

SCHEDULE 2

DEVELOPMENT PHASE GOVERNANCE

SECTION A DEFINITIONS

A1.1 In this Schedule 2, unless the context indicates a contrary intention, terms which are defined in the Development Phase Agreement (and not otherwise defined in this Schedule 2) shall have meanings given to them in the Development Phase Agreement and the following terms shall have the following meanings:

- (a) “**DPA Variance Request**” has the meaning given in Section D5.1;
- (b) “**Initiating Party**” has the meaning given in Section F2.1;
- (c) “**Leadership Team**” has the meaning given in Section D1.1;
- (d) “**Leadership Team Meeting**” has the meaning given in Section D2.1;
- (e) “**Leadership Team Member**” has the meaning given in Section D1.1;
- (f) “**Notice of DPA Dispute**” has the meaning given in Section D.4(e);
- (g) “**Responding Party**” has the meaning given in Section F2.1;
- (h) “**Senior Executive Team**” has the meaning given in Section C1.1;
- (i) “**Senior Executive Team Meeting**” has the meaning given in Section C2.1;
- (j) “**Unresolved Issue**” has the meaning given in Section D.4(a);
- (k) “**Working Group**” or “**Workings Groups**” has the meaning given in Section E1.1; and
- (l) “**Working Group Process Report**” has the meaning given in Section E1.4.

SECTION B DEVELOPMENT PHASE GOVERNANCE STRUCTURE

B1. Purpose of Governance Structure

- B1.1 The Parties acknowledge and agree that the governance structure set out in this Schedule 2 is intended to ensure that the purpose and intent of the Development Phase, as set out in Section E.1 of the Development Phase Agreement, is fulfilled and that the Collaboration Principles are implemented. In addition, the governance structure is intended to promote collaborative and efficient decision making by facilitating the exchange of information and promoting a culture of openness and transparency.
- B1.2 The Parties acknowledge and agree that the governance structure is intended to allow for the effective and efficient resolution of issues and disagreements between the Parties

by establishing an escalation process for the resolution of issues with clear accountabilities and defined timelines.

- B1.3 The Parties agree that the consistent involvement in and attendance by their representatives at meetings of the Senior Executive Team, Leadership Team and Working Groups is critical to the success of the Development Phase and that each of the City and Development Partner shall ensure that their respective representatives fulfill the commitments made in this Schedule 2.

SECTION C SENIOR EXECUTIVE TEAM

C1. Establishment and Role of Senior Executive Team

- C1.1 The Parties shall, no later than 10 days following the Effective Date, establish a senior executive team for the purposes of the Development Phase (the “**Senior Executive Team**”) consisting of:

- (a) 2 representatives appointed by the City being the **[insert positions]**; and
- (b) 2 senior executive representatives appointed by Development Partner being equivalent positions as approved by the City Senior Executive Team representative.

- C1.2 The purpose of the Senior Executive Team is to provide oversight and governance of the Development Phase, resolve Unresolved Issues and to ensure that the Development Phase progresses in a collaborative manner.

C2. Senior Executive Team Meetings

- C2.1 Meetings of the Senior Executive Team (each a “**Senior Executive Team Meeting**”) shall be the platform through which shared risks and significant issues can be discussed with the overall objective being the early identification of such risks and issues and determining strategies to address such risks and issues.

- C2.2 One representative of the City from among the City representatives on the Senior Executive Team shall serve as the chairperson of the Senior Executive Team Meetings. The City will provide an administrative representative to arrange meetings and take Minutes at Senior Executive Team Meetings.

- C2.3 In order to foster a culture of openness and transparency and to allow for the effective and efficient resolution of issues and disagreements between the Parties during the Development Phase, the Parties agree that all discussions, including any offers of settlement or statements of compromise made by either Party at any Senior Executive Team Meeting as well as any documents prepared, created, exchanged or made between the Parties for the purpose of attempting to resolve an Unresolved Issue at a Senior Executive Team Meeting shall be treated by the Parties as “without prejudice” communications and such communications and documents may not be subsequently relied upon by either Party as an admission against interest or to otherwise limit or prejudice any Party’s rights or obligations under the Development Phase Agreement,

including either Party's position in any subsequent DPA Dispute regarding an Unresolved Issue conducted under the DPA Dispute Resolution Procedure provided for in Section D.4(e).

