

SCHEDULE 8

DEVELOPMENT PHASE PAYMENT

SECTION A DEFINITIONS

A1.1 In this Schedule 8, unless the context indicates a contrary intention, terms which are defined in the DPA (and not otherwise defined in this Schedule 8) shall have meanings given to them in the DPA and the following terms shall have the following meanings:

- (a) **“Actualized Category”** means any skill type category, grade and/or band against which Development Partner allocates and remunerates its personnel engaged in the Development Partner Scope of Work and which is approved by the City for the purposes of determining any Actualized Rates.
- (b) **“Actualized Costs”** has the meaning given in Table D of Appendix A to this Schedule 8.
- (c) **“Actualized Period”** means the period for determining and reconciling Actualized Rates pursuant to Section B5.2, being the period of three months commencing on the anniversary of January 1, April 1, July 1, and October 1 of any calendar year.
- (d) **“Actualized Rates”** means the rates calculated in accordance with the methodology agreed to by the City and Development Partner in accordance with this Schedule 8 as the proxy for Eligible Costs.
- (e) **“Adjusted Actualized Amount”** has the meaning given in Section B5.8.
- (f) **“Affiliate DPA Subcontract Fee”** means that part of the total price payable to Development Partner in respect of an Affiliated DPA Subcontractor which is attributable to the Affiliated DPA Subcontractor’s corporate overhead and profit for the part of the Development Partner Scope of Work undertaken pursuant to the relevant Affiliated DPA Subcontract.
- (g) **“Affiliated DPA Subcontract”** means any DPA Subcontract with an Affiliated DPA Subcontractor.
- (h) **“Affiliated DPA Subcontractor”** means any DPA Subcontractor who is an Affiliate of Development Partner.
- (i) **“Bank Account”** has the meaning given in Section D6.6(a).
- (j) **“Cambi Rate”** means an hourly rate of [•] *[Note to Proponents: This value will be populated prior to the Effective Date based on Proponents Step 2 Submission].*
- (k) **“Corporate Office”** means any location or premises where Development Partner operates any of its businesses that is not a Project Office, including for certainty

Development Partner's corporate or head office, as well as any regional, divisional, or subsidiary offices of Development Partner.

- (l) **“Corporate Overhead”** means the amount of corporate overhead as determined in accordance with C1.1.
- (m) **“Cost Element Allocation Tables”** has the meaning giving in Section B2.1;
- (n) **“Cost Element Task”** means each task category listed in, without duplication, each of the following:
 - (i) the Preliminary Design Period Work Plan;
 - (ii) the Intermediate Design Period Work Plan;
 - (iii) each WBS;
 - (iv) each DPA Estimate in accordance with Schedule 9 – Change Orders for which a DPA Change Order Confirmation or a DPA Change Order Directive was issued by the City; and
 - (v) any other task category identified by the City to Development Partner,provided that, for clarity, if there is any conflict or inconsistency between any of the foregoing documents, the task category in the subsequently finalized or dated document shall prevail to the extent of the conflict or inconsistency.
- (o) **“Cost Management System”** means [●]. *[Note to Proponents: This definition will be populated prior to the Effective Date based on the actual software system to be used by Development Partner for comparison of budget against actual costs and supports forecasting and change management.]*
- (p) **“Current Actualized Period”** means any Actualized Period during which payment of Eligible Costs is measured using Actualized Rates determined in respect of the relevant Preceding Period in accordance with Section B5.8.
- (q) **“Eligible Costs”** has the meaning given in Section B1.1.
- (r) **“Employed Staff”** means any person employed by Development Partner and to which Table B of the Cost Element Allocation Tables in this Schedule 8 shall apply.
- (s) **“Exclusions”** has the meaning given in Section B4.1.
- (t) **“Initial Actualized Amount”** has the meaning given in Section B5.8.
- (u) **“Ostara Rate ”** means fixed fee of [●] *[Note to Proponents: This value will be populated prior to the Effective Date based on Proponents Step 2 Submission].*

- (v) **“Overpayment”** has the meaning given in Section D8.1.
- (w) **“Payment Period”** means each monthly period commencing on the first day of the month, except as set out in Section D6.4(b)(i)(A) in respect of the first Payment Period.
- (x) **“Preceding Period”** means the Actualized Period immediately preceding any Current Actualized Period.
- (y) **“Primary Team”** means, collectively:
 - (i) Development Partner;
 - (ii) each Primary Construction Team Member;
 - (iii) each Primary Design Team Member;and any replacement or substitute thereof as may be permitted in accordance with Section J of the DPA; and **“Primary Team Member”** means any one of them.
- (z) **“Primary Team Self-Performed Construction Work”** means any DPA Construction Works performed by a Primary Team Member.
- (aa) **“Primary Team Self-Performed Design Work”** means any DPA Design Works performed by a Primary Team Member.
- (bb) **“Primary Team Subcontracted Construction Work”** means any of the Development Partner Scope of Work performed by a DPA Subcontractor that is not a Primary Team Member where, pursuant to the applicable DPA Subcontract, the majority of the work and services to be performed thereunder constitute DPA Construction Works.
- (cc) **“Primary Team Subcontracted Design Work”** means any of the Development Partner Scope of Work performed by a DPA Subcontractor that is not a Primary Team Member where, pursuant to the applicable DPA Subcontract, the majority of the work and services to be performed thereunder constitute DPA Design Works.
- (dd) **“Principally Engaged”** means having at least 50% of their time incurred to the Project, such engagement to be assessed on a month-by-month basis to which Table A and Table B of Appendix A to this Schedule 8 shall apply.
- (ee) **“Profit”** means the amount of profit determined in accordance with C1.2 in connection with the performance of the Development Partner Scope of Work.
- (ff) **“Project Fees”** has the meaning given in Section B4.1.

- (gg) **“Project Office”** means the office or offices provided by Development Partner (which is not a home office) pursuant to the DPA for the purposes of performing the Development Partner Scope of Work.
- (hh) **“Project Specific”** means staff members who principally carry out Development Partner Scope of Work of any description in respect of the Project, with the prior approval of the City, excluding support staff who fall within the definition of Corporate Office staff. No distinction shall be made between staff working for different divisions within the same legal entity.
- (ii) **“Proper Invoice”** has the meaning given in Section D6.2(a).
- (jj) **“Reconciled Payment Amount”** has the meaning given in Section D6.3(b)(vi).
- (kk) **“Reconciliation Certificate”** has the meaning given in Section D6.3(d).
- (ll) **“Reconciliation Period”** has the meaning given in Section D6.3(b)(i).
- (mm) **“Reconciliation Statement”** has the meaning given in Section D6.3(b).
- (nn) **“Site Labour”** means any individual employed by Development Partner who is subject to a collective bargaining agreement in the performance of Development Partner Scope of Work on the Project to which Table C of the Cost Element Allocation Tables in this Schedule 8 shall apply.
- (oo) **“Three-Month Eligible Cost Plan”** has the meaning given in Section D3.1.
- (pp) **“Underpayment”** has the meaning given in Section D8.2.
- (qq) **“Work Breakdown Structure”** or **“WBS”** means a hierarchical decomposition of a given scope of work to accomplish the Project included in the Implementation Phase Estimate as approved by the City in the Preliminary Design Submittal;
- (rr) **“Workstation Charge”** has the meaning given in Table D of Appendix A to this Schedule 8.

SECTION B ELIGIBLE COSTS

B.1 Introduction

- B1.1 Subject to Sections B2.4, B3.2 and B.4 and any specific exclusions contained in the DPA, **“Eligible Costs”** means those costs and expenses that are both:
- (a) reasonably and actually incurred by Development Partner in performance of the Development Partner Scope of Work (excluding any corporate overhead component not specific to the Development Partner Scope of Work and any profit or mark up of any kind); and
 - (b) described in Appendix A to this Schedule 8.

- B1.2 Development Partner acknowledges and agrees that it is a fundamental underlying principle of the DPA that:
- (a) except for Corporate Overhead and Profit, Development Partner will not be entitled to any mark-up (including any additional corporate overhead and profit from the utilization of its resources for the Development Partner Scope of Work);
 - (b) Eligible Costs shall be net of all discounts, rebates, deductions, credits and other price reductions and benefits, which relate to Eligible Costs incurred; and
 - (c) no corporate overhead, mark-up or profit (or any similar or analogous cost or compensation) payable under any DPA Subcontract with a DPA Subcontractor that is not a Primary Team Member shall be paid or credited to, in any manner or in any form (including in the form of a trade discount, rebate or refund), directly or indirectly, by such DPA Subcontractor to any Primary Team Member, and to the extent that any such corporate overhead, mark-up or profit (or any similar or analogous cost or compensation), as applicable, is so paid or credited to any Primary Team Member, the same shall accrue to the City, and Development Partner shall make provisions so that any such corporate overhead, mark-up or profit (or any similar or analogous cost or compensation), as applicable, is secured for the benefit of, and be paid promptly to, the City.
- B1.3 The City may deduct from any amounts payable as Eligible Costs any damages recovered by Development Partner from any Development Partner Parties, including for clarity, any liquidated or unliquidated damages.
- B1.4 No corporate overhead, mark-up or profit (or any similar or analogous cost or compensation) payable under any DPA Subcontract with a DPA Subcontractor that is not a Primary Team Member shall be recoverable as Eligible Costs unless and until such time as such corporate overhead, mark-up, or profit (or any similar or analogous cost or compensation), as applicable, has been approved by the City. Each invoice, bill or other request for payment issued by a DPA Subcontractor that is not a Primary Team Member or pursuant to the applicable DPA Subcontract shall separately identify each of the corporate overhead, mark-up and profit (or any similar or analogous cost or compensation) payable thereunder.
- B.2 Cost Element Allocation Tables**
- B2.1 Table A through Table I of Appendix A to this Schedule 8 (“**Cost Element Allocation Tables**”) allocate various cost elements between Eligible Cost and Corporate Overhead.
- B2.2 The Cost Element Allocation Tables are subject to Sections B.1 to B6.2.
- B2.3 Any consent, approval or authorization that may be required or granted by the City pursuant to or as contemplated in this Schedule 8 shall only be effective if given in writing signed by the City DPA Representative.
- B2.4 The City may determine, in its sole discretion, that any cost, notwithstanding that it is not otherwise an Eligible Cost in accordance with this Schedule 8, shall be considered an Eligible Cost.

