

Stage 2 O-Train Trillium Line Extension Project

Project Agreement

Overview of the Structure and Content

The Project Agreement is the primary agreement between the City and the Project Company (“**Project Co**”), setting out the terms and conditions upon which Project Co shall carry out and perform the activities within the scope of the Stage 2 Trillium Line Extension Light Rail Transit Project (“**Trillium Line Project**”). Project Co must design, construct, supply, test, commission, finance and maintain the Trillium Line Project and must complete the related civic works in accordance with the Project Agreement.

This document is intended to be a summary of the material terms in the Project Agreement, but does not describe all the terms of the Project Agreement. In the event of any inconsistency between the description of the material terms in this document and those in the Project Agreement, the terms of the Project Agreement will prevail.

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Material Term	Description
Project Scope	<p>The Project Agreement for the Stage 2 Trillium Line Extension Light Rail Transit defines the project scope as follows, including, but not limited to, the following examples, in accordance with prescribed specifications:</p> <ul style="list-style-type: none"> • the expansion of the existing Trillium Line with approximately 11.5 km of new single track (with passing sidings) from the existing terminus at Greenboro Station to the proposed new Limebank Station, the majority of which follows the existing City-owned (former CPR) railway corridor; • the extension of the existing Trillium Line by way of a 4.5 km-long Airport Link to the Airport that will connect to the mainline at the proposed South Keys Station; • the extension of passing sidings within the existing Trillium Line (at the Gladstone, Brookfield and Carleton locations) to enhance operational reliability; • the extension of the five (5) existing station platforms (at the Bayview, Carling, Mooney’s Bay, Carleton and Greenboro locations) to accommodate longer train consists; • the addition of new stations at Gladstone and Walkley; • the addition of proposed stations on the Trillium Line extension at the South Keys, Leitrim, Bowesville and Limebank locations; • the addition of proposed stations on the Trillium Line extension for the proposed connection to the Ottawa MacDonald-Cartier International Airport at the Uplands and Airport Terminal locations; • the upgrade of existing bridge structures on the existing Trillium Line and upgrade of the existing Dow’s Lake tunnel structure and mechanical ventilation system; • the expansion of the pedestrian underpasses at Carleton University, new underpass north of Hunt Club Road and new underpass under the South Keys Station; • the construction of rail, pedestrian or other overpass structures at Bayview Station, over the Rideau River, Ellwood Diamond, Hunt Club Road, Lester Road, Leitrim Road, EarlArmstrong Road, Bowesville Road, Mosquito Creek, Limebank Road, Airport Parkway and Uplands Drive, and ecological overpass (at High Road); • the construction of the New Walkley Yard to be constructed west of Albion Road, across the street from the Existing Walkley Yard; • the introduction of improved connectivity for pedestrians and cyclists parallel to the Existing Trillium and Trillium Line extension and in the vicinity of stations, including construction of a new multi-use path system; • the extension of and upgrades to the Trillium Line communications systems and signaling and train control systems;

	<ul style="list-style-type: none"> • the design, construction, financing, maintenance and rehabilitation of the Trillium Line system infrastructure and the new municipal infrastructure; • the procurement, financing, provision, maintenance and rehabilitation of a new vehicle fleet; and • the maintenance and rehabilitation of the existing vehicle fleet.
Business Opportunities	<p>The City reserves the right to develop, or permit the development of, commercial and other opportunities on or associated with the Trillium Line system infrastructure (including, for example, retail facilities, advertising and all naming rights). The City may grant the rights to these business opportunities to Project Co and Project Co may propose business opportunities to the City for consideration. Notwithstanding that Project Co has proposed a business opportunity to the City, the City reserves the right to proceed with such an opportunity with a third party and Project Co would not be entitled to receive any payment or compensation from the City.</p>
General City Responsibilities	<p>The City shall, at its own cost and risk, perform a number of responsibilities related to the project, including, but not limited to, the following examples:</p> <ul style="list-style-type: none"> • grant or cause to be granted to Project Co non-exclusive license right of use and access to the lands and the system as required by Project Co to perform the activities within the scope of the project; <ul style="list-style-type: none"> ○ the City must also represent and warrant to Project Co that it has acquired any fee simple interest, lease, licence, right of way, under surface right, easement, or other interest in real property sufficient to enable the City to grant or to cause to be granted to Project Co the licence to the lands required for the project; • acquire the use of and give access to the required project lands in accordance with the commencement dates and duration specified in the Project Agreement; • make such payments to Project Co as are specifically provided for in the Project Agreement; • take reasonable steps to minimize undue interference with the provision of the project operations by Project Co or any Project Co party, and cause all the City parties to do the same; • provide for the attendance of the requisite number of suitably qualified employees for the employee training to be provided by Project Co in accordance with the requirements of the Project Agreement; • provide suitably qualified drivers and controllers to support the required commissioning activities in accordance with the requirements of the Project Agreement; • obtain, maintain and renew all City permits, licences, approvals and authorizations which may be required by Project Co for the performance of its activities within the project scope; • assist Project Co in obtaining, maintaining or renewing relevant permits, licences and approvals as required by Project Co for the performance of its activities within the project scope; • assume responsibility for all designations, assumptions, road closures, transfers and any other applicable requirements relating to the project which can only be effected by the City pursuant to the

	<p><i>Municipal Act, 2001</i> (Ontario), subject to:</p> <ul style="list-style-type: none"> ○ the receipt of the required consents; and ○ Project Co providing any information that the City may request; ● obtain the federal land use, design, and transaction approval from the National Capital Commission; and ● cause contractors in respect of additional works and third party works to comply with instructions of Project Co in respect of matters of health and safety, manner of construction, co-ordination and scheduling and require adequate insurance from such contractors.
<p>General Project Co Responsibilities</p>	<p>Project Co shall, at its own cost and risk, perform a number of responsibilities related to the project, including, but not limited to, the following examples:</p> <ul style="list-style-type: none"> ● perform all activities within the scope of the project in a timely and professional manner satisfying all applicable output specifications, in accordance with good industry practice and with due regard to the health and safety of persons and property; ● perform all activities within the scope of the project in a manner consistent with integrated systems management, and which will not impair the ability of the City, any City party or any government entity to comply with applicable law nor perform its governmental activities; ● comply with all written directions issued by or on behalf of the City from time to time; ● cooperate with the City in the fulfillment of the purposes and intent of the Project Agreement; ● cooperate with the City in respect of the City’s consultations with third party land interest holders in relation to the project; ● immediately notify the City to the extent that Project Co becomes aware of any defect in the lands, existing revenue vehicles or the system infrastructure; ● enter into any utility agreements that may be required to complete the project; ● coordinate with the City all construction activities relating to new municipal infrastructure forming part of the works on those parts of the lands affected by third party access agreements so as to minimize the impact of construction activities on the City operations and services provided by the City to the public; ● during both the maintenance and construction periods, bear responsibility for the management of protesters and trespassers; and ● immediately notify the City upon the receipt or notice of, and provide the City with copies of any correspondence received in relation to, any incident report, investigation report or similar correspondence issued by the Ministry of Labour or any other governmental authority in respect of the project.

