extent of existing building envelopes only. Unless otherwise expressly provided in the Lands Table or in Schedule 15 – Output Specifications, notwithstanding the location of any building overlay, the grant of the non-exclusive license, rights of use and access to any parcel forming part of the Lands extends only to within one hundred and fifty millimetres (150mm) from any existing building or structure. The City makes no representation as to the accuracy or completeness of building overlays included in Property Request Plans.

PART B –LANDS TABLE

[REDACTED]

PART C –FORM OF REPORT CARD

Report Card

Property Description:
PRP Reference:
Commencement Date:
Expected date of completion of Construction Activities and/or Works:

Description of Use which Project Co. has put to the Report Card Parcel (include particulars):	
Description of Any Physical Alteration to Report Card Parcel:	
Summary of Baseline Conditions (including reference to relevant Background Information):	
Summary of Spill Reports (append reports):	
Volume of soil imported (append lab reports):	
Description of any soil or groundwater sampling (include results)	
Follow up Environmental Investigation Recommended (include detail):	

Every Report Card shall include the following attachments:

- (1) Property Request Plan(s) (including with relevant site plans describing Report Card Parcel).
- (2) Lab reports with respect to imported soils (if any).
- (3) Spill reports (if any).
- (4) Copies of relevant Background Information or other environmental investigation reports.
- (5) Soil and Groundwater Sampling Reports (if any).
- (6) A summary of all reinstatement, restoration and/or rehabilitation works undertaken in accordance with Parts 1 and 6 of Schedule 15-2 or otherwise is required for all Report Card Parcels:

- i. Designated Temporary Mobilization Lands (TM); and/or
- ii. Where a significant grade change has occurred as a result of Construction Activities