

THE CITY OF EDMONTON
PROJECT AGREEMENT
VALLEY LINE LRT – STAGE 1

Schedule 28

Project Approvals and URP Matters

Part A – Project Approvals

***Edmonton Valley Line LRT – Stage 1
Project Agreement – Execution Version
Schedule 28 – Project Approvals and URP Matters
Part A – Project Approvals
Date: February 8, 2016***

Schedule 28

Project Approvals and URP Matters

Part A – Project Approvals

1. **General:** The purpose of Part A of this Schedule 28 [*Project Approvals and URP Matters*] is to confirm the allocation of responsibility between the City and Project Co for identifying, obtaining and maintaining all third party approvals, consents, licences, permits, concession or any other authorization of any kind (a “**Project Approval**”) that may be required in connection with or in any way relating to the completion of the Project, including the performance by Project Co of the Project Work.

For clarity, this Part A does not apply to approvals that may be required from URP Companies. Part B deals with any approvals that may be required from the URP Companies in respect of the URP Work. Parts A and B will apply to any approvals that may be required from Governmental Authorities in relation to the URP Work, to the extent applicable to the work package or program in question.

2. Categories of Approvals:

2.1 **General:** This Part A of Schedule 28 [*Project Approvals and URP Matters*] covers Project Approvals required from: (a) Governmental Authorities (the “**Regulatory Approvals**”), including those that may be required from the City departments and offices other than City’s Representative or City LRT according to Applicable Law, City Regulatory Policy and City Policy requirements (the “**City Approvals**”); (b) Contractual Authorities (the “**Contractual Approvals**”); and (c) Other Third Parties (the “**Other Approvals**”). For greater certainty, “Regulatory Approvals” include Environmental Permits.

2.2 **City LRT:** This Schedule 28 [*Project Approvals and URP Matters*] is intended to only address approvals required from third parties, which includes City departments, officials or offices other than the City LRT (acting through the City’s Representative or permitted designate), who shall be treated as the counterparty to this Agreement and not a third party.

Accordingly, this Schedule 28 [*Project Approvals and URP Matters*] does not address approvals, consents, or other authorizations Project Co requires from the City’s Representative or designate, including City LRT, under various provisions of the Agreement as the counterparty to this Agreement. These Agreement-related approvals, consents or authorizations involving City’s Representative or City LRT, are set out in various parts of the Agreement, including without limitation, Schedule 4 [*Design and Construction Protocols*]; Schedule 10 [*Environmental Performance Requirements*], and Schedule 12 [*Public Communications and Public Engagement*].

3. **General Allocation of Responsibility:** Except for the specifically identified City Permits set out in Section 4 [*City Responsibilities*] below, Project Co shall be responsible for identifying, investigating, applying for, obtaining and maintaining in effect for all relevant periods during the Term all Project Approvals, including all Regulatory Approvals, all Contractual Approvals, all City Approvals and all Other Approvals. The listing or description of any approval, consent, licence, permit or other authorization in this Schedule 28 [*Project Approvals and URP Matters*] is for illustrative and general guidance purposes only and not intended to limit the scope of this Project Co responsibility under the Agreement for Project

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Approvals, including pursuant to Part B [*URP Matters*] of this Schedule 28 [*Project Approvals and URP Matters*].

4. **City Responsibilities:**

4.1 **EISA Approval:** The City is responsible for: **(a)** obtaining or confirming on the Effective Date that it has obtained the EISA Approval; **(b)** maintaining the EISA Approval in effect throughout the Term; and **(c)** complying with the EISA requirements that have been specifically allocated to the City to satisfy or comply with in accordance with Schedule 10 [*Environmental Performance Requirements*], if any.

4.2 **Road Plan Registrations:** The City is responsible for registering all necessary road plans with the Alberta Land Titles Office and on such basis and at such times as the City may in its discretion determine appropriate having regard to the best interests of the Project.

4.3 **Rezoning Applications:** As set out in Section 1.3.5 of Appendix 28A of this Schedule, the City has obtained a rezoning applicable to the Gerry Wright OMF Site in order to support the development, construction and operation of the Gerry Wright OMF.