B.3 Affiliated Subcontracts

- B3.1 The provisions of this Section B.3 shall apply in respect of any Development Partner Scope of Work undertaken by Affiliated DPA Subcontractors unless the City has agreed otherwise in respect of Development Partner's proposed Affiliated DPA Subcontract.
- B3.2 Notwithstanding Section B.1, the amount allowable as Eligible Costs in relation to an Affiliated DPA Subcontract is the amount payable under and in accordance with the DPA Subcontract less the Affiliate DPA Subcontract Fee.
- B3.3 For clarity, the Affiliate DPA Subcontract Fee is deemed only to be recoverable by Development Partner as part of, and limited to, the Corporate Overhead and Profit (if any) payable to Development Partner in respect of the Eligible Costs incurred in connection with the applicable Affiliated DPA Subcontract.
- B3.4 Where and to the extent that an Affiliated DPA Subcontract is priced on an actual cost basis (e.g., cost reimbursable, target cost or otherwise):
- (a) the component of the Eligible Cost (excluding the Affiliate DPA Subcontract Fee) that is payable to Development Partner in respect of that Affiliated DPA Subcontract shall be determined on the basis that this Schedule 8 is deemed to apply to the determination of those actual costs under the Affiliated DPA Subcontract; and
 - (b) for clarity, Section B3.5 will apply notwithstanding the terms of the relevant Affiliated DPA Subcontract, or the amount actually payable in respect of such actual costs under that Affiliated DPA Subcontract.
- B3.5 The Development Partner DPA Representative shall within 20 Business Days of the end of each calendar year certify that all Eligible Costs claimed by Development Partner are net of all discounts, incentives, benefits and the like that may have been provided to Development Partner by any Development Partner Party or any Governmental Authority during the relevant calendar year.
- B3.6 The certification under Section B3.5 in respect of Development Partner must confirm for Development Partner and its Affiliated DPA Subcontractors that:
- (a) no Corporate Overhead has been recovered as Eligible Costs; and
 - (b) no mark-up, profit and the like other than the Profit has been recovered,
- by Development Partner or its Affiliated DPA Subcontractors and any such payment or recovery of Eligible Costs or profit discovered at any time, including in the course of any audit, must be repaid forthwith by Development Partner.
- ### **B.4 Exclusions**
- B4.1 The following amounts, fees, costs, expenses, disbursements, reimbursements, liabilities, payments, taxes, fines, penalties, losses or damages (including fees, costs, expenses and disbursements in respect of legal, accounting, financial advisory,

consultancy or other professional or expert services) suffered or incurred by Development Partner or any Development Partner Party (each a “**Project Fee**” and collectively “**Project Fees**”) are not Eligible Costs unless otherwise approved by the City:

- (a) any Project Fees related to, in respect of or arising out of the performance of any works or services which are not directly referable to the performance of the Development Partner Scope of Work, or the express assumptions adopted by Development Partner in developing the Contract Price that have been approved by the City, or which do not otherwise form part of the Development Partner Scope of Work;
- (b) any Project Fees related to, in respect of or arising out of the performance of any Development Partner Scope of Work or services which cannot be properly and reasonably justified by Development Partner or a Development Partner Party’s accounts and records;
- (c) any Project Fees related to, in respect of or arising out of equipment and resources not used by Development Partner or a Development Partner Party in performing the Development Partner Scope of Work;
- (d) any Project Fees related to, in respect of or arising out of defending, prosecuting, responding, or continuing any lawsuits, actions, applications, arbitrations, adjudications, or legal, quasi-legal, regulatory or administrative proceedings, investigations, or claims (including payment of fines, penalties, judgements, awards, orders, damages, restitution, compensation or interest);
- (e) any Project Fees related to, in respect of or arising out of breach of Applicable Law by Development Partner or any Development Partner Party;
- (f) any interest payable to any DPA Subcontractor (whether by Development Partner or any other DPA Subcontractor) including pursuant to The Builders’ Liens Act (Manitoba);
- (g) any Project Fees related to, in respect of or arising out of a DPA Subcontract (including a contract for supply) where Development Partner has not complied with the City’s procurement policy, in respect of that DPA Subcontract (or contract for supply);
- (h) any Project Fees related to, in respect of or arising out of Development Partner or any Development Partner Party defending any prosecution or claim brought against Development Partner or any Development Partner Party, as applicable, by a Governmental Authority by reason of an alleged breach of Applicable Law, except where the City DPA Representative determines otherwise by notice in writing to Development Partner, having regard to the nature of the breach and the effect of the breach on the Project, the Development Partner Scope of Work and the City;
- (i) any Project Fees related to, in respect of or arising out of Development Partner obtaining, maintaining or providing any insurance coverage which is in addition to or supplements the insurance requirements referred to in the DPA;

- (j) any Project Fees related to, in respect of or arising out of:
 - (i) any breach or non-compliance of the DPA by Development Partner;
 - (ii) any breach or non-compliance of any DPA Subcontract;
 - (iii) Development Partner or any Development Partner Party failing to carry out the Development Partner Scope of Work or perform any other obligations subject to and in accordance with the DPA or any DPA Subcontract, as applicable;
 - (iv) any Development Partner Event of Default;
 - (v) any default or event of default (however defined) by a DPA Subcontractor (or Development Partner, if applicable) under any DPA Subcontract;
 - (vi) the termination of the DPA pursuant to Sections R and S of the DPA (except as otherwise provided therein);
 - (vii) the termination of any DPA Subcontract; or
 - (viii) rectification of Defective Work in accordance with Section E9 and Section E17 of the Draft Design Build Agreement by Development Partner or any Development Partner Party, to the extent that such Defective Works are caused by or attributed to, in any way, in whole or in part, wilful misconduct, a deliberate act of wrongdoing, fraud or gross negligence by Development Partner or any Development Partner Party, or represent the Development Partner Scope of Work (or parts thereof) being performed or completed by Development Partner or any Development Partner Party in a manner demonstrating material non-compliance with Good Industry Practice;
- (k) any corporate or personal income tax or capital gains tax imposed on, or paid or payable by, Development Partner and any Project Fees related thereto;
- (l) GST and any Project Fees related thereto;
- (m) any Project Fees related to, in respect of or arising out of the payment of any fees, charges, duties royalties, licences and statutory charges of any kind in respect of the Development Partner Scope of Work or any intellectual property used in respect of the Development Partner Scope of Work;
- (n) any Project Fees which are excluded from Eligible Cost under the Draft Design Build Agreement;
- (o) any Project Fees related to, in respect of or arising out of the relocation of personnel or human resources unless approved by the City in advance in writing;

- (p) any Project Fees related to, in respect of or arising out of pre-existing medical conditions and medical examinations for current employees nominated for or allocated to the Project;
- (q) any Project Fees related to, in respect of or arising out of any vacation or personal leave escalation, or additional net accrual for increasing an employee's employment entitlements, beyond the accrual in the employment related on-costs;
- (r) other than as approved by the City in writing or as set out in Appendix A to this Schedule 8, any Project Fees related to, in respect of or arising out of living away from home allowances or any other living allowances or supplementary payments;
- (s) any Project Fees related to, in respect of or arising out of specialized personnel's travel, relocation or accommodation, except where approved by the City in advance in writing or as set out in Appendix A to this Schedule 8;
- (t) any Project Fees suffered or incurred by Development Partner or any Development Partner Party prior to the Effective Date, including, for certainty, any such Project Fees suffered or incurred by Development Partner, or any Development Partner Party related to, in respect of or arising out of:
 - (i) prequalification, procurement, proposal or submission costs; and
 - (ii) the negotiation, preparation, execution and delivery of the DPA and any performance security;
- (u) any Project Fees related to, in respect of or arising out of corporate training unless approved by the City in advance in writing, including any Project Fees related to the cost of training and cost of time of attending the training;
- (v) any Project Fees related to, in respect of or arising out of information technology support staff or system administrators from any Corporate Office, unless directly related to supporting Project Office located Employed Staff or Site Labour;
- (w) software development costs associated with corporate software, being software for which the prime application is not delivery of the Project, and any Project Fees in relation thereto;
- (x) any Project Fees related to, in respect of or arising out of reimbursement for a handling fee or mark-up on disbursements and sub-consultants;
- (y) any contribution to corporate overhead costs or expenses, or any profit or unreasonable advantage from the utilization of people, plant, equipment, software or resources, and any Project Fees in relation thereto;
- (z) any amount paid or payable by or on behalf of Development Partner or any Development Partner Party to a DPA Subcontractor to the extent that

Development Partner is entitled to claim and retain an input tax credit in respect of that payment and any Project Fees in relation thereto;

- (aa) any Project Fees incurred in respect of, relating to or in connection with a change in ownership pursuant to Section T4 of the Draft Design Build Agreement;
- (bb) any Project Fees suffered or incurred by Development Partner, or any Development Partner Party related to, in respect of or arising out of:
 - (i) any DPA Dispute, including any claim or demand that could form the basis of any DPA Dispute unless instructed and approved by the City in writing; and
 - (ii) the resolution of any DPA Dispute pursuant to Section F.2 of the DPA, including, for certainty, any Project Fees payable by Development Partner as expressly described in Section F.2 of the DPA, except to the extent that it is finally determined pursuant to Section F.2 of the DPA that all or any portion of such Project Fees are payable by the City;
- (cc) any legal or consultant cost related to, in respect of or arising out of payment expert determination to resolve an Unresolved Issue or DPA Dispute that arises between the City and Development Partner in respect of an amount payable, and any Project Fees in relation thereto;
- (dd) any amount paid or payable by or on behalf of Development Partner or any Development Partner Party to a DPA Subcontractor which is an Affiliate of Development Partner or such Development Partner Party on account of profit or corporate overhead, except where approved by the City in advance in writing, and any Project Fees in relation thereto;
- (ee) any Project Fees suffered or incurred by Development Partner, or any Development Partner Party related to, in respect of or arising out of:
 - (i) any amendment, revision, change or other modification of or to the design (or any part thereof) of the Infrastructure arising out of or in connection with any negligent act or omission of Development Partner or any Development Partner Party or a breach by Development Partner of any of its obligations under the DPA;
 - (ii) any due diligence matters in respect of or relating to the Project, including in respect of due diligence matters relating to real property of or associated with the Project, except to the extent that any such Project Fees have been approved by the City in advance in writing;
 - (iii) an emergency that is caused or contributed to by an act or omission of Development Partner or any Development Partner Party or a breach by Development Partner of any of its obligations under the DPA;
 - (iv) the exercise or enforcement by Development Partner or any Development Partner Party of any of its rights, remedies, powers, or entitlements under

or pursuant to the DPA, including any right of indemnification, except to the extent that that it is finally determined pursuant to Section F.2 of the DPA that all or any portion of such Project Fees are payable by the City; and

- (v) the exercise or enforcement by the City or any City Party of any of its rights, remedies, powers, or entitlements under or pursuant to the DPA, including such Project Fees incurred by Development Partner to pay or satisfy any reimbursement, payment, or similar obligation of Development Partner to the City, including of any Project Fees incurred by the City in relation to such exercise or enforcement by the City;
- (vi) the exercise of all of the steps set out in Section K.4 of the DPA in relation to DPA Subcontractor Liens;
- (ff) any Project Fees related to, in respect of or arising out of an amount paid (or payable) to satisfy a claim under an indemnity provided pursuant to the DPA or any DPA Subcontract;
- (gg) any Project Fees related to, in respect of or arising out of a change in the Cost Management System (unless approved by the City);
- (hh) any Project Fees related to, in respect of or arising out of compliance with, or implementation of, any standard, customary or non-Project specific policy, guideline, procedure or matter of internal governance or control of the City, Development Partner or any Development Partner Party (including any audit or compliance review in relation thereto), including as may be required pursuant to the DPA or in connection with the Development Partner Scope of Work;
- (ii) any Project Fees incurred by Development Partner, or to be incurred by Development Partner, specifically excluded under the DPA from being an Eligible Cost; and
- (jj) any Project Fees of any kind in respect of alcohol or recreational drugs.

