

APPENDIX B – AGREEMENT

CCDC 2 – 2008

STIPULATED PRICE CONTRACT

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<https://www.ccdc.org/documents/>

FORM OF AGREEMENT ADDENDUM

The following contractual provisions shall be deemed to be incorporated and read into and apply to the Contract and Contract Documents effective **January 1, 2026** or such other date(s) as may be applicable and as prescribed under the transition provisions contained in Bill 216 *Building Ontario For You Act* (Budget Measures), 2024, Schedule 4 and Bill 60 *Fighting Delays, Building Faster Act*, 2025, Schedule 2.

Where applicable, the term “City” herein shall have the same meaning as “Owner” or “Client” in the Contract and Contract Documents.

Where applicable, the term “Contractor” herein shall have the same meaning as “Construction Manager”, “Architect” or “Consultant” in the Contract and Contract Documents.

1.0 PROPER INVOICE

1.1 The definitions of “**Draft Proper Invoice**” and “**Proper Invoice**” in the Contract and Contract Documents are partially amended by:

- .1 modifying the applicable subparagraphs in the definitions by restating them as follows:

“the date of the invoice and the period, milestone or other contractual payment entitlement to which the invoice relates”;

“information identifying the Contract or other authorization under which the services or materials were supplied such as a contract number, contract line item number or purchase order number”;

“the name, title, mailing address and telephone number of the person to whom payment is to be sent, or if payment is to be sent to an office or department, its name, mailing address and telephone number”;

- .2 adding the following additional subparagraph at the end of the definitions:

“any other information that is necessary for the proper functioning of the City’s accounts payable system that the City reasonably requests from time to time”.

2.0 REVIEW OF PROPER INVOICE WITHIN 7 DAYS OF RECEIPT

- 2.1 The following paragraph shall be added and read into the Contract and Contract Documents where appropriate and applicable:

The City shall provide the Contractor no later than seven (7) calendar days after receiving an invoice which does not comply with the requirements of a Proper Invoice written notification of any deficiency and the matters required to address the deficiency in the invoice to render the invoice a Proper Invoice.

3.0 ANNUAL RELEASE OF HOLDBACK

- 3.1 The following definitions shall be added and read into the Contract and Contract Documents where appropriate and applicable:

“Annual Anniversary Date” means each annual anniversary of the Contract Date;

“Contract Date” means the date the Contract was entered into as shown at the top of the Contract, or where there is no date at the top of the Contract, then the date of award as set out on the City’s Purchase Order;

- 3.2 For Contracts with a Contract Date on or after January 1, 2026, the following paragraph shall be added and read into the Contract and Contract Documents where appropriate and applicable:

“The City following each Annual Anniversary Date shall:

- .1 publish no later than 14 calendar days after the Annual Anniversary Date a notice of annual release of holdback in the prescribed form specifying the amount of the holdback that the City intends to release and pay to the Contractor and the intended payment date; and
- .2 subject to the requirement immediately below, make payment to the Contractor of the accrued holdback in respect of services or materials supplied by the Contractor during the year immediately preceding the Annual Anniversary Date at least 60 calendar days but not later than 74 calendar days after the date on which the notice of annual release of holdback was published;

provided however that the City shall not be required to pay the accrued holdback to the Contractor where a lien has been preserved or perfected in the respect of the Contract in accordance with the *Construction Act*, as amended, and the lien

has not been satisfied or discharged or an order declaring that the lien has expired or has been vacated has not been made by a court of competent jurisdiction.”

- 3.3 For Contracts with a Contract Date before January 1, 2026, the following paragraph shall be added and read into the Contract and Contract Documents where appropriate and applicable:

“Commencing on the second anniversary of the Contract Date that follows January 1, 2026, the City following each Annual Anniversary Date shall:

- .1 publish no later than 14 calendar days after the Annual Anniversary Date a notice of annual release of holdback in the prescribed form specifying the amount of the holdback that the City intends to release and pay to the Contractor and the intended payment date; and
- .2 subject to the requirement immediately below, make payment to the Contractor of the accrued holdback in respect of services or materials supplied by the Contractor during the year immediately preceding the Annual Anniversary Date at least 60 calendar days but not later than 74 calendar days after the date on which the notice of annual release of holdback was published;

provided however that the City shall not be required to pay the accrued holdback to the Contractor where a lien has been preserved or perfected in the respect of the Contract in accordance with the *Construction Act*, as amended, and the lien has not been satisfied or discharged or an order declaring that the lien has expired or has been vacated has not been made by a court of competent jurisdiction.”

