

SERVICES AGREEMENT

BETWEEN

ONTARIO CLEAN WATER AGENCY

A N D

THE CORPORATION OF THE COUNTY OF BRANT

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SERVICES AGREEMENT

THIS AGREEMENT effective as of the 1st day of January, 2018 (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 COUNTY OF BRANT

(the “Client”)

RECITALS

- (a) OCWA is in the business of providing management, operations and maintenance services for wastewater facilities.
- (b) The Client is the owner of the Paris, St. George and Airport Wastewater Treatment Plants and Collection System and Cainsville Wastewater Lagoons and Collection System more particularly described in Schedule A (the “Facility”).
- (c) The Client wishes to retain the services of OCWA to operate and maintain the Facility in accordance with the provisions of this agreement (the “Agreement”).
- (d) The Client and OCWA (collectively, the “Parties” and each a “Party”) are entering this Agreement to set out their respective rights and obligations with respect to the management, operation and maintenance of the Facility.
- (e) The Council of the Client on the ____ day of _____, 20__ passed By-Law No. _____ authorizing the Client to enter into this Agreement.

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

ARTICLE 1 - INTERPRETATION

Section 1.1 - Definitions

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

ARTICLE 2 - RESPONSIBILITIES OF OCWA

Section 2.1 - Retention of OCWA

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

Section 2.2 - Performance of Services

OCWA shall perform the services with the degree of skill and diligence normally employed by operations, maintenance and management personnel performing the same or similar services with good and acceptable industry practices for contract operators performing the same or similar service.

- (a) OCWA shall deliver the Services in compliance with all applicable Environmental Laws, except as described in Paragraphs 2.2(b) and (c) below and in any of the following circumstances:
 - (i) the Client not making the Major Maintenance Expenditures and/or not undertaking the Capital Projects reasonably recommended by OCWA as per Sections 4.4 and 4.5 herein;
 - (ii) failure of the Client to meet its responsibilities specified in this Agreement;
 - (iii) failure of any equipment at the Facility, unless the failure is due to OCWA’s negligence;
 - (iv) the wastewater transmitted to the Facility for treatment does not meet the requirements of the Client’s sewer use by-law or any Environmental Law;
 - (v) the wastewater transmitted to the Facility for treatment contains contaminants or other substances which cannot be treated or removed by the Facility’s treatment processes;

- (vi) the quantity or quality of wastewater transmitted to the Facility exceeds the Facility's design or operating capacity.
 - (vii) Unavailability of approved lands for application of sludge.
- (b) OCWA may temporarily cease to provide or reduce the level of provision of Services in the event of an emergency, a breakdown or any Uncontrollable Circumstance. OCWA shall, when practicable, try to give the Client reasonable advance notice of any such occurrence.
- (c) Notwithstanding any other provision of this Agreement, delay in the performance of, or a failure to perform any term of this Agreement by OCWA, shall not constitute default under this Agreement or give rise to any claim for damages suffered by the Client if and to the extent caused by occurrences or circumstances beyond the reasonable control of OCWA (an "Uncontrollable Circumstance"), including but not limited to any circumstances set out in Paragraph 2.2(a), decrees of government, acts of God (including but not limited to hurricanes, tornadoes, floods and other weather disturbances), sabotage, strikes, lockouts and other industrial disturbances, insurrections, war, civil disturbances, pandemics, riots, explosions, fire and acts of third parties.
- (d) The Client recognizes that in an emergency situation or where an Uncontrollable Circumstance exists, OCWA's primary concern will be to use all reasonable efforts to maintain the Facility in compliance with Environmental Laws and that OCWA may be required to correct a deficiency or deal with the emergency situation without obtaining the Client's prior approval. Should such a situation arise, OCWA will advise the Client as soon as reasonably possible and shall provide as much information as possible to the Client and will work with the Client to ensure the emergency situation is appropriately addressed.

Section 2.3 - OCWA as Independent Contractor

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

Section 2.4 - Authorized Representatives

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

Section 2.5 - Indemnification of the Client

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

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 a price increase.
- (b) The Client specifically recognizes and agrees that neither OCWA nor the Crown bears any responsibility for the Pre-existing Condition(s) of the Facility. As such, OCWA is not required to obtain insurance for this purpose and the Client has or will obtain its own insurance.
- (c) The Client shall be responsible for securing its own insurance for any other operations with which it is involved that are not part of the Services. The Client acknowledges that OCWA's Commercial General Liability and Contractor's Pollution Liability insurance shall not extend to cover any claims, exposure or liability beyond those directly linked to the provision of Services by OCWA staff. The Client further acknowledges that it will have no recourse under OCWA's Commercial General Liability and Contractor's Pollution Liability insurance for any operations that do not form part of the Services.

- (d) In the event of a claim under the Insurance, the payment of deductibles is as specified in Schedule E. As further clarification OCWA shall be responsible for its deductible for any claim made by it during the term of this Agreement.
- (e) The policies of insurance obtained by the Client in connection with this Agreement shall be primary, notwithstanding other insurance obtained and maintained by OCWA.

Section 2.7 - Representations and Warranties of OCWA

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

- (a) that it has full power and authority and has taken all necessary steps to enter into and perform its obligations under this Agreement; and
- (b) OCWA's staff, including but not limited to any person authorized by OCWA to act on its behalf, are properly trained and capable of providing the Services set out under this Agreement.

ARTICLE 3 - RESPONSIBILITIES OF THE CLIENT

Section 3.1 - Obligations of the Client

- (a) The Client has the full power and authority to enter into and perform its obligations under this Agreement.
- (b) The Client has passed all necessary By-Laws and has obtained all necessary Authorizations to enable it to enter into and perform its obligations under this Agreement and to operate the Facility, (including, without limitation, any Authorizations required from the Ontario Municipal Board and the Ministry of the Environment and Climate Change), and the Authorizations are in good standing.
- (c) The Client has provided OCWA with a true copy of each of the Authorizations referred to in Paragraph 3.1(b) above prior to the date of this Agreement, including a certified copy of each municipal By-Law required to authorize the Client to enter into and perform its obligations under this Agreement.
- (d) As the owner of the Facility, the Client is fully aware of its responsibilities and obligations regarding the operation and maintenance of the Facility under Applicable Laws, including without limitation its responsibilities under the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40. (the "OWRA") and the *Occupational Health and Safety Act* (the "OHSA") and their regulations.
- (e) The Client confirms that there are no known Pre-existing Conditions existing at the Facility which would affect OCWA's ability to operate the Facility in compliance with the terms of this Agreement and Applicable Laws, other than what is listed in Schedule F.

