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## Article 8. Utilities

### 8.1 General

#### 8.1.1 Scope

- (a) This Article 8 [Utilities] specifies the requirements and criteria for the Design and Construction of Utility Work.
- (b) Without limiting any other provision of this Agreement, the Primary Contractor shall carry out the Design and Construction of all Utility Work in accordance with this Article 8 [Utilities].
- (c) The Province has identified certain Utility Suppliers that operate Utilities within or in the vicinity of the Site, which Utility Suppliers are listed in Attachment A [List of Utility Suppliers] to this Article 8.
- (d) The Province may not have identified all Utilities that the Primary Contractor may encounter as part of the Work.
- (e) The Primary Contractor shall undertake and be responsible for:
  - (i) the coordination of the Work with any work on Utilities undertaken by Utility Suppliers, including any such work contemplated in Article 6 [Work by Others], Part 1 of Schedule 4; and
  - (ii) the Utility Work, including new Utilities required in connection with or as part of the Work, as identified by and agreed to with the Utility Supplier.

#### 8.1.2 Codes and Standards

- (a) Without limiting or derogating from any other requirement of this Agreement, the Primary Contractor shall ensure that all Utility Work complies with the requirements of:
  - (i) all Laws, including any regulations, specific to such Utility Work;
  - (ii) the Table of Commitments;
  - (iii) any relevant Utility Agreement;
  - (iv) in the case of Utilities owned by a Municipality, the relevant Municipality's:
    - A. design guidelines (whether set out in a municipal by-law or in another document)
    - B. MMCD supplemental specifications, if any; and
    - C. MMCD specifications and standard detail drawings; and
  - (v) the BCBC.

- (b) In addition to the applicable requirements of Article 2.2.4.6 [Final Design Submissions for Non-Systems Components] of Part 3, the Primary Contractor shall ensure that all materials incorporated into the Final Design of Utility Work have been approved by the relevant Utility Supplier.
- (c) The Primary Contractor shall ensure that current technical standards, as applicable, are obtained from the relevant Utility Supplier and that the applicable details and materials are incorporated in the Final Design of Utility Work.
- (d) In the event that the relevant Utility Supplier does not provide technical standards in relation to its Utilities, the Utility Work which relates to such Utilities shall be carried out in accordance with the requirements set out in Article 8.1.2(a) of this Part 2 and in order of precedence decreasing from Article 8.1.2(a)(i) through 8.1.2(a)(v).

### 8.1.3 Design and Construction Principles

- (a) The Design and Construction of the Utility Work shall be undertaken by the Primary Contractor, at a minimum, on a Like-for-Like basis, unless the relevant Utility Supplier and the Primary Contractor have agreed to some other standard.
- (b) If any component of the Project Infrastructure that is to be constructed, installed, altered, upgraded and/or augmented by the carrying out of the Work requires a connection to an existing Utility, the Primary Contractor shall undertake any studies which may be required by the applicable Utility Supplier to verify that the existing Utility has sufficient capacity to handle the additional demand placed on it by the Design, the Construction or the Operational Evergreen Line in accordance with this Agreement. If the existing Utility has inadequate capacity to handle the requirements imposed on it by the Design, the Construction or the Operational Evergreen Line in accordance with this Agreement, the Primary Contractor shall undertake, at its sole risk, cost and expense, any upgrades which may be required to accommodate the additional service requirements imposed by the Design, the Construction and/or the Operational Evergreen Line.
- (c) The Design and Construction of all Utility Work shall be subject to Part 3 [Certification and Completion] of Schedule 4.
- (d) Corrosion protection investigations and measures shall be taken as may be required by the relevant Utility Supplier and Good Industry Practice.

### 8.1.4 Utility Investigations

- (a) The Province has undertaken a program of investigations and enquiries with the Utility Suppliers identified in Attachment A [List of Utility Suppliers] to this Article 8 to identify existing Utilities within or in the vicinity of the Site and to identify the relationship of these Utilities to the Work. This program included the following:

- (i) contacting such Utility Suppliers and requesting as-built drawings and other information to identify locations of Utilities within or in the vicinity of the Site;
  - (ii) creating utility base mapping drawings to indicate where Utilities are required;
  - (iii) meeting with certain Utility Suppliers to review utility base mapping drawings and gather further information;
  - (iv) updating utility base mapping drawings;
  - (v) collecting available Utility Supplier drawings;
  - (vi) identifying potential conflicts of the identified Utilities with the Work;
  - (vii) undertaking field investigations to locate Utilities; and
  - (viii) working with the Utility Suppliers to develop Utility Information Sheets as described in Article 8.11 [Utility Information Sheets] of this Part 2.
- (b) Any information which the Province has made available to the Primary Contractor pursuant to the program outlined in Article 8.1.4(a) of this Part 2 is Disclosed Data. Without limiting or derogating from any other provision of this Agreement with regard to Disclosed Data but without prejudice to the Primary Contractor's rights under Section 9.10 [Sharing of Increased Capital Expenditures for Undisclosed Utilities] or, in the event of an occurrence of a Relief Event referred to in paragraph (j) of the definition thereof in Section 1.1 [Definitions] of Schedule 1, under Part 9 [Supervening Events], the Primary Contractor shall be responsible for undertaking its own investigations to confirm all Utilities, including their locations in the field, and to identify all conflicts with the Work, as well as the accuracy, completeness and sufficiency for the Primary Contractor's purposes of any information provided by the Province, including the information referred to in Article 8.1.4(a) of this Part 2.

## 8.2 Utility Work

### 8.2.1 Work by Utility Suppliers

- (a) The Primary Contractor acknowledges that, during Construction, Utility Suppliers shall continue to maintain and operate their respective Utilities within or in the vicinity of the Site and may require, and the Primary Contractor, acting reasonably, shall, during the Access Period in respect of any part of the Site, permit access to such part of the Site to facilitate such operations and to undertake maintenance and repair of their Utilities.
- (b) The Primary Contractor shall act reasonably with regards to any request by a Utility Supplier to construct or install any new Utilities within the Site or to make modifications, replacements or repairs to their Utilities. The Primary Contractor shall coordinate the scheduling and performance of the Work so as to accommodate the objectives of each Utility Supplier to operate, maintain, repair and replace its Utilities as required by the Utility Supplier, acting reasonably.

- (c) Without derogating from or limiting any other obligation of the Primary Contractor contained in this Agreement, the Primary Contractor shall make provisions for, coordinate and not unreasonably hinder installation, maintenance, repair or replacement of Utilities by any Utility Supplier or its contractors.
- (d) During the Access Period in respect of any part of the Site, the Primary Contractor, acting reasonably, shall permit any inspector designated by a Utility Supplier to inspect its Utilities within such part of the Site and any Utility Work which is performed with respect thereto, at such time or times as such Utility Supplier may require and as coordinated with the Primary Contractor. Where the performance of the Work necessitates such inspections, the Primary Contractor shall pay to such Utility Supplier such fees and charges as such Utility Supplier may charge as a result of such Work, based on the customary rates charged by it from time to time for such inspections, in accordance with the usual payment terms of such Utility Supplier.
- (e) If a Utility Supplier or its contractors perform any work with regard to the installation, construction, removal, alteration, relocation, abandonment, protection or tie-in of its respective Utilities as a result of the Work, the Primary Contractor shall pay to such Utility Supplier such fees and charges as such Utility Supplier may charge, based on the customary rates charged by it from time to time for such work, in accordance with the usual payment terms of such Utility Supplier.
- (f) The Primary Contractor shall notify any Utility Supplier which requires access to the Site of the Health and Safety Program for the Work for the Site and shall require the Utility Supplier and any of its employees and contractors which enter upon the Site to comply with the Health and Safety Program.

## 8.2.2 Utility Work by the Province

- (a) The Province intends to undertake or cause to be undertaken certain work on Utilities in advance of and during the performance of the Work as contemplated by Article 6 [Work by Others], Part 1 of Schedule 4.
- (b) Without derogating from or limiting any other obligation of the Primary Contractor contained in this Agreement, the Primary Contractor shall make provisions for, coordinate, and not unreasonably hinder the work on Utilities by others as contemplated by Article 6 [Work by Others], Part 1 of Schedule 4.

## 8.2.3 Utility Work by the Primary Contractor

### 8.2.3.1 General

- (a) Except as expressly provided otherwise in this Agreement, as between the Province and the Primary Contractor, all Utility Work shall be carried out by or under the supervision of and at the risk, cost and expense, including schedule risk, of the Primary Contractor, whether or not, as between the Primary Contractor and a Utility Supplier, such Utility Work is to be performed by or

under the supervision of or at the risk, cost and expense of a Utility Supplier and, without limiting the generality of the foregoing, the Primary Contractor shall be responsible for:

- (i) obtaining from the relevant Utility Supplier, any Relevant Authority and any other Interested Parties all rights of entry or access to the relevant Utilities that are necessary or expedient in connection with the Utility Work;
- (ii) identifying all requirements in respect of such Utility Work, including determining with the Utility Supplier the most effective strategies for undertaking the Utility Work;
- (iii) liaising, arranging and co-coordinating with relevant Utility Suppliers, Relevant Authorities and other Interested Parties in connection with the Utility Work, including obtaining any necessary consents or approvals in connection therewith, providing access for inspections and providing information and plans during and following completion of the Utility Work;
- (iv) ensuring that all necessary Permits required by applicable Laws in connection with the Utility Work are obtained, including preparing all required documentation in connection therewith;
- (v) observing and complying with any instructions or directions relating to the Utility Work that may be issued by the Utility Supplier or any Relevant Authority which has jurisdiction over the Utility Work;
- (vi) with the exception of Utilities of a Municipality or the GVRD, securing or causing to be secured the entry into or execution of all relevant construction agreements and other agreements required in connection with the Utility Work;
- (vii) performing any warranty or corrective work required in respect of Utility Work;
- (viii) ensuring that any Utility Work to be performed by a Utility Supplier is performed so as not to impair or delay performance by the Primary Contractor of any other element of the Work;
- (ix) giving written notice as required by the relevant Utility Supplier when any Work or Utility Work is to be carried out, before commencing such Work or Utility Work, and when it has been completed, calling for inspections and, where applicable, tie-ins;
- (x) ensuring that there is no disruption of any existing Utility caused by the Work unless approved in writing by the relevant Utility Supplier, and any such permitted disruption shall be subject to any terms or conditions imposed by such Utility Supplier; and
- (xi) identifying, designing, coordinating and constructing any upgrades to existing Utilities which may be required to accommodate the additional service requirements imposed by the Design, the Construction and/or the Operational Evergreen Line.

### 8.2.3.2 Tie-Ins and Utility Crossings

- (a) Unless expressly approved in writing by the applicable Utility Supplier, the Primary Contractor shall not undertake any tie-ins to any operational water mains, and any such approved tie-ins shall be subject to any terms or conditions imposed by such Utility Supplier.
- (b) The Primary Contractor shall not install any new underground Utility crossings of the Guideway where the Guideway is at-grade, without the prior written approval of the Province, in its discretion.
- (c) New or relocated crossings of any Utility in relation to the at-grade Guideway shall be as perpendicular to the Guideway as reasonably possible.
- (d) Where a Utility crosses the Guideway where the Guideway is at-grade, such Utility shall be enclosed in a straight casing pipe for its length and shall be contained within the Permanent Project Lands.
- (e) Casing pipes shall:
  - (i) be designed to accommodate all loads and settlements imposed by both the at-grade Guideway and the trains of the Operational Evergreen Line; and
  - (ii) have a design life of 100 years.
- (f) If the Province approves any new underground Utility crossing of the Guideway at-grade, the crossing shall be undertaken in accordance with the terms of such approval and subject to the requirements of the relevant Utility Supplier and all Relevant Authorities regarding protection of the Utility and minimization of adverse impacts on the future maintenance and operations of the Utility.
- (g) Where an existing Utility is relocated, such relocation shall be undertaken:
  - (i) on a Like-for-Like basis; and
  - (ii) so as to ensure that any future maintenance of such Utility can be undertaken without any impact on the safety or operation of the Evergreen Line.
- (h) Where the applicable Utility Supplier does not require the relocation of any existing underground Utility crossing of the Guideway at-grade, the Primary Contractor shall be responsible for providing protection of such Utility as set out in Article 8.6 [Protection of Utilities] of this Part 2.

### 8.2.3.3 Utility Trenches

- (a) The Primary Contractor shall, as part of the Work, repair all utility trenches resulting from the Utility Work in accordance with the requirements set out in the MMCD.
- (b) Where the Primary Contractor's roadway Work includes full depth placement of asphalt pavement over the trench or a cold milling of existing asphalt with an asphalt overlay over the trench, the depth of asphalt at the trench shall be a

minimum of 150mm. The upper 50mm of the asphalt at the trench surface shall be considered temporary with the final asphalt lift to be placed by the Primary Contractor in accordance with Article 8.2.3.3(c) of this Part 2.

- (c) Except where utility trenches are located within roadways where the Primary Contractor is required, following the trench work, to place new asphalt pavement as identified in the Permanent Roadworks Drawings, the Primary Contractor shall comply with the following to prepare all utility trenches before providing the final asphalt lift of nominal 50mm thickness:
  - (i) where a utility trench is parallel to the lane lines, the Primary Contractor shall mill the existing roadway and shall provide an asphalt overlay from lane edge-to-lane edge on either side of the trench for the full length of trench from where the trench enters and exits the road;
  - (ii) where a utility trench is other than parallel to the lane lines, the Primary Contractor shall restore all trenches in compliance with the MMCD;
  - (iii) MMCD Section 02223, 3.6.7.1 shall not apply; and
  - (iv) the final asphalt shall not be placed sooner than 30 days after the placement of the temporary asphalt.