	<p>In addition to the above-noted responsibilities, Project Co and Project Co parties must collectively warrant to the City that they have extensive experience and are knowledgeable in the design, construction, maintenance and rehabilitation of light rail transit projects similar to the project in scale, scope, type and complexity, and have the required ability, experience, skill and capacity to complete the project in a timely and professional manner as set out in the Project Agreement.</p>
Works Committee	<p>A works committee will be established composed of representatives from and appointed by the City and Project Co. The works committee shall assist the City and Project Co by promoting cooperative and effective communication with respect to matters related to the design and construction works. The works committee shall operate until the final completion date. The works committee has broad responsibility to consider and deal with safety and security issues as they relate to all aspects of the design and construction of the project.</p>
Maintenance Committee	<p>A maintenance committee will be established composed of representatives from and appointed by the City and Project Co. The maintenance committee shall assist the City and Project Co by promoting cooperative and effective communication with respect to matters related to the scope of the project, both prior to and during the maintenance period. The committee has broad responsibility to consider and deal with safety and security issues as they relate to the maintenance services.</p>
Integrated Management System	<p>Project Co shall develop and implement an integrated management system to ensure that all Project Co parties perform the works, as applicable, as a fully integrated team in order to meet the requirements of the Project Agreement. Project Co is solely responsible for the quality of the works, protection of the environment and worker and public health and safety in each case to the extent connected to or impacted by the works.</p> <p>As part of its general construction obligations, Project Co shall have complete control of the works and shall be responsible for the integration of the various parts and systems comprising any portions of the works with existing parts of the municipal infrastructure systems and existing Trillium Line assets impacted by the works.</p>
Naming and Signage	<p>The City reserves and retains:</p> <ul style="list-style-type: none"> • all rights to designate the name for the system infrastructure, or any part thereof, and for the new municipal infrastructure; • all rights to signage in relation to the lands and the system infrastructure, or any part thereof, and for the new municipal infrastructure; and • all rights, trade-marks, naming or branding regarding the system infrastructure, or any part thereof, and for the new municipal infrastructure. <p>With the prior written consent of the City, Project Co, Project Co parties and the relevant lenders may, for the</p>

	<p>period prior to substantial completion of the project, erect and maintain signage at or on the Trillium Line lands or system (which may include such parties' logos and trade names) identifying their respective roles in connection with the development and construction of the project. The City may require the prompt removal of such signage at any time whatsoever.</p>
Contamination	<p>At all times throughout the term of the project, Project Co shall be responsible for managing, remediating and/or removing any existing contamination located on, in or under the project lands which was described in or properly inferable, readily apparent or readily discoverable from advanced environmental reports and geotechnical data reports made available to Project Co by the City as part of background information.</p> <p>Project Co shall have no responsibility for any contamination that is migrating to or from the lands, except:</p> <ul style="list-style-type: none"> • to the extent that Project Co or any Project Co party released such contamination in a manner which does not comply with applicable law; or • Project Co or any Project Co party is causing the migration of existing contamination. <p>Project Co shall be responsible for removing or remediating:</p> <ul style="list-style-type: none"> • any contamination which Project Co or any Project Co party causes or permits to be released in a manner which does not comply with applicable law or which causes a risk to human health or the environment; or • any existing contamination which was harmless or stored, contained or otherwise dealt with in accordance with applicable law which Project Co or any Project Co party causes or permits to be released in a manner which does not comply with applicable law or which causes a risk to human health or the environment. <p>Project Co shall also be responsible for all direct losses associated with the releases of contamination or existing contamination described above.</p>
Items of Geological, Historical or Archaeological Interest or Value	<p>All fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, including human remains and burial sites, which may be found on or at the project lands are or shall be the sole and absolute property and responsibility of the City or the owner of the relevant property, as applicable, and the City or relevant owner is responsible for the same unless they were described in or were properly inferable, readily apparent or discernible from the background information, in which case Project Co is responsible for them.</p>
Species-at-Risk	<p>Project Co shall be responsible for any species-at-risk which may be found on, in or at the project lands, the occurrence of which, in the location in which it is found, was described in the environmental assessments.</p>

	<p>The City shall be responsible for any species-at-risk which may be found on, in or at the site, except for any species-at-risk described in the environmental assessments.</p>
<p>Latent Defects</p>	<p>As of and from the commencement of the shutdown period, Project Co shall assume full care, custody, control, risk and responsibility for the existing vehicle fleet, including any defects or latent defects, and shall assume full care, custody, control, risk and responsibility for any defects, including any latent defects, in the existing Trillium Line assets, save and except for:</p> <ul style="list-style-type: none"> • latent defects in the Dow’s Lake tunnel structure demonstrated by Project Co to impact its ability to perform and complete the project operations in accordance with the requirements of the Project Agreement, provided that any failure by the City in fulfilling this responsibility was not caused, or contributed to, by Project Co or any Project Co party; and • latent defects in City-retained existing structures demonstrated by Project Co to exist that: <ul style="list-style-type: none"> ○ were not within the actual knowledge of Project Co or any Project Co party as of financial close; ○ were not referenced or described in, or were not properly inferable, readily apparent or readily discoverable from the background information; or ○ were not caused, or contributed to, by Project Co or any Project Co party.
<p>Substantial Completion</p>	<p>a) <u>Substantial Completion</u> Substantial completion means the point at which:</p> <ul style="list-style-type: none"> • the system infrastructure, the new municipal infrastructure and the new utility infrastructure have been completed in accordance with the Project Agreement; • the Payment Certifier appointed has certified the substantial performance of the construction contract and the related certificate of substantial performance of the works is published; and • all requirements for readiness for revenue service described, other than in respect of minor deficiencies, have been satisfied in respect of the system infrastructure and the new municipal infrastructure as a whole. <p>Substantial completion will be evidenced by the issuance of a certificate acknowledging substantial completion availability by the Independent Certifier (an independent suitably qualified and experienced consultant who is contractually obligated to certify the fulfillment of requirements for various events including payment events based on achievement of well understood criteria, in accordance with an independent certifier agreement).</p>

