

# JOHN HART GENERATING STATION REPLACEMENT PROJECT

## *Schedule 3*

### *Roles and Representatives*

## SCHEDULE 3

### ROLES AND REPRESENTATIVES

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## SCHEDULE 3

### ROLES AND REPRESENTATIVES

#### PART 1: OWNER'S REPRESENTATIVES

##### 1.1 APPOINTMENT OF BC HYDRO'S REPRESENTATIVE

- (a) BC Hydro has appointed BC Hydro's Representative to act as its agent in relation to the Project, including in relation to Design, Construction, Services, the financing of the Project, and all other aspects of the Project Work. BC Hydro's Representative shall be entitled to exercise the functions set out in Section 1.3 *[Functions of BC Hydro's Representative]* of this Schedule.
- (b) During any period when there is no BC Hydro's Representative, the functions which would otherwise be performed by BC Hydro's Representative shall be carried out by such other person as BC Hydro may designate by notice to Project Co, and such other person shall be treated in all respects as BC Hydro's Representative under this Agreement during such period. BC Hydro shall use commercially reasonable efforts to give reasonable advance notice of any such designation to Project Co where practicable.
- (c) Except as expressly stated in this Agreement, BC Hydro's Representative does not have any authority to relieve Project Co of any of its obligations under this Agreement or any other BC Hydro Project Document.
- (d) Project Co and Project Co's Representative, except as otherwise notified by BC Hydro to Project Co and subject to Section 1.1(e) of this Schedule, are entitled to treat any act of BC Hydro's Representative which is authorized by this Agreement or any other BC Hydro Project Document as being expressly authorized by BC Hydro, and shall not be required to determine whether any express authority has in fact been given.
- (e) Any decision by BC Hydro's Representative is specific to the circumstances to which it relates, and shall not be construed as binding on, or limiting any other decision to be made by, BC Hydro's Representative, whether in the same or similar circumstances or otherwise.
- (f) In the exercise of any of its functions BC Hydro's Representative may:
  - (1) refer any matter to BC Hydro or any other person contemplated in Section 7 *[Referral by BC Hydro's Representative]* of Schedule 2 *[Review Procedure, Consent Procedure and Other Submittals]* for advice or determination;
  - (2) rely upon any advice received or determination made following a reference pursuant to Section 1.1(f)(1) of this Schedule;

- (3) rely on any other advice that BC Hydro's Representative considers necessary or appropriate in the circumstances; and
- (4) designate any other person to attend any inspection, test or other activity that is permitted to be attended by BC Hydro under the terms of this Agreement.
- (g) BC Hydro's Representative shall work together with Project Co's Representative in the spirit of partnering and cooperation.

## 1.2 CHANGE OF BC HYDRO'S REPRESENTATIVE

BC Hydro may at any time and from time to time by notice to Project Co terminate the appointment of any BC Hydro's Representative or appoint one or more substitute BC Hydro's Representatives. Any such notice shall specify the effective date of such termination or substitution, and BC Hydro shall use commercially reasonable efforts to give reasonable advance notice of any such appointment to Project Co where practicable.

## 1.3 FUNCTIONS OF BC HYDRO'S REPRESENTATIVE

The functions which may be performed by BC Hydro's Representative under this Agreement include the following:

- (a) monitor the Project, and Project Co's performance of the Project Work in accordance with the Project Requirements, by any means, including the system of inspection, testing, surveys, certification, review and audits set out in this Agreement, including in Section 11 *[BC Hydro's Step-In Rights]* of this Agreement, Schedule 5 *[Design and Construction Protocols]*, Schedule 7 *[Services]*, Schedule 9 *[Quality Management]* and Schedule 20 *[Records and Reports]*;
- (b) attend site and other progress and technical meetings (including in the company of such other BC Hydro representatives, consultants, contractors, Governmental Authorities and/or advisors as BC Hydro's Representative considers appropriate) and receive and review minutes and reports;
- (c) monitor and review the obtaining and, where applicable, renewal or extension by Project Co of Permits, and the compliance by Project Co with Laws, Permits and the Requirements of Interested Parties;
- (d) request Changes, including Minor Works, in accordance with Schedule 14 *[Changes]*, receive and consider Innovation Proposals, in accordance with Section 4 *[Innovation Proposals]* of Schedule 14 *[Changes]*, and negotiate and make all consequential decisions on behalf of BC Hydro, including countersign Change Certificates, under Schedule 14 *[Changes]* in respect of such Changes and Innovation Proposals;

- (e) make and receive claims of Supervening Events pursuant to Section 8 *[Supervening Events]* of this Agreement, and negotiate and make all consequential decisions on behalf of BC Hydro in respect of such claims;
- (f) monitor the performance by Project Co of Project Co's Environmental Obligations;
- (g) audit and monitor Project Co's Quality Management System;
- (h) inspect and audit the records required to be retained pursuant to this Agreement;
- (i) monitor the performance by Project Co of the First Nations Requirements;
- (j) perform all such functions as may be ascribed to BC Hydro's Representative under this Agreement or any other BC Hydro Project Document, or otherwise under the Project Requirements;
- (k) receive and deal with all matters submitted to the Review Procedure, to the Consent Procedure or for information only pursuant to any provision of this Agreement or any other BC Hydro Project Document or otherwise under the Project Requirements;
- (l) perform any other functions under this Agreement or any other BC Hydro Project Document or otherwise under the Project Requirements, which are to be carried out by BC Hydro; and
- (m) perform such other functions in respect of this Agreement or any other BC Hydro Project Document as BC Hydro may notify to Project Co from time to time.

