

THE CORPORATION OF THE TOWN OF LATCHFORD

BY-LAW NO. 2015-25

BEING A BY-LAW TO authorize the execution of a services agreement between the Town of Latchford and Ontario Clean Water Agency Incorporated to provide operations and maintenance services for water and wastewater facilities.

WHEREAS under Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, the powers of a municipality shall be interpreted broadly to enable it to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS under Section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS under Section 10 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

NOW THEREFORE the Council of The Corporation of the Town of Latchford enacts as follows:

1. That the said agreement identified as Schedule "A" is hereto attached and forms part of this by-law.
2. That the Mayor and Clerk are hereby authorized to sign and seal the said agreement on behalf of the Corporation.

READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED this 19th day of November 2015.



Mayor, George Lefebvre



Clerk, Jaime Allen

SERVICES AGREEMENT

BETWEEN

ONTARIO CLEAN WATER AGENCY

AND

THE CORPORATION OF THE TOWN OF LATCHFORD

FOR OVERALL RESPONSIBLE OPERATOR SERVICES (ORO)

**- WATER FILTRATION PLANT, WATER DISTRIBUTION SYSTEM,
SEWAGE TREATMENT PLANT
AND THE SEWAGE COLLECTION SYSTEM**

OVERALL RESPONSIBLE OPERATOR SERVICES AGREEMENT

THIS AGREEMENT effective as of the 1st day of November, 2015

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 TOWN OF LATCHFORD
(the "Client")

(Each a "Party" and together the "Parties")

RECITALS

- (a) OCWA is in the business of providing operation, maintenance and management services for water and wastewater treatment systems.
- (b) The Client is the owner of the Latchford Water Filtration Plant, the Latchford Sewage Treatment Plant, the Latchford Water Distribution System and the Latchford Sewage Collection System described in Schedule A (the "Facility").
- (c) The Client wishes OCWA to act as the "overall responsible operator" (the "ORO") of the Facility in accordance with the provisions of this agreement (the "Agreement") and to provide such other services as are set out in Schedule C of this Agreement.
- (d) The Client and OCWA (collectively, the "Parties" and each a "Party") are entering this Agreement to clarify and set out their respective rights and obligations with respect to the oversight, operation and maintenance of the Facility.
- (f) The Council of the Client on _____, 2015 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 staff who will act as the overall responsible operator ("ORO") pursuant to Section 23 of O. Reg. 128/04 under the *Safe Drinking Water Act, 2002* (the "SDWA") in respect of the Facility and the operator in charge (OIC) services pursuant to Section 15 and 18 of O. Reg. 124/09 under the *Ontario Water Resources Act, R.S.O. 1990, c. 0.40* (the "OWRA") in respect of the Facility. In acting as the ORO, OCWA will provide the services set out in Schedule C (the "Services").
- (b) OCWA staff who act as ORO of the Facility will have certification levels equivalent to the class of the Facility to enable them to provide the Services.

Section 2.2 - Performance of Services

- (a) OCWA shall attempt at all times to deliver the Services, and any Emergency Services (as described in Section 2.3 below) that may need to be provided, in compliance with all Water Treatment Laws, but shall not be responsible for any non-compliance under conditions described in Paragraphs 2.2(b) and (c) below and in any of the following circumstances:
 - (i) the Client not carrying out its duties and responsibilities under this Agreement including, but not limited to, its responsibility for the day-to-day operation of the Facility and for the direction and discipline of any of the Client's Employees assigned to work at the Facility;
 - (ii) the Client's Employees not carrying out instructions given by OCWA;
 - (iii) lack of adequate response by the Client to a concern raised by OCWA in respect of the Client's Employees on any matter;
 - (iv) the Client not making the Capital Expenditures reasonably recommended by OCWA;
 - (v) failure of the Client to meet its representations and warranties specified in this Agreement; and

- (vi) the water transmitted to the Facility for treatment contains pathogens or contaminants or other substances which cannot be treated or removed by the Facility's process.
- (b) OCWA may temporarily cease to provide or reduce the level of provision of Services hereunder in the event of an emergency, a breakdown or any Uncontrollable Circumstance. OCWA shall, when practicable, endeavour 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(b), 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, pandemics, war, civil disturbances, riots, explosions, fire and acts of third parties.
- (d) OCWA, in its discretion, may take remedial measures that it determines are reasonably necessary in attempting to maintain the Facility in compliance with Applicable Laws including Water Treatment Laws. Such measures may be beyond the scope of the Services and would be considered Additional Services fees as described in Schedule D. OCWA shall use its best efforts to contact the Client and obtain the Client's approval prior to undertaking such remedial measures.
- (e) Notwithstanding Paragraph 2.2(d) above, the Client recognizes that such remedial measures taken by OCWA may be as a result of an emergency situation or an Uncontrollable Circumstance and that in such situations OCWA's primary concern will be to make all reasonable efforts to maintain the Facility in compliance with Applicable Laws including Water Treatment Laws.