4.4 **Access and Road Closures:** The City shall retain responsibility for obtaining necessary approvals for access and road closures pursuant to the *Highways Development and Protection Act* (Alberta) and the *Municipal Government Act* (Alberta). Appendix 5-3A [*Access and Road Closure Drawings*] of Schedule 5 [*D&C Performance Requirements*] outlines the access and road closure approvals obtained by the City prior to the Effective Date as well as access closure approvals which will not be obtained prior to the Effective Date.

For access closure approvals which will not be obtained prior to the Effective Date, Project Co shall confer, consult and cooperate with and support the City in making and managing the application for approval for access closures. In particular, and in addition to any requirements to provide notice as outlined in Appendix 12B [*Stakeholder Commitments*] of Schedule 12 [*Public Communications and Public Engagement*], Project Co shall provide the City with notice at least 6 months in advance of the date that Project Co requires that vehicular access to a Roadway be blocked or removed.

4.5 **Historical Resources Clearance Letters:** The City has obtained the necessary Clearance Letters for the Project pursuant to the *Historical Resources Act* (Alberta).

4.6 **City Permits:** The Project Approvals described in Sections 4.1 to 4.5 above (collectively the “**City Permits**”) are the only Project Approvals which the City is responsible for.

4.7 **City Information:** Use reasonable commercial efforts to provide Project Co with supplemental information in the possession and control of City’s Representative or City LRT in accordance with Section 6 [*Consultation, Cooperation and Coordination*] below in connection with the Project Approvals.

4.8 **Changes to City Permits:** The City shall retain and assume responsibility for the implications to Project Work, including Services of any changes, including any cancellation or revocation, that may occur in respect of the City Permits during the Term according to Section 13.6 [*Designated Changes in Laws, Policies, and Permits*] of the Agreement.

4.9 **Consultation and Coordination:** For the purposes of this Part A of this Schedule 28 City LRT shall use reasonable commercial efforts through the meetings of the Construction Period Joint Committee to confer, consult and coordinate with Project Co regarding the status of Project Approvals and, where reasonably necessary to attend to the delivery of any formal notice or other communication that may be required to be completed and delivered in the City's name in connection with any Regulatory Approval, Contractual Approval or Other Approval as prepared by and reasonably directed by Project Co in accordance with Section 6 [*Consultation, Cooperation and Coordination*] below.

For greater certainty, the supply of City information and the City's consultation and coordination obligations shall not apply to any City department, office, official representative, or employee other than the City's Representative or designate, including City LRT. The City shall not be obligated to:

- (a) exercise any other of its legal rights in order to avoid or eliminate the requirement to obtain any Project Approvals; or
- (b) automatically grant approvals for which it is the authorizing entity and Project Co acknowledges that all City departments, offices, representatives, and agencies will apply their usual procedures and criteria in considering applications from Project Co for these Project Approvals.

4.10 **Other City Responsibilities:** Except for the specific responsibilities or tasks expressly identified above in this Section 4 [*City Responsibilities*], the City shall have no other responsibilities, obligations or liabilities of any kind whatsoever under this Part A of Schedule 28 in relation to Project Approvals.

4.11 **City Access:** At the request of the City, Project Co shall use reasonable commercial efforts to execute such consents, authorizations and directions as may be necessary to permit any inspection of the progress or status of the Project Approvals or to enable the City or its authorized representatives to obtain access to files and records relating to the Project Approvals maintained by Governmental Authorities.

5. **Project Co Responsibilities:** As part of its general responsibility set out in Section 3 [*General Allocation of Responsibility*] above, Project Co shall have the following specific responsibilities:

5.1 **Project Approvals:** Project Co shall identify, investigate, assess, apply for, obtain, and maintain in effect for all relevant periods of time during the Term, the Project Approvals, including those Regulatory Approvals identified as being the responsibility of Project Co in Part 1 of the attached Appendix 28A [*Approvals and Authorizations*], but excepting the City Permits.

Whenever possible in accordance with Applicable Laws and the policies and practices of the Governmental Authorities, Project Co shall have the Regulatory Approvals issued in the name of Project Co, with the right or ability of Project Co to transfer the same to the City on termination or expiry of this Agreement or as may otherwise be required by the terms of this Agreement. If a Regulatory Approval must be applied for or issued in the name of the City, Project Co will still be responsible for this Regulatory Approval according to the protocol set out in Section 6 [*Consultation, Cooperation and Coordination*] of this Schedule 28 [*Project Approvals and URP Matters*].

