

**SERVICES AGREEMENT**  
**BETWEEN**  
**ONTARIO CLEAN WATER AGENCY**  
**A N D**  
**THE CORPORATION OF THE MUNICIPALITY OF ST.-CHARLES**

**Table of Contents**

**RECITALS** ..... 1

**ARTICLE 1 - INTERPRETATION**..... 1

    SECTION 1.1 - DEFINITIONS..... 1

**ARTICLE 2 - RESPONSIBILITIES OF OCWA** ..... 2

    SECTION 2.1 - RETENTION OF OCWA ..... 2

    SECTION 2.2 - PERFORMANCE OF SERVICES ..... 2

    SECTION 2.3 - OCWA AS INDEPENDENT CONTRACTOR ..... 3

    SECTION 2.4 - AUTHORIZED REPRESENTATIVES..... 3

    SECTION 2.5 - INDEMNIFICATION OF THE CLIENT ..... 3

    SECTION 2.6 - WAIVER OF CONSEQUENTIAL DAMAGES ..... 4

    SECTION 2.7 - INSURANCE..... 4

**ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT** ..... 5

    SECTION 3.1 - OBLIGATIONS OF THE CLIENT ..... 5

    SECTION 3.2 - COVENANTS OF THE CLIENT ..... 6

    SECTION 3.3 - EXONERATION AND INDEMNIFICATION OF OCWA..... 6

**ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES** ..... 7

    SECTION 4.1 - INITIAL TERM OF AGREEMENT ..... 7

    SECTION 4.2 - ANNUAL PRICE FOR THE INITIAL TERM ..... 7

    SECTION 4.3 - THE ANNUAL PRICE IN RENEWAL TERMS..... 7

    SECTION 4.4 - PAYMENT OF THE ANNUAL PRICE ..... 8

    SECTION 4.5 - ITEMS NOT INCLUDED IN THE ANNUAL PRICE ..... 8

    SECTION 4.6 - MAJOR MAINTENANCE EXPENDITURES ..... 8

    SECTION 4.7 - CAPITAL PROJECTS..... 9

    SECTION 4.8 - UNEXPECTED EXPENSES..... 9

    SECTION 4.9 - INTEREST ON LATE PAYMENTS..... 10

    SECTION 4.10 - PARTIAL PAYMENT OF DISPUTED INVOICES ..... 10

    SECTION 4.11 - HYDRO COSTS/UTILITY COSTS..... 10

    SECTION 4.12 - OPTIONAL SERVICES ..... 10

    SECTION 4.13 - CHANGES TO THE AGREEMENT..... 11

**ARTICLE 5 - DISPUTE RESOLUTION**..... 11

    SECTION 5.1 - MEDIATION ..... 11

**ARTICLE 6 - TERMINATION** ..... 11

    SECTION 6.1 - TERMINATION OF AGREEMENT ..... 11

    SECTION 6.2 - EARLY TERMINATION..... 12

    SECTION 6.3 - INVENTORY COUNT OF CONSUMABLES/SUPPLIES ..... 12

    SECTION 6.4 - FINAL SETTLEMENT..... 12

    SECTION 6.5 - TRANSFER OF OPERATIONS ..... 13

    SECTION 6.6 - RESTRICTIONS ON RECRUITMENT OF OCWA’S EMPLOYEES ..... 13

**ARTICLE 7 - GENERAL** ..... 13

    SECTION 7.1 - OWNERSHIP OF TECHNOLOGY ..... 13

SECTION 7.2 - AGREEMENT TO GOVERN .....	13
SECTION 7.3 - ENTIRE AGREEMENT .....	13
SECTION 7.4 - AMENDMENTS AND WAIVERS .....	14
SECTION 7.5 - SUCCESSORS AND ASSIGNS .....	14
SECTION 7.6 - SURVIVAL .....	14
SECTION 7.7 - SEVERABILITY .....	14
SECTION 7.8 - NOTICES .....	14
SECTION 7.9 - COUNTERPARTS.....	15
SECTION 7.10 - FREEDOM OF INFORMATION .....	15
SECTION 7.11 - CONFIDENTIALITY .....	15
SECTION 7.12 - CHANGE IN CIRCUMSTANCE .....	15
<i>SCHEDULE A - The Facility</i> .....	<i>A-1</i>
<i>SCHEDULE B - Definitions</i> .....	<i>B-1</i>
<i>SCHEDULE C - The Services</i> .....	<i>C-1</i>
<i>SCHEDULE D - The Annual Price and Other Charges and Adjustments</i> .....	<i>D-1</i>
<i>SCHEDULE E - Insurance</i> .....	<i>E-1</i>
<i>SCHEDULE F - List of Pre-Existing Conditions</i> .....	<i>F-1</i>
<i>SCHEDULE G - Change Order Form</i> .....	<i>G-1</i>
<i>SCHEDULE H - Expenditure Request and Approval to Proceed</i> .....	<i>H-1</i>

## SERVICES AGREEMENT

THIS AGREEMENT effective as of the 1<sup>st</sup> day of March, 2024 (the “Effective Date”),

B E T W E E N

**ONTARIO CLEAN WATER AGENCY/AGENCE ONTARIENNE DES EAUX**, a corporation established under the *Capital Investment Plan Act, 1993*, c.23, Statutes of Ontario.

(“OCWA”)

A N D

**THE CORPORATION OF THE MUNICIPALITY OF ST.-CHARLES**

(the “Client”)

### **RECITALS**

- (a) OCWA is in the business of providing management, operations and maintenance services for wastewater facilities.
- (b) The Client is the owner of the St.-Charles Wastewater Lagoon and Collections System more particularly described in Schedule A (the “Facility”).
- (c) The Client wishes to retain the services of OCWA to operate and maintain the Facility in accordance with the provisions of this agreement (the “Agreement”).
- (d) The Client and OCWA (collectively, the “Parties” and each a “Party”) are entering this Agreement to set out their respective rights and obligations with respect to the management, operation and maintenance of the Facility.
- (e) The Council of the Client on the \_\_\_\_ day of \_\_\_\_\_, 2024 passed By-Law No. \_\_\_\_\_ authorizing the Client to enter into this Agreement.

NOW THEREFORE in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration the receipt and sufficiency of which is hereby irrevocably acknowledged, the Client and OCWA agree as follows:

### **ARTICLE 1 - INTERPRETATION**

#### **Section 1.1 - Definitions**

In this Agreement, definitions are set out in Schedule B, or within applicable provisions as indicated.

## **ARTICLE 2 - RESPONSIBILITIES OF OCWA**

### **Section 2.1 - Retention of OCWA**

- (a) The Client retains OCWA to provide management, operation and maintenance services, as described in Schedule C to this Agreement, in respect of the Facility (the “Services”).
- (b) The Client acknowledges and agrees that for the purposes of Section 449 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, OCWA is an agent of the Client.

### **Section 2.2 - Performance of Services**

- (a) OCWA shall deliver the Services in compliance with all applicable Environmental Laws, except as described in Paragraphs 2.2(b) and (c) below and in any of the following circumstances:
  - (i) the Client not making the Major Maintenance Expenditures and/or not undertaking the Capital Projects reasonably recommended by OCWA as per Sections 4.6 and 4.7 herein;
  - (ii) failure of the Client to meet its responsibilities specified in this Agreement;
  - (iii) failure of any equipment at the Facility, unless the failure is due to OCWA’s negligent maintenance;
  - (iv) the wastewater transmitted to the Facility for treatment contains contaminants or pathogens which cannot be treated or removed by the Facility’s treatment processes;
  - (v) the wastewater transmitted to the Facility for treatment does not meet the requirements of the Client’s sewer use by-law or any Environmental Law;
  - (vi) the quantity or quality of wastewater transmitted to the Facility exceeds the Facility’s design or operating capacity;
  - (vii) operational upset conditions caused by the acceptance of septage or leachate;
  - (viii) unavailability of approved lands for application of sludge.
- (b) OCWA may temporarily cease to provide or reduce the level of provision of Services in the event of an emergency, a breakdown or any Uncontrollable Circumstance. OCWA shall, when practicable, try to give the Client reasonable advance notice of any such occurrence.