## **PART 2: PROJECT CO'S REPRESENTATIVES AND KEY INDIVIDUALS**

### **2.1 PROJECT CO'S REPRESENTATIVE**

- (a) Project Co shall appoint a competent and qualified person to act as its agent in connection with the Project. Such appointment shall be subject to acceptance by BC Hydro's Representative pursuant to the Consent Procedure, such acceptance not to be unreasonably withheld.
- (b) Project Co's Representative shall:
  - (1) be a Key Individual;
  - (2) serve as the single point of contact for Project Co to BC Hydro and BC Hydro's Representative for all purposes under this Agreement and all other BC Hydro Project Documents;

- (3) be an employee of, or an independent contractor directly engaged by, Project Co, or an Affiliate of Project Co;
  - (4) be located within the Lower Mainland of British Columbia; and
  - (5) devote all working time, energy and skill to the Project and to carrying out the duties of Project Co's Representative.
- (c) Project Co's Representative shall be directly responsible for and fully engaged in, and shall not, except in accordance with Section 2.2 *[Change of Project Co's Representative]* of this Schedule, abdicate or delegate to any other employee or representative of Project Co the performance of Project Co's obligations under this Agreement and the other BC Hydro Project Documents and all aspects of the Project Work, including:
- (1) the stewardship of Project Co and of the Project Work; and
  - (2) the contract management of all Material Contract Parties and any Sub-Contractors contracting directly with Project Co, and the oversight of the contract management of all other Sub-Contractors, including addressing and communicating to BC Hydro's Representative any issues raised by the Material Contract Parties and the Sub-Contractors in respect of the Project Work.
- (d) Project Co's Representative shall have full authority to act on behalf of Project Co for all purposes of the Project, and BC Hydro and BC Hydro's Representative:
- (1) are entitled to treat any act of Project Co's Representative in connection with this Agreement or any other BC Hydro Project Document as being expressly authorized by Project Co, and shall not be required to determine whether any express authority has in fact been given; and
  - (2) may refuse to recognize any act in connection with this Agreement or any other BC Hydro Project Document of any employee or representative of Project Co other than Project Co's Representative.
- (e) Project Co's Representative shall work together with BC Hydro's Representative in the spirit of partnering and cooperation.

## 2.2 CHANGE OF PROJECT CO'S REPRESENTATIVE

- (a) Project Co shall appoint, with the prior acceptance of BC Hydro's Representative pursuant to the Consent Procedure, such acceptance not to be unreasonably withheld, a substitute Project Co's Representative to serve in the place and stead of Project Co's Representative during any temporary absence of Project Co's Representative to ensure that at all times during the Term there is an accepted

Project Co's Representative available and located within the Lower Mainland of British Columbia.

- (b) The appointment of Project Co's Representative shall not be terminated for any reason without prior notice to and the prior acceptance, not to be unreasonably withheld, of BC Hydro's Representative pursuant to the Consent Procedure to both such termination and to the appointment of a substitute Project Co's Representative, provided that, in the case of death, serious illness or resignation of Project Co's Representative, such notice to and acceptance by BC Hydro's Representative shall take place as soon as practicable upon Project Co's Representative ceasing to act.

## 2.3 KEY INDIVIDUALS

- (a) Project Co represents to BC Hydro that the following are the Key Individuals for the Project as at the Effective Date:

- (1) Lead Test Engineer: [REDACTED]
- (2) Design-Build Director: [REDACTED];
- (3) Design Manager: [REDACTED];
- (4) Construction Manager: [REDACTED];
- (5) Services Director: [REDACTED];
- (6) Environmental Director: [REDACTED];
- (7) Environmental Manager: [REDACTED]
- (8) Quality Director: [REDACTED];
- (9) Quality Manager: [REDACTED];
- (10) Communications Manager: [REDACTED]; and
- (11) Safety Manager: [REDACTED].

Not less than 30 days before commencing any Construction activities, Project Co shall submit to BC Hydro's Representative, for acceptance, not to be unreasonably withheld, in accordance with the Consent Procedure, Project Co's proposed Environmental Manager and Quality Manager.

Not less than 18 Months before the Target Commercial Operation Date for the first Generating Unit, Project Co shall submit to BC Hydro's Representative, for acceptance, not to be unreasonably withheld, in accordance with the Consent Procedure, Project Co's proposed Lead Test Engineer.