	<p>b) <u>Notice of Substantial Completion</u> Project Co shall deliver notice to the City and the Independent Certifier not less than:</p> <ul style="list-style-type: none"> • 180 days prior to the scheduled substantial completion date, if Project Co anticipates that substantial completion will be achieved by or after the scheduled substantial completion date; or • such other date on which Project Co anticipates that substantial completion will be achieved, if Project Co anticipates that substantial completion will be achieved prior to the scheduled substantial completion date. <p>If Project Co fails to deliver such notice on or before the required notification date, it shall, within 3 business days after the date that the notice was to have been delivered to the City, pay to the City the sum of \$250,000 as liquidated damages. Project Co shall also pay to the City the additional sum of \$15,000 per calendar day as liquidated damages for each day after the date that the notice was to have been delivered to the City has not been delivered to the City.</p> <p>c) <u>Damages</u> If Project Co fails to achieve substantial completion by the anticipated substantial completion date without having delivered to the City a subsequent notice, or if Project Co has issued a subsequent notice establishing a revised substantial completion date but fails to achieve substantial completion by this revised date without having delivered further notice, then Project Co shall, within 3 business days anticipated or revised substantial completion date, pay to the City the sum of \$1,000,000 as liquidated damages. If Project Co has not achieved substantial completion by the outside substantial completion date, Project Co shall, in addition to any other liquidated damage payment obligations, pay to the City the sum of \$5,000,000 as liquidated damages in respect of damages. The payment of these liquidated damages amount shall not reduce the maximum amount of liability of Project Co.</p>
Minor Deficiencies	<p>Minor deficiencies means any defects, deficiencies and items of outstanding work, including in relation to seasonal work, arising from or related to the work required to achieve substantial completion, and that would not materially impair:</p> <ul style="list-style-type: none"> • the public's, system users', third parties' and City's use and enjoyment of the system infrastructure; • the performance of the governmental activities; • the performance of the maintenance and rehabilitation services by Project Co; or • safety, security or traffic flow on the system infrastructure in any relevant respect. <p>Minor deficiencies shall not be applicable to nor include defects, deficiencies and items of outstanding work</p>

	arising from or related to the supply of the new revenue vehicles.
Final Completion	<p>Project Co shall design, engineer, construct and commission the system infrastructure and the new municipal infrastructure so as to provide the City complete and operational infrastructure in accordance with the agreed-upon output specifications and project co-proposal extracts and that will allow Project Co to perform the works and the maintenance and rehabilitation services, all in accordance with and subject to the terms of the Project Agreement.</p> <p>a) <u>Final Completion</u> Final completion means the completion of the project works in accordance with the Project Agreement, including completion of all minor deficiencies, other than any minor work that is seasonal in nature and that cannot be completed by the final completion date.</p> <p>Final completion will be evidenced by the issuance of a certificate acknowledging final completion by the Independent Certifier (an independent suitably qualified and experienced consultant who is contractually obligated to certify the fulfillment of requirements for various events including payment events based on achievement of well understood criteria, in accordance with an independent certifier agreement).</p> <p>b) <u>Notice of Final Completion</u> Project Co shall deliver notice to the City and the Independent Certifier specifying the date on which Project Co anticipates that final completion will be achieved. Project Co shall deliver this notice not less than 90 days prior to the anticipated final completion date, failing which the anticipated final completion date shall be deemed to be the same date as the scheduled final completion date. If Project Co fails to achieve substantial completion within 365 days after the scheduled substantial completion date, this would constitute a Project Co event of default under the Project Agreement.</p>
Development of Design	Project Co shall, at its own cost, develop and complete the design of the system infrastructure and the new municipal infrastructure in accordance with the requirements of the Project Agreement. In order to develop the detailed design of the system infrastructure and new municipal infrastructure, Project Co shall consult with stakeholders, the person designated as the City Representative and the City's design team.
Performance of Design Obligations	In the design and engineering of the system infrastructure and new municipal infrastructure, Project Co, its consultants and the Project Co parties shall exercise the standard of care normally exercised by licensed or registered professional engineering and architectural personnel and other licensed or registered professionals, as applicable, having knowledge and experience in performing design activities of a similar nature, scope and complexity.

	<p>Project Co shall ensure that all parts of the works shall, as required by law, be performed or reviewed by licensed or registered professional engineers and architects registered to practice in the province of Ontario. Such architects and engineers shall certify and, if required by law, sign and seal, all designs, drawings and technical reports confirming that they comply with all prevailing design standards and design practices for such work in the province of Ontario and all other applicable standards, specifications and codes, as otherwise required by law.</p>
<p>General Construction Obligations</p>	<p>Project Co is responsible for all construction means, methods and techniques used to undertake the works and must provide everything (including labour, plant, equipment and materials) necessary for the construction and commissioning of the system infrastructure and new municipal infrastructure.</p> <p>Project Co shall have complete control of the works and shall be responsible for the integration of the various parts and systems comprising any portions of the works with existing parts of the municipal infrastructure systems and existing Trillium Line assets impacted by the works in accordance with the integrated management system requirements.</p>
<p>Cash Allowance - Utility Works</p>	<p>Project Co shall not be required to obtain financing for the costs of the utility works. The City shall pay for the utility works, plus applicable HST, on a monthly progress basis out of a cash allowance account which shall be established and administered by the City. Prior to entering into a utility agreement for the performance of utility work, Project Co shall submit to the City Representative a draft of such agreement setting out the scope and pricing proposed by the utility company for the performance of the utility work for review and approval by the City.</p> <p>The estimated cost of the utility works and the aggregate estimated cash allowance amount is \$5,100,000, plus applicable HST. In the event that the actual costs of the utility works as evidenced by invoices rendered by the applicable utility company exceeds the estimated utility works cash allowance for any cause other than the negligence, default or willful misconduct of Project Co or any Project Co party, the City shall pay such additional cost, plus applicable HST and the applicable utility works fee applicable to such additional cost. The City shall also pay Project Co a fee of 10% of the utility works cost, plus applicable HST, for the management, coordination and administration of the completion of the utility works.</p>
<p>Access for City Parties</p>	<p>Throughout the term of the Trillium Line Project, the City, the City parties, the Operator and their respective representatives shall have unrestricted access to the lands, system infrastructure and new municipal infrastructure or any workshop where materials, plant or equipment are being manufactured, prepared or stored at all reasonable times during normal working hours.</p>

	<p>The purpose of such access includes for general inspection or audit, for attending any test or study being carried out in respect of the works, or to fulfill any statutory, public or other duties or functions.</p>
Increased Monitoring During the Design and Construction Period	<p>If the City is of the opinion, acting reasonably, that there are defects in the works or that Project Co has failed to comply, in any material respect, with the requirements of the Project Agreement, the City may increase the level of monitoring of Project Co. Project Co will compensate the City for any reasonable costs incurred as a result of such increased monitoring.</p>
Public Use	<p>Project Co shall have no right to grant, to the general public, the right to use either the system infrastructure or the new municipal infrastructure. It shall be the right of the City to grant the right of use to the general public to the system infrastructure and the new municipal infrastructure once completed in accordance with the provisions of the Project Agreement.</p> <p>Except as explicitly permitted by the City or the Project Agreement, and subject to Project Co's compliance with all applicable permits, licences, approvals and authorizations, Project Co shall:</p> <ul style="list-style-type: none"> • minimize interference with the existing transit system at all times during the construction period; and • to the extent that the project necessitates interference, in any way, with the operation of the existing transit system, use commercially reasonable efforts to cooperate with the City and other relevant third parties to ensure the continued operation of the existing transit system. <p>Except as otherwise expressly provided in the Project Agreement, Project Co shall not have any claim whatsoever against the City, emergency service providers or any other governmental authority for, or in respect of, any lane closure or diversion.</p> <p>Project Co shall cause all works and maintenance and rehabilitation services to be carried on so as not to interfere unnecessarily with the convenience of the public in respect of any public or private roads, highways or other transportation infrastructure other than the new Trillium Line system.</p>