The Client acknowledges and agrees that the Client shall be responsible for addressing such Pre-existing Conditions.

- (f) The Client confirms that as of the date of execution of this Agreement, to the best of the Client's knowledge, the Facility is in compliance with all Applicable Laws.
- (g) The Client is not aware of the presence of any designated substances as defined under the *Occupational Health and Safety Act* (the "OHS") at the Facilities except at the Paris WPCP and St. George WPCP Facilities where asbestos containing material has been identified at both sites. The Client acknowledges and agrees that it is responsible for dealing with the designated substances (including but not limited to asbestos and lead) in accordance with the OHS and its regulations and to notify OCWA of the location of any designated substances in the Facility.

Section 3.2 - Covenants of the Client

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

- (a) The Client agrees to promptly pay all amounts owing to OCWA under this Agreement as they become due, including any interest charges on late payments as determined under Section 4.8.
- (b) The Client agrees to promptly provide OCWA with any information relating to the Facility which could have a bearing on the provision of Services by OCWA, including but not limited to any engineering report prepared in respect of the Facility, any Authorization or amendment to any Authorization, as well as any governmental notice or order relating to the Facility.
- (c) The Client agrees to commit the necessary resources to appropriately address and comply with any such reports, Authorizations, notices or orders.
- (d) The Client shall repair, maintain and keep in a good working state, in accordance with good engineering practices and the standards reasonably applicable to an owner of a like facility, all wastewater works that belong to or are under the control of the Client and that collect and transmit wastewater to the Facility.
- (e) The Client agrees to promptly commit the necessary resources to appropriately address any health and safety issues identified by OCWA which are the responsibility of the Client.
- (f) The Client shall take reasonable steps to ensure that wastewater transmitted to the Facility complies with the Client's sewer use by-law and over strength agreements and any Environmental Laws. If requested by OCWA, the Client shall provide OCWA with copies of the Client's inspection reports (sewer usage, cross-connections, sump pump connections), if available.

Section 3.3 - Exoneration and Indemnification of OCWA

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

ARTICLE 4 - TERM, PAYMENT FOR SERVICES AND OTHER CHARGES

Section 4.1 - Initial Term of Agreement

This Agreement shall start on the Effective Date January 1, 2018 and shall continue in effect for an initial term of three (3) years, ending on December 31, 2020 (the “Initial Term”) and then may be renewed for successive two (2)-year term (each a “Renewal Term”) subject to mutual agreement between the Parties, subject to Section 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, 2018**. Payment shall be made by the Client by pre-authorized bank debit from a bank account designated by the Client.

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 Facility that are necessary to prevent or correct a failure of any component of the equipment which is not included as part of Routine and Preventative Maintenance including labour charges, together with the Service Fee.
- (b) The Client’s written approval of the estimate or revised estimate, in the form set out in Schedule “J”, authorizes OCWA to incur the Major Maintenance Expenditures included in the estimate (the “Approved Major Maintenance Expenditures”).
- (c) OCWA will invoice the Client for the Approved Major Maintenance Expenditures together with supporting documentation and the Client shall pay the invoice within thirty (30) days of the date of invoice.

Section 4.5 - Capital Projects

- (a) “Capital Projects” means changes and improvements to the Facility which include the installation of new technology, improvements to the efficiency, performance and operation of the Facility, replacement of major pieces of equipment, structural modifications to the Facility and the construction and commissioning of new Facilities.
- (b) During the term of this Agreement, the Client may request OCWA to undertake Capital Projects for the Client. The terms and conditions of such Capital Projects including the fee shall be negotiated by OCWA and the Client.
- (c) No later than July 31 in each Year that the Agreement is in force, or such date as the Parties may agree in writing, OCWA will provide the Client with an estimate of the Capital Expenditures reasonably required for the operation of the Facility for the following Ten (10) Years. The Client’s written approval of the estimate or revised estimate authorizes OCWA to incur the Capital Expenditures included in the approved estimate.

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. MOECC or MOL) or identified through an inspection (e.g. ESA, MOECC, 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 twenty-four (24) hours of incurring the Unexpected Expenses, OCWA will provide the Client with a verbal report and within five (5) days following that, a written 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 should 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 item costing less than \$2,000.

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 4.7(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 4.7(a).

Section 4.9 - Hydro Costs/Utility Costs

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

OCWA will pay the hydroelectricity cost on behalf of the Client. The Client shall reimburse OCWA the hydroelectricity costs, based on the cost indicated on the bill from the hydroelectricity provider, as set out in Schedule D. OCWA will invoice the Client on a quarterly basis for Hydro 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 new services to be provided;
 - (ii) fees for the services provided under the Change Order;
 - (iii) the extent of the adjustment to the maintenance and operating schedule, if any;
 - (iv) the extent of any adjustments to the Estimate, if any; and
 - (v) all other effects that the change has on the provisions of this Agreement.
- (c) 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 Estimate 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 shall refer the dispute to mediation under Article Five.

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

Section 6.3 - Final Settlement

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

Section 6.4 - Transfer of Operations

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

- (a) The log book for the Facility.
- (b) The original operations manual(s) that were provided by the Client to OCWA at the commencement of the Services with all updates to the expiry date of the Agreement.
- (c) A list of emergency phone numbers from the contingency plan binders used by OCWA staff in respect of the Facility.
- (d) Maintenance and repair records of equipment at the Facility in electronic format.
- (e) Inventory of equipment/material.
- (f) Standard Operating Procedures (SOP) for the Facilities.
- (g) Final Transition Plan as described in Schedule C.
- (h) an electronic copy of wastewater quantity and quality data, laboratory results and plant performance data collected by OCWA during the term of this Agreement.
- (i) Any data, information, or other materials which the Client requires for continued operation of the Facilities and as may be deemed necessary by either the Client or MOECC.