Section 2.3 - Emergency Services

In the event of a non-routine operational situation or an emergency situation at the Facility including, but not limited to, a spill, by-pass, overflow, hydro interruption or equipment failure, the Client shall immediately inform OCWA (by a communication method to be arranged from time to time by the Client and OCWA) and the Client's Employees shall attend forthwith to deal with such operational or emergency situation in accordance with OCWA's instructions, Applicable Laws and the Facility's practices and procedures, including any contingency plans. In the event that OCWA's assistance is required to oversee the situation, OCWA, upon receiving the notification, shall attend as soon as possible to oversee the situation (the "Emergency Services"). OCWA shall charge the Client for the Emergency Services in accordance with Section 2 of Schedule D.

Section 2.4 - Additional Services

It is acknowledged and agreed by the Client and OCWA that OCWA's responsibilities are limited to the Services set out in Schedule C, and, if necessary, the Emergency Services described below. If the Client subsequently requires OCWA to provide any service in respect of the Facility in addition to the Services and the Emergency Services, such additional services may be provided following negotiation and at an additional cost to the Client (the "Additional Services"). If OCWA agrees to provide the Additional Services the fees for such services are set out in Section 3 of Schedule D of this Agreement.

Section 2.5 - 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 shall be subject to the direction and control of the Client, except as expressly provided in this Agreement.

Section 2.6 - Authorized Representatives and Facility Contact Person

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 Representatives").

Section 2.7 - Insurance

- (a) OCWA shall arrange for commercial general liability and automobile liability insurance in respect of its employees to cover its responsibilities under this Agreement and the Client shall be an additional insured under such insurance.
- (b) The Client shall be responsible for securing its own insurance to cover its responsibilities under this Agreement and OCWA shall be named as an additional insured under such coverage. The Client acknowledges that it will have no recourse under OCWA's policies of insurance for any such operations. The Client shall provide OCWA with a Certificate of Insurance that indicates that the Client has appropriate insurance in place.
- (c) The Client may, at its cost, maintain additional insurance in respect of the Facility if it wishes and OCWA shall be an additional insured under such insurance.
- (d) The Client specifically recognizes and agrees that OCWA does not bear any responsibility for any Pre-existing Conditions of the Facility, as described in Schedule F. As such, OCWA is not required to obtain insurance for this purpose and the Client has or will obtain its own insurance.

Section 2.8 - Representations and Warranties of OCWA

OCWA represents and warrants to the Client that it has full power and authority and has taken all necessary steps to enter into and perform its obligations under this Agreement.

Section 2.9 - Municipal Drinking Water Licence

- (a) The Client also acknowledges that it is solely responsible for meeting all of the requirements for obtaining the Municipal Drinking Water Licence. These requirements include but are not limited to the establishment of a Quality Management System (QMS) based on the requirements of the Drinking Water Quality Management Standard (DWQMS).
- (b) The Parties acknowledge that the Client is the operating authority for the Facility. The Parties further acknowledge that OCWA does not assume the status of operating authority for the Facility on account of performing the Services outlined in this Agreement.
- (c) As the operating authority for the Facility, the Client is also required to document its QMS in an operational plan for approval by the MOECC. The Client shall provide OCWA with copies of its approved operational plan(s) for the Facility prior to OCWA performing the Services under this Agreement.

ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT

Section 3.1 - Duties and Responsibilities of the Client

The Client shall at all times be responsible for the operation and maintenance of the Facility and any related matter, cost or expenses.

Section 3.2 - Representations and Warranties of the Client

The Client represents and warrants to OCWA that the following are true and correct:

- (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 and has provided OCWA with a true copy of each of the Authorizations 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.

