

SERVICES AGREEMENT
BETWEEN
ONTARIO CLEAN WATER AGENCY
A N D
THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN

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SERVICES AGREEMENT

THIS AGREEMENT effective as of the 1st day of January, 2021 (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 WEST ELGIN

(the “Client”)

RECITALS

- (a) OCWA is in the business of providing management, operations and maintenance services for water and wastewater facilities.
- (b) The Client is the owner of the West Lorne & Rodney Wastewater Treatment Plants, West Elgin Distribution & Wastewater Collection Systems, more particularly described in Schedule A (the “Facilities”).
- (c) The Client wishes to retain the services of OCWA to operate and maintain the Facilities 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 Facilities.
- (e) The Council of the Client on the _____ day of _____, 20__ 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 Facilities (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 Section 4.6 and Section 4.7 herein;
 - (ii) failure of the Client to meet its responsibilities specified in this Agreement;
 - (iii) failure of any equipment at the Facilities, unless the failure is due to OCWA’s negligence;
 - (iv) the water transmitted to the water treatment Facilities for treatment contains contaminants or pathogens which cannot be treated or removed by the Facilities treatment processes;
 - (v) the quantity or quality of water transmitted to the water treatment Facilities exceeds the Facilities’ design or operating capacity;
 - (vi) the wastewater transmitted to the wastewater treatment Facilities for treatment contains contaminants or other substances which cannot be treated or removed by the Facilities treatment processes;

- (vii) the wastewater transmitted to the wastewater treatment Facilities for treatment does not meet the requirements of the Client's sewer use by-law or any Environmental Law;
- (viii) the quantity or quality of wastewater transmitted to the wastewater treatment Facilities exceeds the Facilities' design or operating capacity;
- (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) In the event that OCWA determines that a deficiency exists with respect to the operations of the System, OCWA will use its best efforts to contact the Client to obtain the Client's approval prior to undertaking any remedial measures to correct the deficiency. The Client acknowledges that such measures may be beyond the scope of Services and this subject to an additional charge.
- (e) 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 Facilities 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 – Standard of Care

OCWA shall deliver the Services as would a reasonable operator with like skills in like circumstances.

Section 2.4 - 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 2.5 - 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 2.6 - 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 Facilities 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 described in Schedule B.

Section 2.7 - 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 2.8 - 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 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 Facilities. 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) No later than thirty (30) days following the Effective Date of this Agreement, the Client will provide certificates of insurance for its property and boiler and machinery insurance policies to OCWA. The insurance coverage for both policies should be on a full replacement cost basis. OCWA will be named as the loss payee on both policies.
- (f) 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 Facilities, (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 Facilities, the Client is fully aware of its responsibilities and obligations regarding the operation and maintenance of the Facilities under Applicable Laws, including without limitation its responsibilities under the *Safe Drinking Water Act, 2002* (the "SDWA"), the *Ontario Water Resources Act* 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 Facilities which would affect OCWA's ability to operate the Facilities 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 Facilities are 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 "OHS") at the Facilities. 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 OHS and its regulations and to notify OCWA of the location of any designated substances in the Facilities.

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 Facilities 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 Facilities, any Authorization or amendment to any Authorization, as well as any governmental notice or order relating to the Facilities.
- (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 water works that belong to or are under the control of the Client and that distribute water from the Facilities.
- (e) 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 Facilities.
- (f) 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.

- (g) The Client shall take reasonable steps to ensure that wastewater transmitted to the Facilities 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.

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 Her Majesty the Queen 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 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 described 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 **January 1, 2021** and shall continue in effect for an initial term of ten (10) years, ending on **December 31, 2030** (the "Initial Term") and then may be renewed for successive five (5)-year terms (each a "Renewal Term") upon 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 on **[Insert date]**. Payment shall be made by the Client by pre-authorized bank debit from a bank account designated by the Client.

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 Paragraph 4.7(a) 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;

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 Facilities 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 October 31st 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 six (6)-year recommendations for Major Maintenance Expenditures required for the long term operation of the Facilities. The Client’s written approval of the estimate or revised estimate, in the form set out in Schedule “G”, 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.
- (d) OCWA will not be required to obtain the prior approval of the Client for any Major Maintenance item costing less than \$2,000.00.

