

SERVICES AGREEMENT

BETWEEN

ONTARIO CLEAN WATER AGENCY

A N D

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

Contents

RECITALS	1
ARTICLE 1 - INTERPRETATION	2
SECTION 1.1 - DEFINITIONS.....	2
ARTICLE 2 - RESPONSIBILITIES OF OCWA	2
SECTION 2.1 - RETENTION OF OCWA.....	2
SECTION 2.2 - PERFORMANCE OF SERVICES	2
SECTION 2.3 - OCWA AS INDEPENDENT CONTRACTOR	3
SECTION 2.4 - AUTHORIZED REPRESENTATIVES.....	3
SECTION 2.5 - INDEMNIFICATION OF THE CLIENT	4
SECTION 2.6 - WAIVER OF CONSEQUENTIAL DAMAGES	4
SECTION 2.7 - INSURANCE.....	4
ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT	5
SECTION 3.1 - OBLIGATIONS OF THE CLIENT.....	5
SECTION 3.2 - COVENANTS OF THE CLIENT	6
SECTION 3.3 - EXONERATION AND INDEMNIFICATION OF OCWA.....	7
ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES	7
SECTION 4.1 - INITIAL TERM OF AGREEMENT	7
SECTION 4.2 - OPERATIONS ESTIMATE.....	7
SECTION 4.3 - PAYMENT OF THE ESTIMATE	8
SECTION 4.4 - MAJOR MAINTENANCE EXPENDITURES	8
SECTION 4.5 - CAPITAL PROJECTS.....	8
SECTION 4.6 - UNEXPECTED EXPENSES.....	8
SECTION 4.7 - INTEREST ON LATE PAYMENTS.....	9
SECTION 4.8 - PARTIAL PAYMENT OF DISPUTED INVOICES	9
SECTION 4.10 - OPTIONAL SERVICES	9
SECTION 4.11 - CHANGES TO THE AGREEMENT.....	10
ARTICLE 5 - DISPUTE RESOLUTION	10
SECTION 5.1 - MEDIATION	10
ARTICLE 6 - TERMINATION	10
SECTION 6.1 - TERMINATION OF AGREEMENT.....	11
SECTION 6.2 - EARLY TERMINATION.....	11
SECTION 6.3 - INVENTORY COUNT OF CONSUMABLES/SUPPLIES	11
SECTION 6.4 - FINAL SETTLEMENT.....	12
SECTION 6.5 - TRANSFER OF OPERATIONS	12
SECTION 6.6 - RESTRICTIONS ON RECRUITMENT OF OCWA’S EMPLOYEES	12
ARTICLE 7 - GENERAL	12
SECTION 7.1 - OWNERSHIP OF TECHNOLOGY	12
SECTION 7.2 - AGREEMENT TO GOVERN	13
SECTION 7.3 - ENTIRE AGREEMENT	13
SECTION 7.4 - AMENDMENTS AND WAIVERS	13

SECTION 7.5 - SUCCESSORS AND ASSIGNS	13
SECTION 7.6 - SURVIVAL.....	13
SECTION 7.7 - SEVERABILITY	13
SECTION 7.8 - NOTICES	13
SECTION 7.9 - COUNTERPARTS.....	14
SECTION 7.10 - FREEDOM OF INFORMATION	14
SECTION 7.11 - CONFIDENTIALITY	14
SECTION 7.12 - CHANGE IN CIRCUMSTANCE	15
<i>SCHEDULE A - The Facilities</i>	<i>A-1</i>
<i>SCHEDULE B - Definitions.....</i>	<i>B-1</i>
<i>SCHEDULE C - The Services.....</i>	<i>C-1</i>
<i>SCHEDULE D - The Estimate And Other Charges and Adjustments</i>	<i>D-1</i>
<i>SCHEDULE E - Insurance</i>	<i>E-1</i>
<i>SCHEDULE F - List of Pre-Existing Conditions</i>	<i>F-1</i>
<i>SCHEDULE G - Format for Financial Reporting.....</i>	<i>G-1</i>
<i>SCHEDULE H - Change Order Form.....</i>	<i>H-1</i>

SERVICES AGREEMENT

THIS AGREEMENT effective as of the 1st day of January, 2025 (the “Effective Date”),

B E T W E E N

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

(“OCWA”)

A N D

THE CORPORATION OF THE VILLAGE OF MERRICKVILLE-WOLFORD

(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 Merrickville water and wastewater treatment facilities and distribution and collection systems, more particularly described in Schedule A (the “Facilities”).
- (c) The Client wishes to retain the services of OCWA to operate and maintain the Facilities in accordance with the provisions of this agreement (the “Agreement”).
- (d) The Client and OCWA (collectively, the “Parties” and each a “Party”) are entering this Agreement to set out their respective rights and obligations with respect to the management, operation and maintenance of the Facilities.
- (e) The Council of the Client on the ____ day of _____, 2024 passed By-Law No. _____ authorizing the Client to enter into this Agreement.