- (c) As the owner and operating authority of the Facility, the Client is fully aware of its responsibilities and obligations under Applicable Laws, including but not limited to its responsibilities under the SDWA and the regulations thereunder regarding the operation and maintenance of the Facility.
- (d) The Client has provided OCWA with copies of all relevant procedures, Facility contingency plans, operational plans, operations manuals and other such documents related to the operation of the Facility to enable OCWA to provide the Services.
- (e) The Client acknowledges that as of the date of execution of this Agreement the Facility is not in compliance with all Applicable Laws. The Client shall undertake all necessary action to achieve and maintain compliance.
- (f) The Client has an Occupational Health and Safety Policy in place at the Facility and the Client's employees have been trained on such policy and all relevant health and safety protocols and procedures.
- (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) in accordance with the OHSA and its regulations and for notifying OCWA staff of the location of any designated substance.

Section 3.3 - Covenants of the Client

The Client hereby covenants for the benefit of OCWA:

- (a) The Client's Employees shall carry out all day-to-day operational duties at the Facility and all other duties in respect to the Facility other than those included in the Services or the Emergency Services, except where required to assist as described in Section 2.3.
- (b) The Client shall ensure that each of the Client's Employees has, at a minimum, his/her Class I operator certificates for water and wastewater treatment and that at all times, these certificates remain in good standing.
- (c) The Client shall ensure that, at all times, at least one of the Client's Employees is designated as the "operator-in-charge" of the Facility pursuant to O. Reg. 128/04 under the SDWA, and that the operators-in-charge will provide regular written reports to OCWA's ORO for the Facility regarding the following:
- (d) The operators-in-charge designated by the Client shall be responsible for remaining in contact at all times with OCWA to advise on operational circumstances at the Facility. The Client shall provide the names of the operators-in-charge along with their contact information.

- (e) The Client agrees to promptly provide OCWA with any information relating to the Facility that could have a bearing on the provision of Services by OCWA, including but not limited to any engineering report, notice, order or correspondence of any regulator pertaining to the Facility and any new Authorizations or amendments to any Authorizations.
- (f) In the event that the Client is issued an order or notice from the Ministry of Environment or Ministry of Health or other regulatory body in respect of the Facility, the Client is responsible for meeting the requirements of the order.
- (g) The Client shall ensure that its Employees are provided with the necessary tools, health and safety equipment, and other supplies required to perform their work in a safe and efficient manner, and that the Client's Employees are provided with the appropriate training and supervision necessary to comply with the OHSA and any facility specific health and safety procedures.
- (h) The Client shall ensure that OCWA staffs are made aware of any health and safety risks and hazards at the Facility and any Facility specific health and safety procedures of the Client in order to ensure that OCWA staffs who attend the Facility to provide services under this Agreement are able to do so in a safe manner.

Section 3.4 - Exoneration and Indemnification of OCWA

- (a) 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 and Climate Change and all officers, employees and agents of the Ministry of the Environment and Climate Change (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, in any way, either arise from or are connected with the operation of this Agreement, and in particular, without limiting the generality of the foregoing, Claims which arise from or are connected with the failure of the Client or the Client's Employees to carry out operational work as instructed by OCWA.
- (b) OCWA shall be deemed to hold the provisions of this Section 3.4 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.

ARTICLE 4 - EMPLOYEE MATTERS

Section 4.1 - OCWA Has No Liability for the Client's Employees

- (a) Any and all employees of the Client assigned to work at the Facility at any time or from time to time (the "Client's Employees") shall continue to be employees of the Client at

all times and nothing in this Agreement shall undermine or terminate the relationship of employee and employer between the Client and any of the Client's Employees.

- (b) Notwithstanding that performance of the Services requires OCWA to oversee tasks performed by and activities of the Client's Employees, OCWA shall under no circumstances have any liability whatsoever for any of the Client's Employees or any action performed by any of them, unless performed under the negligent direction of OCWA.
- (c) Notwithstanding any other provisions of this Agreement, OCWA shall not be a "supervisor" as that term is defined under the OHSA or its regulations and the Client acknowledges that it is solely responsible for appointing a "competent person" as a "supervisor" under the OHSA and its regulations. The Client further acknowledges that it is the "employer" under the OHSA of the Client's Employees.

Section 4.2 - Staffing Levels and Attendance

The Client shall at all times provide a sufficient number of Client's Employees to carry out the responsibilities of the Client at the Facility provided for in this Agreement and to ensure that the Facility complies at all times with all Applicable Laws. The Client shall notify OCWA prior to any change in staffing levels or other relevant information about staffing of the Facility.

Section 4.3 - OCWA's Directions

The Client acknowledges and agrees that the Client's Employees are to carry out the directions of OCWA staff acting as the ORO under this Agreement and the Client shall so instruct the Client's Employees.