4.0 DISPUTE RESOLUTION AND ADJUDICATION

- 4.1 The applicable provisions of the Contract and Contract Documents governing or relating to dispute resolution, mediation, arbitration and adjudication shall be deemed to be replaced with the following provisions as required to conform to and with the statutory amendments to the adjudication process under the *Construction Act*, as amended, and all regulations thereunder, as provided under Bill 216 *Building Ontario For You Act* (Budget Measures), 2024, Schedule 4 and Bill 60 *Fighting Delays, Building Faster Act*, 2025, Schedule 2 (collectively the *Construction Act*, as amended):

1.0 “Subject to the provisions of the *Construction Act*, as amended, the Contractor shall complete and achieve total performance of all work and/or services in accordance with the Contract and Contract Documents and directions of the City, notwithstanding any dispute,

claim, mediation, arbitration, adjudication, or any legal action initiated by either or both of the parties”.

2.0 “The parties shall make all reasonable efforts to resolve disputes by amicable negotiation and agree to provide, without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations”.

3.0 “In the event the dispute is not resolved after the negotiations referred to in paragraph 2.0 above, the parties may but are not required to refer the dispute to a third party for mediation, being a mediator mutually agreed upon by the parties, to assist the parties in concluding an agreement on the dispute”.

4.0 “In the event that the dispute is not resolved after the negotiations referred to in paragraph 2.0 above, the parties may but are not required to refer the dispute to binding arbitration, being an arbitrator mutually agreed upon by the parties. If the parties agree to refer the dispute to arbitration, the decision of the arbitrator shall be final and binding upon the parties and the arbitration shall be conducted in the jurisdiction of the place of the work and services under the Contract and Contract Documents. The rules of arbitration as provided in CCDC 40 shall govern the arbitration process, unless the parties mutually agree that a different set of rules are to govern”.

5.0 “Subject to the notice requirements in paragraph 6.0 below, if either party wishes to refer a dispute to adjudication in accordance with Part II.1 of the *Construction Act*, as amended, the parties to the adjudication will comply at all times with the scheme and process set out at Part II.1 of the *Construction Act*, as amended, and applicable regulations”.

6.0 “With the exception of disputes that arise as a result of a notice of non-payment given by the City under the *Construction Act*, as amended, it is a pre-condition to either party prior to commencing an adjudication that at least 30 calendar days prior to commencing an adjudication, the party shall have given notice in writing of a dispute, which notice shall set out the nature, and a brief description, of the dispute. The notice of writing of a dispute is in addition to any other notice provision contained within the Contract and Contract Documents”.

7.0 “The party commencing an adjudication shall use the Ontario Dispute Adjudication for Construction Contracts online portal to commence and conduct its adjudication, and shall identify the City’s email address for service as adjudications@mississauga.ca. A written

copy of the Notice of Adjudication given to the City shall also be delivered in person to the City Clerk's Office".

8.0 "The party commencing adjudication, shall also, at the same time as commencing the adjudication, provide the names of three (3) adjudicators that the referring party nominates to adjudicate the dispute. Where the Contractor is the party commencing adjudication, an email from the Contractor to the City providing the names of the three (3) adjudicators nominated by the Contractor shall be sent to adjudications@mississauga.ca".

9.0 "The responding party shall give notice in writing to the referring party stating either that: (i) the responding party accepts one of the referring party's nominees; or (ii) none of the referring party's nominees are acceptable. Absent agreement, the parties shall attempt to negotiate in good faith the selection of a mutually acceptable adjudicator, failing which, the parties will rely on the Authorized Nominating Authority to appoint a registry adjudicator".

5.0 OTHER CONSTRUCTION ACT AMENDMENTS

5.1 Those provisions of the Contract and Contract Documents which provide for:

- .1 the payment of accrued holdbacks on an annual basis where certain prescribed conditions are satisfied, in the manner as contemplated in Section 26.1 of the *Construction Act*, as amended;
- .2 the payment of the accrued holdbacks on the completion of phases of an improvement where certain prescribed conditions are satisfied in the manner as contemplated in Section 26.2 of the *Construction Act*, as amended; and,
- .3 the obligation of the City to publish and provide notice of non-payment of holdback as contemplated in Section 27.1 of the *Construction Act*, as amended;

shall be deemed to be deleted from the Contract and Contract Documents consistent with the repeal of Sections 26.1, 26.2 and 27.1 of the *Construction Act*, as amended, effective January 1, 2026 as provided under Bill 216 *Building Ontario For You Act* (Budget Measures), 2024, Schedule 4 and Bill 60 *Fighting Delays, Building Faster Act*, 2025, Schedule 2.