5.2 **Contractual Approvals:** Project Co shall identify, investigate, assess, apply for, obtain, and maintain in effect for all relevant periods during the Term, the Contractual Approvals.

5.3 **Required Protocol:** Whenever possible in accordance with the terms and conditions of the applicable contracts and administrative practices of the counterparties under those contracts, Project Co shall have the Contractual Approval issued in the name of Project Co and the City, with the right of Project Co to transfer the Contractual Approval to the City on termination of the Agreement or as may otherwise be required by the terms of this Agreement.

If a Contractual Approval must be applied for or issued in the name of the City, Project Co shall still have responsibility for this Contractual Approval according to the protocol set out in Section 6 [*Consultation, Cooperation and Coordination*] of this Schedule 28 [*Project Approvals and URP Matters*].

5.4 **Status Reports:** As part of its normal course monthly reporting set out in Schedule 16 [*Payment Mechanism*], and as a regular agenda item for the Construction Period Joint Committee meetings or otherwise upon the request of the City, Project Co shall provide written reports to the City on the status of the preparation of, or its applications for, any or all of Project Approvals, including the Regulatory Approvals, City Approvals, Contractual Approvals and Other Approvals.

Project Co shall promptly notify the City of any notice or other communication received from a Governmental Authority or Contractual Authority regarding the refusal to issue, an assertion to revoke or cancel, or the assertion to impose material conditions or terms attaching thereto which may have implications to the City or to the Project, and following such notification provide the City an opportunity to confer with Project Co in respect of the development associated with the notification.

5.5 **Changes:** Subject only to Section 13.1 [*Relief Events Defined*] and Section 13.6 [*Designated Change in Laws, Policies and Permits*] of the Agreement, and except for the City Permits, Project Co shall assume the risk and responsibility of any change, modification, revocation or termination of all authorizations, permits, licences, or confirmations issued, granted or confirmed by any Person in relation to all Project Approvals, including any Regulatory Approval, Contractual Approval, City Approval or Other Approval occurring or arising during the Term.

5.6 **Public Communications:** To the extent that the application for or management of any Project Approval process requires Project Co to initiate, undertake or participate in any public communication, engagement interface or interaction of any kind, Project Co shall ensure that it applies and complies with the terms and requirements of Schedule 12 [*Public Communications and Public Engagement*].

6. **Consultation, Cooperation and Coordination:** Recognizing that: **(a)** certain information in relation to the Project Approvals that may be required by Project Co may be information that is in the possession of the City to support an application for issuance; **(b)** certain approvals are to be issued by City departments or officials; **(c)** certain applications or request for approvals may have to be prepared in the name of the City or submitted by the City; and **(d)** that the City may possess certain insights or experiences with certain approvals that may be useful to Project Co in the timely preparation and submission of the request for these approvals, the Parties shall, subject to the limitations, restrictions or

qualifications set out in this Part A of Schedule 28 [*Project Approvals and URP Matters*], including Sections 4.6, 4.8 and 6.4, of this Part A comply with the following:

6.1 **Regular Consultation:** Project Co and City shall work cooperatively together in the timely coordination and management of the preparation and submission of approval requests and related communications through: **(a)** the inclusion of Project Approvals as a regular agenda item for the Construction Period Joint Committee; **(b)** adherence by Project Co to the submission protocol requirements of Schedule 2 [*Submittal Review Procedure*] and Schedule 4 [*Design and Construction Protocols*] and the Schedule 10 [*Environmental Performance Requirements*], to the extent applicable to these approvals; and **(c)** each Party providing information, records and other material to the other, as otherwise may be reasonably required or contemplated by the Agreement in relation to these approvals.