(collectively “**Exclusions**” and each an “**Exclusion**”).

B4.2 If it is determined that payment of any Project Fees by the City includes amounts attributable to any Exclusions at any time, including as determined by an audit, Development Partner shall immediately repay such amounts to the City, or the City shall be entitled to set off any such amounts in accordance with Section M.3 of the DPA.

B.5 Use of Actualized Rates

B5.1 Any Actualized Rate for Development Partner may be used under the DPA as a proxy for Eligible Cost (otherwise derived in accordance with the DPA) for Development Partner where and to the extent such Actualized Rate has been approved for use by the City in accordance with Section B5.2(a). For the avoidance of doubt, any approval, deemed approval or provisional approval given by the City to the use of Actualized

Rates of Development Partner under this Section B.5 does not extend to any Affiliated DPA Subcontractor or DPA Subcontractor.

B5.2 The provisions of this Section B5.2 apply to the use of Actualized Rates as a proxy for Eligible Costs by Development Partner in accordance with the DPA:

- (a) the City may from time to time, acting reasonably, approve an Actualized Rate (or revision thereto which upon approval in accordance with this Section B5.2 shall be the Actualized Rate) proposed by Development Partner in respect of Development Partner's Employed Staff (Table B) and/or Site Labour (Table C) in performance of the Development Partner Scope of Work during each Actualized Period based on a worked example provided by Development Partner in respect of the proposed Actualized Rate showing:
 - (i) the specific account codes where the actual salary costs and employer on-costs are debited in Development Partner's accounting systems;
 - (ii) the specific account codes where the staff costs, based on rates charged to other projects are credited in Development Partner's accounting system;
 - (iii) a demonstration of Development Partner's proposed regular reconciliation process which compares actual salary costs to the costs charged to projects and how any differences are subsequently reflected in adjusted rates;
 - (iv) the calculation of the Actualized Rate is in accordance with the methodology stated in the approved DPA Estimate for the relevant Development Partner Scope of Work; and
 - (v) such other information, including assumed maximum hours cap for employees and eligibility for overtime, or substantiation as the City may reasonably require,

and the City may require its financial auditor to review or investigate any such proposed Actualized Rate and/or its worked example and may recommend approval by the City of the use of an Actualized Rate on a provisional basis (which may be withdrawn by the City on a retrospective basis at any time) pending satisfaction of such conditions as the City may reasonably require. For the avoidance of doubt, a failure to submit a satisfactory worked example or to satisfy conditions entitles the City to withhold or revoke approval of the relevant proposed Actualized Rate.

B5.3 Subject to Section B5.2, where and to the extent Actualized Rates have been approved and determined in accordance with this Section B.5 in respect of:

- (a) Development Partner;
- (b) any Actualized Category; and
- (c) any Current Actualized Period,

notwithstanding any other provision in this Schedule 8, the Eligible Cost payable to Development Partner pursuant to this Schedule 8 in respect of Development Partner's Employed Staff and/or Site Labour in that Actualized Category during the Current Actualized Period shall be the aggregate of:

- (d) the relevant Actualized Rates; multiplied by
- (e) the total hours which would otherwise be recoverable as Eligible Costs (excluding for the avoidance of doubt all non-cost hours such as corporate overhead allocation, or where the resources used receive no pay in respect of the hours worked, or where the total daily hours exceed the standard daily hours assumed in the calculation of the relevant Actualized Rate), for all such Employed Staff and/or Site Labour in that Actualized Category during the period within the Current Actualized Period to which any payment of Eligible Cost relates, net of any Exclusions.

B5.4 Where at any time the use of Actualized Rates by Development Partner are found following an audit (carried out by the City's financial auditor) not to fairly represent a proxy for Eligible Costs, then the City may, in its sole discretion, revoke the approval to use Actualized Rates and Development Partner shall forthwith present its Eligible Costs as defined herein (less any Eligible Costs allowed for or included by Development Partner as part of the Corporate Overhead) for reimbursement in lieu of Actualized Rates. If Eligible Costs that are the subject of Actualized Rates remain unaudited for 20 Business Days following a request by the City or City's Representative to do so or if any audit shows that any Actualized Rates are not a proxy for their related Eligible Costs, then the City may decide, at their sole discretion, to discontinue the use of Actualized Rates by Development Partner as a proxy for Eligible Costs for the period since the date of the last satisfactory audit of those Actualized Rates to such date as the City or the City DPA Representative may notify.

B5.5 The Actualized Rate for:

- (a) Development Partner;
- (b) each Actualized Category; and
- (c) each Current Actualized Period,

is determined at the expiry of the Preceding Period in accordance with the methodology stated in the approved DPA Estimate for the relevant Development Partner Scope of Work.

B5.6 Actualized Rates shall be subject to reconciliation not less than once annually (and otherwise where required by the City) by Development Partner to demonstrate that the recovery of cost by the use of Actualized Rates for any resource used in performing the Development Partner Scope of Work is not significantly different to the Eligible Cost incurred by Development Partner for that resource, and such reconciliation shall be audited by the City and/or its financial auditor.

B5.7 Where any discrepancy in the reconciliation is discovered by the City's financial auditor in an audit under Section B5.2, the matter shall be referred to the City for resolution and the City shall direct that any overpayment is repaid by Development Partner to the City or that any underpayment is paid by the City to Development Partner as an Eligible Cost.

B5.8 For Development Partner, any Actualized Category and each Current Actualized Period, as soon as practicable following:

- (a) the end of the relevant Preceding Period; and
- (b) the determination of the Actualized Rates for the relevant Current Actualized Period,

the total amount paid or payable at Actualized Rates to Development Partner during that Preceding Period (the "**Initial Actualized Amount**") must be recalculated using the relevant adjusted Actualized Rate determined in accordance with Section B5.2 (the "**Adjusted Actualized Amount**") and the difference between the Initial Actualized Amount and the Adjusted Actualized Amount (if any) paid to the City from Development Partner or to Development Partner from the City (as the case may be) in the next payment otherwise due under the DPA following determination of such difference (if any) or, if no payment is otherwise due, as a debt due to the City or Development Partner (as the case may be).

B5.9 Development Partner using Actualized Rates as a proxy for Eligible Costs for Employed Staff and/or Site Labour in each Actualized Category must maintain a review of the trends of its costs and billable hours for each Actualized Category between each Actualized Period, and must promptly report, explain and justify to the City any significant difference to the Eligible Costs being incurred by it in the relevant Actualized Category during each Current Actualized Period, in order to ensure that any such person has the opportunity to mitigate any adverse trends that may lead to an overspend of Development Partner's estimated expenditure in connection with the Development Partner Scope of Work.

B5.10 The determination and use as a proxy for Eligible Cost of all Actualized Rates, Initial Actualized Amounts and Adjusted Actualized Amounts under the DPA must be approved by the City in advance in writing and may be audited by the City's financial auditor at any time.

B.6 Back-up and Disputes as to Eligible Costs

B6.1 The level of detail required to support Development Partner's Eligible Costs will be determined by the City in its sole and absolute discretion, and Development Partner shall provide any additional documentary evidence and records that the City requires to be provided by Development Partner.

B6.2 To the extent that Eligible Costs are alleged by the City to be not clear, any Unresolved Issue may be referred by either Party to the Leadership Team for resolution in accordance with Schedule 2 – Development Phase Governance.

B.7 Cost Control

B7.1 Within 30 Business Days of the Effective Date, Development Partner must jointly set up and agree with the City upon a method for the recording and control of all Eligible Costs against a cash flow payment plan provided by Development Partner on the basis of a three-month estimate of the likely Eligible Costs to be incurred in respect of the Development Partner Scope of Work. Such cost recording must be aligned to each agreed work package under a WBS for the Development Partner Scope of Work.

B7.2 Development Partner must prepare the three-month estimate required pursuant to Section B7.1 in sufficient detail to identify:

- (a) person-hours;
- (b) rates per category of staff;
- (c) DPA Subcontractor payments;
- (d) activities to be undertaken; and
- (e) rates, estimates, or prices for those activities,

and in the event of any such estimate being insufficiently detailed for the City to be able to assess whether the estimated Eligible Costs are relevant to the Development Partner Scope of Work, Development Partner providing the estimate shall provide such further information as may be required by the City.

B7.3 The City may determine the manner of recording and the level of approval required for time and costs incurred by Development Partner's staff and labour (including subcontract labour, agency labour, DPA Subcontractors and the like) which is to be recovered as Eligible Costs.

B7.4 Subject to Section B7.6, Development Partner must submit to the City copies of all of Development Partner's and its DPA Subcontractors' weekly timesheets for all the staff and labour which Development Partner wishes to recover as Eligible Costs signed by a designated manager of Development Partner and showing the relevant WBS code and activity code. Without limiting the generality of this Section B7.4, for each Corporate Office management staff member contemplated in Item O of Table A of Appendix A to this Schedule 8 in respect of which Development Partner wishes to recover as Eligible Cost, Development Partner must provide weekly timesheets for each such staff member with a description providing reasonable detail of the activities undertaken by such staff member in relation to the Project and the time incurred by such staff member with respect to such activities, signed by a designated manager of Development Partner and showing the relevant WBS code and activity code.

B7.5 Subject to Section B7.6, Development Partner must submit to the City hard copies of all invoices (including expense sheets and the like) which it wishes to recover as Eligible Costs. All such invoices shall state the Development Partner Scope of Work undertaken and the location of the Development Partner Scope of Work.