Section 4.7 - Capital Projects

- (a) “Capital Projects” means changes and improvements to the Facilities which include the installation of new technology, improvements to the efficiency, performance and operation of the Facilities, replacement of major pieces of equipment, structural modifications to the Facilities 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 approval of the Client with respect to those Unexpected Expenses will be required only if time permits. Within five (5) 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.
- (d) In the event that OCWA is required to incur Unexpected Expenses, OCWA will not be required to obtain the prior approval of the Client for any Major Maintenance Expenditure item costing less than \$2,000.00.

Section 4.9 - Interest on Late Payments

- (a) **Monthly Payment of Annual Fee.** If the Client's monthly payment of the Annual Fee is not available in OCWA's designated bank account on the agreed to 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 4.8(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 Facilities. 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 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.

Section 4.14 – Chemical Costs

- (a) OCWA's initial Annual Price is calculated based upon an estimate of the annual cost of chemicals used in the operation of the facilities (the "Chemical Costs") in the amount as per Schedule D, Section 5, (the "Current Annual Chemical Cost"). However, due to the uncertainty of chemical rates, adjustments may have to be made for Chemical Costs increases/decreases as follows:
 - (i) If there is an increase of greater than 10% per dry ton of alum in total annual Chemical Costs over the Current Annual Chemical Cost in any Year of the Agreement, then the Client shall pay OCWA the entire amount of the increase over and above the Annual Price.

- (ii) If there is a decrease of greater than 10% per dry ton of alum in total annual Chemical Costs over the Current Annual Chemical Cost in any Year of the Agreement, then the Client shall be compensated by OCWA for the entire amount of the decrease.
- (b) The calculations for the purpose of this section will take place as soon as it is reasonably possible after OCWA determines the annual Chemical Costs for the year. At the end of each year of this Agreement, OCWA shall deliver an account to the Client. If the Client owes monies to OCWA under this section, then an invoice for that amount will be sent to the Client. If OCWA owes monies to the Client, then a credit will be applied to the Client's account.
- (c) Should the decrease in total annual Chemical Costs be a direct result of an investment by OCWA, then there shall be no credit under (b) above, until such time as OCWA's investment is fully recovered."

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 - Final Settlement

If OCWA ceases to operate the Facilities, 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, 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 6.4 - Transfer of Operations

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

- (a) The log books for the Facilities.
- (b) The original operations manuals 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 Facilities.
- (d) Maintenance and repair records of equipment at the Facilities in electronic format.
- (e) The operational plans under the Drinking Water Quality Management Standard (DWQMS) and any Standard Operating Procedures (SOPs) identified in the DWQMS.

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 Facilities 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 Facilities 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:
The Corporation of the Municipality of West Elgin
P.O. Box 490, R.R.#1
Rodney, ON, N0L 2C0
Telephone: (519) 785-0560
Fax: (519) 785-0644
Attention: CAO/Treasurer
- (ii) if to OCWA:
Ontario Clean Water Agency, Southwest Regional Office
450 Sunset Drive Suite 370,
St. Thomas, ON N5R 5V1
Telephone: (519) 768-9925
Attention: Senior Operations 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: _____
(VP Operations, Terry Bender)

Date of Signing

By: _____
(Executive Vice President and General Counsel,
Robin Kind)

**THE CORPORATION OF THE
MUNICIPALITY OF WEST ELGIN**

Date of Signing

By: _____
(Mayor, Duncan McPhail)

Date of Signing

By: _____
(CAO/Treasurer, Magda Badura)

SCHEDULE A - The Facilities

Part 1. Description of the Facilities

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

West Elgin Water Distribution System

The West Elgin Distribution System services West Lorne, Rodney and rural areas of West Elgin.

The West Elgin Distribution System relies on the Tri-county Drinking Water System to supply the system with potable water that has met primary and secondary disinfection requirements.

A portion of the West Elgin Distribution System on Beattie Line is supplied by the Southwest Middlesex Distribution System through a connection on Beattie Line and Graham Road. This area relies on Southwest Middlesex Distribution System to supply water that has met primary and secondary disinfection requirements.

The West Elgin Distribution System contains 180 Kms, (50mm-400 mm) of watermains along with a water tower located in Rodney. The Rodney Tower contains re-chlorination facility using sodium hypochlorite in order to maintain secondary disinfection in the distribution system. There are sample stations, hydrants, blow offs and auto flushers located throughout the municipality for monitoring the system. The system serves 1760 active customers.

The West Elgin Distribution System is connected to the Southwest Middlesex Distribution System at the Southwest Middlesex Reservoir. There is also another connection to the Southwest Middlesex Distribution System through an interconnection located near the 401 on Graham Road in West Lorne. This was created when there was an emergency watermain break on the Southwest Middlesex Distribution System and is only used for maintenance and emergency situations.

