

**SERVICES AGREEMENT**  
**BETWEEN**  
**ONTARIO CLEAN WATER AGENCY**  
**AND**  
**CREG QUAY LIMITED**

## Contents

|                                                                       |           |
|-----------------------------------------------------------------------|-----------|
| <b>RECITALS .....</b>                                                 | <b>1</b>  |
| <b>ARTICLE 1 - INTERPRETATION.....</b>                                | <b>1</b>  |
| SECTION 1.1 - DEFINITIONS.....                                        | 1         |
| <b>ARTICLE 2 - RESPONSIBILITIES OF OCWA.....</b>                      | <b>2</b>  |
| SECTION 2.1 - RETENTION OF OCWA.....                                  | 2         |
| SECTION 2.2 - PERFORMANCE OF SERVICES .....                           | 2         |
| SECTION 2.3 - OCWA AS INDEPENDENT CONTRACTOR .....                    | 3         |
| SECTION 2.4 - AUTHORIZED REPRESENTATIVES.....                         | 3         |
| SECTION 2.5 - WAIVER OF CONSEQUENTIAL DAMAGES .....                   | 3         |
| SECTION 2.6 - INSURANCE.....                                          | 4         |
| <b>ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT .....</b>               | <b>4</b>  |
| SECTION 3.1 - OBLIGATIONS OF THE CLIENT.....                          | 4         |
| SECTION 3.2 - COVENANTS OF THE CLIENT .....                           | 6         |
| SECTION 3.3 - EXONERATION AND INDEMNIFICATION OF OCWA.....            | 7         |
| <b>ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES .....</b> | <b>7</b>  |
| SECTION 4.1 - INITIAL TERM OF AGREEMENT .....                         | 7         |
| SECTION 4.2 - ANNUAL PRICE FOR THE INITIAL TERM .....                 | 8         |
| SECTION 4.3 - THE ANNUAL PRICE IN RENEWAL TERMS .....                 | 8         |
| SECTION 4.4 - PAYMENT OF THE ANNUAL PRICE .....                       | 8         |
| SECTION 4.5 - ITEMS NOT INCLUDED IN THE ANNUAL PRICE .....            | 8         |
| SECTION 4.4 - MAJOR MAINTENANCE EXPENDITURES .....                    | 9         |
| SECTION 4.5 - CAPITAL PROJECTS.....                                   | 9         |
| SECTION 4.6 - UNEXPECTED EXPENSES.....                                | 9         |
| SECTION 4.7 - INTEREST ON LATE PAYMENTS.....                          | 10        |
| SECTION 4.8 - PARTIAL PAYMENT OF DISPUTED INVOICES .....              | 10        |
| SECTION 4.9 - HYDRO COSTS/UTILITY COSTS .....                         | 10        |
| SECTION 4.10 – OPTIONAL SERVICES.....                                 | 11        |
| <b>ARTICLE 5 - DISPUTE RESOLUTION.....</b>                            | <b>11</b> |
| SECTION 5.1 - MEDIATION .....                                         | 11        |
| <b>ARTICLE 6 - TERMINATION .....</b>                                  | <b>12</b> |
| SECTION 6.1 - TERMINATION OF AGREEMENT.....                           | 12        |
| SECTION 6.2 - EARLY TERMINATION.....                                  | 12        |
| SECTION 6.3 - INVENTORY COUNT OF CONSUMABLES/SUPPLIES .....           | 13        |
| SECTION 6.4 - FINAL SETTLEMENT.....                                   | 13        |
| SECTION 6.5 - TRANSFER OF OPERATIONS .....                            | 13        |
| SECTION 6.6 - RESTRICTIONS ON RECRUITMENT OF OCWA’S EMPLOYEES .....   | 13        |
| <b>ARTICLE 7 - GENERAL .....</b>                                      | <b>14</b> |
| SECTION 7.1 - OWNERSHIP OF TECHNOLOGY .....                           | 14        |
| SECTION 7.2 - AGREEMENT TO GOVERN .....                               | 14        |
| SECTION 7.3 - ENTIRE AGREEMENT .....                                  | 14        |

|                                             |    |
|---------------------------------------------|----|
| SECTION 7.4 - AMENDMENTS AND WAIVERS .....  | 14 |
| SECTION 7.5 - SUCCESSORS AND ASSIGNS .....  | 14 |
| SECTION 7.6 - SURVIVAL.....                 | 14 |
| SECTION 7.7 - SEVERABILITY .....            | 15 |
| SECTION 7.8 - NOTICES .....                 | 15 |
| SECTION 7.9 - COUNTERPARTS.....             | 15 |
| SECTION 7.10 - FREEDOM OF INFORMATION ..... | 15 |
| SECTION 7.11 - CONFIDENTIALITY .....        | 16 |