B7.6 Provided that:

- (a) Development Partner can provide verifiable copies of signed timesheets, invoices, expense sheets and the like by electronic means for the purpose of establishing Eligible Costs; and
- (b) the City can establish a procedure for the transmission and secure storage of such records,

Development Partner may submit such records in the electronic format approved by the City.

B7.7 Any reallocation of Eligible Costs (including time costs) by Development Partner shall only be made by agreement with the City and only via an auditable process approved by the City.

B.8 DPA Subcontracts

B8.1 The following shall apply in respect of payments under DPA Subcontracts:

- (a) Development Partner shall ensure that the payment provisions set out in this Schedule 8 are incorporated into the payment provisions of all DPA Subcontracts *mutatis mutandis*, unless Development Partner obtains the City's prior approval to incorporate alternate payment provisions into a DPA Subcontract; and
- (b) in order for amounts charged to Development Partner pursuant to DPA Subcontracts to be included as Eligible Costs incurred by Development Partner under this DPA, such amounts would need to be considered Eligible Costs had they been incurred directly by a Primary Team Member.

B8.2 If the City approves alternative payment provisions in a DPA Subcontract:

- (a) the City shall specify any required supporting documentation or evidence that shall be submitted with each Proper Invoice and Reconciliation Statement;
- (b) under no circumstances will the City be liable for payment of amounts excluded from Eligible Costs pursuant to Section B.4; and
- (c) the City will not agree to any alternative payment provisions in any DPA Subcontract between Development Partner and a Primary Team Member.

SECTION C CORPORATE OVERHEAD AND PROFIT

C.1 Corporate Overhead and Profit Rates

C1.1 Subject to **[Section M.1]** of the DPA and this Schedule 8, the Corporate Overhead payable by the City to Development Partner under the DPA is the amount equal to:

- (a) **[●]**% of the Eligible Cost for Primary Team Self-Performed Design Work;
- (b) **[●]**% of the Eligible Cost for Primary Team Subcontracted Design Work;

- (c) **[●]**% of the Eligible Cost for Primary Team Self-Performed Construction Work;
and
- (d) **[●]**% of the Eligible Cost for Primary Team Subcontracted Construction Work.

[Note to Proponents: The percentages in this Section C1.1 will be populated prior to the Effective Date of the Development Phase Agreement, using the rates provided in the Preferred Proponent's Financial Submission.]

C1.2 Subject to **[Section M.1]** of the DPA and this Schedule 8, the Profit payable by the City to Development Partner under the DPA is the amount equal to:

- (a) **[●]**% of the Eligible Cost for Primary Team Self-Performed Design Work;
- (b) **[●]**% of the Eligible Cost for Primary Team Subcontracted Design Work;
- (c) **[●]**% of the Eligible Cost for Primary Team Self-Performed Construction Work;
and
- (d) **[●]**% of the Eligible Cost for Primary Team Subcontracted Construction Work.

[Note to Proponents: The percentages in this Section C1.2 will be populated prior to the Effective Date of the Development Phase Agreement, using the rates provided in the Preferred Proponent's Financial Submission.]

C1.3 The percentage figures specified in Section C1.1 and Section C1.2 will apply for the DPA Term and will not be adjusted, split, modified or altered in any way for any reason or purpose, including for the purpose of recognizing that Development Partner may have a different internal percentage figure that is normally applied in other contracting arrangements.

C1.4 The amount of Corporate Overhead and Profit calculated in accordance with Sections C1.1 and C1.2:

- (a) with respect to Corporate Overhead, represents a mark-up on Eligible Cost reasonably and actually incurred in performing the Development Partner Scope of Work, whether by way of self-performing the Development Partner Scope of Work or by way of a DPA Subcontract; and
- (b) with respect to Profit, represents a reasonable profit margin in performing the Development Partner Scope of Work, whether by way of self-performing the Development Partner Scope of Work or by way of a DPA Subcontract; and
- (c) for clarity, is deemed to include any Exclusions and cost categories identified as corporate overhead costs in Appendix A to this Schedule 8.

C1.5 Development Partner acknowledges and agrees that:

- (a) the Corporate Overhead and Profit payable to Development Partner in relation to:

- (i) Primary Team Self-Performed Construction Work;
- (ii) Primary Team Subcontracted Construction Work;
- (iii) Primary Team Self-Performed Design Work; and
- (iv) Primary Team Subcontracted Design Work,

shall be based on the percentages applicable thereto as set forth in Sections C1.1 and C1.2, as applicable;

- (b) in respect of any Primary Team Self-Performed Construction Work or Primary Team Self-Performed Design Work, the aggregate amount of all corporate overhead and profit (including all Corporate Overhead and Profit) payable to any Primary Team Members in respect of such Primary Team Self-Performed Construction Work or Primary Team Self-Performed Design Work, as applicable, will be the Corporate Overhead and Profit payable to Development Partner in relation to such Primary Team Self-Performed Construction Work or Primary Team Self-Performed Design Work, as applicable; and
- (c) in respect of any Primary Team Subcontracted Construction Work or Primary Team Subcontracted Design Work, the aggregate amount of all corporate overhead and profit (including Corporate Overhead and Profit) payable to any Primary Team Members in respect of such Primary Team Subcontracted Construction Work or Primary Team Subcontracted Design Work, as applicable, will be the Corporate Overhead and Profit payable to Development Partner in relation to such Primary Team Subcontracted Construction Work or Primary Team Subcontracted Design Work, as applicable.

For greater certainty, Development Partner acknowledges and agrees that the principle of 'no margin on margin' shall be applicable in relation to any DPA Subcontracts between Primary Team Members.

C1.6 The procedure for payment of Corporate Overhead and Profit is set out in Section D.6.

C1.7 Development Partner agrees that Corporate Overhead is, unless the DPA expressly provides to the contrary, inclusive of all corporate overhead costs.

SECTION D PAYMENT PROCEDURES

D.1 General Principles

D1.1 The City shall, in accordance with Applicable Law, including The Builders' Liens Act (Manitoba), and subject to the other provisions of the DPA, including the process set out in this Schedule 8:

- (a) pay Development Partner the undisputed amounts payable under Proper Invoices provided by Development Partner to the City in accordance with the DPA, on account of:

(i) the Eligible Costs reasonably and actually incurred by Development Partner in performing the Development Partner Scope of Work; and

(ii) the Corporate Overhead and Profit,

payable by the City to Development Partner for the relevant Payment Period, in each case as further determined in accordance with this Schedule 8; and

(b) pay Development Partner the unpaid balance of all Lien Holdbacks in accordance with **[Section K4]** of the DPA.

D.2 Holdbacks

D2.1 The City shall retain the Lien Holdback pursuant to The Builders' Liens Act (Manitoba) in respect of liens that may be claimed from each sum otherwise payable to Development Partner under the DPA that is not a release of any monies so retained.

D2.2 Subject to Section D2.3 and Section **[●]**, any Lien Holdback retained pursuant to Section D2.1 shall not be due and payable until after the expiry of the applicable period for preservation of liens under The Builders' Liens Act (Manitoba), and provided that no liens are preserved by persons supplying the Development Partner Scope of Work.

D2.3 Notwithstanding any provision of the DPA, but subject to The Builders' Liens Act (Manitoba):

(a) no sum shall be payable by the City to Development Partner pursuant to the DPA if, at the time such sum would otherwise be payable, there is any outstanding and unsatisfied claim for lien which has been preserved pursuant to The Builders' Liens Act (Manitoba) by any person for Development Partner Scope of Work provided directly or indirectly to Development Partner to enable performance of any part of the Development Partner Scope of Work or the City has received a written notice of lien; and

(b) where any sum which would otherwise be payable by the City to Development Partner is not so payable because a claim for lien has been preserved pursuant to The Builders' Liens Act (Manitoba), or the City has received written notice of such a lien, such sum shall be payable by the City to Development Partner only at such time when all liens or written notices of a lien which may be claimed against that sum have expired or been satisfied, withdrawn, discharged or vacated by an order made pursuant to a payment into court in accordance with The Builders' Liens Act (Manitoba).

D.3 Three-Month Eligible Cost Plans

D3.1 With each Proper Invoice, Development Partner shall submit to the City a rolling look-ahead cost expenditure plan for the Eligible Costs anticipated to be incurred by Development Partner and the Development Partner Parties during the current Payment Period and the subsequent two Payment Periods in respect of the Development Partner Scope of Work (the **"Three-Month Eligible Cost Plan"**).

D3.2 Each Three-Month Eligible Cost Plan shall:

- (a) be based on and consistent with:
 - (i) the Work Breakdown Structure;
 - (ii) the Preliminary Design Period Work Plan or Intermediate Design Period Work Plan, as applicable, finalized in accordance with Schedule 5 – Development Phase Submittal Development and Review Process; and
 - (iii) any DPA Estimate for which a DPA Change Order or DPA Change Order Directive was issued by the City in accordance with Schedule 9 – Change Orders;
- (b) allocate each cost anticipated to be incurred against the individual approved WBS and applicable Preliminary Design Period Work Plan or Intermediate Design Period Work Plan and as per DPA Schedule 3 – Development Phase Scope of Work, Appendix 3A – Development Phase Budgets;
- (c) identify each Cost Element Task; and
- (d) represent Development Partner’s best judgment as to how it shall perform, and the resources required for the Development Partner Scope of Work during that period.

D3.3 The Three-Month Eligible Cost Plan shall include sufficient detail for the City to:

- (a) clearly identify the proposed amount for the Proper Invoice to be issued for the first month contemplated in that plan;
- (b) identify, and address separately for each month, the:
 - (i) hours of work associated with each Employed Staff and Site Labour, including anticipated preapproved overtime hours, if any;
 - (ii) rates and other costs per category of Employed Staff and Site Labour;
 - (iii) activities to be undertaken;
 - (iv) estimates or prices for each other Cost Element Task; and
 - (v) all other anticipated Eligible Costs; and
- (c) utilize the structure of, and contain the other information contemplated in, Section D6.3(b).

D.4 Time Reports and Monthly Submissions

- D4.1 Development Partner shall collect weekly summary reports of time records for all staff and labour for whom Development Partner is seeking payment as an Eligible Cost, with each weekly time record summary, indicating clearly straight time and overtime hours,

signed and certified as accurate by a designated manager. Development Partner shall verify and consolidate all weekly summaries from DPA Subcontractors and submit the consolidated reports monthly in a format consistent and aligned with the financial systems employed by Development Partner and acceptable to the City.