- C2.4 The Senior Executive Team shall hold monthly Senior Executive Team Meetings, unless a different frequency of meetings is reasonably required, either temporarily or permanently, by either Development Partner or the City. A Senior Executive Team Meeting shall not proceed unless both the City and Development Partner have all Senior Executive Team members, or their replacement designated in accordance with Section C2.5, present at the Senior Executive Team Meeting.
- C2.5 Unless both Parties otherwise agree, Senior Executive Team Meetings shall take place virtually on a monthly basis and in person on a quarterly basis.
- C2.6 If a Senior Executive Team member is absent or otherwise unable to attend a Senior Executive Team Meeting, the member may designate in writing a replacement authorized to act as member in his or her place.
- C2.7 Development Partner and the City may each request an opportunity to have non-decision making representative(s) or subject matter experts of Development Partner or the City, or a third party, as applicable, attend a Senior Executive Team Meeting to speak to a particular matter or issue on the agenda of such Senior Executive Team Meeting. A request for attendance of non-Senior Executive Team Members must be made by giving Notice to each Party Representative no later than 48 hours before the scheduled Senior Executive Team Meeting at which such attendance is being requested. The Senior Executive Team shall agree to a request made pursuant to this Section C2.6 unless the Senior Executive Team decides that such a request is unreasonable or would create a conflict of interest having regard to the matters to be discussed at the applicable Senior Executive Team Meeting.
- C2.8 Either Party may be entitled to convene an ad hoc Senior Executive Team Meeting at any time on not less than 3 Business Days' Notice to the other Party Representative, or with fewer than 1 Business Day's Notice in an emergency.
- C2.9 The Senior Executive Team may adopt such procedures and practices for the conduct of its activities as they consider appropriate from time to time. Minutes of all meetings, recommendations and decisions of the Senior Executive Team shall be recorded and maintained by the City. In accordance with Draft DBA Schedule 13 – Document Management System, the City shall circulate copies of such minutes within 5 Business Days after a meeting. Unless Development Partner notifies the City within 5 Business Days after receipt of the minutes that Development Partner disagrees with the contents of the minutes, the City and Development Partner shall be deemed to have approved the minutes. For clarity, minutes of Senior Executive Team meetings addressing the status of any Unresolved Issues between the Parties shall briefly record the Unresolved Issue and its status between the Parties (resolved or unresolved) without reference to the negotiation or settlement positions of either Party with respect to the Unresolved Issue. Where an Unresolved Issue is resolved by the Senior Executive Team, the minutes shall record the decision of the Senior Executive Team and any action items or directions resulting from its resolution.

SECTION D LEADERSHIP TEAM

D1. Establishment and Role of Leadership Team

D1.1 The Parties shall, no later than 10 days following the Effective Date, establish a leadership team for the Development Phase (the “**Leadership Team**”) consisting of:

- (a) 4 representatives appointed by the City, including the City DPA Representative; and
- (b) 4 representatives appointed by Development Partner, including the Development Partner DPA Representative and one representative from each of the Primary Construction Team Member and Primary Design Team Member, as approved by the City.

(each a “**Leadership Team Member**”).

D1.2 Any removal, replacement or designation by Development Partner or the City of a Leadership Team Member must have the level of experience and capability, including in collaborative approaches to decision making and projects, considered appropriate by the Leadership Team.

D1.3 The purpose of the Leadership Team is to:

- (a) provide leadership in respect of all aspects of the Development Partner Services;
- (b) ensure that the Parties act in accordance with the objectives of the Development Phase set out in Section E.1 of the Development Phase Agreement and the Collaboration Principles;
- (c) issue or refuse to issue DPA Variances;
- (d) review draft Stage Gate Reports and participate in Stage Gate Meetings;
- (e) establish and ensure the implementation of the strategic leadership and direction of the Parties in connection with the Project;
- (f) establish and implement transparent governance and accountability structures for the Parties; and
- (g) address all issues arising from the Working Groups in accordance with Section D.4.

D1.4 Each of the Parties shall use commercially reasonable efforts to ensure that the Leadership Team Members remain on the Leadership Team for the duration of the Development Phase.