Works Schedule	<p>Project Co shall prepare and submit to the City and the Independent Certifier:</p> <ul style="list-style-type: none"> • within 75 days after financial close, a detailed works schedule and schedule narrative; • every month, a monthly progress report, as well as an updated and progressed works schedule; and • within 10 business days after receipt of a written request by the City, acting reasonably, a micro-works schedule. <p>Project Co shall develop its works schedule in close co-ordination with the City to ensure that both parties have a clear expectation of their respective obligations and input and the timing required for such.</p>
Failure to Maintain Works Schedule	<p>If, at any time, the City is of the reasonable opinion that:</p> <ul style="list-style-type: none"> • the actual progress of the works has fallen significantly behind the works schedule; • Project Co will not achieve substantial completion by the scheduled substantial completion date or the amended date; or • the revised implementation strategy, forecast dates for future activities or staging has changed to the extent that it is no longer practical to compare the works report to the current project baseline schedule, <p>then the City shall provide notice to Project Co to prepare and submit a recovery schedule and an accompanying report describing:</p> <ul style="list-style-type: none"> • the reasons for the delay; • changes to the implementation strategy (if applicable); and • a description of the new strategy or steps that are to be taken by Project Co to eliminate or reduce the delay to the applicable key works milestone.
LEED Design and Construction Obligations	<p>Project Co shall perform the works relating to the new Walkley Yard so as to achieve the prerequisites and credits required to achieve LEED® Canada Certified and, except as set out in the output specifications of the Project Agreement, Project Co may, in its sole discretion, determine which additional credits to pursue.</p>
Maintenance and Rehabilitation Services	<p>Project Co shall commence the maintenance and rehabilitation services on the day immediately after the substantial completion date and shall perform the maintenance and rehabilitation services until the end of the maintenance period.</p> <p>During the maintenance period, the City may, from time to time, grant a licence or licences for the temporary use of any station plaza or portion thereof for use as special event in accordance with the terms of the Project Agreement. Project Co will procure, deliver, install, commission, maintain, repair, decommission, upgrade and replace any equipment required by Project Co to perform the maintenance and rehabilitation services.</p>

	During the maintenance period, Project Co shall not close all or a portion of the system infrastructure in any circumstances other than as directed or approved by the City, acting reasonably.
Restoration and Reinstatement of Damage or Destruction	Unless the Project Agreement is terminated in accordance with its terms, if all or any part of the Trillium Line system is damaged or destroyed, Project Co shall, at its own cost and expense, repair and replace, as applicable, the Trillium Line system promptly and as practicable in the circumstances. Except as otherwise expressly provided in the Project Agreement, damage to or destruction of all or any part of the Trillium Line system shall not terminate the Project Agreement or relieve Project Co of any of its obligations hereunder or entitle Project Co to any compensation from the City.
Monitoring During the Maintenance Services and Consequences	<p>Project Co shall monitor the performance of the maintenance and rehabilitation services in the manner and at the frequencies set out in the Project Agreement and shall compile and at all times maintain records which are accurate and complete of such monitoring and performance. In addition to Project Co's obligations as set out in the Project Agreement, Project Co shall, as reasonably requested by the City, provide the City Representative with relevant particulars of any aspects of Project Co's performance which fail to meet the requirements of the Project Agreement.</p> <p>Using the prescribed payment mechanism calibration exercise, the City shall set appropriate failure point thresholds to allow the City to impose its performance management rights under the Project Agreement. Failure points accumulate towards the issuance of warning/monitoring notices (and eventually to more severe consequences). The Project Agreement includes penalties for availability failures, for quality failures and for service failures. Availability failures are imposed for vehicle and system availability failures and for station availability failures. Quality failures relate to failure to comply with the output specifications, i.e. failure to maintain records of maintenance performed. Service failures relate to failures to comply with the output specifications, i.e. routine maintenance issues not rectified in stated time. The failure point thresholds trigger one of five events under the Project Agreement: (i) warning notice, (ii) monitoring notice, (iii) exercise of remedial rights, (iv) replacement of maintenance contractor or (v) Project Co default.</p>
City's Remedial Rights	The City may exercise its remedial rights, which include the City requesting Project Co to take such rectification steps as the City considers necessary or expedient, including, if applicable, the termination and replacement of subcontractors. The City may also exercise its remedial rights in an emergency. Subject to the City's obligation to reimburse Project Co in the event that the City exercises its remedial rights inappropriately, Project Co is responsible for all costs and expenses incurred by the City as a result of the City properly exercising its remedial rights.
Variation	The City has the right from time to time to prepare and require Project Co to carry out and implement a variation. A variation is an addition, reduction, substitution, omission, modification, deletion, removal or

	<p>other change to the whole or any part of the project operations, including in relation to the whole or any part of the works or the maintenance and rehabilitation services. Variations are mitigated by performing continued due diligence and thoroughly planning any work or modifications prior to financial close. A variation may arise from a dispute resolution and may impact payments.</p> <p>Where the City proposes a variation, Project Co will deliver an estimate of its cost implications, steps to implement, impact on schedule, impact on the performance of its obligations, impact on its financing arrangements and other relevant matters for consideration by the City. Project Co may object to a variation requested by the City on grounds including that it would have a material and adverse impact on the performance of its obligations, result in a change to the essential nature of the system, infringe applicable laws or result in the revocation of existing or an unobtainable requirement for new permits, licenses or approvals.</p> <p>Project Co may request variations for consideration by the City in its discretion. If accepted, a process like that described above would apply.</p>
Payment	<p>a) <u>During the Construction Period</u> The City shall pay to Project Co the construction period payments, plus applicable HST, on an earned value approach. Earned value means the budgeted cost of work performed in respect of each payment period. The City shall pay to Project Co the substantial completion payment, plus applicable HST, less any lane closure adjustment, on the substantial completion payment commencement date.</p> <p>The City shall also pay to Project Co monthly service payments, plus any applicable HST, calculated as being due to Project Co in respect of each payment period following the payment commencement date. Project Co shall not be entitled to any monthly service payments for any period prior to the payment commencement date. The amount of any monthly service payment may be adjusted pursuant to the Project Agreement.</p> <p>b) <u>During the Maintenance Period</u> The City shall pay to Project Co the monthly service payments, plus any applicable HST, in respect of each contract month during the maintenance period, in accordance with the contracted formula. The payments are subject to various adjustments, including dollar deductions for underperformance in accordance with the payment mechanism schedule, and to upwards adjustments as a consequence of compensation events. Deductions to the monthly service payments will reasonably reflect the severity of the consequences to the City of a particular failure (availability, quality or service). Deductions due to underperformance would never</p>