Section 4.4 - Non-Compliance with OCWA's Directions

OCWA shall notify the Client in writing of any failure on the part of any of the Client's Employees to comply with any direction given by OCWA and the Client shall take appropriate steps with respect to disciplining any of the Client's Employees and otherwise respond promptly and appropriately to any notification given by OCWA.

Section 4.5 - 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 - TERM, FEES FOR SERVICES AND OTHER CHARGES

Section 5.1 - Term of Agreement

This Agreement shall start on November 1st, 2015 and shall continue in effect until October 31st, 2018 (the "Term").

Section 5.2 - Fee

The Fee for the Term is set out in Schedule D of this Agreement.

The Fee does not include:

- (i) fees for the provision of Emergency Services;
- (ii) fees for the provision of Additional Services;
- (iii) any charges for the procurement of supplies and outside labour costs; and
- (iv) any additional costs resulting from Changes in Applicable Laws which relate to the provision of the Services.
- (v) laboratory services
- (vi) process chemicals
- (vii) calibration standards

Section 5.3 - Interest on Late Payments

The Client shall pay OCWA interest at the rate determined by the Minister of Finance, from time to time, as payable on overdue accounts, in accordance with the *Financial Administration Act*, R.S.O. 1990, c. F.12, plus any banking and administrative charges.

ARTICLE 6 - TERMINATION

Section 6.1 - Termination of Agreement

Either Party may terminate this Agreement at any time for any reason by giving the other Party thirty (30) days written notice.

Section 6.2 - Early Termination

Upon termination of this Agreement prior to expiry of the Term, the Client shall pay OCWA for the Services rendered up to the date of termination and any outstanding charges for extra services negotiated by the Parties plus any applicable costs.

Section 6.3 - Final Settlement

If OCWA ceases to provide Services to the Client, there shall be a final settlement of all accounts and any other expenses incurred by OCWA and amounts owing by the Client under this Agreement no later than sixty (60) 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.

ARTICLE 7 - LIMITATION ON DAMAGES

Section 7.1 - Limitation on Damages

Notwithstanding any other provisions in this Agreement, the aggregate liability of OCWA to the Client in relation to this Agreement shall not exceed \$65,700 regardless of whether such liability arises out of breach of contract, warranty, tort, indemnity, strict liability or any other legal or equitable theory.

ARTICLE 8 - GENERAL

Section 8.1 - 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 8.2 - 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 8.3 - Survival

Section 3.4 and all outstanding payment obligations shall survive indefinitely the termination of this Agreement.

Section 8.4 - 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 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 facsimile, registered mail or courier shall be deemed to have been given when received.
 - (i) if to the Client:
The Corporation of The Town of Latchford

10 Main St., Hwy 11, P.O. Box 10
Latchford, Ontario CANADA P0J 1N0
Telephone: (705) 676-2416
Fax: (705) 676-2121
Attention: Jaime Allen

- (ii) if to OCWA:
Ontario Clean Water Agency
North Eastern Ontario Hub
31 Station Road
Kirkland Lake, Ontario

Telephone: (705) 567-3955 ext. 2
Fax: (705) 567-7974
Attention: Eric Nielson

- (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 8.5 - Freedom of Information

The Client understands and agrees 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 8.6 - Confidentiality and Security

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.

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

ONTARIO CLEAN WATER AGENCY

11/26/2015
Date of Signing

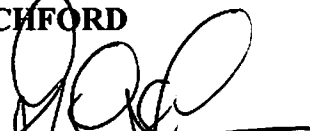
By: 
(Authorized Signing Officer)

2015/11/24
Date of Signing

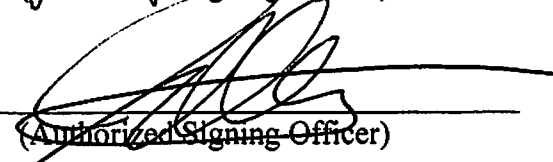
By: 
(Authorized Signing Officer)

THE CORPORATION OF THE TOWN OF LATCHFORD

11/30/2015
Date of Signing

By: 
(Authorized Signing Officer)

11/30/2015
Date of Signing

By: 
(Authorized Signing Officer)

SCHEDULE A - The Facility

For the purposes of this Agreement, the Facilities are comprised of the following:

Latchford water filtration plant
Latchford sewage treatment plant
Latchford water distribution system
Latchford sewage collection system

SCHEDULE B - Definitions

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

"Additional Services" is defined in Paragraph 2.4 of this Agreement.