- (c) Notwithstanding any other provision of this Agreement, delay in the performance of, or a failure to perform any term of this Agreement by OCWA, shall not constitute default under this Agreement or give rise to any claim for damages suffered by the Client if and to the extent caused by occurrences or circumstances beyond the reasonable control of OCWA (an “Uncontrollable Circumstance”), including but not limited to any circumstances set out in Paragraph 2.2(a), decrees of government, acts of God (including but not limited to hurricanes, tornadoes, floods and other weather disturbances), sabotage, strikes, lockouts and other industrial disturbances, insurrections, war, civil disturbances, pandemics, riots, explosions, fire and acts of third parties.
- (d) The Client recognizes that in an emergency situation or where an Uncontrollable Circumstance exists, OCWA’s primary concern will be to use all reasonable efforts to maintain the Facility in compliance with Environmental Laws and that OCWA may be required to correct a deficiency or deal with the emergency situation without obtaining the Client’s prior approval. Should such a situation arise, OCWA shall advise the Client as soon as reasonably possible and shall provide as much information as possible to the Client and will work with the Client to ensure the emergency situation is appropriately addressed.

### **Section 2.3 - OCWA as Independent Contractor**

In performing the Services, OCWA shall be acting as an independent contractor and only to the extent and for the specific purposes expressly set forth herein. Neither OCWA nor its employees, agents or subcontractors shall be subject to the direction and control of the Client, except as expressly provided in this Agreement.

### **Section 2.4 - Authorized Representatives**

Each of OCWA and the Client shall be entitled to designate in writing to the other, one or more individuals who shall be authorized to represent it in connection with the day-to-day administration of the provisions of this Agreement (the “Authorized Representative(s)”). Each of the Parties shall be entitled to rely on the acts and approvals given by the other Party’s Authorized Representative until such time as it receives a written notification of change of the other Party’s Authorized Representative.

### **Section 2.5 - Indemnification of the Client**

- (a) OCWA shall exonerate, indemnify and hold harmless the Client, its directors, officers, employees and agents from and against Claims which may be suffered or incurred by, accrue against or be charged to or recoverable from the Client to the extent that such Claim is solely attributed to OCWA’s negligence or wilful misconduct when performing the Services, except where such Claim is due to an Uncontrollable Circumstance or to a condition of the Facility which existed prior to OCWA’s commencement of the Services (a “Pre-existing Condition”), including but not limited to those listed in Schedule F. Such Pre-existing Conditions shall be the ongoing responsibility of the Client. OCWA,

in providing these Services, is not responsible, accountable or liable, in any way, for Pre-existing Conditions, either directly or indirectly.

- (b) The Client shall be deemed to hold the provisions of this Section 2.5 that are for the benefit of the Client's directors, officers, employees and agents in trust for such directors, officers, employees and agents as third party beneficiaries under this Agreement.
- (c) Notwithstanding Paragraph 2.5(a) above, OCWA shall not be liable in respect of any Claim to the extent the Claim is covered by the Insurance.
- (d) Claims by the Client for indemnification from OCWA will follow the Indemnification Process as set out in Schedule B.

### **Section 2.6 - Waiver of Consequential Damages**

In no event shall the Parties be liable to each other, and each Party specifically waives as against the other, any and all claims for consequential, incidental, indirect, special or punitive damages resulting in any way from performance or non-performance of this Agreement, whether such damages are characterized as arising under breach of contract or warranty, tort (including negligence), fault, strict liability, indemnity, or other theory of legal liability.

### **Section 2.7 - Insurance**

- (a) OCWA shall maintain, subject to reasonable availability, insurance coverage as described in Schedule E to this Agreement (the "Insurance") and the Client shall be an additional insured under the Commercial General Liability and Contractor's Pollution Liability insurance. The Client acknowledges that, given the unpredictability of the insurance market, deductibles and coverage limits may not be available (or may not be reasonably priced) from year to year. Insurance coverage is reviewed annually and the Client will be notified if there is a change in coverage or a price increase.
- (b) The Client specifically recognizes and agrees that neither OCWA nor the Crown bears any responsibility for the Pre-existing Condition(s) of the Facility. As such, OCWA is not required to obtain insurance for this purpose and the Client has or will obtain its own insurance.
- (c) The Client shall be responsible for securing its own insurance for any other operations with which it is involved that are not part of the Services. The Client acknowledges that OCWA's Commercial General Liability and Contractor's Pollution Liability insurance shall not extend to cover any claims, exposure or liability beyond those directly linked to the provision of Services by OCWA staff. The Client further acknowledges that it will have no recourse under OCWA's Commercial General Liability and Contractor's Pollution Liability insurance for any operations that do not form part of the Services.
- (d) In the event of a claim under the Insurance, the payment of deductibles is as specified in Schedule E.

- (e) The policies of insurance obtained by the Client in subsection 2.7(e) shall be primary, notwithstanding other insurance obtained and maintained by OCWA.

### **ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT**

#### **Section 3.1 - Obligations of the Client**

- (a) The Client has the full power and authority to enter into and perform its obligations under this Agreement.
- (b) The Client has passed all necessary By-Laws and has obtained all necessary Authorizations to enable it to enter into and perform its obligations under this Agreement and to operate the Facility, (including, without limitation, any Authorizations required from the Local Planning Appeal Tribunal and the Ministry of the Environment, Conservation and Parks (MECP)), and the Authorizations are in good standing.
- (c) The Client has provided OCWA with a true copy of each of the Authorizations referred to in Paragraph 3.1(b) above prior to the date of this Agreement, including a certified copy of each municipal By-Law required to authorize the Client to enter into and perform its obligations under this Agreement.
- (d) As the owner of the Facility, the Client is fully aware of its responsibilities and obligations regarding the operation and maintenance of the Facility under Applicable Laws, including without limitation its responsibilities under the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40 (the “OWRA”) and the *Occupational Health and Safety Act* (the “OHSA”) and their regulations.
- (e) The Client confirms that there are no Pre-existing Conditions existing at the Facility which would affect OCWA’s ability to operate the Facility in compliance with the terms of this Agreement and Applicable Laws, other than what is listed in Schedule F. The Client acknowledges and agrees that the Client shall be responsible for addressing such Pre-existing Conditions.
- (f) The Client confirms that as of the date of execution of this Agreement, to the best of the Client’s knowledge, the Facility is in compliance with all Applicable Laws.
- (g) The Client is not aware of the presence of any designated substances as defined under the *Occupational Health and Safety Act* (the “OHSA”) at the Facility. The Client acknowledges and agrees that it is responsible for dealing with the designated substances (including but not limited to asbestos and lead) in accordance with the OHSA and its regulations and to notify OCWA of the location of any designated substances in the Facility.