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

ARTICLE 1 - INTERPRETATION

Section 1.1 - Definitions

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

ARTICLE 2 - RESPONSIBILITIES OF OCWA

Section 2.1 - Retention of OCWA

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

Section 2.2 - Performance of Services

- (a) OCWA shall deliver the Services in compliance with all applicable Environmental Laws, except as described in Paragraphs 2.2(b) and (c) below and in any of the following circumstances:
 - (i) the Client not making the Major Maintenance Expenditures and/or not undertaking the Capital Projects reasonably recommended by OCWA as per Section 4.5 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;
- (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 - Indemnification of the Client

- (a) OCWA shall exonerate, indemnify and hold harmless the Client, its directors, officers, employees and agents from and against Claims which may be suffered or incurred by, accrue against or be charged to or recoverable from the Client to the extent that such Claim is solely attributed to OCWA's negligence or wilful misconduct when performing the Services, except where such Claim is due to an Uncontrollable Circumstance or to a condition of the Facilities which existed prior to OCWA's commencement of the Services (a "Pre-existing Condition"), including but not limited to those listed in Schedule F. Such Pre-existing Conditions shall be the ongoing responsibility of the Client. OCWA, in providing these Services, is not responsible, accountable or liable, in any way, for Pre-existing Conditions, either directly or indirectly.
- (b) The Client shall be deemed to hold the provisions of this Section 2.5 that are for the benefit of the Client's directors, officers, employees and agents in trust for such directors, officers, employees and agents as third party beneficiaries under this Agreement.
- (c) Notwithstanding Paragraph 2.5(a) above, OCWA shall not be liable in respect of any Claim to the extent the Claim is covered by the Insurance.
- (d) Claims by the Client for indemnification from OCWA will follow the Indemnification Process as described in Schedule B.

Section 2.6 - Waiver of Consequential Damages

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

Section 2.7 - Insurance

- (a) OCWA shall maintain, subject to reasonable availability, insurance coverage as described in Schedule E to this Agreement (the "Insurance") and the Client shall be an additional insured under the Commercial General Liability and Contractor's Pollution Liability insurance. The Client acknowledges that, given the unpredictability of the insurance market, deductibles and coverage limits may not be available (or may not be reasonably priced) from year to year. Insurance coverage is reviewed annually and the Client will be notified if there is a change in coverage or 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) The policies of insurance obtained by the Client in subsection 2.7(e) shall be primary, notwithstanding other insurance obtained and maintained by OCWA.

ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT

Section 3.1 - Obligations of the Client

- (a) The Client has the full power and authority to enter into and perform its obligations under this Agreement.
- (b) The Client has passed all necessary By-Laws and has obtained all necessary Authorizations to enable it to enter into and perform its obligations under this Agreement and to operate the Facilities, (including, without limitation, any Authorizations required from the Local Planning Appeal Tribunal and the Ministry of the Environment, Conservation and Parks (MECP)), and the Authorizations are in good standing.
- (c) The Client has provided OCWA with a true copy of each of the Authorizations referred to in Paragraph 3.1(b) above prior to the date of this Agreement, including a certified copy of each municipal By-Law required to authorize the Client to enter into and perform its obligations under this Agreement.
- (d) As the owner of the Facilities, the Client is fully aware of its responsibilities and obligations regarding the operation and maintenance of the Facilities under Applicable Laws, including without limitation its responsibilities under the *Safe Drinking Water Act, 2002* (the "SDWA"), the *Ontario Water Resources Act* ("OWRA") and the *Occupational Health and Safety Act* (the "OHSA") and their regulations.
- (e) The Client confirms that there are no Pre-existing Conditions existing at the Facilities which would affect OCWA's ability to operate the Facilities in compliance with the terms of this Agreement and Applicable Laws, other than what is listed in Schedule F. The Client acknowledges and agrees that the Client shall be responsible for addressing such Pre-existing Conditions.

- (f) The Client confirms that as of the date of execution of this Agreement, to the best of the Client's knowledge, the Facilities are in compliance with all Applicable Laws.
- (g) The Client is not aware of the presence of any designated substances as defined under the *Occupational Health and Safety Act* (the "OHSA") at the Facilities. The Client acknowledges and agrees that it is responsible for dealing with the designated substances (including but not limited to asbestos and lead) in accordance with the OHSA and its regulations and to notify OCWA of the location of any designated substances in the Facilities.