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

"Fee" is defined in Section 1(a) of Schedule D of this Agreement.

"Applicable Laws" means any and all statutes, by-laws, regulations, permits, approvals, 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, or workers' compensation matters, and includes any Water Treatment Laws.

"Authorizations" means each of the relevant by-laws regulating the operation of the Facility, licences, certificates of approval, permits, consents and other authorizations or approvals required under Environmental Laws from time to time in order to operate the Facility.

"Authorized Representatives" is defined in Section 2.6 of this Agreement.

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

"Call-out" is defined in Section 2 of Schedule D of this Agreement.

"Capital Expenditures" means the charges for all capital items in relation to the Facility, including new or replacement equipment, any overhaul or rebuild of equipment, any non-routine repair; maintenance (excluding routine maintenance); any alterations and any associated installations, commissioning, including labour and pre-selection charges, together with the Service Fee.

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

"Claims" means any claim, fine, penalty, liability, damages, loss and judgments (including but not limited to, costs and expenses incidental thereto) of any kind and nature whatsoever.

"Client's Employees" is defined in Section 4.1 of this Agreement.

"Emergency Services" is defined in Section 2.3 of this Agreement.

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

"Indemnified Parties" is defined in Paragraph 3.4(a) of this Agreement.

"MOECC" means (Ontario) Ministry of the Environment and Climate Change.

"Municipal Drinking Water License" means the license that the MOECC's requires owners of municipal drinking water systems to obtain in accordance with Part V of the SDWA. In order to obtain this license, owners are required to, among other things, prepare an operational plan and submit the operational plan to the MOECC as well as retain an accredited operating authority.

"OHSA" is defined in Paragraph 3.2(g) of this Agreement

"Overall Responsible Operator" or "ORO" shall have the meaning set out in Paragraph 2.1(a) of this Agreement.

"Parties" and **"Party"** are defined in Paragraph (e) of the Recitals to the Agreement.

"Pre-existing Condition" means any conditions of the Facility that existed prior to OCWA's commencement of the Services, including those outlined in Schedule E.

"SDWA" is defined in Paragraph 2.1(a) of this Agreement.

"Services" is defined in Paragraph 2.1(a) and further described in Schedule C of this Agreement.

"Service Fee" is defined in Section 4 of Schedule D of this Agreement

"Supervise" (and accordingly **"Supervising"**, **"Supervision"** and **"Supervisor"**) is defined in Paragraph 4.1(c) of this Agreement.

"Term" is defined in Section 5.1 of this Agreement.

"Uncontrollable Circumstance" is defined in Paragraph 2.2(c) of this Agreement.

"Water Treatment Laws" means the *Safe Drinking Water Act, 2002* and its regulations, as well as permits, approvals, licences issued under the SDWA or its regulations.

SCHEDULE C - The Services

In acting as ORO, OCWA shall provide the following services:

- (a) Using certified operators, provide Overall Responsible Operator services for the Client Facilities as required under provincial environmental regulations.

Review daily documentation of the Facilities' process control readings by the Client's staff during the period of the term such documentation to be reviewed by:

Michael Del Monte, Operations Manager

E-mail: mdelmonte@ocwa.com

Phone: (705) 648-4233

A secondary contact for documentation of readings is:

Rebecca Marshall, Process & Compliance Technician, North Eastern Ontario Hub

E-mail: rmarshall@ocwa.com

Phone: (705) 567-3955

and to advise of any process adjustments based on this information and provide advice to assist in maintaining facility compliance, as required.

- (b) Providing assistance to the Client as requested in the event of any emergencies. Such assistance shall be deemed additional work and charged in accordance with Schedule "D".
- (c) Prepare a list of items requiring the Client's attention and meet with the Client on a regular basis to discuss these matters.
- (d) Institute a work order management system (WMS). Work orders will be generated by OCWA staff and given to the municipal staff to complete. Upon completion OCWA will close the work orders and supply a summary on a quarterly basis. Upon request, OCWA will supply qualified staff to assist the municipal employee.
- (e) Visit the Facility routinely, review readings, examine and suggest process adjustments.
- (f) Verify online instruments and calibrate as recommended by the manufacturer or as prescribed by regulation. (Parts required will be extra and subject to a 20% markup).
- (g) Test alarm systems, and verify operation of plant equipment.
- (h) Review log book entries and all data recorded and assist with inspections.
- (i) Provide certified operators with overall responsibility.
- (j) Maintain Drinking Water Quality Management Standard (DWQMS). OCWA will perform internal audits as required and perform Management Review meeting with client.