D4.2 Development Partner shall submit its consolidated monthly reports to the City as identified to Development Partner by the City and using the electronic means in accordance with Draft DBA Schedule 13 – Document Management System, consistent with the procedure for secure transmission and storage of such records set out in Section Z.1 of the DPA.

D4.3 Development Partner shall also make available electronically in accordance with Draft DBA Schedule 13 – Document Management System to the City (unless otherwise requested by the City in respect of any items) verifiable copies of all invoices, including signed time records, invoices, expense sheets and similar documents, and all other relevant items for which Development Partner is seeking payment as an Eligible Cost.

D.5 Cost Audits

D5.1 In addition to any rights set out in the DPA, the City and any of its authorized representatives may appoint a financial auditor to, at any time up until **six** years following the termination or expiry of the DPA or the Final Design Build Agreement, whichever is later, audit, inspect, transcribe, or investigate all information, reports, documents, records and the like in Development Partner's consolidated Cost Management System and any other document prepared or maintained by Development Partner as referred to in this DPA or Section M of the Draft Design Build Agreement.

D5.2 The financial auditor may exercise the City's rights of audit pursuant to this DPA or Section M of the Draft Design Build Agreement, insofar as those rights relate to the audit of any Eligible Costs incurred by Development Partner or a Development Partner Party. The City auditor shall be bound by the same confidentiality obligations as the City.

D5.3 Development Partner acknowledges that as part of the City's audit rights, the City anticipates but is not obligated to carrying out regular 'deep dive' audits of Development Partner's Proper Invoices received in the preceding quarter, which audits may extend to any relevant Reconciliation Statements and Three-Month Eligible Cost Plans.

D5.4 Without limiting any rights of the City under this DPA or Section M of the Draft Design Build Agreement, the City and/or the financial auditor may also, during a cost audit:

- (a) review and assess the reliability, integrity, timeliness, and accuracy of the financial and operating information relating to an Eligible Cost, and the means and systems used to identify, measure, classify, record, and report such information;
- (b) access the particulars, details, information, and documentation being audited in electronic format, and audit such information and documentation at the auditor's own business premises during such hours as the financial auditor may see fit, without being limited by the provisions of Section M of the Draft Design Build Agreement, applicable *mutatis mutandis*;

- (c) interview relevant personnel of the City, the City subcontractors (of any tier), Development Partner and the Development Partner Parties; and
- (d) determine under Section B4.1(b) that a cost claimed is not an Eligible Cost, on the basis that the cost is not auditable and verifiable.

D5.5 At the conclusion of a cost audit, the City shall determine the actions (if any) required to be taken by Development Partner to rectify problems, weaknesses, deficiencies, or non-compliances detected during the cost audit, including whether Development Partner must reimburse the City for any payments made in excess of the Eligible Cost.

D.6 Payment Process

D6.1 Agreed Form of Proper Invoice

- (a) Within five days after the Effective Date, Development Partner shall develop and submit for approval by the City in accordance with Schedule 5 – Development Phase Submittal Development and Review Process a form of Proper Invoice to be provided by Development Partner detailing the applicable information referred to in Sections D6.2, D6.3 and D6.4.

D6.2 Proper Invoice

- (a) For the purposes of this DPA, “**Proper Invoice**” shall mean a written bill or other request for payment for services and materials comprising the Development Partner Scope of Work performed under the DPA issued by Development Partner and shall:
 - (i) list all amounts in Canadian dollars;
 - (ii) include:
 - (A) an updated Three-Month Eligible Cost Plan and Reconciliation Statement in accordance with and pursuant to Section D6.3;
 - (B) Development Partner’s invoice number and Proper Invoice number;
 - (C) the City’s purchase order number issued in respect of this DPA and contract number and title;
 - (D) commencing with the fourth Payment Period, the relevant Reconciliation Certificate (being the Reconciliation Certificate in respect of the first Payment Period for the fourth Proper Invoice, in respect of the second Payment Period for the fifth Proper Invoice, and so on) as contemplated in Section D6.3(d);
 - (E) the net Reconciled Payment Amount for that Payment Period, or in respect of the first and second Proper Invoices only, the amount

- due for that Payment Period based on the initial Three-Month Eligible Cost Plan;
- (F) the total agreement price and the amount of the DPA price previously certified;
 - (G) the value of the Development Partner Scope of Work and changes in the Development Partner Scope of Work performed to date itemized by DPA Change Order, if applicable; and
 - (H) such other information and documents: (1) identified elsewhere in the DPA; or (2) as required under The Builders' Liens Act (Manitoba);
- (iii) as applicable, outline the aggregate amount of the Lien Holdback retained by the City under the DPA, both in the form of cash and in the form of demand-worded holdback repayment bond, and the amount of the Lien Holdback to be retained under and applicable to the current Proper Invoice, and which will enable ready identification of Lien Holdbacks and payments to be made to DPA Subcontractors;
 - (iv) attach a Workers Compensation Board of Manitoba clearance certificate indicating that no outstanding assessments exist, and which shall be valid until the payment for that Proper Invoice is due;
 - (v) for advance payment for any goods or materials not yet incorporated into the Development Partner Scope of Work: (A) list such goods or materials (and the advance payment calculations in respect thereof) as a separate line item; (B) be supported by invoices and such other evidence as the City may reasonably request to establish the value and delivery date of such goods or materials; and (C) for any goods or materials not stored on Site, provide satisfactory evidence of proof that the City is the owner of those goods or materials;
 - (vi) satisfy invoicing requirements of Applicable Law in respect of taxes and, in particular, include Development Partner's registration number for **[GST]** and list the total amount of **[GST]** separate from the total amount payable and list the total amount due (total amount of **[GST]** plus the amount payable for the work completed in the current Payment Period);
 - (vii) commencing with the second Proper Invoice, attach a statutory declaration on an original form agreed upon by the City, declaring that payments in connection with the Development Partner Scope of Work, as noted in the statutory declaration, have been made to the end of the preceding Payment Period (the statutory declaration shall be dated in respect of the Proper Invoice); and
 - (viii) commencing with the second Proper Invoice, attach a statutory declaration from agreed upon by the City any DPA Subcontractor as may

be identified by the City, on an original form (the statutory declaration shall be in respect of the Proper Invoice).

D6.3 Three-Month Eligible Cost Plan and Reconciliation Statement

- (a) As part of each Proper Invoice, Development Partner shall submit an updated Three-Month Eligible Cost Plan.
- (b) Commencing from the second Payment Period, Development Partner shall, on or before the tenth day of the calendar month, or where that day of the month is not a Business Day, on the immediately following Business Day, submit the following documentation in respect of the Development Partner Scope of Work performed by Development Partner up to the end of the preceding Payment Period (a **“Reconciliation Statement”**) through the software and portal identified in Section D4.2. The Reconciliation Statement shall set out:
 - (i) the Eligible Costs certified by the City for all Development Partner Scope of Work performed by Development Partner during the immediately preceding Payment Period (the **“Reconciliation Period”**), based on the weekly submissions in Section D.4, and including for the Eligible Costs incurred during the Reconciliation Period:
 - (A) a comparison of all hours for Employed Staff and Site Labour who carried out Development Partner Scope of Work in the Reconciliation Period against those forecasted to carry out Development Partner Scope of Work in the Reconciliation Period;
 - (B) the Cost Element Task associated with each listed Employed Staff and Site Labour;
 - (C) the Resource Unit Rate associated with each listed Employed Staff and Site Labour;
 - (D) the number of hours, or part hours, expended by each listed Employed Staff or Site Labour carrying out the Development Partner Scope of Work, organized by Cost Element Task;
 - (E) the total cost associated with each Employed Staff or Site Labour for each Cost Element Task as a product of their Resource Unit Rate and their total number of hours, or part hours, expended to that category of Development Partner Scope of Work; and
 - (F) a summary table showing the total cost for the Payment Period for each Cost Element Task;
 - (ii) the Corporate Overhead and Profit claimed in respect of the Reconciliation Period, which will be calculated by multiplying the applicable Corporate Overhead and Profit percentages set out in this Schedule 8 by the Eligible Costs for that Reconciliation Period;

- (iii) any adjustment to the cumulative Eligible Costs previously certified for up to the end of the Reconciliation Period, including any adjustments required in accordance with the DPA (and which adjustment may be for a negative amount);
- (iv) the cumulative Corporate Overhead and Profit previously certified for up to the end of the Reconciliation Period, including any adjustments thereto required in accordance with the DPA;
- (v) any payment determined in accordance with this Schedule 8, in respect of that Reconciliation Period; and
- (vi) the net amount claimed as due for the Reconciliation Period (“**Reconciled Payment Amount**”), being:
 - (A) the total amount due in respect of Eligible Costs, Corporate Overhead and Profit for the Reconciliation Period reconciled against the amount previously paid on account by the City for same period (and this may be a negative amount); and
 - (B) the total of all other amounts due to Development Partner from the City in accordance with the DPA;

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- (C) the aggregate of all previous payments paid or payable to Development Partner for up to the end of that Reconciliation Period; and
- (D) the total of all other amounts due to the City from Development Partner in accordance with the DPA for up to the end of that Reconciliation Period,

and if the amount determined in accordance with this Section D6.3 is a negative amount, the Reconciled Payment Amount will be an amount due from Development Partner to the City, which the City may set off or recover from Development Partner, or as credit to the City for a future amount payable by the City, as determined by the City in its sole discretion.

- (c) Each Reconciliation Statement must be certified as correct and must be accompanied by all supporting information and verification as may be required by the DPA and any additional information reasonably required by the City to allow the City to properly administer the payment procedure in the DPA, including:
 - (i) verifying the progress of the Development Partner Scope of Work up to the end of that Reconciliation Period;
 - (ii) assessing the Reconciled Payment Amount; and

- (iii) certifying the applicable amount due for the Reconciliation Period in accordance with Section D6.3(d).
- (d) The City shall review and validate each timely submitted and compliant Reconciliation Statement and issue a certificate to Development Partner setting out any adjustment made by the City to the Reconciled Payment Amount (“**Reconciliation Certificate**”) no later than the 21st day of the Payment Period or 21 days after the City’s receipt of the Reconciliation Statement, whichever is later. The Reconciliation Certificate issued by the City must be issued to Development Partner on the date it is certified. A Reconciliation Certificate must be issued even if the City considers the amount due to be zero.
- (e) Development Partner shall, at the City’s option, participate in one or more meetings with the City, in accordance with the City’s timing and requirements, to review the particulars, details, information and documentation in the Reconciliation Statement, so as to assist Development Partner with the preparation and submission of a Reconciliation Certificate.
- (f) If the Reconciled Payment Amount set out in the Reconciliation Statement is found to be repeatedly and/or significantly greater than the adjusted Reconciled Payment Amount set out in the associated Reconciliation Certificate, or if the City is of the opinion that the Three-Month Eligible Cost Plan contains exaggerated costs and must be reviewed before submission, the City may require Development Partner to submit a draft Three-Month Eligible Cost Plan using a process to be agreed upon by the Parties, or failing agreement, proposed by the City, acting reasonably, and on a schedule consistent with the payment process set out in this Schedule 8.