- (j) All records and documentation shall be provided in an electronic format suitable to the Client.

Section 6.5 – Ownership of Equipment upon Termination

Equipment and other personal property located at the Facilities and directly paid for by the Client or purchased by OCWA and reimbursed by the Client shall remain the property of the Client. Any equipment or personal property purchased by OCWA and not reimbursed by the Client shall remain the property of OCWA. OCWA may remove any such equipment or personal property from the Facilities after providing the Client with a complete list of any and all such equipment or personal property and as approved by the Client. Equipment belonging to OCWA which is required for the on-going operation of the Facilities shall be made available for purchase by the Client at a fair market value including appropriate depreciation.

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 CMMS, Outpost 5 and/or PDM (the "Technology"). The Client further agrees that use of the Technology by OCWA with respect to the Facility does not in any way give the Client any ownership or licensing rights in or to the Intellectual Property Rights to the Technology unless otherwise agreed to in writing between the Parties. For greater certainty, nothing in this Section 7.1 shall be interpreted as requiring OCWA to provide the Client with the Technology or other similar technology in respect of the Facility 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 shall govern.

Section 7.3 - Entire Agreement

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

Section 7.4 - Amendments and Waivers

No amendment to this Agreement will be valid or binding unless it is in writing and duly executed by both of the Parties hereto. No waiver of any breach of any provision of this

Agreement will be effective or binding unless it is in writing and signed by the Party purporting to give such waiver and, unless otherwise provided, will be limited to the specific breach waived.

Section 7.5 - Successors and Assigns

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

Section 7.6 - Survival

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

Section 7.7 - Severability

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

Section 7.8 - Notices

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

(i) if to the Client:

County of Brant
P.O. Box 160
Burford, ON N0E 1A0
 Telephone: **519-449-2451**
 Fax: **519-449-3382**
 Attention: **Solid Waste/Wastewater Operations Manager**

(ii) if to OCWA:

120 Race St.
Paris, ON, N3L 3X2
 Telephone: **519-643-8660**
 Attention: **Business Development Manager**

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

Section 7.9 - Counterparts

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

Section 7.10 - Freedom of Information

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

Section 7.11 - Confidentiality and Security

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

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

ONTARIO CLEAN WATER AGENCY

Date of Signing

By: _____
(Terry Bender, VP Operations)

Date of Signing

By: _____
(Prem Rooplal, VP Finance)

THE CORPORATION OF THE COUNTY OF BRANT

Date of Signing

By: _____
(Ron Eddy, Mayor)

Date of Signing

By: _____
(Heather Boyd, Clerk)

-

SCHEDULE A - The Facility

Part 1. Description of the Facility

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

A. Paris Water Pollution Control Plant (Paris WPCP) and Collection System

Located adjacent to the Grand River at 120 Race Street, Paris, Ontario, the Paris WPCP is an extended aeration plant with continuous phosphorous removal and onsite sludge dewatering centrifuge. The collection system includes six (6) associated pumping stations and forcemains, two (2) trunk sewer odour control units and off-site bio-solids storage facility. Street addresses of the sewage pumping stations (SPS) and other associated facilities are as follows:

- Willow Street SPS and forcemain, 4 Willow Street, Paris, Ontario
- Paris Links Road SPS and forcemain, 59 Paris Links Road, Paris, Ontario
- Grand River Street North SPS and forcemain, 269 Grand River Street North, Paris, Ontario
- Fairview Heights SPS and forcemain, 22 MacPherson Drive, Paris, Ontario
- Grandville SPS and forcemain, 44 Cobblestone Drive, Paris, Ontario
- Brant 403 Business Park SPS and forcemain, 99 Bethel Road, Paris, Ontario
- Mile Hill Road Odour Control Unit, located within the road allowance of Mile Hill Road, approximately 250m north of Powerline Road, Paris, Ontario
- Race Street Odour Control Unit, located on-site at the Paris WPCP at 120 Race Street, Paris, Ontario
- Bio-solids Storage Facility, 40 Railway Street, Paris, Ontario (Paris Waste Transfer Station)
- Paris Collection System consists of approximately 59km of sewers and 900 manholes/structures
- 2 Siphons (William Street and Mechanic Street/Lions Park)

B. St. George Water Pollution Control Plant (St. George WPCP) and Collection System

Located at 43 Victor Boulevard, St. George, Ontario, the St. George WPCP is an extended aeration, activated sludge plant with continuous phosphorous removal and effluent filtration.

St. George Collection System consists of approximately 15km of sewers and 200 manholes/structures

C. Cainsville Wastewater Lagoons and Collection System

Located at 30 Shaver Street, Brantford, Ontario, the Cainsville Wastewater Lagoons are a seasonal discharge waste stabilization lagoon facility, consisting of two (2), one (1) acre treatment cells with aeration units and one (1), 4.3 acre polishing cell, together with influent flow recording, alum injection and parshall flume for the controlled discharge of effluent to Fairchild Creek.

Cainsville Collection System consists of approximately 5km of sewers and 65 manholes/structures

D. Airport Sewage Treatment System and Collection System

Located at 38 Greens Road, Brantford, Ontario, the Airport Sewage Treatment System is a sequencing batch reactor treatment system with sub-surface tile beds for effluent disposal.

Airport Collection System consists of approximately 2km of sewers and 25 manholes/structures

All of the facilities described above are owned by and registered to the County of Brant.

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, H, I, J and K 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 4.4(b) of this Agreement.

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

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

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

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

“Capital Projects” is defined in Paragraph 4.5(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 July of the previous Year as compared to the CPI

of July of the current Year. For example, the CPI Adjustment for Year 2017, is the CPI of July 2016 divided by the CPI of July 2015.

“**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 wastewater treatment facilities.