Not less than 365 days before the Target Commercial Operation Date for the first Generating Unit, Project Co shall submit to BC Hydro's Representative, for acceptance, not to be unreasonably withheld, in accordance with the Consent Procedure, Project Co's proposed Services Director.

(b) For each of the Key Individuals referred to in Sections 2.3(a)(5) [*Services Director*], 2.3(a)(6) [*Environmental Director*] and 2.3(a)(8) [*Quality Director*] of this Schedule, such Key Individual shall:

- (1) be an employee of, or an independent contractor directly engaged by, Project Co, or an Affiliate of Project Co;
- (2) report directly to Project Co's Representative;
- (3) be specifically designated for the purpose of such role,

and Project Co shall not, without the prior acceptance of BC Hydro's Representative pursuant to the Consent Procedure, such acceptance not to be unreasonably withheld:

- (4) change any such Key Individual or any such Key Individual's job specification or responsibilities, provided that in the case of death, serious illness or resignation of the Key Individual, Project Co shall: (i) use all reasonable efforts to retain a temporary replacement with similar qualifications and experience to the unavailable Key Individual, pending acceptance of a permanent replacement by BC Hydro's Representative; and (ii) seek the consent of BC Hydro's Representative to a permanent replacement, with equivalent qualifications and experience to those of the Key Individual being replaced, as soon as practicable following the unavailability of such Key Individual; or
- (5) permit any such Key Individual to be employed or engaged, as the case may be, by any person in connection with the Project other than Project Co or an Affiliate of Project Co, including by any Material Contract Party or Sub-Contractor.

The responsibilities of the Key Individual referred to in Section 2.3(a)(6) [*Environmental Director*] of this Schedule may be performed by Project Co's Representative or the Quality Director, in which case Project Co's Representative or the Quality Director, as applicable, shall also be the Environmental Director.

(c) For all Key Individuals other than those referred to in Section 2.3(b) of this Schedule, Project Co shall not change, and shall ensure that there is no change of, any such Key Individual unless the proposed replacement individual has equivalent qualifications and experience to those of the Key Individual being replaced. Project Co shall provide BC Hydro's Representative with, to the extent



practicable, advance notice of any such change, together with details of the qualifications and experience of the proposed replacement.

- (d) Subject to Section 2.3(i), the Key Individuals referred to in Sections 2.3(a)(5) [*Services Director*], 2.3(a)(7) [*Environmental Manager*], 2.3(a)(9) [*Quality Manager*], 2.3(a)(10) [*Communications Manager*] and 2.3(a)(11) [*Safety Manager*] of this Schedule shall be required at all times during the Term (provided that the Services Director, the Environmental Manager and the Quality Manager shall not be required to be appointed prior to the dates specified in Section 2.3(a) of this Schedule). The remaining Key Individuals shall be required during the period from the Effective Date, or such later date as specified in Section 2.3(a) of this Schedule, to the Total Completion Date and any subsequent period during which any construction activities or any design in respect thereof are being carried out pursuant to this Agreement.
- (e) The Key Individuals referred to in Sections 2.3(a)(4) [*Construction Manager*], 2.3(a)(7) [*Environmental Manager*], 2.3(a)(8) [*Quality Director*], 2.3(a)(9) [*Quality Manager*], and 2.3(a)(11) [*Safety Manager*] of this Schedule, shall not be permitted to be located at any location other than the Site, during the period from the Effective Date, or such later date as specified in Section 2.3(a) of this Schedule, to the Total Completion Date.
- (f) All Key Individuals shall be instructed and enabled by Project Co to act in a fair and impartial manner in carrying out such role.
- (g) During the period from the Effective Date, or such later date as specified in Section 2.3(a) of this Schedule, to the Total Completion Date, none of the Key Individuals referred to in Sections 2.3(a)(2) [*Design-Build Director*], 2.3(a)(3) [*Design Manager*], 2.3(a)(4) [*Construction Manager*], 2.3(a)(7) [*Environmental Manager*], 2.3(a)(8) [*Quality Director*], 2.3(a)(9) [*Quality Manager*] and 2.3(a)(11) [*Safety Manager*] of this Schedule, may act as more than one Key Individual at any one time.
- (h) During the period from the Effective Date, or such later date as specified in Section 2.3(a) of this Schedule, to the Total Completion Date a Key Individual, other than those referred to in Section 2.3(g) of this Schedule, may undertake more than one Key Individual position if and to the extent only that such multiple roles do not compromise the ability of such person to effectively carry out the responsibilities of each Key Individual position so undertaken.
- (i) During the period after the Total Completion Date, one person may undertake more than one Key Individual position if and to the extent only that such multiple roles do not compromise the ability of such person to effectively carry out the responsibilities of each Key Individual position so undertaken.

- (j) If any individual assumes the roles and responsibilities of more than one Key Individual position, that individual must either personally possess the necessary qualifications or at a minimum have immediate and direct access to Project Co Person resources that do possess these qualifications.