West Elgin Wastewater Treatment System

West Lorne

Screening -Automatic fine screw screen.

Grit Chamber -automated grit snail unit

Aeration Facilities

two (2) reinforced concrete aeration basins with a total hydraulic retention capacity of approximately 900 cubic metres at 4.5 metres SWD, equipped with a fine bubble type aeration system.

two (2) air blowers, with an operating range of 14-20 cubic metres per minute at 56 kilo Pascals
one (1) blower with an operational range between 7-15 cubic metres per minute.

Secondary Clarifiers

two (2) secondary clarifier with a total surface area of approximately 160 square metres and a water depth of 4.5 metres, equipped with mechanical sludge and scum removing mechanism.

Return Sludge and waste Sludge Pumping Units

(4) fixed speed return activated sludge/waste activated sludge pumps, two as duty and two as standby, each rated at approximately 15.6 litres per second against 7.5 metres T.D.H. and provided with throttling valves.

Phosphorus Removal and Alkalinity control systems

Chemical storage and feed facilities for phosphorus removal and alkalinity control, consisting of: two (2) 15,000 litres fibre reinforced plastic tanks, to be installed inside heated building within a spill containment area, for the storage of phosphorus removal chemical and alkalinity addition chemical;

three (3) diaphragm type metering pumps for phosphorus removal chemical, two (2) as duty and one as shelf-spare to share with alkalinity control system, each rated at 23 litres per hour.

one (1) diaphragm type metering pump for addition of supplementary alkalinity, rated at 23 litres per hour.

Lagoon

one (1) two-cell lagoon used for long term sludge stabilization/storage, consisting of: waste activated sludge to be conveyed to the existing lagoons;

lime feeding system for sludge stabilization comprising bag loader/ slasher, dry chemical feeder, solution tank, mechanical mixer, two (2) metering pumps, one (1) as stand-by, each rated at 480 litres per hour and dust control system;

gravity main from Pump Station to enable the discharge of raw sewage directly to the lagoon during emergencies;

lagoon outlet structure to allow supernatant to be returned to treatment plant.

Effluent Filtration

three (3) SuperSand filter units.

one (1) air compressor rated to 470 litres per second at 8.6 bar to serve above mentioned filters.

Backwash Pumps

with two (2) 0.25 kilowatts end suction centrifugal backwash pumps.

one (1) XLPE vertical backwash storage tank with 775 litres capacity.

UV Disinfection

one (1) UV disinfection system for disinfection of filtered effluent prior to discharge.

Effluent Water System

two (2) centrifugal effluent water pumps, for supplying water to the grit removal unit and site yard hydrants, each rated at approximately 4.7 litres per second against 43.0 metres T.D.H.;

two (2) centrifugal effluent water pumps, one as shelf-spare, for supplying water for foam control, each rated at approximately 4.9 litres per second against 15.5 metres T.D.H.

(1) dual microwave flow velocity sensor and ultrasonic level sensor In the UV channel.

Rodney WWT

Extended aeration plant

Extended aeration plant with a rated capacity of 590m³/d average flow and consisting of:

Screening/Flow Splitting Chamber

A reinforced concrete inlet channel measuring approximately 3.87m x 0.73m x 0.81 m deep provided with a mechanical screen and flow splitting chamber designed for a peak flow of 2190m³/d.

Aeration basin

Two (2) reinforced concrete aeration basins, each measuring approximately 20.7m x 6.6m x 3.0m SWD and equipped with three (3) mechanical aerators, each rated at 7.6 kw.

Final Clarifier

One (1) reinforced concrete clarifier measuring 9.75 diameter and 3.66 m SWD, equipped with centre inlet column with minimum diameter of 0.6m; influent stilling well with minimum diameter of 1.94m; peripheral effluent weir, approx. length 29m; sludge collector mechanism including a centre support column, collector arms, gear assembly, drive unit, as well as four (4) syphon tubes i.e. two (2) per rake arm to remove settled sludge rapidly at a controlled rate; scum removal mechanism, scum chamber and one (1) scum pump rated at 9.1 L/s against 13.1m TOH.

Return Sludge and Waste Sludge Pumping Units

Return sludge and waste sludge pumping system consisting of:

two (2) return activated sludge/waste activated sludge pumps, each rated at 21 L/s at 10m TOH, installed in Control Building 'B' ; one (1) magnetic flow meter on 150mm diameter sludge return line.