### **Section 3.2 - Covenants of the Client**

The Client hereby covenants the following for the benefit of OCWA:

- (a) The Client agrees to promptly pay all amounts owing to OCWA under this Agreement as they become due, including any interest charges on late payments as determined under Section 4.9.
- (b) The Client agrees to promptly provide OCWA with any information relating to the Facility which could have a bearing on the provision of Services by OCWA, including but not limited to any engineering report prepared in respect of the Facility, any Authorization or amendment to any Authorization, as well as any governmental notice or order relating to the Facility.
- (c) The Client agrees to commit the necessary resources to appropriately address and comply with any such reports, Authorizations, notices or orders.
- (d) The Client shall repair, maintain and keep in a good working state, in accordance with good engineering practices and the standards reasonably applicable to an owner of a like facility, all wastewater works that belong to or are under the control of the Client and that collect and transmit wastewater to the Facility.
- (e) The Client agrees to promptly commit the necessary resources to appropriately address any health and safety issues identified by OCWA which are the responsibility of the Client.
- (f) The Client shall take reasonable steps to ensure that wastewater transmitted to the Facility complies with the Client's sewer use by-law and any Environmental Laws. If requested by OCWA, the Client shall provide OCWA with copies of the Client's inspection reports (sewer usage, cross-connections, sump pump connections), if available.
- (g) The Client shall inform OCWA if the Facility is to accept septage or leachate. The Client shall provide OCWA with a report of a professional engineer indicating that the Facility is capable of handling such additional Loadings. The Client shall provide OCWA with a list of haulers from which OCWA is to accept septage or leachate at the Facility. OCWA shall not be responsible for any operational impacts caused by the septage or leachate. The Client shall be fully responsible for any additional costs incurred as a result of the acceptance of septage or leachate at the Facility.

### **Section 3.3 - Exoneration and Indemnification of OCWA**

- (a) Subject to Paragraph 3.3(c) below, the Client shall exonerate, indemnify and hold harmless OCWA, its directors, officers, employees and agents and His Majesty the King in Right of Ontario, as represented by the Minister of the Environment, Conservation and Parks and all directors, officers, employees and agents of the Ministry of the Environment, Conservation and Parks (collectively referred to as the "Indemnified

Parties”) from and against any and all Claims which may be suffered or incurred by, accrue against, or be charged to or recoverable from any one or more of the Indemnified Parties that is solely attributed to the Client’s negligence or wilful misconduct.

- (b) OCWA shall be deemed to hold the provisions of this Article 3 that are for the benefit of OCWA’s directors, officers, employees and agents and the other Indemnified Parties as defined above, in trust for all such Indemnified Parties as third party beneficiaries under this Agreement.
- (c) Claims by OCWA for indemnification from the Client will follow the Indemnification Process as set out in Schedule B.
- (d) Notwithstanding Paragraph 3.3(a) above, the Client shall not be liable in respect of any Claim:
  - (i) to the extent that such Claim is covered by the Insurance; however, the Client shall be responsible for any deduction or self-insured retention amount in accordance with Schedule E; and
  - (ii) to the extent that such Claim is caused solely by OCWA’s negligence or wilful misconduct in providing the Services.

## **ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES**

### **Section 4.1 - Initial Term of Agreement**

This Agreement shall start on the Effective Date and shall continue in effect for an initial term of approximately four (4) years, ten (10) months, ending on December 31, 2028 (the “Initial Term”) and then may be renewed for successive five (5)-year terms (each a “Renewal Term”) subject to mutual agreement between the Parties, subject to Sections 4.3 and 6.1 of this Agreement.

### **Section 4.2 - Annual Price for the Initial Term**

Subject to any adjustments made pursuant to other provisions of this Agreement, the Client shall pay OCWA a price for the Services for each Year of the Initial Term as described in Schedule D.

### **Section 4.3 - The Annual Price in Renewal Terms**

The Annual Price for any Renewal Term will be as agreed between the Client and OCWA. If the Parties cannot agree on the Annual Price for any Renewal Term within six (6) months of the beginning of the last Year of either the Initial Term or the Renewal Term, as the case may be (the “Current Term”), then this Agreement will be terminated twelve (12) months after the last day of the Current Term unless the Parties mutually agree to extend the term of the

Agreement. During this twelve (12) month period or mutually agreed upon extension period, the Client shall pay the Annual Price paid for the last Year of the Current Term, plus an adjustment for inflation calculated as described in Schedule D, pro-rated over that period.

#### **Section 4.4 - Payment of the Annual Price**

The Client shall pay OCWA the Annual Price for each Year of the Initial Term or any Current Term, in twelve (12) equal monthly payments, in advance, on the first day of each month. The first payment shall be due and payable as agreed upon between the Parties and then monthly payments thereafter. Payment shall be made by the Client by pre-authorized bank debit from a bank account designated by the Client or by cheque.

#### **Section 4.5 - Items Not Included in the Annual Price**

The Annual Price, as further described in Schedule “D”, for each Year of the Initial Term and any Renewal Term, covers all charges for the Services, but does not include any charges for the following:

- (a) any Capital Projects (as defined in Section 4.7 below) or costs resulting from any failure of the Client to implement reasonably recommended Major Maintenance Expenditures;
- (b) costs or charges for services resulting from a Change in Applicable Laws;
- (c) Unexpected Expenses (as defined in Paragraph 4.8(a) below);
- (d) Hydro/Utility costs;
- (e) charges for any Optional Services that are provided by OCWA to the Client;
- (f) costs and charges associated with providing and/or maintaining continuous monitoring technology (SCADA technology) used in respect of the Facility;
- (g) any chemical costs;
- (h) any costs and charges for additional hours incurred by OCWA for any after-hours response outside the period 0730 to 1600 on weekdays, any time on Statutory Holidays or weekends for wet weather events, municipal requests, or repeated responses for issues identified by OCWA and not addressed by the Client. These additional hours will be billed by OCWA to the Client as outlined in Schedule D.

#### **Section 4.6 - Major Maintenance Expenditures**

- (a) “Major Maintenance Expenditures” means the charges for all non-routine, non-repetitive activities, repair or replacement of machinery or equipment required for the continuity of operations, safety, and operating performance of the Facility that are necessary to prevent or correct a failure of any component of the equipment which is not included as part of Routine Maintenance including labour charges, together with the Service Fee or fixed fee basis.

- (b) No later than November 30<sup>th</sup> of each Year this Agreement is in force, or a date as the Parties may agree in writing, OCWA will provide the Client with rolling ten (10)-year recommendations of the Major Maintenance Expenditures required for the long term operation of the Facility. The Client's written approval of the estimate or revised estimate, in the form set out in Schedule "H", authorizes OCWA to incur the Major Maintenance Expenditures included in the estimate (the "Approved Major Maintenance Expenditures").
- (c) OCWA will invoice the Client for the Approved Major Maintenance Expenditures together with supporting documentation and the Client shall pay the invoice within thirty (30) days of the date of invoice.

#### **Section 4.7 - Capital Projects**

- (a) "Capital Projects" means changes and improvements to the Facility which include the installation of new technology, improvements to the efficiency, performance and operation of the Facility, replacement of major pieces of equipment, structural modifications to the Facility and the construction and commissioning of new Facilities.
- (b) During the term of this Agreement, the Client may request OCWA to undertake Capital Projects for the Client. The terms and conditions of such Capital Projects including the fee shall be negotiated by OCWA and the Client.

#### **Section 4.8 - Unexpected Expenses**

- (a) "Unexpected Expenses" means unanticipated expenditures or additional costs which may include Major Maintenance Expenditures in addition to the Approved Major Maintenance Expenditures, that OCWA reasonably incurs in order to address a Change in Applicable Laws, any Uncontrollable Circumstance, any work required by regulatory order (e.g. MECP or MOL) or identified through an inspection (e.g. ESA, MECP, MOL) that is not solely the result of OCWA's negligence in performing the Services or any other emergency situation, together with the Service Fee.
- (b) In the event that OCWA is required to incur Unexpected Expenses, the prior approval of the Client with respect to those Unexpected Expenses will be required only if time permits. Within ten (10) days of incurring the Unexpected Expenses, OCWA will provide the Client with a report detailing the reasons the Unexpected Expenses were incurred.
- (c) Any Unexpected Expenses will be invoiced to the Client together with appropriate supporting documentation, and the Client shall pay the invoice within thirty (30) days of the date of the invoice.