Section 3.2 - Covenants of the Client

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

- (a) The Client agrees to promptly pay all amounts owing to OCWA under this Agreement as they become due, including any interest charges on late payments as determined under Section 4.7.
- (b) The Client agrees to promptly provide OCWA with any information relating to the Facilities which could have a bearing on the provision of Services by OCWA, including but not limited to any engineering report prepared in respect of the Facilities, any Authorization or amendment to any Authorization, as well as any governmental notice or order relating to the Facilities.
- (c) The Client agrees to commit the necessary resources to appropriately address and comply with any such reports, Authorizations, notices or orders.
- (d) The Client shall repair, maintain and keep in a good working state, in accordance with good engineering practices and the standards reasonably applicable to an owner of a like facility, all water works that belong to or are under the control of the Client and that distribute water from the Facilities.
- (e) The Client shall repair, maintain and keep in a good working state, in accordance with good engineering practices and the standards reasonably applicable to an owner of a like Facility, all wastewater works that belong to or are under the control of the Client and that collect and transmit wastewater to the Facilities.
- (f) The Client agrees to promptly commit the necessary resources to appropriately address any health and safety issues identified by OCWA which are the responsibility of the Client.
- (g) The Client shall take reasonable steps to ensure that wastewater transmitted to the Facilities complies with the Client's sewer use by-law and any Environmental Laws. If requested by OCWA, the Client shall provide OCWA with copies of the Client's inspection reports (sewer usage, cross-connections, sump pump connections), if available.

Section 3.3 - Exoneration and Indemnification of OCWA

- (a) Subject to Paragraph 3.3(c) below, the Client shall exonerate, indemnify and hold harmless OCWA, its directors, officers, employees and agents and His Majesty the King in Right of Ontario, as represented by the Minister of the Environment, Conservation and Parks and all directors, officers, employees and agents of the Ministry of the Environment, Conservation and Parks (collectively referred to as the “Indemnified Parties”) from and against any and all Claims which may be suffered or incurred by, accrue against, or be charged to or recoverable from any one or more of the Indemnified Parties that is solely attributed to the Client’s negligence or wilful misconduct.
- (b) OCWA shall be deemed to hold the provisions of this Article 3 that are for the benefit of OCWA’s directors, officers, employees and agents and the other Indemnified Parties as defined above, in trust for all such Indemnified Parties as third party beneficiaries under this Agreement.
- (c) Claims by OCWA for indemnification from the Client will follow the Indemnification Process as described in Schedule B.
- (d) Notwithstanding Paragraph 3.3(a) above, the Client shall not be liable in respect of any Claim:
 - (i) to the extent that such Claim is covered by the Insurance; however, the Client shall be responsible for any deduction or self-insured retention amount in accordance with Schedule E; and
 - (ii) to the extent that such Claim is caused solely by OCWA’s negligence or wilful misconduct in providing the Services.

ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES

Section 4.1 - Initial Term of Agreement

This Agreement shall start on the Effective Date of January 1, 2025 and shall continue in effect for an initial term of five (5) years, ending on December 31, 2029 (the “Initial Term”) and then may be renewed for an additional five (5) year term (the “Renewal Term”) subject to mutual agreement between the Parties, unless terminated under Sections 6.1 of this Agreement.

Section 4.2 - Operations Estimate

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 - Payment of the Estimate

The Client shall pay OCWA the annual Estimate 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, 2025. Payment shall be made by the Client through Electronic Funds Transfer (EFT).

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 October 31st of each Year this Agreement is in force, or a date as the Parties may agree in writing, OCWA will provide the Client with rolling six (6) year recommendations for Major Maintenance Expenditures required for the long term operation of the Facilities. The Client’s written approval of the estimate or revised estimate, authorizes OCWA to incur the Major Maintenance Expenditures included in the approved 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) Included in the Annual Price is an annual allowance for Major Maintenance Expenditures as set out in Schedule D.

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.

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 OCWA's designated bank account on the agreed to date of payment, OCWA will notify the Client that the funds were not available. Interest will be charged to the Client starting from the day after the payment was due in the account. Interest shall be paid at a rate determined by the Minister of Finance, from time to time, as payable on overdue accounts, in accordance with the Lieutenant Governor in Council under s.10(4) of the *Financial Administration Act*, R.S.O. 1990, c.F.12, plus any banking charges and an administrative fee.
- (b) **Other Invoices.** Invoices, other than for the monthly payment set out in Section 4.8(a) above, shall be paid no later than thirty (30) days from the date of the invoice and interest shall begin to accrue one (1) day after the payment is due.