#### 8.2.4 Service Connections

- (a) As part of the Utility Work, the Primary Contractor shall be responsible for all risk, cost and expense, arising from:
  - (i) the relocation of any Utility Service Connections in conflict with the Work; and
  - (ii) the provision of all new service connections required to the Province Infrastructure that is required to be constructed, installed, altered, upgraded and/or augmented by the carrying out of the Work,whether such work is undertaken by the Primary Contractor or by the applicable Utility Supplier subject to the coordination of the Primary Contractor.
- (b) The Primary Contractor shall be responsible for undertaking its own investigations to confirm all Utility Service Connections, including their locations in the field, and to identify all conflicts with the Work.
- (c) The Primary Contractor shall ensure that all new service connections provided as part of the Utility Work are installed underground.

#### 8.3 Regulated Utilities

- (a) This Article 8.3 [Regulated Utilities] pertains only to Utility Work for Regulated Utilities.
- (b) All Utility Work in respect of Regulated Utilities shall be undertaken by the relevant Utility Supplier unless such Utility Supplier agrees that the Primary Contractor is to undertake such Utility Work.



- (c) In the event that the Primary Contractor wishes to relocate or undertake modifications (other than protective work) to a transmission Regulated Utility to accommodate the Work, no such relocation or modification, as the case may be, shall be undertaken without the prior written approval of the Province, in its discretion, and any such relocation or modification work shall be undertaken only in accordance with the terms of such approval.
- (d) Unless otherwise agreed in writing by the Province, in its discretion, the Primary Contractor shall ensure that the Design and Construction of the Work, and in particular, the Design and Construction of the Guideway and all components thereof, shall be undertaken so as accommodate the following Utilities and such Utilities shall not be relocated:
- (i) the BC Hydro 230/500kV transmission lines on Aberdeen Avenue located at approximately Station 522+550;
  - (ii) the Kinder Morgan (KMCI) crude oil/petroleum products pipeline on Cottonwood Avenue located at approximately Station 515+740;
  - (iii) the Fortis BC (formerly Terasen Gas) 508mm gas main crossing Aberdeen Avenue located at approximately Station 522+530;
  - (iv) the Fortis BC (formerly Terasen Gas) 508mm gas main at Como Lake Avenue located at approximately Station 516+320;
  - (v) the BC Hydro 400kV transmission lines at Barnet Highway crossing located at approximately Station 518+780;
  - (vi) the BC Hydro 230kV underground line located along Como Lake Avenue at approximately Station 516+320; and
  - (vii) any Regulated Utility which has been or will be relocated as part of the Advance Work.
- (e) The anticipated clearance requirements to BC Hydro's overhead lines, as provided by BC Hydro, have been provided as Disclosed Data. The Primary Contractor shall be responsible for establishing with BC Hydro final clearance and induction mitigation requirements in respect of BC Hydro's overhead lines for both the Design and Construction of the Guideway and the VSF, including clearance for all Vehicle operations and service and maintenance vehicle operations. It is expected that BC Hydro will require the Primary Contractor to undertake an induction study in respect of the Guideway and VSF crossings by the 250/500kV overhead lines in the vicinity of Station 522+550. BC Hydro may also require additional studies of other high voltage line crossings that are in proximity to the Guideway. Any such studies shall be undertaken by the Primary Contractor at its risk, cost and expense.

## 8.4 Utilities owned by a Municipality

- (a) In addition to the requirements set out elsewhere in this Article 8 [Utilities] and in Article 3 [Municipal Requirements], Part 1 of Schedule 4, the Primary Contractor shall be responsible for undertaking all design and construction

reviews, scheduling and inspections with the relevant Municipality for any Utility Work in respect of any Utility which is owned by such Municipality.

- (b) Subject to the Primary Contractor meeting the handover requirements of a Municipality in respect of a Utility owned by the Municipality in accordance with Article 8.12 [Utilities Handover] of this Part 2, the Primary Contractor shall not be responsible for the maintenance of such Utility.
- (c) In the case of an emergency in respect of a Utility owned by a Municipality other than a water Utility owned by a Municipality, the Primary Contractor shall be authorized to take such action as it considers necessary and appropriate to address such emergency. In the event that the Primary Contractor takes any such action, the Primary Contractor shall, as soon as reasonably practicable, and in any event no later than two Business Days following the occurrence of such emergency, deliver a notice to the Province and the applicable Municipality confirming the nature of the emergency and details of the actions taken by the Primary Contractor in connection therewith.
- (d) In addition to the requirements set out in Article 8.2.4 [Service Connections] of this Part 2, the Primary Contractor shall, in advance of any permanent interconnections for a Utility owned by a Municipality to any Province Infrastructure that is required to be constructed, installed, altered, upgraded and/or augmented by the carrying out of the Work, provide the relevant Municipality with the necessary documentation from a Professional Engineer that confirms code compliance of such Utility to the relevant design and construction codes and standards of the relevant Municipality.
- (e) Although the Primary Contractor is not required to apply and obtain permits for any work on a Utility owned by a Municipality as set out in Article 3.2 [Permits and Fees], Part 1 of Schedule 4, the Primary Contractor shall:
  - (i) provide design documentation that is acceptable to the relevant Municipality for the Municipality's approval in respect of any work to be undertaken by the Primary Contractor on or in respect a such Utility; and
  - (ii) submit to the Province's Representative for review, acting reasonably, in accordance with the Review Procedure, such design documentation as is approved in writing by the relevant Municipality in respect of any work to be undertaken by the Primary Contractor on or in respect of such Utility.
- (f) The Primary Contractor shall be responsible for making suitable arrangements with the relevant Municipality for any temporary use a Utility owned by a Municipality during construction activities.