#### **Section 4.9 - Interest on Late Payments**

- (a) **Monthly Payment of Annual Price.** If the Client's monthly payment of the Annual Price is not available in OCWA's designated bank account on the agreed date of payment, OCWA will notify the Client that the funds were not available. Interest will be charged to the Client starting from the day after the payment was due in the account. Interest shall be paid at a rate determined by the Minister of Finance, from time to time, as payable on overdue accounts, in accordance with the Lieutenant Governor in Council under s.10(4) of the *Financial Administration Act*, R.S.O. 1990, c.F.12, plus any banking charges and an administrative fee.
- (b) **Other Invoices.** Invoices, other than for the monthly payment set out in Section 4.9(a) above, shall be paid no later than thirty (30) days from the date of the invoice and interest shall begin to accrue one (1) day after the payment is due.

#### **Section 4.10 - Partial Payment of Disputed Invoices**

If the Client disputes any portion of an invoice, the Client shall pay to OCWA the undisputed portion of the invoice by the due date set out herein and provide OCWA with written notice of such dispute by the due date. Failure to provide such written notice of any such dispute will act as a waiver of any defence or justification for failing to pay the full amount of the invoice by the due date. Within ten (10) days of resolution of the disputed amount, the Client shall pay to OCWA all amounts determined to be payable to OCWA, plus interest in accordance with Section 4.9(a).

#### **Section 4.11 - Hydro Costs/Utility Costs**

OCWA is not responsible for paying any Hydro/Utility Costs in respect of the Facility. The Client shall pay all Hydro/Utility Costs.

#### **Section 4.12 - Optional Services**

- (a) If requested by the Client, OCWA may provide Optional Services to the Client by Change Order as set out in Schedule G, provided that the Client and OCWA agree in writing to the specific scope of work required.
- (b) Unless otherwise agreed to in writing, fees for Optional Services which OCWA agrees to provide to the Client shall be billed directly to the Client on a time and materials basis as described in Schedule D.
- (c) Once OCWA has agreed to provide Optional Services to the Client, the Optional Services shall be subject to the terms and conditions of this Agreement, with any necessary changes having been made.
- (d) The labour and mileage rates described in Schedule D will be reviewed annually by OCWA and may be subject to change.

### **Section 4.13 - Changes to the Agreement**

- (a) A Change to the Agreement may be carried out after execution of this Agreement by Change Order. A Change Order shall be based upon agreement between the Parties and shall be reflected in a Change Order Form.
- (b) The Parties shall execute a Change Order Form, which shall be substantially in the form found in Schedule G which will state their agreement upon all of the following:
  - (i) the new services to be provided;
  - (ii) fees for the services provided under the Change Order;
  - (iii) the extent of the adjustment to the maintenance and operating schedule, if any;
  - (iv) the extent of any adjustments to the Annual Price, if any; and
  - (v) all other effects that the change has on the provisions of this Agreement.

## **ARTICLE 5 - DISPUTE RESOLUTION**

### **Section 5.1 - Mediation**

- (a) If a dispute arises between the Client and OCWA which cannot be resolved within a reasonable time, then the issue shall be referred to a mediator.
- (b) The fees and expenses of the mediator shall be divided equally between the Parties.
- (c) Involvement in mediation is on a without prejudice basis and does not preclude and is not a bar to either Party pursuing whatever legal remedies may be available, including litigation.

## **ARTICLE 6 - TERMINATION**

### **Section 6.1 - Termination of Agreement**

- (a) At least one (1) calendar year before the expiry of the Current Term, the Client shall notify OCWA in writing whether it wishes to terminate or renew this Agreement at the end of the Current Term. However, OCWA reserves the right to decline to renew the Agreement by notifying the Client in writing of its decision to decline, within thirty (30) days of receipt of the Client's written request to renew.
- (b) During the Initial Term or any Renewal Term, this Agreement may only be terminated by either the Client or OCWA by giving at least thirty (30) days' notice in writing to the other Party if:
  - (i) there has been a material breach of the Agreement;

- (ii) the Party complaining of the breach has given written notice of the breach to the other Party; and
  - (iii) the other Party does not correct the breach within thirty (30) days of receiving the notice.
- (c) If either Party disputes the existence of a breach or that the breach is material, then the dispute may be referred to mediation under Section 5.1 of this Agreement.

### **Section 6.2 - Early Termination**

If this Agreement is terminated for any reason prior to the expiry of the Current Term, then the Client shall pay OCWA for all Services provided up to the date of termination, as well as any costs relating to the early termination, including but not limited to demobilization and severance costs (in accordance with the collective agreements between OCWA and its employees); the costs associated with the removal of remote monitoring and control systems installed by OCWA; the costs of cancelling agreements with suppliers and subcontractors; as well as any previously incurred Major Maintenance Expenditures, costs related to Capital Projects, Unexpected Expenses and Optional Services.

### **Section 6.3 - Inventory Count of Consumables/Supplies**

OCWA and the Client will conduct an inventory count of consumables/supplies at the Facility on the first day of the Initial Term or as soon as the Parties may agree. If OCWA no longer operates the Facility at termination of this Agreement, OCWA shall either:

- (a) ensure that there is the same amount of consumables/supplies at the Facility on the date of termination as there was on the first day of the Initial Term; or
- (b) reimburse the Client for any shortfall.

If the amount of consumables/supplies at the Facility on the date of termination exceeds the amount on the first day of the Initial Term, the Client will either reimburse OCWA for any excess or OCWA may take possession of any excess, as OCWA may determine.

### **Section 6.4 - Final Settlement**

If OCWA ceases to operate the Facility, there shall be a final settlement of all accounts with respect to the Annual Price and any other expenses incurred by OCWA and amounts owing by or to the Client under this Agreement including, but not limited to any outstanding accounts, if any, owed to OCWA, no later than ninety (90) days after OCWA ceases to provide the Services or thirty (30) days after OCWA has provided the Client with a final invoice, whichever comes later.

### **Section 6.5 - Transfer of Operations**

Upon the termination of this Agreement, OCWA will return the following to the Client:

- (a) The log book for the Facility.
- (b) The original operations manual(s) that were provided by the Client to OCWA at the commencement of the Services with all updates to the expiry date of the Agreement.
- (c) A list of emergency phone numbers from the contingency plan binders used by OCWA staff in respect of the Facility.
- (d) Maintenance and repair records of equipment at the Facility in electronic format.

### **Section 6.6 - Restrictions on Recruitment of OCWA's Employees**

During the term of this Agreement and for one (1) year following the termination of this Agreement, the Client shall not solicit or recruit any employee of OCWA, nor induce any OCWA employee to leave his or her employ to work at the Facility, unless mutually agreed to in writing by the Client and OCWA.

## **ARTICLE 7 - GENERAL**

### **Section 7.1 - Ownership of Technology**

The Client acknowledges and agrees that in providing the Services, OCWA may utilize certain technology developed by or for OCWA, for example, OCWA's WMMS, Outpost 5 and/or PDM (the "Technology"). The Client further agrees that use of the Technology by OCWA with respect to the Facility does not in any way give the Client any ownership or licensing rights in or to the Intellectual Property Rights to the Technology unless otherwise agreed to in writing between the Parties. For greater certainty, nothing in this Section 7.1 shall be interpreted as requiring OCWA to provide the Client with the Technology and any upgrades or other similar technology in respect of the Facility as part of the Annual Price.