D6.4 Proper Invoice and Reconciliation Certificate

- (a) A non-binding graphical summary illustration of the review and reconciliation process and sample invoice information is set out in Appendix B and Appendix C to this Schedule 8.
- (b) On a monthly basis, the following process shall be followed in relation to applications for payment as provided in Section D1.1(a) and pursuant to the delivery of Proper Invoices:
 - (i) Development Partner shall submit to the City by electronic transmission in accordance with Draft DBA Schedule 13 – Document Management System, a Proper Invoice for payment due in the upcoming Payment Period, between the hours of 8:30 A.M. and 4:30 P.M. on a Business Day, utilizing the software and portal identified in Section D.4:
 - (A) for the first Proper Invoice only, within 14 calendar days after the Effective Date, which Proper Invoice shall be in respect of (I) the period from the Effective Date to the end of that calendar month; and (II) the whole of the second calendar month (that combined period being the first Payment Period); and

- (B) thereafter, on the first day of each calendar month, commencing from the first day of the third calendar month (i.e., commencing in respect of the next Payment Period after the Payment Period contemplated in Section D6.4(b)(i)(A)),

for clarity, if the Proper Invoice is received by the City either after 5:00 PM on a Business Day or at any time on a non-Business Day, the Proper Invoice shall be deemed to be received on the following Business Day;

- (ii) if:
 - (A) any relevant Reconciliation Certificate shows that the amount due from Development Partner to the City exceeds the amount claimed for payment in an upcoming a Proper Invoice; or
 - (B) any Proper Invoice from Development Partner does not accurately reflect the reconciliation of the amount due in a Proper Invoice with the Reconciliation Certificate,

the City shall issue a notice of non-payment of that Proper Invoice in accordance with The Builders' Liens Act (Manitoba). Development Partner shall revise the Proper Invoice and submit to the City a revised and corrected Proper Invoice within two Business Days following receipt of the City's notice of non-payment. For clarity, the form and date of the Proper Invoice cannot change despite such a revision; and

- (iii) except in respect of the first Proper Invoice (which shall be processed as set out above), any invoice submitted either prior to or after the first day of a calendar month, provided the first day of a calendar month is a Business Day, or, if the first day of a calendar month is not a Business Day then the first Business Day following the first day of the calendar month, may be the basis for the issuance of a notice of non-payment by the City in accordance with The Builders' Liens Act (Manitoba).
- (c) Development Partner shall, upon request, promptly make available for inspection and audit by the City all supporting documentation (in both physical and electronic format) relating to the amounts contained in each Proper Invoice (including in the Reconciliation Statement).

D6.5 Due Dates for Monthly Payments

- (a) The City shall, subject to The Builders' Liens Act (Manitoba), pay the sum certified by the City in respect of the first Proper Invoice by no later than 30 calendar days, or if such date is a non-Business Day, then on the next Business Day following, after receipt by the City of the Proper Invoice, together with any GST thereon.
- (b) In respect of each Proper Invoice after that contemplated in Section D6.5(a):

- (i) the City must, subject to The Builders' Liens Act (Manitoba), pay the sum certified by the City in the Reconciliation Certificate (or, where there is no Reconciliation Certificate, the Proper Invoice), together with any GST thereon, to Development Partner by no later than 30 calendar days after receipt by the City of the Proper Invoice; and
- (ii) where there is a sum due to the City from Development Partner, Development Partner must pay the sum due to the City no later than 10 Business Days after Development Partner's receipt of an invoice from the City, in a manner required by the City.
- (c) On receipt of payment from the City or notice of non-payment from the City, Development Partner shall comply with The Builders' Liens Act (Manitoba) and either cause payment to be made to all DPA Subcontractors promptly when due in accordance with The Builders' Liens Act (Manitoba) or issue notices of non-payment in accordance with the timelines and requirements of The Builders' Liens Act (Manitoba).
- (d) Nothing in this Schedule 8 limits the City's rights to set off, withhold or deduct payments in accordance with the DPA, Applicable Law, or pursuant to any statutory rights it possesses.

D6.6 **Establishing the Bank Account**

- (a) Within five Business Days of the Effective Date, Development Partner must notify the City in writing of its nominated bank account for payments by the City to Development Partner under the DPA ("**Bank Account**") using forms provided by the City, and Development Partner acknowledges and agrees that the payments made by the City to it shall be affected through electronic funds transfer in accordance with such payment information.
- (b) Development Partner may change its Bank Account by Notice to the City in writing of Development Partner's new nominated Bank Account for payments by the City to Development Partner under the DPA, provided that Notice under this Section D6.6(b) is given by Development Partner to the City and information required by the City using forms provided by the City are given by Development Partner at least 20 Business Days prior to the due date for payment under the DPA.
- (c) Notwithstanding any other provision of the DPA, for the purpose of the DPA, payments made by electronic transfer shall be deemed to have been made on the day and at the time the electronic transfer is initiated, as confirmed by the initiating bank by a confirmation setting out the transfer number and the other details of the transfer.

D.7 **Release of Accrued Holdbacks on Annual Basis**

- D7.1 On each yearly anniversary of the Effective Date, Development Partner shall:

- (a) submit an application to the City requesting the release of the Lien Holdback amount that has accrued during the preceding 365 calendar days;
- (b) attach a statutory declaration on an original form agreed upon by the City, stating that all accounts for services, subcontracts, materials, and other indebtedness which may have been incurred by Development Partner in connection with the DPA during the relevant period referred to in Section D7.1(a) and for which the City might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute and, if requested by the City, attach a statutory declaration from agreed upon by the City any DPA Subcontractor, as may be identified by the City, on an original form; and
- (c) provide confirmation to the City in writing that:
 - (i) there are no preserved or perfected liens under, or notices of liens provided pursuant to, The Builders' Liens Act (Manitoba) in respect of the DPA or any DPA Subcontractors; or
 - (ii) **[all preserved or perfected liens and written notices of liens in respect of the DPA, and all preserved or perfected liens and written notices of liens in respect of any of the DPA Subcontractors, have been satisfied, withdrawn, released, discharged or vacated by the claimant or by a court order in accordance with The Builders' Liens Act (Manitoba), as applicable, or otherwise provided for under The Builders' Liens Act (Manitoba) and Development Partner shall provide proof of same to the City.] [NTD: City Legal to review and revise as appropriate.]**

D7.2 After the receipt of applications from Development Partner requesting release of the Lien Holdback and the documents required by Sections D7.1(b) and D7.1(c), the City will certify payment of the accrued holdback amounts.

D7.3 The DPA shall be subject to The Builders' Liens Act (Manitoba), and in accordance with The Builders' Liens Act (Manitoba), the City may retain any amounts which are required by law to satisfy any liens against the Development Partner Scope of Work.

D.8 Overpayments and Underpayments

D8.1 If the payments made to Development Partner are greater than Development Partner's entitlement to payment under the DPA (the difference being an "**Overpayment**"), then Development Partner shall reflect such Overpayment in the next Proper Invoice and Reconciliation Statement.

D8.2 If the payments made to Development Partner are less than Development Partner's entitlement to payment under the DPA (the difference being an "**Underpayment**"), then Development Partner shall reflect such Underpayment in the next Proper Invoice and Reconciliation Statement.

- D8.3 Where it is determined that a payment is required under this Section D.8, such payment shall be considered to be an increase or reduction, as applicable, of the consideration for the supply by Development Partner of the Development Partner Scope of Work.
- D8.4 If a Party is required to make a payment under this Section D.8, such Party must make that payment within 30 calendar days of a written request for payment being made.
- D8.5 The City or Development Party may take steps to recover any amount payable to them under this Section D.8 which is not paid in accordance with Section D8.4.

D.9 Taxes

- D9.1 In the case of an Overpayment under Section D8.1:
- (a) where GST calculated on the amount of the Overpayment was charged but not collected, Development Partner shall adjust the amount of GST charged by subtracting the portion of GST that was calculated on the amount of the Overpayment; and
 - (b) where GST calculated on the Overpayment was collected, Development Partner shall pay or credit to the City an amount equal to the GST that had been collected on the amount of the Overpayment and issue a credit note containing the information prescribed under the *Excise Tax Act* (Canada).
- D9.2 If a Party is entitled to be reimbursed or indemnified for a loss, cost, expense or outgoing incurred in connection with the DPA, then the amount of the reimbursement or indemnity payment must first be reduced by an amount equal to any input tax credit or GST rebate to which the Party being reimbursed or indemnified is entitled in relation to that loss, cost, expense or outgoing and, then, if the amount of the payment is consideration or part consideration for a taxable supply, it must be increased on account of GST under Section M.7 of the DPA.
- D9.3 Notwithstanding Section D9.2 where the City is entitled under the DPA to employ a third party to fulfill Development Partner's obligations, Development Partner shall reimburse and indemnify the City for any GST incurred by the City that is not recoverable through an input tax credit or similar mechanism to the extent such GST exceeds the unrecoverable GST that would have been payable by the City had there been no default.
- D9.4 For clarity, the City shall not be required to pay any interest and/or penalties that are imposed on or assessed against Development Partner or any Development Partner Party for non-compliance with Applicable Law. If Development Partner is required by Applicable Law to collect any such GST from the City, the City shall pay such GST to Development Partner simultaneously with the amount to which such applicable GST relates or applies.