## 8.5 Coordination

- (a) The Primary Contractor shall establish, to the satisfaction of each Utility Supplier, properly coordinated procedures to ensure that:

- (i) all existing Utilities which may be affected by the Work and all new Utility Work are identified; and
  - (ii) appropriate measures are undertaken to accommodate any potential impacts which the Work may have on such Utilities and Utility Work.
- (b) The procedures required of the Primary Contractor under Article 8.5(a) of this Part 2 shall incorporate, as a minimum, the following steps:
- (i) confirmation of existing utility locations by means of site investigations and, where required, by detailed survey;
  - (ii) notification of proposed Utility Work to the relevant Utility Supplier, Relevant Authorities and other Interested Parties;
  - (iii) preparation of preliminary utility base plans, drawings, sketches, profiles, specifications and other documents as required by the relevant Utility Supplier, Relevant Authorities and other Interested Parties to facilitate a review of the proposed Utility Work, and the provision of revisions which may be required as a result of the review;
  - (iv) timing and coordination of delivery, review and approval of plans, drawings, sketches, profiles, specifications and other documents;
  - (v) timing and coordination of inspections and sign offs by the relevant Utility Supplier and Relevant Authorities;
  - (vi) preparation of final and issued-for-construction plans, profiles, specifications and other documents as required by the relevant Utility Supplier, Relevant Authorities and other Interested Parties to facilitate approvals of the proposed Utility Work; and
  - (vii) preparation of as-constructed plans and profiles, in accordance with the requirements of the Utility Supplier or the Relevant Authority for design and construction records.
- (c) The Primary Contractor shall notify the relevant Utility Supplier and all Relevant Authorities and other Interested Parties, in accordance with the notification requirements of the relevant Utility and all Relevant Authorities and other Interested Parties, if the Primary Contractor intends to undertake Work which is within such proximity to any Utilities that such Utilities may be impacted by such Work.

## 8.6 Access to and Protection, Abandonment and Removal of Utilities

- (a) The Primary Contractor shall ensure that, except as may otherwise be agreed in writing by the relevant Utility Supplier in its discretion, all existing Utilities within the Site (including Utilities within any excavation) shall remain in service and be protected and preserved by the Primary Contractor during the performance of the Work.

- (b) Where the applicable Utility Supplier does not require the relocation of an existing underground Utility crossing of the Guideway at-grade, the Primary Contractor shall be responsible for:
  - (i) providing access so as to ensure that any future maintenance of such Utility can be undertaken without any impact on the safety or operation of the Evergreen Line; and/or
  - (ii) permanent protection of such Utility,on such terms and conditions as may be agreed by the relevant Utility Supplier and all Relevant Authorities.
- (c) If a Utility Supplier determines that any of its Utilities is no longer required, such works may be abandoned or removed, on such terms and conditions as may be agreed by the Primary Contractor with the relevant Utility Supplier and all Relevant Authorities.
- (d) For an existing or relocated underground Utility crossing of the elevated Guideway, the Primary Contractor shall be responsible for:
  - (i) providing access to and/or clearance about such Utility so as to ensure that any future maintenance of such Utility can be undertaken by the Utility Supplier in a manner similar to how maintenance of such utility was undertaken before the Guideway was in place; or
  - (ii) where such access and/or clearance cannot be provided, permanent protection of such Utility by casing, on such terms and conditions as may be agreed by the relevant Utility Supplier and all Relevant Authorities.

