

SCHEDULE 19

HANDBACK PROCEDURE

SECTION A GENERAL

A1. Capitalized Terms

A1.1 Capitalized terms used in this Schedule 19 have the meanings set out in the Project Agreement, unless otherwise expressed in this Schedule 19.

A2. Definitions

A2.1 In this Schedule 19, the following expressions have the following meanings:

- (a) “**Handback Holdback**” has the meaning given in Section C1.1(c); and
- (b) “**Handback Workplan**” has the meaning given in Section B2.1(d).

SECTION B HANDBACK INSPECTIONS

B1. Inspections

B1.1 Project Co and the City shall jointly carry out the following handback inspections (consisting of all appropriate examinations and tests, carried out in accordance with all applicable Technical Requirements) in order to assess what work, including major renewal work as required, is likely to be required in order to achieve the Handback Requirements:

- (a) the first handback inspection shall take place at a time, specified by the City following consultation with Project Co, that is at least 57 months and not more than 63 months prior to expiry of the Project Term;
- (b) the second handback inspection shall take place at a time, specified by the City following consultation with Project Co, that is at least 28 months and not more than 34 months prior to expiry of the Project Term; and
- (c) the third handback inspection shall take place at a time, specified by the City following consultation with Project Co, that is not more than one month prior to the expiry of the Project Term.

B2. Procedure Following Inspections

B2.1 Following each handback inspection under Section B1, Project Co shall within:

- (a) 60 days of the first handback inspection;
- (b) 30 days of the second handback inspection; and
- (c) 7 days of the third handback inspection,

- (d) prepare and deliver to the City a comprehensive workplan and schedule acceptable to the City, acting reasonably (the “**Handback Workplan**”), designed to ensure that the Infrastructure will meet the Handback Requirements upon expiry of the Project Term. Following delivery and acceptance of the Handback Workplan and schedule, Project Co shall keep the City fully advised of all activity and progress in carrying out the Handback Workplan.

SECTION C HANDBACK HOLDBACK

C1. Handback Holdback

C1.1 If,

- (a) Project Co fails to deliver the Handback Workplan in accordance with Section B2; or
- (b) having delivered the Handback Workplan, fails, in any material respect, to diligently carry out the Handback Workplan in accordance with the schedule set out in the Handback Workplan,
- (c) then the City may, subject to Section C1.2, hold back (without duplication) from any amounts thereafter payable to Project Co under this Project Agreement an aggregate amount (the “**Handback Holdback**”) that the City, acting reasonably and following consultation with Project Co and having regard to the amounts of the Monthly Payments remaining to be made during the remainder of the OMR Period considers sufficient to achieve the Handback Requirements at the end of the OMR Period in the event that Project Co were to fail to do so.

C1.2 The City may not hold back any amount prior to the last five years of the Project Term.

C1.3 The Handback Holdback shall be released to Project Co, without interest, as the work is done by Project Co (but not more frequently than monthly). If the Handback Requirements are not achieved by the expiry of the Project Term, the City may release Project Co from its obligation to achieve the Handback Requirements and in that event may retain the remaining balance of the Handback Holdback as liquidated damages.

SECTION D DISPUTES REGARDING HANDBACK

D1.1 If Project Co disputes the appropriateness of the amount of the Handback Holdback or disagrees with the City’s assessment of whether any of the Handback Requirements have been achieved, Project Co may refer the matter to the Dispute Resolution Procedure.