Flow Monitoring Equipment

One (1) reinforced concrete flow measuring chamber, approximately 3.2m x 2.1m x 1.1m deep, containing a v-notch weir and an ultrasonic transducer, located at the outlet of the final clarifier to measure the rate of flow being treated at the plant.

Phosphorus Removal and Alkalinity Control Systems

Chemical storage and feed facilities for phosphorus removal and alkalinity control, consisting of: one (1) 3m diameter x 4.3m high, 30,000L fibre reinforced tank furnished with heating taps installed outside in a concrete spill containment structure, for the storage of phosphorus removal chemicals;

two (2) diaphragm type metering pumps, one as standby, each rated at 24 L/hour against 1000 kPa discharge pressure, metering rate controlled automatically by the flow signal, for feeding the phosphorus removal chemical;

two (2) high capacity, fixed mount, gear driven mixers to keep lime slurry in suspension, one mixer in the lime storage and feed room and the second one to be retained on site as spare;

two (2) diaphragm type metering pumps, one standby, each rated at 60 L/hour at 500 kPa discharge pressure

Utility Buildings

Utility buildings at the sewage treatment plant site consisting of:

Control Building 'A' with approximate floor area of 118 m² to accommodate an office/lunch room, a laboratory, a workshop, a locker room and a washroom;

Control Building 'B' with approximate floor area of 98 m² to house chemical feed equipment and sludge pumps.

Filtration

continuous backwash filter housed in a filter building located between the existing lagoon and Control Building 'A' and consisting of:

a four (4) module, 2.0m deep bed sand filter with a total surface area of 9•3m² ;

two (2) compressors each rated at 18.9 L/s at 860 kPa;

two (2) filter backwash pumps each rated at 1.5 L/s at 9.8m TDH;

two (2) metering pumps each rated at 18.9 L/hour, to pump 30 percent of hydrogen peroxide for filter cleaning, when necessary, including chemical storage tanks.

Disinfection

ultraviolet disinfection system consisting of a minimum of one bank of four modules each having a minimum of four lamps and located in the filter building.

Lagoon

lagoon for sludge digestion/storage by installing:

two (2) surface aerators for odour control;

lagoon decanting facility with one decanting pump rated at 3.5 L/s at 12.0m TOH and discharging to the head of the works.

Collection System

West Lorne

Sanitary Sewers

Sanitary sewers on McGregor Street, in the Municipality of West Elgin, County of Elgin.

Main Sewage Pumping Station

pumping station located at Marsh Line consisting of:

one (1) wet well sized for a minimum cycle time of 10 minutes for each pump;

three (3) submersible pumps, one (1) as duty pump, rated at 10.4 litres per second against 9.3 metres T.D.H. and two (2) as duty pump on a rotational basis, each rated at 31.1 litres per second against 17.0 metres T.D.H.; emergency gravity main directly to the existing lagoons.

Forcemain

200 millimetres diameter sewage forcemain from the pumping station to the treatment plant in an easement mostly alongside the existing forcemain.

Rodney

Pumping Station and Forcemain

Sewage pumping station located near the junction of Furnival Road and King Street, consisting of:

Two (2) submersible pumps, each rated at 27L/s against 27m TDH;

Ultrasonic level control system for flow monitoring and automatic control of sewage pumps;

High and low float regulators as an override to the ultrasonic control systems;

Installation of a portable hoist; a 3.5 m x 2.9 m x 2.1 m deep reinforced concrete valve chamber

Foremain

200 mm diameter sewage forcemain from the lagoon inlet to the aeration plant.

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 Facilities.

“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 “F” describing the changes to the Agreement agreed to by both parties.

“Chemical Costs” is defined in Section 4.14 (a).

“Current Annual Chemical Cost ” is defined in Section 4.14(a)

“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 2020 is the CPI of September 2019 divided by the CPI of September 2018.

“Current Term” is defined in Paragraph 4(c) under Schedule D of this Agreement.

“Crown” means Her Majesty the Queen in Right of Ontario.

“Drinking Water Quality Management Standard (DWQMS)” means the standard that sets out the minimum requirements for the operation of a drinking water system.

“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 water and wastewater treatment facilities.

“ESA” means the Electrical Safety Authority.

“Facilities” 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 Facilities.