## 8.7 Responsibility for Utility Costs

- (a) The Primary Contractor shall:
  - (i) be responsible for all costs and expenses arising from or in connection with the Utility Work, save to the extent expressly otherwise provided in Article 8.10 [Province Assistance with Utility Matters] of this Part 2 and Section 9.10 [Sharing of Increased Capital Expenditures for Undisclosed Utilities]; and
  - (ii) contract directly with the relevant Utility Suppliers for the provision of all electricity, gas, water, sewer, telephone and communications services and other Utilities and services supplied to the Site and/or used or consumed in the performance of the Work and the Primary Contractor shall pay for all costs and expenses of such Utilities and services.
- (b) If the Province is invoiced for any such costs or expenses in relation to Utilities or Utility Work which are the responsibility of the Primary Contractor or, if such costs and expenses are otherwise charged directly to the Province, the Province may pay such costs and expenses and, upon demand, the Primary Contractor shall forthwith reimburse the Province for any amount so paid or, if the Province

so elects, the Province may deduct any amount so paid or to be paid by the Province from any payments owing by the Province to the Primary Contractor.

## 8.8 Utility Upgrades

- (a) Where requested by a Relevant Authority or Utility Supplier to upgrade the capacity of Utilities (by way of example, the Primary Contractor may be requested to replace a 150mm pipe with a 250mm pipe) which are being relocated or modified or, in the case of the City of Port Moody or the City of Coquitlam, to carry out "City Enhancements" within the meaning of the applicable Municipal Agreement, any work undertaken by the Primary Contractor pursuant to this Article 8.8 [Utility Upgrades], shall be carried out by the Primary Contractor subject to the following requirements:
- (i) such upgrades shall not form part of the Work;
  - (ii) such upgrades shall not increase the cost and expense of any part of the Work;
  - (iii) except to the extent that the Province has agreed in writing to contribute to the cost and expense, such upgrades shall, as between the Primary Contractor and the Province, be at the sole risk, cost and expense of the Primary Contractor;
  - (iv) unless the Province, in its discretion, has agreed in writing to contribute to the cost and expense of such upgrades, the Primary Contractor shall be solely responsible for reaching agreement with the relevant Relevant Authority or Utility Supplier on the terms and conditions for any work so undertaken, including scheduling, interactions with third parties, performance of any warranty or deficiency work associated therewith and collection of all amounts owing to the Primary Contractor in connection therewith;
  - (v) where the Province has agreed to contribute to the cost and expense of any upgrade of Utilities, the terms and conditions of payment of the Province's contribution shall be subject to the approval of the Province, in its discretion;
  - (vi) such upgrades shall not delay or otherwise negatively affect the performance of the Work or the Project Schedule;
  - (vii) such upgrades shall not unduly affect other holders of rights of way or other Interested Parties; and
  - (viii) such upgrades shall be located only within the scope of the existing rights of way or the legal rights of the Utility Supplier which has requested the upgrade.

## 8.9 Utility Agreements

### 8.9.1 General

- (a) In the exercise of its rights and performance of its obligations under this Agreement, the Primary Contractor shall comply with, observe and abide by, and cause its Subcontractors and employees of any of them to comply with, observe and abide by, the terms of all Utility Agreements (whether existing on the Effective Date or entered into or amended thereafter in accordance with Article 8.9.3 [New and Amended Utility Agreements] of this Part 2), as well as any Site Requirements applicable or relevant to the carrying out of the Utility Work.
- (b) The Primary Contractor shall not do or omit to do, or permit to be done or omitted to be done, anything that would result in the Province being in default of any terms of the Utility Agreements or any Site Requirements applicable or relevant to the carrying out of the Utility Work referred to in Section 8.9.1(a) of this Part 2.
- (c) Subject to Article 8.9.3 [New and Amended Utility Agreements] of this Part 2, if any Utility Agreement between the Province and a Utility Supplier contemplates that contractors will enter into agreements directly with that Utility Supplier in connection with Utility Work, the Primary Contractor shall:
  - (i) enter into such agreements and perform the obligations contemplated thereunder at the sole risk, cost and expense of the Primary Contractor; and
  - (ii) look solely to the Utility Supplier which is a party to any such agreement for the performance of its obligations thereunder.

### 8.9.2 GVRD Utilities Works Agreement

- (a) The Primary Contractor acknowledges that the Province has entered into an agreement with the GVRD, dated January 27, 2012, entitled “Accommodation Agreement – Evergreen Line” as amended, supplemented or replaced from time to time (the “**GVRD Accommodation Agreement**”), which agreement contemplates that the Primary Contractor shall enter into an agreement, substantially in the form set out at Schedule C to the GVRD Accommodation Agreement, as amended, supplemented or replaced from time to time (the “**GVRD Utility Works Agreement**”), with both the GVRD and the Province pursuant to which all Utility Work to be performed in relation to Existing GVRD Facilities which may be impacted by the Project (as “Existing GVRD Facilities” and the “Project” are each defined in the GVRD Utility Works Agreement) will be performed.
- (b) The Primary Contractor shall enter into the GVRD Utility Works Agreement among the Primary Contractor, the Province and the GVRD contemplated in Article 8.9.2(a) of this Part 2. The Primary Contractor shall not undertake any “Proximal Works” (as “Proximal Works” is defined in the GVRD Utility Works

Agreement) until the GVRD Utility Works Agreement has been executed by the Primary Contractor, the Province and the GVRD.