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

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

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

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

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

- (a) upon receipt of a Claim, or notice of claim, the 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 4.4(a) of this Agreement

“**Management Fee**” is defined in Paragraph 4(a) under Schedule D of this Agreement.

“**MOECC**” means the (Ontario) Ministry of the Environment and Climate Change.

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

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

“**OIC**” means the *Operator in Charge*.

“**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.

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

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

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

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

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

“**Preventative Maintenance**” is defined as the regularly scheduled and follow-up maintenance activities, as recommended by equipment manufacturers or using best practices, including routine inspections, warranty maintenance activities and calibration.

“**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 or Best Management Practices to maintain the reasonably expected service life of the equipment and components thereof and includes preventive maintenance.

“SCADA” means Supervisory Control and Data Acquisition.

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

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

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

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

“Unexpected Expenses” is defined in Paragraph 4.6(a) of this Agreement.

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

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

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

SCHEDULE C - The Services

A – Services for Wastewater Treatment System

Part 1 – Services included in the Estimate

OCWA will provide the following services:

1. Staffing
 - a) Certified operator(s) to attend 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, and terms of an Agreement;
 - 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;
 - 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 and Operator In Charge for the Facilities and associated collection systems;
 - e) provide staffing consisting of not less than identified personal in accordance with Schedule K.

DUTIES TO BE PERFORMED BY OCWA

Facilities and Collection System – Excluding Gravity Collection System

OCWA shall perform regularly scheduled inspections and carry out associated operational duties at the facilities, including all related equipment, buildings and property to ensure that the facilities are operating effectively in compliance with all applicable laws, regulations and authorizations. More specifically, OCWA shall perform the following services but not limited to:

- A. Paris Water Pollution Control Plant (Paris WPCP) and Collection System (Pumping Stations, Forcemain and Siphons)**
 - Inspect flow meters and calibrate them yearly, inspect process control equipment to ensure proper operation of treatment;
 - Inspect process control equipment to ensure proper operation of Headworks and grit removal system, secondary wastewater treatment

clarifiers, pumps, blowers and aeration systems, digesters and chemical feeders;

- Coordinate sampling with an accredited lab including all payment for such sampling (ordering bottles, arranging pickup, prepare chain of custody, preparing samples for shipment, etc.);
- Operation and maintenance of sludge dewatering equipment;
- Check all sewage pumping stations to ensure everything is in order (also take routine readings) and perform maintenance, as required, including cleaning of wet wells;
- Check Mile Hill and Paris WPCP Odour Control Units, sample media monthly, coordinate media replacement;
- Monitor sludge depths in secondary clarifier and mixed liquor suspended solids in the aeration tanks to ensure proper return rates, wasting rates, and solids inventory;
- Operate pump controls and valve controls for pumping of all process streams;
- Monitor chlorine contact chambers and settling tanks, pump out and clean as required;
- Monitor screenings removal auger and grinder, clean and remove obstructions as needed;
- Hose down weir walls and channels in secondary clarifiers;
- Monitor process chemicals, dosages, and usage;
- Coordinate the transportation of bio-solids from the Paris WPCP to the Bio-solids Storage Facility;
- Coordinate the removal of bio-solids from the Bio-solids Storage Facility for land application in conjunction with County policy;
- Update Operation and Maintenance Manuals on a routine basis.;
- Participate in and pay associated fee for the Electrical Safety Association CSS program for all facilities and Pumping Stations)
- Federal Wastewater Effluent Regulations (complete sampling, and report to Environment Canada)

Day-to-Day Maintenance of Paris WPCP

OCWA shall provide routine and preventative maintenance of the in accordance with good and acceptable industry practices, OCWA shall:

- Carry out a routine lubrication program including greasing and oiling as specified in the equipment lubrication schedule;

- Perform routine maintenance to equipment by following best practice preventive maintenance procedures by checking machinery and electrical equipment when required;
- Maintain an inventory of all equipment and tools; and
- Ensure the security of the Facility by locking doors and gates.

B. St. George Water Pollution Control Plant (St. George WPCP)

- Inspect flow meter and calibrate it yearly, inspect process control equipment to ensure proper operation of treatment
- Inspect process control equipment to ensure proper operation of headworks, secondary wastewater treatment clarifiers, pumps, blowers and aeration systems, filters, digesters, and chemical feeders;
- Coordinate sampling with an accredited lab including all payment for such sampling (ordering bottles, arranging pickup, prepare chain of custody, preparing samples for shipment, etc.).
- Operation and maintenance of de-chlorination equipment;
- Monitor sludge depths in secondary clarifier and mixed liquor suspended solids in aeration tank to ensure proper return rates, wasting rates and solids inventory;
- Pressurize air lift return pump weekly to remove blockages
- Operate pump controls and valve controls for pumping of all process streams;
- Hose down weir walls and channels in secondary clarifier;
- Coordinate the transportation of aerobic liquid bio-solids sludge to the Paris WPCP for further treatment;
- Monitor process chemicals, dosages, and usage;
- Check filters and backwash filters as required on a routine basis;
- Update Operation and Maintenance Manuals on a routine basis;
- Participate in and pay associated fee for the Electrical Safety Association CSS program for all facilities and Pumping Stations)
- Federal Wastewater Effluent Regulations (complete sampling, and report to Environment Canada)

Day-to-Day Maintenance of the St. George WPCP

OCWA shall provide routine and preventative maintenance of the facility in accordance with good and acceptable industry practices.

- Carry out a routine lubrication program including greasing and oiling as specified in the equipment's lubrication schedule;

- Perform routine maintenance to equipment by following the preventive measures procedures by checking machinery and electrical equipment when required;
- Maintain an inventory of all equipment and tools;
- Ensure the security of the Facility by locking doors and gates.