APPENDIX A: COST ELEMENT ALLOCATION TABLES

Table A: Development Partner’s Corporate Overhead and Corporate Office Costs

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Corporate Office management, technical (exclusive of designated Design Team staff), administration and service staff and non-Project Specific staff, including HR, finance, commercial, accounts, purchasing, occupational health and safety, quality, environment, and IT that are Principally Engaged in the Project, provided they are detailed on a staff list approved by the City. The Eligible Costs for such staff shall be equal to their time incurred to the Project assessed on a month-by-month basis. For the purposes of determining the Eligible Costs, the staff payroll burden for the corporate staff identified in this provision shall be determined in the same manner as the staff payroll burden is determined in Ref C of Table B of this Appendix A, and a pro-rated amount shall be determined based on their time incurred to the Project.	√	
B.	For a period beginning on the date of delivery and ending on the date being two years following the completion of the Early Works, costs of securing any letter of credit required under the DPA, excluding, for certainty, any costs incurred or arising from any drawdown or replenishment of such letter of credit.	√	
C.	Costs incurred for the maintenance and protection of the Infrastructure.	√	
D.	Insurance premiums relating to the insurance required to be obtained and maintained by Development Partner as set out in Schedule 11 – Development Phase Insurance including the cost of insurance premiums, provided that no Corporate Overhead or Profit shall be payable by the City to Development Partner with respect to any insurance premiums or costs of or associated with insurance premiums.	√	
E.	Corporate Office and corporate overhead costs.		√
F.	Overhead costs of DPA Subcontractors.		√
G.	Parental Guarantee of Guarantor. [Note to Proponents: To be revised to reflect appropriate references based on performance security requirements.]		√
H.	Interest, financing charges, banking charges.		√
I.	Business insurance, warranties, professional indemnity insurance (excluding insurance taken out by the City), product liability insurance.		√
J.	Insurance deductibles for which Development Partner is responsible and costs of any claims assistance, claims adjuster or adjustment activities pursuant to Schedule 11 – Development Phase Insurance.		√
K.	Franchises, royalties, licences.		√
L.	Corporate or entity accounting / auditing costs.		√
M.	Corporate Office recruitment costs, including both staff and agency costs and redundancy, and any Corporate Office human resources/industrial relations management staff (Ref F of Table B of this Appendix A in respect of Project Specific recruitment costs).		√

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
N.	Corporate Office management, technical (exclusive of designated Design Team staff), administration and service staff and non-Project Specific staff, including HR, finance, commercial, accounts, purchasing, occupational health and safety, quality, environment, and IT that are not Principally Engaged in the Project.		√
O.	Procurement or tendering costs (except as allowed in procuring Cambi and Ostara or as approved in advance by the City in writing).		√
P.	Corporate Office paper, printing, and stationery.		√
Q.	Taxes (e.g., property tax, business tax, income tax, etc.).		√
R.	Company cars, where not allocated directly to Project Specific staff, including all costs and expenses (except for approved in advance by the City in writing).		√
S.	All Corporate Office accommodation costs, including all services, administration, maintenance, furniture, equipment, rent, rates, taxes, telephone, fax, reprographics, couriers, postage (except for any Workstation Charges approved in advance by the City in writing).		√
T.	General fees paid on a regular basis (excluding Project Specific general fees approved in advance by the City in writing).		√
U.	Legal advice, fees, and services (excluding costs identified in Ref B of Table G of this Appendix A).		√
V.	Membership fees in trade bodies and professional fees (except where approved in advance by the City in writing).		√
W.	Marketing, sales, and industry conferences, unless approved by the City.		√
X.	Advertising, including agency fees and publication costs (approved in advance by the City in writing).		√
Y.	Research and development costs (unless approved in advance by the City in writing).		√
Z.	Corporate Office computer hardware and software systems (except for any Workstation Charges approved in advance by the City in writing).		√
AA.	Charitable donations and entertaining, unless approved in advance by the City in writing.		√
BB.	Training (except where expressly permitted under the Draft Design Build Agreement or approved in advance by the City in writing).		√

Table B: Designated Project Specific Costs of Development Partner’s Employed Staff.

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Entitlement under this Table B shall be limited to Development Partner’s Employed Staff who are not Site Labour and who are Principally Engaged in carrying out work on the Project, including the design and/or design approval process, provided they are detailed on a staff list approved by the City, regardless of whether such staff are located at a Corporate Office, Project Office, working from home, or working from some other location approved by the City.		
B.	Project Specific secretarial/clerical personnel as detailed on the staff organizational staff approved in advance by the City in writing.	√	
C.	<p>Staff payroll burden consisting of:</p> <ul style="list-style-type: none"> i. actual salaries (excluding bonuses and incentive payments related to the profitability of Development Partner’s business); ii. pre-authorized overtime, weekend or vacation pay allowances, and sick pay (in accordance with Development Partner’s standard HR policies); iii. employer contributions to private health/dental insurance and life insurance as per the employee’s contract of employment; iv. employer contributions to approved pension schemes (excluding discretionary contributions and special pension contributions that the employer may have to make to the pension fund to make up any shortfall); v. employer contributions in respect of Canada Pension Plan and Employment Insurance in accordance with Applicable Law; vi. Project Specific staff training inclusive of time spent and course fees, if approved in advance by the City in writing; and vii. an estimated allowance to cover any costs arising out of or in connection with travel, relocation and accommodation and subsistence, to the extent consistent with the “City Business Travel -Biosolids Project” guidelines. <p>For clarity, severance pay in the case of employee layoffs shall not be considered a staff payroll burden.</p>	√	
D.	Actualized Rates for staff where these have been approved in advance by the City in writing for use as the proxy for Eligible Cost in accordance with Section B.5.	√	
E.	All costs for vehicles directly allocated to Project Specific staff at the rate and for the number of vehicles approved in advance by the City in writing, including insurance, depreciation, and maintenance. Fuel and fuel allowances to be reimbursed in accordance with Development Partner’s standard conditions of employment for individual members of Development Partner’s Project Specific staff.	√	
F.	Project Specific recruitment costs (approved in advance by the City in writing).	√	
G.	Redundancy costs where the recipient has been engaged on the Development Partner Scope of Work for a reasonable period of time (approved in advance by the City in writing).	√	
H.	Employee stock or share purchase plans (unless approved in		√

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
	advance by the City in writing).		
I.	Staff employee benefits not identified in Ref C of Table B of this Appendix A (unless approved in advance by the City in writing).		√
J.	Travel, accommodation, and subsistence costs (including location allowances) for Site personnel, Project Office based staff, and designated Design Team staff, to Site and other authorized destinations, beyond what is included in the salary payroll burden allowance.		√
K.	Travel, accommodation, and subsistence costs (including location allowances) for Corporate Office based personnel (excluding identified Project Specific staff per Ref A of Table B of this Appendix A), to Site and other authorized destinations (unless approved in advance by the City in writing).		√
L.	Maternity or parental leave payments where the recipient has been engaged on the Development Partner Scope of Work.		√
M.	Long term sickness payments in excess of three months or as prescribed by Applicable Law (unless approved in advance by the City in writing).		√
N.	Long term sickness payments up to three months or as prescribed by Applicable Law, where the recipient has been engaged on the Development Partner Scope of Work.	√	
O.	Project Specific staff bonus or incentive payments, not related to the profitability of Development Partner's broader or other businesses or other projects or matters in respect of which the applicable employee may be engaged.		√
P.	Laptop computers (hardware and software), tablets and mobile phones assigned to staff that are not Project Specific.		√
Q.	Personal professional fees and subscriptions.		√

Table C: Development Partner’s Site Labour

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Entitlement under this Table C shall be limited to Development Partner’s Site Labour		
B.	Site Labour costs burden required by the applicable collective bargaining agreement in carrying out work on the Project proportionate to the percentage of hours worked on the Project in relation to the total amount of hours worked, including: <ul style="list-style-type: none"> i. worker’s total earnings, including pre-authorized overtime (excluding bonuses); ii. payments in respect of public holidays and pre-authorized vacation; iii. sickness or injury payments; iv. employer’s contributions to annual vacation credits, pensions, death benefit and other employment benefit schemes (excluding special pension contributions that Development Partner (as employer) may have to make to the pension fund to make up any shortfall); v. fares or pre-authorized lodging allowances (not relocation allowances); vi. tool allowances; vii. medical examinations where approved by the City (except in the case of pre-existing medical conditions); viii. protective clothing (subject to standard Development Partner policy); and ix. Project Specific employee training inclusive of time spent and course fees, subject to prior written authorization by the City. 	√	
C.	Redundancy costs where the recipient has been engaged on the Development Partner Scope of Work for a reasonable period of time (if approved in advance by the City in writing).	√	
D.	Project Specific staff bonus or incentive payments, not related to the profitability of Development Partner’s broader or other businesses or other projects or matters in respect of which the applicable employee may be engaged.		√
E.	Construction equipment having a capital value of less than \$2,000.00, tools of the trade and small tools in excess of any tool allowance included in Ref B.		√
F.	Any other costs or expenses of Site Labour that is not expressly identified as an Eligible Cost in this Table C.		√

Table D: Project Office(s), Site Establishment and Site Charges (Development Partner’s Equipment)

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Project Offices, including rent and costs associated with the operation, repair and maintenance of the subject space together with any other payments payable by Development Partner under the applicable lease or tenancy agreement, provided that no Corporate Overhead and Profit shall be payable by the City to Development Partner with respect to any such Eligible Costs.	√*	
B.	Partitioning, racking, and fitting out.	√*	
C.	Temporary foundations and services.	√*	
D.	Installation and running costs of utilities including water, gas, electricity, and other services.	√*	
E.	Documentation, printing, photocopying and consumables.	√	
F.	computer hardware and software systems (provided that such computer hardware and software systems shall be handed over to the City and Development Partner shall assign and transfer to the City for nominal consideration, free and clear of all encumbrances all right, title, benefit, and interest of Development Partner in and to such computer hardware and software systems, when the same is no longer being principally used in connection with the Project).	√	
G.	Cleaning and maintenance.	√*	
H.	Safety requirements, including first aid, clothing, training, protection systems, inspecting and all other measures required to satisfy Applicable Laws.	√*	
I.	telephones, communication systems, mobile phones and site communication systems.	√*	
J.	Security and CCTV.	√*	
K.	Consumables, tea, coffee, paper, and the like.	√*	
L.	Furniture, fixtures, fittings, and equipment.	√*	
M.	Stationery, postage, courier services and the like.	√*	
N.	Photography.	√*	
O.	Temporary roads and hard-standings.	√*	
P.	Temporary fencing, hoarding and security.	√*	
Q.	Lunch rooms, drying and messing rooms as may be required including maintenance.	√*	
R.	Road-sweeping, waste disposal.	√*	
S.	technical equipment for surveying and testing, etc.	√*	
T.	Rent (including other lease costs incurred by virtue of a property lease approved by the City), rates and other municipal and statutory charges.	√*	

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
U.	Office and equipment costs associated with designated staff working on the Project, wherever they may be located (“ Workstation Charge ”).	√*	
V.	Demobilization / removal of site establishment and making good/restoration (if required).	√*	
W.	Any other related site establishment and site charges not included in the above (if approved in advance by the City in writing).	√*	
X.	Petty cash.		√