### **Section 7.2 - Agreement to Govern**

If there is any inconsistency between the main body of this Agreement and any Schedule to this Agreement, then the provision in the main body of this Agreement shall govern.

### **Section 7.3 - Entire Agreement**

This Agreement constitutes the entire agreement between the Client and OCWA with respect to the subject matter hereof and cancels and supersedes any prior understandings, undertakings, representations, warranties, terms, conditions and agreements, whether collateral, express, implied or statutory, between the Client and OCWA with respect thereto.



**Section 7.4 - Amendments and Waivers**

No amendment to this Agreement will be valid or binding unless it is in writing and duly executed by both of the Parties hereto. No waiver of any breach of any provision of this Agreement will be effective or binding unless it is in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, will be limited to the specific breach waived.

**Section 7.5 - Successors and Assigns**

This Agreement shall operate to the benefit of and be binding upon, the Parties hereto and their successors and assigns. This Agreement may be assigned in the discretion of either Party.

**Section 7.6 - Survival**

All outstanding payment obligations, and the confidentiality obligation under Section 7.11, shall survive indefinitely the termination of this Agreement.

**Section 7.7 - Severability**

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision and everything else in this Agreement shall continue in full force and effect.

**Section 7.8 - Notices**

(a) All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to be properly given if hand-delivered, sent by email, sent by confirmed facsimile or by registered mail postage prepaid, return receipt requested, or by courier, to the Parties at their respective addresses as set forth below, or to such other addresses as the Parties may advise by like notice. Such notices if sent by email, facsimile, registered mail or courier shall be deemed to have been given when received.

(i) if to the Client:           Municipality of St.-Charles  
  2 King Street East, PO Box 70  
  St.-Charles, ON P0M 2W0  
                                  Telephone:   705 867 2032  
                                  Fax:           705 867 5789  
                                  Attention:   CAO

(ii) if to OCWA:               OCWA Espanola  
                                      148 Fleming Street, Suite 5  
                                      Espanola, ON P5E 1R8  
                                  Telephone:   (705) 869-5578  
                                  Fax:           (705) 869-4374  
                                  Attention:   Business Development Manager

- (b) A Party to this Agreement may change its address for the purpose of this Section by giving the other Party notice of such change of address in the manner provided in this Section.

### **Section 7.9 - Counterparts**

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

### **Section 7.10 - Freedom of Information**

The Parties understand that this Agreement and any materials or information provided to OCWA through the performance of the Services may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended, or as otherwise required by law.

### **Section 7.11 - Confidentiality**

The Parties shall strictly maintain confidential and secure all material and information provided, directly or indirectly, by the other Party pursuant to this Agreement. Subject to relevant legislation related to freedom of information or the protection of privacy and any other laws, neither Party shall directly or indirectly disclose to any person, either during or following the term of this Agreement, any such material or information provided to it by the other Party without first obtaining the written consent of the Party who provided such material or information, allowing such disclosure.

### **Section 7.12 - Change in Circumstance**

- (a) In the event that there is a change in circumstances or condition that is not covered under the terms of this Agreement, including, without limitation, a Change in Applicable Laws or change in the scope of services provided (a “Change in Circumstance”), then the Party asserting the occurrence of such Change in Circumstance shall give written notice to the other Party, and the written notice shall contain:
  - (i) details of the Change in Circumstance;
  - (ii) details of the inadequacy of this Agreement; and
  - (iii) a proposal for an amending agreement to remedy the Change in Circumstance.

- (b) The Parties shall negotiate in good faith any amendments to this Agreement necessary to give effect to or comply with the Change, including any adjustments to the Annual Price or the Services to be provided, which shall be effected as of the date of the Change. If the Parties dispute the existence of a Change, or the recommendation proposed to rectify the Change or the terms and provisions of any amendment to the Agreement, then either Party may refer the dispute to mediation under Article 5, Dispute Resolution.

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

**ONTARIO CLEAN WATER AGENCY**

\_\_\_\_\_  
Date of Signing

By: \_\_\_\_\_  
(Authorized Signing Officer)  
Jeff St. Pierre, Vice President, Operations (A)

\_\_\_\_\_  
Date of Signing

By: \_\_\_\_\_  
(Authorized Signing Officer)  
Natalie Peers, Vice President, Finance

**THE CORPORATION OF THE MUNICIPALITY OF ST.-CHARLES**

\_\_\_\_\_  
Date of Signing

By: \_\_\_\_\_  
(Authorized Signing Officer)  
Paul Branconnier, Mayor

\_\_\_\_\_  
Date of Signing

By: \_\_\_\_\_  
(Authorized Signing Officer)  
Denis Turcot, CAO

## **SCHEDULE A - The Facility**

For the purposes of this Agreement, the description of the Facility is set out in the following document(s):

- Wastewater Lagoon Environmental Certificate Approval No. 6222-9NBP7S
- Wastewater Collection Environmental Certificate Approval No. 325-W601, Issue 1

### **Part 1. Description of the Facility**

For the purposes of this Agreement, the Facility is comprised of the following:

Wastewater Treatment Facility - consists of two seasonal release stabilization ponds (lagoons), Cell "A" is 3.44 hectare, Cell "B" is 3.29 hectare.

#### Wastewater Collection System

- a) Sewage Pumping Station No.1: consists of two Flygt submersible pumps (rated at 24.2 l/s @ 8.11m of TDH), a control building containing a 30 kW standby diesel generator. There is also an emergency forcemain by-pass.
- b) Sewage Pumping Station No.2: consists of two Flygt submersible pumps (rated at 3.0 l/s @ 9.1 m of TDH) and an emergency forcemain by-pass.

### **Part 2. Street Address of the Facility**

The street address of the Facility is as follows:

Waste Stabilization ponds (lagoons) are located approximately 750 metres Southeast of the intersection of Hwy #535 and King Street (Part Lot 10, Concession VI, Township of Casmir)

Sewage Pumping Station No. 1 is located approximately 35 metres East of Casmir Road and approximately 213 metres South of King Street.

Sewage Pumping Station No.2 is located on the east side of Hwy #535 approx. 411 metres North of St. Joseph Street.

## **SCHEDULE B - Definitions**

In this Agreement, the following terms are defined below or in the section in which they first appear:

**“Agreement”** means this agreement together with Schedules A, B, C, D, E, F, G, and H attached hereto and all amendments made hereto by written agreement between OCWA and the Client.

**“Annual Price”** is defined in Section 1 under Schedule D of this Agreement.

**“Applicable Laws”** means any and all statutes, by-laws, regulations, permits, approvals, standards, guidelines, certificates of approval, licences, judgments, orders, injunctions, authorizations, directives, whether federal, provincial or municipal including, but not limited to all laws relating to occupational health and safety matters, fire prevention and protection, health protection and promotion, land use planning, environment, Building Code, or workers’ compensation matters and includes Environmental Laws.

**“Approved Major Maintenance Expenditures”** is defined in Paragraph 4.6(b) of this Agreement.

**“Authorizations”** means any by-laws, licences, certificates of approval, permits, consents and other authorizations or approvals required under Applicable Laws from time to time in order to operate the Facility.

**“Authorized Representative(s)”** is defined in Section 2.4 of this Agreement.

**“Business Days”** means a day other than a Saturday, Sunday or statutory holiday in Ontario.

**“Business Hours”** means the hours between 7:30 a.m. and 4:00 p.m. on a Business Day.

**“Capital Projects”** is defined in Section 4.7(a) of this Agreement.

**“Change in Applicable Laws”** means the enactment, adoption, promulgation, modification, issuance, repeal or amendment of any Applicable Laws that occur after the date this Agreement is executed by both Parties.