C. Cainsville Wastewater Lagoons

- Inspect flow meters and calibrate them bi-annually (prior to spring and fall discharge events), inspect process control equipment to ensure proper operation of treatment and polishing cells;
- Monitor lagoons for sludge depth;
- Coordinate sampling with an accredited lab including all payment for such sampling (ordering bottles, arranging pickup, prepare chain of custody, preparing samples for shipment, etc.).
- Inspect wastewater lagoon berms routinely for erosion, rodent damage and fence integrity;
- Inspect wastewater lagoon routinely to monitor level, odour, algae growth and to collect lagoon samples as required;
- Inspect alum storage and injection equipment to ensure proper functioning and to ensure ample stock of chemical including ordering chemical to replenish stock as required;
- Inspect, monitor, and maintain surface aerator systems
- Update Operation and Maintenance Manuals on a routine basis.
- Set up fall discharge Bird Abatement System 6 weeks prior to Discharge date
- Participate in and pay associated fee for the Electrical Safety Association CSS program for all facilities and Pumping Stations)
- Federal Wastewater Effluent Regulations (complete sampling, and report to Environment Canada).

Day-to-Day Maintenance of Cainsville Wastewater Lagoons

OCWA shall provide routine and preventative maintenance of the facility in accordance with good and acceptable industry practices:

- Carry out a routine lubrication program including greasing and oiling as specified in the equipment's lubrication schedule;
- Perform routine maintenance to equipment by following the preventive measures procedures by checking machinery and electrical equipment when required;
- Maintain an inventory of all equipment and tools;

- Ensure the security of the facility by locking doors and gates.

D. Airport Sewage Treatment Plant (STS) and Tile Bed

- Inspect flow meter and calibrate it yearly, inspect process control equipment to ensure proper operation of treatment
- Inspect process control equipment to ensure proper operation of the sequence batch reactor treatment system and tile bed;
- Coordinate sampling with an accredited lab including all payment for such sampling (ordering bottles, arranging pickup, prepare chain of custody, preparing samples for shipment, etc.).
- Coordinate the transportation of liquid bio-solids sludge to the Paris WPCP for further treatment;
- Update Operation and Maintenance Manuals on a routine basis
- Participate in and pay associated fee for the Electrical Safety Association CSS program for all facilities and Pumping Stations)

Day-to-Day Maintenance of the Airport WPCP and Tile Bed

OCWA shall provide routine and preventative maintenance of the facility in accordance to best practices. Specifically, but not limited to:

- Carry out a routine lubrication program including greasing and oiling as specified in the equipment's lubrication schedule;
- Perform routine maintenance to equipment by following the preventive measures procedures by checking machinery and electrical equipment when required;
- Maintain an inventory of all equipment and tools;
- Ensure the security of the facility by locking doors and gates.

Gravity Collection Systems

OCWA will provide an Overall Responsible Operator (ORO) and Operator In Charge (OIC) services for the County of Brant Wastewater Gravity Collection System. The County certified staff will work under OCWA's ORO and OIC.

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

A. General ORO/OIC Services

- Attend, observe and provide guidance during routine maintenance, repair and replacement work on the sanitary sewage collection system when requested.
- Review logbook on a regular basis to ensure the daily activity logs are properly completed

- Review and provide feedback on the county's standard operating procedures (SOP) for the maintenance, repair and replacement of the sanitary sewer collection system.
- Be available by telephone 24-hours a day, 7-days a week to provide operational guidance to the County employees as well as to respond to emergencies
- Review reports by County staff that are related to the collection system.
- Assist in regulatory matters and visits by representatives of the Regulator
- Provide necessary operational guidance to the County employees Review and comment on any operational data provided by County staff within 14 days.
- Maintain a log book for ORO and OIC activities

Overstrength Sampling Program

OCWA shall conduct weekly twenty-four (24) hour composite sampling at three (3) locations: two locations in Cainsville and one in Paris.

Day 1: Set-up and install of sampling equipment.

Day 2: Retrieve samples (preparation for transport, clean-up and set-up of equipment for next sample program)

Typically a two (2) person team will install and remove the samples, proponent to determine the appropriate number of staff required.

The County will provide ISCO composite samplers for each location, which OCWA shall be responsible to service and maintain for duration of the Agreement.

OCWA shall provide/complete the following:

- Coordinate sampling with an accredited lab including all payment for such sampling (ordering bottles, arranging pickup, prepare chain of custody, preparing samples for shipment, etc.).
- Purchase and maintain the materials and equipment required (e.g., gas detector, pick, traffic control, etc.) to complete the sampling program.
- Install and retrieve composite samplers.
- Complete the sampling data sheet for each sample location (or an approved alternative form).
- Inspect and clean composite samplers at the end of each sampling round and service and maintain them for the duration of the Agreement.
- Ensure that overstrength sampling is completed in compliance with best management practices/MOECC requirements.

Tests required:

- Cainsville locations: BOD testing, pH
- Paris location: Testing for TSS, pH, Oil and Grease, as well as BOD

Capital Improvements

OCWA shall record information on the frequency of equipment breakdown and repair costs to determine replacement needs. Parts of the facilities requiring upgrading or improvement shall be identified and brought to the attention of the County for consideration in annual budget deliberations or as soon as possible in cases of emergency.

Regulatory Matters

OCWA shall prepare the facilities for any scheduled inspection by the Ministry of the Environment and Climate Change (MOECC) and shall accompany the MOECC during such inspection. OCWA shall review with the County any inspection reports prepared by regulatory authorities that are provided to the Proponent.

Responding to a regulatory report on behalf of the County (e.g. a report of an inspection from the MOECC or the Ministry of Labour (MOL)), either directly or indirectly shall be considered part of the Operation Services provided by OCWA, unless the issue/item being addressed is outside the scope of services. OCWA shall either correct deficiencies identified in such inspection reports or negotiate changes to the reports with the regulatory authorities if related to the operation of the facilities. If any orders are issued by the regulatory authority which will require capital expenditures or any additional services, then OCWA may negotiate with the County to provide such service at additional cost.

Operations Staffing

OCWA shall ensure the facilities are operated by certified operators and other trained staff as required by environmental laws, C of A's and ECA's. Staff working at the facilities shall be trained in normal process operation and maintenance of the facilities and all staff shall be trained to deal with emergency situations. Staff shall also be trained and fully capable of confined space entry as confined spaces are present at all facilities.