A “√” in the column entitled “Eligible Cost” of this Table D means that costs may be charged at quoted rates approved by the City in writing in a manner similar to the process regarding the approval of Actualized Rates (“Actualized Costs”), but only to the extent that such costs are directly related to the Project.*

Table E: Other Development Partner Machinery and Equipment

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Machinery and equipment purchased for incorporation within the Development Partner Scope of Work.	√	
B.	Machinery, tools, consumables, and equipment required for the design, installation, testing, commissioning, and management of the Development Partner Scope of Work, forming part of the Development Partner Scope of Work, either purchased, hired, or leased (including track installation and tamping plant; cranes, wheeled and tracked machinery, engineering trains, locomotives, and wagons).	√	
C.	<p>Own 'internal' Development Partner's machinery and equipment.</p> <p>Where the machinery and equipment is purchased specifically for use by Development Partner to execute the Development Partner Scope of Work, the cost is the purchase price or the first cost if Development Partner assembled, fabricated, or otherwise produced the item of equipment. The cost is credited with residual values, as actually realized or if not, as approved by the City in writing after that equipment is no longer required by Development Partner to execute the Development Partner Scope of Work.</p> <p>Where the equipment is hired or rented by Development Partner from an Affiliate, the costs should be at reasonable market hire or rental rates approved by the City.</p> <p>Where the equipment is owned by Development Partner but not purchased specifically for use by Development Partner to execute the Development Partner Scope of Work, the costs should be at reasonable market hire or rental rates, subject to approval by the City.</p>	√	
D.	Hired 'external' Development Partner's machinery and equipment.	√	
E.	Transportation, erection and dismantling, fuels, oils, and other consumables for Development Partner's own and hired or rented machinery and equipment.	√	
F.	Spare parts and maintenance for Development Partner's own and hired or rented machinery and equipment.	√	
G.	Site transport (if specified).	√	

Table F: Materials

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Materials for incorporation as part of the Development Partner Scope of Work including transportation of materials and insurance (if such insurance is not covered under OCIP*) whilst in storage and transit. Also included is the cost of samples and tests and providing and removing packaging. The cost is credited with payments received for the disposal of materials and return packaging.	√	
B.	DPA Subcontractor's materials for incorporation as part of the Development Partner Scope of Work including transportation of materials and insurance (if such insurance is not covered under OCIP*) whilst in storage and transit.	√	
C.	Materials for temporary works including formwork, earthwork support, etc.	√	

**OCIP means Owner-Controlled Insurance Program.*

Table G: Miscellaneous

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	The cost of surety bonds required by the DPA.	√	
B.	Legal advice, fees, and services specific to the Project instructed and approved in advance by the City in writing.	√	
C.	Small tools (picks, shovels, barrows, buckets, and similar non-mechanical tools, including small portable power tools).	√	
D.	Haulage and disposal.	√	
E.	The cost of scrap recovery where undertaken by Development Partner shall be credited with the payments received for scrap sold or held by Development Partner.	√	
F.	Consumables (e.g., welding rods, oxyacetylene, personal protective equipment, and clothing etc.).	√	
G.	Project expenses (except where incurred for the furtherance or promotion of Development Partner’s business or other interests outside the Project), either purchased, rented, leased, or hired and approved by the City.	√	
H.	Project specific team building events and other special team functions approved by the City.	√	
I.	Manufactured products and goods at the lowest discounted market price current at the date of their purchase. The cost is credited with payments received for the disposal of materials and return packaging.	√	
J.	Community engagement costs directly related to the performance of the Development Partner Scope of Work.	√	
K.	Costs and expenses approved in advance by the City to prepare any DPA Estimate under or pursuant to Schedule 9 –Change Orders.	√	
L.	Cost to undertake any currency, fuel, and / or commodity price hedging, approved in advance by the City in writing.	√	
M.	Non-recoverable taxes incurred by Development Partner in respect of the payment of insurance premiums relating to the insurance required to be obtained and maintained by Development Partner as set out in Schedule 11 – Development Phase Insurance, provided that no Corporate Overhead or Profit shall be payable by the City to Development Partner with respect to such non-recoverable taxes.	√	
N.	Other corporate services or events, including any off-Site administrative support function which is not directly involved in performing the Development Partner Scope of Work and not in the immediate control and direction of the City.		√

Table H: Costs Payable to Development Partner for DPA Subcontracts paid on the basis of alternative payment provisions, including on a lump-sum or fixed price basis, if approved in advance in writing by the City in accordance Section B.8 and subject to Section B1.4, but exclusive of Affiliated DPA Subcontracts

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	DPA Subcontract with alternative payment provisions approved by the City in accordance with Section B.8	√	

Table I: Costs Payable to Cambi and Ostara

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Costs payable to Cambi for services provided in respect of the Cambi thermal hydrolysis process system, based on the Cambi Rate or on a lump sum / fixed price basis, as approved in advance in writing by the City.	√	
B.	Costs payable to Ostara for services provided in respect of the Ostara phosphorus recovery system, based on the Ostara Rate or on a lump sum / fixed price basis, as approved in advance in writing by the City.	√	

APPENDIX B: PAYMENT PROCESS

Payment Process for Proper Invoice 1		
Months 1 and 2		
Day 1	Day 14 after Proper Invoice	Day 30 after Proper Invoice
Effective Date	<p>Development Partner submits a single Proper Invoice for the Payment Period for the residual portion (after the Effective Date) of calendar Month 1 and for calendar Month 2.</p> <p>Note: The amount invoiced for Month 1 will be based on costs identified in the Three-Month Eligible Cost Plan for the period between the Effective Date and the end of Month 1.</p> <p>The amount invoiced for Month 2 will be for the whole of Month 2.</p>	<p>City pays Invoice 1</p> <p>The first Payment Period is the portion of the calendar Month 1 after the Effective Date plus Month 2.</p>

Payment Process commencing with Proper Invoice 2											
Month 3			Month 4				Month 5				Month 6
Day 1	Day 10	Day 30	Day 1	Day 10	Day 21	Day 30	Day 1	Day 10	Day 21	Day 30	Day 1
Development Partner submits Proper Invoice for Month 3 and updated Three-Month Eligible Cost Plan (Months 3, 4 and 5)	Development Partner submits Reconciliation Statement, reconciling Eligible Costs actually incurred in Months 1 and 2 against amount previously paid for Months 1 & 2	City pays invoice for Month 3	Development Partner submits Proper Invoice for Month 4 and updated Three-Month Eligible Cost Plan (Months 4, 5 and 6)	Development Partner submits Reconciliation Statement reconciling Eligible Costs incurred in Month 3 against the amount invoiced. Eligible Cost submission based on summary records in the form of a Reconciliation Statement	City meets with Development Partner and agrees the Reconciled Payment Amount for Months 1 and 2; City issues Reconciliation Certificate	City pays invoice for Month 4	Development Partner submits Proper Invoice for Month 5 and updated Three-Month Eligible Cost Plan (Months 5, 6 and 7) Invoice includes adjustment for Months 1 and 2 Reconciled Payment Amount.	Development Partner submits Reconciliation Statement reconciling Eligible Costs incurred in Month 4 against the amount invoiced. Eligible Costs submission based on summary records in the form of a Reconciliation Statement	City meets with Development Partner and agrees the Month 3 Reconciled Payment Amount; City issues Reconciliation Certificate	City pays invoice for Month 5	Development Partner submits Proper Invoice for Month 6. Payment Process repeats for subsequent Months.
Invoice based on Three-Month Eligible Cost Plan	Months 1 and 2 are the Reconciliation Period for this Month. No further changes in Eligible Costs incurred in Month 1 will be allowed beyond this step.		Invoice based on Three-Month Eligible Cost Plan	Includes updated Three-Month Eligible Cost Plan. Month 3 is the Reconciliation Period in this month. No further changes in Eligible Costs incurred in Month 1 and 2 will be allowed beyond this step.	Adjustments resulting from Reconciled Payment Amount will apply to Month 5 invoice.		Invoice based on Three-Month Eligible Cost Plan.	Includes updated Three-Month Eligible Cost Plan. No further changes in Eligible Costs incurred in Month 1, 2, and 3 will be allowed beyond this step.	Adjustments resulting from Reconciled Payment Amount will apply to Month 4 invoice.		Quarterly deep dive cost audit in Month 6 for invoices 1 to 3.

APPENDIX C: SAMPLE INVOICE DETAILS

[Note to Proponents: The formats provided in this Appendix C are samples and for information purposes only.]

Invoice Format

[Company name] [City]		
[Address]		
INVOICE		
INVOICE #: _____ GST#: _____ INVOICE DATE: _____		
INVOICE TO: _____ INVOICE FROM: _____		
ENTITY:	_____ _____ _____	
ATTN:	_____ _____ _____	
ENTITY:	_____ _____ _____	
DEPT:	_____ _____ _____	
NAME:	_____ _____ _____	
PO #	% Completed	AMOUNT
ITEMS: THE BUILDERS' LIENS ACT (MANITOBA), AS REVISED, IS APPLICABLE TO THIS INVOICE Labour Other Direct Costs Corporate overhead Sub-contractor Profit Sub-total Holdback GST @ 5% of Application less Retention		
TOTAL AMOUNT INVOICED Please remit in CDN funds: \$ _____		
Remittance Information Wire Payment: _____ Beneficiary Bank: _____ Bank Institution Code: _____ Bank Transit: _____ Beneficiary Account: _____ Beneficiary: _____ EFT: _____ Bank Code: _____ Transit: _____ Account: _____		
INVOICE APPROVAL NAME: _____ DATE: _____		

Invoice Summary

Date:	Actuals						Forecast				
[Company name]	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
Billing Schedule	April-22	May-22	Jun-22	Jul-22	Aug-22	Sept-22	Oct-22	Nov-22	Dec-22	Jan-23	
[Company name]											\$ -
Total [Company name] by Month	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

HEADCOUNT	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan
	0	0	0	0	0	0	0	0	0	0

COST BREAKDOWN	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Total
Labor											\$0.00
Other Direct Costs											\$0.00
Corporate Overhead											\$0.00
Sub-contractor											\$0.00
Profit											\$0.00
Total cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Current PC VS Previous PC (labor)	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Difference
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Variance
n.a.

Current PC VS Previous PC (other direct costs)	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Difference
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Current PC VS Previous PC (corporate overhead costs)	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Difference
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Current PC VS Previous PC (sub-contractor)	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Difference
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Current PC VS Previous PC (profit)	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Difference
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Current PC VS Previous PC - SEGMENTS											
[Company name]	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	Total
Current PC											\$0.00
Previous PC											\$0.00
Difference	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Variance
n.a.

