

Schedule 14
Payment Adjustments

SCHEDULE 14

PAYMENT ADJUSTMENTS

SECTION A DEFINITIONS

A1. Capitalized Terms

A1.1 Capitalized terms used in this Schedule 14 have the meanings set out in the Design Builder Agreement, unless otherwise expressed in this Schedule 14.

SECTION B ENTITLEMENT TO MAKE DEDUCTIONS

B1. Deductions from Progress Payments

B1.1 Payment Adjustments shall be deducted in accordance with Section H7 of the DBA.

B1.2 Payment Adjustments will be assessed regardless of any proceeds that may be received from the result of an insurance claim/loss.

SECTION C REPORTING OF PAYMENT ADJUSTMENTS

C1. Obligation to Report

C1.1 Design Builder shall monitor and report in its Monthly Project Report all Payment Adjustments which it is aware of or should have been aware of.

C1.2 For each Payment Adjustment, Design Builder shall report the date on which the Payment Adjustment was incurred and, if applicable, report the date or time on which the Payment Adjustment was remedied.

C1.3 Design Builder shall also report the aggregate deductions resulting from Payment Adjustments since the previous monthly application for Progress Payment or Progress Payments.

Table 1: Payment Adjustment Indicators and Deductions

| Ref. # | Payment Adjustment Indicator | Technical Requirements Reference | Remedial Period | Deduction |
|--------|---|---|-----------------|---|
| 1. | <p>Persistent Failure to Meet Submittal Schedule</p> <p>Design Builder fails to submit its Submittals in accordance with its most current Submittal Schedule, as found on the City’s DMS (Schedule 13 – Document Management System). For clarity, the Submittal Schedule shall be considered a Submittal as set out in Schedule 5 – Review Procedure.</p> | Schedule 5 – Review Procedure Section B2.5 | 2 Business Days | \$5,000 for each late Submittal. |
| 2. | <p>Failure to Submit a quality Monthly Project Report</p> <p>Design Builder fails to submit a Monthly Project Report that includes all information and quality required in accordance with Schedule 18 – Technical Requirements Section B.5.1.2 or failure to include sufficient detail in the Monthly Project Report to:</p> <p>(a) accurately record the progress of the Works;</p> <p>(b) allow the City to understand the planned progression of the Works; or</p> <p>(c) allow the City to understand the coordination required between Design Builder and the City and/or plant staff in the following 3 months.</p> | Schedule 18 – Technical Requirements Section B.5.1.3 | 5 Business Days | \$13,000 per occurrence |
| 3. | <p>Management Plans Audits</p> <p>Design Builder fails to implement corrective measures for all Management Plans deficiencies identified during an audit in accordance with Schedule 18 – Technical Requirements Sections B.2.12.1, B.2.12.2, or B.2.12.3 within 30 Calendar Days of the receipt of the audit results.</p> | Schedule 18 – Technical Requirements Section B.2.12.4 | 5 Business Days | \$2,000 per Business Day per occurrence |

| Ref. # | Payment Adjustment Indicator | Technical Requirements Reference | Remedial Period | Deduction |
|--------|--|--|-------------------------|---|
| 4. | <p>Failure to Submit a Non-Conformance Report Plan</p> <p>Design Builder fails to submit a Non-Conformance Report Plan that includes all information required, in accordance with Schedule 18 – Technical Requirements Section A.4.2.4 to address the Non-Conformance, within 10 Business Days of identifying the Non-Conformance.</p> | <p>Schedule 18 – Technical Requirements Section A.4.2.8</p> | <p>5 Business Days</p> | <p>\$2,000 per Business Day per NCR Plan</p> |
| 5. | <p>Failure to Correct Non-Conformance</p> <p>Design Builder fails to implement the proposed solution and corrective actions and submit evidence of such implementation, including verification by the Quality Manager, within the schedule set out in the NCR Plan, which achieved a Submittal Endorsement of “Proceed to Next Phase” in accordance with Schedule 5 – Review Procedure and Schedule 18 – Technical Requirements Section A.4.4.1 & A.4.4.2</p> | <p>Schedule 18 – Technical Requirements Section A.4.4.4</p> | <p>3 Business Days</p> | <p>\$13,000 per Business Day per occurrence</p> |
| 6. | <p>Repeated Non-Conformances</p> <p>Design Builder repeats Non-Conformances, including the same type of failure, or root cause.</p> | <p>Schedule 18 – Technical Requirements Section A.4.4.4.2</p> | <p>None</p> | <p>\$10,000 per Business Day per occurrence</p> |
| 7. | <p>Failure to Submit Training Plan</p> <p>Design Builder fails to submit the Training Schedule and all associated Course Lesson Plans, in accordance with Schedule 5 – Review Procedure, and achieve an endorsement of “Received” on them a minimum of 365 Calendar Days prior to Substantial Completion.</p> | <p>Schedule 18 – Technical Requirements – Appendix 18G – Training Requirements Section B.3.6</p> | <p>10 Business Days</p> | <p>\$2,000 per Business Day</p> |