**SCHEDULE A - THE FACILITY**

**SCHEDULE B - DEFINITIONS**

**SCHEDULE C - THE SERVICES**

**SCHEDULE D - THE ESTIMATE AND OTHER CHARGES**

**SCHEDULE E - INSURANCE**

**SCHEDULE F - LIST OF PRE-EXISTING CONDITIONS**

**SCHEDULE G - CHANGE ORDER FORM**

## **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

**CREG QUAY LIMITED**

(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 Creg Quay water and wastewater 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.

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”).

### **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 4.5 and Section 4.6 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;
  - (ix) operational upset conditions caused by the acceptance of non-approved material.
- (b) OCWA may temporarily cease to provide or reduce the level of provision of Services in the event of an emergency, a breakdown or any Uncontrollable Circumstance. OCWA

shall, when practicable, try to give the Client reasonable advance notice of any such occurrence.

- (c) Notwithstanding any other provision of this Agreement, delay in the performance of, or a failure to perform any term of this Agreement by OCWA, shall not constitute default under this Agreement or give rise to any claim for damages suffered by the Client if and to the extent caused by occurrences or circumstances beyond the reasonable control of OCWA (an “Uncontrollable Circumstance”), including but not limited to any circumstances set out in Paragraph 2.2(a), decrees of government, acts of God (including but not limited to hurricanes, tornadoes, floods and other weather disturbances), sabotage, strikes, lockouts and other industrial disturbances, insurrections, war, civil disturbances, pandemics, riots, explosions, fire and acts of third parties.
- (d) The Client recognizes that in an emergency situation or where an Uncontrollable Circumstance exists, OCWA’s primary concern will be to use all reasonable efforts to maintain the 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 - OCWA as Independent Contractor**

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

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

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

### **Section 2.5 - 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 2.6 - 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 an additional insured on both policies.
- (f) The policies of insurance obtained by the Client in connection with this Agreement 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) This Agreement has been duly authorized, executed and delivered by the Client and is a legal, valid and binding obligation of the Client enforceable against the Client by OCWA in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that

equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

- (c) The Client has obtained all Authorizations required for the lawful operation of the Facilities and there are no other Authorizations necessary to operate the Facilities, the absence of which would have an adverse effect on the ability of OCWA to operate the Facilities in compliance with Environmental Laws. The Client has provided a copy of each such Authorization and any and all amendments to OCWA. Each Authorization is valid, subsisting and in good standing, and the Client is not in default or breach of any Authorization and no proceeding is pending or threatened to revoke or limit any of these Authorizations.
- (d) The Client operates the Facilities and any of the property associated with the operation of the Facilities (the "Related Property") in compliance with all Authorizations and Applicable Laws, and has provided OCWA with copies of all correspondence between the Client and any regulatory authority that is relevant to the proper operation of the Facilities, including all correspondence concerning environmental or occupational health and safety matters.
- (e) The Client has provided OCWA with copies of all documents that are relevant to the proper operation of the Facilities, including but not limited to, all operation manuals, maintenance records and a copy of the Facilities emergency response plan.
- (f) The Facilities and all related equipment are in good and proper working order.
- (g) The Client has provided OCWA with copies of all investigations, reports, audits and inspections that have been performed at the Facilities or on the Related Property related to the operation of the Facilities.
- (h) The Client is not aware of the deposit, discharge, emission, release, spill or disposal of any hazardous substance on, or from the Facilities or the Related Property. The Client is not aware of any outstanding charge, notice, direction, order or claim made by any person (including without limitation any individual or government, whether federal, provincial or municipal) concerning the release or threatened release of any hazardous substance from, in or on the Facilities or the Related Property or for non-compliance with, or the imposition of liability pursuant to, Environmental Laws.
- (i) The Client warrants 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.
- (j) The Client warrants that as of the date of execution of this Agreement, to the best of the Client's knowledge, the Facility is in compliance with all Applicable Laws.

- (k) The Client is not aware of the presence of any designated substances as defined under the *Occupational Health and Safety Act* (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 to notify OCWA of the location of any designated substances in the Facilities.
- (l) 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”) and its regulations.