Section 4.8 - 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 4.10 - 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) During the Initial Term or any Renewal Term, this Agreement may only be terminated by either the Client or OCWA by giving at least thirty (30) days' notice in writing to the other Party if:
 - (i) there has been a material breach of the Agreement;
 - (ii) the Party complaining of the breach has given written notice of the breach to the other Party; and
 - (iii) the other Party does not correct the breach within thirty (30) days of receiving the notice.
- (c) If either Party disputes the existence of a breach or that the breach is material, then the dispute may be referred to mediation under Section 5.1 of this Agreement.

Section 6.2 - Early Termination

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

Section 6.3 - Inventory Count of Consumables/Supplies

OCWA and the Client will conduct an inventory count of consumables/supplies at the 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.
- (e) The operational plans under the Drinking Water Quality Management Standard (DWQMS) and any Standard Operating Procedures (SOPs) identified in the operational plan.

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:
 - (i) if to the Client:
Village of Merrickville-Wolford
317 Brock Street, PO Box 340
Merrickville, ON K0G 1N0
Telephone: 613-269-4791
Fax: 613-269-3095
Email: cao@Merrickville-wolford.ca
Attention: Chief Administrative Officer (CAO)
- (ii) if to OCWA:
Ontario Clean Water Agency
20 Bennett Street, Suite 200
Carleton Place, ON K7C 4J9
Telephone: 613-329-9408
Fax: 613-253-8069
Email: ahennesy@ocwa.com
Attention: Aimée Hennessy, Business Development Manager

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

Section 7.9 - Counterparts

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

Section 7.10 - Freedom of Information

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

Section 7.11 - Confidentiality

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

Section 7.12 - Change in Circumstance

- (a) In the event that there is a change in circumstances or condition that is not covered under the terms of this Agreement, including, without limitation, a Change in Applicable Laws or change in the scope of services provided (a “Change in Circumstance”), then the Party asserting the occurrence of such Change in Circumstance shall give written notice to the other Party, and the written notice shall contain:
- (i) details of the Change in Circumstance;
 - (ii) details of the inadequacy of this Agreement; and
 - (iii) a proposal for an amending agreement to remedy the Change in Circumstance.
- (b) The Parties shall negotiate in good faith any amendments to this Agreement necessary to give effect to or comply with the Change, including any adjustments to the Annual Price or the Services to be provided, which shall be effected as of the date of the Change. If the Parties dispute the existence of a Change, or the recommendation proposed to rectify the Change or the terms and provisions of any amendment to the Agreement, then either Party may refer the dispute to mediation under Article 5, Dispute Resolution.

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

ONTARIO CLEAN WATER AGENCY

Date of Signing

By: _____
Richard Junkin, VP Operations

Date of Signing

By: _____
Natalie Peers, VP Finance

**THE CORPORATION OF THE
MUNICIPALITY OF MERRICKVILLE-
WOLFORD**

Date of Signing

By: _____
Darlene Plumley, CAO

Date of Signing

By: _____
Michael Cameron, Mayor

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 Treatment Systems:

Municipal Drinking Water Licence No. 264-101
Municipal Drinking Water Works Permit No. 264-201
Permit to Take Water No. 2110-AP9LSG

Main Pumphouse consists of a 150 mm diameter pump header and appurtenances including a turbine flow meter, discharging into a single cell reservoir measuring 18 m x 13.5, x 3.5 m deep with a storage volume of 590 m³; two centrifugal high lift pumps, one duty pump rated at 15 L/s at a TDH of 50 m and one standby pump rated at 22.5 L/s at a TDH of 50 m, connected to the pumping discharge main; one electrically driven constant speed horizontal base-mounted, split case, centrifugal fire pump rated at 64 L/s at a TDH of 57 m; a sodium hypochlorite disinfection system, consisting of a 45 litre capacity sodium hypochlorite tank, with PVC spill basin, and one chemical metering pump rated at 1.6L/h at a TDH of 96.5 m.

Well #1 consists of a 250 mm diameter, 35-metre-deep drilled groundwater production well, equipped with a submersible deep well pump, rated at 7.9 L/s at a TDH of 13 m with a 100 mm diameter discharge line connected to a 100 mm diameter well pump header in the main pumphouse including a vented watertight galvanized steel enclosure over the well head.

Well #2 consists of a 200 mm diameter 49-metre-deep drilled groundwater production well equipped with a submersible deep well pump, rated at 4.7 L/s at a TDH of 10 m with a 100 mm diameter discharge line connected to the clearwell in the main pumphouse including a vented watertight galvanized steel enclosure over the well head.