D2. Leadership Team Meetings

- D2.1 The Leadership Team shall hold bi-weekly meetings unless a different frequency of meetings is reasonably required, either temporarily or permanently, by either Development Partner or the City (each a “**Leadership Team Meeting**”). A Leadership Team Meeting shall not proceed unless the City and Development Partner each have at least 3 Leadership Team Members, or their replacement designated in accordance with Section D2.2, present at the Leadership Team Meeting.
- D2.2 If a Leadership Team Member is absent or otherwise unable to attend a Leadership Team Meeting, the member may designate in writing a replacement authorized to act as member in his or her place.
- D2.3 The Parties acknowledge and agree that the continuous involvement in and attendance at the Leadership Team Meetings by the City and Development Partner and their respective Leadership Team Members is critical to the success of the Development Phase.
- D2.4 Development Partner and the City may each request an opportunity to have non-decision making representative(s) or subject matter experts of Development Partner or the City, or a third party, attend a Leadership Team Meeting to speak to a particular matter or issue on the agenda of such Leadership Team Meeting. A request for attendance of non-Leadership Team Members must be made by giving Notice to each Party Representative no later than 48 hours before the scheduled Leadership Team Meeting at which such attendance is being requested unless a shorter notice period has been agreed by the Leadership Team. The Leadership Team shall agree to a request made pursuant to this Section D2.4 unless the Leadership Team decides that such a request is unreasonable or would create a conflict of interest having regard to the matters to be discussed at the applicable Leadership Team Meeting.
- D2.5 The Leadership Team may adopt such procedures and practices for the conduct of activities of the Leadership Team and meet at such locations or by way of such mediums as they may consider appropriate from time to time. The City shall record meeting minutes for each Leadership Team Meeting and in accordance with Draft DBA Schedule 13 – Document Management System, shall circulate all meeting minutes no later than the next Business Day following each Leadership Team Meeting, and prior to the next Leadership Team Meeting.
- D2.6 Either Party may be entitled to convene an ad hoc meeting of the Leadership Team at any time on not less than 2 Business Days’ Notice to the other Party Representative, or with fewer than 1 Business Day’s Notice in an emergency.

D3. Leadership Team and Senior Executive Team Decisions

- D3.1 All decisions of the Leadership Team or Senior Executive Team shall be made by consensus.
- D3.2 No decision can be made by the Leadership Team or Senior Executive Team unless:

- (a) the decision is made by consensus;
 - (b) the decision is within the matters contemplated by this Development Phase Agreement and is made in accordance with this Development Phase Agreement; and
 - (c) the decision is recorded in writing.
- D3.3 For clarity, neither the City nor Development Partner will be required to comply with a decision of the Leadership Team or Senior Executive Team if compliance would:
- (a) contravene the Applicable Law;
 - (b) contravene the Party's constituent statute, constitution, memorandum, articles of association or articles of incorporation, or in the case of the City, its internal policies; or
 - (i) constitute a default under any covenant, contract, agreement, or understanding to which the Party is a party or by which it or any of its properties or assets is bound or affected.
- D3.4 The Leadership Team and Senior Executive Team shall not have the authority to make decisions with respect to or to approve:
- (a) any change to Stage Gate #3;
 - (b) any DPA Change Order which exceeds the DPA Upset Limit;
 - (c) any DPA Change Order which exceeds the DPA Contract Award; or
 - (d) any matter with respect to which the City has a right of consent or approval or in respect of which the City may exercise its discretion pursuant to the Development Phase Agreement,
- rather, they may provide input, but such decisions or approvals must be formalized in accordance with the Development Phase Agreement, such as in writing or by way of a Change Order, as the case may be, to be effective.
- D3.5 The Leadership Team and Senior Executive Team shall have the authority to make decisions with respect to or to approve Unresolved Issues that do not result in a DPA Change Order.
- D4. **Unresolved Issues**
- (a) The Parties acknowledge and agree that they are committed to the collaboration principles set out in the Development Phase Agreement and to ensuring that issues that:
 - (i) remain unresolved at the Working Group and Leadership Team level; or

- (ii) which the Working Group or Leadership Team do not have authority to decide,

(each an “**Unresolved Issue**”) which may arise during the Development Phase will be minimized, if not eliminated.