6.2 **Meetings with Authorities:** Project Co shall keep the City informed of the planned timing for the submission of applications or requests for the Regulatory Approvals or Contractual Approvals and provide the City with a reasonable opportunity to:

- (a) provide input to Project Co in respect of the application, particularly in respect of possible conditions or terms that may be associated with the approval with implications to the City or the Project;
- (b) consider participating with Project Co in any meeting that may be requested by the Governmental Authority or Contractual Authority in respect of the application or request or any subsequent notification to modify, terminate or revoke;
- (c) consider having the application or request made by or led by the City in the interests of the City and the Project and with Project Co concurrence; and
- (d) consider, comment on and direct, in accordance with the protocols in Schedule 12 [*Public Communications and Public Engagement*] any public communications or engagement activities that may be associated with a Project Approval.

6.3 **Contractual Approvals:** Consistent with the foregoing approach to the management of Project Approvals:

- (a) certain protocols and practices may have been adopted or prescribed by contract in relation to the Contractual Approvals that will have to be taken into account and respected in connection with obtaining certain Contractual Approvals;
- (b) within 60 days from the Effective Date designated representatives from Project Co and the City shall meet in person or by conference call with each of the Third Parties for the purpose of confirming the expected protocol requirements and planned timing for exchanging information; responding to queries; for reviewing and commenting on developed plans; and for the issuance of any required approvals or confirmations as may be applicable to the agreement in place between the City and the third party;

- (c) Project Co and City shall at all relevant times diligently confer, cooperate and coordinate in respect of the foregoing dealings with the third party with a view to facilitating the timely issuance of the applicable Contractual Approval from the third party having regard to Project Co's Design and Construction Schedule; and
- (d) notwithstanding the foregoing, and for greater clarity, subject only to a Relief Event or Force Majeure Event, Project Co is responsible for taking the lead in overseeing and coordinating the foregoing activities and Project Co shall take the risk and responsibility of these Contractual Approvals not being obtained in a timely manner or at all, recognizing that if proper applications or requests for these approvals are prepared, submitted and managed in a diligent manner early in the Construction Schedule the approvals should be capable of being obtained within the reasonably expected time frames of Project Co.

6.4 **City Department Protocols:** Recognizing that all City departments and officials are to be treated as if they are arm's length from the City's Representative (and all designates) and City LRT under this Agreement, but also recognizing that the City Representatives will have certain insights or information in relation to the Project and the Regulatory Approvals that may be required from the City:

- (a) except for City Permits, Project Co shall have full responsibility for planning, preparing, submitting, managing and submitting all applications or requests for Regulatory Approvals from the City and according to normal course City policies; practices, requirements and guidelines, as are applicable to any infrastructure developer, contractor and operator dealing with the City in respect of any capital project;
- (b) within 60 days from the Effective Date, designated representatives from Project Co and the City shall meet to discuss Project Co's plan and schedule for obtaining such Regulatory Approvals from the City in order to confirm expected protocol requirements and to the extent applicable and considered helpful by Project Co to obtain relevant insights and required information from the City to obtain these approvals in a timely and efficient manner;
- (c) Project Co and City LRT shall at all relevant times diligently confer and exchange information in relation to the foregoing City approvals and Project Co's dealings with City departments and offices; and
- (d) notwithstanding the foregoing and subject only to applicable Relief Events or Force Majeure Events, Project Co shall assume full risk and responsibility of these Regulatory Approvals not being obtained in a timely manner or at all, recognizing that if proper applications or requests for these approvals are prepared, submitted and managed in a diligent manner early in the Construction Schedule, the approvals should be capable of being obtained within the reasonably expected time frames of Project Co.

6.5 **City Waivers:** Recognizing that certain of the Regulatory Approvals, Contractual Approvals and Other Approvals are routine in nature and/or solely within the control of Project Co with no role or purpose for City involvement or participation in the process, the City may in its sole discretion, waive all or certain of the protocol requirements of Project Co that are set out in Section 5 [*Project Co Responsibilities*] and Section 6 [*Consultation, Cooperation and Coordination*] of this Part A of Schedule 28 [*Project Approvals and URP Matters*].