Maintenance Plan

OCWA will provide the Client with a copy of the Maintenance Plan for each Facility no later than January 1st in each Year of the Agreement. The plan will include, at a minimum a list of all equipment to have maintenance completed in that operating year and a description of what maintenance is to be completed.

OCWA shall provide all necessary services to maintain the County's property, facilities and its components to maintain high efficiency operations, long-term reliability and preservation of capital investment.

Routine, Preventative and Breakdown Maintenance

Routine maintenance is the maintenance and care of all facilities including cleaning, lubrication, equipment adjustments, repairs, and painting to preserve the condition and appearance of all facilities.

Preventative maintenance is the regularly scheduled and follow-up maintenance activities, as recommended by equipment manufacturers or using best practices, including routine inspections, warranty maintenance activities and calibration.

Breakdown maintenance means the repair, replacement or renewal of equipment or other major items that have failed unexpectedly or when failure is deemed imminent. The Operator shall be responsible for performing and or coordinating all breakdown maintenance. The cost of third party labour, materials and replacement parts will be paid by the County as per Section 2.3 of the agreement, unless caused by the Operator's failure to perform any of the necessary maintenance or other obligations under the Services Agreement or by the Operator's negligence.

Computerized Maintenance Management System

OCWA shall be required to use, populate, maintain and update a computerized maintenance management system (CMMS) for all the facilities. The CMMS will identify all structures and equipment and indicate all related maintenance activities and schedules. The CMMS will identify all labour, materials, and other inputs for each individual maintenance function or repair to each piece of equipment or structure. The program will retain all historical information and have the ability to be electronically transferred to the County.

The CMMS shall be capable of, but not be limited to the following tasks:

- (i) setting up and implementing a complete data base of the Facilities,
- (ii) scheduling and controlling preventative maintenance,
- (iii) providing a record of repair for each piece of equipment or line section,
- (iv) monitoring of predictive and corrective maintenance programs and associated costs,
- (v) issuing work orders,
- (vi) maintaining spare parts inventory, as required and
- (vii) providing CMMS reports in excel format or pdf as requested.

All data related to and contained in the CMMS program will be the property of the County. The County shall have access to the data and information shall be made available on request.

At the end of the contract OCWA shall provide in an electronic format accessible to the County all of the data collected by the Operator for the duration of the Agreement.

Asset Management

OCWA will act as a steward of the Facilities on the County's behalf and will accept, preserve and return the Facilities in accordance with the terms of the Services Agreement. At a minimum, OCWA will maintain the Facilities to an acceptable standard of care and will return them to the County in as good or better condition.

Equipment Situations

OCWA shall ensure that there are contingency plans in place for staff to address non-routine operational situations and emergency situations such as spills, by-passes, overflows, hydro interruptions and equipment failure.

In the event of an emergency situation, OCWA shall implement such contingency plans and shall make all reasonable efforts to maintain the facilities in compliance with environmental laws, C of A's and ECA's.

Emergency response outside regular work hours shall be included as part of this agreement. OCWA shall have staff available 24 hours/day, 7 days/week including statutory holidays to respond to any and all emergency calls and alarms at the facilities.

Bio-Solids Management

OCWA will coordinate the transportation, storage and land application of dewatered bio-solids in accordance with the County of Brant Bio-Solids Management Strategy. More specifically, OCWA shall be responsible for the transportation of liquid aerobic sludge from the St. George WPCP and Airport STS to the Paris WPCP for further treatment. All sludge is then dewatered at the Paris WPCP producing a bio-solids cake. The bio-solids cake is then transported to the Bio-solids Storage Facility where it is stored until land application may occur in accordance with the Nutrient Management Act and as demand permits. OCWA shall be responsible for the entire process including the coordination of land application.

OCWA shall manage bio-solids in accordance with all relevant approvals and environmental laws in force as of the commencement date of the services agreement. If provisions of the Nutrient Management Act (NMA) or its regulations or any relevant regulatory guideline on bio-solids management and disposal issued by the MOE or the Ministry of Agriculture and Food has not been phased in as of the commencement date of the services agreement, such provision will be deemed to not be in force and shall be considered a change in environmental law.

SCADA System

OCWA shall continue to operate and monitor the SCADA system associated with the Paris WPCP and Paris Pump Station facilities. In performing its obligations pursuant to this section, the Operator shall comply with the County SCADA standards as they are established by the County from time to time. OCWA will stay in regular contact with and communicate to the County's SCADA coordinator for items and activities related to the SCADA system and network. OCWA shall at all times during the Term, except where otherwise authorized by the County, provide to the County access to the SCADA system and associated SCADA network resources. OCWA shall ensure that the County has unrestricted "real-time", on-line access to the SCADA system at a location or locations specified by the County.

OCWA shall ensure that the SCADA system is operational and controlling plant processes twenty-four (24) hours per day, seven (7) days per week, three hundred and sixty-five (365) days per year.

OCWA shall participate in capital and maintenance SCADA system upgrades. Key activities include communication of operational needs, input into process control narrative development and engineering design reviews, participation in Factory Acceptance Tests and Site Acceptance Tests, operational support during start-up and commissioning of projects.

OCWA shall provide a working level of SCADA knowledge and participate in SCADA training as required.

OCWA shall acknowledge and clear all alarms indicated through the SCADA system within a reasonable time. If alarms cannot be cleared the county shall be made aware immediately.

Efficient Operation, Record Keeping and Monitoring

OCWA shall be responsible for ensuring the efficient operation and monitoring of the facilities processes to ensure compliance with all applicable Certificates of Approval (C of A) and Environmental Compliance Approvals (ECA).

OCWA shall maintain records regarding the operation of the facilities in compliance with all applicable environmental laws, C of A's and ECA's.

Lawn Maintenance

OCWA shall be responsible for lawn maintenance at all facilities, which shall include; grass cutting, trimming, raking, etc. As a minimum, OCWA's lawn maintenance duties shall include:

- Collection and disposal of debris and garbage on a regular basis, including the raking and disposal of leaves in the fall;
- Grass cutting on a bi-weekly basis including trimming around buildings and other facility appurtenances or fixtures;
- Collection and disposal of excessive grass clippings following grass cutting, when required;
- Removal of grass clippings left on roads, walkways or other hard surfaces or adjacent properties following cutting.