**“Change Order”** means the document shown in Schedule “G” describing the changes to the Agreement agreed to by both parties.

**“Claim”** means any claim, fine, penalty, liability, damages, loss and judgments (including but not limited to, costs and expenses incidental thereto).

**“CPI Adjustment”** means the percentage difference between the Statistics Canada Consumer Price Index, All Items (Ontario) (“CPI”) during September of the previous Year as compared to the CPI of September of the current Year. For example, the CPI Adjustment for Year 2022 is the CPI of September 2021 divided by the CPI of September 2020.

“**Current Term**” is defined in Section 4.3 of this Agreement.

“**Crown**” means His Majesty the King in Right of Ontario.

“**Effective Date**” is defined on Page 1 of this Agreement.

“**Environmental Laws**” means, any and all statutes, by-laws, regulations, permits, approvals, certificates of approval, licences, judgments, orders, judicial decisions, injunctions, and authorizations related to environmental matters or occupational health and safety and which are applicable to the operation of wastewater treatment facilities.

“**ESA**” means the Electrical Safety Authority.

“**Facility**” is defined in Paragraph (b) of the Recitals to this Agreement and further described in Schedule A.

“**Hydro Costs**” means hydroelectricity costs due to the operation and maintenance of the Facility.

“**Indemnification Process**” means the procedures a Party is required to follow to obtain indemnification:

- (a) upon receipt of a claim, or notice of claim, the Party shall immediately forward such claim or notice of claim to the Indemnifying Party;
- (b) if requested by the Indemnifying Party, the Party shall provide all documentation relating to the claim, or notice of claim;
- (c) the Party shall take such steps necessary to protect its right to defend such claim, or notice of claim, and shall assign such right to the Indemnifying Party including any subrogation rights;
- (d) the Indemnifying Party shall not settle any claim, or notice of claim, without the prior written consent of the Party; and
- (e) the Party shall have the right to take-over the defence of any claim, or notice of claim and the Indemnifying Party shall fully co-operate with such action.

“**Indemnified Parties**” is defined in Paragraph 3.3(a) of this Agreement.

“**Indemnifying Party**” means the Party responsible for dealing with any Claims and paying out any Claims.

“**Initial Term**” is defined in Section 4.1 of this Agreement.

“**Insurance**” is defined in Paragraph 2.7(a) and further described in Schedule E.

“**Intellectual Property Rights**” means any copyright, trademark, patent, registered design, design right, topography right, service mark, application to register any of the aforementioned rights, trade secret, rights in unpatented know-how, right of confidence and any other intellectual or industrial property rights of any nature whatsoever in any part of the world.

“**Major Maintenance Expenditures**” is defined in Paragraph 4.6(a) of this Agreement.

“**MECP**” means the (Ontario) Ministry of the Environment, Conservation and Parks.

“**MOL**” means the (Ontario) Ministry of Labour.

“**OHSA**” means the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“**Optional Services**” means any services not included in the Annual Price that the Client and OCWA agree in writing to designate as “Optional Services” subject to Section 4.12.

“**Outpost 5**” means a remote monitoring and control system designed and constructed by OCWA and its consultants for the purpose of monitoring and controlling processes at water treatment facilities and their related parts.

“**Overall Responsible Operator**” means the person who will act as the overall responsible operator pursuant to Section 15 of O. Reg. 129/04 under the *Ontario Water Resources Act*, R.S.O. 1990 (“OWRA”) in respect of the Facility.

“**OWRA**” means the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40

“**Parties**” is defined in Paragraph (d) of the Recitals to the Agreement.

“**PDM**” or “**Process Data Management**” means technology that allows process data to be entered into a format that can be viewed, manipulated and retrieved in the form of customized reports.

“**Pre-existing Condition**” is defined in Section 2.5(a) of this Agreement.

“**Renewal Term**” is defined in Section 4.1 of this Agreement.

“**Routine Maintenance**” means regular and/or repetitive activities recommended by the equipment or facility manufacturer or practices of a prudent operator to maintain the reasonably expected service life of the equipment and components thereof and includes preventative maintenance.

“**SCADA**” means Supervisory Control and Data Acquisition.

“**Service Fee**” is defined and described in Schedule D.

“**Services**” is defined in Section 2.1 of this Agreement.

“**Technology**” is defined in Section 7.1 of this Agreement.

“**Uncontrollable Circumstance**” is defined in Paragraph 2.2(c) of this Agreement.

“**Unexpected Expenses**” is defined in Paragraph 4.8(a) of this Agreement.

“**Utility Costs**” means the costs of natural gas used in the operation of the Facility.

“**WMMS**” or “**Work Management Maintenance System**” means a computer program used to determine a program of preventive maintenance activities for equipment in a facility based on a risk analysis that considers factors such as equipment life expectancy, present value and replacement cost.

“**Year**” means the three hundred and sixty-five (365) day period from January 1 to December 31 of the calendar year.



**SCHEDULE C - The Services**

**A – Services for Wastewater System**

**Part 1 – Services included in the Annual Price**

OCWA will provide the following services:

1. Staffing

- (a) certified operator(s) to attend at the Facilities as required under normal operating conditions on Business Days and during Business Hours and supply other personnel as may be necessary to operate, maintain and manage the Facilities under normal operating conditions in compliance with the requirements of Applicable Laws, terms of an Agreement, including management, operation, routine maintenance, administration and reporting;
- (b) supply a certified operator(s), who will be on call 24 hours per day, 365 days per year to respond to emergency conditions in respect of the operation of the Facilities, any such response to be charged to the Client in accordance with Schedule D herein or by way of an annual set amount;
- (c) provide all necessary training and continuing education for staff to ensure the continued operation of the Facilities, in accordance with all Applicable Laws;
- (d) provide an Overall Responsible Operator for the Facilities.

2. Reporting

- (a) prepare and submit all reports to the Client and the MECP respecting the operation and maintenance of the Facilities as required by the MECP or any other regulatory agency or body having jurisdiction at the time of the Agreement;
- (b) review any inspection reports prepared by the MECP in respect of the Facilities and, subject to any approvals of the Client may correct or negotiate with the MECP amendments to a deficiency;
- (c) report to the Client and the MECP non-compliance with a regulatory requirement;
- (d) quarterly & annual reporting for the wastewater lagoon and annual reporting for the collection system, excluding any ad hoc reporting, studies, assessments and/or plans, if, or as required for the CLI-ECA
- (e) equipment renewal program reporting annually by July 1.

Meetings

OCWA'S PROPOSED MEETING PLAN		
Meeting	Frequency	Agenda
Annual performance review	Annual (year-end)	Review of operations, maintenance, compliance, and capital for the year. Review and approval of the upcoming business and operations plan
Operations meetings	Quarterly or as needed	Review of operational and maintenance activities and updates on capital work status
Council	As per client request	Council meeting attendance and presentations when requested

3. Operations Manuals

- (a) recommend to the Client, any section in the operating manuals that should be modified/changed to ensure that the operating manuals reflect the actual or revised approach to operating the Facilities, which recommendations may require third party assistance.

4. Initial Inventory

- (a) develop and maintain inventory of the Client's original equipment tools and attractables in place as of the date of the Agreement;
- (b) develop inventory of critical spares.

5. Change In Laws

- (a) notify the Client of any modifications or changes to the Services or the Facilities required to comply with any Change in Laws and subject to Client approval make the required modifications or changes at an additional cost.