	<p>exceed 100% of the monthly service payment.</p> <p>The City will also make an annual service payment to Project Co which payments will be adjusted in the ordinary course in accordance with the Project Agreement. The annual service payment represents the fee for service calculations for the Project Agreement that are subject to market driven adjustment mechanisms.</p>
<p>General Audit Rights</p>	<p>All information, reports, documents and records in the possession of or available to Project Co, which are required to be provided to or made available to the City, shall be subject and open to inspection and audit by the City at any time.</p> <p>The City shall also have the right to monitor and audit the performance of any and all of the project operations wherever located, and Project Co shall cooperate with, and shall require each subcontractor to cooperate with and provide access to the representatives of the City monitoring and auditing such parts of the project operations, including providing them with access and copies of all relevant information, reports, documents and records pertaining to the performance of such parts of the project operations.</p> <p>Except as otherwise provided, all of the City’s costs for the inspections, audits and monitoring shall be borne by the City.</p>
<p>Delay Events</p>	<p>Delay event means any events or circumstances that cause a delay in achieving substantial completion by the scheduled substantial completion date, including, but not limited to, the following examples:</p> <ul style="list-style-type: none"> • any breach by the City of any of the City’s obligations, except to the extent that any such breach is caused, or contributed to, by Project Co or any Project Co party; • an uncovering of the works, where such works are not subsequently found to be defective or not in compliance with the requirements of the Project Agreement, unless such uncovering was reasonable in the light of other defects or non-compliance previously discovered by the City in respect of the same or a similar component or subset of the works; • a requirement for Project Co to perform any alteration, addition, demolition, extension or variation in the works, or to suspend or delay performance of the works, upon the discovery of contamination, any fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, or species-at-risk for which the City is responsible, which would not otherwise be required under the Project Agreement; • a relevant change in law; • the discovery of any latent defect for which the City is responsible, including a requirement for Project Co to undertake any action in accordance with the instructions of the City to remedy a latent

	<p>defect for which the City is responsible;</p> <ul style="list-style-type: none"> • a stop work order issued by a governmental authority in respect of the system infrastructure or works, provided that such order was not issued as a result of a relief event, an act of force majeure or as a result of an act, omission or fault of Project Co or any Project Co party; • any change to the terms, conditions or requirements of the environmental assessments, except in each case to the extent resulting from any change by Project Co in the design of the Trillium Line Project or from any other act or omission on the part of Project Co or any Project Co party; • an event of force majeure; or • a relief event.
<p>Consequences of a Delay Event</p>	<p>Project Co shall provide written notice to the City Representative, the Independent Certifier and the City’s consultant within 5 business days of becoming aware of the occurrence of the delay event. Project Co shall, within 10 business days after such notification, provide further written details to the City Representative, Independent Certifier and the City’s consultant which shall include:</p> <ul style="list-style-type: none"> • a statement of which delay event the claim is based upon; • details of the circumstances from which the delay event arises; • details of the records which Project Co shall maintain to substantiate its claim for extra time; • details of the consequences, whether direct or indirect, financial or non-financial, which such delay event may have upon the scheduled substantial completion date, if the event forms the basis of a future claim by Project Co for relief as delay event under the Project Agreement; and • details of any measures which Project Co proposes to adopt to mitigate the consequences of such delay event. <p>The City Representative shall allow Project Co an extension of time equal to the delay caused by the delay event. There shall be no extension to the Trillium Line Project term as a result of any delay caused by a delay event.</p>
<p>Mitigation – Delay Events</p>	<p>If Project Co is, or claims to be, affected by a delay event, Project Co shall, and shall require all Project Co Parties to, take commercially reasonable steps:</p> <ul style="list-style-type: none"> • to eliminate or mitigate the consequences of such event upon the performance of its obligations under the Project Agreement; • to continue to perform its obligations under the Project Agreement to the extent possible notwithstanding the delay event; and • to resume performance of its obligations under the Project Agreement affected by the delay event as soon as practicable.

	<p>Lack of compliance with the obligation to mitigate shall be taken into account in determining Project Co's entitlement to an extension of time and entitlement to relief.</p>
<p>Compensation Events</p>	<p>Compensation event means any number of events or circumstances, including, but not limited to, the following examples, as a direct result of which Project Co has incurred a loss or expense, whether or not any of these events has also caused a delay:</p> <ul style="list-style-type: none"> • any breach by the City of any of the City's obligations, except to the extent that any such breach is caused, or contributed to, by Project Co or any Project Co party; • an uncovering of the works where such works are not subsequently found to be defective or not in compliance with the requirements of the Project Agreement, unless such uncovering was reasonable in the light of other defects or non-compliance previously discovered by the City in respect of the same or a similar component or subset of the works; • a requirement for Project Co to perform any alteration, addition, demolition, extension or variation in the works, or to suspend or delay performance of the works, upon the discovery of contamination, any fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, or species-at-risk for which the City is responsible, which would not otherwise be required under the Project Agreement; • the discovery of any latent defect for which the City is responsible, including a requirement for Project Co to undertake any action in accordance with the instructions of the City to remedy a latent defect for which the City is responsible; • a stop work order issued by a governmental authority in respect of the system infrastructure or works, provided that such order was not issued as a result of a relief event, an act of force majeure or as a result of an act, omission or fault of Project Co or any Project Co party; or • any change to the terms, conditions or requirements of the environmental assessments, except in each case to the extent resulting from any change by Project Co in the design of the Trillium Line Project or from any other act or omission on the part of Project Co or any Project Co party.
<p>Consequences of a Compensation Event</p>	<p>If a compensation event occurs, Project Co shall be entitled to such compensation as would place Project Co in no better and no worse position than it would have been in had the relevant compensation event not occurred. In respect of a compensation event that is also a delay event, such compensation will include amounts which, but for the delay event, would have been paid by the City to Project Co. Project Co shall promptly provide the City Representative with any information the City Representative may require in order to determine the amount of such compensation.</p>

	<p>If the City is required to compensate Project Co, then the City may either pay such compensation as a lump sum payment or payments at times and in a manner to be agreed with Project Co, acting reasonably, or, alternatively, the City may request Project Co to agree to an adjustment to the monthly service payments.</p>
<p>Mitigation – Compensation Events</p>	<p>If Project Co is, or claims to be, affected by a compensation event, Project Co shall, and shall require all Project Co parties to, take commercially reasonable steps to minimize the amount of compensation due.</p> <p>Lack of compliance with the obligation to mitigate shall be taken into account in determining Project Co’s entitlement to relief.</p>
<p>Excusing Causes</p>	<p>Excusing cause means any of the following events or circumstances, including, but not limited to, the following examples, if it occurs after the substantial completion date and to the extent, in each case, that it interferes adversely with, or causes a failure of, the performance of the maintenance and rehabilitation services:</p> <ul style="list-style-type: none"> • any breach by the City of any of the City’s obligations, except to the extent that any such breach is caused, or contributed to, by Project Co or any Project Co party; • any deliberate or negligent act or omission of any City party or any failure by any City party to take commercially reasonable steps to perform its activities in a manner which minimizes undue interference with Project Co’s performance of the maintenance and rehabilitation services, except to the extent that: <ul style="list-style-type: none"> ○ any such act, omission or failure is caused, or contributed to, by Project Co or any Project Co party; ○ any City party is acting in accordance with a recommendation or instruction of Project Co or any Project Co party; ○ any such act, omission or failure was contemplated, or was otherwise provided for, in the Project Agreement; or ○ the consequences of any such act, omission or failure would have been prevented by the proper performance of Project Co’s obligations under the Project Agreement; • any official or unofficial strike, lockout, work to rule or other labour related action involving employees of any City party not caused, or contributed to, by Project Co or any Project Co party; • the occurrence of contamination for which the City is responsible; • the discovery of any fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, including human remains and burial sites for which the City is responsible; • the discovery of species at risk for which the City is responsible; or • a derailment, collision, or any other accident involving the exterior of a revenue vehicle, including at