Well #4 consists of a 200 mm diameter 50 metre deep drilled groundwater production well equipped with a submersible deep well pump, rated at 9.2 L/s at a TDH of 15 m with a 100 mm diameter discharge line connected to the clearwell in the main pumphouse including a vented watertight galvanized steel enclosure over the well head; a sodium hypochlorite disinfection system consisting of a 45 litre capacity sodium hypochlorite day tank with a PVC spill basin and one chemical metering pump rated at 1.6 L/s at a TDH of 96.5 m, injecting sodium hypochlorite solution into the common raw water discharge line of Well Pump No.2 and 4.

Water Distribution System

The pressure for the distribution system is maintained by the highlift pumps at the main pumphouse as there is no elevated water storage. There are 400 water connections, 57 hydrants, 68 valves and 2 pressure blow-offs.

Communal Wells

One located in the Village and the other approximately 10 kms west of the Village of Merrickville, both containing UV and Filters.

Wastewater Treatment Systems:

Environmental Compliance Approval No. 1121-7YRQLF

The Wastewater Treatment Facility consists of a 500 m³/d package extended aeration plant consisting of one aeration basin, final settling basin, chlorine contact tank and an aerobic sludge storage tank. A solution of ferric chloride is continuously added to the influent in the aeration tank for phosphorous removal. The effluent is disinfected using sodium hypochlorite and then discharge through a submerged outfall to the Rideau River. Due to the small surface settling area of the final settling basin the allowable plant capacity is approximately 340 m³/d. The effluent design objectives and guidelines are as stipulated in Table 1 (Effluent Criteria) of the Ministry of Environment's Procedure F-5-1.

Wastewater Collection System:

There are 340 residences connected to the sanitary sewer collection system. The raw sewage flows by gravity to the #1 sewage pumping station. From there it is pump by two submersible pumps to the Sewage Treatment Plant. The #2 sewage pumping station is not in service.

Part 2. Street Address of the Facilities

The street address of the Facilities is as follows:

Main Pumphouse	105 Main Street East
Well #1	North side of Main Street East 60 metres east of St. Lawrence Street
Well #2	North side of Main Street East 60 metres east of St. Lawrence Street
Well #4	North side of Main Street East 85 metres east of St. Lawrence Street
Merrickville Sewage Treatment Plant	106 Collar Hill Rd Merrickville-Wolford Village, United Counties of Leeds and Grenville

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, G, and H 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 7:00 a.m. and 3:30 p.m. on a Business Day.

“Capital Projects” is defined in Paragraph 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 2010.

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

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

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

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

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

“ESA” means the Electrical Safety Authority.

“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 to December 31 of the calendar year.

SCHEDULE C - The Services

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 of 7:00-3:30 and supply other personnel as may be necessary to operate, maintain and manage the Facilities under normal operating conditions in compliance with the requirements of Applicable Laws, terms of an Agreement, including management, operation, routine maintenance, administration and reporting;
- (b) supply a certified operator(s), who will be on call 24 hours per day, 365 days per year to respond to emergency conditions in respect of the operation of the Facilities, any such response to be charged to the Client in accordance with Schedule D herein or by way of an annual set amount;
- (c) provide all necessary training and continuing education for staff to ensure the continued operation of the Facilities, in accordance with all Applicable Laws;
- (d) provide an Overall Responsible Operator for the Facilities.

2. **Reporting**

- (a) prepare and submit all reports to the Client and the MECP respecting the operation and maintenance of the Facilities as required by the MECP or any other regulatory agency or body having jurisdiction at the time of the Agreement;
- (b) review any inspection reports prepared by the MECP in respect of the Facilities and, subject to any approvals of the Client, either correct or negotiate with the MECP amendments to a deficiency;
- (c) report to the Client and the MECP non-compliance with a regulatory requirement;
- (d) maintain Drinking Water Quality Management System plan;
- (e) prepare and submit a Facilities performance report, within forty-five (45) days of the completion of each quarter or such other period as the Client and OCWA may agree upon;
- (f) prepare and submit a summarized financial report, in the format provided in Schedule F, on a quarterly basis indicating expenditures to date and funds remaining; and
- (g) prepare and submit an annual financial report, in the format provided in Schedule F;
- (h) before October 31st (as per agreement 4.6(b)), prepare a 10-year report outlining the foreseeable Major Maintenance Expenditures and Capital Projects required for the Facilities, complete with cost estimates for the Client's budgeting purposes.

3. **Operations Manuals**

- (a) recommend to the Client, any section in the operating manuals that should be

modified/changed to ensure that the operating manuals reflect the actual or revised approach to operating the Facilities; which recommendations may require third party assistance.