“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 Indemnified Party shall immediately forward such Claim or notice of Claim to the Indemnifying Party;
- (b) if requested by the Indemnifying Party, the Indemnified Party shall provide all documentation relating to the Claim or notice of Claim;
- (c) the Indemnified 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 Indemnified Party; and
- (e) the Indemnified 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 23 of O. Reg. 128/04 under the *Safe Drinking Water Act, 2002* (the “SDWA”) and Section 15 of O. Reg. 129/04 under the *Ontario Water Resources Act* (the “OWRA”) in respect of the Facilities.

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

“**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 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.

“SDWA” means the *Safe Drinking Water Act, 2002*, S.O. 2002 c.32.

“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 Facilities.

“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* calendar year.

SCHEDULE C - The Services

Services for Water Distribution, Wastewater Treatment and Wastewater Collection Systems

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. Regulatory 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, either 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) maintain Drinking Water Quality Management System plan

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. 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.

5. 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.

6. 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;
- (c) provide mobile communications services;
- (d) present the operational reports to council on a quarterly basis.

7. 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 flow meters at the facilities;
 - (iii) sampling and/or on-site analysis;
 - (iv) sample collection, preservation, packing and shipment for off-site analyses 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;
 - (vii) checks and responses to alarms during Business Hours;

- (viii) inspection of process control equipment to ensure proper operation of re- chlorination at the Rodney Elevated Tank;
 - (ix) inspection of process control equipment to ensure proper operations at the facilities;
 - (x) 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;
 - (xi) consolidation and processing of OCWA's internal operational data forms for statistical input into a reporting system for the Quarterly report;
 - (xii) recording and analysis of flows, chemicals used, residuals and other process readings as required;
 - (xiii) calculation, recording and analysis of the amount of wastewater treated daily flows/monthly flows;
 - (xiv) utilize Client's SCADA system (if applicable) for trending review and reporting, gap analysis, testing, and compliance;
 - (xv) before October 31st (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;
 - (xvi) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);
 - (xvii) semi-annual flushing, opening, exercising and winterizing of water hydrants including exercising secondary valves and provide reports and recommendations;
 - (xviii) annually exercise main distribution shut-off valves and provide reports and recommendations;
 - (xix) annual chamber inspections and monitoring, and provide reports to the client with condition assessment and recommendation;
 - (xx) weekly inspection of the auto-flushers within the West Elgin distribution system;
 - (xxi) removal of grit and screening;
 - (xxii) manhole inspections weekly at Third St. and Stinson St
 - (xxiii) perform annual manhole inspection/ condition and report annually with recommendations for repairs
 - (xxiv) from April until November, flush dead end blow offs through out distribution system.
- (b) perform Routine Maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system including mechanical, electrical, HVAC, instrumentation and communication;
 - (c) utilize a maintenance management system which shall record information related to the maintenance of the Facilities.

8. Asset Management Support O.Reg 588/17

- (a) OCWA to manage Client assets according to budgetary goals, meet with Client staff and provide them with asset status, needs, risks, goals and progress.
- (b) Prepare capital budget and forecast.
- (c) Review financial reports to find ways to reduce costs.

- (d) Support Client to compile asset management reports for Council

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) Inspect and repair watermains and sewer mains: the Municipality will perform the excavating and expose leak, provide traffic control and site restoration. OCWA will provide competent operator to perform the repair. Proper tools for the repair will also be provided by OCWA
- (b) operation manual updates;
- (c) water meter installation/replacement/reading;
- (d) water service disconnect and reconnect;
- (e) new water service installation or connection inspection;
- (f) well cameraing/well level monitoring;
- (g) clearwell cleaning;
- (h) back flow prevention measures;
- (i) Water system locates as set out by applicable legislation and Ontario One Call;
- (j) new water service installation or connection inspection;
- (k) biosolids removal from lagoon;
- (l) lagoon depth monitoring;
- (m) odour control system;
- (n) 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;
- (o) sewer system locates as set out by applicable legislation and Ontario One Call;
- (p) new sewer service installation or connection inspection;
- (q) contract repair for sewer line breaks including road restoration;
- (r) inspection of repaired sewer services;
- (s) inspect and flush sanitary collection system, including sewers, manholes and clean outs;
- (t) high pressure sewer flushing;
- (u) acoustic pipe inspection;
- (v) infiltration surveys, sewer cameraing;
- (w) adjust and leveling manholes;

2. Capital Projects Plans

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

3. Watermain Services

- (a) contract repair for watermain breaks including road restoration;
- (b) inspection of repaired water pipes;
- (c) thawing water pipes;

- (d) new watermain conditioning;
- (e) watermain swabbing;
- (f) intake inspection;
- (g) leak detection;

4. Engineering Services

- (a) engineering services;
- (b) energy audits;
- (c) water tower painting and repair;
- (d) provide assistance and/or complete applicable funding applications;
- (e) initial condition inspection;
- (f) financial plans for water infrastructure.