- (b) The Working Groups shall attempt to resolve any issues in accordance with the Collaboration Principles set out in the Development Phase Agreement and consult with the Leadership Team on a regular basis in relation to such issues. The Leadership Team will identify and refer Unresolved Issues to the Senior Executive Team by Notice.
- (c) The Senior Executive Team shall meet following the referral of an Unresolved Issue from the Leadership Team in accordance with the timing set out in this Schedule 2, at a mutually convenient location and make reasonable and bona fide efforts to resolve the Unresolved Issue through amicable, full, frank, candid and without prejudice negotiations.
- (d) An Unresolved Issue shall not be taken to have been resolved by the Senior Executive Team until the resolution has been the subject of a Senior Executive Team decision made in accordance with Section D.3.
- (e) If the Senior Executive Team is unable to resolve an Unresolved Issue then either Party may, as soon as practicable, give the other Party Notice of such DPA Dispute (a “**Notice of DPA Dispute**”) to commence the DPA Dispute Resolution Procedure. For clarity, an Unresolved Issue shall not be considered a DPA Dispute and shall not be the subject of the issuance of a Notice of DPA Dispute regarding the Unresolved Issue by either Party until the Unresolved Issue has first been considered by the Working Group, the Leadership Team and Senior Executive Team, as required and in accordance with the escalation provisions set out in this Schedule 2 and the Unresolved Issue remains unresolved having been finally considered by the Senior Executive Team in accordance with this Section D.4(e).
- (f) Each Party shall continue to perform their obligations pursuant to this Development Phase Agreement, notwithstanding the continuation of an Unresolved Issue or the issuance of a Notice of DPA Dispute.

D5. **DPA Variation Requests**

D5.1 Working Groups shall not have the authority to revise any of the following:

- (a) Working Group PDP Budget;
- (b) Working Group IDP Budget;
- (c) Start-up Period Budget;
- (d) Preliminary Design Period Budget;

- (e) Intermediate Design Period Budget; and
- (f) membership of a Working Group,

without the prior written consent of the Leadership Team.

D5.2 In order to revise any matter set out in Section D5.1, a Working Group will be required to submit a request for a DPA Variance to the Leadership Team (a “**DPA Variance Request**”).

D5.3 The Leadership Team shall review the DPA Variance Request pursuant to the Collaboration Principles and may either grant or deny the DPA Variance Request, provided it will not require a change to the DPA Upset Limit.

D5.4 If the Leadership Team:

- (a) denies a DPA Variance Request;
- (b) is unable to reach consensus regarding a DPA Variance Request; or
- (c) determines that the DPA Variance Request either individually or taken together with other DPA Variance Requests being considered will require a change to the DPA Upset Limit,

then the DPA Variance Request shall be referred to the Senior Executive Team as an Unresolved Issue.

SECTION E WORKING GROUPS

E1. General

E1.1 Subject to Section E1.5, the Parties shall, no later than 15 days following the Effective Date, establish a series of working groups to facilitate the effective performance and completion of certain specific parts of the Development Partner Services, including the Preliminary Design Period Activities (each a “**Working Group**” or collectively “**Working Groups**”). The Parties shall use reasonable commercial efforts to agree to the number and types of Working Groups at the Development Phase Start-up Meeting. Development Partner shall propose in the Intermediate Design Period Work Plan any changes to the Working Groups to carry out the Intermediate Design Period Activities.

E1.2 It is intended that each Working Group be comprised of representatives of Development Partner and the Development Partner Parties (including relevant Key DP Individuals) and the City and its consultants.

E1.3 The Preliminary Design Period Work Plan and Intermediate Design Period Work Plan shall describe the mandate, terms of reference and composition of each Working Group in accordance with the requirements set out in DPA Schedule 3 – Development Phase Scope of Work.