	intersections, or involving both an element of fixed infrastructure and a road vehicle, except to the extent that any such derailment, collision, or other accident is caused, or contributed to, by Project Co or any Project Co party.
Consequences of an Excusing Cause	<p>Provided that the effect of an excusing cause is claimed by Project Co in writing within 10 business days of the date on which Project Co became aware of the occurrence of such excusing cause, then:</p> <ul style="list-style-type: none"> • any failure by Project Co to perform, and any poor performance of, any affected maintenance and rehabilitation services shall not constitute a breach of the Project Agreement by Project Co, no failure points shall accrue, and Project Co shall be relieved of its obligations to perform such maintenance services to the extent prevented by such excusing cause; • any interference shall be taken into account in measuring the performance of any affected maintenance and rehabilitation services; • any interference shall be taken into account in operating the payment mechanism, provided that Project Co shall not be entitled to any additional compensation, except as may be provided for compensation on termination; • the City shall reimburse Project Co for all incremental direct costs incurred by Project Co as a result of any excusing cause referred to above including costs arising from any steps taken to cure or mitigate against such events; and • the monthly service payments payable by the City shall be reduced by any savings in direct costs arising from Project Co being relieved of its obligations to perform the maintenance services as otherwise provided.
Mitigation – Excusing Causes	<p>If Project Co is, or claims to be, affected by an excusing cause, Project Co shall, and shall require all Project Co parties to, take commercially reasonable steps:</p> <ul style="list-style-type: none"> • to eliminate or mitigate the consequences of such event upon the performance of its obligations; • to continue to perform its obligations to the extent possible notwithstanding the excusing cause; and • to resume performance of its obligations affected by the excusing cause as soon as practicable. <p>Lack of compliance with the obligation to mitigate shall be taken into account in determining Project Co’s entitlement to relief.</p>
Relief Events	<p>Relief event means any number of events or circumstances, including, but not limited to, the following examples, to the extent that it causes any failure by the City or Project Co to perform any of its obligations under the Project Agreement:</p> <ul style="list-style-type: none"> • fire, explosion, lightning, storm, tempest, hurricane, tornado, flood, ionizing radiation (to the extent it does not constitute force majeure), earthquake, riot or civil commotion;

	<ul style="list-style-type: none"> • failure by any utility company, railway company, local authority or other like body to enter into a utility agreement, perform works or provide services, provided, however, that such a failure shall not, in any event, be cause for a relief event, unless Project Co: <ul style="list-style-type: none"> ○ has performed its obligations under any applicable utility agreement and the relevant utility company has failed to meet its obligations thereunder; and ○ has made all, and is continuing to make any, commercially reasonable efforts to diligently enforce its legal rights under any applicable utility agreement and otherwise cause the utility company to perform those works or services; • accidental loss or damage to the works and/or the system infrastructure or any roads servicing the lands; • without prejudice to any obligation of Project Co to provide stand-by power facilities in accordance with the Project Agreement, failure or shortage of power, fuel or transport; • blockade or embargo falling short of force majeure; • any official or unofficial strike, lockout, work to rule or other labour-related action generally affecting the system infrastructure or the new municipal infrastructure or the construction or facility maintenance industry (or a significant sector of that industry) in the province of Ontario; or • any civil disobedience or protest action, including any action taken by any person or persons protesting or demonstrating against the carrying out of any part of the project operations or the construction and/or operation of transit systems in general.
<p>Consequences of a Relief Event</p>	<p>As soon as the events or circumstances constituting a relief event have ceased, any failure points accrued in respect of any failure by Project Co to perform any of its obligations shall be cancelled and any related warning notices and monitoring notices shall be withdrawn, but only to the extent that such failure to perform is caused by the occurrence of a relief event. The City shall be entitled to make deductions notwithstanding the cancellation of failure points.</p> <p>If a relief event occurs and the effects of the relief event continue for 180 days from the date on which either the City or Project Co gives notice to the other, either party may, at any time thereafter, terminate the Project Agreement by written notice to the other having immediate effect, provided that the effects of the relief event continue during such period to prevent either party from performing a material part of its obligations under the Project Agreement.</p> <p>Neither the City nor Project Co shall be entitled to exercise its right to terminate the Project Agreement for a relief event if Project Co recovers, or is entitled to recover, under any insurance policy, or would have</p>

	<p>recovered if it had complied with the requirements of the Project Agreement in respect of insurance or the terms of any policy of insurance required under the Project Agreement, an amount which, together with the monthly service payment, is equal to or greater than the monthly service payment for the relevant payment period.</p>
Relief Event – Mitigation and Process	<p>Where the City or Project Co is affected by a relief event, such party shall take commercially reasonable steps to mitigate the consequences of the relief event upon the performance of its obligations, shall resume performance of its obligations affected by the relief event as soon as practicable and shall use commercially reasonable efforts to remedy its failure to perform.</p> <p>Lack of compliance with the obligation to mitigate shall preclude the party’s entitlement to relief.</p>
Force Majeure	<p>Force majeure means any of the following events or circumstances, including, but not limited to, the following examples, which directly causes either the City or Project Co to be unable to perform all or a material part of its obligations under the Project Agreement:</p> <ul style="list-style-type: none"> • war, civil war, armed conflict, terrorism, acts of foreign enemies or hostilities; • nuclear or radioactive contamination, unless Project Co or any Project Co party is the source or cause of the contamination; • chemical or biological contamination; • pressure waves; or • the discovery of any species-at-risk, fossils, artifacts and other objects having artistic, historic, archaeological or monetary value, including human remains and burial sites, which mandate the abandonment of the works. <p>Project Co will be compensated for a force majeure that becomes a delay event prior to the substantial completion date by an amount equal to the debt service amount accrued and paid or which became payable during the period of delay by Project Co to the relevant lenders which, but for the delay event, would not have been paid by Project Co or any Project Co party to the relevant lenders.</p> <p>For a force majeure occurring on or after the substantial completion date, Project Co will be compensated for the maintenance and rehabilitation services performed.</p>
Project Co Default	<p>a) <u>Project Co Events of Default</u> Project Co event of default means the occurrence of any number of events or circumstances, including, but not limited to, the following examples:</p>