5. Hydrant Services

- (a) hydrant flow testing;
- (b) hydrant repairs;
- (c) painting hydrants.

6. Information Technology Services

- (a) SCADA development and maintenance.

SCHEDULE D - The Annual Price And Other Charges

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 from January 1, 2021 through to December 31, 2021 inclusive:
\$501,812.83

(ii)

Year	Rodney WWT	West Lorne WWT	West Elgin Dis	West Elgin WWC	Total
2021	\$160,728	\$179,476	\$147,635	\$13,974	\$501,812.83
2022	\$163,139	\$182,168	\$149,850	\$14,183	\$509,340.02
2023	\$165,586	\$184,901	\$152,097	\$14,396	\$516,980.12
2024	\$168,070	\$187,674	\$154,379	\$14,612	\$524,734.82
2025	\$168,070	\$187,674	\$154,379	\$14,612	\$524,734.82
2026	\$170,591	\$190,489	\$156,695	\$14,831	\$532,606.03
2027	\$173,150	\$193,346	\$159,045	\$15,054	\$540,595.12
2028	\$175,747	\$196,247	\$161,431	\$15,279	\$548,704.04
2029	\$178,383	\$199,190	\$163,852	\$15,509	\$556,934.60
2030	\$178,383	\$199,190	\$163,852	\$15,509	\$556,934.00

2. Payment of the Annual Price

In Year One of the Initial Term, the monthly payment of the Annual Price shall be
\$41,817.73.

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:

- (a) Labour rates on Business Days, Monday to Friday, (0730 to 1600) shall be billed at \$90.00/hour/person for an operations manager and assistant operations manager, and \$65.00/hour/person for an operator or mechanic, plus vehicle expenses at \$0.50/km/vehicle;
- (b) Labour rates on statutory holidays shall be billed at \$132.50/hour/person for an operations manager and assistant operations manager, and \$87.50/hour/person for an

operator or mechanic, with a minimum eight (8) hour charge, plus vehicle expenses at \$0.50/km/vehicle;

- (c) Labour rates at all other times (after hours and on weekends) shall be billed at \$132.50/hour/person for an operations manager and assistant operations manager, and \$87.50/hour/person for an operator or mechanic, with a minimum four (4) hour charge, plus vehicle expenses at \$0.50/km/vehicle;
- (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 charged to the Client when OCWA purchases materials, supplies, equipment or contractor’s services on behalf of the Client. For any individual item or service purchased, the Service Fee shall be calculated as follows:

- (a) 15% on the first \$10,000; plus
- (b) 10% on the amount from \$10,000 - \$50,000; plus
- (c) 5% on the amount in excess of \$50,000.

For example, the Service associated with Major Maintenance which required \$56,000 in supplies and materials would be \$5,800 ($15\% \times \$10,000 + 10\% \times \$40,000 + 5\% \times \$6,000$).

5. Adjustments for Chemical Costs

The estimated cost for Chemicals next year:

- West Elgin DWS - Hypo - \$200
- West Lorne WWTP - Alum- \$8,500
- Rodney WWTP – Alum - \$6,500

SCHEDULE E - Insurance

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

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 2020; subject to change on an annual basis.

Contractor's Pollution Liability/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 act, error or omission in professional services rendered or that should have been rendered by OCWA, or by any person for whose acts errors or omissions OCWA is legally responsible, and arising out of the conduct of OCWA's profession.

Pollution legal 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 Pollution Liability. \$10,000,000 aggregate.

Limit: \$5,000,000 per loss on a Claim Made basis for Professional Liability Insurance

Deductible: \$50,000 for the year 2020; 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:

- At this time OCWA is not aware of any pre-existing conditions

SCHEDULE G- Change Order
Form



Change Order Form

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

Cost Breakdown for Change in Services			
Item	Quantity	One-time Cost	Annual Cost
	Total Cost:		

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

Facility Name:			
Project Name:			
Project Number:		Estimated Project Start Date:	
Total Estimated Cost of the Project:	\$	Detailed Quote Attached:	<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
<i>Authorized Representative for the Municipality</i>		

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
<i>Authorized Representative for the Municipality</i>		

PART 3

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