- (c) The Primary Contractor shall comply with all of the Primary Contractor's obligations under the GVRD Utility Works Agreement.

### 8.9.3 New and Amended Utility Agreements

- (a) The Province may enter into new Utility Agreements or amendments to Utility Agreements (which may include the grant of new Encumbrances or the amendment of existing Encumbrances which affect the Site or any part thereof) to permit or facilitate the design, construction, installation, operation, repair, management, maintenance, rehabilitation, reconstruction and/or relocation of any existing or new Utilities.
- (b) If the Province enters into any such new Utility Agreement or amendment to any Utility Agreement which affects the Site or the conduct of the Work, the Province shall:
  - (i) give notice thereof to the Primary Contractor and provide the Primary Contractor with particulars of the new Utility Agreement or amendment as it relates to the Site and the conduct of the Work;
  - (ii) use or cause to be used all reasonable efforts to include provisions in any new Utility Agreement or amendment which require the relevant Utility Supplier to use all reasonable efforts when exercising its rights thereunder as they relate to the Site so as to avoid, or if unavoidable to minimize, disruption to the Work; and
  - (iii) the Province shall issue in respect of such new Utility Agreement or amendment a Province Change and the provisions of Part 8 [Province Change and Primary Contractor Proposals] shall apply accordingly, unless:
    - A. such new Utility Agreement or amendment is formalizing an arrangement between the relevant parties substantially on the same terms as, or formalizing the terms which, have been disclosed in the Disclosed Data (including the Utility Information Sheets) prior to the Financial Submittal Date; or
    - B. such new Utility Agreement or amendment is on terms:
      - (1) disclosed in the Disclosed Data (including the Utility Information Sheets) prior to the Financial Submittal Date;
      - (2) substantially the same as those disclosed in the Disclosed Data (including the Utility Information Sheets) prior to the Financial Submittal Date; or
      - (3) which have no material adverse impact upon the Primary Contractor.

## 8.10 Province Assistance with Utility Matters

- (a) Without prejudice to Article 8.9.3 [New and Amended Utility Agreements] of this Part 2, and provided that the Primary Contractor has taken and continues to take all reasonable efforts to obtain, and to satisfy any conditions or requirements for obtaining, from the relevant Utility Supplier, Relevant Authorities, Interested Parties and any private owner or other person such rights of entry or access to any Utilities or other action which is necessary or expedient to carry out any Utility Work within a reasonable time and on reasonable terms, then the Primary Contractor may request the assistance of the Province in obtaining such rights of entry or access or other action to allow the Primary Contractor to perform such Utility Work, in which event the Province, to the extent that it has the legal ability to do so under existing Laws and to the extent reasonably requested by the Primary Contractor, shall provide or cause to be provided such assistance as the Province may be reasonably able to provide in obtaining such rights of entry or access or other action.
- (b) If the Primary Contractor is unable, without obtaining assistance from the Province or without the Province joining in the exercise of such right, to exercise any right of the Province under the Utility Agreements that it is necessary or expedient be exercised in connection with the performance by the Primary Contractor of its obligations under this Agreement, the Province, to the extent that it has the legal ability to do so under existing Laws and to the extent reasonably requested by the Primary Contractor, shall:
- (i) provide or cause to be provided such assistance as the Province may reasonably be able to provide; and/or
  - (ii) if required to enable such right to be exercised, join in the exercise of such right,
- in the case of either Articles 8.10(b)(i) or (ii), both of this Part 2, to assist the Primary Contractor in exercising such right.
- (c) Notwithstanding Articles 8.10(a) and (b) of this Part 2 and without prejudice to the Province's rights to dispute what is reasonable on any other grounds, the Province may, in its discretion, determine that it is not reasonable for any assistance requested by the Primary Contractor pursuant to Articles 8.10(a) and/or 8.10(b) of this Part 2 to involve the Province initiating or participating in formal legal proceedings with any Utility Supplier, Relevant Authority, Interested Party and/or any private owner or other person.
- (d) The Province and the Primary Contractor shall each bear their own costs and expenses in connection with the performance of their respective obligations under, or the exercise of any right under the Utility Agreements referred to in, this Article 8.10 [Province Assistance with Utility Matters].