- (k) Participate in Ministry inspections and compile and provide annual water and sewage reports as required by law.
- (l) Advise on capital needs and expenses as soon as the information becomes available. And provide an annual major maintenance expenditure list and a running 5 year capital plan.
- (m) On a case by case basis coordinate capital repairs and upgrade activities for the Client.
- (n) Provide immediate emergency response for serious problems such as major equipment failures and process upsets
- (o) Provide up to 3 weeks of daily coverage when municipal staff is on vacation.. If OCWA staff is required due to absences related to sickness or off site training, OCWA will provide coverage but will only charge the municipality if called-in.

Excluded Services

- (a) daily checks of the Facilities and sampling;
- (b) responsibilities of the Client's Employees as identified in Section 4.4 (unless OCWA is
- (c) acting as the daily operator in charge in accordance with Paragraph 2.1(c));
- (d) analytical and labour work resulting from response to adverse water tests results;
- (e) thawing water services;
- (f) reading residential water meters;
- (g) inspecting/maintaining curbstops;
- (h) snow removal at plant, pumping stations and around hydrants;
- (i) capital cost of upgrades to meet the regulatory requirements;
- (j) repair and maintenance of the in ground portions of the water distribution system;
- (k) installation and/or inspection of new water services;
- (l) foam swabbing and pigging watermains;
- (m) cost for hydro;
- (n) cost for natural gas;
- (o) cost for telephone;
- (p) purchase of water treatment chemicals;
- (q) regulatory lab analysis
- (r) providing locates for subsurface infrastructure components;
- (s) capital repair or replacement of any equipment and OCWA staff time for such work, unless
 - a. agreed upon by the Parties;
 - i. structural inspection or cleaning of water reservoirs;
- (t) non routine repairs to electrical controls other than analyzers;
- (u) grass cutting;
- (v) Installation and maintenance of Aquaflows; and
- (w) First response to emergencies.
- (x) Annual genset maintenance and fuel for the genset

SCHEDULE D - The Fees

The Client shall pay OCWA on the following basis:

1. For Year One, the yearly management fee for the services shall be \$65,700 or \$5,475.00 for each month that this Agreement is in force. The fee shall be paid, on the first day of each month by electronic funds transfer from a bank account designated by the Client. OCWA will charge the Client separately for any services not specifically set out in Schedule B.
2. For Year Two and subsequent Years: Year One plus a 2.0 % adjustment increase, plus an adjustment increase 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 CPI Adjustment shall be added to the Annual Price for Year One of the Agreement and for subsequent Years, on a cumulative basis.
3. Any unexpected work due to equipment malfunction, adverse water quality readings, emergency response, as well as agreed upon extended services, etc. (a "Call-out"), will be charged at an additional cost based on the following hourly rates:

Position Title	Regular Hourly Rate (0730-1600)	Call-out Rate
Senior Operations Manager	\$125.00	\$190.00
Operations Manager	\$105.00	\$160.00
Instrumentation Technician	\$85.00	\$130.00
Senior Operator	\$80.00	\$120.00
Operator/Mechanic	\$75.00	\$115.00
Process Technician	\$85.00	\$130.00
Operator-In-Training	\$65.00	\$98.00

4. All other current and routine operational costs will be paid directly by the Client, such as laboratory analysis charges and chemicals.
5. **"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) 20% of the first \$10,000; plus
 - (b) 15% on the amount from \$10,000 to \$50,000; plus
 - (c) 10% on the amount in excess of \$50,000.

For example, the Service associated with a capital project which required \$56,000 in supplies and materials would be \$8,600 ($20\% \times \$10,000 + 15\% \times \$40,000 + 10\% \times \$6,000$).

SCHEDULE E - Pre-existing Conditions

None

SCHEDULE F – List of Documents Provided by Client to OCWA

The Client provided OCWA with the following documents relating to the operation of the Facility:

- a) Operational plan
- b) DWQMS and audit results
- c) Operations manuals
- d) Laboratory results
- e) MOE inspection findings
- f) Available log books
- g) In house analytical results
- h) Calibration records
- i) List of suppliers
- j) Chemical consumption and dosage records
- k) Previous annual reports
- l) WSER reports
- m) Maintenance records
- n) Contingency plans, Contingency plan test results and ,SOPs

Cost Breakdown for Change in Services

Item	Quantity	One-time Cost	Annual Cost
	Total Cost:		