### **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 4.8.
- (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 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.

- (h) The Client shall inform OCWA if the Facility is to accept septage or leachate. The Client shall provide OCWA with a report of a professional engineer indicating that the Facility is capable of handling such additional Loadings. The Client shall provide OCWA with a list of haulers from which OCWA is to accept septage or leachate at the Facility. OCWA shall not be responsible for any operational impacts caused by the septage or leachate. The Client shall be fully responsible for any additional costs incurred as a result of the acceptance of septage or leachate at the Facility.

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

- (a) Subject to Paragraph 3.3(c) below, the Client shall exonerate, indemnify and hold harmless OCWA, its directors, officers, employees and agents and 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 solely attributed to the Client’s negligence or wilful misconduct.
- (b) OCWA shall be deemed to hold the provisions of this Article 3 that are for the benefit of OCWA’s directors, officers, employees and agents and the other Indemnified Parties as defined above, in trust for all such Indemnified Parties as third party beneficiaries under this Agreement.
- (c) Claims by OCWA for indemnification from the Client will follow the Indemnification Process as 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 **January 1, 2021** and shall continue in effect for an initial term of five (5) years, ending on **December 31, 2025** (the “Initial Term”) and then may be renewed for successive two (2) 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 January 1, 2021. 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 4.4 - 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 December 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 five (5) 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, 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 \$1,000.00.

#### **Section 4.5 - 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 4.6 - Unexpected Expenses**

- (a) “Unexpected Expenses” means unanticipated expenditures or additional costs which may include Major Maintenance Expenditures in addition to the Approved Major Maintenance Expenditures, that OCWA reasonably incurs in order to address a Change in Applicable Laws, any Uncontrollable Circumstance, any work required by regulatory order (e.g. MECP or MOL) or identified through an inspection (e.g. ESA, MECP, MOL) that is not solely the result of OCWA’s negligence in performing the Services or any other emergency situation, together with the Service Fee.
- (b) In the event that OCWA is required to incur Unexpected Expenses, the prior approval of the Client with respect to those Unexpected Expenses will be required only if time

permits. Within ten (10) days of incurring the Unexpected Expenses, OCWA will provide the Client with a report detailing the reasons the Unexpected Expenses were incurred.

- (c) Any Unexpected Expenses will be invoiced to the Client together with appropriate supporting documentation, and the Client shall pay the invoice within thirty (30) days of the date of the invoice.
- (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 \$1,000.00.

#### **Section 4.7 - Interest on Late Payments**

- (a) **Monthly Payment of Estimate and Management Fee.** If the Client's monthly payment of the Estimate and Management Fee are not available in its 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 4.8 - 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 4.8(a).

#### **Section 4.9 - 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 4.10 – Optional Services**

- (a) If requested by the Client, OCWA may provide Optional Services to the Client by Change Order as set out in Schedule H, 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 4.11 – 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 H 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 Estimate, if any; and
  - (v) all other effects that the change has on the provisions of this Agreement.

### **ARTICLE 5 - DISPUTE RESOLUTION**

#### **Section 5.1 - Mediation**

- (a) If a dispute arises between the Client and OCWA which cannot be resolved within a reasonable time, then the issue shall be referred to a mediator.
- (b) The fees and expenses of the mediator shall be divided equally between the Parties.

- (c) Involvement in mediation is on a without prejudice basis and does not preclude and is not a bar to either Party pursuing whatever legal remedies may be available, including litigation.

## **ARTICLE 6 - TERMINATION**

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

- (a) At least one (1) calendar year before the expiry of the Current Term, the Client shall notify OCWA in writing whether it wishes to terminate or renew this Agreement at the end of the Current Term. However, OCWA reserves the right to decline to renew the Agreement by notifying the Client in writing of its decision to decline, within thirty (30) days of receipt of the Client's written request to renew.
- (b) Should the Township of South Glengarry assume ownership of the Creg Quay Facilities at any point during the Initial Term or any Renewal Term, this Agreement may be terminated with six (6) months of notice in writing to OCWA.
- (c) 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.
- (d) If either Party disputes the existence of a breach or that the breach is material, then the dispute may be referred to mediation under Section 5.1 of this Agreement.

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

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

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

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

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

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

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

If OCWA ceases to operate the Facilities, there shall be a final settlement of all accounts with respect to the Estimate 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 6.5 - 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.