## 8.11 Utility Information Sheets

- (a) The Province has contacted the Utility Suppliers listed in Part 1 of Attachment A [List of Utility Suppliers] to this Article 8 for information regarding the specific Utilities owned by them within parts of the Site that constitute Designated Project Lands (other than any Designated Project Lands acquired by the Province and/or BCTFA pursuant to Section 3.2A [Additional Lands] of Schedule 7 [Lands]). Specifically, the Province has requested each such Utility Supplier listed in Part 1 of Attachment A [List of Utility Suppliers] to this Article 8 to provide certain information, including:
- (i) such Utility Supplier's standards and specifications applicable to the Utilities of the Utility Supplier;
  - (ii) such Utility Supplier's exceptions to those standards and specifications as required by the Utility Supplier;
  - (iii) such Utility Supplier's notification requirements regarding possible impact of the Work in relation to such Utility Supplier's infrastructure;
  - (iv) such Utility Supplier's requirements for documentation on Utility Work, including design, accommodation plan and construction schedule;
  - (v) such Utility Supplier's emergency response procedures;
  - (vi) the commitment by such Utility Supplier for review and response times and procedures in relation to documentation submitted to the Utility Supplier for review;
  - (vii) such Utility Supplier's requirements for onsite personnel at the time of relocation or tie-in;
  - (viii) such Utility Supplier's requirements regarding performance by it of Utility Work in connection with its Utility; and
  - (ix) such Utility Supplier's personnel costs for Utility Supplier involvement, including call out rates.
- (b) The Province has compiled the information that it has obtained from the Utility Suppliers listed in Part 1 of Attachment A [List of Utility Suppliers] to this Article 8 in the Utility Information Sheets, which sheets have been provided as Disclosed Data.
- (c) In certain cases as listed in Part 1 of Attachment A [List of Utility Suppliers] to this Article 8, the Province has not obtained the information necessary from all Utility Suppliers to compile Utility Information Sheets or the Province has provided a Utility Information Sheet with contact information only for the applicable Utility.
- (d) The Province has made available, as part of the Disclosed Data, Utility Information Sheets, utility base mapping drawings and other Disclosed Data as obtained by the Province as contemplated in Article 8.1.4 [Utility Investigations] of this Part 2.

- (e) Any information which the Province has compiled and made available to the Primary Contractor in any Utility Information Sheet is Disclosed Data. Without limiting or derogating from any other provision of this Agreement with regard to Disclosed Data or any disclaimer contained in any Utility Information Sheets, the Primary Contractor shall be responsible for undertaking its own investigation to confirm all information contained in the Utility Information Sheets, as well as the accuracy, completeness and sufficiency for the Primary Contractor's purposes of all such information.
- (f) The Primary Contractor shall not be entitled to compensation or relief from the Province under this Agreement or otherwise if a Utility Supplier fails to conform to the terms set out in a Utility Information Sheet.

## 8.12 Utilities Handover

- (a) The Primary Contractor shall establish a handover procedure for all Utility Work with each Utility Supplier on a basis which is acceptable to each such Utility Supplier. As part of such handover procedure, the Primary Contractor shall provide to each Utility Supplier all drawings and quality documentation which are required by such Utility Supplier, in accordance with its usual requirements, when required by such Utility Supplier and, in the case of Utilities owned by a Municipality, in no event later than 60 days following the date of substantial completion of the applicable Utility. The Primary Contractor shall provide to the Province written evidence of acceptance by each relevant Utility Supplier of all Utility Work as such Utility Work is completed and handed over by the Primary Contractor.

## 8.13 Utility Work Warranties

- (a) The Primary Contractor shall warrant the Design and Construction of each element of the Utility Work for the longer of:
  - (i) the period stipulated in any agreement between the Primary Contractor and the relevant Utility Supplier; and
  - (ii) the two year period following handover to, and acceptance by, a Utility Supplier of such element of Utility Work.
- (b) The warranty standards for any Utility Work shall be the more stringent of the warranty terms for Work generally under this Agreement and such warranty terms as may be agreed between the Primary Contractor and the relevant Utility Supplier for such Utility Work.

**ATTACHMENT A TO ARTICLE 8  
LIST OF UTILITY SUPPLIERS**

**Part 1 – Utilities with Utility Information Sheets**

**Regulated Transmission Utilities**

- BC Hydro (formerly BC Transmission Corporation or BCTC)
- Fortis BC (formerly Terasen Gas)

**Regulated Distribution Utilities**

- BC Hydro
- TELUS
- Fortis BC (formerly Terasen Gas)
- Allstream
- Q-Net
- Bell Canada

**Utilities owned by a Municipality**

- City of Burnaby

**Part 2 – Utilities without Utility Information Sheets or with contact information only on Utility Information Sheets**

**Regulated Transmission Utilities**

- Kinder Morgan

**Regulated Distribution Utilities**

- Shaw Cable

**GVRD (Metro Vancouver)**

- Greater Vancouver Sewerage and Drainage District
- Greater Vancouver Water District

**Utilities owned by a Municipality**

- City of Coquitlam
- City of Port Moody