6. Facility Emergency Preparedness

- (a) prepare and revise, as necessary, an Emergency Plan for the Facilities consistent with the requirements of the Applicable Laws and the Client's Emergency Plans;
- (b) establish procedures for managing foreseeable emergencies or abnormal conditions affecting the Facilities.

7. General

- (a) good housekeeping to maintain a safe work environment;

- (b) provide security at the Facilities by maintaining the existing fences and gates and locking same and notifying the Client of the need for any repairs including security alarm systems;
- (c) provide mobile communications services.

**A – Services for Wastewater Collection System**

8. Routine Operations & Maintenance

- (a) in providing routine operation of the Facilities, OCWA will conduct:
  - (i) visual inspection of all buildings, equipment and Facilities insofar as can be observed while these are in service;
  - (ii) instrumentation cleaning, verification of meters;
  - (iii) sampling and/or on-site analysis;
  - (iv) sample collection, preservation, packing and shipment for off-site analysis as required by Applicable Laws at the time of the commencement of this Agreement;
  - (v) laboratory sampling, analysis and reports as required by Applicable Laws at the time of the commencement of this Agreement;
  - (vi) checks and response to alarms;
  - (vii) inspection of process control equipment to ensure proper operation of;
  - (viii) maintenance of daily on-site logs and records, including process control log sheets, laboratory data log sheets, bypass reports and routine checklists as required by Applicable Laws;
  - (ix) consolidation and processing of OCWA’s internal operational data forms for statistical input into a reporting system for the quarterly and annual reports;
  - (x) recording and analysis of flows, chemicals used, residuals and other process readings as required;
  - (xi) utilize Client’s SCADA system (if applicable) for trending review and reporting, gap analysis, testing, and compliance;
  - (xii) before November 30<sup>th</sup> (as per agreement 4.6(b)) prepare a report outlining the foreseeable Major Maintenance Expenditures and Capital Projects required for the Facilities, complete with cost estimates for the Client’s budgeting purposes;
  - (xiii) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);
  - (xiv) removal of grit in lift and pumping stations;
  - (xv) manhole inspections on an annual/rotating basis;
  - (xvi) annual generator maintenance and fuel.

- (b) perform routine preventive maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system including mechanical, electrical, instrumentation and communication;
- (c) implement and utilize a maintenance management system which shall record information related to the maintenance of the Facilities.

### **B - Services for Lagoon System**

OCWA will provide the following services:

#### 9. Routine Operations & Maintenance

- (a) in providing routine operation of the Facilities, OCWA will conduct:
  - (i) visual inspection of all buildings, equipment and Facilities insofar as can be observed while these are in service;
  - (ii) instrumentation cleaning, verification of meters;
  - (iii) sampling and/or on-site analysis;
  - (iv) sample collection, preservation, packing and shipment for off-site analysis as required by Applicable Laws at the time of the commencement of this Agreement;
  - (v) laboratory sampling, analysis and reports as required by Applicable Laws at the time of the commencement of this Agreement;
  - (vi) coordination of chemical supply with chemical vendors (chemical costs are excluded);
  - (vii) checks and response to alarms during Business Hours;
  - (viii) inspection of process control equipment to ensure proper operation of pumps, valves;
  - (ix) maintenance of daily on-site logs and records, including process control log sheets, laboratory data log sheets, bypass reports and routine checklists as required by Applicable Laws;
  - (x) consolidation and processing of OCWA's internal operational data forms for statistical input into a reporting system for the quarterly and annual reports;
  - (xi) visual inspection of lagoon to monitor levels and conditions and inspect berms for erosion;
  - (xii) recording and analysis of flows, chemicals used, residuals and other process readings as required;
  - (xiii) batch dosing with boat and seasonal discharges;

- (xiv) before November 30<sup>th</sup> (as per agreement 4.6(b), prepare a report outlining the foreseeable Major Maintenance Expenditures and Capital Projects required for the Facilities, complete with cost estimates for the Client's budgeting purposes;
  - (xv) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);
  - (xvi) exercise valves.
- (b) perform routine preventive maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system including mechanical, electrical, instrumentation and communication;
  - (c) implement and utilize a maintenance management system which shall record information related to the maintenance of the Facilities.

## **Part 2 - Optional Services (To Be Provided at the Request of the Client)**

OCWA may provide additional services to the Client including but not limited to the Optional Services set out below:

### 1. Operation Related Services

- (a) operation manual updates;
- (b) maintenance and repair of sewage collection system, including but not limited to, smoke/dye testing, manhole inspections, rodding, CCTV inspections, and tree root removal/treatments;
- (c) sewer system locates as set out by applicable legislation and Ontario One Call;
- (d) new sewer service installation or connection inspection;
- (e) contract repair for sewer line breaks including road restoration;
- (f) inspection of repaired sewer services;
- (g) inspect and flush sanitary collection system, including sewers, manholes and clean outs;
- (h) high pressure sewer flushing;
- (i) acoustic pipe inspection;
- (j) infiltration surveys, sewer cameraing;
- (k) adjust and leveling manholes;
- (l) biosolids removal from lagoon;
- (m) lagoon depth monitoring;
- (n) odour control system.
- (o) snow removal and lawn/grounds maintenance at the lagoon, lift station or pumping station

### 2. Capital Projects Plans

- (a) prepare a detailed Capital Projects Plan for the facility.

3. Engineering Services

- (a) engineering services;
- (b) energy audits;
- (c) provide assistance and/or complete applicable funding applications;
- (d) financial plans.

4. Information Technology Services

- (a) SCADA development and maintenance.

**SCHEDULE D - The Annual Price and Other Charges and Adjustments**

**1. Annual Price for the Initial Term**

In accordance with Section 4.2 and subject to any adjustments made pursuant to other provisions of this Agreement, the Client shall pay OCWA a price for the Services for each Year of the Initial Term in the following amounts (the “Annual Price”):

- (i) For Year One to December 31, 2024 inclusive, the monthly payments shall be \$5,078.25. The first payment shall be prorated, if necessary, depending on the actual start date.
- (ii) For Year Two and subsequent Years: \$60,939.00 plus the greater of 2.0% or the CPI Adjustment, plus, if applicable, an adjustment for maintaining the Insurance which is renewed annually by OCWA. The CPI Adjustment shall be calculated as soon as necessary information is available from Statistics Canada. In Year Two of the Agreement, the 2.0% or the CPI Adjustment shall be added to the Annual Price for Year One of the Agreement and for subsequent Years, on a cumulative basis.

**2. Payment of the Annual Price**

In Year One of the Initial Term, the monthly payment of the Annual Price shall be \$5,078.25.

**3. Optional Services**

Unless otherwise agreed to in writing, fees for Optional Services which OCWA agrees to provide to the Client shall be billed directly to the Client on a time and materials basis at the following rates which may be adjusted on an annual basis:

- (a) Labour rates on Business Days, Monday to Friday, (0730 to 1600) shall be billed as per the following table listing for the Regular Hourly Rate, plus vehicle expenses (if applicable) at \$0.75/km/vehicle;
- (b) Labour rates on statutory holidays shall be billed as per the following table listing for the Statutory Holiday Rate with a minimum eight hour charge (call out) per person, plus vehicle expenses (if applicable) at \$0.75/km/vehicle;
- (c) Labour rates at all other times (after hours and on weekends) shall be billed as per the following table listing for the Emergency and O/T rates with a minimum four hour charge (call out) per person, plus vehicle expenses (if applicable) at \$0.75/km/vehicle.