OCWA shall maintain all facilities to the satisfaction of the County of Brant.

Final Transition Plan

OCWA shall provide the following at the time of transition:

- Condition survey
- Equipment inventory
- Chemical/consumable inventory and levels
- Continued interrupted operations of facilities during transition
- Training of new operators
- Transfer of operations schedule
- Transfer of invoicing/suppliers
- Notification: Change of Operator/MOE/Suppliers
- Re-setting of passwords/security/locks/paging/alarms etc.
- Official transfer of operations/assets/sign off
- Exit audit
- Logbook and MOE related inspection documentation
- Capital work status/ Plant Operation Status/ Meetings

Reporting

OCWA shall provide performance reports and summarized financial reports for each facility, as follows:

- Complete the online reports for the Federal Wastewater System Effluent Regulations (Paris WPCP and St. George WPCP is submitted quarterly and Cainsville Wastewater Lagoons completed annually);
- An Annual Report for each facility shall be submitted by March 1 of each year, for review by the County, for the preceding year;
- The format of the Annual Report shall satisfy the reporting requirements in each facility's ECA and shall include any other items as requested by the County;
- Each Annual Report shall be submitted to the MOECC, no later than March 31st in accordance with the ECA;
- A First Interim Report shall be submitted by June 1, containing information for January, February and March of the current year;
- A Second Interim Report shall be submitted on September 1, containing information for April, May and June of the current year.
- A Third Interim Report shall be submitted on December 1, containing information for July, August and September of the current year.
- A Fourth Interim Report shall be submitted on February 15, containing information for October, November and December of the previous year;
- Monthly KPI reports shall be submitted monthly by two weeks after the end of the month in a excel format.

- Final version of the interim report shall be provided in PDF format and two hard copies.
- Format of KPI's to be in excel format, as per format used for November 2016 reports. Format interim reports and annual reports as per the reports prepared for the 2016 year.

Further reports may be required for submission to the Ministry of the Environment and Climate Change (MOECC). Any of these reports shall be submitted to the County in draft form for review prior to being forwarded to the MOECC. OCWA will provide two copies to the MOECC and to the Client.

Meetings

Meetings will be held with OCWA and the County at the County's Burford office at a minimum on a quarterly basis.

SCHEDULE D - The Estimate And Other Charges

1. Operations Estimate

No later than **July 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:

- **Paris Wastewater Treatment Plant and Collection System - \$516,858.00**
- **St. George Wastewater Treatment Plant and Collection System - \$196,159.00**
- **Cainsville Wastewater Lagoons and Collection System - \$74,715.00**
- **Airport Wastewater Treatment Plant and Collection System - \$115,267.00**

- **Combined Total - \$902,999.00**

The Client shall pay OCWA the annual Estimate in twelve (12) equal monthly payments, in advance on the first day of each month. For the first year of the Initial Term, each monthly, the first payment shall be due and payable on January 1, 2018. Payment shall be made by the Client after submission of an invoice by OCWA.

- **Paris Wastewater Treatment Plant and Collection System - \$43,071.50**
- **St. George Wastewater Treatment Plant and Collection System - \$16,346.58**
- **Cainsville Wastewater Lagoons and Collection System - \$6,226.25**
- **Airport Wastewater Treatment Plant and Collection System - \$9,605.58**

- **Combined Total - \$75,249.91**

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) Capital Projects (as described in Section 4.5);
- (c) Unexpected Expenses (as described in Section 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);
- (e) any upgrades or repairs to the SCADA systems.

4. Management Fee

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 **\$96,572.00** 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. The monthly payment of the Management Fee for Year One of the Initial term shall be **\$8,047.67** plus the CPI Adjustment.

- **Paris Wastewater Treatment Plant and Collection System - \$54,253.00**
- **St. George Wastewater Treatment Plant and Collection System - \$22,700.00**
- **Cainsville Wastewater Lagoons and Collection System - \$10,466.00**
- **Airport Wastewater Treatment Plant and Collection System - \$9,173.00**

- **Combined Total - \$96,572.00**

Payment of the Management Fee

The Management Fee shall be paid by the Client in twelve (12) equal monthly installments at the same time and in the same manner as the Estimate. The monthly payment of the Operational Support Services for Year One of the Initial Term shall be:

- **Paris Wastewater Treatment Plant and Collection System - \$4,521.08**
- **St. George Wastewater Treatment Plant and Collection System - \$1,891.67**
- **Cainsville Wastewater Lagoons and Collection System - \$870.50**
- **Airport Wastewater Treatment Plant and Collection System - \$764.42**

- **Combined Total - \$8,047.67**

- (b) For the second year (“Year Two”) and subsequent years of the Initial term, the annual Management Fee shall be **\$96,572.00** plus the CPI Adjustment.
- (d) 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. Hydro costs

- (a) OCWA will pay the hydroelectricity cost on behalf of the Client. The Client shall reimburse OCWA the hydroelectricity costs, based upon the actual costs provided by the hydro authority on a quarterly basis. The base year for 2016 total was \$428,167.00.
- (b) The Client shall reimburse OCWA for all actual hydroelectricity costs no later than thirty (30) days after yearend.
- (c) In the event that this Agreement is terminated for any reason, the Client shall reimburse OCWA for all actual hydroelectricity costs incurred to the date of termination no later than thirty (30) days after the date of termination.

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 \$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.

7. Service Fee

“Service Fee” means an additional fee of **10 %** 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:

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: 2016 Replacement cost value is \$40,922,989.59M
(Subject to Annual Review by the Client.)
Annually, replacement costs of all facilities (excluding off-premises underground pipes) must be reported to OCWA.