APPENDIX 28A

Approvals and Authorizations (Illustrative Only – Not Exhaustive)

	Approval/Authorization/Permit	Responsibility
1.	Regulatory Approvals	
1.1	<i>Federal Regulatory</i>	
1.1.1	<i>Navigation Protection Act</i> <ul style="list-style-type: none">notification program/plan approvalissued by Transport Canada (TC)	Project Co
1.1.2	<i>Fisheries Act</i> <ul style="list-style-type: none">authorization/approval or review of expected impactsissued or determined by Department of Fisheries and Oceans (DFO)	Project Co
1.2	<i>Provincial Regulatory</i>	
1.2.1	<i>Alberta Environmental Protection and Enhancement Act</i> <ul style="list-style-type: none">application for registration to construct and operate a municipal storm drainage systemissued by Alberta Environment and Parks (AEP)	Project Co
1.2.2	<i>Alberta Fisheries Act</i> <ul style="list-style-type: none">Fisheries Research Licenceissued by AEP	Project Co
1.2.3	<i>Alberta Wildlife Act</i> <ul style="list-style-type: none">Research PermitCollection Licenceissued by AEP	Project Co
1.2.4	<i>Alberta Water Act</i> <ul style="list-style-type: none">Water Act approvals (potentially multiple)	Project Co

	<ul style="list-style-type: none"> • Code of Practice Notifications (potentially multiple) • Temporary Diversion Licence • issued by AEP 	
1.2.5	Alberta Public Lands Act	Project Co
	<ul style="list-style-type: none"> • Temporary Field Authorizations (potentially multiple) • Cancel or amend existing Cloverdale Footbridge Department Licence of Occupation • Department Licence of Occupation (potentially multiple) • issued by AEP 	
1.2.6	Alberta Historical Resources Act	City
	<ul style="list-style-type: none"> • Clearance Letters • issued by Alberta Culture 	
1.2.7	Land Titles Act – Road Plans	City
	<ul style="list-style-type: none"> • registration of road plans for municipal road rights of way • Davies Site and other locations 	
1.3	Municipal Regulatory	
1.3.1	Environmental Assessment and Review (Bylaw #7188)	
	<ul style="list-style-type: none"> • EISA Approval • work described in Section 1.4(1) of Schedule 10 requires a request for review under Bylaw 7188 – approval issued by Sustainable Development, Urban Planning and Environment Branch 	City Project Co
1.3.2	Natural Area Assessment (Policy C531)	
	<ul style="list-style-type: none"> • approval of project Lands within Natural Area SE 402, and associated mitigation measures for planned activities, these have been incorporated into Project Agreement • work described in Section 1.4(2) of Schedule 10 requires review under Policy C531 – approval issued by Sustainable Development, Urban Planning and Environment Branch 	City Project Co

1.3.3	Community Standards (Bylaw #14600)	Project Co
	<ul style="list-style-type: none"> • exemptions to working hours and noise levels • issued by Community Standards Branch 	
1.3.4	Drainage Bylaw (Bylaw #16200)	Project Co
	<ul style="list-style-type: none"> • various approvals • issued by Drainage Services Branch 	
1.3.5	Rezoning Approval (Bylaw #12800)	City
	<ul style="list-style-type: none"> • for Gerry Wright OMF • issued by Sustainable Development, Current Planning Branch • approved by City Council 	
1.3.6	Development Permits and Approvals (Bylaw #12800)	Project Co
	<ul style="list-style-type: none"> • for Gerry Wright OMF and Churchill Connector • various approvals or permits • issued by Sustainable Development, Current Planning Branch 	
1.3.7	Building Permits (Safety Codes Act, RSA 2000, c. S-1 and regs)	Project Co
	<ul style="list-style-type: none"> • various permits/approvals (including <i>hoarding permits, demolition and excavation permits</i>) • issued by Sustainable Development, Current Planning Branch 	
1.3.8	Electrical Permits (Safety Codes Act, RSA 2000, c. S-1 and regs	Project Co
	<ul style="list-style-type: none"> • various permits/approvals • issued by Sustainable Development, Current Planning Branch 	
1.3.9	Traffic Management Approvals	
	<p>(a) OSCAM</p> <p>-on street construction and maintenance permit</p> <p>-Bylaw #5590 – Traffic Bylaw</p>	Project Co

(b) Road/Access Closures

City

-individual Bylaws for each Road or Access closure pursuant to *Highways Development and Protection Act* (Alberta) and *Municipal Government Act* (Alberta)

(c) Roadway Signage

City

-Bylaw #5590 – Traffic Bylaw

1.3.10 ***Waste and Debris Disposal***

- Bylaw # 13777

Project Co