- Project Co admits in writing its inability to pay its debts generally as they become due, or makes a general assignment for the benefit of creditors, or a receiver, etc., or any creditor of Project Co takes control, or takes steps to take control, of Project Co or any of Project Co's assets, or any proceedings are instituted by or against Project Co or another party that result in Project Co being declared or ordered bankrupt or in administration, etc., provided this event is not as a consequence of a breach by the City of its payment obligations and such proceedings have or will have a material adverse effect on the governmental activities or the availability of the system infrastructure to system users;
- Project Co fails to achieve substantial completion within 365 days after the scheduled substantial completion date;
- Project Co makes any representation or warranty that is false or misleading when made and that has or will have at any time a material adverse effect on the performance of project operations, governmental activities or the availability of the system infrastructure to system users, or that may compromise:
 - the City's reputation or integrity; or
 - the nature of the public transit system in the City of Ottawa so as to affect public confidence in the public transit system in the City of Ottawa or the Trillium Line Project and, in the case of a false or misleading representation or warranty that is capable of being remedied, such breach is not remedied within 10 business days of receipt of notice of the same from the City;
- Project Co ceases to perform any maintenance and rehabilitation services in accordance with the Project Agreement which is necessary for the governmental activities or the availability of the system infrastructure to system users, other than as a consequence of a breach by the City of its obligations under the Project Agreement;
- the occurrence of any prohibited change in ownership or change in control; or
- Project Co fails to pay any sums due to the City which:
 - are not being disputed by Project Co in the dispute resolution procedure;
 - exceed \$250,000; and
 - such failure continues for 30 days from receipt by Project Co of a notice of non-payment from the City.

b) Right to Termination

On the occurrence of a Project Co event of default, or at any time after the City becomes aware of a Project Co event of default subject to the remedy provisions, the City may terminate the Project Agreement in its entirety by written notice having immediate effect. Such notice is to be given to Project Co and to any person specified in the relevant lenders' direct agreement to receive such notice.

	<p>c) <u>Remedy Provisions</u> In the case of some specific Project Co events of default, the City shall, prior to being entitled to terminate the Project Agreement, give notice of default to Project Co and to any person specified in the relevant lenders' direct agreement to receive such notice, and Project Co shall, within 5 business days of such notice of default, put forward a reasonable plan and schedule for diligently remedying the Project Co event of default.</p> <p>d) <u>Replacement of Non-Performing Maintenance Contractor</u> The City may, acting reasonably, require Project Co to terminate the maintenance and rehabilitation contract and ensure that a replacement maintenance and rehabilitation contractor is appointed in accordance with the Project Agreement within 60 days in specific circumstances. Where a replacement maintenance and rehabilitation contractor is appointed, 50% of the accrued failure points will be cancelled.</p> <p>e) <u>Replacement of Non-Performing Revenue Vehicle Supplier</u> The City may, acting reasonably, require Project Co to terminate the revenue vehicle supplier as an alternative to termination of the Project Agreement, in any circumstance in which the City could exercise such right of termination, if the Project Co event of default was caused, or contributed to, by the revenue vehicle supplier. In the event the City does not exercise its rights and if the Project Co event of default was caused by the revenue vehicle supplier, Project Co may also, acting reasonably, with the consent of the City, terminate the revenue vehicle supplier as an alternative to termination of the Project Agreement.</p> <p>f) <u>City's Costs</u> Project Co shall reimburse the City for all reasonable properly incurred by the City in exercising its rights in the circumstances of a Project Co event of default, including any relevant increased administrative expenses. The City shall take commercially reasonable steps to mitigate such costs.</p>
City Default	<p>a) <u>City Events of Default</u> City event of default means any number of events or circumstances, including, but not limited to, the following examples:</p> <ul style="list-style-type: none"> • the City fails to pay any sums due to Project Co which are not being disputed by the City in the dispute resolution procedure, exceed \$250,000 and: <ul style="list-style-type: none"> ○ in respect of a construction period payment or the substantial completion payment, such failure continues for 30 business days; ○ in respect of any monthly service payment, such failure continues for 30 days;

	<ul style="list-style-type: none"> ○ in respect of any 3 monthly service payments in any rolling 9 month period, such failure continues for 15 business days in respect of each such monthly service payment; or ○ in respect of any other payment due and payable by the City to Project Co, such failure continues for 90 days, <p>in any such case, from receipt by the City of a notice of non-payment from or on behalf of Project Co;</p> <ul style="list-style-type: none"> • the City commits a material breach of its obligations which adversely affects the ability of Project Co to perform its obligations for a continuous period of not less than 60 days; or • an act of any governmental authority renders it impossible for Project Co to perform all or substantially all of its obligations for a continuous period of not less than 60 days (not including the non-issuance of, or the imposition of any conditions or limitations in, any of the Project Co permits, licences and approvals). <p>b) <u>Project Co's Options</u></p> <p>On the occurrence of a City event of default and while the same is continuing, Project Co may give notice to the City specifying the details thereof. If Project Co gives such notice and the applicable City event of default has not been remedied within 30 receipt by the City of notice of the occurrence, at Project Co's option and without prejudice to its other rights and remedies under the Project Agreement, Project Co may:</p> <ul style="list-style-type: none"> • suspend performance of the works and the maintenance and rehabilitation services until such time as the City has remedied such City event of default; or • terminate the Project Agreement in its entirety by notice in writing having immediate effect. <p>c) <u>Project Co's Costs</u></p> <p>The City shall reimburse Project Co for all reasonable costs properly incurred by Project Co in exercising its rights in the circumstances of a City event of default, including any relevant increased administrative expenses. Project Co shall take commercially reasonable steps to mitigate such costs.</p>
Termination for Convenience	<p>The City shall, in its sole discretion and for any reason whatsoever, be entitled to terminate the Project Agreement at any time on 180 days' written notice to Project Co. Upon such notice, the City shall, at any time before the expiration of the notice, be entitled to direct Project Co to refrain from commencing, or allowing any third party to commence, the works, or any part or parts of the works, or the maintenance and rehabilitation services where such works or maintenance and rehabilitation services have not yet been commenced.</p>
Project Co	<p>Project Co shall indemnify and save harmless the City and City parties and each of their respective</p>