Deductibles:

- | | | |
|-----|------------------------------|---|
| (a) | Earthquake | 3% of the value of the property insured (including foundations), subject to a minimum amount of \$100,000. |
| (b) | Flood | Facilities and Locations in 100 year Flood Zones

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

All Other Facilities

\$ 50,000. Facilities and Locations, including Newly Acquired until assessed by Insurer(s) |
| (c) | Sewer Back Up & Water Damage | \$50,000, except 100,000 for locations in 100 Year Flood Zone |
| (d) | Office Contents & EDP | \$ 2,500 |

(e)	All Other Risks –Locations with total values up to \$10,000,000	\$ 5,000
	All Other Risks - Locations with total values over \$10,000,000.00 and under \$74,999,000.00	\$ 10,000
	All Other Risks - Locations with total values over \$75,000,000.00	\$ 50,000

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.

OCWA issues a certificate of insurance that shows the County of Brant is named as loss payee with regards to Property and Boiler & Machinery policies.

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

****Excluded properties are as follows:***

- (a) Motor vehicle licensed for regular highway use, except vehicles belonging to others as provided under Extensions of Insurance and vehicles at any worksite for which insurance is provided;
- (b) Aircraft, and watercraft, but not excluding property in transit;
- (c) Growing crops, standing timber or land, but this exclusion does not apply to improvements and betterments to land;
- (d) Livestock, roads, piers, and bridges;
- (e) Money, currency, furs, fur garments, jewels, jewellery, gold silver, platinum and other precious metals and alloys, except as provided under Extension of Insurance;
- (f) Ocean shipments and property covered under the terms of any Marine Insurance;

- (g) Water, except water which is normally contained within any type of tank, piping system or other process equipment;
- (h) Property illegally acquired;
- (i) Overhead transmission and distribution lines located beyond the premises of the insured locations.

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: \$100,000,000 per Accident.

Deductibles: \$5,000 for Property Damage per Accident for the year 2017; 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

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: \$10,000,000 per Occurrence.

Deductible: \$50,000 for the year 2017; subject to change on an annual basis.

Contractor's Pollution Liability/Professional Liability Insurance

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

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

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

Limit: \$5,000,000 for Professional Liability Insurance

Deductible: \$100,000 for the year 2017; 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:

- There are no known Pre-existing Conditions existing at the Facility which would affect OCWA's ability to operate the Facility in compliance with the terms of this Agreement and Applicable Laws
- Please refer to the Ten (10) Year Capital Recommendations presented to the Client by OCWA annually

SCHEDULE H - Change Order Form



Change Order Form

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

Adjustment	
Check Appropriate Type of Change	
Apply (Y/N)	Type of Change:
	Adjustment to 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		One-time Cost	Annual Cost
	Total Cost:		

SCHEDULE I - Expenditure Request and Approval to Proceed



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

PART 1

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

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

Type of Project:

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

Description of Project or Expenditure:

Submission Prepared By:

Name (Print)	Signature	Date
<i>Authorized Representative for the Ontario Clean Water Agency</i>		

PART 2

Approval to Proceed:

Approved
 Declined
 Deferred
 Reason if Declined or Deferred

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

Approved By:

Name (Print)	Signature	Date
<i>Authorized Representative for the Municipality</i>		

PART 3

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

SCHEDULE J– Staffing Plan

Staff Assigned to County of Brant WWT System

For facility and service continuity, we are happy to retain your current operators and process control technician. Our proposed full new staffing complement is as follows:

OCWA STAFF FOR COUNTY OF BRANT WASTEWATER TREATMENT SYSTEM				
Individual & Position	Area of Responsibility	Qualifications	Years of Experience	Brant Allocation
Dale LeBritton, Regional Hub Manager	Collaborates with municipal officials to develop operational optimization strategies, capital improvements and review the management, operation and maintenance of the facility and any significant events or issues of mutual concern.	Class 3 WWT Class 2 WWC Class 4 WT Class 3 WD	26 years	25% 9 hours per week
Sam Sianas, Operations Manager	Provides technical knowledge and expertise to plant operators to ensure operational compliance. Identifies maintenance needs and evaluate all major repair and capital requirements for each plant. Reviews all client reports.	Class 2 WWT Class 1 WWC	5 years	40% 15 hours per week
Roxanne Sylvestre, Admin. Assistant	Administrative duties including time keeping, accounting functions, purchasing and scheduling.	Office Management experience	6 years	25% 9 hours per week
Al Robdrup, Senior Operator	Plan, co-ordinate, administer and oversee plant operations and maintenance activities. ORO/OIC	Class4 WWT Class 4 WWC	35 years	100% 40 hours @ Paris

OCWA STAFF FOR COUNTY OF BRANT WASTEWATER TREATMENT SYSTEM				
Individual & Position	Area of Responsibility	Qualifications	Years of Experience	Brant Allocation
Dan DiMeo, Operator	Maintain and operate all process controls. ORO/OIC	Class 3 WWT Class 2 WWC	6 years	100% total time 40 hours per week: 20 hours @ Paris and 20 hours @ St. George
Mark Haw, Operator	Maintain and operate all process controls. Provide and complete the sampling in the collection system at the Cainsville and Paris locations.	OIT WWT OIT WWC	1 years	100% total time 40 hours per week: 15 hours @ Airport 15 hours @ Lagoon 10 hours – sample collection
Allison Billingsley, Process and Compliance Technician	Process and compliance support; prepare QA/QC, monthly, quarterly and annual reports for review by Operations Manager.	Class 1 WWT Class 1 WWC	6 years	25% 15 hours per week

WWT = Wastewater Treatment

WWC = Wastewater Collection

WT = Water Treatment

WD = Water Distribution

SCHEDULE K - Energy

OCWA will analyse the hydro bill information using available information such as energy charges, metered usage, adjusted usage, global adjustment, delivery, regulatory, debt retirement, demand, kW (kilowatts), kWh (kilowatt hours), kVA (kilovolt amperes), meter multipliers, adjustment factors.

OCWA can perform the following function with regards to hydro bills using Hydro Bill Analysis template.

- load electricity bills, record data
- verify costs, report information using graphical tools &
- assess/identify for new opportunities
- establish KPIs for internal and external benchmarking

OCWA will add a section in quarterly report that relates with energy consumption and projections for the next quarter.