- E1.4 Once the Preliminary Design Period Work Plan and Intermediate Design Period Work Plan have been approved by City, each Working Group shall provide the Leadership Team with a report no later than the deadline set out in DPA Schedule 5 – Development Phase Submittal Review Process which shall include the following;
- (a) the frequency of meetings for the Working Group;
 - (b) the procedures applicable to such meetings;
 - (i) the DPA Submittals Schedule for all DPA Submittals to be submitted during the relevant period; and
 - (ii) an update to the Working Group Estimate;
 - (c) the schedule, process and manner in which the Working Group will provide Development Partner with the inputs it requires for the DPA Submittals and reports to be submitted during the relevant period; and
 - (d) the process for escalating issues to the Leadership Team,
- (each, a “**Working Group Process Report**”).
- E1.5 Working Groups will make decisions by consensus and in accordance with the Collaboration Principles.
- E1.6 A Working Group PDP Budget and Working Group IDP Budget will be finalized for each Working Group in accordance with DPA Schedule 3 – Development Phase Scope of Work.
- E1.7 Working Groups shall determine the requisite authority needed to make decisions regarding the development of the Development Partner Services and the schedule for the development of the DPA Submittals assigned to the Working Group, which shall incorporate the time needed to obtain the requisite authority in its schedule, including permits, approvals of designs, and stakeholder input.
- E1.8 Working Groups shall collaboratively develop the DPA Submittals set out in DPA Schedule 5 – Development Phase Submittal Review Process in accordance with the following process:
- (a) each Working Group shall develop inputs to DPA Submittals that are consistent with the Working Group’s scope, the Working Group PDP Budget, Working Group IDP Budget and the Submittal Schedule set out in DPA Schedule 5 – Development Phase Submittal Review Process;
 - (b) Working Groups will utilize cost-effective techniques in developing the DPA Submittals including schedule updates and updates to the Working Group Estimate;
 - (c) Development Partner shall review inputs to DPA Submittals from each Working Group and collaboratively make decisions regarding the development of the

Development Partner Services for inclusion in the Preliminary Design Submittal or Intermediate Design Submittal, as applicable;

- (d) Working Groups will collaborate with the other Working Groups to the extent that the Technical Requirements impact the other Working Groups;
- (e) Working Groups will maintain a Decision Log and report such Decisions Log to the Leadership Team;
- (f) If Development Partner advises a Working Group that any of its inputs to DPA Submittals is not consistent with the Working Group PDP Budget, Working Group IDP Budget, the Submittals Schedule, or the Technical Requirements, the Working Group shall collaboratively determine the recommended course of action regarding how to resolve the inconsistency including:
 - (i) referring the issue to the Leadership Team for resolution including through a DPA Variance Request, a Technical Requirements Modification or a DPA Change Order; or
 - (ii) if the Working Group cannot agree on a resolution with input from the Leadership Team, request that the Leadership Team identify an Unresolved Issue pursuant to Section D.4(b).

E1.9 The Leadership Team shall, as required, cause additional Working Groups to be formed to address key matters that may arise during the Development Phase that were not contemplated in the original list of Working Groups.

SECTION F DPA DISPUTE RESOLUTION PROCEDURE

F1. Notice of DPA Dispute

F1.1 Except as set out in the Development Phase Agreement or any other Schedule thereto, any DPA Dispute between the Parties will be resolved in accordance with the DPA Dispute Resolution Procedure set out in this Schedule 2, which procedure shall be followed in the order set out below unless both Parties agree otherwise in writing.

F1.2 Unless expressly provided otherwise in this Schedule 2 or the Development Phase Agreement, the DPA Dispute Resolution Procedure shall be started by delivery of a Notice of DPA Dispute by one Party to the other.

F1.3 Each Notice of DPA Dispute shall:

- (a) contain particulars of the matters in DPA Dispute sufficient to allow the Party who will receive the Notice of DPA Dispute to understand and meaningfully respond to the Notice of DPA Dispute;
- (b) describe any relief sought;
- (c) to the extent available at the time the Notice of DPA Dispute is delivered, attach all key documents relevant to the DPA Dispute on which the Party intends to rely

for the purposes of resolving the DPA Dispute pursuant to this Section F in the possession or control of such Party following reasonable due diligence; and

- (d) be signed by the Party Representative of the Party that is delivering the Notice of DPA Dispute.

F1.4 At any time following the issuance of a Notice of DPA Dispute in accordance with Section D.4(e), either Party may, by written Notice to the other Party, require that the DPA Dispute be referred to arbitration in accordance with Section F.2.

F1.5 For clarity, Development Partner shall not be permitted to issue a Notice of DPA Dispute in respect of a claim for relief made by Development Partner pursuant to the Development Phase Agreement, including in respect of a DPA Change Order or any other relief sought pursuant to this Development Phase Agreement until the City has made a determination in relation to such claim.

F2. **Arbitration**

F2.1 A DPA Dispute referred to arbitration shall be decided by a single arbitrator. Arbitration proceedings shall be commenced by the Party desiring arbitration (the “**Initiating Party**”) giving Notice to the other Party (the “**Responding Party**”) including,

- (a) a brief description of the matters in dispute;
- (b) the names of 3 potential arbitrators that would be acceptable to the Initiating Party; and
- (c) the remedy the Initiating Party is seeking.