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

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

## **ARTICLE 7 - GENERAL**

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

The Client acknowledges and agrees that in providing the Services, OCWA may utilize certain technology developed by or for OCWA, for example, OCWA's WMMS, Outpost 5 and/or PDM (the "Technology"). The Client further agrees that use of the Technology by OCWA with respect to the 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 Estimate.

### **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 e-mail, facsimile, registered mail or courier shall be deemed to have been given when received.

- (i) if to the Client:  
Creg Quay Limited  
21240-80<sup>th</sup> Avenue  
Bainsville, Ontario K0C 1E0  
Telephone: 613-347-2705  
Fax: 613-347-7514  
Attention: Marcel Bouchard  
E-mail: mbouchard.vall@gmail.com
- (ii) if to OCWA:  
Ontario Clean Water Agency  
593 Norris Court  
Kingston, ON K7P 2R9  
Telephone: 613-329-9408  
Fax: 613-253-8069  
Attention: Aimée Hennessy, Business Development Manager  
E-mail: ahennessy@ocwa.com

(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.

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

Jan 5/2021  
Date of Signing

Jan. 8, 2021  
Date of Signing

**ONTARIO CLEAN WATER AGENCY**

By: Tony B...  
(Authorized Signing Officer)

By: AB...  
(Authorized Signing Officer)

**CREG QUAY LIMITED**

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

By: \_\_\_\_\_  
(Authorized Signing Officer)

## **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):

Water COA # 3548-5JXQ48

- 3 wells
- Chlorination system with chlorine and turbidity analysers and chart recorder
- 2 above ground storage tanks
- 3 high lift pumps
- 1 portable generator
- Control system with pressure switch on pump discharge header to start pumps and a motor control centre to control pump activation

Wastewater COA # 3-1634-95-006

- 6 sanitary sewers
- 2 forcemains
- 2 pumping stations
- 2 lagoon cells

Street Address is 21236 South Service Road South Glengarry Township

## **SCHEDULE B - Definitions**

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

**“Actual Charges”** is defined in Section 2 under Schedule D of this Agreement.

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

**“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 4.5(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 8:00 a.m. and 4:00 p.m. on a Business Day.

**“Capital Projects”** is defined in Section 4.6(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 “H” describing the changes to the Agreement agreed to by both parties.

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

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

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

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

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

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

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

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

**“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 4.5(a) of this Agreement.

**“Management Fee”** is defined in Paragraph 4(a) under Schedule D 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 Estimate that the Client and OCWA agree in writing to designate as “Optional Services” subject to Section 4.11.

**“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 4.7(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<sup>st</sup> to December 31<sup>st</sup>. Annual adjustment are implemented on the calendar year

## **SCHEDULE C – The Services**

### **Services for the Water Treatment and Distribution Systems**

#### **Part 1 - Services included in the Estimate**

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;
- (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;

3. **Meetings**

- (a) meet quarterly with the Client's Board of Directors and attend follow-up meetings as necessary;
- (b) meet with the Client's designated representative on an as needed basis.

4. 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.

5. Initial Inventory

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

6. 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.

7. 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.

8. 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.

9. Water Treatment & Distribution System 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 calibration;
  - (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 and after Business Hours;
  - (viii) maintenance of daily on-site logs and records, including process control log sheets, laboratory data log sheets, bypass reports and routine checklists as required by Applicable Laws;
  - (ix) recording and analysis of flows, chemicals used, residuals and other process readings as required;
  - (x) before Dec 31<sup>st</sup> (as per agreement 4.6(b)), prepare a report outlining the foreseeable Major Maintenance Expenditures and Capital Projects required for the Facilities, complete with cost estimates for the Client's budgeting purposes;
  - (xi) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);
- (b) perform Routine Maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system;
  - (c) utilize a maintenance management system which shall record information related to the maintenance of the Facilities;
  - (d) verify or calibrate equipment.

10. Lagoon System and Collection System 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 calibration;
  - (iii) sampling and/or on-site analysis;
  - (iv) sample collection, preservation, packing and shipment for off-site analysis as required by Applicable Laws at the time of the commencement of this Agreement;
  - (v) laboratory sampling, analysis and reports as required by Applicable Laws at the time of the commencement of this Agreement;
  - (vi) coordination of chemical supply with chemical vendors;
  - (vii) checks and response to alarms during and after Business Hours;

- (viii) maintenance of daily on-site logs and records, including process control log sheets, laboratory data log sheets, bypass reports and routine checklists as required by Applicable Laws;
- (ix) visual inspection of lagoon to monitor levels and conditions and inspect berms for erosion;
- (x) recording and analysis of flows, chemicals used, residuals and other process readings as required;
- (xi) monitor and adjust dosages of process chemicals;
- (xii) batch dosing with boat and seasonal discharges;
- (xiii) before December 31<sup>st</sup> (as per agreement 4.5(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;
- (xiv) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);
- (b) perform routine preventive maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system;
- (c) implement and utilize a maintenance management system which shall record information related to the maintenance of the Facilities;
- (d) verify or calibrate equipment.