4. Initial Inventory

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

5. Change in Laws

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

6. Facility Emergency Preparedness

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

7. General Services – All Facilities

- (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;
- (a) in providing routine operation of the Facilities, OCWA will conduct:
 - (i) visual inspection of all buildings, equipment and Facilities insofar as can be observed while these are in service;
 - (ii) instrumentation cleaning, verification of meters;
 - (iii) sampling and/or on-site analysis;
 - (iv) sample collection, preservation, packing and shipment for off-site analyses as required by Applicable Laws at the time of the commencement of this Agreement;
 - (v) laboratory sampling, analysis and reports as required by Applicable Laws at the time of the commencement of this Agreement;
 - (vi) coordination of chemical supply with chemical vendors;
 - (vii) checks and responses to alarms during Business Hours;
 - (viii) maintenance of daily logs and records, including process control logs, laboratory data logs, Bypass reports and routine checklists as required by Applicable Laws;
 - (ix) consolidation and processing of OCWA's internal operational data forms for statistical input into a reporting system;

- (x) recording and analysis of flows, chemicals used, residuals and other process readings as required;
- (xi) utilize Client's SCADA system (if applicable) for trending review and reporting, gap analysis, testing, and compliance;
- (xii) maintenance of vehicle(s) used in providing the services, including fuel and any other operating costs associated with such vehicle(s);

8. Routine Maintenance

- (a) Perform Routine Maintenance on the equipment used in the operation of the Facilities as specified in the maintenance management system including mechanical, electrical, instrumentation and communication;
- (b) Utilize a maintenance management system which shall record information related to the maintenance of the Facilities including an inventory of all key equipment and tools;
- (c) Carry out a routine lubrication program including greasing and oiling as required in the lubrication schedule;
- (d) Perform annual Generator Maintenance Servicing.

9. Water Treatment Operations & Maintenance

- (a) recording and analysis of flows, chemicals used, residuals and other process readings as required;
- (b) Mix, monitor and adjust process chemicals to ensure adequate treatment;
- (c) Monitor raw water and report any problems;
- (d) Annual cleaning of wet well;
- (e) Monitor SCADA and Outpost 5 system for plant operations, process control, and after hour emergencies;
- (f) Calculate, record and analyze daily and monthly water flows, pump running hours and the amount of chlorine used;
- (g) Procure and replace filters and UV bulbs;
- (h) Routinely conduct water tests as per regulations and Facility's Municipal Drinking Water License and Drinking Water Works Permit;
- (i) Well level monitoring;

10. Water Distribution General Operation

- (a) Open, exercise and flush water hydrants semi-annually, perform minor repairs and paint where necessary and winterize each fall;
- (b) Inspect distribution system, visually for major leaks, exercise main distribution shut-off valves and collect samples and monitor chlorine residual;
- (c) Inspect equipment at low lift station, pumps, chemical systems, on line monitors and standby power;

- (d) Arrange for repairs to water leaks in distribution system on municipal property only (to curb stop) as warranted from the Municipality;
- (e) Exercise main distribution shut-off valves on a bi-annual schedule.
- (f) Perform all shutoffs and turn-ons for seasonal properties;
- (g) Perform system locates during regular business hours;
- (h) Inspection of all lifting, safety equipment;
- (i) Calibration of gas detectors;
- (j) Calibration of flow meters;
- (k) Perform water meter reading;
- (l) Troubleshoot issues with water meters at the Client's request and report any issues back to the Client;
- (m) New water service connection to main inspections on municipal property;
- (n) back flow prevention inspection measures at facilities;
- (o) water service disconnect and reconnect; Turn- on/off during regular business hours;
- (p) water infrastructure locates during regular business hours;
- (q) inspection of repaired water mains during regular business hours;
- (r) new sewer service installation or connection inspection during regular business hours;
- (s) inspection of repaired sewer services during regular business hours.

11. Wastewater Treatment General Operation

- (a) Inspect process control equipment to ensure proper operation of bar screens, secondary wastewater treatment tanks, pumps, blower and aeration systems, disinfection systems, sludge holding tanks, stand by power and other chemical feeders;
- (b) Operate pump controls and valve controls for pumping of process streams;
- (c) Hose down walls and channels and floats in wet well;
- (d) Calculate, record and analyze the amount of wastewater treated, the daily flows and monthly flows, pumping station running hours and diesel running hours;
- (e) Collect representative samples for heavy metals and trace organics, conduct routine analysis for coliform bacteria and chemicals and ensure that they are shipped to the proper laboratories;
- (f) Clean wet wells, basket bar screens; check travelling bar screens, clean aerated grit tanks;
- (g) Remove grit as required;
- (h) OCWA staff will on a routine basis:

- monitor and adjust dosages of process chemical as required;
 - record and analyze electricity used, chemicals used, chlorine residuals, disinfection, process water and wastewater flow calculations;
 - collect samples and perform routine wastewater tests in accordance with the Certificate of Approval or legislation;
- (j) Coordination and removal of biosolids, haulage and disposal from the Facilities in accordance with applicable MECP Guidelines for sludge disposal to the sites approved and permitted by the Client to receive such sludge and biosolids. All work to be in accordance with MECP's "Guideline for Sludge Utilization on Agricultural Lands", dated October 1992.
12. Wastewater Collection General Operation
- (a) As required, remove maintenance hole covers and inspect maintenance holes for flow through, debris accumulation, structural stability of walls, and rungs, infiltration and proper benching;
 - (b) Inspect equipment at pumping stations and forcemains to ensure proper operation of bar screens, pumps, blowers, disinfection systems, filters, stand by power and other chemical feeders;
 - (c) Check pumping stations and force mains to ensure their proper operation and take routine readings;
 - (d) Supervise repairs and inspections to the collection system, force main and irrigation system;
 - (e) Visual manhole inspections

13. Small Systems General Operation

- (a) Perform regular system checks on a monthly basis during operating season where applicable;
- (b) Advise Client of any routine maintenance required including replacement of filters, and UV bulbs;
- (c) Liaise with regulators for issues and inspection;
- (d) Water testing/sampling of small drinking water systems will be completed upon opening for the season, and every second month thereafter. System and well head checks are completed on the non-sample months;
- (e) Perform regular system checks on a monthly basis during operating season where applicable.

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

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

1. Operation Related Services

- (a) operation manual updates;
- (b) contract the installation and replacement of water meters.
- (c) well cameraing/.
- (d) clearwell cleaning;

2. Capital Projects Plans

- (a) Assist in preparing a detailed Capital Projects Plan for the facility large scale projects.

3. Watermain Services

- (a) contract repair for watermain breaks including road restoration;
- (b) new watermain conditioning;
- (c) watermain swabbing;
- (d) exercising secondary valves;
- (e) leak detection;
- (f) chamber inspections, monitoring.

4. Sewermain Services

- (a) 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;
- (b) new sewer service installation or connections;
- (c) contract repair for sewer line breaks including road restoration;
- (d) inspection of repaired sewer services;
- (e) inspect and flush sanitary collection system, including sewers, manholes and clean outs;
- (f) high pressure sewer flushing;
- (g) acoustic pipe inspection;
- (h) infiltration surveys, sewer cameraing;
- (i) contract to adjust and level manholes;

5. Engineering Services

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

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 and Adjustments

1. Operations Estimate

No later than October 31st of each year of the Initial Term or any Renewal Term, OCWA shall prepare and submit to the Client, for its approval, an estimate of the charges associated with the provision of the operational and maintenance Services for the following calendar year. The Client will inform OCWA no later than December 1st whether the estimate is approved or not approved (the approved estimate is referred to as the “Estimate”). If the Client does not provide OCWA with its decision regarding approval by the December 1st date, the Estimate shall be deemed approved. The Estimate shall be OCWA’s authorization to incur the expenditures in the Estimate. The Estimate for the first year of the Initial Term is \$651,972.

Facility	Annual Estimate
Water Treatment	\$307,702
Wastewater Treatment	\$344,270
Total	\$651,972

2. Reconciliation of the Estimate and Actual Charges

At the end of each calendar year, OCWA will determine the actual charges for providing the Services to the Client for that year (the “Actual Charges”) which, as indicated in Paragraph 2.7(a), may include an increase in premium for the Insurance. If the Estimate paid by the Client for the year exceeds the Actual Charges, OCWA will pay the Client the difference within thirty (30) days of OCWA making the determination. If the Actual Charges exceed the Estimate paid by the Client, the Client shall pay OCWA the difference within thirty (30) days of OCWA notifying the Client in writing of the determination.

3. Other Charges

The Estimate, as reconciled with the Actual Charges, includes all charges associated with providing the Services, except for the following:

- (a) OCWA’s Management Fee (as described in Section 4 of Schedule D below);
- (b) any Capital Projects (as defined in Section 4.5);
- (c) Unexpected Expenses (as defined in Paragraph 4.6);
- (d) charges for any Optional Services that are provided by OCWA to the Client (as described in Section 5 of this Schedule D);

4. Management Fee

- (a) In addition to payment of the Estimate, as reconciled, with the Actual Charges, the Client shall also pay OCWA an annual management fee (the “Management Fee”) to provide the

management Services, which shall be \$115,073 for the first year of the Initial Term (“Year One”). The Management Fee shall be paid by the Client in twelve (12) equal monthly instalments at the same time and in the same manner as the Estimate.