<b>Position Title</b>	<b>Regular Hourly Rate</b>	<b>Emergency &amp; O/T Rates</b>	<b>Statutory Holiday Rate</b>
Senior Operations Manager	\$90.00	\$132.50	\$132.50
Senior Operator	\$65.00	\$87.50	\$87.50
Operator	\$65.00	\$87.50	\$87.50
Operations Supervisor	\$75.00	\$105.00	\$105.00
Process Compliance Technician	\$75.00	\$105.00	\$105.00
Electrician	\$75.00	\$105.00	\$105.00
Team Lead Collection	\$75.00	\$105.00	\$105.00

- (d) Costs for parts, equipment and supplies, and outside labour charges (i.e., contractors), used by OCWA staff to provide the Optional Services shall be billed to the Client, and the Client will pay such costs together with a Service Fee.

#### 4. **Service Fee**

“**Service Fee**” means an additional fee of 15% charged to the Client when OCWA purchases materials, supplies, equipment or contractor’s services on behalf of the Client. For chemicals purchases made by OCWA on behalf of the Client, an additional fee of 12% will be charged to the Client.



**SCHEDULE E - Insurance**

A summary of the insurance coverage that OCWA will arrange in respect of the facilities is described below:

**Property Insurance**

**Insured Perils:** All Risks of direct physical loss or damage (including Flood and Earthquake) occurring during the term of this policy, except as hereinafter excluded.

**Policy Limits:**

- Replacement Value
- Extra expenses
- Expediting expenses

**Insurable Values:** Please report facilities' value based on Replacement Cost. (Subject to Annual Review and Update by the Client.)

**Deductibles:** Earthquake – *Scheduled Facilities and Locations in Earthquake Zones*

Up to 3% of the value of the property insured subject to a minimum of \$100,000

Flood – *Facilities and Locations in 100 year Flood Zones*  
2% of the value of the property insured, subject to a minimum amount of \$100,000.

Flood - *All Other Facilities*

Up to 2% of the value of the property insured, subject to a minimum amount of \$60,000.

Water Damage – Up to \$130,000

Sewer back-up – Up to 2% of the value of the property insured, subject to a minimum amount of \$100,000.

Portable Generators – 3% of the value of the property insured, subject to a minimum amount of \$25,000.

Installations, Hook Liability or Portable Water Treatment Facility - \$27,500.

Testing & Commissioning - \$27,500

**All Other Losses:** \$13,500

The above is subject to change on an annual basis.

Where the Client's property is repaired or replaced, the Client will pay the deductible. Where OCWA's property is repaired or replaced, OCWA will pay the deductible. In cases where both the Client's and OCWA's property is repaired or replaced, the deductible will be paid by both the Client and OCWA *pro rata* in accordance with the total loss.

**Property Insured:** Property of every kind and description as declared except as excluded under the "Property Excluded" section of the policy.

### **Boiler & Machinery Insurance**

**Coverage:** Sudden & Accidental Breakdown of a Pressure, Mechanical, Electrical Object including Production Machinery as defined under the policy. Coverage applies to the loss of the "Object" itself and for loss to other insured property directly damaged by the "Accident", except as excluded under the policy.

**Limit:** **Maximum** \$100,000,000 per Accident.

**Deductibles:** \$5,000 for Property Damage and \$15,000 for Extra Expense per Accident for the year 2024; subject to changes on an annual basis.

Where the Client's property is repaired or replaced, the Client will pay the deductible. Where OCWA's property is repaired or replaced, OCWA will pay the deductible. In cases where both the Client's and OCWA's property is repaired or replaced, the deductible will be paid by both the Client and OCWA *pro rata* in accordance with the total loss.

### **Automobile Insurance**

**Coverage:** Automobile Liability for OCWA owned or leased vehicles.

**Limit:** \$5,000,000 per Occurrence

### **Commercial General Liability Insurance**

**Coverage:** Third party liability including legal fees, for property damage and/or bodily injury as caused by OCWA's negligence arising out of OCWA's operations of the Facilities.

**Limit:** \$5,000,000 per Occurrence.

**Deductible:** \$50,000 for the year 2024; subject to change on an annual basis.

**Contractor's Pollution Liability Insurance**

**Coverage:** Contractor's Pollution liability covering third party property damage and bodily injury and clean up costs for pollution conditions arising out of the performance of the services provided by OCWA.

**Limit:** \$10,000,000 per loss on a Claims Made basis with automatic, extended reporting periods for Contractor's Pollution Liability. \$10,000,000 aggregate.

**Deductible:** \$50,000 for the year 2024; subject to change on an annual basis.

**Professional Liability Insurance**

**Coverage:** Professional Liability: To pay on behalf of OCWA sums which OCWA shall become legally obligated to pay as damages and/or claims expense as a result of claims made first against OCWA, and reported to the insurer, in writing during the policy period, automatic extended reporting period (90 days), and by reason of any negligent act, error or omission in professional services rendered or that should have been rendered by OCWA, or by any person for whose negligent acts errors or omissions OCWA is legally responsible, and arising out of the conduct of OCWA's profession.

**Limit:** \$5,000,000 per loss on a Claims Made basis for Professional Liability Insurance and including \$5,000,000 Aggregate.

**Deductible:** \$50,000 for the year 2024; subject to change on an annual basis.

**SCHEDULE F - List of Pre-Existing Conditions**

As per Paragraph 3.1(e) of this Agreement, the following Pre-existing Conditions have been identified:

1. There are no operations manuals for the facility.
2. The diesel fuel tank needs replacing.
3. There are incomplete drawings of the facility and collection system.
4. There may be unknown factors at the facility, lift and pumping stations that may require additional servicing.

**SCHEDULE G - Change Order Form**



**Change Order Form**

Change Being Requested			
Name of Change:			
Ontario Clean Water Agency (OCWA)	Per: _____ Name: _____ Title: _____	Date (YYYY/MM/DD):	
Client	Per: _____ Name: _____ Title: _____	Date (YYYY/MM/DD):	

Adjustment	
Check Appropriate Type of Change	
Apply (Y/N)	Type of Change:
	Adjustment to Annual Price
	Change to Service
	Impact

Adjustment to Annual Price	
Description – Attach Additional Documentation if Required	

Change in Services	
Description – Attach Additional Documentation if Required	



**SCHEDULE H - Expenditure Request and Approval to Proceed**



Hub Name  
Hub Address  
City, ON Code  
Phone: XXX-XXX-XXXX Fax: XXX-XXX-XXXX

**PART 1**

<b>Facility Name:</b>			
<b>Project Name:</b>			
<b>Project Number:</b>		<b>Estimated Project Start Date:</b>	
<b>Total Estimated Cost of the Project:</b>	\$	<b>Detailed Quote Attached:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No

*It is recognized that this is a budget estimate and the final price may vary. OCWA will provide additional justification where the final invoice price varies from the estimate by more than 10%*

**Type of Project:**

- Maintenance Project
- Out of Scope Work
- Contingency
- Emergency
- Health & Safety

**Description of Project or Expenditure:**

**Submission Prepared By:**

Name (Print)	Signature	Date

*Authorized Representative for the Ontario Clean Water Agency*

**PART 2**

**Approval to Proceed:**

Approved     Declined     Deferred    Reason if Declined or Deferred

The Ontario Clean Water Agency is authorized to proceed with the project/expenditure according to the description and cost estimate provided above. This may include but not limited to the hiring of sub-contractors, consulting firms, etc. as required. The Municipality agrees to pay OCWA the costs associated with this work upon its completion based on the terms of the Municipality's agreement with OCWA.

**Approved By:**

Name (Print)	Signature	Date

*Authorized Representative for the Municipality*

**PART 3**

<b>OCWA Internal Use Only:</b>			
Client PO / Project #:		Date:	
Project Start Date:		Project Completion Date:	
OCWA Invoice #		Date:	
OCWA Account Code:		OCWA Work Order #	