## **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. Water Treatment Operation Related Services**

- (a) operation manual updates;
- (b) water meter installation/ replacement/reading;
- (c) water service disconnect and reconnect;
- (d) new water service installation or connection inspection;
- (e) well cameraing/well level monitoring;
- (f) clearwell cleaning;
- (g) back flow prevention measures.

### **1. Wastewater Treatment Operation Related Services**

- (a) operation manual updates;
- (b) maintenance and repair of sewage collection system, including but not limited to, smoke/dye testing, manhole inspections, rodding, CCTV inspections, and tree root removal/treatments;
- (c) sewer system locates as set out by applicable legislation and Ontario One Call;

- (d) new sewer service installation or connection inspection;
- (e) contract repair for sewer line breaks including road restoration;
- (f) inspection of repaired sewer services;
- (g) inspect and flush sanitary collection system, including sewers, manholes and clean outs;
- (h) high pressure sewer flushing;
- (i) acoustic pipe inspection;
- (j) infiltration surveys, sewer cameraing;
- (k) adjust and leveling manholes;
- (l) biosolids removal from lagoon;
- (m) lagoon depth monitoring;
- (n) odour control system.

2.

### 3. Capital Projects Plans

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

### 4. Watermain Services

- (a) water infrastructure locates;
- (b) contract repair for watermain breaks including road restoration;
- (c) inspection of repaired water pipes;
- (d) thawing water pipes;
- (e) new watermain conditioning;
- (f) watermain swabbing;
- (g) intake inspection;
- (h) exercising secondary valves;
- (i) leak detection;
- (j) chamber inspections, monitoring.

### 5. Engineering Services

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

### 6. Hydrant Services

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

### 7. Information Technology Services

- (a) SCADA development and maintenance.

## **SCHEDULE D – THE ESTIMATE AND OTHER CHARGES**

### **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:  
\$112,081

|              |                  |
|--------------|------------------|
| Water        | \$68,382         |
| Wastewater   | \$43,699         |
| <b>TOTAL</b> | <b>\$112,081</b> |

- (ii) For Year Two and subsequent Years: \$112,081 plus the CPI Adjustment, plus an adjustment for maintaining the Insurance which is renewed annually by OCWA. The CPI Adjustment shall be calculated as soon as necessary information is available from Statistics Canada. In Year Two of the Agreement, the CPI Adjustment shall be added to the Annual Price for Year One of the Agreement and for Subsequent Years, on a cumulative basis.

### **2. Payment of the Annual Price**

In Year One of the Initial Term, the monthly payment of the Annual Price shall be \$9,340.10.

### **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, (0700 to 1530) 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.

**6. Service Fee**

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

## **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

### **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 (60 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 for Professional Liability Insurance

**Deductible:** \$100,000 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:

- None identified

## SCHEDULE G – Change Order Form



**Ontario Clean Water Agency**  
**Agence Ontarienne Des Eaux**

### Change Order Form

| Change Being Requested                                    |                                           |                    |             |
|-----------------------------------------------------------|-------------------------------------------|--------------------|-------------|
| Name of Change:                                           |                                           |                    |             |
| Ontario Clean Water Agency (OCWA)                         | Per: _____<br>Name: _____<br>Title: _____ | Date (YYYY/MM/DD): |             |
| Client                                                    | Per: _____<br>Name: _____<br>Title: _____ | Date (YYYY/MM/DD): |             |
| Adjustment                                                |                                           |                    |             |
| Check Appropriate Type of Change                          |                                           |                    |             |
| Apply (Y/N)                                               | Type of Change:                           |                    |             |
|                                                           | Adjustment to Estimate                    |                    |             |
|                                                           | Change to Service                         |                    |             |
|                                                           | Impact                                    |                    |             |
| Adjustment to Estimate                                    |                                           |                    |             |
| 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:                               |                    |             |