Within 14 days of receipt of such Notice, the Responding Party shall either select one of the 3 potential arbitrators or submit the names of 3 potential arbitrators that would be acceptable to the Responding Party. If the Parties are not able to agree on an arbitrator within 28 days of the receipt of the Notice to arbitrate issued by the Initiating Party, then either Party may apply to the ADR Institute of Canada to have an arbitrator appointed. Each Party shall bear its own costs with respect to the application to the ADR Institute of Canada.

F2.2 The potential arbitrators shall have qualifications and experience relevant to the issues in the DPA Dispute and also have experience acting as arbitrators. In selecting an arbitrator, the Parties and, as applicable, the ADR Institute of Canada, shall have regard to the education, training or experience necessary to decide the matter in DPA Dispute.

F2.3 No one shall be nominated or appointed to act as an arbitrator who is or was in any way interested, financially or otherwise, in the performance of the Works or the performance of all other obligations of Development Partner under the Development Phase Agreement, or in the business affairs of the City, Development Partner, or any consultant, subconsultant or subcontractor of any of them.

F2.4 The arbitration shall be determined in accordance with the ADR Institute of Canada Arbitration Rules that are in force at the time of the arbitration.

- F2.5 The arbitrator will have the authority to award any remedy or relief that a judge of the Manitoba Court of King's Bench could order or grant including an interlocutory injunction where available pursuant to Applicable Law.
- F2.6 Meetings and hearings will take place in the English language in the City of Winnipeg or another location in the Province of Manitoba specified by the City. The arbitrator shall proceed promptly to hear and determine the DPA Dispute. Time shall be of the essence. Subject to the foregoing, the arbitrator may fix the date, time and place of meetings and hearings in the arbitration and will give the Parties adequate notice of same. All meetings and hearings will be in private unless the Parties agree otherwise and both Parties are entitled to be represented at any meetings or hearings by legal counsel.
- F2.7 The arbitration will be kept confidential and no element of it (including any pleadings, briefs or other documents submitted and exchanged, and testimony or other oral submission and any awards) will be disclosed by the arbitrator, the Parties, their counsel or any person necessary to conduct the proceeding, except as may be required by Applicable Law. For certainty, the existence of the proceedings is not confidential and nothing herein shall preclude either Party from disclosing Confidential Information or information that is otherwise of a public nature to their respective officers and directors, insurers, accountants, auditors, lawyers, or experts, provided any such person to whom such Confidential Information is disclosed agrees in advance to keep it confidential and shall not disclose it for any other purpose, and only upon such disclosure being deemed essential on counsel's, auditor's or accountant's written advice, or unless the Parties agree or Applicable Law otherwise requires.
- F2.8 Notwithstanding Rule 4.21 of the ADR Institute of Canada Arbitration Rules, the arbitrator shall not be entitled to retain its own expert(s).
- F2.9 The arbitrator shall make and send a decision in writing not later than 45 Business Days after the conclusion of the hearing and, unless the Parties agree otherwise, shall provide reasons as part of such decision. Costs may be awarded by the arbitrator in accordance with *The Arbitration Act*, CCSM c. A120 unless the Parties have previously agreed on the basis for the apportionment of costs.
- F2.10 The decision of the arbitrator will be final and binding upon the Parties as to any matter or matters so submitted to arbitration and subject only to judicial review or an appeal in accordance with the provisions of *The Arbitration Act*, CCSM c. A120.
- F3. Performance of Obligations**
- F3.1 Notwithstanding the existence of any DPA Dispute, the Parties will diligently continue with the Project and the performance of their respective obligations under the Development Phase Agreement during the pendency of any DPA Disputes, including, arbitration proceedings. If during the pendency of any DPA Dispute the City considers it necessary for Development Partner to proceed in respect of the matter that is in dispute (including whether any Development Partner Services constitute a DPA Change Order), then without prejudice to Development Partner's rights in respect of the DPA Dispute (including in respect of DPA Change Orders), Development Partner shall proceed in accordance with the direction of the City, and in the event the matter in dispute is

ultimately determined in favour of Development Partner, the DPA Dispute may, subject to and in accordance with DPA Schedule 9 – DPA Change Orders, result in a DPA Change Order.