| Ref. # | Payment Adjustment Indicator | Technical Requirements Reference | Remedial Period | Deduction |
|--------|---|--|------------------|--|
| 8. | <p>Failure to Submit Updated Commissioning Plan</p> <p>If Design Builder elects to modify the Commissioning Plan between the submission of the final Commissioning Plan and the commencement of the Equipment Checkout, but Design Builder fails to submit such updated Commissioning Plan and achieve an endorsement of "Received", in accordance with Schedule 5 – Review Procedure, at least 60 Calendar Days prior to the commencement of Equipment Checkout.</p> | Schedule 18 – Technical Requirements Section E.3.4.4 | 10 Business Days | \$1,000 per Business Day |
| 9. | <p>Causes Raw Sewage Bypass or Site Contamination</p> <p>Design Builder spills, bypasses, or discharges raw sewage, screened sewage, dewatered sewage, screened and dewatered sewage or sludge to surface waters, drainage courses, including the outfall or on the Lands. For clarity, this Payment Adjustment will be assessed over and above any fine or penalty assessed to the City for which Design Builder will be responsible.</p> <p>Notwithstanding the above, Design Builder will not be assessed the Payment Adjustment during Performance Testing if the incoming flow to a unit process in the Infrastructure exceeds the Firm Capacity of that unit process, thereby necessitating the use of the overflow to protect the unit process.</p> | Schedule 18 – Technical Requirements Section D.9.2.3 | None | \$100,000 upon occurrence and \$25,000 for every 24-hour period thereafter |
| 10. | <p>Causes Communication Tower Interruption</p> <p>Design Builder disrupts, interferes with the operation, or causes any damage to the Communication Tower on Parcel B. For clarity, this Payment Adjustment will be assessed over and above any fine or penalty assessed to the City for which Design Builder will be responsible.</p> | Schedule 18 – Technical Requirements Section D.1.3.8.5 | None | \$100,000 upon occurrence and \$25,000 for every 24-hour period thereafter |

| Ref. # | Payment Adjustment Indicator | Technical Requirements Reference | Remedial Period | Deduction |
|--------|---|--|------------------------|--|
| 11. | <p>Failure to Submit a Log of Changes</p> <p>Design Builder fails to submit a log of all changes from the previous Design Submittal in accordance with Schedule 18 – Technical Requirements Section C.1.3.20.1.</p> | <p>Schedule 18 – Technical Requirements Section C.1.3.20.2</p> | <p>3 Business Days</p> | <p>\$3,000 per Business Day per occurrence</p> |
| 12. | <p>Impairs Performance or Operation of the Existing Infrastructure</p> <p>Except as otherwise authorized by the DBA, such as through Schedule 18 – Technical Requirements – Appendix 18P – Coordination Protocol, Design Builder causes a reduction in process performance in the Existing Infrastructure which results in final effluent not meeting Environment Act Licence No.2684 RRR, reduces available capacity within a unit process, or causes the City to call out or assign additional plant staff to mitigate the results of the actions of Design Builder.</p> | <p>Schedule 18 – Technical Requirements Section D.9.1.5</p> | <p>None</p> | <p>\$50,000 upon occurrence and \$13,000 for every 24-hour period thereafter</p> |
| 13. | <p>Causes Shutdown</p> <p>Except as otherwise authorized by the DBA, such as through Schedule 18 – Technical Requirements – Appendix 18P – Coordination Protocol, if Design Builder causes a partial or total shutdown of raw sewage flow, process control, Ferrier Street traffic, sludge truck hauling, natural gas, ventilation, electricity, communications, flushing water, potable water, well water, ferric, centrate, primary sludge, or any other return flow.</p> | <p>Schedule 18 – Technical Requirements Section D.9.4.12</p> | <p>None</p> | <p>\$25,000 upon occurrence and \$10,000 for every 24-hour period thereafter</p> |

| Ref. # | Payment Adjustment Indicator | Technical Requirements Reference | Remedial Period | Deduction |
|--------|--|---|-----------------|--|
| 14. | <p>Failure to Provide Operational Advisory Services</p> <p>Failure by Design Builder to respond to a request from the City within 4 hours and with the minimum required information as specified in Schedule 18 – Technical Requirements Section G.3.2.3</p> | Schedule 18 Technical Requirements Section G.3.2.3 | None | \$13,000 per occurrence and \$1,000 per hour until Design Builder responds to the City's request |
| 15. | <p>Failure to Submit a Social Procurement Annual Report</p> <p>Design Builder fails to submit a Social Procurement Annual Report that includes all of the information required in Section D2.3 of Schedule 21 – Social Procurement Requirements.</p> | Schedule 21 – Social Procurement Requirements Section D2.4.1 | None | [\$●] |
| 16. | <p>Failure to Meet Social Procurement Requirements</p> <p>Design Builder fails to meet social procurement requirements as required by Section B of Schedule 21 – Social Procurement Requirements</p> | Schedule 21 – Social Procurement Requirements Section D 2.4.2 | None | [\$●] |
| 17. | <p>Averages [●] Percent of Skilled Labour being Indigenous or Under-Represented Groups (Incentive)</p> <p>Design Builder averages [●] of skilled labour being Indigenous or Under-Represented Groups from commencement of construction to Substantial Completion as outlined in Schedule 21 – Social Procurement Requirements</p> | Schedule 21 – Social Procurement Requirements Section D 2.4.3 | None | [\$●] |