<p>Indemnities to the City</p>	<p>representatives from and against any and all direct losses which may be suffered as a result of any one or more of the following examples, including, but not limited to, the following examples:</p> <ul style="list-style-type: none"> • any physical loss of or damage to all or any part of the Trillium Line Project lands, adjacent lands, system infrastructure or new municipal infrastructure, or to any equipment, assets or other property related thereto; • the death or personal injury of any person; • any physical loss of or damage to property or assets of any third party; • any other loss or damage of any third party; • injurious affection claims made by third parties arising from or in consequence of act or omission of Project Co or any Project Co party in respect of the performance or breach of the Project Agreement, except to the extent caused, or contributed to, by the City or any City party; • a deliberate or negligent act or omission of a system user that results in undue interference with Project Co’s performance of the maintenance and rehabilitation services for which Project Co has been unable to take commercially reasonable steps necessary to prevent, negate or mitigate the undue interference due to acting in accordance with a recommendation or instruction of the City or an appropriate City party, except to the extent that: <ul style="list-style-type: none"> ○ any such deliberate or negligent act or omission is caused, or contributed to, by Project Co or any Project Co party; or ○ the system user is acting in accordance with a direction, recommendation or instruction of Project Co or any Project Co party.
<p>City Indemnities to Project Co</p>	<p>The City shall indemnify and save harmless Project Co and Project Co parties and each of their respective representatives from and against any and all direct losses which may be suffered, sustained, incurred or brought against them as a result of, in respect of or arising out of any one or more of the following examples:</p> <ul style="list-style-type: none"> • the death or personal injury of any person arising out of the performance or breach of the Project Agreement by the City, or any act or omission of any City party, except to the extent caused, or contributed to, by Project Co or any Project Co party; • any physical loss of or damage to all or any part of any property or assets of Project Co, arising out of or in consequence of a breach of the Project Agreement by the City, or any act or omission of any City party, except to the extent caused, or contributed to, by Project Co or any Project Co party; and • any physical loss of or damage to property or assets of any third party, or any other loss or damage of any third party arising out of a breach of the Project Agreement by the City or any act or omission of any City party, except to the extent caused, or contributed to, by Project Co or any Project Co party.

	There shall be excluded from the indemnity given by the City any liability for the occurrence of risks against which Project Co is required to insure under the Project Agreement to the extent of the proceeds available or that should have been available but for a failure by Project Co to comply with its obligations to properly insure.
Maximum Liability	The maximum aggregate liability of each party in respect of all claims shall not exceed \$50,000,000. This limit shall be exclusive of any insurance or performance security proceeds received or which will be received pursuant to policies maintained in accordance with the Project Agreement. This limit shall not apply in cases of wilful misconduct or deliberate acts of wrongdoing.
Other Key Terms	<p>The Project Agreement contains a number of other key terms, including, but not limited to, the following examples:</p> <p>a) <u>No Liability</u> Except as expressly provided for in the Project Agreement, neither the City nor any other City party shall be liable to Project Co or any Project Co party, and Project Co or any Project Co shall not seek to recover from the City or any City party for damages, losses, costs, liabilities or expenses which may arise from the adoption, use or application of background information, including drawings, reports (including environmental, archaeological, geotechnical, or highways reports or assessments), studies, data, documents or other information given or made available to Project Co or any Project Co party by the City or any City party.</p> <p>b) <u>No Warranty</u> Except as expressly provided for in the Project Agreement, neither the City nor any other City party gives any warranty in respect of any background information, and the City or any City party shall not be liable to Project Co or any Project Co for a failure to:</p> <ul style="list-style-type: none"> • disclose or make available any information, documents or data to Project Co or any Project Co party; • review or update the background information; and • inform Project Co or any Project Co party of any inaccuracy, error, omission defect or inadequacy related thereto. <p>c) <u>No Claims</u> Project Co shall not, and shall ensure that no Project Co party shall, make any claim in damages, for extensions of time or for additional payments under the Project Agreement against the City or any City party on the grounds:</p> <ul style="list-style-type: none"> • of any misunderstanding or misapprehension in respect of the background information; or

	<ul style="list-style-type: none"> • that the background information was incorrect or insufficient.
<p>Schedules</p>	<p>What follows is a list of the schedules to the Project Agreement. A brief description appears below of some of the more key schedules.</p> <ol style="list-style-type: none"> a. <u>Schedule 1 – Definitions and Interpretation</u> This schedule includes a list of defined terms used within the Project Agreement. b. <u>Schedule 2 – Completion Documents</u> c. <u>Schedule 3 – Custody Agreement</u> d. <u>Schedule 4 – Funding Requirements</u> e. <u>Schedule 5 – Direct Agreements</u> This agreement sets out the respective rights between the City and Project Co’s construction and maintenance and rehabilitation contractors. f. <u>Schedule 6 – Independent Certifier Agreement</u> This is an agreement for a third party certifier to review Trillium Line Project’s progress and deliverables. g. <u>Schedule 7 – Mobility Matters</u> h. <u>Schedule 8 – [Intentionally Deleted]</u> i. <u>Schedule 9 – Key Individuals</u> j. <u>Schedule 10 – Review Procedure</u> k. <u>Schedule 11 – Integrated Management System Requirements</u> l. <u>Schedule 12 – Works Scheduling Requirements</u>

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| | <ul style="list-style-type: none"> m. <u>Schedule 13 – Project Co Proposal Extracts</u> n. <u>Schedule 14 – Testing and Commissioning</u> o. <u>Schedule 15 – Output Specifications</u> p. <u>Schedule 15-1 – Technical Terms and Reference Documents</u> q. <u>Schedule 15-2 – Design and Construction Requirements</u> r. <u>Schedule 15-3 – Maintenance and Rehabilitation Requirements</u> s. <u>Schedule 16 – Encumbrances</u> t. <u>Schedule 17 – Environmental Obligations</u>
This schedule includes a list of the City’s and Project Co’s environmental obligations throughout the term of the Trillium Line Project, as well as any environmental approval obligations. u. <u>Schedule 18 – Communications and Stakeholder Engagement Obligations</u> v. <u>Schedule 19 – Payment Mechanism</u>
This schedule includes the calculation of service payments, as well as applicable deductions. w. <u>Schedule 20 – Construction Period Payments</u>
This schedule includes a list of the various construction period payments, including a description and the payment amount. x. <u>Schedule 21 – Variation Procedure</u>
This schedule includes the process that must be followed in the event the City or Project Co proposes a variation or other change to the whole or any part of the scope of the Trillium Line Project y. <u>Schedule 22 – Compensation on Termination</u>
This schedule includes the compensation process that must be followed in the event of termination for |
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City default or convenience, or Project Co default.

- z. Schedule 23 – Expiry Transition Procedure
- aa. Schedule 24 – Insurance and Performance Security Requirements
- bb. Schedule 25 – Record Provisions
- cc. Schedule 26 – Dispute Resolution Procedure
This schedule includes the dispute resolution procedure that must be followed by the City or Project Co, in the event a dispute arises between the parties.
- dd. Schedule 27 – Refinancing
- ee. Schedule 28 – Insurance Trust Agreement
- ff. Schedule 29 – Project Co Information
- gg. Schedule 30 – Financial Model Extracts
- hh. Schedule 31 – Works Report Requirements
- ii. Schedule 32 – City Permits, Licences, Approvals and Authorizations
- jj. Schedule 33 – Lands
- kk. Schedule 34 – [Intentionally Deleted]
- ll. Schedule 35 – Intellectual Property
- mm. Schedule 36 – System Extension

	<p>nn. <u>Schedule 37 – [Intentionally Deleted]</u></p> <p>oo. <u>Schedule 38 – [Intentionally Deleted]</u></p> <p>pp. <u>Schedule 39 – Revenue Vehicle Supply Contract</u></p> <p>qq. <u>Schedule 40 – Utility Baseline Report</u></p> <p>rr. <u>Schedule 41 – Lenders’ Direct Agreement</u> This agreement sets out the respective rights between the City and Project Co’s lenders.</p>
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