Facility	Annual Management Fee
Water Treatment	\$54,309
Wastewater Treatment	\$60,764
Total	\$115,073

- (b) For the second year (“Year Two”) and subsequent years of the Initial term, the annual Management Fee shall be \$115,073 plus the CPI Adjustment.
- (c) The Management Fee in any Renewal Term shall be as agreed by the Client and OCWA. If the Client and OCWA cannot reach an agreement on the Estimate and Management Fee for any Renewal Term within six (6) months of the beginning of the last year of the current term (whether the Initial Term or a Renewal Term) (the “Current term”), this Agreement will be terminated one year from the last day of the Current Term. The Parties shall treat this final year in the same manner as if the Current term was extended an additional year.

5. Allowance for Major Maintenance

- (a) The Annual Price includes an annual allowance in the amount of \$25,000 for Major Maintenance Expenditures. Approval of each expenditure remains that of the Client as per Section 4.6 – Major Maintenance Expenditures.
- (b) Administration fees shall be billed to the Client as per section 9 below.
- (c) A reconciliation of actual costs will take place following the close of each year in conjunction with the Annual Financial Report.

6. Optional Services

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

- (a) Labour rates on Business Days, Monday to Friday, (0730 to 1600) shall be billed at \$65.00/hour/person for an Operator or Mechanic, \$75.00/hour/person for an O&M Team Lead and Millwright/Electrician and \$90.00/hour/person for a Senior Operations Manager and Process & Compliance Technician.
- (b) Labour rates on statutory holidays shall be billed at \$87.50/hour/person for an Operator or Mechanic, \$101.25/hour/person for an O&M Team Lead and Millwright/Electrician, and \$132.50/hour/person for a Senior Operations Manager and Process & Compliance Technician, 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 \$87.50/hour/person for an Operator or Mechanic, \$101.25/hour/person for an O&M Team Lead and Millwright/Electrician, and \$132.50/hour/person for a Senior Operations Manager and Process & Compliance Technician, 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
- (e) Costs for Optional Services provided by OCWA staff (i.e. engineering services, project management, SCADA, innovation technology, process optimization and asset management services) will be based on OCWA's technical services hourly rate schedule. This rate schedule will be set by OCWA at the beginning of each calendar year and will be reviewed by the Client as part of the Optional Services approval process.

7. Service Fee

“Service Fee” means an additional fee charged to the Client when OCWA purchases materials, supplies, equipment or contractor's services on behalf of the Client. For any individual item or service purchased, the Service Fee shall be calculated as follows:

- (a) 15% of the first \$10,000; plus
- (b) 10% on the amount from \$10,000 to \$50,000; plus
- (c) 5% 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 \$5,800 ($15\% \times \$10,000 + 10\% \times \$40,000 + 5\% \times \$6,000$).

SCHEDULE E - Insurance

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

Property Insurance

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

Policy Limits:

- Replacement Value
- Extra expenses
- Expediting expenses

Insurable Values:

Merrickville Water Treatment	\$5,000,000
Merrickville Wastewater Treatment	\$9,690,000

(Subject to Annual Review by the Client.)

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

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

Flood – *Facilities and Locations in 100 year Flood Zones*

Up to 2% of the value of the property insured, subject to a minimum amount of \$100,000.

Flood - *All Other Facilities*

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

Water Damage – Up to \$130,000

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

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

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

Testing & Commissioning - \$27,500

All Other Losses:

<u>Deductible for 2023</u>	<u>Facility & Location Insurable Value</u>
\$23,500	With total value up to \$10,000,000
\$24,500	With total value from \$10,000,000 under \$25,000,000
\$29,500	With total value over \$25,000,000 and at or under \$75,000,000
\$50,000	with total value over \$75,000,000

The above is subject to change on an annual basis.

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

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

Boiler & Machinery Insurance

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

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

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

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

Automobile Insurance

Coverage: Automobile Liability for OCWA owned or leased vehicles.

Limit: \$5,000,000 per Occurrence

Commercial General Liability Insurance

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

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

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

Contractor's Pollution Liability/Professional Liability Insurance

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

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

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

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

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

SCHEDULE F - List of Pre-Existing Conditions

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

None identified

SCHEDULE G - Format for Financial Reporting



Village of Merrickville-Wolford

Cost Plus Client Report

For the period Jan 01, 20XX to Dec 31 20XX

Location : 1161

Project # : Summary

[illegible]

SCHEDULE H - 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: _____ Name: _____ Title: _____	Date (YYYY/MM/DD): _____	
Client	Per: _____ Name: _____ Title: _____	Date (YYYY/MM/DD): _____	
Adjustment			
Check Appropriate Type of Change			
Apply (Y/N)	Type of Change:		
	Adjustment to 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:		