

## APPENDIX 19

### INTELLECTUAL PROPERTY LICENSE

#### 1.1. SOFTWARE LICENSES

The provisions of this Section 1.1 are in addition to, and shall not limit, the provisions of Sections 23.5 and 23.6 of the Agreement.

The Owner and Developer acknowledge that Developer or its Contractors will obtain licenses in respect of Software (as defined below) from third party providers to ensure that the Work is performed in accordance with the terms of this Agreement (the “**Third Party Licenses**”).

To the extent that Developer or a Contractor is able, without breaching any terms and conditions of the Third Party Licenses, Developer grants (or shall cause its Contractor to grant) to the Owner a perpetual, non-exclusive, transferable, irrevocable, unconditional, royalty-free license to use, reproduce, modify, adapt and disclose any and all software in both source and object code form, used for the integration and operation and maintenance of the hardware and software systems installed in relation to the Project (the “**Software**”), as described in the Contract Documents (including all extensions, modifications or replacements to these systems), by Developer or its Contractors in performing the Work (the “**Developer License**”).

To the extent that the Developer License does not entitle the Owner to use the necessary Software due to provisions of the Third Party Licenses, Developer will either directly or through its Contractor secure direct licenses in respect of the remaining necessary Software from the relevant third party for the benefit of the Owner, at Developer’s cost.

Developer and its Contractors shall execute and deliver all necessary documents requested by the Owner to effect the license of these rights to the Owner.

The Owner’s and Developer’s rights and obligations with respect to the Software pursuant to the Developer License include the following but in relation to each, the rights only extend to the extent Developer or its Contractors are able to grant rights without breaching any terms and conditions of the Third Party Licenses:

- (a) All modifications, improvements and enhancements made to the Software by Developer or its Contractors in performing the Work shall be licensed to the Owner without any additional charge to the Owner;
- (b) Sixty (60) days prior to the commencement of the Project Operating Period, Developer shall deposit in an Intellectual Property Escrow, without cost to the Owner and under terms agreed between the Owner and Developer, all source code and related documentation, together with the source code and related

documentation for all modifications, improvements and enhancements made by Developer or its Contractors to the Software in performing the Work;

- (c) The Owner shall be entitled to make its own modifications, improvements and enhancements to the Software or to contract with others to make such modifications and improvements (subject to the confidentiality rights of Developer or its Contractors) except where said modifications, improvements and enhancements will void the warranty if not executed by Developer;
- (d) The Owner has the right to make copies of the Software;
- (e) The Owner has the right to use documentation relating to the Software;
- (f) Developer shall supply the Owner with any new software products that may be useful in the operation of the Software or Project-related hardware systems installed under the Agreement on a most favored customer basis;
- (g) Developer shall provide a warranty that the Software complies with the Contract Documents; and
- (h) Consistent with the requirements of this Appendix 19, Developer shall provide to the Owner, on a pass-through basis, those Software licenses provided by a third party.

## 1.2. CITY PROPRIETARY INFORMATION AND PROPRIETARY RIGHTS

- (a) The Owner retains all right, title and interest in and to all the Owner proprietary data, documentation and copies thereof furnished by it to Developer hereunder, including all copyright and other proprietary rights therein (collectively, the “**Owner Proprietary Information**”). Developer shall, and shall cause its employees and Contractors and their respective employees to, hold all the Owner Proprietary Information confidential and not use or disclose such information without the prior written consent of the Owner, which consent may be withheld in its sole discretion. Notwithstanding the foregoing, Developer may disclose the Owner Proprietary Information solely to the extent required by court order or applicable Law, provided that Developer shall have provided prior written notice to the Owner of any such disclosure requirement and provided the Owner with an opportunity to challenge such disclosure, to the extent legally available, prior to Developer making any disclosure of same.
- (b) The Owner grants to Developer a nonexclusive, royalty-free license that is irrevocable until the Termination Date to use and sublicense the Owner Proprietary Information solely to the extent necessary to perform the Work in accordance with the Contract Documents.
- (c) The Owner and Developer shall advise their respective employees, subcontractors, consultants, agents and suppliers of the other's proprietary

information and shall treat such proprietary information in the same manner as it treats its own proprietary and confidential information.

- (d) On or about the Termination Date, Developer shall return to the Owner all the Owner Proprietary Information and all copies thereof.
- (e) Upon request of the Owner, Developer shall promptly execute, and shall cause its employees and Contractors to execute, a transfer of rights to the Owner of any Owner-owned inventions or any other proprietary information owned by the Owner in a form that is mutually agreeable.
- (f) Developer shall include the provisions of this Appendix 19 in all of its Contracts.
- (g) To the extent of any conflict between this Appendix 19 and Sections 23.5 and 23.6 of the Agreement, Sections 23.5 and 23.6 of the Agreement shall govern with respect to Project Intellectual Property.